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The 30th Legislature
Second Session

Alberta Hansard

Wednesday evening, November 4, 2020

Day 63

The Honourable Nathan M. Cooper, Speaker

Legislative Assembly of Alberta The 30th Legislature

Second Session

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Legislative Assembly of Alberta

7:30 p.m.

Wednesday, November 4, 2020

Government Bills and Orders Committee of the Whole

[Mrs. Pitt in the chair]

The Chair: Hon. members, please be seated.

I would like to call Committee of the Whole to order.

Bill 37 Builders' Lien (Prompt Payment) Amendment Act, 2020

The Chair: We are on amendment A1. Are there any members wishing to join debate? The hon. Member for Edmonton-Ellerslie.

Member Loyola: Thank you very much, Madam Chair. I hope everyone is doing well tonight as we commence this evening and everyone is ready to be here for quite a while.

Mr. Eggen: I'm ready.

Member Loyola: You're ready. I think we're all ready. We're now ready.

It gives me great pleasure to actually speak to the amendment on Bill 37. I'm glad that the government has taken the time to take a second look at their proposed piece of legislation, which they have called the Builders' Lien Amendment Act, which is also known as Prompt Payment.

I just wanted to give a little bit of background on this, because, of course, while we were in government, this was an issue that was brought to my attention probably in my second year of being an MLA, representing Edmonton-Ellerslie, of course, and I had the pleasure of sitting down with several members of the Electrical Contractors Association of Alberta. It was actually them that brought it to my attention because, as you may know, electricians, at least what was shared with me, on many of the projects: they're usually the last ones to go in and, therefore, are the last ones to actually leave a project. Many of these electrical contractors were sharing with me that what ends up happening is that they end up being almost like the lowest on the totem pole, so to say.

What ends up happening is that the general contractor who's in charge of the project – because they're the last ones to actually go finish up on the project – sometimes would hold on to the amounts that were owing. Of course, there were a number of issues that the electrical contractors brought to me. The fact is that on particular projects, even though they would have done, for example, 95 per cent of the work, the general contractor would actually be holding on to the entire payment until they were satisfied with that remaining 5 per cent.

Now, of course, while we were in government, we addressed this particular issue when it came to public infrastructure projects. We actually made it so that general contractors had to pay out on the work that was done. In the consultations that I was doing at the time and what I shared with who, at that time, was the Minister of Service Alberta was that we should probably look into doing something very similar for the contractors here in the province on the private side as we have already addressed it on the public side.

Of course, as everybody well knows, and I even had an opportunity – actually, you know what? I think this is probably the first time I'm going to share this in this House since I've been here for five years. I actually used to work as a finishing carpenter, and

I had my own business. Yeah. It's probably something that you didn't know about the Member for Edmonton-Ellerslie. Yes, I actually ran my own business for quite a long time.

I remember being on projects and having issues being paid out by the general contractor, and I remember how difficult it was because even though you are the subcontractor, you still have people that are working with you and making sure that you're getting these projects done. Those people – you can't wait. You can't say: "Oh, I'm sorry. The general contractor hasn't paid me out yet. I'm sorry; I'm not going to be able to pay you."

What ends up happening is that a lot of subcontractors – and I experienced it for myself and it was also related to me by people who owned their own companies. The fact that you're working on a major project and sometimes maybe even two or three and the general contractor is actually holding out on paying you on a particular project, which forces you, then, as a subcontractor to then go look for smaller jobs here and there so that you can actually make that money. Then what ends up happening is that instead of that money coming to your own pocket, well, you're making sure you're paying the people who are working with you on the much bigger project. Of course, it would be completely unfair to not pay those workers. You know, they're there; they were getting the job done. Like I said, this was something that I experienced for myself, having to do odd jobs here and there in finishing carpentry and making sure that I was able to pay the people that were working with me.

It's really important that this piece of legislation has come forward. It's something that I support wholeheartedly, especially given the fact that I consulted with a number of subcontractors throughout the province, not just the Electrical Contractors Association of Alberta. Many of them brought this particular issue up to me, because, of course, what ends up happening if the general contractor has not paid out? Well, you can imagine that they put up a lot of capital to buy all the materials that are required for a particular job; they're paying for all that ahead of time, so then it's like an investment, right? They put the money in, they do the work, they get the job done, but then, ultimately, the general contractor doesn't pay out.

In some instances, Madam Chair, for example, the electrical contractors that I spoke to would tell me that even though there were contracts that would stipulate specifically when the general contractor had to pay out on a particular project – in most cases it was either 60 or 90 days; that was, like, general contract law when it came to payment for these projects when it came to the subcontractors – they would relate to me that sometimes it would be 90 and even 120 days before they would actually get paid out on a project. It was incredibly unfair, incredibly unjust, which is one of the reasons why I decided to make this a really important issue that I wanted to make sure was addressed here in the province of Alberta.

I ended up consulting with a number of people, and I ended up working very closely with a member from our caucus who at that time was the Minister of Service Alberta. We went on to do further consultations with people throughout Calgary, and we talked to a number of people – a number of people – throughout the province when it came to this particular issue. So I'm very glad that the current government has decided to bring this bill forward. Of course, with this amendment they're addressing a really important issue.

Of course, yes, it's true that the owner of a project could then pay out the general contractor, and it's really important that there is stipulation on how subcontractors are to be paid on a given project. I just wanted to relate again the fact that with the contractors, because they've put in a lot of capital up front buying the materials,

what would end up happening when it got to that stage where they were waiting 90 or even 120 days to get paid out on a project, they would say: well, I can't continue to wait. They would end up taking pennies on the dollar, and they would just move on to the next project. It was like they were saying to themselves, "Well, I'm going to have to just cut my loss right here and just move on to the next project," so that they could continue working. As I stated before, a lot of these contractors were doing other odd jobs so that they could make sure that their workers were being paid on time.

I'm really glad that the government has chosen to bring this forward. It's something that contractors throughout the province have been asking for for a very long time. It's really important that we go beyond just the contracts that were being put forward within the private sector on this particular issue.

7:40

As we saw, even though the contracts would stipulate that a contractor or subcontractor would have to be paid within 60 or 90 days, whatever the case may be, depending on the contract that was drawn up, a lot of cases depended on the actual owner of the particular project and what they would stipulate. You know, a lot of the larger corporations in these cases would actually say: no, no, no, we're going to do the 90 days. But the subcontractors would agree. They would agree to that 90-day period, but of course because of the Builders' Lien Act, which at that time is 45 days. Imagine this: even though the contractor says 60 days or 90 days, they're still not getting paid. If you wanted to take a lien out on a property, you would have to do that at the 45-day mark, right? But then the biggest problem with that was the fact – and it's very well known here in the province of Alberta – that if you take a lien out on a property, you're probably not going to get hired again to do a project. Really, these subcontractors had their hands tied, tied right behind their back, when it came to this particular issue. They couldn't win one way, and they couldn't win the other way. They couldn't find a way to justly be paid.

Now, again, I remind you that the scenario would be – you know, I get it. If there's 5 per cent of the work that hasn't been done to satisfaction, then I would get it that the owner or general contractor would continue to have an issue with the work that was being done, but it just didn't seem fair to me that if the majority of the work was done, then why wouldn't the general contractor pay out on at least the work that had been done? That would be the just thing to do. This is the reality that a lot of subcontractors in this province are facing to this day. I hope that with this particular piece of legislation, we addressed the majority of those issues.

I have taken the opportunity to consult with the electrical contractors and ask them about what they thought about this piece of legislation. They were happy to see it come through. They knew that I myself did a lot of work in order to make sure that this actually came through, consulted with many. I remember that at that time, we looked into many jurisdictions across, not only North America but also in the United Kingdom, to see how they would address this particular issue. It was just that I found it unfathomable that here in the province of Alberta on the private side, these issues weren't being addressed.

I remember that in consultation with a lot of the bigger corporations, they were saying: "Well, all of this is handled in the contract. All of this is being handled in the contract. All the stipulations are there." But regardless of that fact subcontractors were not being paid on time. For a lot of them it was putting stress not only to their business, but it was putting stress on their families.

You know, I had the opportunity to meet many of these subcontractors and meet their significant others as well, sitting down, chatting about these particular issues. Their partners would

even tell me the kind of stress that it would put the entire family under when the subcontractor wasn't being paid on time.

Like I said, I'm very happy that the government has actually brought this bill forward, but I'm also really interested in knowing who the government actually consulted on all these issues. I'm not too sure if the minister has had the chance to speak to that yet regarding this particular bill. I'm also interested in knowing what led to the particular government amendment that they're bringing forward. Like, who did they hear from? Who was it that brought this whole issue forward so that – I'll be honest with you; the amendment is solid. I'm in agreement with it. I think that it addresses the issues and, like I said, I think is a good step forward for Albertans so that we can ultimately make sure that our economy functions more smoothly when it comes to these projects here in the province of Alberta. So it's really important that we get this piece of legislation right.

Like I said, I'm really interested in hearing from the minister, particularly on the reasons for this particular amendment. It's important that these changes also seem to be similar to other jurisdictions from what I recall. Because, I'll be honest, Madam Chair, it's been a while since I looked at the crossjurisdictional research that I was doing at the time, but I'm hoping that it is in line with other jurisdictions across Canada. I know that in the United States there are many states that have done work on this particular issue to make sure that there is prompt-payment legislation for subcontractors.

I'm really eager to know from the minister himself what information was used in order to come up with this particular piece of legislation as well as the amendment that we have before us. How does it compare to other jurisdictions across Canada, the United States, and other places in the world? Again, it was not only in England, but I also remember looking at information from Ireland as well and how prompt payment was dealt with there to make sure that subcontractors were being paid on time.

Yeah. It's really important for me to know who from the industry was actually consulted on this piece of legislation as well as the amendment. I'm also wondering why this particular amendment didn't actually make it into the initial proposed piece of legislation when brought forward.

Now, I get it. You know, you come up with a piece of legislation, you have many of the people who work in the ministry that are bringing forward ideas, the minister then has the opportunity to be briefed on all of these issues as they come forward, but then I'm wondering: if there was consultation, then why did this particular piece within this amendment – why wasn't that already addressed when the minister brought forward the piece of legislation, and why are we now having to deal with this government amendment to the bill?

I'm hoping that the minister can shed a little bit of light on that. What were the decisions made? If we could get perhaps a timeline on how things occurred, who was consulted, who from the industry, all the different stakeholders within the industry. I'm also interested in knowing which subcontractors the minister spoke to in particular regarding this piece of legislation and how he came to make the decisions that were made for this.

I understand that, you know, the payment deadlines have more flexibility. I think that that's important, because, of course, as I was saying, it would only be one sided to be able to just focus completely on the subcontractors. I know the general contractors as well have the pressures of the projects that they're having to put forward, but then owners, in particular, from different industries: the petroleum industry, the residential, commercial, all these sectors. I'm really interested in knowing from the minister all the

people that were consulted on this – was it only one particular group? – so that we can have a better understanding of how this went.

I think that's really important for us as we continue to debate this here in the House tonight. I understand that this afternoon perhaps the minister did have a chance to address some of these issues; unfortunately, I wasn't here, and I don't have the Blues in front of me right now to review them. So if the minister wouldn't mind, I would really appreciate it if he took the time to address a lot of the issues that I have come up with.

7:50

Again, I remind you all that this is something that I was very passionate about. Of course, it was actually an electrical contractor that lived in Edmonton-Ellerslie, from the community, who asked me for a meeting one day.

The Chair: My apologies, hon. member.

Hon. members, before the hour is too late, I would be remiss if I didn't say hello and good night to my daughter, Molly, who is watching at home.

Are there any members wishing to join the debate?

Ms Armstrong-Homeniuk: Madam Chair, I'm honoured to be able to speak to Bill 37, the Builders' Lien (Prompt Payment) Amendment Act, 2020. The bill is important for Alberta's recovery plan, which is a bold and ambitious strategy that focuses on creating jobs by investing in core infrastructure such as roads, schools, and other projects. Bill 37 focuses on necessary changes in the construction industry that are critical for building infrastructure.

The construction industry is a multibillion-dollar sector of Alberta's economy that creates thousands of jobs for Albertans, and this legislation will secure payment for work. Subcontractors and vendors are concerned about the growing issue of late payments by general contractors for their completed work. I know, Madam Chair, that every member here and every Albertan would not be happy to get a late paycheque for month-old completed work after many hours spent doing a job well. Unfortunately, this is a major issue that is happening across the construction industry. In recent years the average time for a payment in Alberta's construction industry increased from 45 days to over 70 days. This is unacceptable.

Madam Chair, I have a relative in the construction industry, so I understand the issue. My relative has been working in the construction industry for over 35 years as a subcontractor and is constantly having this problem. More recently he finished a project, on May 31 of this year. It was a well-done project, but because of issues with payment from general contractors and in this case a rental company, he did not see a payment until late October. This is terrible. He has told me countless times that subcontractors such as himself are unable to see the benefits from their work that has been completed four to five months prior because they are waiting on payments from general contractors. But they are at the mercy of the general contractors because if they complain about late payments too much, they will not hire them for another job. Because of this, they are between a rock and a hard place. They love the work provided by general contractors but, at the same time, dread having to deal with invoicing and nagging at contractors to pay on time.

Contractors and subcontractors in the construction sector have made it clear that they are struggling because they are not being paid on time, which has been a problem for quite some time. Subcontractors are having problems placing bids for work as they're having trouble even to have funds to do the job. This is completely unacceptable, and I can't believe that it has taken this long for changes to be made. But there is hope on the horizon.

With the industry's support, Alberta's government is taking action to fix the problem with prompt-payment legislation through Bill 37. The Ministry of Service Alberta has spent a great deal of time on collaboration, gaining support from members of the construction industry by consulting with stakeholders on a continual basis since the fall of 2019. The legislation has been created with the stakeholders' direct help and input, with the majority of stakeholders being very supportive of these changes.

The proposed amendments to the Builders' Lien Act will introduce a mandatory adjudication process to address nonpayment issues without having to use the court system, and this will save time and money for Albertans. These changes will make a huge difference as currently under the Builders' Lien Act contractors in most industries have to seek remedies through the court system, which can be very expensive for small contracting businesses in Alberta. This will also free up some of the backlog in our Provincial Court. Introducing a mandatory adjudication means that we're reducing red tape from a time-consuming and expensive court process. I'm glad to see this unnecessary red tape being reduced since it has been a burden on the construction industry.

I'm proud of this bill and the steps that this government is taking to ensure that there is efficiency in the industry that serves as a major part of Alberta's recovery plan. The government is taking action to protect the much-needed jobs in the construction sector, that are vital to Alberta's economic recovery, while reducing red tape. Ensuring timely payments for construction jobs will support Alberta's economic recovery and protect jobs that support families all across Alberta.

Nobody, especially small businesses, should be unsure about how and when they are getting paid. This uncertainty not only cripples businesses but during a pandemic makes their financial state that much more uncertain and unsecure. If this type of system continues, there would continue to be issues in our construction industry, which the industry does not need.

I would like to thank the Minister of Service Alberta for bringing forth such an important piece of legislation that will help protect good jobs that support families all across the province. I'm excited to see how these changes will make the livelihoods of people in the construction industry much better.

Thank you, Madam Chair.

The Chair: Any other members wishing to join debate on amendment A1 on Bill 37? The hon. Member for Edmonton-Whitemud.

Ms Pancholi: Thank you, Madam Chair. It's a pleasure to rise today on Bill 37 in Committee of the Whole to speak to the government amendment that was brought forward by the Minister of Service Alberta, an amendment to Bill 37, the Builders' Lien (Prompt Payment) Amendment Act, 2020. We've had a great discussion. I know I was able to speak on this bill at second reading and make some comments there. You know, I really appreciate the opportunity to talk about this again. We've expressed, I believe, on this side of the House that we do very much believe in prompt payment and have believed for some time that it is an important issue, as noted by a number of my colleagues. I particularly reference the Member for Edmonton-Ellerslie who has had a keen interest in this issue for some time. It was part of our Alberta NDP 2019 platform to do precisely – well, to do what's addressed here in this bill.

We are appreciative of the fact that this has been brought forward by the minister because it is a need that, I think, across party lines and across both sides of the aisle in this House, we can recognize is an important issue for so many Albertans who work particularly in

the construction industry. As I noted in second reading – and it must be said again – now more than ever because of the economic downturn and the issues that many, many workers are facing right now, getting paid on time and being able to pay your own bills, being able to pay your mortgage, being able to put food on the table is a top concern and top priority to all working Albertans and all Albertans who are also looking for work right now. It's a sad statement that, of course, so many Albertans are currently looking for work. We do know that the government is bringing forward a number of infrastructure projects, which will hopefully mean that there are more Albertans who are working in the construction industry, but it also means that we need to have a greater focus on making sure that they get paid in a timely fashion.

This is an issue that goes back for some time, and we are supportive of course of making sure that the payment processes are done in a timely fashion. I have very, very limited experience working on lien issues and these kinds of payment issues in my time as a lawyer although I did deal a little bit with it just prior to choosing to run for office. Some of the legal work I was doing had to do with this very issue of contractors who were not getting paid on time. I could see first-hand from my clients how that was causing enormous pressure and how it is a chain reaction, really. When contractors are not paid on time and then all the subcontractors after them are also not paid, not only does it threaten the livelihood of the workers who are relying on that payment in order to be paid themselves but those small businesses and those medium-sized businesses, who are in a more precarious position and are more subject to the volatility and fluctuations of being paid promptly, are not. Certainly, this is an issue that many people are interested in.

As I noted, I was not part of the NDP when they were in government, but I heard with great interest from my colleagues about the efforts that our government made to make sure that public contracts and those contracts for Alberta Infrastructure had such provisions in place, recognizing that prompt payment is a key issue. To now carry that forward into all construction projects – public, private, whatever – I think is a very important step, and we are appreciative.

Madam Chair, when I had an opportunity to speak at second reading of Bill 37, at that time I noted the fact, as a few members had, that there was a bit of a distinction between what was put forward in the original, initial Bill 37 and the payment structure that exists in other jurisdictions and in particular in Ontario. While they did have a prompt-payment clause, they did have, then, that cascading extension of seven days for subcontractors to get paid.

8:00

I noted at the time that it was interesting that Bill 37 did not have that same cascading provision, which, of course, can be challenging because there's a 28-day period of time set out in Bill 37 by which, you know, a general contractor must be paid. You can imagine, Madam Chair, that if they get paid at the very end of that 28-day period of time and they have a number of subcontractors to pay who then may have subcontractors beneath them, how to achieve all of that in 28 days can certainly be challenging. That's a logistical issue that I think those with more experience in the construction industry probably were aware of, and it was one of the questions that I think we raised about: how does that work in terms of that 28-day period?

Now we see brought forward this amendment, which I think is responsive to that issue. It does raise the question, which I know my colleagues have raised, about how this wasn't captured when Bill 37 was initially brought forward. I do believe and understand that the Minister of Service Alberta has done consultation on this issue and has been for some time. We're now looking at about a year and

a half since this government took over. I understand that this was not brought up in the early stages, so there's been some time.

I'm curious as to how that was not captured in the original drafting of Bill 37, particularly because in most legislative drafting processes or policy initiative processes one of the things that I think is part of that exercise is to begin by looking at what other jurisdictions have done to see where you would make changes, what fits the circumstances of our province versus another, why there might be differences. I would imagine that early in that process, looking at the Ontario legislation, for example, would have been part of that and would have been looking at: well, they maintained this seven-day cascading timeline for subcontractors. Why that wasn't captured in part of Bill 37's initial, I guess, drafting is a question – not probably drafting. The drafters really only take instruction, of course, from the client as to what should be in there. I do question why this was overlooked before, but I do think this is a logical and logistical change.

I imagine that the Minister of Service Alberta may have already commented on this. I apologize as well. I don't have the benefit of the Blues before me from the debate earlier today on this issue, but he probably gave some indication as to who he spoke to that maybe looked at the initial draft of Bill 37 and said: hang on; there are probably some changes that are required here just from a logistical perspective. I do look forward to it if the Minister of Service Alberta would care to share that information again. I would be happy to hear it, just to understand more fulsomely who was consulted and part of those discussions.

I do have a very technical question. I guess I tend to look at the technical details and have questions. I'm sure there's a good explanation for it, but I do notice that in the government amendment that was brought forward that we are discussing today, it did, for example, make some amendments to particularly part 3, the prompt-payment sections, and in the section that describes what a proper invoice is. I imagine that for drafting reasons – but I feel like there's a bit of a gap here. I notice that in the proposed amended section 32.1, which talks about what a proper invoice is, it removes subcontractors from who is issuing a proper invoice and what a proper invoice is considered under the act.

Of course, a proper invoice is really important, and I expressed my appreciation for this provision in second reading because it really drew attention to the fact that if you're going to set off a legislated timeline process, there needs to be great clarity as to what technical details set off that process. While I hadn't thought of it before and certainly hadn't turned my mind to it, when I saw this section in the proposed Bill 37, I thought: well, that makes sense. You need to have clarification for all parties as to what is actually considered a proper invoice. Otherwise, there could be significant dispute as to what actually triggers that timeline, the 28-day payment timeline. Having that clarity, I thought, was very important.

But I note now that in this proposed amendment there's no longer any reference to subcontractors having to, I guess, issue a proper invoice. Again, I defer to those who may have more experience in this, but I would imagine that in order to be paid, a subcontractor would also have to issue a proper invoice to the contractor pursuant to their agreement. Maybe that's not the case. Maybe it's a work order. Maybe a work order isn't required to fulfill the same requirements as a proper invoice.

I just have a question about that. Again, the importance, in my view, of having a proper invoice provision and clarity around that is because it triggers the timelines. What we're seeing from this proposed amendment is that we're triggering more timelines. We're now saying that the contractor has seven days to pay the subcontractor. How do we clarify when that timeline begins? The

invoice seems like a natural trigger. And if it's something else for a subcontractor, if it's a work order, perhaps some clarity would be great around that.

The intent, as I understand it, of Bill 37 is not only, of course, to ensure that all contractors and subcontractors get paid in a timely fashion but to minimize the number of legal disputes that tie up court processes. I know a lot of lawyers who do a significant amount of work based on this issue of payment for contracts in a timely fashion. So if the goal and objective of Bill 37 is, in addition to saying that we want to make sure people get paid in a timely fashion, also to minimize disputes, clarity around when those timelines begin are, I think, incredibly important.

That's really a question. I don't know the answer to that because this is not an area that I have a significant amount of expertise in. I would defer to the Minister of Service Alberta as to whether he feels there is sufficient clarity in the proposed amendment to trigger the seven-day cascading timelines for subcontractors. I mean, those are really the primary issues that I was looking at. Again, it is a substantive amendment that we're seeing today to Bill 37. The goal, of course, is to make sure that there is that certainty in the system and in the process that's very much needed. I think that more than ever, Madam Chair, at this time we need to make sure that Albertans have the money in their pockets that they have earned and that they deserve and are entitled to and in a prompt fashion.

I do have to express my concern that while at the same time bringing forward legislation like this, which is to ensure that contractors and subcontractors get paid, there are so many other measures that the current government is taking that are actually taking a lot of money out of individual Albertans' pockets. I'm glad that they are pressing to make sure that contractors and subcontractors get paid on time and that those small and medium-sized and large businesses pay their employees in a timely fashion. I wish that the government demonstrated the same commitment to average working Albertans by not taking away their overtime pay or their stat holiday pay or making them pay more for driving on our roads or pay more for their school fees or their car insurance costs or their personal income tax or their property taxes.

As we've seen, there are so many other ways that this government is actually taking money out of the pockets of average working Albertans. While I'm glad that they are giving direction to the construction industry in particular and contractors to pay their employees and workers in a timely fashion, I wish they took that same commitment and advice to themselves and allowed Albertans to keep more of their hard-earned dollars in their pockets, as they deserve to.

Madam Chair, I hope for a fulsome conversation about what steps this government is taking to do that, to actually make sure that Albertans can keep more of their hard-earned money in their pockets. So I am pleased to see, as I expressed during second reading, this bill coming forward. I believe it's following through on commitments that both our party had and now clearly this government has as well around prompt payment.

Overall, I just have some questions, as I mentioned, about the proposed amendment. It does seem to be more reflective of the realities and the logistics of paying subcontractors, which I think is a good thing, but I do think we still need to have – and I know my colleagues and I will continue to press the government on making sure that Albertans not just get paid on time but that they get paid properly and that they get to keep the dollars that they've worked hard to earn in their pockets rather than having them picked constantly by this government in so many, many ways. It seems, Madam Chair, that every day we're hearing about a new announcement that's going to cost average Albertans more of their dollars and make it harder for them to make ends meet. Some

consistency in the government's policy and approach would be appreciated by not just myself and my colleagues but also by all Albertans.

On that note, Madam Chair, I will take my seat, and I would appreciate hearing some comments from the Minister of Service Alberta on my questions. Thank you.

8:10

The Chair: The hon. Member for Lethbridge-East has some comments.

Mr. Neudorf: Thank you, Madam Chair. While I will not address all of the particular topics raised by the last speaker, I would like to provide clarity, possibly, on two, from my understanding. One of the questions she raised was: what constitutes a proper invoice, and who does that all apply to? As I read the amendment in 32.1(1), for the purpose of this entire part, all of part 3 would be under the application of a proper invoice, including all subtrades and sub-subs and so on and so forth. That would be my reading of it, though I'm not a lawyer like she is. I would hope that would be helpful.

Then, also from my understanding, the clock starts on the 28 days and the seven-day step periods when the general contractor submits a proper invoice to the owner. That is when the clock starts. That allows 28 days for the owner to pay the general contractor, seven days to the sub, then seven days to the sub-sub, and seven days to the supplier.

I'm hopeful that these comments are helpful to the opposition and further their support of this tremendous amendment and this tremendous bill. Thank you, Madam Chair.

The Chair: The hon. Member for Calgary-East.

Mr. Singh: Thank you, Madam Chair. I stand today to provide my support and voice my comments about Bill 37, Builders' Lien (Prompt Payment) Amendment Act, 2020. Let me first express my appreciation to the Minister of Service Alberta for introducing Bill 37. Thank you for hearing all of the concerns of the stakeholders and for taking the lead to make sure jobs are protected in the construction sector that are vital to Alberta's economic recovery.

According to Alberta's labour force statistics construction jobs account for roughly 10 per cent of Alberta jobs, making this significant legislation affecting many Albertans. The government has previously announced a \$10 billion investment in infrastructure as part of Alberta's recovery plan. This investment will create 50,000 jobs, many of them within the construction sector.

One part of the funding includes the accelerated funding of more than \$20 million to modernize Forest Lawn high school in Calgary-East, with construction slated for completion by January 2021. The school division's school capital plan indicated that the modernization of the school was recommended due to the concerns of age and the condition of the building. Madam Chair, this significant construction project will implement numerous safety protocols and mitigation strategies in response to the COVID-19 pandemic. This project will improve the function, security, and safety to ensure that children, staff, and families are safe.

Madam Chair, in Calgary-East there have been many construction projects that are being done, including the development of Calgary-East's business district and the ongoing construction of the Belvedere residential community housing and commercial project. The construction industry is a multibillion-dollar sector for Alberta's economy that creates thousands of good jobs for Albertans, and this legislation will ensure payment for the hard work.

Madam Chair, currently there are no rules in Alberta mandating payment timelines between project owners, developers, contractors,

and subcontractors in the construction industry. Payment timelines in the construction sector are currently set out in private contracts and agreements. We have to take into consideration the average time of payment in Alberta's construction industry, which has increased in recent years from within 45 days to more than 70 days. It is incredibly difficult for contractors and subcontractors to manage their business without confidence and certainty of timely payment.

Madam Chair, many contractors and subcontractors in the construction sector have made it clear that they are struggling to be paid on time, and it has been a problem for a number of years. Ensuring timely payments for construction projects will support Alberta's economic recovery and protect jobs that support families across Alberta. With all this being considered and the support of all stakeholders, Alberta's government is taking action to fix the problem with prompt payment, embodied in Bill 37. This bill sets out a clear timeline of 28 days to pay a proper invoice upon its issuance.

Other jurisdictions work on prompt-payment legislation like in Ontario and Saskatchewan, which have currently introduced rules to encourage prompt payment in adjudication to address payment disputes. Nova Scotia, British Columbia, Manitoba, New Brunswick are undertaking reviews of similar legislation and comparable initiatives. Prompt-payment rules have been in place for over a decade in the United Kingdom. The Parliament of Canada has passed its Federal Prompt Payment for Construction Work Act in June 2019, but the legislation is not yet in effect. Madam Chair, this will help unlock cash flow in the industry, giving contractors and subcontractors the certainty and confidence they need to operate in Alberta. This will result in a steady stream of cash flow throughout the industry. The construction industry professionals want the government to write payment timelines into law.

Madam Chair, this will ensure certainty in the industry and remove ambiguity around payment that might be at present in private contracts, creating more consistency across the industry. Alberta's legislation is similar to Ontario's and Saskatchewan's but also prohibits pay-when-paid clauses and contracts to ensure subcontractors are paid efficiently. Pay-when-paid clauses allow contractors to withhold payments from subcontractors until the project owner or developer has made a payment to the contractor. Pay-when-paid clauses are considered to be unfair business practice as they shift the risk to subcontractors. By mandating a 28-day payment timeline, we are addressing the root cause of nonpayment issues, eliminating the need of unfair pay-when-paid contract clauses. Moreover, even when pay-when-paid clauses are in contracts, there has been no guarantee that they will be enforced if challenged in court. Prohibiting these clauses entirely will ensure all parties are on a level playing field so that they can take appropriate steps to protect their interests.

Additionally, Bill 37 will allow liens to be filed after 60 days from the completion of work or supply of materials and in 90 days for concrete suppliers rather than 45 days. This gives contractors more time to assess whether a lien is necessary. Currently under the act contractors in most industries have 45 days to register a lien for nonpayment with the land titles office. Like I mentioned a while ago, Madam Chair, the average time for payment in Alberta's construction industry has increased from within 45 days to over 70 days. Longer payment periods generally mean that contractors lose the opportunity to file a lien if payment is not received. Another concerning matter is that even when liens are adjusted within 45 days, construction companies experiencing nonpayment issues must seek remedies through the court system, which can be prohibitively expensive for small businesses and Albertans. That is

why the changes that Bill 37 carries will greatly help Albertans in the construction sector.

Presently the construction industry in Alberta does not have a formal adjudication process, and payment disputes are routinely resolved through the courts. During this pandemic it has been difficult and stressful for the courts to settle payment disputes. The courts in Alberta have a wide range of responsibilities, and there are many situations where court is the best and is the only possible forum for a dispute to resolve this situation. Apart from the changes I have mentioned, Bill 37 seeks to establish an adjudication system to resolve payment disputes. The Minister of Service Alberta would appoint a thrice-nominating authority, INA, who would, in turn, appoint qualified third-party adjudication to resolve payment disputes in the construction industry. The INAs would assign dispute or adjudication whose judgment will be binding on all parties regardless of adjudication option or outcomes.

8:20

Parties will retain the option to file a lien with the Service Alberta land titles office and enforce the lien through an action at the Alberta Court of Queen's Bench. Applications to the adjudication system would require a reasonable fee, which would pay for the cost of the adjudication services. These fees will be established in accompanying regulations, which will be drafted after the legislation has passed. Other details such as requirements for adjudicator qualification will be refined during the regulation development process. This will speed up the dispute resolution process, providing the construction industry a way to resolve disputes quickly and less expensively than going through the court. We expect these changes going into effect in the summer of 2021. This mandatory adjudication process will save time and money for Albertans, allowing the same to be spent with their families and on other needs.

The government is working hard to help Albertans and the Alberta economy to recover from the COVID-19 pandemic. Therefore, this legislation is particularly timely as Albertans in the construction industry can least afford payment without any uncertainty. Bill 37 is another great help for Calgary's constituents working and involved in the construction industry, particularly contractors, subcontractors, and labourers. This ensures them of having stable finances and maintaining their livelihoods in this time of pandemic.

Thank you, Madam Chair, and thank you, Minister, for listening and for helping the construction sector and ensuring Albertans are our first priority. This will help to protect good jobs that support many families all across our province.

Thank you.

The Chair: Any other members wishing to join debate on amendment A1? The hon. Member for Edmonton-South.

Mr. Dang: Thank you, Madam Chair. It's a pleasure to rise tonight and speak to the amendment on Bill 37, the Builders' Lien (Prompt Payment) Amendment Act, 2020. I think I'd like to thank, perhaps, all members for the contributions they've made today and previously to this bill. I know the Minister of Service Alberta rose in this place and gave quite a lengthy response to some of the questions we had presented to him, and I think that's something that we're quite pleased with, to be able to see that some ministers, at least, are willing to rise in this place and report back on questions from the opposition.

I think that certainly, generally, of course, we agree with the principle of prompt payment. Of course, our government and, I know, the Member for Edmonton-Ellerslie spent quite a bit of time

while we were in government working on different types of prompt-payment pieces and hearing about prompt payment. Of course, in my role as the Infrastructure critic I've actually heard certainly from stakeholders as well that prompt-payment legislation is important, and it's important that we get prompt-payment legislation right. Madam Chair, I think the amendment looks fairly reasonable at first reading. Indeed, when the NDP government was working on prompt payment, basically, I think many aspects of this were captured in our original thoughts and proposals around this.

Certainly, I think that if we have some subcontractors that are going to have payments toward the end of the period, then they're going to have to have the appropriate amount of time to then pay out their subcontractors as well and so on and so on. I think that that's a very adequate response to this, and it addresses some of the concerns that we brought up as well. I think it also makes this legislation more comparable to other jurisdictions such as Ontario, and I think that's good, that we're learning from our friends in other parts of the country as well. I mean, it's good to see that we have legislation now that's more reflective of what's going to actually work.

I have some concerns around this. I mean, I'm not concerned so much in the logistics. I'm just concerned in why this wasn't included originally in the legislation. I mean, our party here, the NDP opposition, campaigned on prompt payment. We started to introduce these aspects, and this was one of those pieces. This was a core piece of how our prompt-payment legislation would have worked, so, I mean, I'm a little bit surprised that the minister didn't include this originally with the legislation. I'm a little bit surprised that the minister had what seems to be an obvious and significant oversight in the legislation, and I'm a little bit concerned that it wouldn't have been included in the initial draft. I'm a little bit concerned that this type of information wouldn't have even come up in their consultations and wouldn't have come up in their crossjurisdictional overview. I know that the government often does crossjurisdictional overview when they develop legislation like this.

Madam Chair, I think that certainly we've heard from subcontractors and so on that they must first receive payment before they can then pay their other subs. General contractors, for example, must first receive payment before they can afford to pay a subcontractor as well and so on and so on. I think that that's something that, particularly for large and complex projects, is very obvious and self-evident. Of course, the larger and more complex a project is and the more moving pieces there are and the more contractors that are involved, I think it's obvious that that's going to be something that is expected. In many cases these projects are worth millions if not hundreds of millions and tens of millions of dollars. I think it's something that the industry will welcome and be thankful for the changes as well.

I think that certainly this is going to help. I mean, I've talked to stakeholders, including some in my constituency such as I mentioned earlier. Electricians bring this up quite often. Electricians bring up prompt payment quite often as it seems that they get paid towards the end of many of these periods. They get paid towards the very tail end and oftentimes after many layers of these contracts and contractors. I think that when we do hear from our stakeholders, they are saying that they need some form of action on prompt payment. This is at least legislation that will actually help workers.

Indeed, one of the things that I talked about with my stakeholders in the construction industry and infrastructure industry is that the piece of prompt payment, particularly right now in the middle of a global pandemic, particularly right now in the midst of what appears to be one of the largest recessions Alberta has ever gone through, one of the largest economic crises in the entire history of Alberta, what appears to be something that is having very negative

effects throughout many industries – many of these companies are seeing payment times well in excess of normal, and the payment is taking in some cases, I think, over a hundred days, right? I think prompt-payment legislation is going to have a positive impact in terms of that. I mean, it means that many of these companies are going to be able to pay their employees.

Madam Chair, we know that the \$4.7 billion the government gave away to wealthy corporations wasn't helping with that, right? We know that the \$4.7 billion the government gave away to wealthy and profitable corporations in corporate handouts wasn't helping with any of these issues. We know that in many cases these are the industries that, for example, saw those 50,000 jobs lost even before the pandemic began.

Now that we have some actual action on prompt payment, it means that those companies that are hiring people, those companies that are getting people back to work, that are trying to keep people employed right now will be able to better pay their employees. I think that's a good thing. It's good to be able to see that move forward. It's good to be able to see something that we had started when we were in government move forward. It's good to see that the minister at least saw that our original proposal, the proposal we campaigned on, the proposal we worked on while we were in government, did include this piece around the staggered day and having slightly delayed pay further down the line. I mean, that's pretty optimistic.

I was reviewing some of the comments earlier that the minister made, I believe, this afternoon, and I noted some of the changes around things like for the concrete associations and the concrete industry and stuff like that. I think those changes are fairly reasonable. I mean, I think having reviewed the minister's notes as well as having reviewed my consultations with the industry and with my constituents and whatnot, certainly those are some reasonable concerns that the minister has brought forward in terms of why there had to be different timelines for different industries. I think that that's something that I think, at least, is fairly reasonable.

I think that certainly we need to be talking about how we need to have contractors getting sufficient cash flow, having that sufficient ability to pay their subs, having the ability to pay their employees. I think that when we look at this, the additional seven days for each level of subcontractor, it is something that I think is reasonable. The additional seven days for each level of subcontractor I think is something that I would support as long as nothing else changes here tonight. I mean, there's always a lot of debate that's still going to be moving forward, so we'll see how that goes.

I think that certainly when we look at this and we look at how it compares to Ontario, when we look at how it compares to other jurisdictions that are doing prompt payment, when we look at how it compares to other areas of the country, it makes sense, right?

8:30

It simply makes sense because at the end of the day if you want to be able to pay your subcontractors, if you want to be able to pay the general contractors who pay their subcontractors, you do need to make sure that cash is in hand first, right? In a lot of cases and many times it's because of what this government has done over the last year with their \$4.7 billion in corporate giveaways, with over 50,000 jobs lost even before the pandemic began. Some of these subcontractors or contractors no longer have the cash flow to pay a lot of their employees if they don't receive that payment first. If they don't receive the payment from the project first, they may not be able to pay their subcontractors; they may not be able to pay their employees down the line. When we put in these really tight timelines without the additional staggered seven-day extensions, I guess, per subcontractor, you can create some problems.

I mean, I'm glad that the minister heard from industry there. I'm glad that the minister heard from stakeholders and from the opposition and accepted some of those changes or is presenting some of these changes. I think it's something that is very important. It is something that is going to help make sure that we don't put these subcontractors in very tough positions or put them in very difficult positions. I think that that's something that is generally a positive change.

Madam Chair, I think that this is generally a positive change. I'm a little bit concerned that even despite all these changes, we saw such significant action against workers. We continue to see this government take such significant action against workers, for example, cutting holiday and overtime pay, cutting the minimum wage for young workers. Now it appears that the government is considering right-to-work legislation. I mean, with all of those changes, even despite the good that's going to be put forward through prompt payment, I'm concerned it's going to have negative and detrimental effects throughout the economy, it's going to have negative effects on the industries, it's going to have negative effects on workers.

Madam Chair, I think that certainly when we look at how the industry works right now and we look at the state of the industry, even after the government gave \$4.7 billion away to wealthy and profitable corporations, even after these 50,000 jobs were lost before the pandemic began because of the actions of this government, even after the government accelerated their \$4.7 billion corporate giveaway, it appears that this is going to be a Band-Aid on some of those problems, but it's not going to stop the bleeding, right? It's not going to stop the bleeding. The minister can't purport that it will. Indeed, what we're seeing instead is that the attacks that the government has continued to make on workers – the attacks on holiday pay, overtime pay, the attacks on minimum wage for young people, the attacks such as right-to-work legislation, all these attacks on workers – are particularly concerning because we're going to see an overall negative effect on the industry. We're going to see an overall negative effect on workers. We're going to see an overall negative effect on our economy from that.

Yes, I mean, I think that we need to make sure that these subcontractors have the ability to make their payments and pay their employees on time when it moves forward. I think that the situation that they're in right now, where some of these payments are taking over 100 days, where the average payment, I believe, is 70-something days, where it's taking in most cases over two months for subcontractors to receive their payments, it's a result, it's a symptom of this government's mismanagement of the economy, right? It's a symptom of all the things this government has done wrong: giving \$4.7 billion away to wealthy and profitable corporations, attacking workers, attacking holiday and overtime pay, cutting the minimum wage for young people. I think that it's a symptom of all these attacks.

It's a symptom of all of this mismanagement of the economy, and that's what's so disappointing. Even though we're now bringing in something so that some employees will be able to be paid appropriately and these changes will now make sure that we're not putting subcontractors in very difficult situations, I think that, certainly, if the government hadn't gone forward with this massive mismanagement of the economy, if the government hadn't created all of these problems, if the government hadn't given \$4.7 billion away to wealthy and profitable corporations in corporate handouts, if the government hadn't done all of these things, the industry would be in a stronger position right now, right?

I mean, even despite that, I think the prompt-payment legislation still would be reasonable. I think that it's still reasonable to say that

we should be paying our contractors and subcontractors within a timely period. Certainly, the 28-day period is reasonable at the contractor level and the additional seven-day periods are fairly reasonable subsequently for that. But I think that the situation that we've developed in terms of how, particularly during the pandemic, particularly during this economic recession, particularly during one of the largest economic recessions we've ever seen here in Alberta, the prompt payment is going to allow these contractors to pay their employees even when it takes over 28 days to receive the payment for their project – what's unfortunate, again, is that certainly we've seen the time limit being extended over and over again. We've seen it go from 70 days now to over 100 days. We're seeing that companies are taking longer and longer to receive payment. I think that's largely because of this government's mismanagement, right? It's because of this government's inability to actually create any jobs. It's because of this government's inability to actually attract investment to the province. It's because of this government's inability to actually ensure that Albertans could get back to work.

What we're seeing now is the government scrambling to find a Band-Aid solution, the government scrambling to try and correct it and scrambling to try and patch up the holes that they've created in our economy, Madam Chair. I mean, that's something that I think is a little bit disappointing. I think that this legislation – particularly if they hadn't mismanaged the economy in such a significant way, if they hadn't given \$4.7 billion away to wealthy and profitable corporations, if they hadn't done all of these things, I think certainly the situation would be stronger, and bringing in prompt-payment legislation would have actually assisted the economy even more. It would have allowed the economy to grow instead of here, where we're trying to limit the contraction of the economy. I think that the government is a little bit to blame there in terms of how much the economy is hurting right now. Certainly, I think that at least we're seeing these changes brought in now. Hopefully, in the future, perhaps after this government is hopefully no longer government and hopefully no longer mismanaging the economy, perhaps we'll be able to see positive effects in the long term from these types of changes of law. I think that's certainly something that is substantive.

I think, again, I'm concerned with the aspects of this amendment that the UCP is bringing forward now because it looks like despite the government spending a significant amount of time consulting, despite the government spending a significant amount of time doing prep work on this bill, they couldn't get it right the first time. We're seeing now, only days later, basically, a significant amendment that makes substantive changes – they're not technical changes; these are substantive changes – that we should have seen coming from the beginning, right? The industry probably did tell the minister, because when we were in government and were working on prompt-payment legislation, the industry told us this. This was the type of proposal that we were thinking of, so of course the ministry would have known this information, and the minister should have known this information. I think it's pretty disappointing that we're seeing these large, substantive changes. It means that the government isn't getting things right when they're bringing it in the first time, and they're having to scramble to make changes and having to scramble to correct themselves.

It looks like the minister isn't doing the work ahead of time. It looks like the bill that is coming is not ready. I mean, I think that's pretty disappointing because even after spending almost a whole year looking at this and even after watching the economy contract significantly under this government's lead, watching this government give \$4.7 billion away to profitable and wealthy corporations, instead of actually bringing forward a full package that would have worked, instead of bringing forward legislation that we

can applaud and move forward with, instead of that, what we see is sort of this haphazard attempt at a piece of legislation.

Now we're amending it in committee, right? Now we're doing substantive amendments that are going to have, I think, positive effects on the bill. I mean, in the opposition we often talk about making bills better. I think this is one of those amendments that has the opportunity to make this bill better, but it's one of the things that I don't think needed to be done. If the government had simply done their homework and gotten this done the first time, when they first introduced this bill not that long ago, Madam Chair, we could have saved ourselves a lot of trouble here. We could have saved ourselves a lot of hassles here.

But instead of doing that, it looks like this government is committed to not consulting with Albertans, committed, it seems, to not listening to Albertans, to not listening to the concerns of industry, to not listening to the opposition, to not listening to people who really do, in many cases, I think, have a strong grasp of the issues. Instead, they fumble around with these pieces of legislation. They fumble around, and then we come into the committee. We come into the Legislature, and we have to fix it, right? We have to come here, and we have to pass substantive amendments very early on in the process. We have to bring in these substantive amendments to make significant changes very early on in the process because the government failed to consult and failed to do the jobs that they were elected to do. Instead of actually presenting legislation that works, now we're fumbling and scrambling to make it work and scrambling to correct the problem.

8:40

Madam Chair, again, this is nothing new. This amendment isn't bringing forward anything we didn't know two weeks ago, three weeks ago, five months ago, right? This legislation has been in place in Ontario already, so this isn't something that should come as a shock to the minister; this isn't something that should come as a shock to the government. But indeed, by the nature of them scrambling to bring in this amendment and by the nature of them scrambling to bring in these changes, it does seem like the minister failed to think about this the first time. It does seem like the minister completely missed it during consultation. It does seem the minister completely missed it in his crossjurisdictional review of how prompt-payment legislation has been implemented in other areas, and I think, Madam Chair, it looks like that's something that we're going to have to help the minister correct here. It looks like the opposition is going to have to help the minister out here a bit because the minister didn't do his job in the first place. Instead of bringing forward a fulsome bill that we could have supported and instead of bringing forward a piece of legislation that was ready go, now we're seeing these substantive changes. Now we're seeing these large amendments which could have been included in the original bill.

I mean, that's a pattern of behaviour, right? It's a pattern of behaviour from this government. It's a pattern, that this government doesn't seem to get it right the first time. They seem to get it wrong. In almost every bill, I think, Madam Chair, the government gets it wrong the first time, and then they're fumbling and they're scrambling and they're trying to make these changes and trying to make these corrections, and they're looking at other jurisdictions saying: "What did they do that we didn't? What did they get right that we got wrong?"

This is one of those examples, right? This is an example of legislation that we know has already been in place in Ontario. We know how it works and the types of concerns that existed in Ontario around things like municipalities and the types of concerns around things. Of course, in Ontario it was introduced as a private

member's bill, not introduced as a government bill, so it had different types of issues. But we saw many of these concerns play out. We saw many of these issues play out, and we had the opportunity to observe and learn from the implementation in one of our friendly jurisdictions here in Ontario, Madam Chair. Instead of actually learning from that, it appears the minister decided to close his eyes. It appears the minister decided to ignore the actual concerns and move forward with an incomplete piece of legislation.

The Chair: The hon. Minister of Service Alberta.

Mr. Glubish: Well, thank you, Madam Chair. Look, I've been listening intently to members on both sides of this House offer some thoughtful comments on this important bill, that solves a serious problem in the construction industry that has lasted and persisted and grown for many, many years. You know, for the most part I would say a lot of the commentary from the opposition side has been very balanced and thoughtful, but I have to speak up. The Member for Edmonton-South is way off base, and I need to correct the record on a few things here.

First, let me just say that it's nice to talk about all of the intentions that they had, but talk is cheap. Action speaks louder than words, and we are acting on this side of this House to correct a problem that they ignored for four years. They can say that they consulted. They can say that they put this in their platform for their second term. I can say that 18 months in I brought forward constructive solutions that have support from the industry. They can't say that; I can. This government is taking action to support the construction industry.

Furthermore, talking about not consulting, I mean, what is this? I have no idea where he is coming from on this. We have had one of the most extensive consultation processes on this, and that consultation continues even since I've tabled the initial bill. The amendment we brought forward is a product of that ongoing consultation to make sure we get this right. Because they failed to act for four years, we need to get this right. We need to get it done fast, and that's exactly what we're doing. I can assure you, Madam Chair, that if you were to go and talk to the folks that we have worked with on this file, they would tell you that we have been a dream to work with and that they wish that every other minister and every other government they've dealt with would have treated those interactions the way that my department and I have treated them in this file. I am very confident in the consultation we have done. I am very confident in the work that we have. The amendment we brought forward today brought greater clarity in exactly how this is going to work in practice.

Let's talk about not consulting. Let's talk about completely missing it. Let's talk about not doing a job, three things that the Member for Edmonton-South brought forward in his remarks just now referring to this government and specifically to this bill. Let's just sort of compare and contrast a little bit. Let's look at what his government did for four years in the Service Alberta portfolio. Let's start by talking about the real estate industry, the real estate regulator, the Real Estate Council of Alberta, which we know was completely dysfunctional. We know that the real estate industry had been talking to that government three years before the 2019 election, saying: this is broken; you need to help us and fix this; please come to our aid and help us fix this. They didn't. They had three years to work on that from the time that the industry was calling on them for help and a resolution to a significant problem.

Well, guess what, Madam Chair? I was very happy in October of 2019 to fire the real estate regulator, to appoint an administrator for an interim period, and then, furthermore, this spring of 2020 to bring forward Bill 20 to amend the Real Estate Act to create a new

governance framework for the real estate regulator, and now we're working closely with the real estate industry to set up the new board and the new industry councils that will oversee that regulation. This is all in 18 months. We have done what they failed to do in their four years in office, cleaning up a mess they left behind and helping the real estate industry get back to a competent position so that Albertans can have trust and faith in their regulator and know that they are dealing with professionals. This is an example of true action, which speaks way louder than the words coming from that side of the House.

Let's talk about mobile homes, the Mobile Home Sites Tenancies Act, which is also a part of Service Alberta's portfolio. The members opposite actively suppressed advocacy from the mobile-home resident community. All they were asking for was: hey, help us get access to the residential tenancy dispute resolution service so that when we have a dispute between tenants and landlords, we can have the same access that every other tenant and landlord in traditional dwellings across Alberta have access to. Well, you know what, Madam Chair? They lost a caucus member from the government caucus during their term in government because they were actively suppressing advocacy on this important issue, and they were ignoring some of the most vulnerable Albertans who were just saying: hey, give us a fair shake; help us to get access to this service.

Well, you know what, Madam Chair? I took care of that in my first year in office by bringing forward Bill 3, the Mobile Home Sites Tenancies Amendment Act, 2020, and we gave them that access to the residential tenancy dispute resolution service. Shame on them for saying that we didn't get a job done when they're the ones leaving behind unfinished business and leaving behind problems in their wake. This government and my department and my office are focused on solving problems and cleaning up messes left behind by the NDP.

The same goes for this prompt-payment legislation. They had four years to deal with this. This has been a problem in Alberta for at least 10 years. Depending on who you talk to it's even longer than that. Yes, it's true that other jurisdictions beat Alberta to the punch on getting some of these solutions in play. We are taking action now to fix that and to make up for lost time that the members opposite failed to address this. If you want to talk, Madam Chair, about completely missing it, if you want to talk about not doing a job, I can say very confidently that some members on that side of the House personify those statements, not the members on this side of the House. We are cleaning up their messes.

We are helping to bring relief to the construction industry. I've brought relief to the real estate industry. I've brought relief to the folks who live in mobile homes. We're just getting started. I have so many more things to do in this portfolio to get it back to a position of strength so that Albertans have the services that they need, that they're getting good value for the taxes that they pay, and that we can put Alberta into a leadership position around the country in terms of how we deliver services in a cost-effective manner and deliver better value to Albertans. So shame on the members opposite for how they go off and talk in circles and criticize the Alberta government when, in fact, it is them who have failed to act and it is them who have not consulted and who have completely missed it.

Madam Chair, I am extremely proud of the actions of our government, I'm extremely proud of the actions of my team and my department, and I'm extremely proud of the work that I have done. This has been a lot of work. I know that this is going to bring about great improvements in the construction industry. It's going to save jobs, and it's going to create the certainty and give the construction industry the confidence that they need to be able to bid on new work

and to attract more investment and grow their business and to go out and hire more Albertans and put them to work at a time when we need it most. That's what this action that this government is taking now is going to accomplish, and that means a whole lot more than any of the words coming from the other side of the House. Actions speak louder than words, and I am proud of the actions of this government.

Thank you very much.

The Chair: I see the hon. Member for Edmonton-Rutherford.

8:50

Mr. Feehan: Thank you, Madam Chair. I appreciate the opportunity to speak to the House about this amendment. I want to take a few moments to sort of start by congratulating the minister, who is obviously very proud of the work that he's been involved in, and just say that I am very happy to see this piece of legislation come forward. It is something that has been talked about, as the minister did mention, for some time in the province of Alberta. The work that has been done that leads us to this moment, where we have not only the legislation but the much improved legislation through this amendment, is very important.

I think that if we take just a moment to look at what the underlying issue is here, we can see why it is important. Prior to this legislation coming into effect, in fact, currently, right now, we have an issue of people who have provided services and labour and often actual costs through the obtaining and use of materials and as such have put themselves in a position of being indebted to. Unfortunately, there have been times when they have been forced to bear that responsibility for both their labour and for the costs of materials for an extended period of time, and this is a difficult situation, particularly for people who do not, as others do, have consistent, regular paycheques coming in all the time.

You know, in some jobs – if you work in an office, if you work in an agency, if you work for government – you often are very much guaranteed to have your paycheque arrive on a routine schedule, typically every couple of weeks or twice a month or at the end of the month, whatever it may be, and as such you can make plans for yourself, you can make plans for your family. Unfortunately, that's not always the case for people in the construction and trades industry because, first of all, there is no guarantee that you have work at any one particular time.

It very much depends on what kind of work is occurring in the economy at the particular time, whether the government is, you know, in the process of pushing out a large infrastructure build or whether private industry is in the process of growing and expanding. When those times are good, times are good and the paycheque comes in. However, for most people who are in the trades, there are significant periods of time where they are not currently employed and therefore not currently receiving an income, and as a result, they have to learn very quickly in their career to put money aside for those gaps between their payouts. As a result, they are already burdened with maintaining a cash flow for their families and for paying the normal, everyday bills of homes and groceries and other activities, so obviously having any more vagary added to the fact that their income isn't always consistent is problematic.

As such, I think that governments, really the last three governments or so, have been working on this issue and have been concerned that we should pay attention to that problem experienced by people in the trades and do what we can to ensure at least some consistency of flow of cash so that they can have some dependability so that less of the burden of the vagaries of, you know, construction work is put on the shoulders of those workers.

I know that there's some dissatisfaction by the minister about our talking about the fact that we indeed did move on this type of work, this type of ensured income when we were in government but primarily with regard to government contracts. I know that he is very proud of the fact that in a short period of time, 18 months, he has brought in this legislation. I think that also speaks to one of the incredibly important aspects of a constitutional democracy like we have here in the province of Alberta where, when the members of the government change over during an election, the group that does not change over, of course, is the civil service. It is important that we have a civil service that can maintain consistency across elections so that when we see significant change, when we see change in ideologies, when we see change in practices, underneath that there is some stability and some guarantee that the ongoing work of the government in ensuring a good set of circumstances for citizens in the province of Alberta is maintained.

As such, you know, I'm very happy for this minister that he has been able to in a short time bring forward this legislation, knowing full well that much of the work that was done by the civil service was already in place when he arrived in government because they had had these discussions quite fully under the previous government. In fact, they probably have been having these discussions under the last two governments. As such, he benefited from the fact that civil servants were up to speed, had had many of the necessary conversations, had already planned out some of the thoughts about what direction they would go, and were able to provide him with support and information that allowed him to move a bit more quickly than he might on an issue that had not previously seen the work of the civil servants.

As well as thanking the minister in this particular case, I want to thank the members of the civil service for doing that work over a number of years and bringing that work forward to the new minister when the new minister arrived to ensure that the good work that was done in the past was not lost and that there was an opportunity to move in an efficient manner, so thank you to all the members of the Ministry of Service Alberta who have shown to us the benefits of having this type of democracy wherein the civil service remains stable and provides good services to the citizens of Alberta regardless of who sits in the chair of the minister or, indeed, any MLA chair. So thank you to all the members of the civil service, and I certainly hope that this government begins to understand the extremely important role that those members of the civil service play in ensuring that good governance is continuous. Even though elections come and go, good governance continues over a period of time and continues from one party to the next, so thank you very much to the civil servants for ensuring that this legislation is brought forward.

We know it is important legislation. I certainly am happy to stand here and support this legislation coming forward. I am certainly happy that we can provide some modicum of support to people whose incomes experience such ups and downs, as many members of the trades experience on a regular basis. I have family members and friends who are members of the trades, and I have witnessed the difficulties of waiting for a job after one job ends and then before the new one begins in terms of maintaining, you know, the demands of life during that period of time. I really appreciate the fact that we can provide a little bit of stability and structure and contain and control for them in this particular case.

I must say that I also appreciate the fact that while the initial legislation was a good start, it clearly was not sufficient. You know, the greatest admission that it was not sufficient is the fact that we have eight pages of amendments here. It certainly tells us that more work did need to be done, and I appreciate the fact, again to the minister, that you've taken the time to get this more right than it

was in the past. I guess I would wish that more ministers on the other side of the House would take this as an example of the fact that just because you've cobbled together a legislation doesn't mean it's ready yet. Take time to speak to the stakeholders, to review the legislation, to hear the comments from members on the other side of the House and anyone who maybe has input and an interest in order to make sure the legislation is as detailed and comprehensive as possible. So I appreciate that.

9:00

I know that on our side of the House we are spending a great deal of time preparing ourselves for when we become government after the next election by inviting people to go to albertasfuture.ca to talk to us about different pieces of legislation. They would like to talk to us about growing the economy, to talk to us about our future, not our past, as this government likes to do. Rather, you can talk about our future and participate, and here we are doing this two and a half years before we even take government back. I think that that's a good model, a good practice, and one that I encourage all Albertans to participate in at our website at albertasfuture.ca.

I want to speak a little bit to some of the particular aspects of the legislation. I appreciate that some of these additions here have provided, I think, significant clarity and therefore a little bit of surety to people about what will happen with their income and what will happen with the payments from owners to contractors, from contractors to subcontractors. I think that it's very important that we see a few pieces in this legislation now. One of the ones that I think is very important and obviously was missed in the prior piece of legislation – I'm glad to see it's here – is the fact that under section 32.1(6) it obligates a general contractor to issue a proper invoice at least every 31 days. I think that's an important piece because that really speaks to the stability for employees, for labourers that we are hoping to see in this kind of legislation. You know, if you have prompt payment but that prompt payment only comes when bills are submitted, invoices are submitted every 90 days, that's not very consistent, is it? It doesn't provide stability. So the fact that we have stability attached to the prompt payment is good.

One piece about that that I am still in a bit of a question about, though, is section 32.1(3), which indicates, again, of course, that prompt payment is there, and it does something important, so let me start with the thing that I really appreciate in this legislation. It removes any prior condition that an invoice must be requested or approved by the owner before it can be submitted. I think that's very good. We don't want, you know, the owners to be able to deny an invoice, so legislation that ensures it can happen every 31 days is excellent, and the beginning of this section (3) is important in doing that.

However, I notice, as we get down to 32.1(5), there is some flexibility put in there. I don't know if I should be concerned about this or not, because it's not my area of work, but the piece that I'm concerned about is that

a proper invoice may be revised if

(a) the parties to the proper invoice agree to a revision.

Now, of course, the next section says that

(b) the date of the proper invoice is not changed.

So the dates are being maintained, which is the piece that I'm celebrating here in my comments. But the part that I am concerned about is the fact that there is an ability for the owner and the contractor to actually change the content of the invoice.

I guess the piece that I'm worried about, then, is that while an invoice may be submitted every 31 days, is it possible – now, I guess this is, truly, a question – that an invoice may be submitted that insufficiently covers the amount of work that is done? So an

invoice does indeed go in but does not cover a hundred per cent of the materials and labour that should be covered in that 31-day period. Can a deal be made between an owner and a contractor to only submit part of the bill so that it can be paid out but not all of the bill, which would indeed result in the same outcome that we're trying to avoid in this legislation for the front-line worker, for the labourer, who maybe, while they do get payment on a regular basis, do not get payment in full on a regular basis? Now, I assume the minister has had an opportunity to think about that.

I don't know if that's something I should be worried about, but I certainly know that I've had some kind of similar experience with this that does make me worried. For a number of years I ran a private practice, as many of you know, in the area of child sexual abuse. I was a contractor constantly through that process, always doing contracts with people, often with child welfare, for example, or other agencies or other institutions that hired me to provide assessment and therapy and intervention with kids that had been sexually abused. Now, one of the things that I did have a good practice of is making sure that I sent out my invoices at the end of each month, so consistent with this legislation, and did experience what people in the construction industry also experience, that sometimes the invoice was sent in and it would be months and months, sometimes six months, eight months, before I ever saw a dollar back for a variety of reasons.

When we were in government, we made sure that the government was not contributing to this sort of problem, and now we see that the government is putting in legislation that's going to help in the private practice industry as well. What concerns me is that even in those days sometimes I would submit a bill, and I would not get the full amount of the monies returned to me because there was some decision about whether or not they wanted to agree to the type of work that was done after the fact. Sometimes I would get requests to actually change my invoice. This bill seems to allow that kind of practice to happen.

Now, that would be a place of dispute for me in those days. I'd say, "No, I believe that I performed this kind of work under this kind of a contract," and whoever it was I was contracting with may disagree with me and say, "Well, I'll tell you what." And this is something that would happen. "Why don't you send in a bill for this, this, and this, because we agree on that, and then I'll pay you out on that, and we'll talk about the other piece." I guess that's what concerns me here.

Is that possible in this construction area as well? Is it possible that, because it allows for agreement here under section 32.1(5), owners could put pressure on contractors not to submit the full bill and therefore to set some piece of the work aside until some discussion has happened or some resolution has happened, thereby leaving the front-line worker, the labourer, in the same position as if no bill had been submitted at all, at least for part of their labour? I guess that's just a question that I have based on my own experience when I was in private practice and running a private business and contracting with various agencies, including the government. I hope that if the minister has an opportunity, he'll take that opportunity to address this. I would be just very happy to hear that it is not a concern, if he was able to articulate why he knows it's not a concern. I think that it's important that we've had a chance to look at these and be assured of the things that are of concern to us.

I would also hope that this legislation reflects something of a growing awareness by the government of the need to provide stability in income to citizens in this province, that it isn't just how much you make that is an issue in most people's lives; it's when your dollars come in that is very important for many people. Not

that we all don't try to budget and try to, you know... [Mr. Feehan's speaking time expired]

Thank you.

9:10

The Chair: Any other members wishing to join debate on amendment A1 to Bill 37 in Committee of the Whole? The hon. Member for Edmonton-McClung.

Mr. Dach: Thank you, Madam Chair. A pleasure to rise here on a delightful Wednesday evening. It seems more like spring than fall or winter.

But I'm happy to be here talking about something that is germane to all of us, that being contractual arrangements and prompt payment to contractors for work performed. I know that in listening to comments by members on both sides of the House, all of us can relate to experiences that we've had in our lifetimes with contractors ourselves or with family members who have entered into contracts or with other business operations we've been involved in that involved contracts that never got honoured and, in fact, weren't paid on time and resulted in a dispute between owners and contractors. In this particular legislation – of course, we're talking about the Builders' Lien (Prompt Payment) Amendment Act, 2020, and amendments thereto – we're talking about a specific type of contract, that being construction contracts, by and large. Of course, the act has been renamed to more specifically identify that.

Construction contractors are something I'm pretty familiar with, Madam Chair. Of course, my father was a construction superintendent for most of his career. He worked on major projects in and around the city of Edmonton and up in northern Alberta, British Columbia, and even into Cambridge Bay and the territories. He was away for quite a bit of the time. Most of the work he did wasn't as a contractor per se for himself, but he did act on behalf of the company as a superintendent. I know that he did his level best to make sure that those contractors that were doing work for his company as a general contractor were paid on time. It meant a lot to him because he quite often realized that those individuals who were contracting were just like he was in his earlier career. That was his income. He relied upon that and relied upon the integrity of the individuals who were contracting to actually follow through and pay when required under the contract.

When, in fact, that is not honoured, there may be legitimate disputes and so forth, but what we're talking about with respect to this legislation and the amendments thereto is when, in fact, a contract is not honoured and lived up to as it was agreed to initially, and the damage is done to the individual who has performed the work and is not getting paid. That situation, Madam Chair, is something that my father sought to avoid at all cost.

I know that he had a PO book with him all the time. You don't use purchase orders too often anymore, but POs were a fairly common method of payment, and it was a valuable book to have, with carbon copies. It was something that he kept in a briefcase. I know it had a metal folder to it, and it was like a bank vault to him. That thing was money. If contractors did work and they wanted payment, they came to him, and that purchase order book, that PO that he wrote, was as good as cash. They knew that when Walter Dach was prepared to sign off and sign a PO, he was satisfied with their work. But it was an arrangement of respect, and that, Madam Chair, is something that we find breaks down and requires legislation such as that brought forward by the minister to ensure that there are repercussions if indeed payment is not made that's contractually obligated.

Now, I notice that the government has seen fit to change the time frame under which the payment would be required to be made. I

know that they'd initially looked at a period of 28 days, which, upon hearing that, made me startled somewhat because I know that in business that's a fairly short turnaround time. Luckily, the government agreed and in their package of amendments to Bill 37 saw fit to extend that time frame, which makes me wonder why, in fact, many of the measures in the amendments to Bill 37 that the government has brought forward weren't part of the original bill in the first place.

I was startled once again to see the length and the size of the amendment package to Bill 37, and I'm a bit confounded as to why the government proceeded in this way. Obviously, there would have been some work done behind the scenes towards creating amendments. There would have been discussions and things brought to the attention of the government about the need for them even while and before they presented the initial bill. Now we're faced with a very large package of government amendments that one would have thought would have been part of the original bill when the government contemplated bringing it forward.

Be that as it may, though, Madam Chair, there may be things that this piece of legislation doesn't contemplate as deeply as it might have, and I speak to the process with respect to refusal to pay and then litigations entered into or a judgment is rendered against the individual who is refusing to pay. Quite often one will find that the hard-core debtor, one who simply is intent on not wanting to pay and with quite often some experience with doing this, can still game the system.

For example, in a situation I'm familiar with, a recent and ongoing one – I won't mention any names, but I know it's a builder of homes. It's a prefabricated home company. He's built a home and been contracted to provide it on the foundation and secure it to the foundation, finish it to completion, and perform that work, yet payment was not forthcoming by the individual who had contracted to have that house built. You've got a completed house on a foundation that's been transported hundreds of miles from the prefabrication plant, and the buyer, in this case the woman who contracted to buy the house and have it built, have the work done, refuses to pay.

Judgment in due course – it was actually a significant amount of time, in months – after hundreds and hundreds of dollars of legal fees for the first go-around, is rendered, and the builder has a judgment in his favour to receive payment from the person who contracted to have the home built. Yet this individual has been down this road before. What their next move was: after taking every measure possible to delay and extend the court proceedings, they ultimately decided to change lawyers, and that started the whole process over again.

By my comments earlier, Madam Chair, when I say that gaming the system is something that sort of a hard-core debtor, still intent on doing, can potentially do, I'm hoping that the minister is aware of this ploy by some individuals who are intent on not paying and know that they can make moves such as changing the lawyer after all is said and done and basically resetting the clock and hoping that the builder will actually go away or perhaps settle for a much smaller amount or run out of resources and be unable to continue the legal process. It's extremely frustrating, Madam Chair, for a builder in this situation. We're not talking, you know, about building a kitchen countertop in this particular case; this particular case is a hundreds of thousands of dollars case, and they can be even larger.

That's one element that I hope the minister has considered and would hope to include in this legislation, especially with such a large package of amendments on the table right now, so that an individual who is intent on not paying can actually have judgments enforced. That's what I'm getting at. At a certain point the courts

should be able to tell such an individual, who is simply gaming the system by changing lawyers at the last instance. They should be able to identify that malfeasance and end that game playing with the court system and enforce a judgment.

9:20

I don't know. I'm not a lawyer, Madam Chair, but it's just inherently unfair that somebody can go for years potentially without paying hundreds of thousands of dollars to a contractor who has legitimately performed the work and provided the product in a safe and secure and properly built manner yet is not being paid, and it confounds me that our legal system would allow that consequence to be perpetuated for the builder. Hopefully that is something that the minister will contemplate before final passage of this legislation.

I know that there are other elements of the process of contracting and receiving payment promptly that have touched my life. I know that as a real estate agent, of course, commissions were paid and enforceable because the amounts owing were potentially registered on the land title of the seller of the property, and the timing of that had to be appropriate so that the transaction actually had to take place, but, you know, there was a means of enforcement there that isn't necessarily available in all instances.

I know that under the Builders' Lien Act and amendments thereto that there is an opportunity to file a lien against the property but not in every case is an action able to be enforced by such a lien filing, and I know that with respect to real estate commissions, there were some legal squabbles; not every case was won. But by the same token the strength of being able to file against the land title is something that was a very valuable tool for those who were legitimately owed money that was not being paid.

In that vein I'm very hopeful that the SPIN 2 system will be something that is searchable for individuals looking to investigate liens that may be filed against a property. That is something that should be a tool that is available for potential buyers of a property that have had work done on it that wasn't paid, and I'm hoping that it's pretty easy for an individual who wishes to search a property that they might wish to buy or lease to discover any active liens that are against it so that they can act accordingly. They can decide not to pursue, or they can simply demand of the current owner that the liens be satisfied and the bills owing be paid and that they get a clear title to the property before transfer is made.

The searchability and the time frame of filing liens can be a pretty important piece of a puzzle when somebody is looking to in particular buy or lease a property. That's something that has come to mind, and I know that I spoke before, Madam Chair, about the importance and value of our SPIN 2 system. It's something that I hope will be maintained and grown in the future to become an even better database and an even better tool for government to offer searchability to the public for a growing number of public documents and valuable instruments that will serve as consumer protection to Albertans who are looking to do business in the province. Filing of judgments, of claims regarding builders' liens, construction liens is one, I think, facet of the SPIN 2 search capability that we should allow to evolve and make sure that the whole database is totally conversant with right up-to-date technology.

I know that there were some deficiencies in the government database as far as whether it was right up to snuff with the computer capabilities that the public expected and business expected. It was – I wouldn't say analog, but it certainly needed updating. I'm not sure exactly how far down the road the ministry is with respect to that. It was something that we were working on as a government as well. I know it's a slow and time-consuming process, but that is part

of the puzzle here in serving the efficiency of ensuring that the individuals are paid promptly for their work and part of the consideration, I would hope, that the minister, in bringing forward amendments to Bill 37, has taken into account so that anyone receiving an invoice knows that failure to pay might mean a fairly prompt but reasoned registration of that failure to pay on something as important of a document as a land title.

I know that the bill has extended the time frame to file a lien from 45 to 60 days. Now, oil and gas companies have – the concrete industry, interestingly enough, has 90 days. I'm wondering: why not look at that time frame of 90 days and ensure that there is a similar time frame for a construction lien?

It seems as though there can be some disputes as to work completion in a construction project. I know that I'm going through a bit of a renovation myself, and nothing goes totally smoothly in construction. There are usually some things that are altered. I know that there are some things called deficiency lists with any final building inspection, and it was something that my father looked forward to almost as much as the grade 12 students look forward to departmental exams in the province. He was very proud of a deficiency list that was extremely small when a final inspection on a building that he had been responsible for construction of was done.

I remember one in particular where it was a rarity, where he as the superintendent – because he would handle a number of projects at any given time, but in this particular bank in High Prairie he was responsible for the construction project right from the very beginning until the final inspection. It was a total rarity. He spent a lot of time up there. He would drive home sometimes every second weekend, but he got to build that particular bank branch right from scratch and right to occupation of the building. I know it was one of his favourite stories that final inspection revealed not one deficiency that the inspector could find in that bank building that he built. He actually proudly brought home the inspection and showed it to us, his six kids, and I know that he worked hard to make sure that that inspection came out clean. It's something that I remember.

As a proud contractor he sought to satisfy his clients – and in this case it was the bank – and also his bosses and so forth and also tried to instill that type of commitment to his workers, the subtrades that worked under him as a general contractor's representative.

When things do go awry, though, when less than scrupulous people, less scrupulous people than my father was in his practice in the construction industry, expect to get away with not being paid . . .

9:30

The Chair: I see the hon. Minister of Service Alberta.

Mr. Glubish: Well, thank you, Madam Chair. I just want to thank the Member for Edmonton-McClung for some thoughtful comments and questions offered in good faith. I'm happy to respond in kind and, hopefully, clear a few things up.

He talked a little bit about the importance of, you know, if we're going to have a prompt-payment system and if there is a problem inside of that system and then if there's a dispute resolution service offered, making sure that it would be enforceable. If a judgment is made, in assessing the facts, in trying to come to a resolution of a dispute between a series of contractors, how do we make sure that that's enforceable? It's a good question.

It's an important thing that we need to make sure happens, and I'm pleased to clarify for all those in the Chamber and all those listening today that that's exactly what we're doing with the authorized nominating authorities, who will be the ones who then will appoint the adjudicators who will hear the disputes. In the proposed new prompt-payment system in Alberta, if there's a

dispute between a general contractor and a subcontractor, for example, and the general contractor has not paid in alignment with the prescribed time frames, then the subcontractor will have the ability to take that to a dispute resolution service. It will be faster and cheaper than the courts.

We have made it very clear that in this dispute resolution process the results and the judgments from that will be binding, full stop. If the adjudicator has heard the facts of the dispute from both sides and considers all of the evidence and, drawing from their experience as someone from the construction industry – because these adjudicators will come from the construction industry. That's one of the things that will differentiate this from the courts and from arbitration, that you will have professionals from the construction industry who are hearing these disputes and adjudicating to come to a judgment that best suits the facts in that case. Once that decision has been rendered, that will be binding. This is extremely important. This is something we heard very loud and clear from the construction industry. The vast majority, in fact 90 per cent of the folks who participated in our consultation, said: we need this, but not only do we need it; we actually need it to be binding. That's what this will do.

Now, of course, there's a lot of detail to flesh out in the regulations that will follow this legislation should it pass the House. We will work very, very closely with industry to make sure that those regulations very clearly spell out exactly who can be an authorized nominating authority who is responsible for appointing these adjudicators. Who can be an adjudicator? What are your qualifications? Then: what is the process to hear a dispute? How would those adjudicators carry out that process? That will be spelled out in the regulations. Stay tuned. You know, we have a few months to sort that out, but I want to share with the Member for Edmonton-McClung that these judgments will be enforceable. They will be binding because if you don't have that, you don't have certainty, and you can't ensure that folks are getting paid in a timely manner.

Just a short little follow-up. You know, you mentioned a little bit about the lien time frames. Just for greater clarity, I think he mentioned that concrete was at 90 days compared to the traditional 45. It's actually oil and gas that is at 90 days. Everything else right now has status quo as 45. What we're proposing to do is to take the traditional regular industries in the construction industry, to go from 45 to 60 days to give them enough time to make sure that if they need to file a lien, they can do so before it's too late. We are allowing for folks in the concrete industry to have up to 90 days because the concrete curing period can last anywhere from 28 to 56 days. Until they can get sign-off on the workmanship that they've done that says that it's cured and it's up to specifications – they need to make sure that that time frame is not longer than the time frame within which they can file a lien if they haven't been paid. That's why concrete will be given an exception up to 90 days whereas the rest of the industry will be 60 days. But it's also important to note that today on oil and gas related work those liens have 90 days. If this legislation were to pass, oil and gas will continue to have the 90 days as we believe that that is a suitable time frame for those projects.

Those are two questions I know the Member for Edmonton-McClung brought up and spoke at length on, you know, providing some context, which I thought was helpful and thoughtful, and I wanted to just bring that clarification. I hope you found that to be useful.

Thank you, Madam Chair.

The Chair: Any members wishing to join debate on amendment A1? The hon. Member for Edmonton-Gold Bar.

Mr. Schmidt: Thank you, Madam Chair. I want to thank the Minister of Service Alberta for engaging so thoughtfully and extensively in this debate throughout the process. I hope that he would be willing to answer a question that I'm about to pose with respect to the adjudication process that they're proposing here in this bill.

It occurs to me that when we were discussing the adjudication process of the residential tenancy dispute resolution service, that was subject to legislation in the prepandemic times, those adjudicated disputes had a limit of \$50,000 because of the fact that the authority of that dispute resolution service flows from the provincial courts, as I understand the process. I'm asking the minister, Madam Chair, if he can inform the House whether or not the adjudication process related to these prompt-payment issues that are to be adjudicated will also be limited to \$50,000. I'm just asking the question, and if the minister would like to respond, I would patiently await his answer.

Thank you.

The Chair: The Minister of Service Alberta.

Mr. Glubish: Thank you, Madam Chair. The adjudication here is intended to capture disputes of whatever the contract should cover and what the payment timelines are. This is completely separate from, say, the residential tenancy dispute resolution service. You know, good question, but, no, that will not be a limit in this case.

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. Schmidt: Thank you, Madam Chair. I certainly appreciate that and certainly look forward to any updates if the minister would like to confer with his department and legal advisers to make sure that the answer that he gave was complete, because, you know, it's certainly an open question to me, right?

There are dispute resolution services, like I said, the residential tenancy dispute resolution service, which has a \$50,000 limit because it's linked to the provincial courts. This is another system that they're setting up. I don't know where their authority comes from and whether it's not subject to that limit. I hope that the minister is correct and that there won't be a limit put in place on the size of the claim that can be adjudicated because I would suspect that if there are issues around claim limits, then that could be a considerable hindrance to the effectiveness of this adjudication process that they're proposing in this legislation. I suspect that there are a whole host of contractors out there with unpaid invoices that could exceed \$50,000 quite easily, so I look forward to having complete resolution of that issue.

I want to focus most of my remarks on responding to a number of the comments that my friends here in the Official Opposition as well as colleagues on the other side have made in the debate on this piece of legislation and this amendment in particular. I, first of all, want to thank my friend from Edmonton-Ellerslie not only for his thoughtful interventions in this debate but for the work that he has done during his time as the Member for Edmonton-Ellerslie to work with contractors who were involved with these kinds of disputes. I know that he was intimately involved in this issue in the last term and continues to do a good job of working with people who are affected by these kinds of issues, and I really want to thank my friend from Edmonton-Ellerslie for his dedicated work on this.

9:40

This is certainly not a once-in-a-blue-moon situation with the Member for Edmonton-Ellerslie. He brings a significant amount of passion and dedication to the work on many files. I know that he was fundamental in creating a number of proposals that our party

brought forward in the summer, during the pandemic, to support small businesses, many of whom, I'm sure, would be classed as these kinds of contractors that will be affected by this amendment and this legislation. I want to thank him for that continued work and for the passion and dedication that he brings to that every day.

I also want to thank my friend from Edmonton-Whitemud for her thoughtful contributions to this debate. My friend from Edmonton-Whitemud, of course, is a keen legal mind, and her incisive analysis on this piece of legislation, this amendment that was brought forward toward the House certainly has contributed significantly to the debate on this legislation. Of course, this is a well-established pattern for that member. She brings to bear her significant legal expertise and experience on all of the pieces of legislation that are brought before the House, and I think the House is a better place for the contributions that she has made on this particular amendment and this piece of legislation, as she does with every contribution that she makes to the debate. I'm certain that the constituents of Edmonton-Whitemud are very proud of the work that she does and are very happy that she is here in the Legislature fighting for them and working hard to make their lives better every day.

I also want to thank my friend from Edmonton-Rutherford for his contributions to the debate on this legislation. I think it's important, you know, that he highlighted something that my friend from Edmonton-Ellerslie raised in his contribution to the debate, the significant amount of work that our government did on this issue while we were in government. The minister is correct. We didn't bring forward legislation, but as everyone in this Chamber knows, bringing forward legislation to this House is one of the final steps in the process of creating legislation. There is a significant amount of work that needs to be completed before the legislation is publicly revealed here in the Chamber for public consideration and debate. My friend from Edmonton-Rutherford underlined the fact that we had done a considerable amount of work, and we're pleased to see in this amendment and this legislation that a lot of that work has been continued.

I want to join my friend from Edmonton-Rutherford in expressing my gratitude for the good work that the civil service of Alberta does every day. I'm thankful that regardless of who sits in which minister's chair, we have dedicated, hard-working civil servants carrying out the business of governing the province and implementing the legislation, regulations, and policies that are brought forward by the elected representatives of the people of Alberta, because that's really how government should function.

The colleague from Fort Saskatchewan-Vegreville, you know, highlighted the impact that this will have on construction trades, of course. I agree that this is going to have a significant positive impact on construction trades. In her remarks, I recall, she talked about some of the infrastructure projects that the government brought forward. I note that my friend from Edmonton-South, who joined in the debate, while he talked at length about the effect of this legislation and some of the problems that he saw in his mind and some of the benefits, didn't touch on this issue of infrastructure. I know that that is something that is of particular importance to him in Edmonton-South and to members of his constituency. They're eagerly anticipating the construction of the hospital in Edmonton-South. Unfortunately, the government has seen fit to scrap that project, which is mind-boggling, Madam Chair, to think that in the middle of the pandemic we would be delaying or scrapping the construction of health care facilities that the province has desperately needed for so long. You would think that now would be the best time to get on with these projects rather than delaying these things and scrapping them.

I want to, you know, join my colleague from Edmonton-South in the comments that he made regarding this legislation. Just to remind

the House, he is a passionate defender of his constituency, and he's been a very strong advocate of the Edmonton-South hospital. I can assure you that that is a very important infrastructure project for us on this side of the House.

I also want to thank my friend from Edmonton-McClung for his thoughtful contributions to this piece of legislation and this amendment, Madam Chair. It amazes me, that member's ability to link every piece of legislation, it seems, to some particular issue or experience that he or some member of his family has had in the past. It astounds me that the Dach family is so . . .

The Chair: Hon. member, just a caution on the use of names in this Chamber.

Mr. Schmidt: Oh, yeah. Thank you. Thank you, Madam Chair.

That the family of the Member for Edmonton-McClung is so deeply ingrained in all issues of public policy that come forward in this House is astounding. I certainly appreciate that member's ability to really bring these issues of important public policy to that granular, individual level. Thank you to the Member for Edmonton-McClung for sharing his experiences that his father had with prompt payment and all of the issues around being a contractor and making sure that that work was done on time and on budget and that everybody got paid. I really appreciate the member's interjections in this debate as I appreciate all of the interjections in the debate that he's brought forward.

You know, this particular amendment, of course, addresses some of the issues that hadn't been addressed when the original legislation was introduced to this House, dealing with issues around the timeliness of subcontractors and so forth. My colleague from Fort Saskatchewan-Vegreville really touched upon the fact that this is a piece of the government's plan, apparently, for economic reconstruction. I agree. I think that making sure that general contractors and subcontractors are getting payment on time and, hopefully, in full is a key to making sure that contractors can do their work efficiently and that people of Alberta can go back to work.

Madam Chair, as I have raised in debate on every issue of economic importance that has been before this House since the pandemic has started, the number one thing that this government can do to make sure that the economy gets rebuilt is to get COVID under control. I'm very dismayed at the COVID numbers that were released by Alberta Health just today. We continue to see numbers that are climbing out of control while we see testing fall off a cliff. I've said time and again that in order to make sure our economy is healthy, as this piece of legislation is intended to do, we need to make sure that every Albertan can get access to a COVID test, make sure that those results are delivered in a timely manner, make sure that contact tracing is done quickly, that we track down all of the cases and understand where they've been transmitted, and, in addition, that we support people who are in isolation adequately. I know that many members opposite appear to not take this issue as seriously as I do when it comes to how to deal with it, but I can tell you that if they are sincere about making sure that our economy is as healthy as it can be, the first and only thing that they would do is get this COVID pandemic under control.

9:50

I want to now turn my comments, if I can, to some of the responses that the minister provided with respect to some of the questions that our side has proposed throughout debate on this legislation. He certainly gave a very thorough description of the consultation that was undertaken by his ministry during this, and I want to thank the minister and the ministry for engaging in such thorough consultation.

But I noted, Madam Chair, that in his response to our questions around consultation, he then proceeded to slam the then NDP government for not consulting on the issue of mobile-home tenancies. I think that the minister, of course, is desperately trying to get some partisan swipes into his otherwise thoughtful and well-reasoned debate, because, of course, if he were being truthful about the matter, he knows that the legislation that he introduced with respect to mobile-home site tenancies was one that he just pulled off the shelf, was one that we had written and actually introduced in this House or prepared to introduce in this House. It's interesting to me that he would hold up the consultation that he was doing on this particular piece of legislation with respect to prompt payment and compare it to the consultation that he apparently, you know, said that we didn't do, implying that they did some consultation on mobile-home site tenancies when, in fact, he admitted that they've done no consultation whatsoever. That was incredibly frustrating to the residents in my constituency who live in a mobile-home site. They felt shut out and frustrated by the process.

Unfortunately, as I raised in debate at that time, we as individual members of the Legislature have resources that are very limited compared to the resources that are available to a ministry, and the work that we do to talk to our constituents to understand some of the implications of legislation that is brought forward is in no way a complete consultation. Nevertheless, we brought forward some recommendations for changes, all of which the minister shot down, although I do recall that the minister in debate on that particular piece of legislation committed to improving some of the issues around the residential tenancy dispute resolution service. I look forward to him keeping his word on that issue. Needless to say, that's a bit of a rabbit trail that I've gone down.

I'm very pleased that the minister has indeed conducted what we would consider to be a proper consultation on this piece of legislation. You know, I would say that I share some of the concerns that my friends here on this side of the House have brought forward with respect to the fact that we are dealing with an amendment now when consultation on this particular piece of legislation has been ongoing for a significant period of time, and it's only then, when the piece of legislation is introduced into the Chamber, that we're dealing with amendments from the government side. However, I will say that it is better to fix it now, when we have the chance, than to pass the legislation as it was originally proposed and then try to go back and bring the legislation back and fix it at some point later.

The minister, of course, accused us of not dealing with this issue when we were in government. In his view, the history of the province started in 2015, when we were elected government. All of the problems started on that date, and now they're the ones who fixed it. Of course, he said in his own remarks, Madam Chair, that this issue of prompt payment was one that even predated our government. I will grant him the point that this was an outstanding issue. This was an outstanding issue long before we were elected. I certainly hope that the minister was as forceful in asking his colleague the Minister of Transportation about why his government in 2012 to 2015 didn't deal with this particular piece of legislation as he was when he asked us why we didn't do it.

Madam Chair, I appreciate the fact that this issue is being dealt with. I don't want to underestimate the importance of the issue, but it's a little bit concerning for me when the minister stands up and congratulates himself on the good work that he's doing on the issues that are confronting him and the Ministry of Service Alberta. On the most fundamental issues that are facing the province right now – the COVID pandemic, the economic collapse, the chaos in our health care system, the absolute disaster that is our education system right now – they're fumbling all of those things colossally. I'm glad that the minister feels good about the work that he was

doing. I'm certain that when the time comes for him to look at his government's response to these critical issues that are facing the province of Alberta today, he will have some regrets with how the government dealt with that.

Madam Chair, I just want to conclude my remarks by again thanking all of my friends here in the Official Opposition for a very constructive and thoughtful debate. I want to thank my colleagues on the opposite side for their interventions as well. I do want to thank the minister for the good work that he's done on this particular piece of legislation.

Thank you.

The Chair: Any members wishing to join debate on amendment A1 on Bill 37? The hon. Member for Edmonton-North West.

[Ms Glasgo in the chair]

Mr. Eggen: Thank you, Madam Chair. I appreciate the opportunity to speak on this government amendment A1. It's quite a substantial amendment. I always look at moments like this in the Legislature as a proof of democracy functioning in action, that we did see a number of issues through the second reading of this bill that wanted attention organically, and here we are in committee with quite a big change in regard to how prompt payments do manifest themselves if this bill was to pass. Not to point to whether or not some member is in the House or not, but this is a great opportunity for me to ask maybe a couple of questions that come to my mind straightaway, and we can use the process of committee to perhaps look at them.

The first question that I have in regard to this quite substantial amendment compelling payments over a certain time period and payments between contractors, subcontractors, and subcontractors of subcontractors – it kind of cascades along. Of course, there are individual contracts that might be signed by the parties, the contractors, the person building a building, let's say, and then the contractors. I was just curious to ask the minister if this amendment, in terms of prompt payment, would supersede any of the individual parts of a contract that exists between the person who is building the building and the contractors or the subcontractors. I know this provides a framework, but, you know, people building private individual contracts would meet their own needs. I'm wondering if this new amendment to this new legislation would supersede an individual private arrangement that was made contractually between the person building the building and any of the contractors helping in the construction.

10:00

Another question I had was in regard to the adjudication body that this legislation establishes. I'm curious to know what sort of status they have as a quasi-judicial body. I'm curious to know: to what degree can they pass judgment, and what access do they have to the court of law as well? Of course, people would have – we see on a regular basis legal action taking place for nonpayment on contracts, and I'm wondering if creating this adjudicating body: does it then have that as an obligatory step that people must take before they might take a contract to a court of law? I just couldn't see that clearly as a pathway by which people look for conflict resolution, and I'm hoping that maybe the minister can let us know about that.

The third thing that I noticed just around this amendment specifically talking about prompt payment. I presume, of course, that prompt payment is dependent on meeting contractual obligations, including competent work that is deemed to be up to code and up to the satisfaction of not just the person who's paying for it but to the standards that we do have for building and electricity and cement and woodworking and all those things here in the province of Alberta, because, Madam Chair, what it brings up in a

fairly pointed way, I believe, is that once you're making reforms in regard to prompt payment, you have to make sure that you have sufficient standards for the competency of work that's being done on any given project and that you have the inspectors to be able to verify the competency of that work, right?

We all, to varying degrees as MLAs, deal with people that have been, let's say, shortchanged by a contractor in your constituency. I know in my own area the whole issue around the leaky condos that had been built by unscrupulous builders not up to code and then condo associations being stuck with massive bills to rectify the leaky condos, right? Quite often when the water is – and this is a common design fault, where they have the decks coming off the condo and literally bringing the moisture and water into the siding of the building and then all the mould and terrible things that ensue from that.

My suggestion, Madam Chair, is that if we are talking about prompt payment and tightening that up, then I would suggest that the other side of that, the correlation between that and having to make sure that the standards for inspection and adherence to code are also made stronger here in the province of Alberta, too – we see lots of contractors that will, you know, let's say, put up a series of these condos that have these design faults in them. They'll be taken to court, and then they will simply fold up that company and reappear sometime later under a different name. I've seen that a number of times in my own constituency, and this is not satisfactory. I know that in one condo building that I have in Edmonton-North West, approximately 10 per cent of the people just walked away, right? They couldn't afford the \$30,000 that it took to fix the leaky walls and the roof of the condo.

My point being this, Madam Chair, that if we're dealing with creating mechanisms by which prompt payment is executed here in the province – and I think it's a great idea. I really like this bill in the broadest possible way, and I do certainly accept this amendment. But then I'm just saying that the same attention that we've put to making sure that contractors are being paid in a prompt and reasonable way should also apply to them meeting the standard and being judged on meeting the standard for which they're being paid for that service rendered or that job being done. Those two things should go together, and I know there are thousands of Albertans out there that, you know, need and deserve protection in regards to adequate and quality work being done in all of the construction that goes on here in the province.

Yeah. It was good to see the minister making a response in regard to these issues. It's interesting to see how once you start building legislation around details of contractual obligations and so forth, you need to be very, very specific because, of course, you know, you could be dealing with hundreds or thousands or millions of dollars in regard to any given contract and the payments thereof for services being rendered. This is obviously a direct result of that. You can see how we've seen a direct reaction in an organic and reasonable way during the session to make sure that we're building Bill 37 to withstand scrutiny not just by us but by the general public, quite frankly. It's an idea that we can see evolving through the time that we were pursuing it for government contracts from the last government, and this is the natural evolution, to extend it to general payment and private contracts throughout the province. I mean, that's, I think, something that we can all agree with, and certainly I would invite and be curious to know which other MLAs have thoughts around this particular issue.

I'll leave it there and hope to receive back some of the questions that I asked here this evening from the minister and from other points of view that might be expressed here in the House tonight. Thank you.

The Acting Chair: Is there anyone else looking to speak to the amendment?

Seeing none, I'm prepared to call the question.

[Motion on amendment A1 carried]

The Acting Chair: We're back on the main bill. Any members wishing to speak to Bill 37?

Mr. Sabir: I rise to adjourn the debate on Bill 37.

The Acting Chair: Would you like to adjourn and report progress? Just adjourn?

Mr. Sabir: Just adjourn, yeah.

The Acting Chair: Okay. We're adjourning debate and reporting progress on Bill 37, and we're moving on to Bill 42. Sorry. I'm new at this.

[Motion to adjourn debate carried]

Bill 42 North Saskatchewan River Basin Water Authorization Act

The Acting Chair: Any members wishing to speak? I see the hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Madam Chair. I appreciate the opportunity to speak to this bill. For the second time tonight I get to say positive things about some of the work done by the government, and I always appreciate the chance to do that when I can. I'm sure the members opposite know that I am very direct with my criticisms, but I have often made it a practice to be supportive when the opportunity arises, and this is one of those occasions where I enjoy reading a bill and feeling that I can act to support the bill when it comes time for a vote, because I certainly always have underlined either my bouquets or my criticisms.

[Mrs. Pitt in the chair]

The belief that doing what is best for the citizens of Alberta is ultimately important for all MLAs: I take that job extremely seriously, so when I do stand up to say thank you to the government for a piece of legislation, it is because I believe that they are striving to achieve the same goal that I am in terms of making life better for all Albertans. When I stand up to criticize the government for their actions, it is because I truly believe they have missed the mark. The point of the criticism is not simply to play political games, which I know get played a lot in this Legislature, as they do in all Legislatures, particularly in democracies, where people can voice their concerns, but I certainly believe that my criticisms are rooted in the desire to see legislation improved.

10:10

In this particular case, we are talking about Bill 42, which is on the surface a very minor bill, a process that allows the cabinet to approve an interbasin water transfer, in this particular case from the Saskatchewan River basin to the Athabasca River basin. I know that the Edmonton area is right near that line between those two, and it might surprise people to know that many of our communities just north of Edmonton actually do not flow into the North Saskatchewan, are not part of the Saskatchewan River basin but, rather, flow in the opposite direction. They go north, up into Lake Athabasca, and north from there. I know that if you drive out in the direction of St. Paul, you can get to a place where you actually can

stop on the highway and witness the divide between the two water basins. It's just a little interesting piece of Alberta geological fact that we are talking about, a movement of water, only a few short miles, really, in the end, but because of the nature of the geology of this province it results in water being transferred from one river basin to another.

I think it's important that we always take time to very seriously consider these kind of actions, when we are disrupting sort of the natural flow of nature, one could say, and that we be very careful that we don't get into a habit of simply doing things because we can do them, without some consideration for the impact of making these kinds of decisions on the larger environment and therefore the well-being of all Albertans.

I know that when I was, in the last government, the Minister of Indigenous Relations, I had an opportunity to bring to cabinet a request for an interbasin water transfer. In that particular situation it was the result of the work that we were doing to ensure that First Nations in the province of Alberta had available clean drinking water. The work that we did to bring that clean drinking water to nations, without these kinds of acts, would not have been possible.

In our particular case it was a transfer from the North Saskatchewan River basin to the Athabasca River basin as well, going across the same line a little bit farther downstream and a little bit closer to the St. Paul area, allowing us to bring clean water to a couple of smaller communities in the area east of Edmonton and ultimately to the Whitefish First Nation, that was in a very difficult situation with significantly decreasing water availability in their own area. When I was out visiting the Whitefish First Nation as I went around on my tour to visit all the First Nations and spend time talking to them each individually, not as a collective, not bringing all the nations together where they all got what I'm told is three to six minutes to actually talk – I actually went out to all these communities and spent hours in the communities talking to them about their concerns and actually doing a tour of the community, looking around the communities to actually see what the issues were.

In the case of Whitefish, we actually went outside, and we took a look at the water reserves around the community and saw that there were situations where there were at one time substantive lakes of water that were available for the community for clean drinking water that had been reduced essentially to marshes. Right around the central part of the nation, right where the office where our meeting took place, we could see the loss of water available to the community.

As such, I was very happy to include Whitefish First Nation in the list of nations that would be receiving support to bring in clean drinking water from another area by attaching them to the distribution system that was available in their area that happened to originate in the North Saskatchewan River basin and now would be bringing a sufficient amount of water into the Athabasca River basin area for the nation and, of course, the small towns along the way. I was very proud as Minister of Indigenous Relations to help in the championing of this process of ensuring clean water for First Nations and very proud of the fact that we put over \$100 million into bringing water to these nations. Of course, I'm disappointed to hear that since this government has taken over from our very effective government under the NDP, they have not put any new monies at all into ensuring that First Nations receive clean drinking water.

In fact, there are no new nations that will be receiving clean drinking water under any practices by this government that were not already in process of receiving that clean drinking water from the work that we had done when we were in government. So I'm glad to see at least that, you know, this one little piece is being done

that's coming to some communities not too far from here. The water is going to be going to the hamlet of Entwistle and the summer village of Nakamun Park. I noted that these communities are just slightly west of a property that my family owns out in the constituency of Spruce Grove-Stony Plain, so very close to this, so one day I might even be affected by this if they continue to expand.

I know that the two very first nations that we were able to connect to regional municipal water systems when we were in government were, of course, two nations very close to this as well, and that was the First Nations at Wabamun and at Lac Ste. Anne, so the Paul Band at Wabamun and the Alexis band at Lac Ste. Anne. We were able to bring the water up from Spruce Grove-Stony Plain area and bring it into these communities. That is just east of the property that my family owns, so now we have water being brought in from both sides. One day, I hope, after having owned that cottage for 51 years, we may actually get ourselves attached to a water system. If indeed that comes into the Legislature, I will recuse myself if I am a beneficiary of that particular action.

But I can tell you how important it is that we take the time to ensure that water, which is the stuff of life, is available to all peoples in this province. I think it's very important that the government, when they make these kinds of decisions to move water, as they are in this particular case, seriously think about the First Nations because unfortunately in Canada we have a terrible record of ensuring fresh, clean water to First Nations around Canada. But I do think Alberta is in a better place, doing a better job than other parts of the country such as, for example, Ontario, perhaps because they have farther distances to go in their northern jurisdictions. Still, I think it's very important that we do the best that we can in our community.

10:20

I know some of the communities have really benefited. Bushe River, for example, up near High Level, has been connected through the work that we did when we were in government to ensure water comes to the communities. I've already mentioned the Paul Band and Alexis. I know that Cold Lake First Nation is also being put into process. I know that we were designing a process to bring a water pipe down in the eastern part of the province so that even the two Métis settlements, Elizabeth and Fishing Lake, might be able to be connected to the regional water system at that time to ensure that the Métis as well would be included in this process.

I'd like to take the time to thank the government for bringing this piece of legislation into the House to do, I think, the right thing in terms of taking care of people's fundamental need for clean drinking water, but I also want to encourage the government to go back to the decision not to expand the services to other First Nations beyond the ones that were on the record when I was Minister of Indigenous Relations, to consider including more nations in this process. I know at the time when we were putting our lists together, I think that we had, if my recollection is correct, about 14 nations that we were considering. Of course, they could choose to do this or not. That's not all the nations that need clean water, but 14 nations were requesting being attached to clean drinking water systems, regional municipal water systems.

I think the monies that we provided would only allow probably about seven of them to be absolutely completed and some of them to also have some technical work done. In fact, I remember that the one that I mentioned earlier, the Whitefish, where we required the same kind of legislation to do the basin transfer, actually took about a quarter of all the dollars that were available. It was an expensive process, but it was an important process.

I'd really like to encourage the government of the day to go back to our list, go back to nations that already made requests for clean

drinking water, and see if there's a way you can find some dollars to continue to expand clean water services to as many of the nations as possible because the outcome is fundamentally important for those nations. I know that recently I've been having some conversations with some of the First Nations in the Maskwacis area. They're back and forth on it. I understand that Samson band decided not to participate in the municipal water system whereas I think Ermineskin has decided they will participate, and we know we're bringing water up from the Ponoka area up there as part of our connecting First Nations to water systems.

I think that there's still lots more to be discussed, and connection to regional municipal water systems may or may not be the only way to go about doing this, but I see in this case that's essentially what they are doing there, connecting the hamlet of Entwistle and the summer village of Nakamun Park to a water system that already exists a little south of them and connecting them to the west interlake district regional water system in the Parkland county. I see that this is something that's going to be ongoing. In fact, if you look around the province of Alberta, we are going to see that there are a number of locations that require us to expand the pipes that are necessary to include more communities.

One thing I noted is that every time we look to working with a First Nations to help that nation get clean drinking water, it had a positive effect in all the small towns and communities along the route as well. There are often many small hamlets like Glendon, for example, that would benefit from having water systems that run by their community on the way to the First Nations. It wasn't, you know, just the First Nations that benefit from it. The one system we ran, for example, to Alexis First Nation up from the Spruce Grove-Stony Plain area ran through the whole area of Lac Ste. Anne and, as a result, provided fresh water for a number of small towns or summer villages or cottages along the way. I think that this kind of infrastructure development in the province of Alberta is important, and certainly it needs to be supported.

I invite the government to bring these kinds of requests forward, and I certainly look forward to the opportunity to support the provision of clean drinking water to as many residents of the province of Alberta as we possibly can. I would certainly welcome the government to specifically go back to work that was done when we were in government to identify those First Nations that are ready, those First Nations that have already outlined their needs, many of whom have already done some of the technical work to describe the pieces that would need to be done in order to be able to ensure that they had a lifelong supply of clean drinking water. If there's anything we can do on this side of the House to facilitate that kind of dialogue or to talk about the intention of the work that we were doing – I know that the civil service, again, in this particular case, is well aware of the work that we were doing on top of the information that would be necessary for the ministers across the way there so that the good governance decisions that were being made under the previous government can continue under this government and into the future.

With that, I look forward to having the opportunity to go to Entwistle, which, as I say, is close to some property my extended family owns out in that area, and enjoy the clean drinking water from the west interlake district regional water system in Parkland county and hope that this is the first of many such opportunities for this kind of work to be continuing.

Thank you, and I will end my comments there.

The Chair: Any other members wishing to join debate on Bill 42 in Committee of the Whole? The hon. Member for Edmonton-Gold Bar.

Mr. Schmidt: Thank you, Madam Chair. I'm pleased to rise and also speak in support of Bill 42. I think that this bill, enabling the transfer of water from the North Saskatchewan River basin into the Athabasca River basin to allow the communities of Entwistle and Nakamun Park to get their water from a regional water delivery service system, is a step in the right direction, and I'm pleased to support it.

I want to thank my friend from Edmonton-Rutherford for his thoughtful comments on the impact that these kinds of water transfers can have on communities, and I'm really grateful for the speech that he gave. It certainly highlighted the significant impact of clean drinking water on First Nations communities here in Alberta. I'm grateful that I was part of the same cabinet that he was part of that really placed a strong emphasis on providing clean drinking water to First Nations communities all across the province. I won't, of course, repeat the communities that he mentioned that we were successful in bringing clean water to, but I do want to underline the fact for all members of this House that providing clean drinking water to First Nations communities is significant unfinished work that needs to be completed urgently.

I noted during question period today that my colleagues were asking the minister of indigenous affairs whether or not he would support language in a private member's bill that recognized murdered and missing indigenous women as a genocide. Of course, he rebuffed those attempts to take that language into consideration into that bill and insisted that his government was focused on reconciliation. I think that's the phrase that he used. He disagreed with our suggestion that genocide should be included in that private member's bill legislation because that was a merely symbolic gesture, Madam Chair, and had no real impact, I guess the implication is, on the lives and well-being of First Nations communities. Well, my friend from Edmonton-Rutherford has just come forward with an excellent suggestion for a tangible, meaningful action that this government could take right now if it was serious about reconciliation and continue the work of delivering clean drinking water to First Nations if it so chose, like it's doing in this particular piece of legislation to the people of Entwistle and Nakamun.

10:30

So, again, I want to thank my friend from Edmonton-Rutherford for raising that important issue, and I would join him in urging this government to continue to work to make sure that all First Nations have access to safe, clean drinking water in the province of Alberta.

I also want to say that I support this piece of legislation because while I don't have any intimate knowledge of the waterworks of either the hamlet of Entwistle or the summer village of Nakamun Park, I do have some experience with these kinds of well waters. I understand that the hamlet and the village are both on well water, and that operating these systems is not a trifling endeavour, Madam Chair, that delivering safe drinking water from a well is a very serious responsibility that needs to be taken very carefully. I have no doubt that the good people of Entwistle and the good people of Nakamun Park have undertaken that responsibility diligently and have delivered safe water to the people of their communities for a very long time. But it is a responsibility that in order to meet it you require significant technical training, and you require significant investment of infrastructure and resources to be able to maintain that safe supply of drinking water.

I would imagine that communities like Entwistle and Nakamun Park, with very small bases of ratepayers, find it onerous to maintain these systems well and that being able to participate in these regional water services is a significant relief to the people of those communities and that the limited resources that they have

available to them are no longer spent on delivering safe and clean drinking water from infrastructure that they own and operate themselves, but they can access clean and safe drinking water that's provided to them through a regional service that's now being made available to them. The idea behind these regional services, as I understand it, Madam Chair, is that by bringing together a number of municipalities and collaborating in the delivery of things like safe drinking water, you achieve economies of scale that you can't achieve when each individual community is tasked with providing its own citizens with clean and safe drinking water.

So I'm glad that the people of Entwistle and Nakamun Park are now able to participate in this, and I'm certain that that will provide some cost savings and some assurances that the clean and safe delivery of drinking water will be able to continue well into the future, Madam Chair, because we know that this government has placed significant costs on municipalities. My friend from Calgary-Buffalo could go on at length about the downloading of costs onto municipalities from this provincial government. I'm glad that at least in the case of Entwistle and Nakamun Park that they're able to, I assume, save some money and participate in regional service delivery.

It's my understanding, Madam Chair, that there are a few hundred thousand people in Alberta who get their water from wells, and that includes both communities as well as private individuals. I would encourage all owners of these kinds of water systems to make sure that their wells are properly maintained and that they're regularly testing the quality of the water that's coming out of those wells.

In my past life as a hydrogeologist I had some experience dealing with landowners and their water wells. Maintaining a water well properly is not an insignificant endeavour. Making sure that that well continues to deliver safe drinking water to you and your family is a matter to be taken seriously, Madam Chair. So I would encourage anybody out there who draws their drinking water from a well, as many hundreds of thousands of Albertans do, to reach out to the department of environment. There are a number of professionals there who are only more than happy to help landowners out with understanding how to properly maintain their well, how to properly test the water that's coming out of there, to make sure that your well is working properly, that the water that you're drinking is safe for you and your family to consume.

Madam Chair, I'm pleased to support this legislation. I look forward to the work that the government will continue to do. I hope to make sure that more communities in Alberta, particularly First Nations communities, have safe and reliable supplies of drinking water in the future. I look forward to voting in favour of this legislation.

Thank you.

The Chair: Any other members wishing to join debate on Bill 42 in Committee of the Whole? The hon. Member for Edmonton-North West.

Mr. Eggen: Thank you, Madam Chair. I'm happy to just provide some brief comments on Bill 42, which is a water basin transfer involving the North Saskatchewan River basin and the Athabasca River basin, two of our largest river systems in the province. Certainly, this specific ask for providing this quantity of water and its purpose for individuals and for residential use, I think, is completely acceptable.

When I hear about interbasin water transfers, just when those words pop up, inside or outside this House, whether it's the government and I'm in opposition, or even when I was in government and we were bringing it up, it immediately sends some

alerts in the back of my mind because, of course, the larger issue around interbasin transfers can be quite contentious. Certainly, I dealt with previously, when I was in opposition, an interbasin transfer ask from the South Saskatchewan River system into I believe it would be the Red Deer River system. Again, you go to places where there is a shortage of water and you're dealing with large volumes of interbasin transfer asks, then the whole equation changes. I think we have to be very conscious of that. We have to be very conscious of shortages of water across this province and make sure that we're not interfering with the natural flow of any given water basin system, for the sake of agriculture, for the sake of our populations, and for environmental purposes as well.

Something like this: certainly the scale of it is modest, and I think it helps to improve the quality of life for people in rural areas to set up regional water systems like this. As someone mentioned previously, it achieves some economy of scale and certainty and safety, as long as the standards are in place for that system to be monitored and maintained and for training to be provided for people that are responsible for the pumping system and the filtration systems as well.

I remember again not that far, really, from where the Entwistle and Nakamun Park proposal is coming from here, when I was in opposition previously, that there was a regional water system that was under some stress in the Fawcett, Pibroch area, I seem to recall – it always stuck in my mind because I was going to check it out and it was on the water system and it was called Fawcett, Alberta, so I thought that was kind of interesting. You know, those regional systems are absolutely essential for living in rural areas in order to have quality water that is safe to drink, and to have testing mechanisms in place I think is really, very important as well. I certainly would echo the concerns that the previous two speakers had in regard to ensuring a more extensive program to make sure that we have potable water for everyone here in this province.

10:40

We know that there are isolated First Nations, Métis communities, and other communities in parts of this province where they still have ongoing boil water advisories. Really, again, it's sort of a precondition of a healthy lifestyle for any human anywhere in the world but particularly here in Alberta, in our jurisdiction to have access to clean and affordable water for themselves and for their families. So perhaps this is a small microcosm of a larger initiative that I think we all need to remind ourselves to move forward on. I think that that's entirely fair and a good point for us just to remind people.

We wish well for this project to move forward. I think that I certainly could get behind it, and I encourage other members of this House to do the same.

Thank you.

The Chair: Any other members wishing to join debate on Bill 42? Seeing none, I will call the question.

[The clauses of Bill 42 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Any opposed? Carried.

The hon. Government House Leader.

Mr. Jason Nixon: Well, thank you, Madam Chair. I move that we rise and report Bill 42 and progress on Bill 37.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Camrose.

Ms Lovely: Well, thank you, Madam Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 42. The committee reports progress on the following bill: Bill 37. I wish to table copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Does the Assembly concur with the report? All those in favour, please say aye.

Hon. Members: Aye.

The Deputy Speaker: Any opposed, please say no. So carried.

Government Bills and Orders Second Reading

Bill 41

Insurance (Enhancing Driver Affordability and Care) Amendment Act, 2020

[Adjourned debate November 4: Mr. Madu]

The Deputy Speaker: Any members wishing to join debate? The hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Madam Speaker. I appreciate the opportunity to speak to this bill. Those who have been watching the House tonight know that the last two times I stood up in the House this evening, I stood up to thank the government for some of their work and to encourage them to go farther than they did and to clarify some of the decisions they made, all with the desire to make life better for all Albertans. Unfortunately, I must start my comments this evening on Bill 41 by expressing my concern that in this case the government of the day does not have the interests of all Albertans at heart, and it's very discouraging. I much prefer to stand up and offer supportive comments to the government or suggestions or even ask questions that will lead to further exploration of good work being done.

In this particular case, all I can say is that the government is really making a very bad decision here, a decision that is not in the interests of you and me and the average person in the province of Alberta; instead, it is focused on the benefits to a small group of people, which seems to be the focus of this government. The already successful corporations continue to be the focus of this government. The desire to find more ways to shovel money in their direction seems to be consistent in everything that they do, rather than making decisions as to how to ensure the well-being of the average citizen in the province of Alberta. It started with their \$4.7 billion corporate handout that they began their government's term with. I know that they will repeatedly stand up and say that that number is fabricated, but we want to remind people who are listening to us here tonight or those who peruse *Hansard* for pleasure on the weekends that that number actually came directly from their own published document. It's been pointed out many, many times.

Every time you see a member of the government stand up and say that that's a fabricated number, what they're telling you is that they fabricated a number. You can say what you want about that, but the word that applies to it is one that's nonparliamentary, and I can't use it here in the House. I can say, though, that when they

made that decision, they were not making a decision to move \$4.7 billion to enable companies to become successful to build this economy, but they were shovelling that \$4.7 billion to already successful companies. Here we have in this legislation an example of exactly that same thing happening again.

Now, I know that the Member for Lacombe-Ponoka just recently has said – the comments are available in *Hansard* – that insurance is the easiest way to make money, you know, literally a licence to print money. I don't know what his experiences are that he would make that kind of statement, but the point is that insurance companies in Canada and insurance companies in Alberta are doing extremely well and have done so consistently over many years in this country and in this province. In this particular case we can see that the automobile insurance industry in the province of Alberta happened to be successful to the tune of somewhere in the neighbourhood of \$820 million in premiums from hard-working Albertans just in the past year. They are doing very well. No insurance company is coming to us and saying: we're going to have to shut our doors because we can't afford to make payouts. That's not what's happening.

In fact, every year when it comes to tax time, they are in the group of companies that consistently are able to demonstrate that they have made a very high level of profit, have been very successful, and will continue to be so in the future because of the nature of insurance and how it has developed in this country over the last hundred years, ensuring that insurance companies themselves are protected from the vagaries of life, that when one insurance company has to do a big payout, they are supported and insured by other insurance companies.

It is a very complex system that has been built up over time to create a structure that leads to success on the part of these companies. The structures have been put in place to ensure their well-being. I only wish that this government would consider putting some structures in place to ensure the well-being of your average citizens instead every once in a while and not always going to that small, narrow group of their corporate friends. I'm very concerned about this, and I think that we need to take some time to look at what's happening here.

[The Speaker in the chair]

Under the previous government we made a decision to put a cap on the amount of money that could go to insurance companies through premiums. A cap was put in place. Now, this government came along and said that it was not the right thing to do because it didn't fix the underlying problem. That was their argument. They removed the cap that protected every single insured person in the province of Alberta from excessive premiums for their automobiles.

Instead, they came back with a solution that essentially is a cap. It's not a cap on the premium; it's a cap on the payout. They can argue that they don't agree with caps, but then they come in and actually provide a cap. But the cap is no longer on the very successful, economically viable, 1 per cent corporations who already receive \$4.7 billion from this government; the cap is on you as a citizen of the province of Alberta. If you are so unfortunate as to be in an automobile accident, even through no fault of your own, then you will be limited in terms of the possible outcomes that are payable to you. This is very much a concern for me.

10:50

I've had some experience with people who have had these kinds of accidents occur, and I can tell you that the devastation in their lives from these accidents is often much higher than the claimed losses that are limited by this nature of putting caps on average citizens instead of putting caps on large successful financial

institutions. I know that in my work at the Glenrose hospital, I spent a significant amount of time working on the brain injuries unit and saw many people who had brain injuries as a result of a variety of causes but that would include, as well, automobile insurance.

Now, the thing that this act does, of course, is that it does direct, you know, where the cap will apply and where it will not. The thing that is problematic, from my perspective, is that you don't always know the nature of the long-term outcome of the brain injuries from the initial event that caused it and the initial assessment that occurred.

Many times people experience a brain injury, they go into the hospital, they go into coma, they come out of coma, they go into the Glenrose hospital, where I would've worked with them, and they would recover, and they would move on. One would think that they have, you know, regained their speech, they've regained their mobility, they've regained their ability to return to work, those kinds of things, but what they don't tell you is the nature of everyday living that is a consequence of having a brain injury that makes a difference in terms of the person's lived experience of being able to do with their lives what it is that they were doing before the accident. There is no longer a devastating, colossal change to their life in the sense that they can now talk, they can now walk, they can now return to work, but their lived experience and enjoying the day-to-day experience and being able to engage in the types of activities and the thought processes that they did previously have been diminished.

I was very concerned to see in this legislation that soft-tissue damage is included in the cap here. I can tell you, from my experience of brain injury and also everything else that goes on in an accident that leads to people coming to the Glenrose hospital for recovery, that it made me very concerned that soft-tissue damage is an area that is very difficult to determine on the face of it and at first examination and that if you follow a person for many years afterwards, you often understand the implications of soft-tissue damage that were not obvious at the time of the actual adjudication and decision about compensation.

I think that that's why, up until this legislation, we've had the opportunity for people to get multiple assessments and to be able to bring those multiple assessments in to help them to begin to predict the outcome of the soft-tissue damage that they have experienced. Now we're not only limiting the outcome in terms of the actual compensation paid to people, but we're limiting their ability to bring in multiple assessments that will help to determine the nature of the soft-tissue damage and the significant outcomes that are possible, not just in terms of the immediate, because we often see an immediate recovery, but in terms of the long term. Even if you do get back all of your ability to speak and talk, you may have a reduced range of motion, you may have a reduced level of physical comfort in your own physical body, you may have a limited ability to engage in activities that you previously enjoyed, and not all of that is readily apparent early on after an accident.

Being able to take the time to adequately assess that and to bring that information forward in order to support your claim is very important. If you are able to get the support to construct a reasonable argument that you are going to have long-term consequences for this activity, whether it be a neck injury or a deep muscle-tissue injury or anything of that nature, then you should be able to reasonably be compensated for not only the effects on you in the immediate but over the long term. I think that this decision to eliminate the number of medical reports that are possible in this case is really one in which you limit the ability of a person to sufficiently articulate the needs that they have and the right they have to appropriate compensation.

I'm very concerned where this is going. I'm very concerned that, ultimately, the decision here is that this government has decided that the problem is people wanting to get back to normal. That's the problem. We know we had the Finance minister stand up over and over again and say: you haven't dealt with the root problem. Now he's dealt with the root problem by saying: "The root problem is you, the people. The root problem is the people who want their lives compensated when something has happened to them that is no fault of their own." I'm very discouraged to see a government that's decided the problem is the people, when we know that the industry has a very complex set of structural ways of taking care of them. We don't see the same mechanisms for – instead of structures that will take care of the average people.

We can see which side of the coin this government has come down on. We can see that they've decided simply that they are going to take a cap off of industry and put a cap on people. That's what they've done. That's the choice they've made. It's a clear and direct, simple choice, and it's one that I simply can't support, having seen the outcomes that people have had to live with in my work at the Glenrose hospital and in other situations where I have provided counselling or support services to people who have experienced trauma of various natures.

I guess at this particular time, I really would like to see this government go back to the situation where it's the people that become front and centre of their work, that it's the people of Alberta, not the industries but the people, who are at the heart of the legislation they bring forward.

Thank you.

The Speaker: Hon. members, Standing Order 29(2)(a) is available if anyone has a brief question or comment for the hon. Member for Edmonton-Rutherford.

Seeing none, we are debating Bill 41, Insurance (Enhanced Driver Affordability and Care) Amendment Act, 2020. Anyone looking to debate? I see the hon. Member for Calgary-East.

Mr. Singh: Thank you, Mr. Speaker. It is an honour to rise to speak and provide my support for Bill 41, the Insurance (Enhancing Driver Affordability and Care) Amendment Act, 2020. The government has committed to address the issue on the stability of premiums in the automotive insurance system. I applaud the Minister of Treasury Board and Finance for honouring his commitments, which I know many drivers in the Calgary-East constituency and in the entire province are happy to accept, as this bill seeks to address affordability, modernize, and cut red tape in the automotive insurance sector.

Mr. Speaker, I would also like to express my appreciation to the minister for holding discussions with key insurance, medical, legal stakeholders on a narrow range of technical questions that were related to cost containment, variety of benefits, and care in order to enhance driver affordability. The minister also asked for feedback relating to definitions of major terms and clarifications in treatment and injury claim processes.

Additionally, these efforts wouldn't be completed without the participation of about 31,000 Albertans that provided input on Alberta's automotive insurance system through a public engagement survey that was commissioned by the Automotive Insurance Advisory Committee.

11:00

The committee's review brought to light a number of immediate measures that would be considered to ease the rate burden for Albertans. Having said that, the cost of auto insurance for Alberta drivers is the third highest in Canada. Many Alberta drivers had

spoken and were negatively affected by the rate cap established by the previous government, which meant that Albertans had to pay the full-use premium up front rather than on a monthly basis as well as being denied collision and comprehensive coverage and not being able to access coverage through their broker.

Since 2013 auto insurers have lost about \$770 million because of unsustainable increases in costs. Alberta's current auto insurance system is neither stable nor supportable. Considering the mounting costs that affect both the drivers and industry, Mr. Speaker, the current system is not sustainable and is resulting in insurance that is increasingly less accessible and less affordable for Albertans.

Some key measures are targeted at containing the costs of bodily injury claims, which have been identified as the main factor contributing to rising premiums. Helping insurers contain these costs will mean Albertans should see more stability in their premiums for auto insurance. Alberta is expected to see positive impacts on their wallet within the next 12 to 18 months. Bill 41 will allow Albertans to contain costs of bodily injury claims, which will help ensure more stability in premiums Albertans will be paying for auto insurance.

Also, these amendments include a revised definition of minor injury and limit the number of costly experts that may be used in traffic injury lawsuits. Additionally, measures will enhance diagnostic and treatment services and increase the benefit amounts to better support injured Albertans through the recovery process.

Several other regulatory changes will be aimed to minimize red tape in the system, ensure efficient regulatory oversight, and better support the insurance industry in responding to consumer needs. Correspondingly, Mr. Speaker, these changes will allow Albertans to see more stable premiums for auto insurance over the short to medium terms. Albertans will also benefit from better care and treatment outcomes through improved patient referral and dispute resolution processes.

Mr. Speaker, we will see that Albertans will start to save on premiums as a result of these measures. The projected average savings would be about \$120 per insured vehicle. The actual impact on rates is expected to be different for every driver. The definition of minor injury, that is part of the minor injury regulation, will be revised, which was last amended in 2018. When the regulation was implemented in 2014, it was successful in containing bodily injury costs for a number of years.

Two court rulings, in 2012 and 2015, have resulted in injuries that had no longer been covered by the cap. It was considered to have eroded the effectiveness of the cap in containing injury claims costs. One of the key problems was that it was not entirely clear if the definition applied to some injuries or not. This created uncertainty for Albertans injured in collisions as well as for insurers trying to resolve injury claims.

A new definition includes consequences of minor injuries, both physical and psychological. This revised definition uses language that has been tried and tested in several Canadian jurisdictions such as Prince Edward Island, New Brunswick, and Ontario, where it seems to be successful in containing cost pressures on insurers, thus resulting in lower insurance premiums for drivers. A new definition will add overall certainty to the process of resolving injury claims, making it more effective for all parties.

Mr. Speaker, it will be up to the health care practitioners to determine if an injury like a concussion is associated with a minor injury such as whiplash or, alternatively, if it is independent. Stand-alone injuries do not fall within the definition of minor injury. It is also important to note that any sprain, strain, or whiplash injury, including any clinically associated consequences that result in a serious impairment, will still be excluded from the minor injury definition. The regulation contains a clear definition of what

constitutes a serious impairment with respect to impacts on a person's ability to do their job, pursue their education, or conduct their normal activities of daily living. The intent behind this change to the minor injury definition is to help injured individuals and insurers have more certainty about what types of injuries fall under the cap on pain and suffering damages and could help reduce disputes and related costs for both parties.

Bill 41 will also establish greater independence for the Alberta Automobile Insurance Rate Board, the AIRB. This change is important for Alberta drivers to have full confidence in an independent, impartial rate board that is making decisions based on the state of the market. Our insurance industry supports an independent and impartial rate board, and greater independence for the AIRB was recommended by the committee. This will help ensure that Alberta drivers and the insurance industry can have confidence in the overall process of setting industry rates and driver premiums.

The role of the superintendent of insurance is to regulate market conduct and legislative compliance of all insurance companies operating in Alberta. The superintendent is an official within the Department of Treasury Board and Finance and reports to the deputy minister. The role of the AIRB is to regulate rates that can be charged to Albertans for auto insurance. The superintendent of insurance currently sits as a nonvoting member of the AIRB and shares authority with the AIRB in regulating some components of automotive insurance rating programs. Having to sometimes report to two regulators, the AIRB and the superintendent of insurance, can cause delays and confusion for the industry. There is a need to eliminate these types of inefficiencies. This change aims for an effective regulator that has the trust of the industry and Albertans.

Mr. Speaker, Bill 41 also introduces direct compensation for property damage. This will mean that if your car has been hit by an at-fault driver, you are to deal with your insurer to cover the repair costs. Dealing with your own insurer for repairs has no negative impact on your policy; that is, you won't be incurring any claim cost, and your insurance rates won't be affected by a negative risk rating. This has been an industry practice for several years in other provinces. It is a more efficient way to process claims and provide customer service. This will eliminate needless red tape between the insurers and reduce costs incurred for pursuing damages from third parties and will improve Alberta's auto insurance system. This will create a more modernized system to support the industry in responding to customer needs. These crucial changes are important not only for the growth of Alberta but will critically benefit Alberta's economy by reducing red tape.

My Calgary constituency is home to thousands of Albertans that will significantly benefit from this amendment that will allow Alberta to grow strong economically by supporting Albertans with fewer restrictions. Again, the main intention of the bill is to take immediate action on stabilizing costs in the system for the benefit of Alberta drivers and to ensure that Albertans that are injured in traffic collisions have access to care and benefits that will help them immediately recover. This will be intended to provide direct relief for drivers while we further engage with stakeholders and Albertans on recommendations for long-term reform. Again, I applaud the minister and the entire team for taking the initiative and being involved in the drafting of these proposed amendments.

Thank you, Mr. Speaker.

11:10

The Speaker: Hon. members, Standing Order 29(2)(a).

Seeing none, is there anyone else wishing to add to the debate? The hon. Member for Edmonton-Gold Bar.

Mr. Schmidt: Thank you, Mr. Speaker. Perhaps adding to the debate is a bit of an aspirational goal, but I will endeavour to do my level best. I'm pleased to rise to speak to Bill 41, currently before the House. I have a number of concerns with this piece of legislation.

Let me first of all say that I am incredibly concerned with the skyrocketing costs of automobile insurance in this province. As a father of a teenager who recently got her driver's licence – no. Sorry. That was my wishful thinking, Mr. Speaker. She recently tested for her driver's licence and was awarded the opportunity to retest for her driver's licence at the next available opportunity. My fingers are crossed that she will be able to pass at that time.

I am terrified at the cost of insuring an automobile. I recall that when I was a young driver, when I moved back to Alberta in 2002, one of the first things I did after I got hired was buy myself a car, and I was shocked to learn what my insurance premiums were going to be for that car. This was not a particularly special car. I was just a new graduate who was working at a job that paid a decent wage but not an exorbitant wage. I needed a car to get back and forth to work, and that car insurance premium was more than any other monthly expense that I had in my budget at that time. It was higher than my rent. It was higher than my groceries. It was higher than my own car payments. This was in 2002, Mr. Speaker, back before the government initially introduced rate caps on insurance and changed the insurance regulation significantly to reduce fees that were charged to new drivers. Had I bought that car and started driving in 2004 – I believe that was when the insurance regulations were changed significantly – my insurance premiums would have been less than half of what I had paid in 2002.

I'm desperately afraid that my daughter, when she starts driving, will be faced to pay these incredibly unaffordable car insurance premiums. Let me tell you, Mr. Speaker, that car insurance premiums have definitely skyrocketed faster than wages in this province. The minimum wage is stuck for the foreseeable future at \$15 an hour. Unfortunately, with the changes that this government has made to automobile insurance, there is no protection against my daughter paying skyrocketing insurance, and that will continue to eat up more and more of her wages while her wages will stay flat for the foreseeable future. You know, I raise this not only because it's a particular concern to her and to my family for being able to afford that cost, but I think of all of the young people in the province who first get their driver's licence and need that car to go to work. I don't think I need to tell anybody in this House that no matter where you live in this province, with the exception of perhaps along the LRT line in Calgary, public transit is terrible in this province.

My daughter has a job that requires her to go out to Sherwood Park and Fort Saskatchewan and Stony Plain. If she were to rely on public transit to get to those places, I think she would probably have to leave three days in advance, Mr. Speaker, to be able to get to her job on time. Having a vehicle and being able to drive yourself to work is a critical need for people to be able to participate in the economy. Having access to affordable car insurance ensures that people will be able to get to work, and not having affordable car insurance is definitely a significant barrier to the kinds of jobs, the locations of jobs that young people will be able to reasonably apply for.

I know the government has continued to pat itself on the back – so much so that it probably has bruises on its shoulder blades – about the work that they're doing to supposedly reduce car insurance premiums in this province, but they are going about it in completely the wrong way. As my friend from Edmonton-Rutherford mentioned time and again in his speech, at every possible turn they're favouring the insurance companies over

drivers, and they're favouring the insurance companies over driving victims.

One of the concerns that I have with this piece of legislation is that it modifies prejudgment interest, lowering it from 4 per cent to 1.5 per cent, and not only that, it changes the date when that interest starts accruing from the time that the accident occurred to the time that the statement of claim was filed in court.

Now, Mr. Speaker, I thankfully have never been involved in a car accident, but I've had a couple of very close relatives to me who have been severely injured and died in car accidents, and I can tell you that watching their families struggle with the fallout of dealing with those injuries and that death, filing a claim is no insignificant thing. Now, you know, in those cases those people are entitled to some kind of financial compensation for the suffering that was inflicted upon them, and to change the date at which the interest starts accruing from, the date that the accident occurs to the date that they get around to filing a statement of claim, is really unfair to victims, in my view, because there are going to be a number of victims who are seriously injured in these kinds of accidents, and those people will not have the capacity, will not have the wherewithal to be able to file a statement of claim as soon as they possibly can. I'm afraid that a lot of victims will be denied a significant amount of compensation.

Not only that, lowering the rate of interest from 4 per cent to 1.5 per cent is really unfair, in my view. I think a 4 per cent interest rate is certainly reasonable. The only explanation I can find, Mr. Speaker, for this is that this government is intent to make sure that insurance companies profit as much as they can, and they're doing so by taking money out of victims' pockets, and I don't think that that's very fair. That's one concern that I have with this piece of legislation.

The second concern that I have with that particular piece around interest changes is that this now will tilt the playing field in favour of insurance companies at the expense of victims. Because they're lowering the interest rate on presettlement claims, it gives the insurance companies every sort of financial incentive to not settle – right? – because the amount of money that's at stake for the insurance companies is now significantly reduced, and they can afford to sit on their own capital, earn the interest that they're making from the capital that they have invested in the markets or whatever, and then delay the payment of claims to victims. I don't think that's fair. Justice delayed is justice denied. People who are suffering the consequences of automobile injuries should be financially compensated in a very timely manner, Mr. Speaker, and I think that it's unconscionable that this government is creating this financial incentive for insurance companies to delay settlement.

I have a concern with the new limits that this legislation is bringing in on the number of expert medical reports that can be used in a claim. The legislation now limits the number of experts to one if the claim is under \$100,000 and to three if it's over \$100,000. Now, I don't have any personal experience, Mr. Speaker, dealing with these medical experts when it comes to settling automobile injury claims, but I do have some experience dealing with constituents who had considerable disagreements with medical experts that were selected by the Workers' Compensation Board in assessing their claims, and let me tell you that there is considerable disagreement between the victims, the workers who are injured and seeking compensation through the board, and the medical experts that are provided to assess their cases.

11:20

I don't think that it's fair to limit the number of experts that are able to provide testimony in these kinds of claims. I think that in order for an injury victim to be able to have their fair say, whatever

the appropriate number of experts is, that should be between the parties to decide. I don't think that it's the proper role of government to impose a limit on the number of medical experts who can weigh in on the nature of the injuries that are sustained in these kinds of vehicle accidents. I think that it's best left between the two parties to settle.

It's a little bit shocking to me that a government that ascribes to an ideology of limited government, you know, allowing the free market to play out without any sort of government intervention, the individual parties coming together to decide on how to best proceed with their own matters – it's shocking to me that this government is throwing away that ideology when using the firm hand of the state benefits insurance companies in this way.

The third thing that concerns me, Mr. Speaker, is the changes to the direct compensation property damage system. You know, this is a system that now will allow drivers to be directly paid out of their own insurance rather than going after the responsible party's insurance. My colleague from Calgary-East in his comments suggested that switching to this system would reduce red tape. I guess I don't believe the claim that this will reduce red tape. I have had experiences where I have had to deal with insurance companies, both my own and also with parties who have been responsible for damages against me, and let me tell you that I have personally experienced no significant difference in dealing with either my own insurance company or somebody else's. It's just as difficult to get a settlement from my own insurance company as it is to get a settlement from somebody else's.

I recall a time when my garage was broken into, Mr. Speaker. They stole my truck, and more importantly, more expensively, they stole the accordion that I was storing in that truck. Determining the value of a truck is rather straightforward. There's a well-established process for assessing what the value is. Now, I could tell you that the value of that truck that was stolen was probably about \$60 because it had a full tank of gas, but determining the value of that accordion was not a simple matter, because there isn't a well-established process for determining the replacement value of an accordion. The insurance company wanted me to get a certified accordion assessor to evaluate the value of this accordion. Let me tell you that no such thing exists, at least not in Canada. I couldn't find one. I had to go back and forth for months with this insurance company to determine a fair value of the accordion. It took way too long to settle that process, and we didn't come to a resolution that was agreeable to me. I'm sure it was agreeable to the insurance company because they sure didn't have to pay out the amount of money that I felt that I was entitled to.

My point is that I don't think that this system makes it any easier to deal with an insurance company. Dealing with insurance companies, whether it's your own or somebody else's, is an incredibly trying process, and I don't think that this legislative change that the government is considering here will achieve any red tape reduction.

For those reasons, Mr. Speaker, I stand in opposition to this piece of legislation.

The Speaker: Perhaps I might recommend to the hon. member that he reach out to former member Richard Starke for some advice on the price of accordions. I know he was very passionate about that.

Standing Order 29(2)(a) is available if anyone else has a brief question or comment.

Seeing none, anyone else wishing to join in the debate this evening? The hon. Member for Edmonton-Ellerslie.

Member Loyola: Thank you very much, Mr. Speaker. At the end of the day, Albertans, what they're going to see is the price of their

insurance go up further and further and further and further. We're seeing an increase of 24 per cent this year. I cannot tell you the number of people who have actually reached out to my office to express concern with the fact that prices for insurance have gone so high. Without fail at least once a week people will reach out to my office to say: well, what's going on here? I can tell you now that with this bill in front of us, at least now we can tell them what this UCP government is up to when it comes to insurance here in the province of Alberta. Really, as was well pointed out by the Member for Edmonton-Rutherford, this government has decided to side with the insurance companies instead of the Albertans that we're all here to represent. This is obviously a huge problem, a huge problem.

Don't get me wrong; I think that we all understand the need for insurance. It plays an instrumental role in our society. It helps people when they're down and out. You know, historically speaking, I mean, I think it wasn't until like the 1600s that insurance even existed. If your house happened to burn down, well, that was too bad. Too bad, so sad. Your house burned down, and you just had to start from scratch again. Of course, I can see that people who have gotten into an accident, a motor vehicle accident and have to have their vehicle completely written off through no fault of their own, just happened to be in the wrong place at the wrong time and circumstances occurred that someone hit them and their car is completely written off, that they would need this particular instrument so that they could then have the opportunity to piece this small piece of their life back together.

Of course, as we well know here in Edmonton and Alberta as a whole, it's very difficult to get around on public transit. That's an issue we can save for another day, Mr. Speaker. The reality is that people use their vehicle to get to work every day, and it's an instrumental tool for people to make their livelihood. I remember back when we were still in government and I remember a number of refugees coming to me and talking to me about how difficult it was for them to obtain a driver's licence. Of course, this is an aside in parenthesis, but I just wanted to express this fact, to just stress how important it is for people to have a vehicle to be able to get to work. Of course, the point being that I see the need for these insurance companies and that they do play an instrumental role in the lives of Albertans.

11:30

The question is: why is this UCP government taking the side of the insurance companies and basically handing out to them in this piece of legislation every ask that the industry has been wanting for the last four to eight years? Everything. Everything. For me, it's absolutely important to understand: okay; well, if you see the price of insurance going up so high – and we've already established that it's gone up by 24 per cent – why was it imperative for this government to end the cap so abruptly, especially now that we're going through this pandemic?

I can't tell you the number of people who have reached out to me. Specifically, I'll tell you that teachers and single moms have told me: "Well, you know what? I've had to park my car because of COVID." Of course, this was pre-September when I received this particular e-mail. This teacher is telling me: "You know what? I parked my car. I don't drive it anymore. I'm working from home, yet I still have to pay the insurance company." I can't remember exactly what it was that she was paying monthly. There her car was parked in her garage, she wasn't taking it out very often because she was working from home, yet she was still having to pay that monthly premium on that.

Here we are in the middle of this pandemic, and Albertans are struggling, and this government, instead of making life better for Albertans by making sure that the price that they have to pay for

insurance on their vehicle is more reasonable, are actually making it worse. I am basically just reiterating what Albertans are telling me, as is my job in this House.

The other thing that I can't seem to understand is: like, why would a concussion ever be considered a minor injury, and in what world does that actually help Albertans? Other than just point-blank listening to insurance companies that would instruct you to do this, who else did you consult? Who else did you consult on this particular issue, on the fact that a concussion would ever be considered a minor injury?

This bill and the associated regulations give the insurance lobby virtually everything that they've ever asked for, as I've already pointed out. So then the question becomes: why did this government cave to the insurance industry at the expense of Alberta drivers? It's something that we just can't understand.

I want to go into the specifics of the bill. Number one, this bill, as was being described by the Member for Edmonton-Gold Bar – he was talking about that it modifies the prejudgment interest. It lowers it from 4 per cent to 1.5 per cent, and interest only begins accruing to the victim when a statement of claim or written notice of a statement of claim is actually filed. Previously interest on a prospective claim's final payout begins on the day of the accident. As it often takes a year to file a claim, victims will see a significant reduction in terms of their final compensation. Why was this done? Was this yet another example of you basically just handing over to the insurance industry exactly what they wanted?

You know what? I get it. I get it. I would get that you would want to provide balance, but unfortunately what we see before us in this bill doesn't look like balance. It doesn't look like balance. It doesn't look like you're trying to – okay. Understand that on the other side of this are the Albertans that we are here to represent, and you've basically just handed the insurance industry everything that they wanted to make life easier for them so that more profits could actually stay with the companies. Right here I can tell you that according to your own report that was just released, the industry has pocketed an additional \$820 million in premiums from hard-working Albertans just this past year. Eight hundred and twenty million dollars in premiums just this past year.

Then the question that I have is, like: okay; is this truly balance, which is what I can only assume that you as a government are trying to establish by bringing this piece of legislation forward? Unfortunately, it just reeks of you just handing the insurance industry everything that they've wanted. I'm telling you that, well, at the end of the day it's Albertans that are going to be the judge, and whether you like it or not, the information is going to get out to Albertans. They're going to see exactly what is being put forward in this bill, and when it comes to understanding how you chose to move forward on this particular issue, all they're going to see at the end of the day is the amount of their insurance premium going up and up and up and up and up.

Let me paint a picture for you here. Let's say that I get rear-ended and have permanent spinal damage. I have permanent spinal damage. You know, God forbid . . .

An Hon. Member: I don't want that to happen.

Member Loyola: Yeah. I wouldn't wish that on anybody. I wouldn't wish that on anybody, but for the purposes of an example here let's say that that happens.

Let's say that it took a year to file a claim and then one year to settle, and say that a settlement is reached for \$200,000 for a lifetime of pain and suffering. Previously that final award would have accrued an additional \$8,000 in prejudgment interest before the claim was filed at 4 per cent and \$8,000 in interest during the

settlement phase at 4 per cent. Under the old rules the final payout would be \$216,000, and under the new legislation there is no interest accrued before the statement of claim is filed and only \$3,000 of interest at 1.5 per cent during the settlement phase under the new legislation in this example, and the final payment goes down to \$203,000.

Mr. Jason Nixon: I didn't catch it all. Do it one more time.

Member Loyola: Sure. I'll do it one more time for you there, hon. House leader. I'll go through it one more time just for you.

As an example, I get rear-ended, and unfortunately I have permanent spinal damage, which, as we already established, we wouldn't wish on anybody, right? Let's say that it took one year to file a claim and one year to settle, and say that the settlement is reached for \$200,000 for a lifetime of pain and suffering.

11:40

As I stated previously, the final award would have accrued an additional \$8,000 in prejudgment interest before the claim was filed at 4 per cent and \$8,000 in interest during the settlement phase, also at 4 per cent. Under the old rules the final payout would be \$216,000, and under the new legislation there is no interest accrued before the statement of claim. This is what we've established. This is what this piece of legislation is doing. Again, under the old rules the final payout would be \$216,000, but under the new legislation there is no interest accrued before the statement of claim is filed.

The Speaker: Standing Order 29(2)(a) is available. I see the hon. Member for Cardston-Siksika has risen.

Mr. Schow: Thank you, Mr. Speaker. I appreciate this opportunity to respond this evening to the Member for Edmonton-Ellerslie's comments. In particular, I'd like to address the notion that we are siding with the insurance industry, not with the people of Alberta. I had a lot of conversations leading up to the election in 2019 and through my time being the representative for Cardston-Siksika about insurance. When you talk about premiums and rates being high and wishing they were lower, you're preaching to the choir. I just purchased a house a while back, and given that Cardston had a massive hailstorm, I think, about seven years ago, insurance rates for home insurance down there are astronomical. But that's the reality of the insurance industry, so if you want to own a house, you've got to do that.

What happened with regard to insurance under the previous government was this cap that effectively put an unrealistic price on insurance, and the unintended consequences of that, as I gathered from the insurance shops in Cardston, was that it actually reduced the ability of my constituents, many of which live on the Blood reserve, to get insurance. The insurance companies were actually telling them that unless you're willing to pay for your entire year's premium up front or bundle your auto insurance with something like home insurance, they just wouldn't insure you. They just wouldn't do it. You know, insurers will tell you that they just wouldn't write auto. I kept hearing: we can't write auto. A lot of insurance companies started leaving the province, or they just weren't going to insure people in Alberta.

Now, the problem with that, Mr. Speaker, is that if we have insurance companies that won't insure Albertans with their vehicles here, someone has to fill the vacuum of that, and that ultimately becomes probably the government. I don't know if that was the intention of the members opposite when they were in government, to introduce a provincial insurance company like ICBC, but I can assure them and anybody else listening that that is a bad idea. ICBC

is not a good insurance program and not something that we want to adopt here in Alberta.

Because a number of my constituents, particularly on the Blood reserve, don't own the property that they live on, they are unable to get car insurance. They were rejected an opportunity to get car insurance because they also couldn't front the money for a full year of premium. This is actually prohibiting people in Cardston-Siksika from getting a vehicle. Now, I understand that the previous government had suggested that many Albertans walk or take the bus, but that is actually not a realistic suggestion in the remote parts of Cardston-Siksika. If anyone is interested in coming down and visiting that area, we don't have a bus system. I encourage you to visit Cardston-Siksika. It is a beautiful area, part of this country.

Mr. Williams: Hear, hear.

Mr. Schow: Thank you, to the Member for Peace River, a real mensch over there.

I encourage you to visit God's country. It is a place where you will find the greatest, most spectacular views, I think, in the province. Maybe we can argue that with the Member for Banff-Kananaskis, and I see another member. Everyone seems to be raising their hands. I guess this is also a matter of debate, Mr. Speaker.

The point is this. We are not siding with insurance companies. We are siding with Albertans. If there is not a profitable market in Alberta for insurance, insurance companies will leave, and we as a government will be forced to introduce a government insurance company. That, I believe, is what the members opposite want. Now, again, I don't want to assume too much, but it's a bad idea.

Mr. Kenney: They said it.

Mr. Schow: They said it?

Mr. Kenney: It's their formal position on it.

Mr. Schow: Okay. All right. Well, it's a bad idea. Hate to break it to you.

In my job as a representative for Cardston-Siksika I'm bringing to the Chamber the will of the people in the south; that is, they do not want a government-run insurance company. What they want is choice. Choice is good. Choice is good for the market. Choice is good for the consumers.

If people have a bad driving record, their insurance rates and premiums will go up. Now, you're looking at a guy, Mr. Speaker, who has an impeccable driving record. My kilometres on my truck, over 6,000 a month since being elected, will show you without a single accident that I have a good driving record. If I don't have one, my rates will go up, and I'll be forced to pay those, and that's the free market.

The Speaker: Hon. members, that concludes... [interjections] Order. Order. That concludes the time allotted for 29(2)(a).

We are back on the main bill. The hon. Government House Leader has the call.

Mr. Jason Nixon: Well, thank you, Mr. Speaker. Thank you to everybody for lots of good work and progress this evening. I move that we adjourn debate on this bill, but before I do that, actually – I've changed my mind; I don't want to move that yet – I do want to point out that each day in question period this week the Official Opposition has called on the Finance minister to do something to be able to deal with insurance rates in the province. Now we have a piece of legislation that's been in the House for several hours, and

the Finance minister continues to call on the opposition to pass this legislation. Hopefully, when we come back, if the NDP is serious about lowering insurance rates inside the province, they'll pass this all. We'll even do it in one day, Mr. Speaker. You can let them know that for me.

With that, I will adjourn debate.

[Motion to adjourn debate carried]

The Speaker: The Government House Leader appears to be very anxious. Perhaps he is looking to adjourn the Assembly this evening.

Mr. Jason Nixon: I think that's probably the plan, Mr. Speaker, so I'll move to adjourn the Assembly until tomorrow at 1:30 p.m.

[Motion carried; the Assembly adjourned at 11:47 p.m.]

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