

Legislative Assembly of Alberta

Title: **Tuesday, November 17, 1998**

8:00 p.m.

Date: 98/11/17

[The Deputy Speaker in the chair]

THE DEPUTY SPEAKER: Please be seated.

head: **Government Bills and Orders**
Second Reading
Bill 47
Protection from Second-hand Smoke in
Public Buildings Amendment Act, 1998

THE DEPUTY SPEAKER: The hon. Member for Calgary-Cross.

MRS. FRITZ: Thank you, Mr. Speaker. I'm pleased to move second reading of Bill 47, the Protection from Second-hand Smoke in Public Buildings Amendment Act.

This Act, Mr. Speaker, protects Albertans from exposure to secondhand smoke in the places where government conducts its business by prohibiting smoking in public buildings except in designated smoking rooms. All staff and visitors to public buildings will be required to comply with the act and any smoking policies implemented under it.

Mr. Speaker, the intent of Bill 47 is quite clear. It's to protect Albertans from exposure to secondhand smoke in the places where government conducts its business. Most people in this room have heard reports of the risks associated with secondhand smoke. Extensive studies have been conducted on the topic over the years. In fact, research has confirmed what many physicians have long suspected, that years of exposure to secondhand smoke puts nonsmokers at increased risk of developing disease. Secondhand smoke is not only the smoke which is exhaled by a smoker; it is also the smoke that comes from the burning end of a lit cigarette, a pipe, or a cigar. Through this legislation this government is doing its part to help protect the employees and people doing business in public buildings against the risks that are associated with secondhand smoke.

Now, Mr. Speaker, in June of 1997 this Legislature passed Bill 205, which clearly laid out its objectives to protect people in buildings where government conducts its business, as I said earlier, from the issue of secondhand smoke. Clearly, the goal of protecting people from unnecessary exposure is a valid and I think a praiseworthy goal, but I don't think that's necessarily up for debate. Bill 47 makes that goal reachable. Bill 47, as you know, proposes amendments to the Protection from Second-hand Smoke in Public Buildings Act. It maintains the act's original objective, while it makes its implementation more straightforward, effective, and efficient.

I'd like to take the opportunity now to review some of the details from this important bill. Bill 47 simplifies who is subject to the act. It brings the objective of the act, the protection of people from secondhand smoke in public buildings, in line with the delivery mechanism. This act, Mr. Speaker, applies to all public buildings which are owned or leased by the Crown or any provincial corporation. However, the act does not apply to correctional institutions or any space that is used for residential purposes or leased from the government for commercial purposes. While these public buildings are indeed owned by the Crown, the act was never intended to extend to an individual's residence.

The objective of the act is to protect Albertans from exposure in places, as I said earlier, where government conducts its

business, and I think that we simply need to keep repeating and repeating that objective within this bill. Bill 47 streamlines this act, and it maintains the focus. We know that Bill 47, as I said earlier, is simply amendments to the original Bill 205.

The Legislature Building is also dealt with separately in the bill. The Legislature, as we know, is a unique facility with unique issues. As part of the parliamentary system, portions of the Legislature Building fall under the jurisdiction of several different areas of responsibility and therefore need to be specifically dealt with in the bill to ensure that roles and responsibilities for enforcement and implementation are clear. Now, Bill 47 also clarifies the roles and responsibilities for enforcing the act. Under Bill 47 all ministers, officers of the Legislature, and opposition leaders can be delegated the administration of space under their control to determine whether designated smoking areas should be provided. Smoking in areas other than designated smoking rooms will not be permitted. As a safeguard feature Bill 47 requires employers to consult with their employees on the designation of smoking rooms. This consultation can either be done through their occupational health and safety committee or other methods that fit their situation. Ministries will be responsible for ensuring that their methods of consultation are appropriate for their employee circumstances.

The ultimate decision as to whether or not to establish a designated smoking area will rest with the delegated authority. Each minister or delegated authority will then be able to determine whether their space will be smoke free or if designated smoking rooms will be established, taking into account any special circumstances. If a smoking room is designated, Mr. Speaker, each ministry will be responsible for paying for the construction of the room to meet suitable standards and preparing a smoking policy related to designated smoking rooms for employees and nongovernment organizations using government space within their jurisdictions.

Individual responsibility is also a key component of Bill 47. The choice of whether or not to smoke is left to the individual, and with the right to choose comes responsibility. Therefore, individuals will be held responsible for compliance with the act, and each ministry creating a designated smoking room must develop enforcement policies and guidelines internally to meet the objectives of the act. Individuals will be held responsible for any violations to the act through departmental channels, ensuring appropriate discipline. In addition, employees and members of the public may be fined under the act up to \$100 for the first offence and up to \$250 for a second offence.

In closing, I wish to reiterate that this is an act that is primarily about protecting people, but I think I should also comment on the responsibility that the ministries have already shown in past years. There are, I think, about 13 ministries that are already smoke free, which means that they don't have designated smoking rooms, that the buildings under the departments are absolutely smoke free, which leaves only approximately five ministries to look at this bill and to see about meeting with employees, as I mentioned earlier, under the occupational health and safety division to see whether or not the rules and policies that they put in place will be in the best interest of the employees, which could include, as I said earlier, putting in place a designated smoking room. Also, I think it should be made quite clear to the Legislature that within about six weeks' time, which is I think about January 1, all buildings will become smoke free unless the designated smoking rooms have been created in consultation with the employees. So this act has very strong benefits to everyone who uses public buildings. Mr. Speaker, in conclusion, a lit cigarette, pipe, or cigar generates secondhand

smoke, and medical research shows that this can be dangerous to the person who is smoking it and dangerous to anyone in the same room as that person.

This is an enforceable bill. It meets the intent and objectives we've already agreed to that need to be met, and it does so in a straightforward and achievable way. So the revisions that have been made through Bill 47 make the Protection from Second-hand Smoke in Public Buildings Act a stronger, more straightforward act.

Thank you, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you very much, Mr. Speaker. You know, I note, looking through my tobacco reduction file, that it's growing fatter by the session. It was back on June 4, 1997, that I saluted the Member for Calgary-Cross. At that time I was lauding her for succeeding in doing what my colleague for Edmonton-Glenora and the Minister of Family and Social Services had not been able to do, which was persuade a sufficient number of members to actually get the bill passed in the Legislature. Tonight, I guess I'm here to laud her tenacity, because this seems to be a particularly challenging road to follow.

8:10

Speaking of challenges, Mr. Speaker, I'd just acknowledge that there are a number of people I see in the gallery who I suspect have a keen interest in health care. They may have thought they'd be witnessing some debate on Bill 37 tonight, and I might just say for the benefit of those people in the gallery that my understanding from the government was that that bill would not be debated this evening. The only health bill we'll be dealing with is the smoking bill that has just been introduced by the Member for Calgary-Cross.

Dealing with the bill in front of us, most of this had been suggested to be included in miscellaneous statutes, I think, in the spring of 1998 and was not. At that time my recollection is that the opposition indicated they'd prefer to see it dealt with in a stand-alone bill. That is exactly what's in front of us right now, Mr. Speaker. I think that I'd clearly not make a good member on the government side. I may be short in a number of other areas as well, but I clearly don't have the store of patience that's required, that the Member for Calgary-Cross has, to soldier on to try and see this thing finally become law.

My colleagues are anxious to support the initiative in terms of protecting the employees in the Legislative Assembly from secondhand smoke. They're entitled to that; they deserve that sort of protection. My caucus supports this as a public health measure. Frankly, as a responsible employer the Legislative Assembly should be modeling, should be leading in terms of addressing this issue. This is a bill that would be tough to vote against, but I do want to register a measure of frustration, not for anything being done by the Member for Calgary-Cross, who I think is working valiantly to push this to become law, but I chafe at the protracted period of time that it seems to take to move this thing forward.

One of the things that had been in the earlier iteration of this bill was penalties not just for employees; there would also be penalties for employers that didn't make adequate accommodation. Now the only penalty provision that's in the bill in front of us, in Bill 47, is the very modest penalty in section 5 in the proposed new section 8 dealing with people who contravene section 3(1). Section 3 is the one that refers to: "No person shall smoke in a public building except in a designated smoking room." My friend for Calgary-Cross probably has a much higher level of confidence

in the speed with which ministers will comply than I do, because I was sort of attracted to the earlier provision where we had penalties for employers that didn't discharge their obligations under the act. I'm not convinced we had to leave it out. I regret that those items aren't carried forward into Bill 47, because I thought it was a positive feature before.

The provision in terms of correctional institutions is yet another one where I have some disappointment, because I have to say that we have an obligation to correctional officers, just as we do to employees in the Legislative Assembly, to protect them from secondhand smoke. I understand the reasons that have been proffered by the government in terms of why the exception for correctional institutions. I guess all I can say is that I never want to underestimate the creative ability, the ingenuity of people in the government of Alberta. The problems that had been raised with me, I think there were ways of addressing those concerns without simply exempting all correctional institutions in the fashion we see on page 2, the proposed section 2(f)(iv).

The provision in terms of the designated minister, that's been explained to me by the Member for Calgary-Cross. I understand why that provision is there, and that does make some sense.

The one item, I guess, that I'm looking for in Bill 47 -- and of course you don't find it in the bill -- is when we would see this proclaimed, when we would see this become law. Insofar as my caucus is concerned, we think this is such a positive, long overdue measure we're just anxious to see it implemented as quickly as possible. There may be some other matters more appropriately raised when we're doing a detailed review of the bill.

I'd just sum up by saying that the Alberta Liberal caucus supports protection from secondhand smoke. We particularly support and promote that sort of protection in buildings in which leaders and elected persons congregate and work, and we're just anxious to see this protection made available as quickly as possible.

Any other more detailed comments I've got I'll simply reserve, Mr. Speaker, until we're at committee stage. Thank you very much.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Speaker. I, too, just want to make a couple of comments on the bill. I applaud the member for bringing forward this bill. However, I'm a little concerned with some of the sections being repealed. One of those sections is removing the need for an inspector, somebody who will look after the workplace and ensure that employees and employers are following through on their commitment.

Another concern I have is the notion of a joint work site health and safety committee report or review being done. What the act talks about is the Occupational Health and Safety Act and having somebody from OH and S do a specific review, and if there's nobody in that workplace, then the employees will make comments. Well, I guess I question the inequality of that. Some work sites may in fact be able to benefit from the experience and expertise of an OH and S employee, where others in fact may just simply be making comments based on their opinion and the fact that they don't want to allow smoking in the workplace, and they in fact may be presented with an environment where there are more smokers than nonsmokers. My preference would be to have the smokers stand outside in the cold, but I think that whole issue is contentious.

I'm also concerned about the issue of the regulations actually in the act, the notion of what the Lieutenant Governor in Council is

making regulations on or in relation to. I'm wondering if there are standards already set out by the Building Code, or are there health standards set out by Occupational Health and Safety or OSHA in the U.S. or anyplace else that may serve as some reference to dealing with that issue?

8:20

Also, it's interesting that the employer's responsibility in relation to contravening the act is removed and substantial fines removed. Of course the employer in this case would be in a public building. In fact, it could be the government. That's removed, but personal fines have increased. So we're now placing the onus on the individual, and we're not making the employer responsible at all, and I have a little bit of concern with that.

As a matter of fact, there are times when smoking occurs in the Confederation Room or down the hall here, and that smoke drifts down here or drifts through the vents, and I find that very uncomfortable. My preference would be that those smokers have a place to go that's well vented, that's not too far, and that all members can share equally, but my preference is for it not to be here. When we look at responsibility, I think that in this Legislature we have as much need to follow the guidelines as anywhere else. I think, as a matter of fact, one of my colleagues suggested maybe we could make the Speaker's office the smoking room. Maybe we can fix that up.

I'm also concerned about other facilities as well and what constitutes a designated smoking room. Those are just some of the issues.

I guess the other one I have is that the guideline referred to in section 10(3) has the word "may," so that's discretionary. They may designate enclosed smoking rooms; then they may not designate enclosed smoking rooms. In order for the well-being and health of all of us that don't smoke, I would much rather see some guidelines directed to shall have an enclosed smoking room, and all of those who smoke can go in and sit in their own smoke while the rest of us can enjoy the clean air.

Those are the comments I have, Mr. Speaker, and we'll leave anything else till later debate. Thank you.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Speaker. I, too, would like to add some comments to the debate on Bill 47. I was a strong supporter of the member when Bill 205 was brought forward. I thought it was a necessary bill at the time, and I think I made comments about the strengths of Bill 205.

I noticed in the introduction that the mover indicated that this bill was more straightforward, more effective, and more efficient, that it simplifies and that it streamlines the contents of the previous bill. That may be fair comment, but I also think that in making a comparison between what we had and what we've got is that this bill also weakens; it distorts and it waters down and it delegates the authority that was contained in the previous legislation. I know that that's a judgment call that the mover of the bill and the government have obviously had to make about the readiness of citizens to accept a particular piece of legislation.

If you look at the principles that underlie this, some of them are identical to what undergirded the last bill. The most important one of course is that citizens should be protected from secondhand smoke in public buildings, and I think that's a principle that remains constant in this piece of legislation.

A second principle is that the ministers of the Crown are best

situated to make decisions about smoking and secondhand smoke in public buildings, and I'm not sure that that's the case. I think it's something we might want to look at when we go into detailed study of the bill.

As I indicated, I think a third principle that is embodied in this piece of legislation is that the public is not ready for stringent antismoking legislation, and again it's something that when we get to more detailed debate I would like to question.

One of the things you can do is to look at how this kind of legislation has been able to be placed before an Assembly like ours. If you look at the history of antismoking and the antismoking movement in this country and in North America, there seems to be three operatives. Through education, through coercion, and through paying or making it profitable not to smoke, we've been able to convince people that smoking is bad for them, and with regards to this particular bill, the smoke that they produce when they're smoking is also harmful to their neighbours and family and friends. That has been a program that has proceeded fairly steadily across the last 20 or 25 years in Canada. Schools, public health authorities, those interested in promoting good health I think have done a fairly good job of convincing people, educating people to the dangers and the harmful effects of smoking, and you only need to look at a collection of cigarette packages over the wide period of time to see how that movement has been successful in trying to educate people about the dangers. I think that there has been some coercion, and I guess this bill is part of the coercion, trying to force those people that do smoke to do it in places where it won't be harmful to their neighbours. Finally, there is some monetary benefit from not smoking in terms of the kinds of taxes and the cost that people have to pay for cigarettes. So those three things -- coercion, convincing, and being paid -- have worked I think very well in bringing us to a point where our society will accept this kind of legislation.

If you want a sharp contrast, it is France, where that was not the case and where they tried cold turkey to institute legislation on antismoking and secondhand smoke, and the laws were ignored by the population. They didn't have the same success we've had here.

Behind my comments is some respect for the judgment of the mover of the bill in trying to make sure that they don't push too far and that the laws that are enacted are laws that people will feel comfortable with and will be supportive of, because I think it would endanger those of us who would like to see antismoking laws in place. It would endanger that movement if the laws ever got out too far in front of the population. But that aside, I think we should really question that judgment by the government in this case. Has the retreat that we see from the previous legislation to what we have here really warranted? It's a question, as we look at the legislation further, that I would like to see us and the mover of the bill address.

A final comment about this particular building, Mr. Speaker. This building has such great significance that it's singled out in the act. It's a building where we make the laws and the rules that will govern much of our lives in this province. It's a building that we bring children to and hold up as a very, very special building in our democracy, and I worry about the exceptions and the lack of forcefulness in terms of making this building entirely smoke free. I think I would have the same comments about most other public buildings, but this building in particular concerns me.

Thanks very much, Mr. Speaker.

8:30

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thanks, Mr. Speaker. My thanks to the Member for Calgary-Cross for sticking with this and for taking the time to keep myself and some of my colleagues apprised of the snake trail, in a way, that this bill had to follow to get to this stage.

The idea behind this bill has been kicking around for so long that I can't remember whether it was originally a private member's bill coming from government supporters or a private member's bill coming from the opposition. I don't think it matters. I think it's evidence that in fact a good idea can finally make its way into the form that is here now, and I'm pleased to see that. Unlike my more moderate colleague from Mill Woods I guess I had continued concerns about any retreat at all, and I think sometimes the role of legislation might be to set a high standard, but that notwithstanding, I'm pretty happy that we've got this in the form that it is now.

I will be asking some questions in committee about some issues like penalty sections and some issues to do with the role of caucus decisions and just seeing how we may integrate decisions from one caucus and another and make sure that the rules of the road are the same throughout the precincts of the Legislature and the kind of message that we might be sending if they were different, particularly to young people, who may look at the men and women in this place as models from time to time.

There's a couple of quirky things about the bill that I can't help but mention. You know, we're on the verge of a debate to deal with the rights of convicted offenders, particularly their right to vote. I notice that we may be taking away their right to vote, but we're going to permit them the right to smoke, so that kind of caught my attention.

I think there's some obvious effort, though, that has gone into moving the whole issue of protection from secondhand smoke forward. I know that the Member for Calgary-Cross has a very long involvement in public health issues, and I'm sure that it is her insight into population health matters which attracted her attention to this bill and helped her champion it within her own caucus.

So while we're at this stage to be debating the principle of the bill, Mr. Speaker, I will say that I am one hundred percent behind the principle of the bill and of the efforts that have brought it to this point. I hope that when we get into committee, the sponsor of the bill will reflect back on that endorsement, because there may be some debate about some of the sections and perhaps maybe even some amendments that we'll be proposing, but I think it's important to be on record at this point in saying my concerns are not about the intent. The intent is bang on.

Thanks, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Little Bow.

MR. McFARLAND: Thank you, Mr. Speaker. I would just like to make a couple of offhand comments to the sponsor of the bill that she might consider when we get into committee stage or at least be prepared for some of the questions that maybe I would like to bring up.

When we look at the first page of the bill and notice that the previous sections (a) to (f) would be repealed and substituted with what's listed in the document here under Bill 47, the comment I would like to make is: what does that do when we're talking about this building, to multiple offices in one wing if you have a combination of people that may smoke or not smoke, if their designation isn't minister?

Secondly, when we turn to page 2 under (2)(f) and we mention "public building," this is maybe a constructive suggestion that I

would have for the sponsor. I have a feeling that "public building" may portray to everyone in Alberta that anything that is not a private building is therefore public. Would it not be more appropriate to reference the italicized portion of public building as Crown? If, in fact, we're looking at Crown-owned buildings, then -- I guess what I'm trying to say, Mr. Speaker, is that if you were to compare this building or a department building to one that is in the business of providing a service, although it's not commercial but it has public access, I believe some people may have an apprehension that we're trying to portray these regulations to all public buildings. Again, I would just ask if the mover of the bill would consider looking at the word Crown.

I heard the comments about the correctional facilities, and it's interesting. Maybe it's partially tongue in cheek, but I did hear the comment at one of the correctional facilities that maybe it would help our crime rate to some degree if they were nonsmoking facilities, because it would certainly encourage people who had the smoking habit to stay out of them.

The other thing that is of very real concern to me is whether or not mental health facilities should be included in the exempted portion. I don't know at this point in time if a facility like Alberta Hospital Edmonton, Alberta Hospital Ponoka, the facilities in Raymond, Claresholm, or for that matter the psychiatric units in some of the regional hospitals should have an exemption. Maybe I could make further comment on the rationale for that observation when we get into Committee of the Whole.

At this point, Mr. Speaker, I'd just like to thank the mover for letting me make a couple of suggestions and look forward to future debate.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Cross to close debate.

MRS. FRITZ: Thank you, Mr. Speaker. Debate's closed.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Cross has moved second reading of Bill 47, Protection from Secondhand Smoke in Public Buildings Amendment Act, 1998. Does the Assembly agree to the motion for second reading?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? The motion is carried unanimously.

[Bill 47 read a second time]

Bill 44 Tax Statutes Amendment Act, 1998

MR. DAY: Mr. Speaker, I'd like to move second reading of Bill 44, the Tax Statutes Amendment Act, 1998.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thanks, Mr. Speaker. The Alberta Tax Statutes Amendment Act, 1998, will accomplish several things. It'll update the Alberta Corporate Tax Act, the Alberta Income Tax Act. The changes to the AITA will parallel the federal tax changes announced in federal legislation. I believe it was Bill C-92. This legislation passed the House of Commons back in '97. The bill also introduces more consistent treatment of the Alberta

royalty tax credit entitlements, extends the royalty deduction to all royalties paid to government by corporations in calculation of taxable income for purposes of Alberta regulations. I believe it's for a three-year pilot project period. It should particularly benefit mining operations. It legislates, of course, the government's move to reduce personal income taxes. The rate was reduced from 45.5 percent of federal tax payable to 44 percent of federal tax payable in Budget '98. So it's quite a grab bag act, Mr. Speaker, and it accomplishes much.

I was a little surprised just now that when the Treasurer rose to move it at second reading, there wasn't slightly more explanation, considering two things. First of all, there have been considerable changes in the energy sector in this province since this act was drafted. Also, of course, we've now had the real-life experience of the Alberta personal income tax reduction, and the Treasurer could have commented a little about that. Maybe we'll get more details in committee, and maybe that's the Treasurer's intent.

8:40

In talking in second reading to the principle of the Bill, there's a couple of issues that I'd like to raise, and again maybe they'll come out in debate from other members, or maybe it'll happen at a subsequent stage. The changes in the Alberta Corporate Tax Act to extend the royalty reduction is probably not a bad idea. It is an issue of fairness, and we're pleased to see the province address this issue. But because it's being conducted on a trial basis for three years, I have a number of questions. I'm wondering what the points of evaluation will be and if the Treasurer can illustrate for us what he'll be looking for. The Bill and the background information to the Bill that I could find didn't include any assessment of the revenue impact of this change.

A theme that I'm going to probably come back to more than once in my brief comments is that there's a certain incremental aspect or a piecemeal flavour to this Bill. There are so many things happening in the area of taxation in this province. We've recently had a commission report recommending an 11 percent flat tax, some other changes. There was also some mention in that report about a consumption tax, with very little comment. I think it would help us vote in an informed way on Bill 44 if we had just a little better sense of the whole picture and were not just being given these little bits and pieces of the picture along the way.

The Alberta royalty tax credit is changed in -- I don't know -- section 37(1), I think, of this Act. I can probably support these changes but would appreciate some comment from the Provincial Treasurer in regard to what steps the government has taken to improve reporting mechanisms for assessing the effectiveness of the Alberta royalty tax credit. This has been the subject of Auditor General comment for a number of years, including the current report. The Auditor General has noted in the past that it's difficult to assure the accountability and effectiveness of the ARTC given its failure to state clear goals, the expected results, and the development of performance measures.

Performance measures, as the Treasurer knows, are a particular bugbear of mine. Sometimes we see performance measures, and we've had that discussion about whether they're really performance measures or not. I think that when we're talking about royalty taxes, this is probably one of the most sensitive areas where real-world performance measures have to be articulated. They have to be developed, I believe, in consultation with stakeholders and need to be reported on with some frequency. I don't think Albertans should have to wait, and I'm sure the Treasurer would agree. It's probably not his intent that we would have to wait to be reminded about these issues by the Auditor General.

There has been a review of the ARTC. I believe there was an internal working document that was prepared by Alberta Energy a few years ago, back in 1993. I've seen references to that review, but I haven't been able to find the document. I don't know whether that document has been made public or not. I know it's not the Treasurer's bailiwick, but perhaps he could encourage his colleague the Minister of Energy that if that document isn't made public, perhaps it could be during the time frame that we have to debate this Bill. That's particularly important because back on December 19 of 1997 the Treasurer announced that there would be a provincewide review of the Alberta royalty tax credit, and I believe that the review is going to result in some proposed legislative changes that may be coming forward in 1999, next year. The changes to the program, at least according to the press release issued on December 19, 1997, will be effective no later than January 1, 2001. So again I have this sense that there's a lot more coming, and that makes me raise the issue of this incrementalism just one more time. I have a lot of difficulty keeping my learning curve under control.

MR. FISCHER: Are you learning too much?

MR. SAPERS: My colleague asked me if I'm learning too much. That's never possible. I'm just struggling to stay apace. So again I call upon the Treasurer to help me with my learning curve and maybe, by extension, other members in the Assembly as well by putting into perspective exactly where the changes in Bill 44 fall along this line of changes that are foreseen.

Mr. Speaker, there are some other issues I'd like some comment on as we proceed. The bill, which affects the Alberta Income Tax Act, doesn't talk specifically about things like user fees. Again, I can't separate this issue, particularly in light of the Supreme Court of Canada decision in Eurig. We have, potentially, a huge realignment of the way in which fees are determined, the way in which they're set and ultimately collected, coming because of this Supreme Court of Canada decision, and I have written to the Treasurer and I have written to each member of Executive Council asking for a review of the user fees that are set under their department and an assessment of whether or not these fees may be subject to the Eurig ruling. I haven't had a response to that yet, but I heard the Minister of Justice say today that he's working with the Treasurer basically to get the same information. So I'm hoping that information will be brought forward quickly, and even though Bill 44 doesn't speak to these user fees, if in fact some of these fees are henceforth going to be considered taxes, it's probably important to know what revenue impact that's going to have and how quickly some of those changes may come as we are debating the impact of Bill 44 on the overall revenue streams of the province.

8:50

There's another issue that I'd like to raise, and that's a concern I have regarding the Alberta Income Tax Act that's not addressed, at least not in a way that I could find in Bill 44, and that's tax bracket creep. The Treasurer and I exchanged some words earlier today, and I want to make it clear that I'm not calling him names, Mr. Speaker, when I say tax bracket creep. Tax bracket creep occurs when taxpayers are required to pay more in taxes because the tax brackets and credits within the personal income tax system are not adjusted to correspond with the annual growth in the rate of inflation. The real-world impact of that is that \$217 million, we estimate, have been raised by the current government in Alberta from Alberta taxpayers between 1992 and 1998 through participation in this deindexation of the federal tax brackets and credits. In other words, over \$200 million, 200 million sweat-

soaked loonies, of which I now have one actually, has been taken from Albertans simply because of tax bracket creep. So when we talk about Alberta being a low tax regime, I think we have to tell the full story about the fact that there are some things we could do, other than the symbolic things such as small income tax cuts, to deal with the real impact of taxation on Albertans.

[Mr. Shariff in the chair]

There are claims that taxes have gone down and claims about Alberta's position being the lowest tax regime, particularly comparing Alberta to Ontario. I think it's important that while we look at how we raise tax revenue in this province, we do so more in reference to what Albertans are concerned about in terms of revenue expenditures than we do in comparison to what other jurisdictions are doing for their own political purposes to talk to their voting public about their tax policy. In other words, a race to the bottom, particularly when you may not be in an apples-to-apples comparison, is probably not the best policy pursuit. This should not be characterized as a linear or a straight-line discussion between tax cuts and program spending, but it should be characterized by introducing a notion of balance into the revenue collection process in this province and making sure that the revenue stream is understandable, is fair, is no more onerous on the taxpayer than it needs to be, and that there is enough to sustain core programs at a level that taxpayers deserve and expect.

Now, along those lines, when I look at the legislated reduction of the Alberta personal income tax rate and that reduction of some one and a half percent of the federal tax payable, that amounts to about 22 cents per day. That 22 cents per day, not to make too fine a point of it, should be compared to the approximate 40 cents per day that's taken back through this tax bracket creep. So when I talk about symbolic cuts, Mr. Speaker, that's really what I'm talking about. If we really wanted to go to town on tax policy in this province, there's lots of places we could start that journey that would be far more impactful than what I perceive is really a symbolic place to start, which is just giving out a simple message that we're going to lower the rate of federal tax payable. Of course, this could even be less significant down the road because of the recent recommendation that government is now considering that we move away from a tax-on-tax collection process to a made-in-Alberta tax-on-income collection process. So the nature of that cut may even be more symbolic tomorrow than it is today.

The fact is that Alberta has the fourth highest rate of increase in fees other than income tax in Canadian provinces between 1992 and 1997. Alberta ranks third amongst all Canadian provinces in revenues raised per person from user fees. I don't see that trend stopping. So again I would ask that if we're going to look at any kind of tax amendment, we look at all the revenue streams that government has. Not that I want to go too far afield and tempt you, Mr. Speaker, to remind me to stay back on Bill 44, but we could talk about gaming revenue and the increasing dependence of the government on that form of revenue as well.

Even as the debate rages about video lottery terminals, we see that the government has increased its projections by over \$100 million in expected revenue to come from video slot machines. So the overall tax burden on Albertans, if I can call all of those kinds of things taxes, is considerably higher than the government typically admits to. Again, I think a full and fair and honest debate would be where we put all of that on the table and then talk about the real impact on Albertans and what we should do as members of this Legislature to determine whether that impact is fair and reasonable.

Mr. Speaker, the bill before us is deserving of considerably more attention than I think it's been paid in the public. I'm going to do what I can to gain some input from members of the public. I hope that we won't be in too much of a hurry to march this bill through committee, because there are some serious questions and there are some stakeholders that I believe want to hear some discussion and some explanation.

I will end my comments with another query to the Provincial Treasurer. The \$123 million tax cut which came about as a result of the 1 and a half percent reduction in the rate of income tax payable was estimated to have created 200,000 . . . [interjection] Yeah. Sorry, Mr. Speaker. Through the chair. The tax cut represents about 2 and a half percent of the jobs estimated to be created overall this fiscal year, and it represents about 2 percent as well of the increase in GDP that is expected by the close of the fiscal year 1998.

If we go ahead and focus our attention on these kinds of issues, my question to the Treasurer is: are we overlooking a much more serious need for debate on how we're going to address the shortfall in the high-tech jobs that the minister for science, research and information technology was talking about? Are we going to overlook the necessary debate on how to make sure that the tax policy has the right balance between stimulating the economy and paying for the services that Albertans need? Are we going to overlook the debate about the concerns that so many Albertans have regarding the strength and quality of their investments, their planning for their retirement, their reliance on things like the CPP? When are we going to have an opportunity to come together in this Assembly and look at all of those issues in a way that we can do them justice?

That just brings me full circle to my earlier point that while there is much in Bill 44 that I can support, I just have this alarm bell ringing in my head about its incrementalism. So I look forward to coming comments from colleagues from both sides of the House, in particular to some discussion of these issues that I've raised, and to getting the bill into the committee stage.

THE ACTING SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. I'm happy to stand and speak to Bill 44, Tax Statutes Amendment Act, 1998. I'm a little surprised that when the Treasurer introduced this bill this evening, he didn't give us some explanation of some of the different aspects of this bill, because parts of it, I think, deserve some explanation even before we get out of second reading. It's tough to support the principles of technical bills when you don't have a full interpretation of what the perceived implications or the wanted implications are, so I'm hoping that before this gets to committee, we could have the Treasurer speak at least to the highlights of what I see as the four major areas of this bill.

Three of them I don't really have a problem with, I don't think, not at this stage, if I'm interpreting this correctly. Updating the Alberta Corporate Tax Act: I think that's a necessary thing to do. There doesn't seem to be anything unusual going on in that.

9:00

Introduction of consistent treatment of the ARTC entitlements raises some questions for me. Looking through previous news releases, I see that the province was to conduct a review of the Alberta royalty tax credit. I'm wondering where that stands now and whether it has any impact when you're talking about introducing consistent treatment in installment and arrears interest, particu-

larly given that since this bill was first tabled in the Legislature and when this review was introduced back in December of 1997, a lot of things have changed in the industry. If you're talking about reviewing the royalty tax credit and talking about blended gas and oil prices, when we're in an economy like we are now where there's a lot of instability in the marketplace, we need some sort of interpretation on that in terms of the kind of impact it has on this bill, where you see the review going, and a status update on what has happened in the review, if you don't mind. I think that would be valuable information for us in terms of proceeding here.

I don't think, as I read it, that I have a problem with the third part of the bill, which I read as extending the royalty deductions to royalties paid by corporations when they calculate their taxable income for that three-year pilot project. So now when does this start? If you could just clarify that for me. Has it already begun, or does it wait until this bill gets passed into law? So minor issues there. I really just need more information, and then I believe that in principle I can support those three points.

But, Mr. Speaker, I have a problem with the fourth one, and that's the reduction of the personal income tax from 45.5 percent to 44 percent. First of all, I'd like to talk about that reduction in terms of whether or not it really is a reduction. This reduction was made, as I can see it, based on the Treasurer assuming that personal income taxes in 1998 are expected to increase. I'm talking about the increase just based on wage gains, and it looks like your figures are 3.4 percent for the year. If that's the case, if they expect the average wage to increase by 3.4 percent and they're giving us a 1.5 percent reduction, what that really means is that our taxes are only going to go up by 1.9 percent. So if that's the case, I think that should have been made clear to Albertans. If they're expecting a tax reduction and in essence what they're really getting is a small tax increase, then the information that's been given is not in a substantive way purely accurate. I'm wondering if the Treasurer could comment on that. You know, if I get a wage gain and I end up giving half of it back in taxes, I don't feel like I've got any kind of a tax break, and I think people need that to be explained to them.

Also, if I recall the discussions during the budget and the subsequent information that came out when the Treasurer talked about this 22 cents per day tax break he was giving us, it was based on the assumption that we were no longer running a debt in this province. Well, I don't think that's true, Mr. Speaker. I think we're running a number of debts yearly and long-term deficits as a result of a lack of adequate spending in health care and education and environmental protection. We're on a slippery slope in those three areas particularly, and I think that again it is not accurate to be saying that we've eliminated debt when in fact on the social programming side and on the environmental side we are getting deeper into debt every single day.

So I think those are issues that seriously need to be addressed before we talk about giving a paltry 22 cents per day back to people. Really in essence what it means is that their tax increase because of wage increases is really going to be a little less than expected. Also, I don't see tied to this tax decrease any really substantive information available on whether or not job creation and investment will occur as a result of this.

What does 22 cents per day give me? Not a lot of money to give back to the economy. I don't see any jobs resulting out of this. I don't see any real economic enhancement. I know the Treasurer goes on and on about the Alberta advantage and the climate for business and all that stuff, but the reality is that when you tie the kinds of user fees that we pay in this province to our basic tax rate, in fact we pay tax rates relatively similar to other provinces.

I see he's shaking his head no, so I hope this will urge him to pop up here and debate this, because when you do a line-by-line comparative study, the user fees we pay and the taxes we pay put us in a similar tax bracket relative to other provinces. In fact, there are only two exceptions to that, poor people and people who have high incomes. Poor people are penalized heavier than everybody else in this province. Anyone who is a low-wage earner pays more relative tax with user fees than a middle-class earner, and people who have high incomes pay a relatively lower amount of taxes as a result of that.

So if the Treasurer could address those issues and explain why it isn't a level playing field out there for all Albertans, that would perhaps help me -- although I doubt it -- support this last part of this bill. It's too bad that they're all lumped together because I have a real problem with the last one. I'm hoping the information he can give to us will be enough that I can hold my nose for that part of the bill and support the other three highlights.

THE ACTING SPEAKER: The hon. Member for Edmonton-Mill Woods.

DR. MASSEY: Thank you, Mr. Speaker. I, too, would like to make a few comments about Bill 44, the Tax Statutes Amendment Act, 1998, and at this stage of the bill to look at the purpose, the object, of the bill and some of the major changes the bill is going to ask the Assembly to consider. I think note has already been made about the amount of detail and the sometimes complex issues that the bill must address to fulfill its object, and that's to update the Alberta Corporate Tax Act and the Alberta Income Tax Act and to parallel and directly reference technical federal tax changes announced under Bill C-92, which was an act to amend the Income Tax Act and which received the approval of the House of Commons in April of 1997. It also makes consequential amendments to the act and the Alberta Income Tax Act to make them consistent with the federal Income Tax Act. So it has a huge objective, and that objective entails the change and the consideration of a great amount of detail, some of which I confess I'm familiar with and on other parts I'm going to have to be a learner, with others in the House.

It starts with the introduction of definitions and tries to make clarity in terms of the items that we're talking about to bring some consistency to the acts. It makes amendments to the definition of manufacturing and processing activities to clarify what qualifies for the purposes of the manufacturing and processing profits deduction. It includes the exemption from tax for that portion of the insurer's taxable income so that the gross premium income earned for the year from the insurance of residences of farmers, fishermen, farm property, and property used in fishing is of the total premium income. It seeks clarification of the calculation of the penalty for failure to file a return in the presence of specified future tax consequences. It makes a determination of the small business installment waiver and clarifies that that calculation does not take into account specified future tax consequences.

It has a number of other provisions. It sets forth that for the purposes of determining whether installments should be paid during the year, taxable income is calculated before taking into consideration adjustments arising in connection with the issue of flow-through shares. It substitutes the balance due date for a description of the balance due date in another section of the bill.

So there is a cataloguing of the items that Bill 44 contains, and as I indicated before, many of them requiring a fair amount of background. I'll look forward to the detailed discussion at the next stage of the consideration of this bill.

Thank you very much.

9:10

THE ACTING SPEAKER: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Mr. Speaker. I'm very happy this evening to rise and just make a few points on Bill 44, the Tax Statutes Amendment Act, 1998. There are a number of points with this particular bill that I'm very happy with. The first one, of course, is that it updates the Alberta Corporate Tax Act and the Alberta Income Tax Act to parallel and directly reference federal tax changes announced under Bill C-92, which passed in the House of Commons in April 1997. It also is an introduction of consistent treatment of the ARTC entitlements in calculation of installments and arrears of interest.

But one of the major concerns I have with this particular bill is that while we do support tax reduction for Albertans, we also have to somehow address the deep cuts that we have experienced in both health care and education. I would not want to see and I know most Albertans do not want to see reduction in taxes until these two areas have been addressed.

So with those brief comments, Mr. Speaker, I will take my seat. Thank you.

THE ACTING SPEAKER: The Provincial Treasurer to close debate.

MR. DAY: Mr. Speaker, there's been a lot of good comments on the act itself, and I wanted to hear those comments to see if I could deal with as many of them as possible in second reading and get straight to more technical issues when we get to the committee side of things.

The members are quite accurate when they have made the observation -- and it's clear in the act -- that the amendments are dealing with one thing that has to be dealt with, which of course is the reduction in our own taxes, as they've already indicated.

There's already been good comment on the royalty tax deduction. The Member for Edmonton-Glenora is quite right in stating the reasons for that and the time lines.

There are also implications in here for corporations to refile revised tax returns when they become aware of errors in the original returns or when they've been reassessed by another jurisdiction. It's a fascinating, I think, flaw in law that when a corporation is reassessed in another jurisdiction and the reassessment shows that in fact there are still taxes owing, they don't actually have to declare that back in this jurisdiction. It's an interesting loophole, I guess, that we are closing, so that should also result in an ongoing increase in our corporate tax revenues. I would think most corporations, being good corporate citizens, would want to do that, but in fact they don't have to by law when they get that reassessment in another jurisdiction. So that will be dealt with.

Also, in cases where Alberta parallels a federal reassessment under the general anti-avoidance rule, corporations will not be able to appeal to the Alberta courts until the ability to appeal federally has been exhausted. So that will save duplication in the courts and get one ruling which then can follow our usual pattern of harmonizing what happens on the federal side.

Also, there'll be, I think, some reduction in interest and penalties owing by taxpayers due to the fact that a taxpayer that doesn't apply for monthly installments on the Alberta royalty tax credit will be deemed to be paid in installments for the purposes of calculating that interest and those penalties on the income taxes,

so that will make life somewhat easier for the payor and reduce some of the interest and fines there. There are the usual technical amendments that are looked at when we harmonize with the changes on the federal side.

The Member for Edmonton-Glenora raised a number of good points that I'd like to address before we move into committee. He reflected on, as did some of the other members, this committee report on taxation. The bill itself doesn't address that, but since in second reading we do have some liberty to address wider ranging issues, I think it was fair comment on his part to reflect on that. He's quite right in talking about the fact that within the body of that committee report there was a reflection on a consumption tax, and I would leave it at strictly a reflection. It reflected off something and then bounced away into the darkness. In fact, at least one member on that committee raised the issue. That's fair to do, though in Alberta you do that somewhat at the risk of your own life expectancy, but the member was bold enough to raise that.

As I recall the conversation, it was raised in the context of: if there was not all this labyrinth and layer of other taxation, a pure consumption tax, all on its own, with no other layer of taxation, might be acceptable in people's eyes. I think he was bringing it forward in that particular context. When you consider what the level of the consumption tax would have to be to replace other forms of tax, we would be paying a lot of sales tax in this province, making our goods noncompetitive, especially with the border provinces. It becomes quite a huge issue. So I think that was how it was reflected on, the merit of a consumption tax in an otherwise pure tax system. Obviously it was not brought forward as a recommendation. So I want to assure the member -- and I don't know what his views on a consumption tax are on the provincial side -- that there was no recommendation or intent on the part of the government to bring forward the concept of a consumption tax.

The Member for Edmonton-Glenora also talked about an internal working document on ARTC, and there have been initial discussions already with the industry, and I will check with the Minister of Energy to see, in fact, if there is something that he's got that can be released to the member that reflects on the work that's already going on on the ARTC. There may be something that we can get to him to give him an update on that. I'll check and see if that's available.

Yes, there could be more changes coming in taxation. That's part of the consultation that's going on right now in terms of the brochure that's being sent to every home in Alberta. Of course, you'll recall that the main reason for the consultation, one of the main driving reasons, is the fact that it looks like we will have a net debt of zero by the year 2000. It's possible. Once the net debt is gone, we're no longer bound by our act which requires us to pay debt down at a certain amount and to put significant portions of the surplus on to the debt. In other words, we will be standing naked without legislation requiring us to pay down the mortgage at a certain rate.

I don't want to be standing there in that particular position when we may have surpluses at our disposal and not having legislation guiding us in how we dispense with those surpluses, so we have to go to Albertans and say: "This legislation that required us to pay the net debt down at a certain fairly aggressive rate, Albertans, that legislation could disappear, no longer be binding. What do you want us to do?" So in that context, as we're asking that question, we're also asking some questions that reflect back on this tax review committee. I think that's fair, and if we are seen as consulting too much, then let me say *mea culpa*. We stand guilty as charged. We consult quite a bit, and on issues as fundamental as this I believe it's proper to do that.

9:20

Again, not entirely germane to the bill is the discussion on fees and the Supreme Court ruling, and yes, the Member for Edmonton-Glenora has quite appropriately asked where we are at in this discussion and evaluation. In fact, I have sent notices to all of my ministerial colleagues to do their evaluation of all of their fees. We want to accumulate that total evaluation and be able to correctly assess, in light of this court ruling: are these truly for cost recovery purposes, is it based on the concept of user pay and cost recovery, or do we have some fees which actually go beyond that and actually create a profit-making situation, if that can be possible in government. I can tell the member that I would say that over three-quarters of all the ministries have completed and sent in that review. We're just waiting for a few more departments to finish up on the fee review. I would welcome his input in that analysis, because it's going to affect all of us in terms of potential liabilities. I'm not a lawyer, but recalling the ruling, you can in fact have a charge on a service that goes beyond cost recovery as long as you call it a tax, and then it comes before the Legislature. So those are the types of things that we'll have to look at, and I will invite the member's participation in that exercise. It's an important one.

He talked about tax bracket creep and tax bracket creeps. Actually, I for one have said for a considerable period of time that it is we the politicians who are the tax bracket creeps. We are because we've allowed this insidious thing to happen. Sometimes it's easy just to point at the federal government since they set the rate, but in fact we could be doing things, I believe, provincially to move away from that insidious movement upwards that takes a person and just because of inflation forces them into a higher bracket and they lose the buying power of an hour of labour. We need to address that, and that is addressed in one of the recommendations in the committee report. When he talked about the effect of tax bracket creep, the Member for Edmonton-Glenora said, I believe, that from '92 to '98 that actually brought into the coffers of this province about \$200 million. I haven't done that assessment, but that may well be the case.

I wouldn't therefore minimize the effect of our tax reduction which we introduced last year. It wasn't huge obviously, but in one year we forewent, did without, \$123 million, as the member has identified. So it could be said, it could be argued that in one year we accounted for well over half of what was misappropriated -- I don't mind saying that -- by inflation into the coffers of the province. So we're trying to deal with that particular area. The tax bracket creep is insidious, and it needs to be dealt with.

In a reflection about comparisons with Ontario, I don't think we should have low taxes just so that we can have bragging rights. In fact we do know that when people have a sense that they're taxed less in a certain jurisdiction, they will gravitate to that jurisdiction. That is a fact. It's hard to run an econometric model that shows: reduce this much equals this much in terms of increase in revenues. But we do know that the sense that you are taxed less for your efforts in a certain area is an attractive force. You can make either a direct or an indirect link.

The Member for Edmonton-Ellerslie talked about job creation and can you point to something there. In a purely scientific way I think you might be on shaky ground to point directly to a reduction in taxes and a direct corresponding increase in employment, but it seems to be a happy coincidence that in any jurisdiction that lowers taxes, in fact the economy becomes more vibrant, and there is an increase in opportunity and an increase in jobs. For instance, this last year in Budget '98 we projected that we would see 40,000 new jobs created this year, in fiscal year '98. In the first nine months of '98 we've already seen

55,000 new jobs created by the private sector. So we can argue about whether it's a result of taxes being lower or an announcement being made that they're going down or it's the lowest in Canada, but there is always this happy coincidence between lowering taxes and a more vibrant economy and more jobs and in fact an increase in the revenues coming into the coffers of the province.

We'll see in the second quarter report, which I'll release in about a week, that personal income tax revenues are up, though the rate is down. So individually people are paying less, but overall we're taking in more and on the corporate side also. We're taking in more corporate taxes, though we're keeping the rate down. So call it coincidence, call it luck, it seems to coincide. When you look in a broader way, you could look at JFK and his tax reductions of the early 1960s and a corresponding increase into the federal coffers in the United States. [interjection] It just happens to be a happy coincidence. Pardon me?

AN HON. MEMBER: He's a liberal.

MR. DAY: He was, and I congratulate him posthumously, I must say regretfully, on his wise move to reduce taxes. I believe we're coming up to the anniversary of the date of his passing.

Other areas that were mentioned. The Member for Edmonton-Ellerslie talked about a shortfall in high-tech jobs. There's been a fascinating shift in the economy in Alberta. If you go back to 1986, of all the corporate revenues that we took in, 59 percent of those came from the oil and gas sector. That's a big chunk of the economy. That was in 1986. At the end of 1997 the entire amount that we took in from the oil and gas sector was 22 percent of the revenues. So in '86 our reliance on the oil and gas sector made up 59 percent of all the corporate tax we took in. That particular sector was responsible for 22 percent by the end of 1997. It shows a very significant move in diversification, and manufacturing and value-added processing are the two areas that led the increase in those revenues coming in. Again, call it coincidence, but the sense that you're taxed least in Alberta, either because you want to work an extra hour overtime on the assembly line or because you want to invest more in your small business, whatever area it is in which you're investing your time and effort, you receive more of the rewards for your labours in Alberta than in any other province.

[The Deputy Speaker in the chair]

The Member for Edmonton-Glenora reflected on the bigger debate and the bigger discussion, and there are other items to discuss. The CPP is certainly one of them. I think it would be optimistic to introduce an omnibus bill of the size that would contemplate all of the tax reductions or tax reformation that could be done: property tax, for instance, the farm review tax that's going on right now, the CPP that we're looking at. I don't think we would do justice to each one of those issues if we tried to introduce them into one large debate, so we're trying to do it on a sectoral basis, and I hope that makes some sense to him.

The Member for Edmonton-Ellerslie talked about, again, the job issue and not seeing this as a climate for people, but when you create more jobs and when more people are working, you have the lowest unemployment rate in the country, and when your weekly averages in terms of income are running consistently in second or third place just shortly behind jurisdictions which have much higher tax rates, I think you have to say: this is a climate for people. People are coming here from all over the country.

The population gain in the first six months of '98 was 28,132 people. Well, two of them left last month, so it would be 28,130. Twenty-eight thousand people moving here in the first six months, that is an unprecedented rate of growth. Going back as far as 1981 there's nothing to match it. So for some reason people in huge numbers are coming here, and I honestly believe part of the message is they face less punitive damages for their efforts through the tax system here than in other provinces.

So with those reflections on what the intent of the Tax Statutes Amendment Act is, and also I would like to address in committee -- the Member for Edmonton-Glenora asked for the various milestones that'll be used in determining the royalty tax credit as related to the mining industry. I'll try and make that available, and we'll look at other issues that they may raise in committee.

With that, Mr. Speaker, I move this bill for second reading.

THE DEPUTY SPEAKER: The hon. Provincial Treasurer has moved second reading of Bill 44, Tax Statutes Amendment Act, 1998. Does the Assembly agree to the motion for second reading?

HON. MEMBERS: Agreed.

THE DEPUTY SPEAKER: Opposed? The motion is carried, apparently unanimously.

[Bill 44 read a second time]

Bill 46 Securities Amendment Act, 1998

MR. DAY: Mr. Speaker, in moving second reading of Bill 46, the Securities Amendment Act, this is again highly technical in nature. There is not a gigantic policy shift here, but the bill really is the result of a lot of work done by the Securities Commission people. I understand that this was just about introduced with the miscellaneous statutes amendment legislation last spring because the Securities Commission officials had communicated both to the Official Opposition and also with the NDP members on the broad consensus across industry and across provinces for these amendments. It appeared that there would not be a lot of debate, and at the last minute we just didn't have time to get that included under the Miscellaneous Statutes Amendment Act. The bill deals primarily with proposals of the Zimmerman committee which extend the time periods for takeovers and really lowers the risk in terms of participants when they're looking at takeovers and makes it a less hostile atmosphere in the long run for those who are the shareholders.

9:30

The proposal itself has been universally supported by market participants, and similar amendments have been passed in British Columbia and are also, as we speak, working their way through the Legislatures in Ontario and Quebec this fall. The legislation must be uniform in all provinces for the changes to work, and therefore we're trying to move this along and the securities people from across the country are trying to move this along in concert with the other provinces. There are also other technical changes that update the Securities Act in this particular bill, Mr. Speaker.

THE DEPUTY SPEAKER: Okay. The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thanks, Mr. Speaker. The Treasurer is certainly

right when he says this is a technical bill. Since I've already talked about my own steep learning curve once tonight, I won't do it again. I must say, though, that one of the first meetings I had after becoming the critic for the opposition in Treasury was with representatives of the Securities Commission, and I was able to obtain some insight into the rationale for Bill 46.

The amendments to the Securities Act relating to registration, exemption from registration and prospectus requirements, takeover bids and issuer bids are all consistent with goals and objectives that have been established in the business plan by the Alberta Securities Commission for the next three years. It's nice to see that the government is working with the commission to help them realize their vision. It required legislative change.

The Securities Commission has a particular responsibility to continue to review their own rules of practice, their policies, the legislation that they exist under to ensure that the commission operates within the current context that our capital markets exist in. The global nature of what's going on today, the moves perhaps towards a more national scheme, the speed at which decisions need to be made, the overall reliance on more self-regulation and less intrusive regulation by outside bodies are all issues which daily are affecting the trade in securities not just in Alberta and throughout the country but around the world.

The Securities Commission has set in its business plan its participation in the development of national standards for registrants. It has reflected on some of the recommendations in the Zimmerman report, particularly as they relate to the amendments required in the Securities Act to harmonize provisions relating to takeover bid time limits. There is a move towards a permanent registration system, as recommended by the national securities organization, the Canadian Securities Administrators. This move reflects the current situation in other provinces, most notably in Quebec and British Columbia. There's an adoption of a permanent registration system, which will eliminate the requirement to file a renewal statement every year. This resulting reduction in administrative costs for the commission, for the securities industry hopefully will be stimulative in its impact.

I'm pleased to see that there are sufficient safeguards in place in the plans, which will require disclosure to the commission of any material change on behalf of registered salespersons of securities. More and more Albertans are tying up their own dreams and ambitions, particularly in their retirement years, with securities, and I think that anything we can do to help ease any stress or concerns or fears that they may have in relation to the sales force who is marketing those securities to them is a good thing and is a benefit that they should enjoy in law. It's certainly the responsibility of this Chamber to see to it that we are vigilant to make sure that our securities industry doesn't befall the fate of other securities industries elsewhere in this country or in other places in the world. The last figure that I have is as of March 31, 1997, in which there are 6,988 salespersons registered with the Alberta Securities Commission involved in the sales of securities. That's a pretty sizable group of men and women working in a highly volatile and ever changing industry, and I think the number will only continue to grow. So it's not an easy task.

The streamlining and simplifying of the process with respect to exemption orders as they relate to securities transferred or issued as a result of an automatic, compulsory, or deemed conversion or exchange is a benefit that the commission has been looking for for some time. The broader class of business combinations and arrangements and the use of planned administrators will result in reduced regulatory burden for issuers. All these initiatives

combined should help the Securities Commission realize its goals as stated in its business plan. I think that if we can reduce the regulatory burden, which will save time and save money for the industry, at the same time ensuring the adequate safeguards, then I think we have accomplished a great deal, and I think the intent of the bill is clearly to do that. I will note that some questions exist in the wording of some of the specific sections in that regard, and when it comes to that balance between reduced regulatory burden and sufficient vigilance in terms of ensuring the safety and security -- not safety and security; we're dealing with securities. Let me put that another way. The safety for investors of dealing in the securities market is a balance that if it has to be the least bit tipped one way or another, my preference would be that it be tipped to the benefit of the protection of those people who will be involved in the purchase of securities as opposed to the benefit of those people who may be involved in the marketing of securities.

The use of rule-making as opposed to law to specify the time period for takeover bids and issuer bids in such areas as the minimum deposit period, the prohibition against taking up withdrawal rights, payments, bid extensions, et cetera, is consistent with the need to ensure greater flexibility and to respond to changes in capital markets. I would like to be more certain, though, that all of these changes, including the changes regarding filings, doesn't make it more necessary that we will have to see the commission play catch-up along the way, that instead of being able to review things at the front end, all of this streamlining won't result in them having to look back over their shoulders and try to find things that have been missed. It seems to me that, again, the need to simplify the process has to be balanced against making sure the process is not so flexible that it can be bent completely out of shape to meet the needs of somebody who might take advantage of a loophole or perhaps some laxity that wasn't intended.

9:40

Now, the changes in the bill before us are consistent with changes made to the Securities Act back in '95. I guess I need to be assured that those changes a few years ago and these changes today aren't putting investors or those people who would be involved in the trade of securities in any way, shape, or form in harm's way. So, Mr. Treasurer, again, you will present to the Assembly a bill that's technical, that on the face of it is very hard to argue in a negative way about the principle. In fact, I'm very tempted to tell you that this legislative initiative has my support.

I am waiting for a couple of queries that I have put out to be answered to some people in the industry about some particular sections. I'm expecting to get a response back in a day or two. My concern, as was with Bill 44, is that we have enough time in debate -- I think we will -- for me to get those answers, to fully understand their content, to perhaps to even meet with you or some people in your department, should I have particular questions, and then to come back into debate and committee and propose an amendment, if it's necessary, or just to seek some further clarification in debate.

I think that there are perhaps one or two other members that want to make preliminary comments at this stage, so I will take my seat. I appreciate your explanation in the introduction of this bill, and look forward to the debate at committee.

THE DEPUTY SPEAKER: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thank you very much, Mr. Speaker. I'm going to be mercifully brief. I just noticed an inconsistency in Bill 46, and I'm hopeful that maybe the minister of intergovernmental affairs or the member for Calgary-Glenmore, who I know keenly

review these bills for detail, might direct their attention to the proposed section 2. The inconsistency here has to do with when you have to give notification in terms of a registered salesman. It's certainly important that a salesman who's been found guilty of fraud or negligent misrepresentation -- that's a significant factor that should be reported.

But here's the inconsistency. On the one hand, if there has been a "finding or judgment made against the salesman in a civil proceeding by reason of fraud, theft, deceit, misrepresentation or similar conduct," what that means is where a court has heard evidence, has made an adjudication, has made a finding of fault, then that triggers the obligation to notify. But if you look at section 2(b), what we have is if there's a "charge or indictment." So on the civil side you have to go all way through to actually getting a judgment before you trigger the notice requirement. On the criminal side all you have to do is simply have a charge, and then you have an obligation to report it.

As long as we have a presumption of innocence, yes, even in terms of securities legislation, police sometimes make errors, enforcement officials sometimes make errors, and that's why we have the bulwark of the presumption of innocence, and until there's been an adjudication by the court, the salesman should be treated no differently than the Provincial Treasurer, me, or anyone else. To charge is not the same thing as a finding in an adjudication. It just strikes me that if you're going to say that simply an allegation, then that would mean that the minute a statement of claim is issued anytime against a sales person that alleges . . .

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: Hon. members of the Assembly were reminded that we're in Assembly and not in committee, and for those individuals who may find themselves in the inappropriate seat, if they would proceed to an appropriate one.

I'm sorry to interrupt you, hon. member. Calgary-Buffalo.

Debate Continued

MR. DICKSON: You've got a keen eye, Mr. Speaker. You have a keen eye.

In any event, Mr. Speaker, the point I was trying to make was that there should be consistency. If it's enough to trigger the reporting mechanism that there's simply an allegation that somebody's done something wrong, then it should be the minute a statement of claim issues in a civil proceeding where one of the allegations is that a salesperson has committed fraudulent misrepresentation, theft, deceit, whatever. I'm not recommending that because of the presumption of innocence. The better way would be to simply say that when there has been a conviction of a salesman for an offence, then clearly there should be a requirement.

I guess what I'd ask is simply the fact that there is a charge or there can be an indictment -- there's been no adjudication at all, and if I were a salesperson, I'd be pretty upset. I mean, what's the point of the reporting unless it's to ensure that the executive director would then have a power to take some sort of further action? It just seems to me that there should be some consistent treatment. This may just be an oversight, but I'm confident that there are some people with background in this area. I hasten to say, not background in the area of negligent misrepresentation, fraud, or deceit, but there are certainly members in the government caucus, the Minister of Education or Calgary-Glenmore or the minister of intergovernmental affairs that I think would share the concern I've just expressed, and I'm hopeful that they'll be

able to second this concern with the Provincial Treasurer.

Otherwise, I mean, as I understand the bill, it's largely remedial, and it's designed to address concerns. I think we all have a stake in ensuring that our securities legislation provides a measure of comfort. None of us who have watched what happened to the Vancouver Stock Exchange and securities regime in the province of British Columbia would want to see us in this province develop anything like that kind of representation. I know Mr. Bill Hess. There was a very laudatory magazine treatment of him in a Calgary magazine recently. I saw him at pains to want to distinguish our securities regime in Alberta from that in the province to the west. But I'm confident that this contradiction or conflict that I've identified in section 2 wouldn't have been deliberate and may have just escaped the attention of people who were proofing or reviewing this.

So I suppose I'd just conclude by saying that maybe there's some reason I'm unaware of that would treat the presumption of innocence differently in a civil proceeding than in a criminal proceeding. I can't imagine what that would be, Mr. Speaker, but, hey, I learn something every day in this Assembly, and maybe I can be set straight. That's a concern I have, and I hope it can be remedied before the bill proceeds further.

Thanks very much, Mr. Speaker.

THE DEPUTY SPEAKER: The hon. Member for Edmonton-Riverview.

MRS. SLOAN: Thank you, Mr. Speaker. I am embarking on a new area of debate this evening with respect to the amendments proposed to the Securities Act. There are two basic areas of the proposed amendments that I would like to focus on.

9:50

The first one relates to, I guess, the intent of the act and the amendments proposed to be able to provide for a freer flow of assets and capital, and I'm questioning the government with respect to what relationship this has to the MAI. [interjections] If the hon. members across the way would like to test their political fortitude and intelligence by getting up and debating the bill, I'd challenge them to do so. I think that there's a process for investigating and researching, and when the government proposes amendments to an act, I think we all have responsibilities as members to investigate what the implications of those amendments are. I would hazard to guess, Mr. Speaker, that there is a large majority of members across the way that really don't have any idea what these amendments mean and haven't bothered to study the implications of them. However, they'd rather make catcalls as the members of the opposition try in a manner to debate this seriously.

Speaker's Ruling Decorum

THE DEPUTY SPEAKER: I wonder if the hon. members who suddenly have awakened now that the hour of our departure is coming near could go back to the reading or signing of their documents. It isn't helpful, hon. member, to reflect unfavorably on those who may sit opposite.

MRS. SLOAN: I was definitely provoked, Mr. Speaker. I'll try to consider the source and discount it accordingly.

Debate Continued

MRS. SLOAN: One of the aspects of the amendments is that the

Securities Commission is intending to move to a permanent registration system under which brokers and firms and their salespeople will no longer be required to renew their registration on an annual basis. I can only debate this this evening from a professional point of view and one in which I am required on an annual basis to prove my competence in a health discipline. If a rigid, permanent registration system is provided by the Securities Commission, I would ask the question: what mechanisms and tests have to be fulfilled by people working in this area that prove their competence and their credentialing? I'm not familiar. We've attempted to look in the act to see if those mechanisms exist, but I think there is a significant risk to the public. If we choose to have a permanent registration system, one in which once your on the list, your on the list, given the scope of responsibilities such people are assuming with respect to individual and collective assets, I think there should be some mechanism for competence if there is not.

Section 63 of the act says that a registered salesperson would have to notify the executive director of a material change or any material previously filed with the commission. That, I guess, is a mechanism of protection in some respect. However, I'm not sure it fulfills the test of continued competence in the area. Whether or not there is annual or biannual or a certain term where people have to take a test and upgrade their skills within the securities area, I'm not aware, but I'm asking those questions this evening with respect to these amendments proposed.

The Canadian Securities Administrators are proposing these amendments to simplify the registration process, and I think that the rationale for that is probably quite justified, but acting as a duly elected representative of the public, there has to be a public protection component. That has not been provided to me by the government in respect to these amendments, and I see it as a gaff if that information does not exist.

In relation to the MAI, I mean, we are all very aware of the economic crisis in Asia and how that has impacted both personal and collective investments across the continent. I guess I question amendments that would allow for the freer transfer of assets in light of that. It's a concentration of wealth, and I think what we're elected to do is to represent the interests of Albertans and secondarily Canadians but primarily Albertans. I'm not quite sure how making the system for the transfer of capital and wealth out of Alberta easier protects those interests.

With those respectful comments and the questions asked, Mr. Speaker, I would hope that at some point in the future debate of this bill they will be answered or provided for in the debate by the hon. Treasurer or members of the government. I respectfully conclude my debate on this bill.

Thank you.

THE DEPUTY SPEAKER: The hon. Provincial Treasurer to close debate.

MR. DAY: To close debate, Mr. Speaker. The Member for Edmonton-Glenora is quite right in terms of the technical aspects of this particular bill, and I want to have it on record that Mr. Bill Hess in his capacity, as has already been noted by the Member for Calgary-Buffalo, has received national recognition for the way in which he has steered this particular area of our economy. The commission itself, as I think most members know, is self-funded by the industry. He makes sure it keeps pace with developments across the country. I think members are also aware that recently a foundation was established under his guidance which allows for education in this whole particular area of securities, and that

particular foundation has also received national recognition.

Also receiving national recognition is the ability in Alberta for capital to be raised through the junior capital pool process. That is something that has been recognized, and many of those companies have moved on in fact to the Toronto Stock Exchange after going through the process here in Alberta. We want to maintain the good reputation that is there. It's very positive to our economy.

The question raised by the Member for Calgary-Buffalo related to an apparent inconsistency. I would like to have that looked at and report back at the committee stage, to see if in fact that is an inconsistency. I would encourage the Member for Edmonton-Glenora -- indeed I'm glad he has already contacted the Securities Commission people and Bill Hess, as I took it from his remarks, to get some feedback on some of the precise questions.

I would just close by saying to the Member for Edmonton-Riverview, to encourage her -- she felt emboldened to walk in this area, which for a lot of us as laypeople is hard to understand. I can assure her that all the information that I have from our minister of intergovernmental affairs indicates that as far as the MAI discussions, those are, if not dead, in a state of close to rigor mortis. Negotiations at the OECD have been suspended. It is not being advanced. There's been significant concern raised about

some of the issues there. So nothing in this particular act reflects on that, and I don't think we have to worry about the MAI type of negotiations coming upon us.

I will get the member the list of qualifications and requirements as related to people working in that particular field. This bill in and of itself doesn't deal with that, but the registration and competency requirements are there, and they are, I think, more stringent even than for the nursing profession. Unless I'm wrong, within a five-year span to maintain one's status in the nursing profession, you have to complete a certain number of hours. I don't know that there are actually tests and exams that have to be done once you've achieved your level of RN. I could be wrong on that. The requirements are more stringent in this particular industry. I'll see that those are sent to the member so that they are aware of those.

With that, Mr. Speaker, I'll look forward to addressing a couple of these elements in committee and will move second reading.

[Motion carried; Bill 46 read a second time]

[At 10 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]

