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Second Session

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Day 132

The Honourable Nathan M. Cooper, Speaker

Legislative Assembly of Alberta The 30th Legislature

Second Session

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Legislative Assembly of Alberta

9 a.m.

Thursday, November 25, 2021

[The Deputy Speaker in the chair]

The Deputy Speaker: Good morning, everyone.

Prayers

The Deputy Speaker: Lord, the God of righteousness and truth, grant to our Queen and her government, to Members of the Legislative Assembly, and to all in positions of responsibility the guidance of Your spirit. May they never lead the province wrongly through love of power, desire to please, or unworthy ideals but, laying aside all private interests and prejudices, keep in mind their responsibility to seek to improve the condition of all. May Your kingdom come and Your name be hallowed. Amen.

Please be seated.

Orders of the Day

Government Bills and Orders Committee of the Whole

[Mrs. Pitt in the chair]

The Chair: Hon. members, I would like to call Committee of the Whole to order.

Bill 82

Mineral Resource Development Act

The Chair: This is the first time in committee. Are there members wishing to join the debate? The hon. Member for Calgary-Buffalo.

Member Ceci: Thank you very much, Madam Chair, for the opportunity to speak – I think this is my first time – to this bill in Committee of the Whole. What I don't know about rare-earth minerals could fill many more books like this or acts like this, but I know we're not talking about the band Rare Earth. I know we're talking about a burgeoning resource that needs to be considered as a great economic diversification opportunity because of their presence in our geography, in our landscape. With that said, I'd like to consider some of the things that are in this bill with you this morning. I, of course, know that the opportunity to be part of rare-earth minerals extraction is one that we should consider and that this bill, Mineral Resource Development Act, allows the framework to be established for that opportunity to be realized.

The parts in this bill, of course, depend a great deal on defining what will be done with the potential extraction of rare-earth minerals. The parts of this bill, particularly parts 2 and 3, talk about significant protective requirements for this extraction to be done safely, safely not only for human life and habitat but safely for the environment as well. For that, I can say that I'm all in favour.

We, of course, know that these kinds of minerals will form a more important part not only of our economy but of the production of necessary equipment and, I guess, instruments and other things going forward, and Canada and rightly this province should be a part of that. There are parts of the world that have jumped on this before the province of Alberta and the government of Alberta; nonetheless, that is what's taking place. We know that it's vital to diversifying our economy and moving forward, particularly to a net zero future, and Her Majesty's Loyal Opposition is certainly talking about a net zero grid for electricity in the future.

With regard to minerals like this, we're really at the early stages of development, and this bill will assist in that development taking place, as I said, in a safe and a sustainable way. We're only at the early stage of this development, and, you know, this appears to be a reasonable first step if we want to become a leader in this sector. We need, of course, government to make the diversification priority moves that are necessary to make this happen, in order to take advantage of this economic opportunity quickly, but we on this side would appreciate and I think all Albertans would value a greater transparency in making that happen. If we're talking about generally the area of mining, we've seen challenges with this government being up front with Albertans about those opportunities. In fact, we were quite surprised when an Australian company made deals that, if allowed to be realized, would seem to strip-mine parts of the southwest Alberta Front Range, and that, of course, is unacceptable to Albertans.

Diversification, however, as this bill endeavours to outline, is in everyone's best interest. The wide variety of potential critical elements that are part of this bill's framework are, as I said, mind-boggling. There are numerous elements that the regular Albertan probably doesn't even realize are present in our environment but nonetheless are and need to be thought of as an opportunity going forward that other parts of the world don't have. We have the wherewithal in this province, dating back probably 70 years or more, where we have undertaken significant industrial recovery of oil, of bitumen, to make that happen. Those same skills and abilities of our companies in this province and the capacity of the talent of individuals in this province can be no doubt utilized in the recovery of mineral resources like the numerous ones that are before me on this page and that I hesitate to set out because there are just so many.

Rare-earth elements, of course, are a set of 17 metallic elements. Though they're not especially rare, they tend to occur together in nature and are difficult to separate from one another. As I said, we have the wherewithal and skills through our oil and gas sector to be able to do that, no doubt. Just thinking back to the huge problems that were identified by many people who saw coal and strip mining of coal as a problem to our water system, I am concerned, of course, that in the recovery of rare-earth minerals we don't also pollute our environment. We need to be sure that the environment is safeguarded from the processes that are used to recover those elements.

Those are some of the things that, if you look, this bill tries to outline and put some borders around. For that, I am pleased to see them here. I think the people who took time to write this bill have considered many of the possible problems in advance and not only go to mitigate those in outline in this bill but will look to regulations to further identify how they can do that. I, on this side, believe that the regulation functions of this opportunity need to be properly handled and more transparent, as I was saying before.

9:10

It would have been useful – and perhaps the minister did this at second reading – to hear the feedback from the consultations with individuals who were consulted to put together the act in general and to find out: what was the outcome of consultations with Indigenous First Nations who likely will be among those people particularly impacted as a result of the exploitation of these minerals over the long term?

This governance structure, as defined in the act, harkens back to other acts, of course. I think the Oil and Gas Conservation Act and the regime identified in it is how this particular act was developed or mirrors it. Of course, the Alberta Energy Regulator, if they don't already know, will probably need to do, just like I am, some work to better understand the place that rare-earth minerals have in our

society and, going forward, what are the best practices in terms of the mining of those so that we have all bases covered, Madam Chair, with regard to the potential impact that those have on the environment, on people, on other things in our environment.

I just want to finish in a minute or two and say that the recently published mineral strategy, the basis of this act on that, is useful to look at. I encourage all Albertans to do the same thing so that we can together move into a future with regard to the mining of resources like this as we transition to a lower carbon future. The technical information supplied by officials, I think, can be found in part in that mineral strategy. Of course, we know that many have predicted that the production of these kinds of minerals will grow exponentially in the years to come, which points to, as I said and started out with, diversification going forward, which will hopefully have a lesser impact on the people and places and environment in this province.

I am concerned around the changes to AER. I think that as part of the work that the other side was doing, there are significantly fewer human resources at that place, and I'm just wondering. My question would be: does that bode badly for the ability of AER to do the regulation that's necessary, particularly if the World Bank is correct that the increase in production of these minerals will grow substantially across the world, including here in this province? If we don't have the human resources necessary to do the regulation, then I think Albertans would rightly say that there is a gap between what we want to do safely and what possibly will happen in reality.

I just want to make sure I've covered all my points off, Madam Chair, at this point in time.

As I say, I'm excited about this because it's a real opportunity to shift away and to utilize those people and companies in another direction and provide a real opportunity to pick up where there are some challenges in employment and companies being able to continue to exist in ways because they have suffered through the recession. They have suffered through the reduction of petrochemical use as a result of COVID, and if they can shift and take advantage of something that utilizes their abilities, Madam Chair, in a new way, in a new industry, just like the '40s and '50s did in this province, when Leduc No. 1 was brought in, that would be beneficial for all Albertans. We know that there are many, many skilled Albertans that are out of work at this time, and to be able to use their skills in a new, exciting area, with new capital coming in, to see companies stand up to take advantage of something that's going to be with the world for a great deal of time is an exciting proposition.

Our critic, of course, is supportive of this bill but with some cautions. Those have been laid out in media reports. Speaking of media reports, I'm aware that many validators, people in the area of mineral resource development, have been supportive of the province going in this direction, as we would have gone in the same direction, no doubt, in a similar place.

Those are some of the things, Madam Chair, that I felt needed to be put on the record, and I'll take my seat. Thank you.

The Chair: Are there any other members wishing to join the debate? The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Well, thank you, Madam Chair. It's a pleasure to have the opportunity to rise and speak to Bill 82, the Mineral Resource Development Act. Now, I think, as many have noted in this debate, there is indeed a real opportunity in front of us in terms of critical minerals and rare-earths here in the province of Alberta. We have the opportunity to start another industry perhaps and

indeed advance some technology and perhaps technology that can be of use around the world.

Rare-earth elements: talking about 17 different metallic elements that are essential parts of a lot of high-tech devices. Certainly, we know that those are in high use. It's only going to increase, and there's going to be greater need for these and the critical minerals, which is sort of a catch-all term for a lot of metals and nonmetals that are vital for economic well-being because, frankly, they are the building blocks of a lot of the digital and net zero economies. We know that as we are moving towards a carbon-constrained future and a reduced use of fossil fuels, we do need to see some much larger production of many net zero technologies, and that is going to require a greater use, then, of rare-earth materials and these other minerals.

The opportunity here in the province of Alberta – we do have geological resources of some of these, and there is opportunity for us, then, to build this industry here in the province as part of our ongoing work to diversify. Certainly, we welcome legislation in place to help enable that and allow that work to take place and clarify how that will be governed and regulated.

Now, currently in Alberta most of what we are extracting, to my understanding, comes from sand and gravel deposits, but there are other opportunities. Resources like lithium are found in the brines, as others have noted, that come from the oil and gas industry such as in the Leduc reserve. Essentially, it's in the leftover waste water from those reserves, so we could, theoretically, pump up that water, filter out the lithium, and then put it back into the reserve. Now, one of the reasons, as I understand, of course, myself not being an expert in this field but having done a bit of reading and research, is that we need a specific regulatory regime. We need important rules and controls in place because the extraction of those brines can have a relatively high land impact, and it can have a high land impact while, in fact, yielding a fairly low amount of the actual resource because the concentrations are not that high.

9:20

Nonetheless, we have an opportunity here, and it's been great to see that we do have some Alberta companies who are already stepping up and working to advance technologies that could indeed provide perhaps some alternative ways of extracting lithium that would have less land impact, technology that we could potentially sell around the world.

I would note that we have a couple of gentlemen. Geochemist Dan Alessi – he's a professor in the department of earth and atmospheric sciences at the University of Alberta – and his partner, Mr. Salman Safari, who's a former postdoctoral fellow, have spun off their technology that they developed for the extraction of lithium from oil field brines, developed right here in Alberta, to a start-up called Recion Technologies.

Now, the traditional sources of lithium, as I mentioned, are often found in the hardrock mines around the world or are found in brine pools in areas like South America, but it's been very environmentally intrusive for them to extract. What they are developing now is a new technology, using nanotech, which will make that process easier and less intrusive.

They've been working with some other start-ups here in western Canada as well, and it's looking promising on the work there. That again is part of the Alberta start-up tech innovation ecosystem, where we have folks that develop incredible research at places like the University of Alberta. They find ways to commercialize that, and it's spun off into these kinds of companies that indeed can develop technologies that are used around the world.

Now, of course, part of that work is in jeopardy under the deep cuts that the University of Alberta has certainly seen under this

government, but it's our hope that we'll be able to see some of this work continue.

I will note that there's another Calgary company that is also working in this field. I've lost my notes on that particular company. Ah, here we go. This is another company as well that is doing that work, Summit Nanotech, which is also working on the question of how we can more effectively and with less impact extract lithium from oil sands brines.

These are the opportunities that are in front of us, and that is what this legislation is meant to enable and allow to go forward and perhaps build further economic diversification here in the province of Alberta that will indeed feed into the high-tech industry and indeed help support the growing net zero economy, which Alberta has so much opportunity to take advantage of. So, again, I think that in general we are supportive of this bill in terms of the direction it's going and what it's attempting to do.

Now, we do have some questions, however, about the bill itself and some of the perhaps concerning gaps. One question certainly is around: what level of consultation, in fact, occurred specifically with Indigenous communities in the development of this bill? Now, it is my understanding, again, that with this bill we do not have any form of a what-we-heard report. We don't have anything from the minister indicating what she, in fact, heard from those she consulted with or indeed who she consulted with in the development of this legislation. Indeed, it's perhaps troubling, then, because we look at it and nowhere in this bill do we see any mention of the need for section 35 consultation with Indigenous communities on these mineral projects.

Now, I had the opportunity this week to visit Fort McMurray, and it was a short trip but a good one. I had a chance to meet with a number of different stakeholders there to talk about different health care issues, and I did have a chance to have meetings with both Chief Allan Adam of the Alexander Cree First Nation and with Kendrick Cardinal, newly elected councillor in the region of Wood Buffalo and also the president of Métis local 125. In particular, in speaking with Chief Adam, he shared some of his concerns about ongoing potential health effects from downstream contamination from oil sands development.*

Now, this was something that had to be examined over a number of years. There was a great resistance to the work that was done, the medical studies that were conducted, a lot of pressure put on the doctor that was conducting those studies, but it certainly found that there is a higher incidence of particular kinds of rare cancers amongst the folks in Fort Chipewyan and other members of the Alexander Cree. Chief Adam expressed his concerns about that and the ongoing need to provide the medical supports for the people in the community and to support the ongoing studies and research to determine what the other effects may be.

So when we have, again, a situation where we're enabling a new form of extraction or indeed looking to regulate so that we can empower and allow more of it to occur, it seems that we should in fact be consulting with the First Nations who may be impacted, First Nations who have expressed concerns in the past that they have not been included or that they been impacted without consideration. Again, in this legislation we do not have anything indicating that that would be a requirement despite the presence of that need in section 35.

Along the same lines we do have questions about whether the minister has done specific analysis on the potentially increased impact of critical mineral mining on landowners. Now, we know that we certainly continue to hear and I know many members of this Assembly hear from folks in their constituencies who are landowners who have been impacted by various types of resource extraction on their property. They continue to express frustration

with the process, particularly through the AER, and feel that they are not given proper redress, that, in fact, there are too many opportunities for the folks who have done this extraction, who have left infrastructure on the property to be able to evade and dodge their responsibilities to clean up after themselves and mitigate the impacts on the land.

When we are looking out to enable a new kind of lease that will allow for further work, which, again, as has been noted, can have high land impact, I think it's an important question to ask. How much analysis has the minister, in fact, done on the potentially increased impacts on these individuals and on this land? Again, we don't have any information in front of us, as we consider this legislation, as to who the minister has spoken with, what feedback she heard that has fed into the creation of this legislation, and what steps she has in fact taken to ensure that the protections are going to be there for Indigenous communities or for landowners as part of this process through the AER.

This is particularly so when we consider the situation currently with the AER. I mean, in principle, absolutely, I agree, Madam Chair. It seems absolutely reasonable that the AER would be the ones to regulate critical minerals and rare-earths. It makes sense. They already are the ones who regulate other forms of resource extraction in the province. It makes sense that this would fall under them as well. However, given that this is a new and growing field, that this is one that is likely to expand, likely to include new technologies as they're being developed by Alberta companies and others, we have to ask: does the AER have the resources they're going to need to be able to address the increased workload that will come across their desk as this work gets done? The reality is that since coming into office, this government has fired around 300 employees at the AER. That's close to about 30 per cent of the staff at the AER. Thirty per cent: that is no insignificant amount.

Now, to be clear, there are many people who already were feeling that the AER was not exactly moving at the speed of business. We have heard concerns from the industry, we have heard concerns from landowners, others about the processes and the time that it has taken. This government has now cut their staff by 30 per cent and now is going to give them a whole new suite of regulations to enact and enforce and approve.

Again, we certainly support that this is an area that needs to be regulated. We support that this is an industry that should be developed here in the province of Alberta. This is an opportunity that we should be exploring for many reasons: the economic possibilities, the development of technology, the opportunities this offers to increase the use of digital technologies, and to expand the production of net zero products and technologies. However, if we are going to expand the responsibilities of the AER, we have to make sure that they have the funding and indeed the human resources that are needed to be able to manage this properly. Otherwise, what we're going to end up with is a regulatory body that has increasing responsibilities, less and less resources to be able to do that work. And what that means, then, is there is more risk for the landowner. There is more risk for the Indigenous communities. There is more risk for Albertans in terms of protecting our environment.

9:30

That is yet another question that we would be interested to hear from the minister on. What conversations has she had with the AER about what resources are going to be needed? Has she done an analysis of what additional staff – what is the workload going to be created with this? How does she expect that to grow over time as this industry develops, as we see further investment and growing interest in expanding this field? Has she indeed calculated whether

* See page 6497, right column, paragraph 6

this is a workload that is possible under the AER currently and whether it still will be in four or five years down the road as this industry continues to grow and develop?

Indeed, I think we've had many conversations in this House, and certainly both sides of the aisle have stated they are committed to growing and diversifying Alberta's economy, finding new opportunities. But with that, Madam Chair, does come the need to make investments and ensure that we have protections in place. There is an important role for government to play here, and again, I support the fact that the minister is recognizing that in bringing forward this legislation. However, we do have some concerns that there are perhaps some missing pieces here or at least missing pieces until we have seen some further information, which the minister may in fact have but which hasn't been presented in this House as of yet.

Certainly, we are here in Committee of the Whole, and there is certainly that opportunity for the minister to rise and share or have one of the members of her caucus provide more of that information about the context. Again, what we have seen often with this government is we see a shell of legislation with some vague intents but very little information about how it's actually going to be enacted and moved forward. Now, this piece of legislation is not as, shall I say, egregious as some others in that regard, but certainly we have questions that remain. I look forward to the opportunity to perhaps hear from the minister or other members of the government caucus on those questions as we continue with debate.

Thank you, Madam Chair.

The Chair: Are there any other members wishing to join the debate? The hon. Member for Edmonton-Ellerslie.

Member Loyola: Thank you very much, Madam Chair. It's a pleasure to get up and speak to Bill 82, Mineral Resource Development Act. Of course, it's exciting that we have a piece of legislation like this, that will get us started and moving towards greater diversification here in the province of Alberta. There's so much that can be expanded upon here. There are so many opportunities, so many areas when it comes to mineral extraction that can actually help in getting us there in terms of new technologies.

It is a pleasure to see a bill like this come before us, but of course it is lacking in some places. There is an opportunity in critical minerals and rare earths in Alberta, but the government has underdelivered on a strategy for the mineral sector. A regulatory regime is an important step in moving the sector forward, but it is clear that diversification is not a priority for this government.

The bill leaves too many key questions and details to regulations or the AER to develop later; for example, how conflicts between different subsurface rights will be addressed. That is to say: what happens if there is a conflict between an oil tenure and a lithium tenure? It is unclear how the AER will deal with the additional responsibilities after all of the layoffs that have happened at the AER, that the Member for Edmonton-City Centre was just bringing to our attention. It is also troubling that there is no articulation of the need for section 35 consultation with Indigenous communities on mineral projects. Again, similar to one of the bills we were discussing yesterday from the minister of environment, we have yet another example where true reconciliation and involving Indigenous communities seems not to be of importance to this government, especially when it comes to how this will impact some of the communities and, more importantly, the traditional land-use areas of Indigenous people here in the province of Alberta.

It's troubling that here again, you know, we have a Minister of Indigenous Relations that swears that he's doing everything he possibly can for reconciliation, yet just in the past two days here we

have coming before us two bills. This one, again, specifically: absolutely no mention of how Indigenous people are going to be consulted when it directly impacts their lives. I call on this minister to actually put some time and effort into discussing with the rest of the cabinet how reconciliation can actually take place, especially when it comes to all matters before the government. It's not like you can just say that you're doing it and plant the tree and then everything is fixed. It's a lot deeper than that.

We have to understand that only if the regulator functions properly can industry function properly as well. It is clear that we can't trust this government or the UCP in delivering on energy diversification after the embarrassment that is, of course, the war room and their attempt of opening up the eastern slopes for coal mining and losing \$1.3 billion of Alberta's taxpayer dollars on the Keystone XL.

I have a few questions that I would like to bring, but before I'll just kind of go over exactly how I understand what this bill is actually doing. From my understanding – and correct me if I'm wrong, any other members on that side – the act establishes a governance structure for mineral resources as defined in the act. It translates sections of the Oil and Gas Conservation Act into a regime for our mineral resources. It clarifies that the AER is the sole regulator of the mineral resources. It clarifies that different minerals are separate tenures, different from geothermal, where geothermal rights were included in existing subsurface leases. The act covers hard rock and brines and, in many cases, parts relevant to wells applied to brines and the mines section applied to hard rocks. It allows the AER to make rules for obtaining licences and the transfer of licences, liabilities, abandonment, remediation, and transfer of liabilities related to mineral resources, also mineral tenures related to mineral resources, and then, of course, entry onto land.

It does not apply to coal mining. That is regulated by the Coal Conservation Act, of course. It amends the Geothermal Resource Development Act to allow holders of rights to minerals to similarly own rights to geothermal resources where they have licences as oil and gas producers. It also amends the Natural Resources Conservation Board Act to include mineral resources as defined in Bill 82. It amends the Responsible Energy Development Act to enable the AER to regulate mineral resources. Unlike in the Geothermal Resource Development Act tenures, mineral resources are not included in other subsurface tenures. Tenures have to be acquired independently from the AER, and how subsurface conflicts – for example, if there are oil and gas resources and mineral resources in the same place, how is that going to be dealt with by the rules of the AER?

While the AER seems in principle like the correct regulator for critical minerals and rare earth, how the AER will be able to address the increased workload is of predominant concern to us on this side of the House. As the Member for Edmonton-City Centre was sharing with us, 30 per cent of those working for the AER have been laid off, yet here we are increasing the workload for the AER. This is something that needs to be taken into consideration. How is it that we're going to be able to address that particular challenge, or how is it that you expect the AER to deal with an increased workload when you've already laid off more than 30 per cent of them here in the House?

9:40

The other aspect – and, again, I can't stress this enough to all of us members in the House. You know, sometimes when I hear the Minister of Indigenous Relations get up and speak inside the House, it almost seems as if he treats all Indigenous peoples as if they were just one homogeneous group, like they all think the same way. Of course, within Indigenous communities you have a wide diversity

of opinions, approaches, and one of the biggest problems that I have is the fact that – I understand that together we need to move Alberta into the future, but you can do that while at the same time you are respecting culture, language, and tradition.

What I never hear from the mouth of the minister is the fact that Indigenous language and culture is so attached to the land, so when we see a number of bills come before us where Indigenous people haven't even been consulted at all and it directly impacts the land upon which Indigenous people live, well, then this is incredibly troubling. It's incredibly troubling because, again, we're going back to this paternalistic relationship that has always existed between the state and Indigenous people or, even before Canada was created, the Crown and Indigenous people. When we talk about reconciliation, it's about directing our attention and changing how that relationship is, yet here again we have another bill before us and not a word – not a word – from the minister on this.

It's troubling. It's troubling that here we are again. It's 2021, yet the relationship hasn't changed when it comes to this government and the way that Indigenous people have been treated throughout history, almost, like, always consistently being thought of as an afterthought whereas the agreements, the treaties that have been established between nations and the government are always an afterthought. That's why when you talk to especially Indigenous people that hold more of that traditional perspective and the way that traditional people see themselves living on the land, they'll say to you: well, those treaties have never been honoured. Those treaties have never been honoured.

It's a complex situation, but I can assure you that how the government has approached reconciliation is absolutely not the way that we should be doing it. I say "we" because I'm talking about this Legislature, of course. I would really ask all, this entire cabinet, to take a second look at how, when they take approaches on things, to at least really give some thought about how Indigenous people are going to be consulted. Put that in the legislation. Actually put it in the legislation because, of course, when it comes to reconciliation, we're taking our leave from the United Nations declaration on the rights of Indigenous peoples, where Indigenous communities have to provide that informed and prior consent to any of the work that's being done that is going to directly impact them.

As the minister rightly knows, yes, because of treaty and everything like that, there were reserves established, but the traditional land-use area of many Indigenous peoples is so much larger than the reserve upon which they have been allocated by the state throughout history. This is something really important because as we continue to move into the future, continue to address the issues of climate change, how we approach that and then specifically when it comes to mineral extraction, it's also going to impact those communities.

Another aspect is that we are hearing a lot of concerns about liabilities from landowners. From my time on the Standing Committee on Resource Stewardship even from when we were in government, I remember hearing a lot about these particular issues and conflicts that would arise between specific industries and farmers and who actually has access to the land and how that actually happens. [interjection] Thank you, Madam Chair. This is something that we need to make sure that we get right because, of course, as I expressed before, too many of the regulations – how the AER is going to actually approach particular issues on this, about how the conflicts between different subsurface rights will be addressed, is of importance and also important to landowners. Another aspect is: has the minister done an analysis on the

potentially increasing impact of critical mineral mining on landowners?

I'd like to just take an opportunity to talk about the impact that, for example, an open-pit mine could have on a particular community. In relation to Indigenous communities I'll just share this with you. I remember when I was in university, I had an opportunity to meet this lawyer from Peru who was visiting Canada, and he was specifically coming to talk about the impact that a Canadian mine was having on an Indigenous community in Peru. The place that he was coming and representing was a place called Tambogrande. This Canadian mining company had decided to go down there. They were doing extraction of several minerals, but among them was a nickel mine.

9:50

Of course, the Canadian mining company: what they did was they found that specifically under the town where the majority of these Indigenous people were living was the place where there was the most to be extracted. Before the Canadian mining company even decided to actually go in, they had to figure out what they were going to do with the population. Of course, they decided: okay; well, we're just going to offer these people to just move. But, again, as I was sharing with the House, the way that Indigenous people relate to the specific land area mass where they are is not as simple as just picking up and moving. Regardless of that fact, well, the Canadian mining company went in and started building houses in another area, but the town was split. The town was divided. Some of them acknowledged that, yes, this was going to bring at least some aspect of prosperity to some, but others it was going to impact greatly and they weren't going to be winning from this opportunity.

Again, I point to the fact that you can't look at a community as just being homogeneous and that if you got the go-ahead from chief and council, it doesn't necessarily mean that you have the go-ahead from the entire community. Sometimes the communities are split, and we actually create a fissure between the people in the community. In this particular case, well, they actually ended up going to a referendum on whether they should move the town or not. Of course, the community being completely divided, the noes actually won. They didn't want to move the town for the mine that was going to be built there, which was going to be an open-pit mine. Madam Chair, these are the aspects that . . .

The Chair: The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Thank you, Madam Chair. I just wanted to rise briefly to apologize and correct a misstatement that I made on the record. It's a bit embarrassing to admit, but I believe it's better to be honest with one's mistakes, and certainly in the spirit of reconciliation I wanted to apologize. In my speech I misspoke. In reaching for words, I referred to Chief Allan Adam as the chief of the Alexander Cree First Nation. Of course, that is absolutely incorrect. He is the chief of the Athabasca Chipewyan First Nation. I sincerely apologize for my error and certainly meant no disrespect.*

The Chair: The hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Madam Chair. I appreciate the opportunity to speak to Bill 82. As with many of the bills in this House, I find myself supporting the intent and being worried by the lack of depth. Let me just start by saying that I fundamentally agree with the statements being made in this House about the importance of some of these rare-earth minerals, the metallic minerals that are being covered in this particular bill, in our future life. We certainly

* See page 6495, left column, paragraph 4

are in a time of significant transition. We know that, you know, we are moving toward a very different future with regard to energy and energy storage and so on. We've had many discussions about that in this House. It seems to come up every day. I see the government trying to make some moves in the right direction, so again I want to start, as I have actually a number of times over the last few weeks, with saying thank you for your intent; thank you for the direction you're going.

I certainly want to support a movement to begin to look at what the place of metallic minerals is in our future here in this province and what we can do to make sure that we put ourselves in the right place to be strongest in the economy of the future and not always trying to re-achieve the economy of the past, which I'm afraid this government sometimes spends too much time focused on. You know, we will do best moving forward if we have a complex economy that is diversified in many areas and that uses the skills that we know best, so as a result I am happy to see bills like this come forward that understand that we can make a shift without abandoning oil and gas, without sort of giving up on our past, knowing it will always be part of our future, but by making it more richly woven so that the vagaries of the markets and the changes that we are experiencing in the world in general do not have such a dramatic impact on our well-being in this province, as they have had over the last number of years, and that we can demonstrate greater resilience in the face of ever-changing circumstances.

I will not spend a long time on my conversation this morning, as I see we only have a little bit of time left for this particular discussion, so I will essentially summarize where I am going to go when we have an opportunity to speak more, and that is on four issues with this bill that I hope to address in detail in further discussion in the House. Those four issues are simply pieces of learning that I would hope that the government has had from just looking back at what our experience has been in this province, both with our legislation and with our attempts to implement legislation and its effect on the citizens of the province. Those four areas are a discussion about land rights, a discussion about reclamation processes, a discussion about Indigenous consultation, and a discussion about water health. You know, I just briefly want to put those on the record because I think those are the things that we need to have deep discussions on, and this bill is an appropriate place to put them.

Over the last, you know, 40 years in this province we have had experiences of trying to move legislation forward that have resulted in serious conflict with our own citizens. Each of those four areas that I mentioned there have a history in this province, and I would love to see legislation that reflects the learnings from those historical events and from the conflicts that we've had to endure because perhaps in the past we were unaware of the potential of conflict to arise or perhaps we were too narrow thinking to respond to those potential conflicts before they did arise. As such, I would certainly like to see this government include in a bill of this nature something that addresses these issues.

Now, in the past we certainly have had some significant conflicts with regard to land rights between farmers, for example, and oil exploration, between ranchers and farmers and the development of infrastructure such as electrical grids and so on, so we have some lessons that we can take from that and that we can put in a bill of this nature to pre-empt conflict before it arises. I would love to see a section of this bill that addressed land rights even to a simple extent of re-affirming some of the other pieces of legislation which have been developed to address the protection of farmers and

ranchers and other people in the rural area. You know, that's also, of course, true of Indigenous consultation for very much the same reason. I just want to make sure that we don't find ourselves in conflict in the future, that we don't have protests on the land, that we don't have people coming and saying that their government is ignoring them because they're trying to support some kind of industry, and this is a great time to do that.

10:00

When we come back to it, of course, I'll also talk about reclamation and about the fact that if we are going to do things, we need to understand that there are likely to be consequences in terms of environmental impact, that we should start now to ensure that environmental impact is minimized as much as possible and that the process of reclamation is inherent in the allowing of people to engage in an activity, that we don't wait until after they've engaged in the activity to begin to ask them about their role in that reclamation, that we declare that if you're going to go into this work of doing metallic mineral extraction, you are committing yourself now to reclamation. You know, we only have to look at our very serious orphan well problem in this province to understand that this is a problem.

Finally, as I just wrap up my words, I will be addressing the issue of water health. Many of these metallic minerals are embedded in brine and/or extracted with the use of water. We are going to need to have some very serious regulations about that so that we do not have contamination of water sources, so that we do not have mixing of brine and fresh water, and that any incidental situations of contamination are immediately resolved and do not become an ongoing threat to the citizens of the province.

With that, I look forward to future debate when I have a bit more time to have the conversation in my speech today.

Thank you.

The Chair: Are there any other members wishing to join the debate?

Seeing none, I will call the question.

[The clauses of Bill 82 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. Member for Lethbridge-East.

Mr. Neudorf: Thank you, Madam Chair. I move that the committee rise and report Bill 82.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Hunter: Madam Speaker, the Committee of the Whole has had under consideration a certain bill. The committee reports the following bill: Bill 82.

The Deputy Speaker: Does the Assembly concur in 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
Third Reading
Bill 76
Captive Insurance Companies Act

The Deputy Speaker: The hon. Minister of Finance and President of Treasury Board.

Mr. Toews: Well, thank you, Madam Speaker. I rise a final time to speak about Bill 76, which is intended to create new insurance options for businesses and associations to support jobs and economic growth. Bill 76 lays the groundwork for an entity to establish their own captive insurance company. Expanding insurance options in the province is intended to assist businesses in dealing with rising costs and in some cases a lack of coverage. Captive insurance could help any business that is underserved in the current insurance market, particularly those undertaking large-scale projects. This would include single business entities or members of an association.

Madam Speaker, this legislation proposes to add another dimension to our financial services sector, further growing and diversifying the Alberta economy. That's why in the spring we'll put in place rules and regulations to ensure captive insurance companies will operate according to sound financial and corporate governance principles. This means that captives would be subject to appropriate standards on liquidity, minimal capital, and other prudential and investment requirements. Directors of a captive insurance company will of course have a legal obligation to supervise the management of the business and affairs of the company, employing the services of professional auditors, actuaries, and attorneys.

Finally, like any other insurance company, a captive would be regulated by the superintendent of insurance. With this regulatory framework we will ensure proper market conduct of captives and help prevent any potential harm to relevant industry and consumer interests.

Madam Speaker, creating more flexible insurance options is one of the ways we're making Alberta a great place to do business. We're only the second province in Canada to allow captives, and, as we know, many Alberta and Canadian companies already have captives abroad. It's time to bring that business and capital home.

It's also imperative that we enable solutions for businesses currently underserved by the traditional insurance market. The Captive Insurance Companies Act represents a prudent step in the midst of a current hard insurance market, when some of our key economic sectors are unable to move on significant projects or investments because of a lack of insurance options. Our captive insurance legislation will create additional insurance options, and it will be an important step in the effort to position Alberta as the place to invest and do business.

Madam Speaker, with that, I move third reading of Bill 76, the Captive Insurance Companies Act.

Thank you.

The Deputy Speaker: Are there any other members wishing to speak to Bill 76? The hon. Member for Calgary-*Buffalo*.

Member Ceci: Thank you very much, Madam Speaker, for the opportunity and to the minister for addressing us in third reading as he did in second reading. We learned a great deal about the plans of government with regard to this bill at that point in time. Just to go over some of those things and perhaps raise some outstanding questions still remaining in my mind.

I certainly appreciate that the hard market has caused some difficulties for various sectors in our economy to appropriately

source adequate-costing insurance, and where that company has risks that they can't adequately get insurance for, the captive market, a company that they spin out themselves, seems to be the direction that is necessary to ensure that all Albertans are protected from potential catastrophes or other things caused by that company and that there are adequate funds in the captive to make sure that the risks are dealt with so that Albertans can be assured that they're not going to be impacted long term by the potential catastrophe or other loss that takes place from that initial company. We know that the energy sector will probably be one of those sectors of our economy that takes advantage of captives and that they will potentially domicile those captives here as opposed to other places in the world, including B.C.

Just when I hear about the framework that's getting put in place, I wonder about some of the regulations, some of the processes that are outlined in the bill on pages 12 and 13 in particular, and how well staffed up we are to make sure of the minister's opinion in terms of things like sections 12(1) and (2) and then on to section 13, division 3, fundamental changes. I just wonder how much volume there's going to be. Initially probably not a lot as captives start to get set up and stood up in this province after the spring, as I understand it, of '22. But there are a lot of, I guess, policies and procedures that are going to necessarily have to be put in place, probably within the Finance department.

10:10

The question I would have is that once those captives – there are 21, apparently, in B.C. – get stood up in this province, are we going to have the necessary people to be able to provide the expert reviews that are necessary and then share that review with the minister so that he can make a judgment and an opinion on the various activities that the captives will get into? For instance, will the superintendent of insurance and the staff there be able to provide the minister with all the necessary advice in a timely fashion so the actions of captives can, in real time, be understood and reported on by the minister, who'll then go back to the captive and give the opinion?

For instance, captives will be subject to any restriction on its investments, and it says in 12(1):

provided that the Minister may

- (a) prohibit or limit any investment by a company, or
- (b) direct a company to divest itself of all or part of any investment

and it goes on to say,

that, in the Minister's opinion, imperils the capital adequacy or liquidity of the company.

That capital adequacy and liquidity will be necessary to be able to properly backstop the insurance needs of the parent companies that we're talking about.

That's a question that I have, and the sense I make is that every investment by a captive will have to have some prior approval by the minister before it is made, and I just wonder about the ability of timeliness. I wonder about the expertise of the superintendent of insurance and their staff to be able to assess properly the various investment instances of captives, that could be numerous once this bill is passed and proclaimed and once the government moves forward with all of those aspects of the regulation that need to be in place.

Of course, part two of ministerial approval being necessary talks, in 12(1), about the captives not being able to "make, give or enter into investments, guarantees or other transactions until it obtains prior approval of the minister" and

- (b) provides the documentation evidencing the investment, guarantee or other transactions required by the Minister.

That speaks to the necessary professionals being in place in those captives to be able to provide that information.

The fundamental changes in division 3 are also interesting, and I just wonder about that as well. Seeing that prior approval of the minister is needed for a whole variety of five different aspects of business including: the amalgamation with another company; the dissolve, liquidate or wind up of the captive – I think that’s the captive;

- (c) wilfully take any action that would facilitate a change in the actual control of the company;
- (d) materially change its organizational documents or the plan for the conduct and development of its business referred to [above];

and then, last,

- (e) undertake any other prescribed activity.

Those are some questions I guess I would pose around the capacity, the expertise, the timeliness of both the Finance department and, on the other side, the captive to provide the information to the degree necessary for the Finance department to adequately assess any of those aspects coming forward.

I, of course, know, just stepping back on the whole idea of insurance, when you think of insurance broadly, that this is a very specific part of the insurance market, but when you think of insurance broadly, we know that Albertans are challenged with many things right now, costs going up, and insurance is indeed one of those. Talking with people, business owners in my community in Calgary, I know that, for instance, some in the live venue area are finding it difficult to get affordable insurance. The whole COVID era has made it difficult for them to appropriately plan their business going forward because the insurance costs are far and above what they were and could count on in the past.

You know, this bill does not touch broader aspects of the insurance difficulties in our province at this time, and I think that’s an unfortunate thing. We know there are many Albertans who are finding the whole area of insurance, whether it’s personal, car, business, problematic in terms of being affordable for them and just wish there was more consideration of this broad area before us as opposed to this important but narrow way to address issues in our economy at this time, particularly for the greater population, which will not be touched by the aspects of the regulations for the captive market before us in the bill. I do think it’s helpful for companies in this province, and the fact that those companies can domicile and see that, from a finance prospective, they’ll be taxed in this province and the profits on investments will be taxed in this province is helpful to all Albertans and also the treasury in this province.

I certainly think that the market with regard to insurance – and it’s particularly been hard for businesses or specific kinds of businesses in this province – is, of course, a significant risk to the viability of business going forward in this province, the oil and gas sector in particular, though we know that there are other sectors that will benefit. Based on our knowledge of where B.C. is with regard to their captive market, that’s decades old, we know that other kinds of businesses in different sectors will benefit from the market as well as potentially school boards in this province. We certainly need to see a diversification of the insurance industry so that aspects of the hard insuring issues will be overcome. And the fact that we’ll see professionals in this province in the financial sector be able to take up positions here at home is another positive thing, to repatriate some of that business that is elsewhere, to see it grow in this province.

10:20

But as I said, you know, it’s unfortunate that more couldn’t be done to look at the broader insurance difficulties in Alberta and to include those in our consideration of this whole area. There’s really

at this time no complete understanding of how broad this market will be, captive insurance companies that are stood up by their parent companies, and that will unfold as time goes forward. There’s really no understanding of how our superintendent of insurance and the volume of work that this new captive insurance market causes that superintendent and their staff – no understanding of how quickly they’ll be able to turn around advice and direction so that the minister can make an opinion. All those things we’ll learn as we go forward.

I hope the government will do what’s necessary to ensure that the speed of business is – it’s a common term now. We know that business does need quick turnaround so that they can take advantage of the issues before them. That’s an unknown aspect of the consequences or the ripple effects of this bill at this point in time. I think with . . . [interjection] Oh. Okay.

Ms Hoffman: You’re the second speaker.

Member Ceci: Ah. That’s right.

Perhaps I’ll be here when the minister has an opportunity to address someone else on those questions that I posed. Thank you.

The Deputy Speaker: Hon. members, interventions are now accepted.

Are there any members wishing to join in the debate? The hon. Member for Edmonton-Glenora.

Ms Hoffman: Thank you very much, Madam Speaker. I’m happy to engage again on Bill 76, Captive Insurance Companies Act. I want to sort of begin by saying some of my understandings after talking to a number of stakeholders. I think that the minister has been, you know, referring to this. But my even clearer understanding, after hearing sort of some of the plain language around specific sectors and industries, relates to the fact that some very large employers, including oil and gas companies, are having a really hard time getting insurance in Alberta right now for large-scale projects. Of course, we want to ensure that large projects that employ many, many people have the ability to move forward in a safe way where workers and communities and the environment are all protected and have opportunities to be beneficial partners in this province. Of course, they can’t do that if they can’t get insurance.

I understand some of the biggest pressures that are facing – and I think that probably a big reason for some of the actuaries to be reluctant around insuring relates to the impacts of extreme weather conditions caused by climate change. We don’t have to go back very far in our memory to think of many of the large climate-driven disasters that we’ve been facing in Alberta specifically and in the west and in many parts of the world. When I think about the significant impacts of flooding in B.C., which have been extreme – many have been seriously impacted, many homes, businesses, the livestock that’s been impacted – they’re massive, and the impacts are far-reaching.

While I appreciate that we are considering a Band-Aid to continue to protect the jobs and the opportunities that exist when we have these large projects protected – and opportunities for captive insurance definitely, I think, will help sustain operations – I hope that the government is also looking at the other side of the coin, which is the impacts of man-made climate change, human-caused climate change, and the types of natural disasters that – I still use the term “natural,” but of course we know that they are being further impacted by the impacts of climate change, so extreme weather. I think that we should look at ways that we can mitigate our risk and reduce the impacts we’re having that are resulting in these extreme situations.

I have to say that one of the questions I asked earlier – and I certainly welcome an opportunity to hear more from the minister in regard to this – was around the staffing in the superintendent's office. I know that the minister said that the intent is to have additional staff, because this will certainly result in additional workload, but when we did have our briefing with officials, they said that there was no plan under the current fiscal climate or the current budget to increase staffing in the superintendent's office. That's one of the reasons why we put forward an amendment around regulations being more public and also having an opportunity for this to come into effect in the next fiscal year, so I would love to hear from the minister if the plan around proclamation aligns with next year's budget and if there will be additional staff in the superintendent's office to ensure that safety and oversight for those who are choosing to engage in the captive market.

Thank you.

Mr. Toews: Well, thank you, Madam Speaker and to the members opposite for, I think, the very appropriate questions around Bill 76. Firstly, I would like to say that we do, in the Department of Treasury Board and Finance, have a good degree of competence in insurance and insurance regulation and insurance oversight. I do commit to members of this House and to all Albertans that we will ensure that there's adequate capacity to deal with the demand that will come our way. We're certain, in fact, very confident that we will see captive insurance companies established in the province, so I want to assure members that we'll ensure that we have the capacity.

Of course, a big part of this effort is in fact ensuring that we have the most appropriate regulatory framework in place. We're going to be working on that, in fact, have begun that work, and should members choose to pass this bill in the House, which I certainly encourage all to do, we will be presenting the regulatory framework shortly.

Ms Hoffman: Thank you very much to the minister, through you, Madam Speaker. I'll keep it short because I know that the minister probably didn't get a chance to say everything he aspired to in the one minute. That certainly goes very quickly. Specifically, I guess my nervousness around the pledge to have enough staff is that in this last fiscal year staffing was actually reduced by 24 full-time equivalents, and I appreciate that this will result in more work. I know we continue to ask people to do more with less, but if we want to do it well, I think that we need to make sure we have the human resources necessary. I guess I appreciate that we've been given some vague assurances, but I'm wondering if they'll actually translate to additional staffing because I don't know what other areas – and maybe the minister, in a minute, can elaborate on what other areas in his department don't need the human resources they have dedicated to them, because certainly this will require additional human resources.

Again, the question around timing: is this planned to come into proclamation prior to the next budget, or will the regulation development and the staffing take at least that many months, about five months, to be able to be ready for full implementation to ensure that we have proper oversight and that the staff who are being tasked with doing this additional work can actually do it in a way that gives everyone a high degree of confidence that the appropriate oversight and support are being offered through the department? Through you, Madam Speaker, if the minister would be willing to engage on that, I'd really appreciate it.

10:30

Mr. Toews: Well, thank you, Madam Speaker. Again, I commit to members of this House that we will ensure that we have adequate capacity. Much of the important work will be ensuring that we have

a very appropriate regulatory framework and appropriate and related policies which will assist in overseeing this function in the most efficient way. We will ensure in Budget 2022 that we are providing for the resources that will be required.

Now, Madam Speaker, I think every member of this House would be very enthused if we had an avalanche of captives pour into this province and establish in this province. We know that it would grow our financial services sector. It would further diversify our economy and create many, many well-paying jobs in the province. Of course, we will ensure that we will adjust capacity for the demand as we go forward.

Ms Hoffman: Thank you very much, Madam Speaker. I really do appreciate the minister engaging on this a bit deeper, and I know that a minute is very difficult to get many details onto the record. Perhaps an additional opportunity – I would love to know what the actual forecast is for how many captives are anticipated. I'm very confident that there has been some engagement with industry on this, and I think the minister has already said as much. I guess: how much work does he anticipate there being, and what would the additional pressures in terms of staffing requirements be in the superintendent's office? Again, what we've seen in this last budget was a reduction of 24 full-time equivalents, so at least 24 people, and what we are asking the public service to do through this bill is take on significant additional oversight and required regulatory capacity to ensure fairness and a good system for all who engage in it.

I guess additional questions would be around: what is the anticipated short-term and perhaps medium-term demand on captives? How many corporations, essentially, and sectors have come forward to the minister expressing that this is their desire? If those who are in this situation, because it sounds like there are many who are about to have no insurance, aren't able to engage in a captive market because traditional insurers just aren't interested in taking on those liabilities right now, that, to me, says that there are going to be some additional risks. How do we ensure that those risks are tied to the corporation or those who are engaging in this captive and not being offloaded onto the public at large?

We have seen times in the past where we've been promised that increased choice, increased market options would result in reduced rates, for example, for individuals or reduced fees for corporations. At the end of the day, we've seen much liability turned back over to the public, and of course that's not in the public's best interest. We want to make sure that we continue to have good, strong, thriving sectors in the economy and that we work to diversify the economy so that every Albertan can see themselves living here long term and working in a variety of different fields of their choice, but we also, of course, need to make sure that we don't do that by taking on significant risk to the public in terms of financial liabilities or other types of liabilities that could exist.

Now, if you're increasing market options and you're taking away the controls that are in place through traditional insurance, I think that does pass more liabilities on generally, and I would love to have some clarity about what the perceived scope of captives would be in the short and intermediate terms and also what the staffing requirements will be to ensure that this is done in a fair way with proper oversight from the superintendent's office, acknowledging that many in the public service are already far overstretched in terms of what they originally signed on for and what they're being asked to do given the austerity measures undertaken in terms of shrinking the number of folks working in the public service and the abilities that they have to do their jobs in a thoughtful way that fulfills the goals of the public service.

I also have to say that there were some other decisions that this government has embarked on in the not-so-distant past that I think show that their risk tolerance is different than that of most Albertans when it comes to making decisions around risk and reward. One very big example, you know, at least a \$1.3 billion example, was the bet on Keystone XL and the re-election of Donald Trump. I think that was a huge financial gamble taken with Albertans' money, and we all know the outcome of that bet.

Another example, I'd say, of risk tolerance and reward lays with the campaign around the best summer ever. Definitely, the current government decided that if they said it enough, it would become true. They even made hats that they were selling that said it on them. Of course, we know that what the government marketed as the best summer ever really was fuelling the fourth wave here in Alberta, which ended up being the deepest, most devastating wave, in terms of its broad-reaching daily counts as well as impacts on hospitals and specifically ICUs, of anywhere in the country and definitely the worst wave that we had in Alberta.

Most people would assume that with successive waves and the government doing analysis on the impacts of decisions and the impacts of risk behaviours, the impacts would become smaller because the government was learning from its mistakes along the way, but that definitely wasn't the case when it came to COVID-19 here in Alberta and the impacts of the devastating fourth wave and the government's efforts to engage in increasing risk significantly for Alberta families.

We know that schools opened with the largest number of September cases that we had seen during the pandemic – they were far greater than prior Septembers – and that there were far fewer supports put in place to reduce risks. What happened, of course, is that we were faced with additional school closures that impacted students, staff, and absolutely their families when it came to having to take additional time off.

This relates again back to Bill 76, Captive Insurance Companies Act, because I think it says to us the risk tolerance, the risk comfort level, that this government is taking on behalf of Alberta families. Those two examples I gave are just small ones, but I think they show the impacts of this government on individual families when they have a much higher desire to engage in risky decision-making than most families would expect from their government.

I have to say that I think there are merits to captive insurance. I absolutely do. I think we put forward some amendments to try to help address some of the risk, specifically lack of trust, when it comes to regulation-making in this province. We have seen time and time again that the government will say one thing, and then when the writing comes out months later, it doesn't line up with what was stated. We simply just wanted some more clarity and openness with the drafting of the regulations.

I do know that often regulations are drafted in tandem with legislation, especially when there is a time pressure, and it appears, based on the fact that our amendments were rejected, that the government feels a significant time crunch on this. I would love some additional transparency around why that is and what the motivation is to do this according to – well, there's no prescribed timeline, but when we put a timeline in, it was rejected. What are the reasons for that, and what are the drivers? How quickly are we expecting to see captives engaging in Alberta? If it's incredibly quickly, then they should have no problem sharing the regulations, that are already likely being drafted, to guide the functioning of captives in Alberta.

Those are a couple of the hesitations that I feel when I'm being asked to consider Bill 76. Again, I think that there are merits. I think that the biggest one, of course, is that if there are large sectors that aren't able to gain insurance because actuarians who've done risk

assessments say that they aren't insurable and profitable for the insurance companies, that's a big concern, obviously. That means that those companies are going to be taking on more risk when they choose to engage in a captive market themselves and essentially self-insure because they are under immense pressure. How do we make sure that those pressures and those risks that are being enabled through this legislation don't transfer over to the public? You know, it's not the ordinary families who live in our ridings who are asking for this additional risk to be moved from insurance companies over to other corporations. It's those corporations, and it's this government that's enabling it. Let's make sure that everyday families aren't being asked to pay more when it comes to taking on risk and liabilities that could be a result of this legislation, potentially.

10:40

Those are some of my guiding questions that are still influencing my decision here. I know that we are in third and that there are probably other speakers who would like to engage in this, and I do hope that we can get some additional assurances. That's why we put forward the amendments we did. We wanted to have some checks and balances in place. I know that the government rejected those, which is disappointing because I think we all wanted to be enthusiastic supporters of something that definitely on paper has merit. I think that on paper it also deserves some checks and balances and safeguards to ensure that Alberta families are insulated from some of the risky decisions that have been made by this government in other areas and potentially could have impacts on this bill.

Those are my main hesitations at this point, but again I want to rearticulate that I think there are a number of significant points of merit. That's one of the reasons why I was really hopeful that we would see that regulation sharing done at committee with all members of this House and, in turn, with the public through the fact that our proceedings here and our proceedings in committee are public hearings, public meetings, to ensure that Albertans, who are being asked to consider taking on more liabilities, have at the least the checks and balances through the open development of regulations and engagement with the public before that potential risk is handed on. That, along with my concerns around the lack of staff to be able to support this significant new development, guides my decision at this point, Madam Speaker.

The Deputy Speaker: Any members wishing to join in the debate? The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Thank you, Madam Speaker. I appreciate the opportunity to rise and speak to third reading of Bill 76, the Captive Insurance Companies Act. I think my colleagues have ably outlined a number of the questions that we had and continue to have. I certainly appreciate the interjections from the minister offering some clarification about his intents and plans, should this legislation pass, as to where he intends to go. I appreciate that he has committed that in Budget 2022 he would intend to ensure that they have the adequate resources to regulate, that the resources are in place to be able to do it, and this does seem to be of a kind with other discussions we have had.

We were just debating the bill earlier on some of the rare minerals and other things that are possible to mine, the expansion of that work here in the province of Alberta, and indeed bringing forward regulation. Again, we had that question there, as my colleagues have noted. You know, with the AER having had 30 per cent of their staff laid off under this government but taking on a larger and more expanded regulatory burden or at least sphere of work in this

area, the concern is around their ability to regulate and, as my colleague from Edmonton-Glenora noted, the loss of staff in the area that would be required to take on this regulation. I appreciate the commitments from the minister, and I will look forward to the opportunity, I guess, for us to see that in Budget 2022 and have a chance to dig into how that commitment is followed through on through the estimates process.

In taking a look – we’ve had a few weeks now since this bill was first released. I always look for the opportunity, I guess, to see analysis from folks in the community and others with expertise to get a sense of how they are responding to a significant bill, I mean, recognizing that this will make Alberta only the second jurisdiction in Canada to allow the formation of captive insurance companies, of course, it previously having been enacted in B.C. I did find one analysis from one individual, Mr. Bob Ascah, with degrees in commerce, public administration, political science. He worked for the government of Alberta in Treasury and intergovernmental affairs, has also worked for ATB Financial as they transformed into a provincial corporation, served as a director and fellow for the Institute for Public Economics at the University of Alberta, and was appointed as a research fellow of the Parkland Institute at the University of Alberta. He does have some knowledge and expertise in this area and, of course, was part of the government of Alberta, so he has seen how that regulatory process works and how these things are rolled out.

He talks about this particular piece of legislation. He notes that in the case of British Columbia – again, that being the only other jurisdiction in Canada which currently allows the formation of captive insurance. Of course, Alberta is not yet one of those jurisdictions, but should this legislation pass, it would become the second. He notes that in B.C. there are currently about 30 captives, but he does note that it’s difficult in some ways to find the numbers to actually keep track of through what’s currently set up on the B.C. financial services agency website. He refers to a 2013 report by the Canadian council of regulators to note that at that time there seemed to be about 23 captives that were “operating primarily in the health, auto, transportation and forestry sectors.” He notes that in many cases the names of the companies don’t directly reference the individual companies that they are serving. He notes that there is a B.C. captive insurers association, but they have no website.

That is one thing that occurs to me, that as, of course, we’re going forward with this, this is a very new thing for the province of Alberta, and it does have some potential implications. Indeed, these are companies that would be providing insurance and perhaps, in the case of energy companies or others, for some situations that could have some significant impact for a large number of people. It’s interesting that, you know, what he finds – and this is posted on his online blog, AB Pol Econ. Mr. Ascah notes that there seem to be some questions of transparency in what is currently set up in the province of B.C.

Again, we have the minister’s commitment that he is going to work to come up with a robust set of regulations but, of course, again, as we have with many pieces of legislation from this government, little clarity on precisely what those regulations might be, and of course those will largely be determined after the enabling legislation is passed. It is certainly my hope that we will ensure that we have clear reporting and transparency for any captive insurance corporations that are formed in the province of Alberta, that that will be part of the regulatory process and part of the requirements that will come through in the regulations that the minister will be working to put in place.

He also notes that the minimum capital for a captive insurance insurer currently in the province of B.C. is only \$200,000, and he

notes that this is “extremely low for any self-insurance operation.” Now, I know, again, that the minister has not wanted to comment on a specific thing, and certainly what he has observed is that, you know, there may be varying levels of capitalization that would be considered appropriate, depending on what the captive insurance was intending to do. But certainly, again, that is a potential concern because, again, that will be determined in the regulations, which we do not have in front of us, and we are left to trust the minister in how he interprets that.

I have in previous debate sort of noted my reasons for having perhaps some concern about how that will be determined and what the potential risks might be given some of the other previous decisions that have been made by this government and minister. I won’t go into that again here. I will simply observe that in B.C. currently we have that minimum capital of \$200,000, and I’ll be interested to see where the minister chooses to go with that.

Certainly, that is why we had brought forward the referral amendment in Committee of the Whole, where we would have had the opportunity to delve into this in greater depth and, I think, perhaps provide some of that transparency and accountability to Albertans before moving forward with a significant change in the insurance landscape of the province. Of course, the government chose to reject that. They have faith in their minister to put these regulations through on his own or with whomever he chooses to consult, but outside of the process here we would have welcomed an opportunity, I think, to provide more opportunities for Albertans to engage in and better understand and have insight on that process and certainly provide their perspectives.

Now, Mr. Ascah reflects on the bill a bit more. He talks about, you know, looking at: well, why is this being brought forward now? He certainly recognizes, I think, as has been discussed so far on this bill, that as more and more oil and gas companies have larger and larger environmental liabilities, they are finding it more difficult to obtain insurance.

10:50

Now, I recognize again that the minister has noted that this is not simply for the oil and gas industry. This could be taken up by any number of industries. Of course, as we noted, in those 30 captives that are currently registered in the province of B.C., certainly it is a range of folks in health, auto, transportation, forestry sectors. But, certainly, I think we recognize that one large sector here in the province of Alberta that would be considering and looking into this would be the oil and gas industry for the reasons that we know. We have seen that they are finding more challenges with accessing that insurance.

Mr. Ascah notes, of course, that banks, understandably, are worried about assuming those liabilities if a borrower should default. Having the insurance in place is a critical piece for banks to continue to be able to loan money to folks in the resource industry and move forward with that work. Now, he does divert a little bit. He sort of notes and talks about some of his concerns around the fact that now with record – well, not record but certainly some of the highest prices we’ve seen in oil and gas in some time. Banks are probably at this point a bit less concerned with the borrower’s capacity to repay loans. We’ve certainly seen the opportunity for many of these companies now to see a higher level of profit. He notes, of course, that banks would still want to see that insurance, and since these companies are having difficulty accessing that at this time, then a legislated solution needed to be found, recognizing that perhaps there was a need to find a solution such as this.

He does note, of course, that with these higher profits is the opportunity for oil and gas companies to potentially be making larger investments towards the cleanup of some of these

environmental liabilities. Certainly, we have seen some significant investment from the federal government, and that has flowed through to the provincial government to do some of that work. But, certainly, with these higher profits that are coming in, we have not seen as active a step from energy companies in rehiring Albertans as we have seen in previous booms in the past. They did not take advantage of the millions of dollars that they received from this government in their corporate tax giveaway to create more energy jobs in the province of Alberta. They chose to divert that into shareholders' pockets or invest in other jurisdictions. Very few of those dollars remained here.

Despite that poor decision, shall we say, by the current government, there is that opportunity now, as they are also realizing some of those higher profits, for them to invest that here. He notes, though, that, interestingly enough, our current Minister of Energy said: "No, that's not necessary. That's not really needed. There is already a plan in place. This spending of about \$422 million will be enough. We don't need any further investment for the oil and gas industry." How much of that \$422 million, Mr. Ascah does note – it's unclear how much of that is from the federal and provincial government money or borrowed money or where that is coming from.

That said, in general he comes to a conclusion, I think, which is the same conclusion that we have come to in the Official Opposition, that really the most important question, then, is going to be how this regulation is going to be put in place. In his words: "So along comes captive insurers, a novel way to allow companies to self insure potentially billions of liabilities with their captive insurer which will [be] 'rigorously regulated.'" As my colleagues have noted, we do have some concerns about how that regulation will take place, exactly what that will be shaped as, what the commitments are that were going to be put on the table.

Again, I recognize that the minister has risen here in third reading, and I will certainly commend him for having been present in many stages of debate on this bill to clarify questions. But, again, ultimately his clarifications come down to: trust us. It's not my interest this morning to be provocative in debate. I have noted many times throughout debate our many concerns and the many points at which I certainly feel that this government has lost the trust of Albertans. One does not have to look far to find another poll which quite clearly indicates that Albertans absolutely have lost trust in this Premier and this government, yet we see this continuing with bill after bill after bill, where the government simply says that we have a vague intention to move in this direction, to do this thing.

Certainly, I would say that in this case what the government intends to do in terms of setting up the captive insurers is clear, that there's no ambiguity about what that would be, but certainly the means by which it will be structured, the regulations that will be in place, the level of capitalization that will be required: in all of that, then, therefore, what the potential risk is for Albertans and potential impacts remains unclear.

Now, it's become quite clear through the process of debate and certainly by the amendment that we brought forward that the government, certainly the minister, and, it seems, most of the government members who have spoken to this have indicated that they feel that they have done enough, that they have provided enough clarity, enough of their intention and that Albertans should be willing at this point simply, then, to trust them that as they set up the regulatory framework for this new industry, as it were, or a new facet of the insurance industry within the province of Alberta, we should be willing to give them our trust. As I have said, Madam Speaker, I do not have that trust. I think a lot of Albertans do not have that trust.

However, we will, I think, as the Official Opposition watch this with interest. We certainly will follow through on the opportunities we will have to hold the minister to his word as we move into the estimates process next year as those regulations do come forward. This indeed could potentially be something that could be a good for the province of Alberta, but it really will depend on the work of the minister and these regulations to determine whether that will be so or whether this will again be one of those instances where priorities of industry are put ahead of the public good.

So I look forward, I guess, to the opportunities for the concluding debate as we find ourselves here in third reading and certainly look forward to the opportunities, then, to see what that follow-through is from the Ministry of Finance.

Thank you, Madam Speaker.

Mr. Toews: Well, thank you, Madam Speaker.

The Deputy Speaker: Sorry, hon. minister. You have already spoken to the bill. I realize you're probably standing on an intervention; however, that was not accepted or acknowledged, and quite honestly the time ran out.

Are there other members wishing to join debate? The hon. Member for Edmonton-Rutherford.

Mr. Feehan: Thank you, Madam Speaker. I appreciate it. I only have a few moments given to me, so I'll make a quick argument here that I think, you know, in part was addressed prior to this time but, I want to point out, has not been resolved to my satisfaction.

I certainly appreciate that the minister has been very helpful in bringing us answers and has sort of suggested that there will be a robust regulatory framework coming forward, which is, of course, what it is that the opposition really wants to see because that's where all of the implications from this bill are going to be most readily noticed. You know, I have some disappointment that the decision was made by the government to reject a request to refer this bill to the Standing Committee on Resource Stewardship so that we could see those regulations and ask questions about those regulations.

So there is, you know, some frustration on a bill which in many ways we'd like to support, but the concern here is not what the bill is intending to do; it's about those situations where the players in the field may subvert that intention. As with a few other bills, as I've pointed out, I don't see the work to prevent the crises or the issues from rising and becoming crises and issues in time. I guess my hope is that we can get a chance to sort of improve the bill so that we don't have to deal with things that could have been dealt with at an early time and saved us grief after the fact.

The one small thing I will point out is this line of argument that concerns me as I look toward the future of the province of Alberta, and that is that we have a very strong shift in our thinking about businesses in society these days.

11:00

What we recognize is that businesses are kind of neither good nor bad in their own right, in their existence. They're neither moral nor immoral; they're simply amoral. They just exist to do what they do. We as people are not amoral. We actually have value stances on how we want the world to be constructed and to run. There have been a number of mechanisms over the years that we have used to try to create a certain type of society that we live in, of course, democracy being one of the greatest examples. We decided that everyone should have a voice in the construction of government in society.

It's also true that we have a similar kind of theme with regard to universality in terms of access to things like health care and education. I certainly think that anybody, on either side of this House, would tell you that having had universal education and universal health care has dramatically affected those countries that have it and has really improved the state for the average person from the state prior, you know, having only elitist education and only elitist health care systems. Now, one of those forces like democracy, like universality is the movement in the business community toward environmental, social, and corporate governance protocols, often referred to as ESG. It's because of these kinds of movements, which are a reflection of humanity's desire to improve itself and to take care of the Earth and to ensure that we are passing on to our children the best of what we have, that we are even in the place of having this discussion of captive insurance.

It is not that many of these companies could not go to the market, the free market, and seek insurance for what they want to do. What they're finding, though, is that when they do go to the free market, the free market has made a judgment about their practices and has decided, because of the nature of their practices, that the rate of insurance needs to be higher than it would normally be. That's largely a reflection of the pressures that many of these insuring companies are feeling around the advocacy for ESG, environmental, social, and corporate governance structures. What's important here is that we as people have decided that while businesses are just businesses – they just are what they are – we as people need to influence and put constraints on businesses to ensure that the activities of the businesses do us no harm and that, in fact, they seek to provide greater well-being for all citizens, not just simply the owners of the business, in society. This is reflected in the insurance rates being offered to various companies and, as such, is making some particular types of businesses have to pay more for insurance.

By creating the captive insurance mechanism, we are actually subverting all of that effort, many hundreds of thousands, in fact I would indeed say millions of people around the world who would like to see our values reflected in our business practices, and they do that through ESG. Now, if we create a captive insurance program, we're essentially saying to businesses: "You can, first of all, subvert the judgment of the insurance industry that says that you should be paying more because what you're doing is going to have consequences. Secondly, you should subvert the work of those citizens who are trying to create a better world and who are trying to say: let us bring our humanity into our business practices."

Let us understand that business has one singular function, and that one singular function is to provide profits for its owners and its shareholders. We understand that, but we understand that that actually has consequences. At its worst, it can be horribly destructive to others in society. As some people generate profits for themselves, they do so at extreme expense to others who do not benefit from those profits. We know that every time we see an environmental disaster that's caused by business. We do that every time we see a cultural disaster that's caused by business, whether that be, you know, denial of Indigenous rights, whether that be suppression of human rights in some parts of the world. Thank goodness, that's not really an issue in Canada beyond the concerns I have just expressed around Indigenous rights. But in some parts of the world, of course, businesses have done horrible things in order to achieve business success, and we don't accept that in Canada. I don't think the government accepts that either. I mean, I'm certainly not accusing them of anything.

I am saying that because we all agree on this point, because both sides of the House agree that, really, businesses should not just do whatever businesses want to do if it has a negative consequence for the rest of us, it's quite legitimate for a government, then, to step in to put constraints on businesses. And we don't expect businesses to have a mind of their own. Business is business; it's about profits. We expect external pressures to be put on businesses and limitations to be put on businesses through good governance structures, and that's done largely through ESG now. This type of bill has the potential of subverting that. That's my concern. In a simple statement: I just want to have a democratic fail-safe in order to allow us to ensure that the use of captive insurance does not subvert the other important things that we do as a society. I understand the intent of the government is fine; I'm worried about the actual use and whether that intent itself will be subverted.

As such, I bring my comments to a close and hope the government will give us an opportunity to see the regulations to ensure the well-being of all citizens at this time. Thank you.

The Deputy Speaker: Are there any other members wishing to join the debate?

Seeing none, would the hon. minister like to close the debate?

Mr. Toews: Well, I would, Madam Speaker. I've enjoyed the debate around Bill 76. I know that there have been some questions around protection for Albertans and, you know, I would suggest Alberta taxpayers as well as Alberta consumers. Again, I do want to assure this House that we are developing appropriate regulations that will establish appropriate liquidity requirements, capital requirements. We'll be looking to other jurisdictions such as our neighbours to the west in B.C. as well as Vermont and even jurisdictions offshore to help inform our regulatory approach.

Again, I urge all members of this House to support this bill. There are approximately 150 Canadian captive insurance companies domiciled outside of this nation. Madam Speaker, we know that many of those companies are Alberta-based corporations. Let's bring that capital home. Let's bring those jobs home. Let's position this province for continued economic recovery and diversification. We are well on our way to economic recovery. By passing this bill, we will further position the province for increased investment attraction and economic growth.

[Motion carried; Bill 76 read a third time]

11:10

**Bill 83
Environmental Protection and Enhancement
Amendment Act, 2021**

The Deputy Speaker: The hon. Member for Spruce Grove-Stony Plain.

Mr. Turton: Yes. Thank you very much, Madam Speaker. It's my pleasure to rise today on behalf of the hon. Minister of Environment and Parks to move third reading of Bill 83, the Environmental Protection and Enhancement Amendment Act, 2021.

You know, this legislation will enable an extended producer responsibility framework in our province, and we're excited to bring forward this important legislation, which offers a solution to Alberta's outdated waste and recycling programs. Our province should be a leader in Canada. Unfortunately, current legislation and regulations for waste management and recycling in Alberta have not kept pace with other jurisdictions. We're the only province that does not have an extended producer responsibility system despite the fact that Alberta sends more than 1,000 kilograms per person of

waste to landfills annually, more than every other Canadian jurisdiction.

Under Alberta's current system municipalities provide waste and recycling services to residents under the Municipal Government Act, and services vary by municipality or local government, depending on local priorities and resources. Each municipality determines its own approach to managing and recycling waste, which results in an inconsistent patchwork of programs across the province. Now, this is confusing for Albertans, and costs for many of these municipal programs continue to grow. Municipalities and programs are unable to leverage economies of scale under the current system, and this limits local investment in processing and recycling materials. Modernizing the legislation through Bill 83 will let us create new options for keeping waste out of the environment while keeping their value in the economy.

The proposed amendments will, first of all, maximize government's flexibility to provide an Alberta-made solution for better waste management; number two, enable mechanisms to support efficient and effective extended producer responsibility systems; and, of course, ensure a level playing field for all producers. With extended producer responsibility, the producers that market products into Alberta will be the ones responsible for managing those materials at the end of their lives. The proposed changes in Bill 83 will allow for the development of a robust extended producer responsibility framework unique to Alberta's needs while providing flexibility and clear expectations to the producers that will be funding and operating extended producer responsibility programs.

Once in place next year, the extended producer responsibility framework will create provincial recycling and management systems for single-use plastics, packaging, paper products, and hazardous and special products. Alberta would benefit immensely from an extended producer responsibility framework to reduce the burden of waste management on municipalities. The framework would provide a single, consistent, province-led system that ensures efficient and effective collection and processing system for plastics and other recyclable materials.

The proposed changes outlined in Bill 83 are in the best interests of Alberta's environment and our economy. Businesses, environmental groups, municipalities, and taxpayers know how important it is to pass this bill. We know because we took the time to talk to stakeholders and Albertans this spring about an extended producer responsibility framework that helps shift to a circular economy, and Bill 83 reflects that feedback. It's good for the environment to keep wastes out of our communities and waterways and plastics and other recyclable materials out of our landfills by working towards a circular economy, where these materials aren't just reused and recycled but turned into brand new products. It's good for taxpayers and local governments to shift the cost of collecting, sorting, processing, and recycling waste to the producer. It's good for the economy to modernize Alberta's waste and recycling approach, growing markets and attracting investment in recycling.

According to our natural gas vision and strategy possible future economic benefits from increased recycling are \$1.4 billion injected into the economy and upwards of 13,300 jobs supported. That's double the number of jobs and economic injection compared to where we are now with our current recycling program. We have seen these economic benefits first-hand in other provinces like British Columbia, which saw \$20 million in capital investment after they shifted to EPR in 2014 and another \$25 million worth of investment in 2020 for enhanced sorting of packaging, cardboard, and paper for greater access to local markets. Our proposed

approach will align with producer-run programs in other jurisdictions like British Columbia, empowering producers to create local recycling markets, design cost-effective and efficient recycling programs, get the most value for their products, and, of course, demonstrate environmental responsibility.

Extended producer responsibility presents incredible environmental and economic opportunities that Alberta should not miss out on. If this bill is passed into law, it will secure Alberta's position as a leader in recycling and waste management, and I urge all members in the Chamber to support this important legislation. I would just like to thank all members for their positive contributions to the debate so far.

Thank you.

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

Ms Hoffman: Thank you very much, Madam Speaker. I can't believe I failed in the last debate to mention how terribly icy the roads are today. I'm really glad that everyone made it here safely. I imagine it's going to be a big week for insurance and autobody sectors in this province. It's definitely dangerous out there, so I hope everyone takes their time and is being incredibly safe today.

I am pleased to engage in debate on Bill 83, Environmental Protection and Enhancement Amendment Act, 2021, which, really, is a lot to do with recycling. I'm going to do my best not to recycle some of the remarks I made previously. Thanks to our whip for that fun pun. But I do have to say that I do have some questions and concerns that I don't think have been addressed yet, so I will absolutely raise those as we engage here today.

I want to start by saying that growing up in the '80s, we talked a lot about the three Rs. Of course, the first one is about reducing our consumption and reducing our need for waste products, period. I know that there are many people who've been incredibly effective in this regard. I'm thinking about some of my constituents, in particular, who've been doing home composting and community composting already for many years to reduce food waste and to create quality fertilizers for our community and also, of course, thinking about some of the great community-led initiatives around reducing waste but also increasing gifting in our communities.

I can't help but think about the buy-nothing movement and how successful it has been, a really nice way to connect neighbour with neighbour and to create opportunities to keep items out of the landfill and to keep our communities well supported. For those who aren't aware of these groups, they are typically on Facebook. They're geographically located based on one or two neighbourhoods. They're very local community initiatives. The premise is that you can't pay for anything, and you can't ask for payment for anything in them. Many of the initiatives – and there are people who are doing things like cleaning out their pantry and they realize that they have, you know, three things of the same spice and they don't need them, and they're willing to gift them to one of their neighbours.

Some others will put calls out. There definitely are a number of people in the communities I represent who have been putting calls out for things to help them or their kids make it through a very difficult financial situation, where they'll ask specifically for clothes or for food items or other things that can help them during this difficult time. The generosity of neighbours never ceases to amaze me. When folks that I represent are in times of difficulty, there are often many, many people willing to step up and help out.

Then there's another sort of sector, which is about skilled services that one might be able to provide to their neighbours for free. One of my favourite ones was a gentleman who posted on there that he wanted to learn how to do a cartwheel. When he saw his grandchildren for the first time after way too long during this

pandemic, he wanted to surprise them by doing a cartwheel. One of the neighbours very quickly rushed to say: I'll coach you on how to do a cartwheel; I'll meet you at the park this afternoon.

These are some of the things that happen when we, I think, create opportunities for one another to step up and support each other. Sometimes that needs to happen through legislation, and sometimes that happens organically in community. It ties back to recycling in that this is about – it started with the idea of keeping items out of the landfill, and it turned into something much larger and even more generous than that.

We know that municipalities have been reaching out for quite some time and raising alarms around how they felt this government could better address recycling to make less burden fall on municipalities and to share the opportunities for risk and for reward – we've been talking about risk quite a bit this morning already – and for liabilities. I appreciate that the government did some engagement and created a What We Heard document so that we could have a greater understanding of where this legislation was coming from and what the problem was that it was intending to solve. It seemed that one of the largest areas that was raised during the consultation, though, was around waste diversion. Recycling is the only thing that this is actually addressing in this legislation. Recycling, of course, is one piece of keeping things from the landfill, but it is, of the three Rs, the one that is the most energy intensive, the most water intensive, and still requires that more go into it than if we simply find ways to further reduce and reuse.

11:20

Finding ways to further those causes, it would have been – based on the feedback that participants gave through consultation, it appears that those would have been appreciated as well. For example, the report reflects a clear consensus that we need to develop an EPR program that includes single-use plastics and packaging and paper products. Bill 83 doesn't provide any concrete steps or action in that regard, and it does seem to essentially be a bill about a commitment to develop a plan to make a plan. Those issues: you know, I guess it is a step in the right direction, but what we'd really like to see are a framework and action plan around actual implementation. Again, the government appears to already have the powers to implement these exemptions, so why create a new bill? It seems redundant. It seems like an increased waste of paper since it appears that the government already had these powers.

Does the minister have an estimate about how much the extended producer responsibility regime might be able to save municipalities? I don't think we've heard a dollar amount for that. A global provincial amount would be great as well as breakdowns for individual municipalities. What has the minister targeted as the recovery rate, and is the minister expecting it will differ between products following under this framework and under other frameworks? These are some of the questions that we've asked that I don't think we've heard answers to yet, and I think that they would – you know, here we are in third. I think this would be an appropriate time to be able to get that full clarity, when you're passing a bill. It isn't the first time that many of us have asked those questions.

This would allow current stewardship programs to be exempt from extended producer responsibility requirements. Specifically, bottle depots are one of them, and they could be exempt, in the act, from an extended producer responsibility framework. This bill does not implement an extended producer responsibility framework but only a limited number of new exemptions, so it, again, creates more ways for people to opt out, but the problem that it seems people

want solved is around reducing, reusing, and ultimately increased recycling opportunities and co-ordination between jurisdictions.

We know that many of our attempted recycled products have not ended up being recycled from North America over the last several years, that we are far too reliant on Asian countries to take our waste and to find ways for them to reuse it, and that in many situations we've seen it being rejected and sent back. What an absolute waste that we have put the effort into gathering these materials, consolidating them, shipping them – all of this is waste inducing, right? This is all creating more emissions and more waste – and then having those products arrive and then have them, in turn, sent home because many Asian countries don't want our garbage. We've been so ineffective in how we actually engage in recycling in the west and probably the whole world, to be frank.

I think that there, again, needs to be more layered thoughts, and this isn't new. We've been talking about this since the '80s, our need to reduce our waste and to limit our use of plastics in particular and, when we do use plastics, to have effective, local ways to reuse those products or recycle those products, and we still seem miles away from solutions in this regard.

I think it is a topic that I certainly appreciate, having an opportunity to engage in discussion around waste mitigation and reducing waste. Having grown up in a small community in the north – actually, you drive by Swan Hills on your way to my hometown, and a lot of people know that Swan Hills has been a large place for chemical waste disposition for years. We've been trying to assess and mitigate the impacts of that waste on the surrounding community, the air, the water, and the land. I think that at one time our school even had a monitor on the roof to be able to track the air quality as a potential consequence from the off-gassing at the site. [interjection] Happy to receive the minister's interjection.

Mr. Nally: Thank you, Madam Speaker, and thank you to the member for making way. I just want to put some of this into context. This conversation is about extended producer responsibility because it actually goes back to the natural gas strategy and vision. One of the things that we had said of the natural gas strategy and vision is that we want to create a circular economy.

The Deputy Speaker: Hon. minister, I hesitate to interrupt – my mistake as I gave you a nod to go ahead – but we are only on the second speaker. After this speaker we will allow interventions.

[Mrs. Frey in the chair]

Ms Hoffman: I will also accept personal responsibility because I know I'm the second speaker, Madam Speaker. My apologies to you and to the minister for attempting to give way. I appreciate the enthusiasm and look forward to hearing the remarks, probably, to further speakers in the queue.

Would it be possible, Madam Speaker, to receive a time check? Just so I know where I'm at.

The Acting Speaker: A time check?

Ms Hoffman: Yeah.

The Acting Speaker: Nine and 43.

Ms Hoffman: Pardon me?

The Acting Speaker: Nine minutes and 38 seconds.

Ms Hoffman: Thank you very much.

The Acting Speaker: You're welcome.

Ms Hoffman: I really appreciate that.

I have to say that I look forward to hearing what the minister has to say in response to natural gas and other potential off-gassing and emitting measures.

I was talking about the school I went to and how at one point in time there was a measurer – I think it was on the roof of the school; it was the only flat-roof building in town, oh, and maybe the grocery store, too – where they were able to track the off-gassing from the chemical waste centre in Swan Hills up the road. Definitely, we know that many of our municipalities are engaged in trying to manage the risks and their waste as it relates to toxic waste and off-gassing in our air, our land, and our water, and finding ways that we can work effectively with recyclers and recycling to make sure that we reduce the amount that is being rejected from international recycling programs I think would be a useful effort on our behalf.

I know that many of our colleagues have been engaging deeply in discussions about the merits of the waste management system as revised here in the city of Edmonton over the last six months or so, and I want to acknowledge that change is very difficult. I know that any time you're used to one system, adjusting to a new system can be challenging. While it isn't of direct provincial responsibility, certainly we know that the province has responsibilities when it comes to delegating authority to municipalities, and we are here engaging in debate on recycling and how it is being changed here in the province of Alberta. I will say that I do think that there are many merits to the new system that we have in place here in Edmonton, and I am sure that some of my colleagues will be shaking their fist at that statement. I think that it's definitely, for myself and many others, created an opportunity for us to pause and think about our waste and exactly where it's going.

I think the fact that we're actually separating out compostables now is a very good step. I know that when the old system was created in the late '80s and early '90s, Edmonton was known as having the world's largest composting facility. That is something that I think we were quite proud of, keeping much of that organic waste out of landfills, but of course as the types of waste that were being put into general refuse collection continued to evolve and the technology evolved, that system simply wasn't effective. It wasn't able to keep up with the demands, and it was broken much of the time. As a result, the organic waste that used to be sifted out and put into the composting facility wasn't any longer, and it definitely created frustration, I think, for many Edmontonians, that once known as a global leader on composting, we'd certainly fallen behind.

[The Deputy Speaker in the chair]

Now we do have to separate our waste into different bins. They get picked up on different days, and sometimes one might forget to put out the right bin on the right day. I think it will get easier with time. I am so grateful knowing that when we do have organic waste, it won't be sitting in a messy landfill but will be put towards high-quality compost that can be used to further grow and feed the ecosystem. I think it's good news. I think that it does mean that there are sometimes a few extra steps, but with time it will get easier, and we will get better at it. Also, I want to encourage everyone to download the waste management app if they haven't already. I don't use it often, but it does do push notifications to let you know which colour bin to put out on which days, and that is a handy feature, I think, for anyone who has a busy life and isn't keeping track of these things on a regular basis.

11:30

The other thing that helps, in addition to a push notification on your phone, is walking around your neighbourhood because there are always those keeners who have their bins out one day early, and it is a good opportunity for all of us to be reminded of the fact that our waste is on its way to be picked up very soon. Community engagement, paying attention to apps and other notifications certainly make it a lot easier.

With that, Madam Speaker, I think I'm actually going to cede the remainder of my time at this point because I know that there are others who'd like to speak and we've already passed 11:30. Thank you very much.

The Deputy Speaker: Are there others to join the debate? The hon. Member for Edmonton-City Centre.

Mr. Shepherd: Thank you, Madam Speaker. I appreciate the opportunity to speak to third reading of Bill 83, Environmental Protection and Enhancement Amendment Act, 2021. As we've said throughout this debate, I think we in the opposition are certainly supportive of moving forward on extended producer responsibility in the province of Alberta. This is a positive step. It is a good thing to occur. It is important for our environment. It is an economic opportunity. It is, on the whole, a good concept and one that, unfortunately, Alberta is a bit late to the party on, other jurisdictions in Canada largely having moved forward with this already.

I think others have noted the opportunity that lies in this, the fact that we already have producers paying, as of 2016, more than \$367 million to fund EPR paper and packaging programs in other provinces, something Albertans have been contributing to through their own purchases but have not been seeing any of the benefits of. An EPR paper and packing program, according to the Recycling Council of Alberta, in fact would save Alberta municipalities between \$65 million and \$70 million annually.

I have spoken previously in debate about the fact that municipalities have indeed seen many rising costs that unfortunately have been downloaded on them by this government and certainly have heard about that at the Alberta Municipalities convention last week and in the opportunities I had to speak with some of the rural councillors last night at the RMA. I think that any opportunity we can provide to take some of those costs off their backs and to make it easier for them to support their residents, the folks that have elected them to lead, is a good thing to move forward with. However, as my colleagues have noted and as I have noted in previous debate, this bill does not actually accomplish that much to get that work done.

Now, I will give the government credit and the minister credit in that in this case they have indeed published a What We Heard document. In many cases, as we have raised in other areas of debate on other legislation, that has not been the case, and there has not been clarity about who has been consulted, what they might have said, and it therefore made it very difficult to follow through on whether the government is actually meeting what the needs are, whether they are listening to feedback that has been provided. In this particular case we do have that What We Heard document.

The one concrete thing that this bill actually does accomplish is to provide an exemption, an exemption for bottle depots. Indeed, that is mentioned in the What We Heard document, and in part of the consultations they noted that in regard to beverage containers Alberta Environment and Parks is not contemplating EPR-related changes that would affect the system or the bottle depot network. They committed that if an EPR framework for beverage containers was desired by government or industry in the future, that would

only be pursued through extensive engagement with the beverage industry to ensure that there were no unintended consequences and that they will continue to have conversations with that sector. They have followed through, and they have put that single piece in this legislation. Outside of that, nothing in this What We Heard document is represented here.

There were numerous opportunities for this government to move forward. Indeed, I recognize that this is a complex process and there are perhaps further consultations that need to be done, in which case, certainly, this is a bill that could have been brought forward at a later session. We could have debated this in the spring, with some genuinely concrete measures actually establishing an EPR framework. Instead, what we have here again, as in so many cases, is a plan to create a plan.

For example, in the What We Heard document it talks about the first policy shift. It talks about creating an overarching EPR framework to support EPR programs for recyclable materials. It says, "There was general agreement from stakeholders that producers should be 100% financially and operationally responsible." Excellent. There is general agreement on following Ontario's hierarchy, but there were some suggestions on some others, so that may be an area that requires some consultation.

Again, if that's the case, this is a bill that certainly could have been brought forward in the spring, after they had the opportunity to have those conversations. Instead, we have all of the work and time spent in this Legislature on a bill which takes a single step. I think that in terms of a government that wants to move at the speed of business and wants to reduce red tape, it would have been more sensible not to run through this process twice to accomplish the goal but to simply do the work once, because throughout this What We Heard document stakeholders generally agree on pretty much a large majority of the aspects. Indeed, I have not heard from the minister or any member of government about specific areas where there is a considered lack of agreement. Indeed, the government seems to indicate that they are going to be able to move forward with this relatively quickly, so the question is: why did they not simply wait until they had done all of their homework as opposed to just submitting their answer to a single question?

Indeed, the AEP, Alberta Environment and Parks, proposed that a third-party producer-funded organization be established by legislation to provide regulatory oversight, and stakeholders generally agreed on the aspects of that: the importance of transparency, documenting performance, conducting regular reviews, using governance best practices, ensuring that the oversight organization has sufficient power and authority. Now, admittedly, there are a few different suggestions for what that could look like, what the activities could include, whether that's operating a registry or ensuring a level playing field or reporting on system performances, providing oversight, but again, Madam Speaker, it would be a simple thing to simply provide for the creation of that authority in this legislation if indeed that's what the government is intending to do. That seems to be what stakeholders generally agree with.

If the government was not ready to do that now, then certainly this legislation could have been delayed so that we would have something substantial to debate in this House to actually accomplish the work that the government is setting out to do. Instead, we have a bill which does one thing. We will assuredly find ourselves back here in this Legislature debating the next steps and the remainder of the legislation to actually accomplish the goal that the government has set out, again, a goal that we certainly agree with and that we say is a laudable one and is welcomed by the stakeholders but which is not accomplished in any way by the bill that we have in front of us today.

Now, admittedly, it says that stakeholders were mixed on whether a third-party agency is the best approach or if government could maybe carry out these functions themselves. They indicated that there should be some careful consideration required to ensure clear accountabilities with no duplication between government and the potential agency. Again, those are important discussions that need to take place, and I can appreciate that perhaps that is the reason why the government is delaying taking that step, because they want to have those consultations over the next few months, but, then again, Madam Speaker, it would be a simple thing to have held on this one small provision until they were ready to proceed with a truly substantive bill once they had completed those consultations and taken that next step. Instead, we find ourselves debating Bill 83 knowing that we will be returning in this House to debate this all over again once the government has completed the work that is required to actually establish an extended producer responsibility framework.

The same is also true for targets and performance measures. Stakeholders provided a range of considerations for those program targets, so it's clear – okay; there are some things here to discuss. Stakeholders offered suggestions about target-setting that could be done in collaboration between the stakeholders and government or regularly reviewed and adjusted to allow for continuous improvement. They said that there's a strong desire for those targets to be achievable and realistic. However, there were mixed reviews on how ambitious those targets should be as compared to sort of being realistic as well, setting them initially too conservative or perhaps being too high to encourage innovation. Again, certainly, those are important discussions to have. Indeed, there are still significant steps government could take towards establishing the regulatory body and engaging in those consultations, or as I have said, the government could choose to delay the bill until they have had the time to do those consultations.

11:40

But it's clear that we find ourselves here at third reading, and from the remarks we've heard from government members and from the minister, not to presuppose the will of this place, it seems that this bill has a fair chance of passing simply as it is. In that respect I see no reason to oppose its passage. The one step it takes, certainly, we have no objection to. The intent that the government says it has but is not taking any action to actually enact we also support, so, as I noted in our debate on the captive insurance act, we will do our work, then, as the opposition to ensure that this government follows through on the commitment that it has set out. I look forward to the opportunity to delve into that through the estimates process, to see if the government is in fact putting forward the dollars that will be needed, the funding, to complete the consultations, to allow it to take the action which it is putting forward to build the promise it will eventually make today.

With that, I think that's about all I have to say at third reading. Thank you, Madam Speaker.

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

Mr. Feehan: Thank you, Madam Speaker. I appreciate the opportunity to get up and address this bill yet again. I certainly have tried to bring forward a number of respectful suggestions for the government to include in the bill, and unfortunately we're finding ourselves at third reading with no alteration whatsoever to the bill.

You know, we have come forward very often in this session of the Legislature commenting on the fact that the government has brought forward very weak bills that accomplish little beyond a

declaration of intent, which is very much a frustration for me because I would certainly like to see government take full responsibility for the work before them and to engage in the important and necessary heavy work of digging into a topic and coming to a place where they demonstrate that they understand the problem in full, that they have anticipated the implications of the bill that's being brought forward, and that they've constructed necessary preventative aspects of the bill to minimize any negative effects of the bill and to enhance the positives that might come out of the bill. I'd love to see that, and I just don't see that in this government.

The number of bills that have come into this House where the effective part of the bill is less than a page is just astounding to me. You know, as with some of the other legislation that we've had before us, I have very much the same thing to say about Bill 83, and I've certainly suggested at least seven other things that could have been in the bill along the way. We see this government being criticized, quite rightly, in the media frequently for being the government that has done too little too late. In every round of COVID, for example, that seems to be what the assessment is from all the professionals in the field. Here, in this particular case, we have a government that's actually planning to do too little too late. It seems to be built into the actual bill. It's not just an accident of the bill. This is the bill where you could say: "No. We got in front of it. We did the work, and here it is." Yet here we are at third reading: no changes to the bill.

In the past, you know, I've certainly come and talked about the fact that we could have a variety of things in this bill. We could have references to product fees. We could have references to advanced recycling fees. We could have product take-back mandates with recycling rate goals. We could have had virgin material taxes to reduce use of nonrecycled materials. We could have had recycling subsidies. All of these things are things I've mentioned before.

As I mentioned last night in the House, we could have actually had a section of the bill designed, really, in that preventative nature by focusing on product design changes that would be focused on waste reduction before it actually becomes product, let alone becomes waste. We could have, you know, seen a focus on source reduction so that we're not using all those virgin materials and not using materials unnecessarily. We could have had material substitution so that the materials that are used are ones that are more amenable to recycling and to reuse. We could have had a whole focus on assisting and helping corporations to actually make the changes necessary so that the recycling at the end is less necessary.

I would have loved to have seen any steps taken, any of these directions. I know that when I was young, we were in school, and they first started to introduce the concepts of, you know, reduce, reuse, recycle. Great mottos. All things that I fully support. But over time they actually added a fourth R. The fourth R was "refuse." What they meant was: don't even start in the first place. You don't have to reduce your use if you don't do it at all. You don't have to recycle if you don't do it at all. That's what the nature of product redesign is all about. It's actually not doing things that you then have to accommodate after the fact.

As much as we can get businesses to look at how they package and how they advertise and how they sell their products and stop doing things that will need to be dealt with by municipalities after the fact, we will be helping municipalities. This is one of those classic situations where we see that the structures that are set up in society and, in this case, by legislation actually result in the very unfortunate circumstances of privatizing profits, being good for

producers, but socializing the costs. In this particular case the externalities of having all these products developed are all on the people who do not benefit from the profits. People who benefit from the profits can create the space and walk away from it. It's just really not acceptable.

It's time that this government stops planning purposely to do too little too late and listens to the rural and small municipalities in this province who are telling this government that they are being crushed. Many of them who stood out here in front of the Legislature in the last year are saying that they simply cannot afford the bills that are coming to them. Of course, their complaints against this government are quite broad. I mean, I've been at both the Alberta Municipalities convention and at the RMA, the Rural Municipalities Association, convention in the last two weeks. The things I've been hearing from the reeves and mayors and councillors from across this province are that this government has cost them so dearly that many of their municipalities are on the verge of shutting down completely. The extra costs for RCMP, the undermining of the taxation of large industrial tax ratepayers, the reduction of MSI: all of these kinds of things are dramatic in their effect on municipalities.

I think it's time we stood up for municipalities in this province. I think it's time that we understand that they are the ones that cope with the consequences of our choices here in this Legislature. They're telling us right now that they are extremely financially burdened. The application of that argument to this particular bill is that they are the ones that have to deal with the externalities of production. They are the ones that deal with the physical products after they have been created by producers and used by consumers, and now suddenly what was a private enterprise exchange between a buyer and a seller has become a burden on people who are not part of the exchange, yet they are financially responsible.

11:50

We have a very big problem of waste in rural communities and small towns, where they are running out of garbage space. The cost of establishing new disposal sites is extremely high, and that is being paid for by their citizens, who often had no benefit of the private enterprise exchange that created the problem. No benefit at all.

In thinking of our municipalities, I would certainly like to see this bill reconsidered as it moves forward. I understand that we kind of missed the opportunity to make changes in it, but I am certainly hoping that this government does not fall back on its too little too late philosophy yet again and that they bring forward a more substantive bill, at the earliest possible moment, that would include serious emphasis on product design changes and maybe even a very particular focus on supporting municipalities in dealing with these issues. Where are the references to using these advanced recycling fees, which seem to be the only thing that the government apparently is considering as they move forward, to actually help municipalities to deal with the recycling? Are those fees going to be put into a pool that municipalities can draw from in order to do the recycling that's necessary?

There's a potential here for actually creating a really positive industry in this province, for helping municipalities to develop localized recycling facilities that will actually take products from around Alberta and turn those products that would have been headed to the landfills into products that are more useful in society, thereby creating jobs in the many small communities around this province. I think there is potential for a great industry here, but it's not going to just happen on its own.

I think, just as we did when we started to develop the oil sands in the Fort McMurray area, that the role of the government in initiating

an industry is very profound. We know that's what worked in Alberta. Premier Lougheed made the decision, because it was important, that his government would invest deeply in the industry at the beginning, giving them the cash flow in order to be able to get started. The consequent result for citizens of this province is that we have had a constant flow of income. But we know now that that constant flow of income will not always be dependable in the way that we would like it to be. Hopefully, we'll always be part of what we benefit from in this province, but it cannot be such a singular, sole source of income that we've had and we've been able to experience. Instead, we need to start thinking about: what are the alternative sources of income for our government?

One of the greatest ways of creating an alternative source of income is to create diversity in terms of your industry. In this case this is the type of industry that could be created, that not only could we get good at here in this province and therefore reduce the waste in this province and create jobs in this province, but we could actually get to the point where we begin to export and sell our knowledge and share that with many other parts of the world who are also experiencing deep problems with waste.

We only have to look at what's happening in our oceans to see that we have created a significant problem with waste. We literally have, in the Pacific Ocean, small islands of garbage being developed, and we have to start to take control of our actions and stop this from continuing, because it's a disaster for our Earth and it's a disaster for our children. I'd love to see this government stand up and take responsibility.

As I've said many times before – I know I'm getting repetitive, and the joke is that I'm recycling my speech, but I don't feel that the concerns have been heeded. There are things that can be done. There are many countries in the world that are well ahead of us on this, so I congratulate the government for actually taking step one. I certainly do. I certainly would like to be able to support this bill, and I indeed do, but boy, oh boy, am I ever anxious for a lot more work to be done, for the notion of environmental protection and enhancement to actually be done with intensity, with earnestness, and with forethought, which I don't see in this bill.

At this particular time I will just conclude by saying that I look forward to the government taking the next necessary steps, and I want to be able to support you. If there's anything I can do to provide you with information, I will.

The Deputy Speaker: Are there any other members wishing to join the debate?

Seeing none, would the hon. member like to close the debate?

Mr. Turton: Waived.

[Motion carried; Bill 83 read a third time]

The Deputy Speaker: The hon. Member for Lethbridge-East.

Mr. Neudorf: Thank you, Madam Speaker. I move that the Assembly be adjourned until 1:30 this afternoon.

[Motion carried; the Assembly adjourned at 11:58 a.m.]

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