



Province of Alberta

The 28th Legislature  
First Session

# Alberta Hansard

Monday evening, November 25, 2013

Issue 73e

The Honourable Gene Zwozdesky, Speaker

## Legislative Assembly of Alberta The 28th Legislature

First Session

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## Legislative Assembly of Alberta

7:30 p.m.

Monday, November 25, 2013

[The Speaker in the chair]

**The Speaker:** Please be seated.

### Transmittal of Estimates

**Mr. Horner:** Mr. Speaker, I have received a certain message from His Honour the Honourable the Lieutenant Governor, which I now transmit to you.

**The Sergeant-at-Arms:** Order!

**The Speaker:** Hon. members, the Lieutenant Governor transmits supplementary supply estimates of certain sums required for the service of the province for the fiscal year ending March 31, 2014, and recommends the same to the Legislative Assembly.

Please be seated.

The hon. President of Treasury Board and Minister of Finance.

**Mr. Horner:** Thank you, Mr. Speaker. I now wish to table the 2013-14 supplementary supply estimates. When supplementary estimates are tabled, section 8 of the Government Accountability Act requires that a new or amended fiscal plan be tabled. Accordingly, the 2013-14 supplementary estimates include an amended fiscal plan for 2013-14. The 2013-14 supplementary supply estimates will provide additional spending for eight government departments. When passed, the estimates will authorize approximate increases of \$624.7 million in operational funding and \$139.6 million in capital funding for the government.

### Government Motions

43. Mr. Horner moved:  
Be it resolved that the message from His Honour the Honourable the Lieutenant Governor, the 2013-14 supplementary supply estimates for the general revenue fund, and all matters connected therewith be referred to Committee of Supply.

**The Speaker:** The hon. President of Treasury Board has moved Government Motion 43. I show this, under SO 18(1)(i), as being debatable.

The hon. House leader for the Official Opposition.

**Mr. Anderson:** Thank you, Mr. Speaker. If I could just get a few details from the Treasury Board president on this. I'm sure we'll do this partly when we're actually in committee, but I'm assuming the largest portion of this is flood related.

**Mr. Horner:** All of it.

**Mr. Anderson:** All of it's flood related. I'm assuming this is flood related, so I look forward to the committee going through this. Obviously, we need to talk about these funds as they are necessary to deal with the flood damage in High River, Calgary, and southern Alberta generally. We look forward to the debate on that and would propose that we support this motion so that we can get to the work of going over it in more detail.

**The Speaker:** The hon. Member for Edmonton-Calder.

**Mr. Eggen:** Yes. I just wanted to clarify that for each of these ministries the supplementary supply changes are to do with the flood recovery. Yeah? Okay.

Thanks, Mr. Speaker. That's good.

**The Speaker:** Are there others?

You're ready for the question?

**Hon. Members:** Question.

[Government Motion 43 carried]

44. Mr. Horner moved:

Be it resolved that pursuant to Standing Order 61(2) the Committee of Supply shall be called to consider the 2013-14 supplementary supply estimates for the general revenue fund for three hours on Tuesday, November 26, 2013.

[Government Motion 44 carried]

### Government Bills and Orders Committee of the Whole

[Mr. Rogers in the chair]

**The Chair:** I'd like to call the Committee of the Whole to order.

#### Bill 33

#### Tobacco Reduction Amendment Act, 2013

**The Chair:** I'll recognize the hon. Minister of Health.

**Mr. Horne:** Thank you very much, Mr. Chair. I'm pleased this evening to rise on behalf of the hon. Associate Minister of Wellness to speak to Bill 33, the Tobacco Reduction Amendment Act, in Committee of the Whole.

Mr. Chair, earlier this afternoon this House, I think, took a very important step in our commitment to reduce tobacco use among children and youth when we approved third reading of Bill 206. Despite the fact that there may have been differences of opinion with respect to issues such as the role of government in achieving such an objective, I for one – and I think I'm joined by others – was very gratified to see the level of support on all sides of the House for an issue which is increasingly important in our society.

Similarly, with Bill 33 we've seen significant support for the intent of this bill on all sides of the House. Again, the intent of Bill 33 is to reduce the impact of tobacco or tobaccolike product use or second-hand smoke on our young people. As the Associate Minister of Wellness has expressed, we see this bill as protecting the health of all Albertans and a healthy future for our young people.

I will clarify again as we enter into the committee stage that the act respects the right of aboriginal peoples to use tobacco in its traditional spiritual and cultural role, and the act respects the private use of tobacco in a person's home, and it does so very, very clearly, Mr. Chair. Nothing in the bill affects these rights, so Albertans can be assured that they may continue to use tobacco as part of their cultural practice.

However, as a member of the government and as a proud Albertan I see the bill as essential to protecting the healthy future of our children and youth from the many harms of tobacco, tobaccolike products, and second-hand smoke. As I said earlier, I believe that the majority of members of this House share those feelings of commitment. A generation from now, Mr. Chair, we do not want to see tobacco still claiming 3,000 Alberta lives each year, as it does now. We don't want to see such high rates of lung

cancer and cancer deaths due to tobacco use. We want our young people to be there for their families as parents, as grandparents, and as involved community members. We certainly don't want to see them face the fate that so many lifelong tobacco users face today. I'm sure this feeling is shared by many around the House. Every time I see a young person or a group of young people lighting up, I feel the need to do something more, Mr. Chair, and Bill 33 is that something more.

During second reading the issue of cessation support for tobacco users was raised. I'm pleased to remind the House that Alberta's 10-year tobacco reduction strategy provides for ways to expand comprehensive cessation initiatives. The tobacco reduction strategy acts on a combination of prevention initiatives, public awareness, education, and cessation supports. Stronger tobacco legislation is also a part of that picture, and Bill 33 helps to make that happen.

First, it specifically prohibits furnishing, which includes selling and giving of tobacco products to young people in public places. We have federal legislation in place, as we've noted, but we have nothing in Alberta. With Bill 33 Alberta joins other provinces with legislation to prohibit the sale of tobacco products to minors. The fines will be levied against adults who provide youth with tobacco, and we will enhance enforcement by adding to the existing powers that peace officers already have. I remind the House that Bill 33 does not prohibit tobacco sales to adults. That means that store employees who are under the age of 18 may sell tobacco products to adults. They may not, however, buy those products themselves or sell the products to other minors.

7:40

Secondly, Bill 33 establishes regulatory authority to mandate a minimum number of tobacco products in a given package to make the packages less affordable to children and youth.

Third, Bill 33 very importantly prohibits smoking tobaccolike products such as those used in water pipes in the same places where the smoking of tobacco is currently prohibited. Mr. Chair, we are mindful as a government that the practice of smoking some tobaccolike products has a cultural following in our society, and I'd remind the House that nothing in the bill affects the use of those products and related equipment in people's private homes. Bill 33 simply addresses the use of these products in public places and in the same places and under the same conditions where the smoking of tobacco is prohibited. This is important because it protects Albertans from second-hand smoke that is just as harmful as tobacco.

We realize, Mr. Chair, that these measures will have an impact on businesses whose policy on the use of water pipes and related products helps to attract customers. But as we said in earlier stages of the bill, proclamation of the legislation would be staggered to allow time, at least 12 to 18 months, for regulations to be developed and for businesses to adjust. This is the same as, if not greater than, the transition time that was offered to establishments when the prohibition of the smoking of tobacco in public places was introduced.

We know from experience that when smoking was first banned in public establishments, most people and businesses were able to successfully adapt, and we expect the same businesses will experience that same success again. Mr. Chair, as we've all also noted on all sides of the House, some municipalities already ban the smoking of water pipes in specified locations. Again, this part of Bill 33 creates an equal playing field across the province.

Fourth, Mr. Chair, banning smoking in vehicles with children present is another feature of this bill. The Tobacco Reduction (Protection of Children in Vehicles) Amendment Act received

royal assent in March of 2012, but it has not yet been proclaimed. Bill 33 would bring all the provisions of this legislation under the Tobacco Reduction Amendment Act.

Finally, Mr. Chair, Bill 33 would also bring the Prevention of Youth Tobacco Use Act into the Tobacco Reduction Amendment Act, creating a single, unified piece of legislation that supports a comprehensive approach to protecting young Albertans from tobacco and speaks to the values of our province. We pass laws to protect the public good. Bill 33 will strengthen public protection from the health risks of tobacco, tobaccolike products, and second-hand smoke. It is a testament to our commitment to Albertans and their future.

With these ideas in mind I offer my support for Bill 33, and I look forward to the discussion from all sides of the House during Committee of the Whole.

Thank you.

**The Chair:** Thank you, hon. minister.

The hon. Member for Calgary-Fish Creek.

**Mrs. Forsyth:** Thank you, Mr. Chair. I want to thank the minister for getting up and answering a couple of the questions that I had put on the floor, that I had wanted answered. I appreciate that he talked about cessation in regard to smoking, and I was aware of that in the act, but I had specifically asked him questions on how we have Albertans that can't afford to pay for some of them, and here we are.

I still haven't heard from the minister in his speaking notes in regard to the consultation process that they took in regard to this piece of legislation, when I specifically asked about what addiction specialists they had talked to, et cetera.

Mr. Chair, I respect and I appreciate the comments the minister made about respecting the rights of aboriginal people and cultural diversity.

I am going to be proposing an amendment that I would like to have passed out, please, and I'm going to read it into the record if I can.

**The Chair:** Maybe just a short pause, hon. member. We'll get that mostly distributed, and then I'll signal to you when you can pop up again. Thank you. I'll give you the thumbs-up.

For the record, hon. members, this will be A1.

Please proceed, hon. member.

**Mrs. Forsyth:** Thank you, Mr. Chair. I must teach you some sign language when you want to tell somebody to get up and speak, but I get the thumbs-up. I appreciate that.

I want to read in that I'm moving that Bill 33, the Tobacco Reduction Amendment Act, 2013, be amended in part A by adding the following after section 4. In 4.1 section 3 is renumbered as 3(1), and the following is added after subsection (1):

- (2) Subsection (1) does not apply to a shisha or a hookah establishment, as defined in the regulations, that permitted the use of a tobacco-like product on or before November 14, 2013, but shall apply to any establishment when the ownership changes after that date.

In part B in section 19 the following is added after clause (a):

- (a.1) For the purposes of section 3, designating what constitutes a shisha or hookah establishment.

Now, what I want to say on this particular amendment – and, again, I want to thank the minister for speaking. He talked and clarified about respecting the rights of aboriginal people and their cultural diversity. I guess what my amendment is addressing is the fact that shisha bars or hookah bars have got a very strong ethnic component to them. I think we have to respect the rights of ethnic

people in this province, especially when they move to this province. Right now Bill 33 would ban shisha cafés from operating if it is passed. So the purpose of this amendment is to allow existing shisha cafés to continue to operate despite the ban on the smoking of tobacco-like products in public places. This grandfather clause as proposed would mean the exemption expires when the business is sold.

Now, the minister was talking about the 12 to 18 months for regulations and that businesses can adjust, and he referred to water pipes and things like that. I've had a great deal of calls from businesses, and I can appreciate why they're calling. When I talk about businesses from that aspect, it's gas stations and things like that that saw a decrease in their tobacco and are going to see a more substantial decrease in some of the things that are being proposed in Bill 33 along with Bill 206.

Where I'm struggling is with the fact that the shisha bar is a business, and it operates legally and should be allowed to continue to do so under certain circumstances. Retroactive law changes are unfair for those operating a currently legal business. Shisha cafés in Quebec were grandfathered in upon proclaiming its Tobacco Act, and there are about 30 locations in this province that were grandfathered. I have to say, Mr. Chair, that of the shisha bars or the hookah bars that we have talked to, none of them were consulted. I'd like to ask the minister, when they were putting this bill together, whom they consulted in regard to literally putting a business out of business.

I think the reason shisha is considered legal right now is because it's a nicotine-free product. I've read some of the articles about: you're puffing 200 times more, et cetera, and things like that. But the smoking of the shisha is a common cultural practice in the Middle Eastern and our African cultures among others.

I guess, Minister, I appreciate and value greatly that you've excluded the aboriginals when they're doing smudging and the exchanging of tobacco. That's something that's very spiritual with the aboriginal people.

I am hoping that the government would consider supporting this legislation. If not, I'd like to know why not. What this bill is saying is that we will allow shisha bars to continue, but if that business is sold, it goes out of business. It can't be sold to someone else. The people that we've talked to are very upset about this. I know that some people will think that it's part of a pastime for kids to go there and have conversations, but truly it's more on the cultural aspect of what I referred to: Middle Eastern culture, Africans, Muslims, all that partake in this from a cultural aspect. It's what's done.

7:50

If the minister or the government, for that matter, or the associate minister whose bill this is could explain to me whom they talked to from shisha bars or from that ethnic perspective, I would be more than willing to accept why the government is moving forward.

We are literally going to put these people out of business. The minister alluded to: businesses can adjust in 12 to 18 months. Well, you can't adjust if you're being closed down, and you certainly can't sell the business. This government has proudly talked in the past about attracting businesses and that we are for businesses and that we respect the rights of people and that we want them, so I would hope that the government would consider accepting this amendment.

I hope that the minister will explain, whether it's the associate minister of health and wellness or the Health minister, for that matter, whom they consulted with. Mr. Chair, I've got to tell you that we have talked to addiction specialists in regard to who was

consulted from an addiction perspective, and there are some very well-respected doctors in this province and in fact in this city who have not been consulted on this bill whatsoever. I have talked to, as I said earlier, shisha or hookah bars. None of them were consulted. And the businesspeople – I've stood up in this Legislature and said that I'm going to support Bill 33 – have not been consulted in regard to the bill and, you know, how they are going to deal with some of this.

We're in committee, and I'm hoping that the minister will provide us with whom they consulted from the shisha or hookah bars, whom he consulted with in regard to addiction specialists in this province, and I'll look forward to the debate for the rest of the amendment.

**The Chair:** The hon. minister.

**Mr. Horne:** Thank you very much, Mr. Chair, and thank you to the hon. member for proposing the amendment that she has and for the obvious thought and consideration that has gone into drafting it.

Mr. Chair, I'll do my best to answer the questions. With respect to the specifics around consultation on the bill I may have to defer to the Associate Minister of Wellness to come back with that detail, but we'll certainly follow up with him on that point.

On the consultation issue generally, just to remind the Assembly, Mr. Chair, Bill 33 actually in law enables the commitments that were made under the updated tobacco reduction strategy, that was released about a year ago now. The hon. member and others may remember that there were extensive consultations, in fact well over a year's consultation, that led up to the release of that document. Many, many experts were involved, and there are many names in the tobacco reduction strategy that can be cited, both medical and other experts that actually collaborated and, in fact, worked hard to persuade the government not only to support and release the tobacco reduction strategy that we did but to back it up in legislation. Bill 33 is making good on that commitment, so to speak.

Specifically on amendment A1 and the proposal around exempting establishments that were in place on or before November 14, 2013, we would be unable to support the amendment for the simple reason that the decision is not specific to the issue of the fact that this is a cultural practice that is permitted in some restaurants and bars across the province. The basis for the decision – and I can tell the hon. member that we had a very long and very thorough debate about this within our caucus – is actually evidence around the harmful effects of second-hand smoke, including that that comes from tobacco-like products, on human health.

Mr. Chair, it's really no different than the tobacco reduction act of 2007, where the hon. minister of human resources, who was the minister of health and wellness at the time, brought forward legislation to prohibit the smoking of tobacco in public places, including restaurants and bars.

I will say to the House – and I will be pleased to table this at the appropriate time – that a very recent study, a study from October 2013, that was conducted by experts at the University of Alberta, a study, in fact, that was partially funded by Alberta Health Services, found:

“Herbal” shisha products tested contained toxic trace metals and PAHs levels equivalent to, or in excess of, that found in cigarettes. Their mainstream and sidestream smoke emissions contained carcinogens equivalent to, or in excess of, those of tobacco products. The content of the air in the waterpipe cafés tested was potentially hazardous. These data, in aggregate,

suggest that smoking “herbal” shisha may well be dangerous to health.

As you can see, Mr. Chair, if we’re interested in making the decision based on evidence around the potential harmful effects, including exposure to carcinogens, of tobaccolike products like shisha, it is necessary in legislation to provide the same protection to the public around exposure to second-hand smoke from herbal and related products as it is to provide the public with protection from exposure to tobacco smoke that they receive second-hand. That is the basis for the provision in the bill.

I’ll note as well for the hon. member that in the spirit of her amendment there are provisions in the bill for exemptions to be granted under regulation to specific establishments. When the legislation around tobacco smoking in public places, including in restaurants and bars, was introduced, there was a considerable transition time that was allotted. It was a delayed proclamation of those sections of the act that allowed bar and restaurant owners to transition either through physical modification of their facilities or through a decision not to continue to offer that opportunity in their establishment and to replace it with other revenue-generating business activity. Mr. Chair, although it’s not part of the legislation, the commitment of the government is to offer at least the same if not more transition time for owners of establishments that currently allow the smoking of tobaccolike products, and we would estimate that time from proclamation of the whole bill to be anywhere from 12 to 18 months.

I will leave it to the Associate Minister of Wellness in further debate to talk a bit more about consultation, but I just wanted to make the point that while we appreciate the spirit of the amendment and the consideration that’s given to business owners and perhaps the relative importance of this activity in their establishment to their business – we thoroughly respect and appreciate that need – we have made a decision in this bill to put the protection of public health from exposure to second-hand smoke first. That was, as I said, not an easy decision and not an easy discussion within our caucus, but we do stand by that proposal, Mr. Chair.

For those reasons, with respect, we will not be able to support the amendment. Thank you.

**The Chair:** The hon. Member for Calgary-Fish Creek.

**Mrs. Forsyth:** Yeah. Thanks, Mr. Chair. I appreciate the minister standing up and responding to some of my questions. I’m well aware, from when we passed the Tobacco Reduction Act, of all of the conversations that went on then and all the exemptions that were given to bars and restaurants, and I understand and appreciate, Minister, that if you and I went to a bar as nonsmokers and were in a bar where there were people smoking, we didn’t have a choice then. We had to sit and put up with the smoke. People go to the shisha bars and they go to the hookah bars to smoke. That’s what they do for their pleasure. So you or I probably would not be one of those people that are going to partake or go to a shisha bar or a hookah bar for a cup of coffee because we know what we’re facing. The second-hand smoke that we face when we’re talking about bars and restaurants not having a choice: if we wanted to go for a beer and we wanted to go to the bar, we didn’t have a choice at that point in time.

I understand the establishments were given plenty of time under the regulation to make adjustments. You know, we’ve seen over time – as somebody having been here 20 years, I remember when you used to be able to smoke in the hospital. I remember that when I was having a baby, you could smoke, and then you had the baby, and you were smoking. I remember being on the plane when

I was in business in another world, and, you know, you were at the back of the plane or wherever it was, and you were all smoking and having a great time drinking the free liquor. You didn’t care even in a smaller place like that that the poor people in the front of the plane were probably going home smelling like a dirty ashtray. I mean, it’s no different than if you decide to go camping and you’re at a campfire. You know that when you go home, you’re going to smell like smoke.

8:00

Where I’m struggling, Minister – and, please, I’m on your side on this. I’m honestly on your side. It’s like going to church and you’re trying to convert people that are already in church. What I’m suggesting is that these people have specifically had these bars, and the government granted them and allowed these establishments and licensed these establishments to open up and have a shisha or a hookah bar. The second-hand smoke: the people that go there don’t go there just for a cup of coffee. They go there because they’re – I’ve never partaken in this. I have partaken in a lot of stuff, but I’ve never partaken in this. I was trying to be convinced, when we were talking to these people, to go to a shisha bar and partake in this. As a former, slash, struggling ex-smoker the last thing I need to do is get hooked on a shisha bar or a hookah bar and end up there smoking my brains out.

I guess for me it’s a culture that people from eastern – and, you know, the Muslims: I’m sure Calgary-East may be able to or want to comment. Muslim people partake as a culture. You made a comment. And I’m sorry; I’m struggling sometimes with these in regard to being evidence based or something, and I didn’t quite grasp the comment that you made in regard to making exemptions, I think. I guess maybe I’m hoping that if you’re looking at exemptions, you would look at exemptions.

I’ve read the report that you referred to from the university on carcinogens and things like that. I guess sometimes as an adult we make choices in life, and as an adult you can’t control what adults tend to either put in their mouth as far as eating or what they decide to do smoking. I can appreciate the fact that we want to try and help people as much as we can. This is not one of those mountains I’m going to die on. This is one of those mountains where I have to have the questions answered, and I appreciate you standing up and answering them to the best of your knowledge.

You said that you would talk to the associate minister in regard to consultation, but I’m just worried sick that we’re putting penance on 30 establishments in this province that have that, I guess, as you referred to when we spoke about aboriginals, cultural diversity, that ethnic component. When people move to this wonderful country that we call Canada and this wonderful province that we call Alberta and people are allowed the idea of freedom of choice – I’m struggling, Minister.

I honestly can’t pick apart your Bill 33 very much. I’ve stood up, and I’ve asked a few questions, and to the best of your knowledge you’ve responded. But this one is a struggle for me, and I don’t even partake in it. I think it’s our responsibility as elected members of this Assembly and it’s incumbent upon us to bring forward the concerns that we’ve heard from Albertans. I want to reiterate one more time that of all of the shisha bars and all of the hookah bars that we’ve talked to, no one, not one single person, was consulted in regard to this. In fact, they were quite taken aback, not even aware that this was part and parcel of your legislation. You know, I was here when we debated the Tobacco Reduction Act, and I’m struggling.

Thank you.



**The Chair:** Are there others? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Chair. I rise to support this amendment. I would ask the minister to take sort of a broader look at the wording of the amendment in the sense that, in my view, this is a culturally sensitive issue. Everything the minister said I believe is true, particularly on the health and the second-hand smoke and the studies that you quoted or presented. But the idea of setting out in regulations, constituting what the shisha or hookah establishment would be, gives the ministry flexibility to make determinations that maybe it's not a restaurant where there would be minors or that restricts it from having any minors.

There seems to be some flexibility in regulation in what the ministry would designate or constitute the establishment. I think the ministry in consultation with these groups, particularly the culturally sensitive groups, could probably find a reasonable common ground on how to set this out in regulation to do both, which is to protect the public per se on the second-hand smoke and many of these other issues and limit the damage but also respond respectfully to what is a cultural practice. I think that maybe not all places would fit the regulations, but certainly it would allow for some. It would give the ministry time to consult while we still pass this law and make sure that we respond fairly and justly to the cultural sensitivities of what we're dealing with.

I would hope the minister would give it a second thought and approve this amendment and allow it to pass. It gives the flexibility in regulation on how to manage it. We can get the best of both worlds on this, I truly believe, which is a reduction plus we can respond to the cultural sensitivities of these establishments.

With that, I thank you very much, Mr. Chair.

**The Chair:** Are there others?

**Mr. Horne:** Mr. Chair, if I may, and I'll be brief. You know, I thank the hon. member who just spoke for his comments as well. I think we have a meeting of the minds in terms of the need for sensitivity and consultation and discussion about doing something as groundbreaking as this would be in Alberta. This would truly be leading the country in limiting potentially harmful exposure to second-hand smoke from tobaccolike products.

I guess I would argue, at least with respect to the last speaker, that that objective or that possibility is actually covered in the bill under section 19(f), which allows in the regulation-making authority the ability to make regulations

- (g) respecting the exemption of a person or a class of persons from the application of all or any of the provisions of this Act or the regulations.

Further, it allows regulation-making authority

- (g.1) respecting the exemption of a place or a class of place from the application of all or any of the provisions of this Act or the regulations.

And then, finally, that authority is also extended

- (g.2) respecting the exemption of a tobacco product or tobacco-like product from the application of all or any of the provisions of this Act or the regulations.

Mr. Chair, I'd submit that, at least insofar as the comments of the last speaker, the intent of the subamendment is actually addressed by the bill in section 19(f), and it would certainly be the intention of the government in developing any such regulations to look at people or classes of people, to look at places or classes of places, and to look specifically at tobacco products or tobaccolike products. So that flexibility is already built into the bill. I think we can accomplish what the Official

Opposition is pointing to as a very legitimate concern, but I think we have it here in the bill.

Thank you.

**The Chair:** The hon. Member for Calgary-Fish Creek.

**Mrs. Forsyth:** Thanks, Mr. Chair. The comment from the minister on the meeting of the minds: that would be a first with the Health minister and the Health critic and a meeting of minds, I'm quite sure. It would be no different than the fact that he and I would go to a shisha bar or a hookah bar just to try the product or, for that matter, go for a beer. That would really get tongues wagging. Before I leave this Legislature, I will make sure I have a beer with the Health minister because I'm sure we'd probably have some good conversation. I appreciate what the Health minister is doing.

**8:10**

Let me put this to you, Minister. I know you're very busy, and I'm not going to ask you out for a date or anything. But would you consider, because you've made some very good points under section 19(f), at least meeting with some of these people, explaining to them the legislation, and maybe trying to come to some sort of agreement or understand maybe some of their cultural sensitivity or some of the, you know, diversity that they're trying to bring forward to you? I, quite frankly, don't know if they would meet with you. I'm not second-guessing anybody. But I think it would go a long way if you or someone even from your department or, for that matter, the associate minister of health sat down with some of these people that own these shisha bars or these hookah bars and try to explain where you're going with this, that 12 to 18 months. There may be some ideas with regard to some of the exemptions that you spoke to.

I've said this before. I'm really, really troubled that the great province we live in – we've got the exemptions for cultural diversity for our aboriginal people. I really think that the people who own the shisha bars or the hookah bars, for that matter, deserve the same sort of respect from us in regard to their cultural diversity.

**The Chair:** Are there others? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Chair, and thank you to the minister for pointing that out. But the consistency – if you remember correctly, when the hon. House leader from the government spoke in relation to aboriginals, it was absolutely clear in the original act that aboriginals are exempt. I remember that because he stood up and said, "Read the law; read the law; read the law," which is all fine and good. It was absolutely clear. So based on the discussion here and the points that this minister made, clearly the provisions that you have outlined do allow for that flexibility. It also allows for that same flexibility for aboriginal tobacco use, but the original act was absolutely clear. It stated, you know, the exemption for aboriginal peoples.

Fast-forward to this debate right now on this amendment. The provisions that the minister cites are true and accurate, but by accepting this amendment, very similar to the exemption for aboriginals, what the ministry will be doing is acknowledging that the shisha and hookah establishments will be respected and there's still flexibility to determine by regulation how they will be defined. It's sort of, in my view, consistent with the way we treated First Nations. This is just recognizing the cultural groups that are affected by these establishments and sets it out. It would be consistent with the provisions that the minister originally cited, which allows for that flexibility, but it also will make the entire provisions from this act to the original act consistent, where it

actually lists these aboriginal groups as far as First Nations, and in this case it would make reference to the cultural groups dealing with the shisha and hookah establishments. I don't see where it's redundant if you put this in. I see where it's complementary, and that's a little bit different.

Thank you very much, Mr. Chair.

**The Chair:** Are there others?

**Mrs. Forsyth:** I apologize. I don't want to monopolize the conversation. I just want to ask the minister one more thing: if he's aware that the banning of shisha cafés is being challenged in the court system in B.C. I know you were monitoring it. I'm wondering if you've thought of the consequences of that if they happen to win, if this legislation passes.

**Mr. Horne:** Mr. Chair, we are aware. I believe this is a bylaw, actually, that's being tested in court by the city of Vancouver. We are watching that case, obviously. All I can say is that we would evaluate the judgment when it's delivered, and we would take that into consideration in decisions surrounding the proclamation of this bill.

Thank you.

**The Chair:** Are there others?

Seeing none, I'll call the question.

[Motion on amendment A1 lost]

**The Chair:** We're back to the main bill. The hon. Member for Edmonton-Calder.

**Mr. Eggen:** Well, thank you, Mr. Chair. I have the appropriate number of copies of a reasonable amendment that I would like to bring forward for Bill 33.

**The Chair:** Okay. If you just pause for a moment, we'll have that distributed, hon. member.

This will be A2, hon. member. You can proceed.

**Mr. Eggen:** Okay. Thank you, Mr. Chair. Actually, I'm moving this on behalf of the hon. Member for Edmonton-Beverly-Clareview. You can see that the amendment is talking about the Tobacco Reduction Amendment Act, 2013, being amended in section 10 in the proposed section 7.5 as follows:

7.5(1) For the purposes of this section, a tobacco-like product refers only to a tobacco-like product sold for the purpose of being smoked.

And so forth.

Perhaps the hon. member from Lethbridge can check this out. It's quite good. The two hon. members from Lethbridge. I've got something for you here. Actually, maybe you're looking at the . . .

**The Chair:** Through the chair, hon. member. Thank you.

**Mr. Eggen:** Yeah. I'm just trying to grab everyone's attention, right? It's the schoolteacher in me. It just comes out at night.

**An Hon. Member:** Do I get a detention?

**Mr. Eggen:** I give detentions. That's right.

If I can tear everybody away from watching the by-elections – I have the nerd by-election party going on here – the purpose of this amendment that I have for Bill 33, Mr. Chair, is simple. It's to prohibit the sale of tobaccolike products to minors. The way this legislation is currently written, these products could still be sold to minors. We consider many of these tobaccolike products to be potentially harmful on their own and also a potential gateway to

other tobacco use. I think that's the idea of Bill 33 anyway, so following in the spirit of that original intention, that's why we brought this one forward. It's important, I think, as well, to note here that the recent ban on flavourings only applies to tobacco products, not tobaccolike products. So a vendor could sell a tobaccolike strawberry-flavoured hookah product to a youth with no penalty, for example, under this current Bill 33 as I read it. Maybe that's not the best thing we should be doing.

We want to avoid that possibility here, so we've written this amendment in a way that applies specifically to sales to a minor, not to adults but to a minor. There'd still be nothing to prohibit an adult from buying these products and consuming them on their own at home for their own reasons, but a minor could not make that same purchase. It otherwise imports the same structure, Mr. Chair, that we're implementing for preventing the sale of tobacco to minors, and the restricted definition for the section "a tobacco-like product sold for the purpose of being smoked," I think works around the broad definition of "tobacco-like" used elsewhere in the act.

It's a very reasonable amendment, Mr. Chair, and I encourage everyone to consider supporting it. Thank you very much.

8:20

**The Chair:** The hon. Minister of Health.

**Mr. Horne:** Thank you, Mr. Chair. I appreciate, again, the consideration that the member brings, obviously, in an attempt to help strengthen the bill. I do appreciate that. I'm struggling a little bit with the rationale for the amendment. If I refer to the bill, there is a clear definition of "tobacco-like product" that appears in section 3(e):

- (j.1) "tobacco-like product" [is defined as], subject to the regulations, a product, other than a tobacco product, composed in whole or in part of
  - (i) plants or plant products, or any extract of them, or
  - (ii) other substances prescribed by regulation.

Notwithstanding that I'm not clear on the intent of the amendment, I guess my point would be that there is a clear definition and there is an opportunity in this provision to expand on that definition if at any time the clarity around what constitutes a tobaccolike product is in question. There is regulatory authority to extend that definition.

The other thing – and I'm certainly happy to hear more on the rationale from the hon. member. I guess, with respect, I'm wondering for what purpose other than being smoked would a tobaccolike product be sold. [interjection] In seriousness. I'm unclear on the intent.

Our position would be that any concern around the specificity around this and the ability to protect minors is actually covered in the definition, or if it's not covered, there's regulation-making authority to clarify it, to strengthen it. For that reason, I would not see us as adopting the amendment, Mr. Chair.

**Mr. Eggen:** Point taken, and I think the hon. Minister of Health certainly has the right idea. I think that we just wanted to make it explicit about the purchase of that because we see that we're always aiming at a moving target, Mr. Chair. The vendors, even tobacco vendors, can change their products with great fluidity, thus creating a product that can sort of skirt around the letter of the law, and perhaps the regulation is not quite there to meet the new thing.

I mean, we're not trying to create long, sort of Byzantine bits of legislation here, but at the same time I think that putting it explicitly in the law and not just relying on the potential for the regulation to meet the needs of that possibility is just why we did it, respectfully.

Hopefully, people will consider supporting it. Thanks.

**The Chair:** Thank you, hon. member.

Are there others?

Seeing none, I'll call the question on amendment A2.

[Motion on amendment A2 lost]

**The Chair:** We're back to the main bill. Are there any speakers?

Seeing none, I'll call the question.

[The remaining clauses of Bill 33 agreed to]

[Title and preamble agreed to]

**The Chair:** Shall the bill be reported?

**Hon. Members:** Agreed.

**The Chair:** That is carried.

### **Bill 32 Enhancing Safety on Alberta Roads Act**

**The Chair:** The hon. Member for Cypress-Medicine Hat.

**Mr. Barnes:** Thank you, Mr. Chair. As mentioned in second reading of this bill, there are many, many parts of it that I like and many, many parts of it that the Wildrose caucus likes. It seems to streamline a few things for business, to hopefully keep us competitive in a competitive world, it seems to make it more efficient for a lot of our peace officers, that we all know have a very, very tough job and a very, very dangerous job at times, and then there's just the opportunity to further enhance the safety of roads for all Albertans.

There were a couple of areas of concern, though, that we had that we just couldn't get past with what the government said to us at second reading of the bill and with some of the discussion. So to start with, I would like to propose an amendment.

**The Chair:** Okay. If you would have that circulated, please, hon. member. We'll just pause for a brief moment. For the record, hon. member, this will be amendment A1.

You may proceed.

**Mr. Barnes:** Thank you, Mr. Chairperson. What this amendment pertains to is that there's a portion of the bill that gives the government authority to close a road, and the definition of a road is fairly liberal. There are many, many things that fit into the definition of a road. It allows the government to close a road where a road plan has never been enacted. A road plan is just a survey, which could, of course, cost tens of thousands of dollars. It may make a lot of sense for a road that has never been surveyed, a road where a road plan has never been done by an Alberta legal survey or never been registered. It may make a lot of sense if this road is not being used, to be able to close it without incurring a whole bunch of costs for our taxpayers, when we can better use that money for front-line services or leave it with the taxpayers. But the concern, of course, becomes: how does the government truly know when a road is not being used? How do Albertan companies and Albertan citizens truly know when a road is going to be closed?

What this would do – and I'm just going to take a second and read it – the long and the short of it, is force some disclosure and some transparency on our government to notify people who potentially might be involved of the upcoming road closure. It will still be way, way less expensive than if we had to actually get a legal survey and advertise that and spend the cost of that, and it still may actually make it quicker for the government. Hopefully,

it will offer the opportunity to make all Albertans informed of what's going on.

I move that Bill 32, Enhancing Safety on Alberta Roads Act, be amended in section 1(3) in the proposed section 38.1 by adding the following after subsection (2):

(2.1) When the Minister closes the whole or any portion of a highway pursuant to subsection (2), the Minister must provide 90 days' notice

- (a) to adjacent landowners,
- (b) to any municipality impacted by the closure,
- (c) in any local newspaper published in the area where the highway is situated, and
- (d) on the public website of the Minister's department.

Again, I hope and think that this will provide adequate communication to people that may be using the road. It was a bit of a surprise to me to hear that there are some roads out there that don't have road plans in place. What types of roads are they? How busy are they? Are they travelled once a day, once every two weeks? Are they very, very busy? Again, this will force the openness and the transparency that Albertans need and Albertans deserve.

With that, I would hope that the government and all here tonight would support my amendment to help make this more of an open process.

**The Chair:** Thank you, hon. member.

The next speaker is the Member for Rimbey-Rocky Mountain House-Sundre.

**8:30**

**Mr. Anglin:** Thank you, Mr. Chair. I rise to support this motion. This motion only sets out a pragmatic management provision which basically allows for the affected or, really, the adversely affected parties to be notified in a timely fashion. It gives them time to respond. It doesn't remove the minister's ability to close a road under any emergency situation. That comes under another act, and the minister has full control and full power to do that. Putting in a provision to give 90 days' notice to the adjacent landowners and the municipalities that are impacted allows for just sort of a continuity of being able to operate under the conditions that the minister is going to lay out. This is, in my view, sort of a little bit of protection for those individual landowners in those communities that are going to be affected by a road closure, and it allows, actually, in many cases for proper planning. It doesn't in any way detract or take away from the minister to act in an emergency situation. It's basically the best of both worlds.

Now, I could entertain an argument on whether the 90 days is too long or too short – I welcome that discussion – but we needed to pick some sort of number to allow for just normal planning for those affected people or communities that need to make adjustments as a result of a road closure. I would be interested in hearing the minister's response if they have any concerns about this amendment.

**The Chair:** Thank you.

Are there other speakers? The hon. Member for Fort McMurray-Wood Buffalo.

**Mr. Allen:** Thank you, Mr. Chair. Just a brief comment. I appreciate where the Member for Cypress-Medicine Hat is coming from. I understand what you're trying to achieve here. But, quite frankly, when I read things like this in this kind of detail to be enacted and ingrained in legislation, I get a little bit nervous. Some of the wording in here, some of the requests such as item (c), to publish it in local newspapers in the area: that can be quite

specific. It's not necessarily the most effective advertising tool in every community across the province.

From my perspective and from my experience when the province is doing any type of development or protection for highways, it takes a great deal longer than 90 days, and the province is already interacting, interfacing, and working with local stakeholders, municipalities, and landowners that are nearby. Something like this may be more appropriately placed in the regulations as opposed to the act itself. I would just be concerned that if things change down the road – and I know that on other parts of this bill that we're going to be debating later, I'll have a few comments as to how it can actually tie the hands of municipalities and other interested stakeholders by ingraining this type of detail in the legislation. It's much easier to change it in the regulations at a later date, where it becomes more effective for all involved.

For that reason, Mr. Chair, I can't support this particular amendment. Thank you.

**The Chair:** Thank you, hon. member.

I'll recognize the Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Chair. I'm going to respectfully disagree with the Member for Fort McMurray-Wood Buffalo. The MGA has many of these types of provisions already ingrained in it for advertising in newspapers: how it's to be advertised, when it needs to be advertised. So this isn't something that's new to legislation. This isn't all that prescriptive compared to some of the stuff that's in the MGA. So I would disagree.

To have in transportation just a requirement to notify a community or those who are adversely affected, that's the key. Imagine being a property owner and finding out that one of your access roads just arbitrarily got closed and you had no notification. This just makes sure that this doesn't get missed. All it's asking for is transparency and notification. It's not asking for anything more, and it's not hand-tying anyone. It's just saying that once the determination is made to close that road, those that would be adversely affected in most cases would at least have – they can't even overturn it, but at least they'd have an opportunity to make adjustments, to modify whatever habits they have or however they operate to work within what's going to happen in transportation. That's the key.

Thank you, Mr. Chair.

**The Chair:** Are there others?

Seeing none, I'll call the question.

[Motion on amendment A1 lost]

**The Chair:** We're back to the main bill. I'll recognize the Member for Cypress-Medicine Hat.

**Mr. Barnes:** Thank you again, Mr. Chair. I rise again to talk about another part of the bill that concerned us in the Wildrose and concerned me, and it's got to do with the words "reasonable and probable" and the movement in this bill to strike out the word "probable." Of course, it pertains to the degree of reasoning, I guess, that the peace officer has to have to stop a person under the new act here, and there's just some concern that we have around it.

I would like to propose another amendment, please, Mr. Chair.

**The Chair:** Just give us about 30 seconds, and then I'll recognize you again. For the record this will be amendment A2.

You may proceed, hon. member.

**Mr. Barnes:** Thank you again, Mr. Chair. The current legislation speaks to authorities having reasonable and probable grounds. Bill 32 would eliminate the probable grounds. My amendment would keep the probable grounds. It is a higher legal test for reasonable and probable grounds than just reasonable. Therefore, this amendment is on the side of drivers. It's on the side of our civil liberties. It's on the side of our long-held tradition of police force and peace officers needing reasonable and probable grounds to stop someone and to enforce the law. Now, of course, we're very, very much in favour and I'm very, very much in favour of safety for our roads and the proper enforcement and very much in favour of the authority and the ability for police officers to be able to do their job.

There was mentioned during the second reading of the bill a case in front of the Supreme Court called *Baron versus Canada*, I believe. It was stated in there that the judges had argued that reasonable grounds and probable grounds were the same thing. Our staff has done a great amount of research on this to determine if that's true, and it appears to only be close to the truth. It seems like this verdict, this Supreme Court decision, is under appeal and has the chance, the possibility, of being challenged in a different way, where reasonable and probable should be put back in there. One of the lawyers that I talked to as well told me that there was the possibility of an error being where this case wouldn't directly apply to many other instances, where reasonable and probable would be higher grounds to protect our civil liberties and our civil rights.

Mr. Chair, I tend to err on the side of the driver facing an enforcement action. Certainly, drivers want the law on their side when they go up against the powers of the state. The state has the means and the power, you know, to greatly affect an individual's life, and we have to be very, very careful that we're all treated equally and treated fairly. It's very, very hard for a lot of individuals to fight back against that, especially in rural Alberta – I represent 60 by 80 miles of rural Alberta – where just the impact of being stopped, just the impact of a court decision can cost more than just the time and the effort involved but can cost the livelihood with moving commodities and livelihood with jobs that are involved.

I for one think that reasonable and probable grounds are still most likely a higher standard than just reasonable grounds. I think it's important for those of us that set the rules and laws that protect all 4 million Albertans' individual liberties and freedoms to err on the side of caution, not to err on the side of bigger government. Again, I'm very, very much in favour of the ability of police officers to do their job and for society to be protected, but that has to be balanced with our civil rights and our civil liberties. It's not absolutely clear that removing the word "probable" is the same as reasonable and probable. Reasonable and probable appears to be a higher test. If it's close and we're just removing the word "probable," maybe all we're doing is saving the government the cost of a few pieces of paper, which is not significant compared to somebody's civil liberties.

So with that, Mr. Chair, thank you very much.

**8:40**

**The Chair:** Are there other speakers? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Chair. I rise to support this amendment, but I'm going to outline a couple of points that were made by the minister in defending this provision. The minister said that reasonable meant the same thing as probable. That's not correct, and the court case did not say that. That's not what the

court case said. The minister cited a court case, saying: they mean the same thing, so we're fine. Basically the court ruled that in the context of what reasonable was, particularly in the case that was before it, it imported a criterion of probability. Hence in that context the minister would be correct that reasonable was interpreted to include the criterion of probability. Hence it would make sense to say: okay; we can strike the word "probable." But the fact is that reasonable and probable do not mean the same thing. Reasonable is a degree of rationality; probable is a degree of the possibility. They have two different distinctions both in the English dictionary and in case law.

As a matter of fact, in the case that the hon. minister cited, the judge actually said in part of the written decision that the reasonable suspicion was enough that it implied a knowledge that was less than probable cause. Now, that's interesting because the court acknowledges that probable cause is a higher test than reasonable, but it still allowed for the reasonable test to be implied in the context under review. Basically what the court ruled was that it satisfied the more-than-probable test. Clearly, they're not the same thing. In the context that the court heard the case, it accepted the argument that the reasonable cause implied the probability; hence they allowed it to stand.

The key here is this. The question of reasonable versus probable has been before the courts probably more times than I know, and it will probably come back to the courts again. Clearly, in each context somebody will challenge it, and it might be another ruling that the courts would then again review. One of the points that was interesting in what the minister quoted: the litigants on both sides of this case argued from the same case law to make their points. It was an interesting argument, reading the factums, because they used the same case law to interpret a different point to make.

Why should the minister accept this amendment and leave probable cause in? I will tell you what it does. It's a level of insurance. The minister is not asking for anything less than probable cause, and he even stated so. In the minister's own comments, they mean the same thing, which we know is not true by the court decision. By leaving in the words "reasonable and probable," the minister covers both bases, and it covers both arguments made in this case. Should another case ever come back through the Supreme Court, even based on this act once it's passed, all of the bases are covered if we leave in the word "probable" because in the context of even how this law has been drafted, how this legislation has been drafted, the presumption of reasonable has to still meet or satisfy the probability test. So by not allowing that or by removing the word "probable," then it becomes subjective under different contexts.

Now, there was something else that came out of this case that was significant. The case dealt with search and seizure. There's a balance in our society for the individual's right to privacy and the state's right to a search warrant. One of the points that came up in this case was that there was a mandatory application of the law, that if the test of reasonable and probable was met, the judge shall issue a search warrant. The court took offence to that. The court cited that there are situations, circumstances that a judge has to allow, even though the test is met, that the search warrant would be unreasonable. That seems to be fairly true with a lot of basic constitutional law.

What we're playing with here are words. We're also taking into context the future of how this law will be applied. The most important thing – and I think the minister would agree – is that the last thing we would want to have happen is to have evidence thrown out that was good evidence because we failed to meet a probability test or that the test that we were applying for the

search of a vehicle did not meet this example that even was laid out in the court case that the minister had cited.

Again, this amendment in very many words is not so much legalese as it is practical. It is common sense. The argument is that reasonable is the same as probable, which we know is not. The court even says so. It is not the same thing. But the reasonable test has to be implied or has to meet that probability test. So by just leaving the words "reasonable" and "probable" in, they're covered. Then we don't have to go back and revisit that. It's there, and no matter what happens, when the next question of reasonable versus probable ever comes before the Supreme Court, it is already covered in this legislation.

I would say that this is a very good amendment. Leave that test in, that is, reasonable and probable. Do not remove the word "probable" from the test, and all the bases will be covered.

Thank you very much, Mr. Chair.

**The Chair:** Thank you, hon. member.

Are there other speakers?

Seeing none, I'll call the question on amendment A2.

[Motion on amendment A2 lost]

**The Chair:** We're back to the main bill. Other speakers?

Seeing none, we'll call the question.

[The remaining clauses of Bill 32 agreed to]

[Title and preamble agreed to]

**The Chair:** Shall the bill be reported? Are you agreed?

**Hon. Members:** Agreed.

**The Chair:** Opposed? That is carried.

Hon. Deputy Government House Leader, do you wish to move that maybe the committee rise and . . .

**Mr. Campbell:** Yeah. All that stuff. Rise and report.

**The Chair:** The hon. Deputy Government House Leader has moved that the committee rise and report bills 32 and 33.

[Motion carried]

[The Deputy Speaker in the chair]

**Mr. McDonald:** Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 33 and Bill 32. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

8:50

**The Deputy Speaker:** Thank you, hon. member.

Does the Assembly concur in the report?

**Hon. Members:** Concur.

**The Deputy Speaker:** Opposed? So ordered. That is carried.

## Government Bills and Orders

### Third Reading

#### Bill 27

### Flood Recovery and Reconstruction Act

**The Deputy Speaker:** The hon. associate minister for reconstruction for southeastern Alberta.

**Mr. Weadick:** Thank you, Mr. Speaker. It's my pleasure to rise today on behalf of the Minister of Municipal Affairs and move third reading of Bill 27, the Flood Recovery and Reconstruction Act.

First, I would like to thank all the hon. members that have participated in the debate of this important piece of legislation. It is clear that the flooding in southern Alberta this summer affected and continues to affect many Albertans. This legislation is our response to all Albertans, a response that shows that we are moving forward, that we are enhancing our processes, and that we are helping protect life, property, and the environment from the effects of future floods.

Bill 27 will enable us to turn the page for a safer, stronger Alberta. This legislation puts in place a foundation that will be built upon as part of the continuous improvement of Alberta's safety system. Mr. Speaker, the measures that we are enacting will have an immediate impact and will be long lasting. During debate we have heard support for the heroic efforts that were put forth by responders, residents, and emergency management organizations. It is the hard work and dedication of all these people that we need to be thankful for because it is their determination that saw us through the emergency response and the beginning of recovery.

There are number of specific issues that came up during debate that I would like to address now. First, to discuss questions about flood mitigation, Mr. Speaker, by creating the clear authority to provide flood mitigation funding, we'll help both individuals and communities. We have committed to assisting property owners in flood fringe areas to implement flood mitigation measures. This helps to ensure that properties in areas that are known to be at risk of future flooding will be better prepared against future damage. This helps the property owner, provides a safer working environment for first responders who need to access a property, and encourages responsible development in flood fringes.

We've also provided the ability to assist municipalities with the implementation of flood mitigation measures on a larger scale as they seek to rebuild impacted infrastructure after flooding. Some may criticize that the mitigation funds for individuals are available only after flooding has occurred. My response to this is that it is fair use of taxpayers' funds. To provide this funding to all Albertans would not be a judicious use of funds. What we are providing is a balanced and reasoned approach that will encourage property owners to think to the future when they are rebuilding their properties after a flood.

We've heard questions of why we are not providing flood mitigation funding to property owners in floodway areas. Mr. Speaker, the answer to that is simple. There is no amount of mitigation that can occur in a floodway that can sufficiently reduce the risk to life, property, and the environment.

The definitions of floodway and flood fringe are part of the flood hazard area mapping performed by Environment and SRD. They are the experts in this area, and we have the utmost faith in and will rely on their expertise.

There have also been questions raised about the accuracy of the government's flood maps. ESRD's mapping program is built on continuous improvement, and they see every flooding event as an opportunity to review their processes and information. As a government we are committed to making decisions in the best interest of Albertans with the best information we have available. The current flood maps are the maps that we will use for applying caveats on land titles and for the relocation programs that we have offered to homeowners in floodways.

There have also been questions about why a specific definition of floodway is not included in the legislation. The reason for this is that it would not be appropriate to include the definition of

flood hazard areas in this legislation when this is something within ESRD's purview. By using the definition provided by ESRD's flood mapping program, we ensure that we use the most accurate and current definition provided by our experts.

Another question that was raised was why the funding is only being made available to municipalities after a disaster. We're providing flood mitigation funding through the DRP after a flood has occurred as this allows us to leverage federal cost sharing for rebuilding efforts to the greatest extent possible. This is the most responsible use of taxpayer funds.

We have also heard questions about why the province did not access funding under a 2011 program offered by the federal government for flood mitigation when our neighbours to the east and west did. There are two reasons for this. First, when this program was announced in 2011, it only pertained to Saskatchewan, Quebec, and Manitoba. Secondly, when the program was expanded to all provinces and territories in 2012, the given deadline left only one and a half months for the interested provinces and territories to submit projects for consideration.

Mr. Speaker, we were very interested in this program and tasked staff at Municipal Affairs and ESRD to review potential projects in the province, including those being done at the community level. Our experts determined that none would have been eligible under the program's criteria. In fact, B.C. was the only province besides Manitoba, Saskatchewan, and Quebec that was able to access this program after it was expanded.

The due diligence we did on this file reflects our broader commitment to mitigating flood damage. Since 2007 our government has invested more than \$82 million in flood mitigation projects. Some of these projects in communities like Drumheller and Medicine Hat helped lessen the damage caused by June floods. The Alberta government is continuing to lead the push with our provincial partners and the federal government for a national mitigation strategy. Premier Redford raised this issue in 2012 with her colleagues across the country and again this summer.

In addition to this work, which started before the June flooding, the Flood Recovery Task Force is currently investigating the best avenues for proactive flood mitigation work to proceed. This work has contributed to a sevenfold approach to flood mitigation which includes overall watershed management that looks at flood and drought and ensures upstream solutions don't have negative impacts in downstream communities or vice versa; the best technology for river modelling, prediction, and warning systems; a review of all pertinent water management and development policies within risk areas; working with municipalities, the private sector, the public, and other stakeholders to gather and act on the best ideas that we can to advance flood mitigation in Alberta; enhancing the government's current approach to erosion control; supporting communities who are developing their own initiatives for flood mitigation; and, finally, Mr. Speaker, supporting individual homeowners so they can better protect their homes from future flood damage.

Caveats on land titles, Mr. Speaker. We're also moving forward with registering caveats to land titles of properties in floodways or flood fringe areas that have been rebuilt or repaired using disaster relief assistance. The caveats are a form of consumer protection that we are putting in place so that potential future buyers will know a number of things: firstly, if the house they are considering purchasing is located in a floodway or a flood fringe area, if the house was impacted by flooding and accepted disaster recovery program assistance as part of the rebuilding or recovery efforts, and their future eligibility for flood-related disaster relief assistance.

The caveats registered against the land titles of floodway properties will not be able to be removed if the property owner has accepted DRP assistance, Mr. Speaker. Questions have been raised regarding the inability of a property owner to remove a caveat if they are in a floodway. Again, this is necessary because there is no level of mitigation that can sufficiently reduce the risk to life and property in a floodway and the ongoing liability that floodway development represents to taxpayers. If a property in a floodway has been rebuilt or repaired using DRP funding in the floodway, the caveat will remain on land title. I will also note that all floodway property owners in flood-affected areas, not just those with flood damage, have been offered the option to sell their property to the government at a fair value so they can relocate to a less hazardous area.

9:00

At this time, Mr. Speaker, the government has identified 254 floodway properties in areas affected by the June disaster. Property owners that reside in a flood fringe will also have a caveat registered against their land titles if they accept disaster relief program assistance and have failed to provide documentation to show they have completed required mitigation measures in a timely fashion, but flood fringe property owners can have the caveat removed from their title by implementing flood mitigation measures. The mitigation measures are 100 per cent covered by the province. The intent of this is not to burden property owners, including the flood mitigation measures as part of their rebuilding efforts, which will mean that their property is better prepared for the next flood event.

We have also heard questions about why a DRP caveat will make a property ineligible for future flood-related disaster recovery program assistance. Doing this will maintain DRP alignment with the federal disaster financial assistance arrangements. If this measure was not taken, federal cost sharing for future events would be reduced. As well, it would be an inappropriate use of taxpayer funds to continually pay for recovery and rebuilding work for property where mitigation measures are not in place. This is especially true when the government is paying for the entire cost of mitigation.

We have heard questions regarding the application of caveats to land titles according to the current flood hazard mapping that we have. Some people have raised concerns about whether the current flood maps are up to date or whether they will incorporate the June 2013 flooding. Again, I want to emphasize that we will rely on the expertise of our colleagues in ESRD to define flood hazard areas and to map these areas.

Concerns have also been raised about the implications of the caveat process on real estate values and about the onus on real estate agents during the buying and selling process. This legislation addresses the current risks that are posed by developing in flood hazard areas, and the focus is on the safety and security of the property and residents in flood hazard areas. We cannot put property values ahead of public safety.

We have communicated with the Real Estate Council of Alberta and the Law Society of Alberta, two important groups involved in land transactions. These groups will perform the due diligence that is always expected any time a land transaction occurs, which should include consulting flood maps for areas known to be prone to flooding as well as a land title search. As well, the application of these policies can be flexible as shown by the examples of Drumheller and Fort McMurray, Mr. Speaker, where the unique developments in the communities have been taken into consideration.

The last amendment to the Emergency Management Act touches upon the initial length of time that a provincial state of emergency is in effect for. I can personally say that the decision to declare a provincial state of emergency is not one that we take lightly. This is borne out by the fact that this summer was the first time in the 60-plus years since this provision was created that the province has ever used this tool.

During the declaration responsibility for emergency operations was transferred from the town of High River to the province. At the end of the 14 days the province was satisfied that the situation was stabilized enough that responsibility for emergency operations could be transitioned back to the municipality. What we had proposed is to extend the initial length of declaration from 14 days to 28 days, Mr. Speaker. This will provide emergency officials with a flexible time frame during which they can work to restore public safety.

It will also allow emergency officials to focus on response operations and not on administrative matters. This amendment will not change the powers granted under a declaration of a state of emergency, which are outlined in detail in the Emergency Management Act. As well, this amendment will not change the fact that a resolution of the Legislative Assembly will be necessary to extend the state of emergency beyond 28 days. We need to maintain a balance between providing flexibility and accountability to the public.

Some concerns were also raised about previous reports about flood risk in Alberta. Mr. Speaker, no report could have prepared anyone for the scale of disaster the June flooding caused. Even the author of the Groeneveld report acknowledged himself that there was no way to prevent the devastation of the June 2013 floods. This is because the 2005 report used the one-in-100 years flood as its benchmark, a threshold which the June floods dramatically surpassed. I want to add that we had made significant progress on the recommendations in the report before it was released in 2012 and continue to make progress after releasing it.

Mr. Speaker, this act also includes four amendments to the MGA. These amendments will help us build a safer Alberta by enshrining policy decisions made during the government's response to the 2013 flood. They are practical, forward-looking measures that will support the largest recovery effort in Alberta's history, and they will help Alberta better respond to emergencies in the future.

The amendments to the MGA will help improve public safety in a number of ways. The first will permanently enact a provision created under a regulation earlier this year to temporarily exempt municipalities from requirements of the MGA when they are facing an emergency. We used this tool during the June floods so community leaders could focus on public safety instead of administrative encumbrances. It was an effective and practical way to support our partners.

The other three amendments to the MGA focus on floodway development. Allowing development in floodway areas, where flooding has deeper, faster, and more destructive water flow, poses a threat to the public, to property, and could be a liability to taxpayers. This is why the government is proposing to restrict new developments in floodways, to limit damage and risk to public safety posed by future floods.

While it is imperative that we restrict new development on floodways, we must also ensure this policy is fair and reasonable. To this end, we are proposing an amendment that will honour the investment and choices made by current owners of floodway properties. This amendment will permit owners of existing floodway properties to replace existing buildings with new buildings intended for the same use.

Finally, Mr. Speaker, we need to account for the special circumstances of those municipalities with significant developments already in a floodway such as Fort McMurray and Drumheller. For these municipalities it would be impractical, absolutely impossible, and unnecessary to restrict floodway development. This proposed amendment gives this legislation a reasonable amount of flexibility for municipalities in these unique situations. These changes give our province stronger protection against future floods and will help ensure our families and communities are well protected.

In conclusion, Mr. Speaker, what this legislation will mean for individuals and communities is increased safety: safety for property owners that have implemented flood mitigation measures, safety for communities that will receive assistance with community-scale flood mitigation measures.

Support for this legislation will mean that Alberta as a whole on every level – individual, municipal, provincial, and federal – is better prepared for the next flooding event. We can't stop a future flood, Mr. Speaker, but we can make sure we're as prepared as possible. It's all part of our government's effort to build Alberta, to ensure a strong quality of life for all of us.

I would like to thank all members for their participation in the debate on this legislation. Mr. Speaker, I would like to thank you for providing the time for me to speak on this important piece of legislation.

Thank you.

**The Deputy Speaker:** Thank you, hon. minister. Hon. minister, just a reminder that we don't refer to the proper names of members of the Assembly. Earlier in your remarks I know that was a slip. I assume it was.

The hon. Member for Calgary-Mountain View.

9:10

**Dr. Swann:** Thank you very much, Mr. Speaker. It's a privilege to speak to this important bill, Bill 27, that has touched every Albertan in some way and certainly affected our financial bottom line as we've all heard about repeatedly over the last few months since June 20. I was part of the full experience in Sunnyside, Calgary, and I'm still working through some of the issues relating to my home but, thankfully, not as devastated as many.

I guess, in making brief comments about this, this time I haven't had a chance to speak much to the issue, so I want to put a number of items on the table for the record. I know that along with others we have raised questions about the slowness of response to the 2006 recommendations of the Groeneveld commission. I don't want to belabour it. But, I mean, it has to be said that the warning signs were there: the questions about both upstream management and urban mitigation, very specifically High River, and, I think, serious questions about the mayor at the time and his decisions in, some would say, a conflict of interest, promoting development in the floodway over the five, six years since the 2005 flood. I don't know what's being done to investigate that, but it's surely something that needs thorough investigation. There were questions raised even back then about his conflict of interest and concerns about the building that was going on there and the increased risk and damage that resulted from that.

Three issues, I guess, quite apart from the failure to act on the Groeneveld report. The unwillingness to accept climate change in this caucus until very late and some of the responsibility to deal with both extreme rain and droughts that are predicted: it was only, I think, in about 2009, 2010 that the then minister of environment said that climate change is real, when the rest of the world had been recognizing that for a decade if not two decades.

The second issue had to do with deforesting in the eastern slopes and the continued development of our watershed, the most critical source of all the water and well-being in our communities east of the Rockies. Other jurisdictions have bought up their watershed. New York paid a billion dollars, I understand, to protect its watershed and ensure that in perpetuity there would be water for New York. Vancouver has bought its watershed and retained control over any development and banned all development in their watershed. We continue to develop our watershed as if it was just another resource to be developed: deforesting, excessive recreation in some areas that's damaging the water quality, even oil and gas development, Mr. Speaker. This is our lifeblood coming out of the Rockies, and we still haven't learned to protect it.

A third dimension I guess that has to be mentioned is the whole question, then, of examining what we're now looking at as infrastructure, diversions, storage, and means of responsibly handling excessive flows in the river systems coming out of the mountains. It's clear, I think, that this is going to happen again, and different watersheds may be hit differently. I think the biggest risk to Calgary has to be the Bow River. I'm not sure yet that we have looked at all of the potential scenarios. If the same combination of rain, heavy snowmelt, and lack of control over the decisions at the dams, which are still in the hands of a private company, TransAlta – and as I raised in public, there are some questions about ensuring that there's a clear authority and mandate by government to control flow, not a private enterprise organization that has some mixed interests in flow control. I want to be sure to put that on the record, that government should be controlling the flow on our dams upstream of Calgary and other communities, not a private enterprise like TransAlta.

I think we've put on the record in terms of an amendment the question of public insurance. Surely, that's something that we need to be doing, not just thinking about. We cannot expect the public purse to pay for everybody, especially some of the most expensive infrastructure, when everything else we do is protected by insurance. Why wouldn't we have a public insurance organization in the absence of private insurance companies, addressing residential, commercial, industrial operations that need to be protected from natural disasters, including flooding again? So I was disappointed, as many were, that this government refused to consider and implement an amendment around public insurance for flooding.

I've had a number of questions from individuals relating to the floodways and the flood fringes and the payouts in both the flood fringes and the floodways and the caveats that appear on these properties and the question of whether or not this can be modified given some of the changes that are being made both upstream by our engineering and waterworks people and downstream in terms of individual homes and urban and other rural settings. It's difficult to advise people who are, as I am, unclear about how much mitigation is needed. How much would be sufficient to remove a caveat on a flood fringe, for example? I think we need to go some distance in making sure that we handle that in a fair and clear, transparent way.

We have been pushing the government on some of those issues, and I think what many Albertans are experiencing today is that the immediate response to the flood was reasonable. We need to be much more proactive about monitoring and early warning systems in the future. It's not clear to us that either the federal or the provincial government is putting into place the sufficient infrastructure and manpower, particularly with the consistent reduction in funding to Alberta Environment and their monitoring systems over the last five years, and, not insignificant either, the federal



monitoring and investigation of water and other environmental monitoring that has been cut on the federal side.

It strikes me that talk is one thing. Another is investing in these vital measures that would give not only early warning and communications but also the need, in light of what's happened, for better communications between the different response teams and the public. What comes to mind is my visit to Siksika, where individuals were in some cases not even notified that there was a flood. They were pulled out of their homes, with knee-deep water in their homes, without being aware of a flood warning or a call to evacuate.

Those, I think, Mr. Speaker, are the key messages I wanted to leave. There's no question that the decision this bill makes about ensuring no further building on floodways is an important one. I'm very glad to see that. I made that comment in 2012 at Public Accounts. There's no question that this definitely is long overdue. Again, I hope the government will make an early commitment to recognizing the need for alternate public insurance for this inevitable recurrence, either in the form of floods or in other disasters that aren't covered by private insurance.

I will be supporting this bill, and thank you for the honour of speaking.

**The Deputy Speaker:** Thank you, hon. member.

I recognize the Member for Edmonton-Calder.

**Mr. Eggen:** Well, thank you, Mr. Speaker. Certainly, I think that in a way this event and then subsequently this bill have gone a long way to define 2013 for all Albertans, really. The devastating consequences of this flood cannot be underestimated. Certainly, it's up to us here in the Legislature to not just act but to react to what's needed to help people recover from this event, both for businesses and individuals and their homes but also to try to mitigate the problem in the future.

9:20

I'm very concerned about this, Mr. Speaker, because I know that the likelihood of this sort of flooding is not just 1-in-1,000 odds but, I think, something that we could see more often as climate change takes hold, as more extreme weather takes hold, as we develop more of the landscape of this province. This is not untypical for development around the world, where as more people move in, we just see more paving of structures, we see more movement of water to be able to flow into larger concentrations, and we see more people moving onto floodways.

It's not a phenomenon that's unique to Alberta, but I think that this was a very sobering lesson for us to really try to turn around just how much we do develop on potential floodway land. We know that this bill certainly went a long way to try to make definitions about what a floodway is, but we were, I think, most concerned as Alberta New Democrats in being able to define what the red zones and the transition zones for floodways really are. Of course, there are many businesses on those places, and we've had to exclude whole sections of towns that already have established communities in clear floodway areas like in Fort McMurray and Drumheller.

But by excluding those areas, it doesn't preclude them from being potentially flooded once again, so we are going to have to spend money on this in the future, and certainly it's important to do so. I think that if we would have made pre-emptive plans and constructions earlier, then we could have saved a tremendous amount of money previous to this devastating flood here in June.

I think that we need to look to the experts and to study how we can reduce the possibility of further damage even as early as next

spring, when we have the next round of snow and then melting. We still don't really have concrete information on how we would update flood maps. Moving ahead, we have moved ahead on plans for relief and repair, but if we're not making clear definitions and really focusing on those maps, then I would suggest that we are not doing a full service to the people in affected areas. As you establish those areas and you start to build around them, you can start to move and divert water in a more permanent way. The banks of rivers can be more permanently defined in potential problem areas, and that will make it easier for people to know which areas are safe and which are not.

I think that we have pulled together very well overall. I think this has been a bit of a cathartic experience for this province. I think that most Albertans recognize the value of making this investment that we have through supplementary supply and through Bill 27, too, so we're cautiously but constructively supporting this particular bill as New Democrats.

Thank you.

**The Deputy Speaker:** Are there others? The hon. Deputy Government House Leader.

**Mr. Campbell:** I move that we adjourn debate.

[Motion to adjourn debate carried]

### Bill 34

#### Building New Petroleum Markets Act

**The Deputy Speaker:** The hon. Minister of International and Intergovernmental Relations.

**Mr. Dallas:** Thank you, Mr. Speaker. I'm pleased to rise today on behalf of the Minister of Energy and move third reading of Bill 34, the Building New Petroleum Markets Act.

**The Deputy Speaker:** Other speakers? The hon. Member for Strathmore-Brooks.

**Mr. Hale:** Thank you, Mr. Speaker. It's an honour to rise today and speak on the third reading of Bill 34. We had some pretty good discussion and some questions answered during Committee of the Whole, which was enlightening, I guess, to say the least. I brought forward a few amendments to this bill, one dealing with the Auditor General, and the Government House Leader did stand up and say that the Auditor General is still the auditor of this commission under the Auditor General Act. We had some questions because we didn't know if it was a provincial agency. The wording wasn't quite specific in there, so that was bit of a concern, but he assured us that the Auditor General would be able to do a full audit on this commission.

You know, we understand that the expansion of the Alberta Petroleum Marketing Commission, going from three board members to seven members, is probably a good thing for Albertans, seeing that the government has committed a hundred thousand plus barrels a day on the Energy East pipeline when that does get constructed. They will be handling a lot of product that is important to Albertans. Those are Albertans' resources, and that's their revenue that comes from it.

We understand that there's, you know, a need to ensure that the right people are on that board. In saying that the right people are on that, we hope that the new board members that they get to fulfill this obligation will be specialists in the field of this commission so that they can represent Albertans to the best of their ability. When the hon. Energy minister and I talked about it,

he mentioned, you know, that it's going to be tough to find board members with this experience that aren't already employed in the energy industry. So it's going to be a search, and I hope that they search far and wide and get the best possible board members that they can.

One of the amendments that I put forward on this bill – and I'm a little disappointed it didn't get passed – was about the reporting procedures. Under Bill 12, the Fiscal Management Act, it talks about the ministry having to report. You know, they have to supply annual reports, but it doesn't exactly specify what's in that annual report, so it could be quite watered down. In the old legislation they'd mentioned:

After the end of its fiscal year, prepare a general report summarizing its transactions and affairs during its last fiscal year and showing the revenues and expenditures during that period, an audited balance sheet and any other information required by the regulations.

That's pretty specific, and that ensures that we're getting the information we need to check up on this commission and make sure that they're doing the job that needs to be done. It would have been nice to see that part of the old legislation still in this new bill. Rest assured, though, that we will do everything possible to find those answers and ensure that that information is in the annual reports that the commission brings in.

You know, most of the other sections in this bill were just changing wording, so it's pretty self-explanatory.

We want to make sure that this commission is working in the best interests of Albertans and, you know, our energy industries. There was another amendment that I put forward, dealing with the FOIP legislation. We weren't really sure why they would want to keep these things under wraps for five years. They did give some explanation, explaining that there were some very specific details with the contracts that they didn't want brought out.

The new commission is going to be looking after the forecasting of royalties when they prepare the budgets, how much oil and gas and bitumen and everything is involved in that industry, to come up with their budget estimates and income and expenses. You know, I don't believe that information necessarily needs to be held for five years. As I stated when we were debating the amendments, in the next five years the people in this Legislature will change. Five years ago there were different people here, and five years from now there are going to be different people here.

### 9:30

The FOIP legislation that we do have: the AT and T minister keeps talking about the gold standard, which is a little confusing. If that legislation is so good, then why do we have to put this provision in here to extend that FOIP legislation when the people that are involved with the FOIP office do a very, very thorough job ensuring that this specific and proprietary information doesn't get out? You know, today it was brought up about the children in care. It took those papers four years of fighting to get that information from FOIP. If they can put them off for four years, I'm sure that they could hide any proprietary information on this commission for a number of years.

I'm not sure what they're worried about getting out. If the FOIP office is doing its job, then what are they worried about? We realize that it is big business, and a lot of the decisions that this commission will make could be used by other companies. You know, some information you've got to be careful with, but if they have such high hopes and they're so proud of the FOIP legislation, then why expand? If it's so good, why do they need to put this stuff in different legislation?

Another part of this bill that I'm not real enthused about is the buying of shares. Now, to me that raises a red flag. Why should a commission that's representing Albertans be able to buy shares in private companies? That's a pretty good example of picking winners and losers. I'm not saying, you know, how they're going to do it – that'll be scrutinized as it goes forward – but is that information going to be locked up for five years under the new FOIP lines that they have in here? We want to make sure that this commission is working in the best interest of Albertans, and if we don't know what shares they're buying and how much they're paying and why they're buying them – there are a lot of questions involved in that, and I hope that the government is forthcoming with that information when we do ask in the budget estimates to come and the different questions that come in question period.

You know, we realize that this commission has to work, so it's going to need to work with the Finance minister and his ministry and the government and get money, get their bills paid so they can keep the lights on and the doors open. The share deal I guess is not a deal breaker for me supporting this legislation, but it definitely is something that could be used to help out special companies. I'm not too convinced on that, and we'll definitely be watching that.

Other than that, a few of the questions we have – you know, I think the majority of the bill is going to be good, and it's going to help Albertans and ensure that they can get the most for their resources. That is a concern. You know, we're going to be trying to keep up on the information through this commission. So when they take that bitumen in kind, is the value they're getting for that bitumen when it's sold as a product down east, on the eastern pipeline, going to be more than they would have originally gotten taking the royalties right here in Alberta? There are going to be some people watching that and some questions, you know, to ensure that we are getting good value for that product. I'm sure that the minister and the government realize that, that they're going to be watched to make sure that they are getting the best deal for Albertans.

We've stated many times that we support the Gateway, Keystone, and east to west pipelines. You know, it's important for us to access those new markets and to ensure that we do get value for our products. Hopefully, this bill will continue to do that. We've talked a lot about liquid natural gas going to China, going through the west coast. That's another project that we are supportive of, and this new commission will be able to help out in that aspect, too. That's another expansion. Currently they don't deal with the gas market, but hopefully as we go forward and these LNG lines are put in and we access that market, this will be another avenue for companies to use, through the Alberta Petroleum Marketing Commission, to ensure that Albertans are getting the proper value for our products.

I guess, in closing, there were definitely some questions that I had with this bill. Some of them were answered; some of them weren't. But as we go forward and pay close attention to the new commission, we will be watching and holding the minister and the government to account and ensuring that the best interests of Albertans are looked after.

I guess, as the last point, I was very glad to see that public interest was put in this legislation. We debated for hours and hours on Bill 2, the Responsible Energy Development Act, on public interest, wanting that implemented in that act, because it wasn't included. So it's good to see that the Energy minister did listen to me and knew that we are acting in the interests of Albertans with these energy bills that are coming forward. I'm glad to see that.

I look forward to listening to the other speakers on this bill. Thank you.

**The Deputy Speaker:** Thank you, hon. member.  
I'll recognize the Member for Edmonton-Calder.

**Mr. Eggen:** Well, thank you, Mr. Speaker. I'm glad to get up to say a few comments on this bill. I kind of struggled with it over the last week or so because while there are certain aspects of this I really quite like – and I'm glad that the Energy minister is here to maybe just listen to a couple of things that I was reflecting on here. I certainly support the change to the Petroleum Marketing Act. I think that's a great opportunity – right? – to have a management plan for the whole thing. There are other potentials, I think, in regard to royalty structure and developing secondary industries for Alberta, not just shipping raw bitumen out of the province.

The thing that I was thinking about first. By sort of moving on with the BRIK program, sort of building on that further, I just don't know if we're not just maybe handing money over to – so many of the bitumen extraction companies here in the province now are from different countries, right? You have everybody here, from the French to the Chinese and Norwegians and so forth. So I'm concerned that the BRIK program is just handing money over for these resources and not being able to adjust the price to different market conditions. I don't know if there's a mechanism in this bill or a mechanism within the strategy that could make adjustments to both allow more secondary production here within the province of Alberta and then adjust so that we're not handing over, lock, stock, and barrel, so much profit and money to the foreign-owned energy companies here in the province.

9:40

My understanding as well is that we're creating sort of a Crown corporation here, which I certainly favour, but then I'm wondering why the Auditor General wouldn't be the auditor of this commission. That just seems like an obvious one to me, and perhaps I'm missing something. I wanted to ask that. If there is some reason that the Auditor General could not be the auditor for the commission, then how can we allow a Crown corporation, Mr. Speaker, that manages royalty and resource wealth owned by all Albertans and have no legislated auditing requirements built into the whole structure? Again, I just want to put that out there.

As well, Mr. Speaker, I'm curious to know how information on operations and revenues and expenditures and so forth would be reported to the public. How can we know, obviously, as owners of these resources that we are getting the due that we are owed, and what quantities are being put out? The idea of self-reporting has always been a problem, and I think that we can solve that problem with this bill if we chose to do so. I'm just curious to know how we can be sure as well that with decisions being made by or for this commission that we're creating here, we're getting the transparency that we need to regulate this commission as it moves forward.

Finally – I'm sort of conflicted about this – I just want to make sure that we have public control over this resource, although we certainly have lots of private companies involved, just because so much is at stake in terms of the revenues that we use to pay for public services here in the province and, as I said also, with being able to move the industry over to more secondary development and processing of bitumen and other energy-related products, that we're not making it easier to facilitate the export of raw material but instead, in fact, having a secondary industry that is better for workers, certainly. You get more value-added profit from that as well, and ultimately it allows us to control our destiny for the energy industry, which is essential to this province's well-being, I believe.

Thank you.

**The Deputy Speaker:** The hon. Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Speaker.

**The Deputy Speaker:** Hon. member, my apologies.

Standing Order 29(2)(a) does apply if someone would like to question the last speaker or comment.

Seeing none, then I will recognize – and you can start over – the hon. Member for Rimbey-Rocky Mountain House-Sundre.

**Mr. Anglin:** Thank you, Mr. Speaker. Credit goes to the minister for a good idea. Bad bill. It's a shame, because it should have been a good idea followed by a good bill. Had they taken or at least listened to some of the arguments made to try to make it a good bill, I think we could have done that.

The idea is that we are creating this agency, a Crown corporation. The BRIK program, as this government has told the public, makes sense. It's logical that we would seek to get more revenue from our products. That is a function of not just the markets but efficiency. So, again, good idea.

What's missing in the bill is accountability and transparency. When we look at the bill, it reduces what was more accountable and more transparent in name only, if that. What we don't have as a public and as an opposition is the ability to at least measure. Is this doing what this government intends it to do? Are we getting the outcome? Is this a performance-based system here where we can actually measure the outcome and have confidence that it is doing what this government has said that it wants it to perform?

I'm going to cite just one example because the debate was long on this when we were proposing amendments. We did have an hon. member who mentioned something about proprietary information. I understand that for a private company, but this is not a private company. A private company takes a lot of risk in obtaining its import or its resources and seeks to profit. It does need to keep certain information proprietary. We understand that. This agency gets its product for free. It doesn't pay for it. It just receives it. It'll be receiving this product, this raw material, probably long after I'm gone from this earth and long after everyone else here in this Assembly is gone. There's enough of that resource there.

But the fact is that we don't even have access to the value that they're placing on it. What is the royalty that we're forgoing measured against the revenue that we're receiving? Using just the very basic values of the present value of money and the future value of money, we should be able to at least calculate and verify – that's the key, verify – what is being presented to us. It should not have to be the word of the minister. It should not have to be the word of this government. It should be easily verifiable by anybody in the public who wants to measure, based on the reports given, that this program is working according to what this government wants it to do. We don't have that ability. The reports are not going to necessarily be there. It doesn't mean that they're not going to file financial statements. It's just not required anymore.

Now, I fully suspect they'll file their financial statements. It's just not required by legislation. I fully suspect there'll be information given, but I don't know in what format and neither does anyone else. It hasn't been detailed. In what time frames will these financial statements be made? We don't necessarily know that. There's not a lot of clarity there. The problem is that it is clear that the government doesn't want to allow access to certain information. It has made that clear in legislation. That's why I say that it's a good idea and I think it would sell very well to the public if this was a stronger bill. Unfortunately, we passed that

opportunity up on this go-round. I would hope that the minister would revisit this someday very soon and strengthen this to give the public confidence that the program is going to not just do what they say it's going to do but that they can verify it and have confidence that it is actually achieving the results.

With that, thank you very much, Mr. Speaker.

**The Deputy Speaker:** Thank you, hon. member.

Standing Order 29(2)(a) is available.

Seeing none, I'll invite the Minister of Energy to close debate.

**Mr. Hughes:** Thank you very much, Mr. Speaker. I want to thank all members who have participated in this debate. It's an important debate. There have been some technicalities that people have talked about in terms of the application of this legislation and the nature of the legislation, but what I have not heard is any fundamental criticism of the real purpose of this legislation. The really important objective for Albertans is to secure markets for our products to ensure that we are able to do value-added in this province and add that greater value to our gross domestic product, the wealth created for all Albertans.

This is all about ensuring that we get our resources to additional and lucrative markets, more lucrative markets than we're able to today. This act enables the government of Alberta to have a direct role in managing the policy environment within which the Alberta Petroleum Marketing Commission works and ensuring that there is a flexibility there, an ability to give direction and work closely with the board of the Alberta Petroleum Marketing Commission. It's an opportunity to update the governance and the way in which governance is conducted with this agency and ensure that we can draw from outside expertise, people who have decades of experience and are willing to contribute that to the common wealth of all Albertans.

Obviously, the APMC has put in place agreements already to supply bitumen royalty in kind barrels for the Redwater refinery and to ship crude on the Energy East pipeline. These are two examples of the kinds of increasingly complex initiatives which the APMC is undertaking.

9:50

There was a question about auditing. Well, Mr. Speaker, the APMC is a provincial agency as defined under the Financial Administration Act, and under the Auditor General Act it is mandatory – mandatory, Mr. Speaker, not optional but mandatory – that the Auditor General be the auditor of all provincial agencies, so that applies in this case as it would in any other case.

There was a question about annual reporting. Well, to suggest that there won't be full and complete annual reporting, I think, is trying to argue a technicality that, obviously, can't be argued. You know, under the Fiscal Management Act all provincial agencies, including the APMC, are required to provide an annual report to the responsible minister, in this case the Minister of Energy. It's not included in Bill 34 because it's not necessary, because it's already spelled out quite clearly, as it is under the Auditor General Act, that there is a responsibility for annual reporting under the Fiscal Management Act.

There's a FOIP exemption here, Mr. Speaker. This actually enables the APMC to secure more information from private entities, that they will know will be protected as commercially sensitive information. That's why there is a five-year exemption, which gives industry that assurance that any information they provide, which can be strategically useful to the APMC and the government of Alberta, will be protected and will not put them at a disadvantage.

Well, Mr. Speaker, there are many, many other things that have been said. Really, this organization, the Alberta Petroleum Marketing Commission, as it has been historically, will be measured on outcomes. We're taking new initiatives, and we have new opportunities here to build on the success of the past and be creative in how we approach the future. We're looking to ensure that we capture the greatest returns possible for Albertans and for industry in Alberta and that we make the most of the opportunities for adding value to those resources here in this province. The Alberta Petroleum Marketing Commission will be a key platform upon which we will accomplish the strategically critical initiatives for the people of Alberta.

I'm very proud, Mr. Speaker, to be part of putting forward this legislation. I thank and encourage members on all sides to support this very important strategic initiative for the people of Alberta. Thank you.

**The Deputy Speaker:** Thank you, hon. minister.

[Motion carried; Bill 34 read a third time]

### Bill 43

#### Alberta Economic Development Authority Amendment Act, 2013

**The Deputy Speaker:** The hon. Deputy Government House Leader on behalf of the hon. Deputy Premier and Minister of Enterprise and Advanced Education.

**Mr. Campbell:** Thank you, Mr. Speaker. It is my honour to rise today on behalf of the Deputy Premier and the Minister of Enterprise and Advanced Education to move third reading of Bill 43, the Alberta Economic Development Authority Amendment Act, 2013.

Mr. Speaker, I'd like to recognize the great support demonstrated by the hon. members regarding the value of economic development and the vital role it will play in Alberta's future. If we want to ensure Alberta's future prosperity, then we need to focus on diversifying our economy and expanding our markets. Bill 43 helps us do that.

A member asked about the value that AEDA delivers for the taxpayer dollar. AEDA is a highly effective and efficient means for government to solicit advice from senior industry leaders in the province. Membership in AEDA has always been comprised of volunteer senior-level executives. These leaders volunteer their time in support of public service, ensuring that government and Albertans are able to benefit from their advice at minimal cost.

Over the years there have been many examples of AEDA recommendations that have been adopted or have contributed significantly to policy-making and programming activities. AEDA has identified strategic solutions to a range of economic challenges such as job creation, skills and education, productivity, competitiveness, and market access. Many of the recommendations such as a better aligning of our postsecondary system with our labour market, engaging and developing our existing human resources, and examining new technologies to increase productivity have become part of our long-term workforce strategies. The proposed changes to the act will streamline the AEDA's ability to provide robust advice on economic issues.

Bill 43 amends the existing Alberta Economic Development Authority Act and includes a renewed governance structure that will make AEDA a more efficient and effective organization. A smaller and more focused 12-member board will enhance AEDA's responsiveness and allow it to better serve the Premier, cabinet, and Albertans. AEDA will incorporate functions of the

Competitiveness Council, streamline the number of economic agencies, and increase their alignment with the GOA priorities. It will ensure greater client focus and improve the effectiveness and efficiency within the economic development community.

Bill 43, the Alberta Economic Development Authority Amendment Act, 2013, is a chance for the government and the AEDA to lead responsible change and reshape Alberta for a more competitive world.

Thank you, Mr. Speaker.

**The Deputy Speaker:** Thank you, hon. minister.

The hon. Member for Edmonton-Calder.

**Mr. Eggen:** Thanks, Mr. Speaker. I just wanted to make a couple of comments about this bill. I find this particular organization, the AEDA, a bit odd. It looks as though it's moving the appointments of this authority to the Premier, right? My question is: why is this organization being brought forward to the Legislature? I mean, it obviously is an advisory council of some sort, but it seems as though there's no oversight as to what they really do or, you know, as to how they function.

I think Albertans need to kind of look at these things and wonder. You know, we have nonelected people, obviously, with a close ear to decision-making here in the province. It's fine to take advice, but I just don't know if we're institutionalizing too much this sort of extra nonelected group to be having such influence on the province. I wonder if we are not just institutionalizing and entrenching a certain group of people that already have a tremendous amount of influence and just moving them closer to the centre of power and decision-making here in the province. Certainly, I'm suspicious of this whole thing, and I just don't like the idea of us legislating more power and control over to this nonelected entity.

**The Deputy Speaker:** Are there others?

The hon. Minister of Aboriginal Relations on behalf of the minister to close debate.

**Mr. Campbell:** Question.

**The Deputy Speaker:** The question has been called.

[Motion carried; Bill 43 read a third time]

### Bill 37 Statutes Repeal Act

[Adjourned debate November 21: Mr. McIver]

**The Deputy Speaker:** The hon. Minister of Justice and Solicitor General on behalf of the hon. Minister of Transportation.

**Mr. Denis:** Thank you very much, Mr. Speaker. It's my pleasure to rise today to speak in third reading on Bill 37, the Alberta Statutes Repeal Act.

This is a rather sweeping bill that ensures we have a competitive regulatory framework that is easy for every person and business to understand. Mr. Speaker, I remember discussing this matter years ago, when I was a private member, with the Member for Calgary-Klein as well as the Member for Battle River-Wainwright, and it's nice to finally be able to put these ideas into action.

This act will repeal a group of 24 provisions in legislation that are unnecessary or obsolete, fulfilling what we had discussed years ago to reduce red tape. This includes the Alberta Corporate Tax Amendment Act; the Alberta Personal Income Tax (Tools Credit) Amendment Act, 2001; the Alberta Wheat and Barley

Test Market Act; the Crop Liens Priorities Act; section 43 of the Financial Sector Statutes Amendment Act, 2003; section 1 of the Gas Utilities Statutes Amendment Act, 2003; schedule clauses (f) and (n) of the Health Disciplines Act; the Health Facilities Review Committee Act; the Hospitals Amendment Act; section 2(b) of the Landlord's Rights on Bankruptcy Act; the Masters and Servants Act – I see some members over there are unhappy about removing that – section 3(b) and (d), 7, 10, 15 to 18, 24 to 27, 34, and 43 of the Metis Settlements Amendment Act, 2004; section 2 of the Municipal Government Amendment Act, 2000; sections 10, 11, 13, 16, 17, and 20 of the Municipal Government Amendment Act, 2002; the Occupational Health and Safety Amendment Act; the Partnership Amendment Act; the Pension Fund Act; the Road Building Machinery Equipment Act; sections 37 and 40 of the Securities Amendment Act, 2006; the Social Care Facilities Licensing Act; sections 7(b) and 17(a) of the Stray Animals Amendment Act, 2005 – I'm hearing some opposition to that over here, Mr. Speaker – the Wheat Board Money Trust Act; section 117 of the Wills and Succession Act, which was never proclaimed; and the Workers' Compensation Amendment Act.

10:00

Perhaps more importantly, though, Mr. Speaker, this bill creates an automatic process of review every five years whereby unproclaimed legislation is automatically reviewed, and if it is no longer needed, it is repealed. For the members that didn't hear: it is repealed. Several years ago we talked about this, but again, we are putting these ideas into action.

Many times people talk about reducing red tape for businesses or individuals. This bill does exactly that, as the minister of environment has agreed with me here. This is just another reason why you should do business in this province, more than a couple of reasons you should do business with us.

The Statutes Repeal Act shows that Alberta is committed to actively maintaining its body of provincial laws, and I'm confident this legislation will serve Albertans well. With that, Mr. Speaker, I'd like to move to close debate on third reading of Bill 37, the Statutes Repeal Act.

**The Deputy Speaker:** For the record, the minister has spoken on his own behalf as the sponsor of the bill. I don't know if you can close debate at this point, hon. minister.

With that, I'll call the question.

[Motion carried; Bill 37 read a third time]

### Bill 38 Statutes Amendment Act, 2013, No. 2

**The Deputy Speaker:** The hon. Minister of Justice and Solicitor General.

**Mr. Denis:** Thank you very much, Mr. Speaker. This time of night I think the hon. Member for Airdrie is getting a little pugilistic, but I will endeavour just to make my comments brief.

This bill makes minor changes to several pieces of legislation. The bill was designed to clarify and update existing legislation, which will help give Albertans a clear understanding of the legislation that governs them. Many of these amendments are simply catch-ups to the legislation, what's already in practice. Mr. Speaker, in a rapidly changing and growing province it's especially important to make these changes to ensure that our legislation is both consistent and clear. Albertans expect and deserve clarity and consistency, and these amendments will help

achieve that. I'm confident that this legislation will serve Albertans well.

I'm looking forward to hearing from the Member for Edmonton-Calder. Thank you.

**The Deputy Speaker:** Thank you, hon. minister.

I'll recognize the Member for Edmonton-Calder.

**Mr. Eggen:** Well, thanks, Mr. Speaker. I certainly don't want to take up a great deal of time. I think it's worth noting for both Bill 37 and Bill 38 that when we are making repeals and putting together so many different pieces of legislation, the standard practice is to have a consultation with each of the opposition parties, with the House leaders, and just make an agreement over that before we even have to come in here. I realize that maybe that seems like a small thing, but in the age of other Legislatures and parliaments around the world using omnibus bills and putting so many pieces of legislation together and sometimes using innocuous pieces of legislation to build up a volume of information and then sneak in something that's quite substantive and problematic, then, you know, that's what we always have to look out for.

I would suggest that the government would respectfully just consult on some of the statutes amendment acts or statute repeal acts because we'll see a lot of it in the future with this new drive

to take out obsolete statutes, which I totally endorse. Right? Don't get me wrong. But if you can make a reference to that with us before, then we can make sure that it's clean and that we're not ever slipping into a situation where omnibus bills come to cast a dark shadow over our fine, fine Legislative Assembly.

Thank you, Mr. Speaker.

**The Deputy Speaker:** Thank you, hon. member.

Are there other speakers?

Seeing none, I'll invite the hon. minister to close debate.

**Hon. Members:** Question.

**The Deputy Speaker:** The question has been called.

[Motion carried; Bill 38 read a third time]

**The Deputy Speaker:** The hon. Deputy Government House Leader.

**Mr. Campbell:** Yes, Mr. Speaker. Seeing that we made considerable progress tonight, I would suggest that we adjourn until 1:30 tomorrow afternoon.

[Motion carried; the Assembly adjourned at 10:06 p.m. to Tuesday at 1:30 p.m.]

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