

**Third Session - Thirty-Ninth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Social and Economic Development**

*Chairperson*  
*Ms. Erin Selby*  
*Constituency of Southdale*

**Vol. LXI No. 2 - 6 p.m., Wednesday, June 3, 2009**

ISSN 1708-6698

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Ninth Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
ALLAN, Nancy, Hon.	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
BJORNSON, Peter, Hon.	Gimli	N.D.P.
BLADY, Sharon	Kirkfield Park	N.D.P.
BLAIKIE, Bill, Hon.	Elmwood	N.D.P.
BOROTSIK, Rick	Brandon West	P.C.
BRAUN, Erna	Rossmere	N.D.P.
BRICK, Marilyn	St. Norbert	N.D.P.
BRIESE, Stuart	Ste. Rose	P.C.
CALDWELL, Drew	Brandon East	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CULLEN, Cliff	Turtle Mountain	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
GRAYDON, Cliff	Emerson	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
HOWARD, Jennifer	Fort Rouge	N.D.P.
IRVIN-ROSS, Kerri, Hon.	Fort Garry	N.D.P.
JENNISSSEN, Gerard	Flin Flon	N.D.P.
JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MARCELINO, Flor	Wellington	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McFADYEN, Hugh	Fort Whyte	P.C.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MELNICK, Christine, Hon.	Riel	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
OSWALD, Theresa, Hon.	Seine River	N.D.P.
PEDERSEN, Blaine	Carman	P.C.
REID, Daryl	Transcona	N.D.P.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
RONDEAU, Jim, Hon.	Assiniboia	N.D.P.
ROWAT, Leanne	Minnedosa	P.C.
SARAN, Mohinder	The Maples	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELBY, Erin	Southdale	N.D.P.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan, Hon.	Dauphin-Roblin	N.D.P.
SWAN, Andrew, Hon.	Minto	N.D.P.
TAILLIEU, Mavis	Morris	P.C.
WHITEHEAD, Frank	The Pas	N.D.P.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT**

**Wednesday, June 3, 2009**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Ms. Erin Selby (Southdale)**

**VICE-CHAIRPERSON – Ms. Flor Marcelino (Wellington)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

*Hon. Mr. Ashton, Hon. Ms. Irvin-Ross, Hon. Ms. McGifford, Hon. Mr. Struthers*

*Messrs. Cullen, Derkach, Dewar, Dyck, Ms. Marcelino, Mrs. Mitchelson, Ms. Selby*

*Substitutions:*

*Mr. Maguire for Mrs. Mitchelson*

*Hon. Mr. Rondeau for Mr. Dewar at 7:06 p.m.*

**APPEARING:**

*Mr. Kevin Lamoureux, MLA for Inkster*

**WITNESSES:**

*Bill 29–The Environment Amendment Act*

*Mr. Greg Bruce, Ducks Unlimited Canada  
 Ms. Gaile Whelan Enns, Manitoba Wildlands  
 Mr. Glen Koroluk, Beyond Factory Farming*

*Bill 20–The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electricity Reliability)*

*Ms. Gaile Whelan Enns, Manitoba Wildlands*

*Bill 5–The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)*

*Mr. Derek Hay, Radio Amateurs of Canada  
 Mr. Bob Dolyniuk, Manitoba Trucking Association  
 Mr. Jeff Dovyak, Amateur Radio Emergency Service  
 Ms. Loretta Corbeil, The Lung Association, Manitoba  
 Mr. Geoff Bawden, Winnipeg Amateur Radio Club*

*Ms. Joan Wilson, Unicity Taxi*

*Mr. Curtis Basso, Manitoba Association of School Business Officials*

*Mr. Phil Walding, Duffy's Taxi*

**WRITTEN SUBMISSIONS:**

*Bill 5–The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)*

*Bryan H. Crowley, Consider the Possibilities  
 Murray Gibson, Manitoba Tobacco Reduction Alliance*

**MATTERS UNDER CONSIDERATION:**

*Bill 5–The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)*

*Bill 20–The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electricity Reliability)*

*Bill 24–The Colleges Amendment and le Collège universitaire de Saint-Boniface Amendment Act (College Degrees)*

*Bill 29–The Environment Amendment Act*

\* \* \*

**Clerk Assistant (Mr. Rick Yarish):** Good evening. Will the Standing Committee on Social and Economic Development please come to order.

Your first item of business is the election of a Chairperson. Are there any nominations?

**Hon. Kerri Irvin-Ross (Minister of Healthy Living):** I nominate Ms. Selby, MLA for Southdale, for Chair.

**Clerk Assistant:** Ms. Selby has been nominated. Are there further nominations? Seeing none, Ms. Selby, will you please take the Chair.

**Madam Chairperson:** Good evening. Our next order–item of business is the election of a Vice-Chairperson. Are there any nominations?

**Ms. Irvin-Ross:** I nominate Ms. Marcelino, MLA for Wellington.

**Madam Chairperson:** Ms. Marcelino has been nominated. Are there any other nominations? Hearing no other nominations, Ms. Marcelino is elected Vice-Chairperson.

#### Committee Substitution

**Madam Chairperson:** We have just been notified there will be a substitution in the PC caucus. Mr. Maguire will be substituting for Mrs. Mitchelson.

\* \* \*

**Madam Chairperson:** This meeting has been called to consider the following bills: Bill 5, The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles); Bill 20, the Manitoba Hydro amendment act and Public Utilities Board amendment act, electrical reliability; Bill 24, The Colleges Amendment and le Collège universitaire de Saint-Boniface Amendment Act (College Degrees); and Bill 29, The Environment Amendment Act.

We have a number of presenters registered to speak this evening.

Before we proceed with the presentations, we do have another—a number of other items and points of information to consider.

First of all, is there anyone in the audience who would like to make a presentation this evening? Please register with the staff at the back of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with the photocopying, please speak with the staff, again, at the back of the room.

As well, I would like to inform the presenters that, in accordance to our rules, a time limit of 10 minutes is allotted for presentations, with another five minutes allowed for questions from committee members.

Also, in accordance with our rules, if a pres—if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

Written submissions on Bill 5 from the following have been received and distributed to committee members: Steve Crowley; Murray Gibson of the Manitoba Tobacco Reduction Alliance.

Does the committee agree to have these documents appear in *Hansard* transcript of this meeting?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed and so ordered.

On the topic of the order of the public presentations, we do have out-of-town presenters in attendance, marked with an asterisk on the list. With this in mind, what order does the committee wish to hear the presenters?

**Mr. Larry Maguire (Arthur-Virden):** I just wondered if we could have out-of-town presenters first.

**Madam Chairperson:** Do we have agreement?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** And so ordered.

And if I could ask the committee what order they would like to do the bills as well.

**Ms. Irvin-Ross:** I'd like to propose that we do Bill 29, then Bill 5, Bill 24, Bill 20.

**Madam Chairperson:** Is there agreement amongst the committee? Mr. Maguire?

**Some Honourable Members:** Oh, oh.

**Ms. Irvin-Ross:** Just 29, 5 and 20.

**Madam Chairperson:** Is that agreed upon by the committee?

**Mr. Maguire:** Well, I only notice that Ms. Whelan Enns is on both, and she's on 20 and 29. I wondered if there'd be a way to carry both of those presentations so that she can leave, rather than having to sit all the way through all of the ones for Bill 10—or 5.

**Madam Chairperson:** Is there agreement on the bills in the order of 29, 5 and 20? Is there agreement?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed and so ordered—*[interjection]*

**Hon. Diane McGifford (Minister of Advanced Education and Literacy):** Madam Chair, sorry to interrupt you. I, I understand, then, you are speaking

in the—speaking to the order in which the presenters would be heard and not giving a complete list of the bills.

**Madam Chairperson:** Agreed.

**Ms. McGifford:** Thank you.

**Madam Chairperson:** I would like to inform all those in attendance of some provisions regarding the hour of adjournment and the consideration of our business tonight.

In accordance with sessional order adopted yesterday in the House, as we currently have less than 20 presenters registered, if this committee has not completed clause-by-clause consideration of these bills by midnight, a number of rules will apply, including sitting past midnight to hear presentations. If they are not already finished, concluding presentations at 1 a.m. and interrupting proceedings to conclude clause-by-clause on all bills at 3 a.m. Just for the information of the committee.

\* (18:10)

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA, minister or presenter, I first have to say the person's name. This is a signal for the *Hansard* recorder to turn the mikes on and off. Thank you for your patience. We will now proceed with the public presentations.

#### **Bill 29—The Environment Amendment Act**

**Madam Chairperson:** I will now call on Greg Bruce to come up to podium, please. On Bill 29. Greg Bruce, you've distributed written materials to the committee?

**Mr. Greg Bruce (Ducks Unlimited Canada):** Yes, I am.

**Madam Chairperson:** Please proceed with your presentation.

**Mr. Bruce:** Thank you, Madam Chair, ladies and gentlemen. My name is Greg Bruce. I am the head of industry and government relations for Ducks Unlimited Canada. I work at Oak Hammock Marsh and live in Stonewall. I would like to thank you for the opportunity to speak to the standing committee today on Bill 29.

I really don't have any comments with respect to the contents of the bill, but I do have some comments and recommendations with respect to possible considerations that were omitted in the amendments themselves.

Ducks Unlimited Canada's research in Broughton's Creek watershed quantifies the negative impacts of wetland loss resulting in degraded water quality, increased flows, increased sedimentation, increased contributing area and increased greenhouse gas emissions. Many of you have received a fact sheet on this research in the past, and it looks like this, and I've also distributed it today. As Ducks Unlimited Canada, Keystone ag producers and others have indicated in the past, we need to correct the often contradictory signals that encourage the destruction rather than the conservation of our natural ecosystems. The Environment Act, including the regulations, in its present form, significantly favours wetland ecosystem destruction over wetland creation.

Ducks Unlimited would like to suggest an additional amendment designed to correct these contradictory signals and to address inconsistencies within the licensing process. Most importantly, these changes will provide for stronger environmental protection, as well as contribute to climate change mitigation and adaptation objectives.

Regulation 164/88 of The Environment Act refers to the classes of development and provides definitions and criteria for the three classes or three levels of development considered under The Environment Act. Of particular concern to Ducks Unlimited is the inconsistent treatment of water supply impoundments and land drainage projects found under section 3, which deals with class 2, developments, and under section, sorry, under subsection 8, called water development and control.

There are a number of definitions in this section of the regulation, and I've provided three bullets on the front page of the handout that's being distributed for your reference, and I'll read them out. Water supply impoundments of not less than 50 dam cubed and not greater than 50,000 dam cubed. The second one is land drainage projects draining an area not less than 50 square kilometres and not greater than 500 square kilometres and the third, works resulting in modification to lake or river levels and affecting a water surface area of not less than 2 square kilometres but not greater than 200 square kilometres.

Wetland projects built by Ducks Unlimited and other groups like conservation districts, have traditionally been defined as impoundments under The Environment Act. Ducks Unlimited's concern is that there are two different metrics or measurements and, of more concern, two significantly different standards for calculating the size of water supply impoundments or conservation projects versus land drainage projects. Wetland creation or water storage impoundments for conservation purposes are measured and defined in dam cubed or in volume, whereas land drainage projects which remove water from the landscape or move it downstream are measured and defined in square kilometres or in surface area.

So in accordance with the intent of the proposed amendments, and that is to provide clarity and consistency in the licensing process, Ducks Unlimited would encourage the use a standard unit of measure for both impoundments and drainage and in particular we're offering or suggesting the volume metric.

An environmental licence is required for water impoundment projects if the stored volume is over 50 dam cubed. Now I'm going to continue to refer to those three bullets on the front page, which is equal to, just to put it into some common language for all of us here, a thousand cubic metres or 40 acre feet, the old standard that some engineers have used, and 40 acre feet basically is 40 acres of land flooded to one foot of depth, a little easier to understand.

On average, this volume of impoundment is created by .8 square miles of drainage basis, and that's calculated on average using Water Resources drainage maps, and on average, results in about a 20 acre wetland or created impoundment area, and that's on average 40 acre feet on an average of two-foot depth 20 acre surface area.

Current licensing requirements stipulate that a drainage project, however, requires an environmental licence if the drainage area is greater than 50 square kilometres, which is equal to 19 square miles. So just compare apples and apples here now. An environmental licence is not required until drainage projects impact 19 square miles while a water conservation or impoundment project requires a licence if it impacts a drainage area of greater than .8 square miles. Something of an imbalance.

Drainage projects requiring 19 square miles could potentially remove about 950 acre feet of water from the landscape before triggering a licence,

while a water retention project greater than 40 acre feet requires a licence. Again, I'm just kind of using different comparisons here to illustrate the inequities.

If you remember from above and on the front sheet, those bullets, that 50 dam cubed impoundment results in about a 20 acre wetland. You take a look at the third clause which allows drainage of water bodies with a surface area of two square kilometres, which is about 494 acres. So I'll do the comparison again. An environmental licence is required if a proponent wishes to restore a 20 acre wetland but is not required to drain a wetland that's 490 acres, under The Environment Act.

So this inequity in standards clearly facilitates the process to drain the landscape which in Ducks Unlimited's research has really shown to degrade water quality and add to greenhouse gases. At the same time, the act, through stricter criteria, I guess prevents or discourages retention projects that benefit the environment and sequestered carbon dioxide.

As an example, consider that under Ducks Unlimited's current research, or, sorry, recent research, when an acre of wetland is drained, 81 metric tons of carbon dioxide equivalent are released to the atmosphere over a relatively short period of time, three to five years, whereas, when we restore an acre of wetland, the same amount of carbon is actually sequestered over a longer period of time, over about a 20-year period of time.

And in your written submission, please note there's a correction. I just wanted to ensure we're comparing one acre of wetland being drained to one acre of wetland being restored.

And, in closing, there's been some recent coverage in the *Winnipeg Free Press* and some of our work on the Broughton's Creek research really outlines the magnitude and impacts of wetland loss in Manitoba in terms of water quality and greenhouse gas emissions. Additionally, concerns about drainage as recently expressed by the R.M. of Minto in the *Minnedosa Tribune* about a month ago are also indicative of our need to review our emphasis on drainage over conservation.

If the intent of the amendments are to improve protection of Manitoba's environment, especially related to water quality and greenhouse gases, then the government and the people of Manitoba may, in fact, wish to have different standards for wetland

creation and wetland drainage projects, but these standards probably should be reversed, given what's currently in place in the regulations, and at the very least, the standards should be the same. And with that, thank you.

**Madam Chairperson:** Thank you very much for your presentation, Mr. Bruce, and I think we have some questions from the committee starting with the Honourable Mr. Struthers.

\* (18:20)

**Hon. Stan Struthers (Minister of Conservation):** Thanks, Greg, for your presentation and for coming out this evening. I think sometimes you can tell a good idea when, when it's there for a long time and it survives from one government to the next. And, and, and I think of things like watershed planning. We, I need, I want to be, I want to be clear though, and I, I'm very interested in, in the kind of the premise of what you've put forward here tonight. And we always ha—we have discussions around here about water retention versus drainage and, and those go on, and we all know that we have to make decisions based on what's best in terms of a watershed.

Are, are you—is your proposal—if we accepted a standard metric, would that mean you would speed up the licensing of, of water retention projects? Or would that mean the slowing down of drainage project? And if there is, which, which'd be your preference?

**Mr. Bruce:** Very good question, minister, and I think it would depend on where we land with respect to the metric itself, and you'll notice, of course, I didn't offer—I've offered the type of metric and, and that being volume, but I didn't offer a number, and I—and if, if we decide on a number, I think that would answer your question. If we decide that the number should be 40, a 40 acre feet, that will—then I think there'll be—that would make the drainage applications—there'd be obviously a lot more—the drainage applications that would have to come through the department would make things cumbersome and, and difficult in that regard. If we open the doors completely and allow drainage in and empowerments to 950 acre feet, then that would—there'd be very few applications coming through the door.

I think—I think the premise of, of what I'm suggesting here is that we need to balance the signals to groups to, to the people of Manitoba that we want to pursue a balanced approach with respect to

development and conservation. And I think that falls in line with sustainable development and, and many of the activities and programs that, that the government has pursued in, in the past.

So I'm not answering your question very well, but I would suggest maybe at the very least, in terms of a starting point, we would maybe take a midpoint of, of the two extremes and consider what impacts that's gonna have on agriculture and what impacts that's gonna have on conservation groups, and then go from there and, and try to reflect the, the intent and spirit of the, of the act, of The Environment Act and other acts as well. As you're aware of, The Water Rights Act, of course, covers many of these kinds of activities as well, and I didn't get into that, but you want to ensure whatever amendments you do incorporate here are consistent with the spirit, nature and details of The Water Rights Act as well.

**Mr. Larry Maguire (Arthur-Virden):** Thanks very much for your presentation, Mr. Bruce. I just wanted to ask, in regards to page 1 of your presentation, the class 2 development sizes, the section defines those, and do you feel that there's enough—what I mean, there's a lot of latitude between those various numbers, between 50 dam cubed and 50,000 dam cubed and between two kilometres squared and 200 kilometres squared, there's quite a variance there, and you're looking at trying to average that out more at least or look at it. How do you, do you see those? Can you live with those as far as the variance and that or should that be narrower or wider?

**Mr. Bruce:** Thank you. Just for clarity then. Our concerns are not with respect to the range. Our concerns are with respect to the minimums, and that's, that's the—to us that's the concern that we have is that, you know, if, if someone is allowed to drain two square kilometres of surface water without triggering an environmental licence, that's 490 acres. That's a 490 acre wetland. That's of concern to us and I think that will be of concern to people downstream and of concern to our environment. So that's—that's an example.

We have to apply, or Ducks Unlimited and conservation groups have to apply for a licence for a 40 acre—40 acre foot wetland, whereas, you know, you can drain an area draining 950 acre feet without an environmental licence. So it's an inconsistency that, that's of, of concern for us.

**Mr. Kevin Lamoureux (Inkster):** My question is—very, very quickly—do you have a percentage—percentages of, of wetlands here for the province of

Manitoba? And one particular one I'm interested in is has there, overall, in terms of acreage, has the number of acres towards wetlands increased over the last number of years in the province of Manitoba, or has it, in fact, decreased? Do you have any sort of a assigned scale of that nature?

**Floor Comment:** Yes, we do and—

**Madam Chairperson:** Mr. Bruce.

**Mr. Bruce:** Yes, we do, Madam Chair, sorry, and it's captured in the fact sheet that you have in hand. We did some—we quantified very—in a very detailed fashion some of the wetlands trends between 1968 and 2005 in the Broughton's Creek watershed, which is a 100 square mile of watershed north of Brandon. The bottom line is that we have lost or degraded 70 percent of our wetlands in that watershed. We are of the opinion that's very representative of the prairie pothole region of Manitoba or the southwestern corner region of Manitoba given our experience on the landscape. And we are supported, I would say quite rigorously, by the agriculture community because we've taken this message out to them, and they've totally embraced, embraced it as well.

So the bottom line is we are losing wetlands at an alarming rate. We are continuing to lose wetlands, and we need to start to do something about it. And, and this research helps to point and put a, a magnifying glass on the impacts of that wetland loss.

I encourage you to read—read it thoroughly because it, it's quite alarming, and the cost of the, costs of the loss as well. We tried to estimate what it is costing Manitobans in terms of trying to replace ecological goods and services just for the water quality and the greenhouse gas implications of wetland loss.

**Madam Chairperson:** The time for questions has expired.

Is there leave of the committee for one more question?

**Some Honourable Members:** Leave.

**Madam Chairperson:** Leave has been granted.

**Mr. Leonard Derkach (Russell):** Thank you. It was—actually I had about three questions, but because of the limited time, I won't be able to ask them.

What responsibility does Ducks Unlimited take when, in fact, their projects have caused flooding and damage to residences and to cottage owners on lakes

that are below the Ducks Unlimited projects that have created dams, and the dams have now—or the gates have been opened up because of excessive water?

**Mr. Bruce:** Thank you. We've been working with landowners and on the landscape there's certainly been some instances of, of our projects surpassing their, their FSLs at certain times of the year. When we get excess moisture, those projects do, do fill up, and, in some cases over the natural course of the year, the intent or the expectations by the landowners and certainly by ourselves, when they were designed, is for those to go down to a nominal level or a normal level.

I can tell you that we have had significant complaints about some of our projects, and, in many cases, we have a great deal of evidence to go upstream to take a look at the drainage activity that contributes to that excess flooding on some of our projects.

And not to point fingers one way or another, but the, the drainage area has increased in many cases, and there's been additional water added to those projects that, that surpass their design capability. And, again, if you take a look at the fact sheet, you can, you can get a sense as to the implications and what happens when you, when you actually drain wetlands and additional water is coming on downstream.

**Madam Chairperson:** Thank you, Mr. Bruce, for your presentation.

I now call Ms. Gaile Whelan Enns to the mike. Gaile Whelan Enns.

Do you have any written materials for distribution amongst the committee, Ms. Whelan Enns?

**Ms. Gaile Whelan Enns (Manitoba Wildlands):** No, I don't.

**Madam Chairperson:** Please proceed with your presentation.

**Ms. Whelan Enns:** Thank you. Wishing for a slightly wider podium here, but we'll make do.

Good evening. As a quick preamble, I want to indicate that 23 years ago I was involved in the policy research and policy discussions for the writing of this act. I continue to know the lawyers, politicians and administrators who administer the act today and interact, if you will, with their offices.



Today, the act is no longer being applied with all of the intent, if you will, from 20 years ago, and I would suggest we need a full public review for the act and, most particularly, so that Manitoba in fact has environmental assessment regulation under the act.

I'm going to take a quick run-through based on clauses and also a little bit of research material I have in front of me.

2(2): There are no clear standards for the public registry under the act. Instead, what we have is less than—less or fewer requirements based on a spinning-off of branches of the former NR department and environment department into new departments that, lo and behold, then no longer in fact are covered by the public registry under The Environment Act.

\* (18:30)

So, we need a public registry that's inclusive again, with the policy and procedures manual for that registry public. A couple of examples of fairly pervasive problems right now is, it's almost impossible to use the public registry to find the information about current forestry licences in this province, and the same is true in terms of current licensing for hydro development in the province.

Perhaps if the public registry and the policy and procedures manual for it were public, we'd actually all be better off, and it would help decision making. It's entirely possible we have a lot of changes in that policy and procedures manual since about 2003, but how would we know?

2(2)(d): You'd think now that it would be actually clear in the language which public registry and location we're talking about, but you can't really tell. It's very good that we're seeing the references to greenhouse gas information, but it remains—as you read through this bill, it remains fairly wide open as to what this is actually going to result in in terms of reporting and public information.

I think that under 3(1), going to, again, the observation that we need a full review, a public review of the act, working collaboratively to improve decision making in the province, that we are also overdue for standards—a template, if you will, to use an administrative word—for what the ministerial reference to the Clean Environment Commission needs to include. That would then, in fact, allow an independent ability to take a look at the actions of the commission and we'd all be better off.

4(1): Can't tell whether we've lost the central registry. We certainly do not have a full electronic public registry. We have some selective electronic posting, and that selective approach to what's being posted electronically does not give confidence and can cause communities and citizens a fair bit of frustration.

Okay. Excuse me just a sec.

Two—sorry, 12.0.1(1) and (2): This is a change that is from 1999. This is a change recommended by the committee on sustainable development implementation report from 1999. It was very contentious, so if 10 years later it's going to go into legislation, it's fairly important to be able to actually gauge how it's going to happen, what it means, whether it'll be transparent, whether these consultations that developers would undertake would, in fact, be part of the public registry. There is no definition, there's no information in this bill, as to what the def—what the expectations or requirements for those consultations by developers would, would be or how they would be weighed.

My assumption—and this is just a disclaimer, if you will, or qualifier, in my remarks—my assumption is that nothing in these two additions to the act would, in fact, apply to any proposal under The Environment Act where there's a requirement for the Crowns, provincial and federal or—well, presumably both—with Aboriginal communities, because it cannot be. You can't put a developer in place as if they are the Crown, have a consultation that's not clearly defined and then say the consultation happened. Simply—I'm not a lawyer, qualifier here—but it simply cannot apply to the requirement and obligation of the Crowns in terms of consultations with the First Nations.

12.0.2: Again, good to see emissions. The emissions for a proposal under this act and for licensing must include the emissions from construction. There has to be a threshold, a, a base for the information in the first place, which means you need a status report and a carbon inventory before you start, and the emissions from construction must be included.

I recently had an executive officer of Manitoba Hydro explain to me that this was not possible and not likely, that this was not relevant, because once you've built it, then the project cancels out all those emissions. We need to learn to be able to count in Manitoba, I think. Now, 12.0.2 also usually would be in the public environmental impact statement

requirements for licensing, so it's hard to know at this point whether that's going to continue. It's a concern in terms of just looking at—reading this. I had no Internet access today, so this is a small apology. I was not able to get into the full act, okay?—but, again, we won't know for sure. We're looking forward to these steps in terms of greenhouse gas contents in this bill and we'll see how we're doing and how we're actually going to put it in place and apply it when the act is proclaimed.

One of the things that needs to happen—and I've got a little note on the side in terms of examples of definitions for alterations, 14(2.1). A definition of an alteration—minor, medium or major—under the act is long overdue. Most alterations and licences that are granted are put in writing as if they are minor. Let me give you an example.

There's a \$400-million thermal mechanical pulp mill in Pine Falls. It was considered to be a minor alteration and was licensed on one piece of paper in 1999. So we need definitions, clear understandable steps in terms of what an alteration under our licence is and its time, 2025, in some cases 35 years later, to, in fact, be very clear about when we're grandfathering something and when we're going to, in fact, review what's been grandfathered for decades in the province. But we are at great risk, and this is not—this is just simply an example. It's not a comment on that mill, but it's an example of the kind of thing that can be called a minor alteration and then result with absolutely no review.

14(2.1) needs to be fixed so that the original licence is also always filed and always present in the present registry. Currently, current or original licences are not there. They are not. I'd like to see all environmental licences in the province on-line; there for mining—fantastic database. Manitoba government did a lot of work to do that and we would benefit, all of us, in decision making, if that was happen—happened.

Now 5(2)(b)(a) needs a clear definition of a public meeting is when the Clean Environment Commission holds a public meeting and what a hearing is, and that then would go back to standards in terms of the reference from the minister, and it would really reduce a lot of confusion because the media don't get it. They can't tell the difference, and there's times when citizens think, well, a meeting would be okay to go to, but I'm scared of a hearing. So if it were all a little bit clearer, it would help us.

27(4) Well, 27(3) and (4). It looks very much like there's a risk, but this notice to the appellant would not—

**Madam Chairperson:** Ms. Whelan Enns, I'm just going to remind you, you only have one minute left.

**Ms. Whelan Enns:** —would only, would not be public and it's hard to tell. 28(2) is the same kind of thing. We seem to be moving appeals into a very specific sequence in terms of Cabinet decisions. There's nothing in this bill then about notification after a decision from Cabinet. It falls off the end of the page.

We have no standards here in terms of how the procedures would work for a Cabinet review, and given that Cabinet secrecy is 30 years, I think that in the name of public information democracy, we could do a few more things. I'm going to be watching to see how things are in terms of consistency with the climate bills. Very hopeful there. Very hopeful there.

Last night I made the point for the Clerk's office and the Legislature generally that the explanatory notes are weak. A simple thing to cross reference them to where in the bill and to, in fact, see whether they're a complete explanatory note. Explanatory note on this bill is completely missing any information about the changes in appeals. Thank you.

**Madam Chairperson:** Thank you very much. Do members of the committee have questions for the presenter?

**Mr. Cliff Cullen (Turtle Mountain):** Thank you very much for your presentation tonight. You, you briefly referenced hydro projects, and we know there's going to be a number of projects coming forward. In particular, we're having the—at least a political debate over an east-side, west-side line, and I just want to get your views on that. Maybe you could expand your, your concerns about the legislation as it exists and potentially the changes to the legislation and how the licensing may impact the west-side development that the NDP government has proposed. Do you have concerns in that regard?

**Ms. Whelan Enns:** Thank you for the question. Not to tell too many long stories, but before the Wuskwatim proceedings, it turned out that none of the information regarding the most recent previous to Wuskwatim Dam in the province was in the public registry. It turned out that none of it was available.

We ended up with a 30-day extension on the CEC's meetings to set standards and a very—a lot of search.

\* (18:40)

Right now, if the minister responsible was going to engage in the new long-term environmental licence for a forestry company in this province, it would be the same situation. So, to go to your question, we need to be able, whether it's an affected community, an affected First Nation, legislators, lawyers, environmentalists, we need—it's a simple thing. We need, for instance, to be able to look at the information about most recent and previous significant transmission decisions in the province. It's not possible today. It's not possible.

If we were going to compare to all of the work done—and there was, you know, tens of millions of dollars of public money involved—if we were going to compare it to all the work done between the late '80s, up until '92, '93 on what I sometimes refer to as Conawapa one, including transmission—none of it's public, and the public utility's reason for that is, they never had to file it.

So we have this debate in Manitoba about where you're going to put a transmission line, where none of the technical work that the public paid for in the early '90s is accessible. Moreover, that means it's not accessible to the communities who are doing lands planning or attempting to do lands planning right now in the east side.

Now, I don't buy the figures in terms of the difference between the cost of a line on the east side and the west side, and that is because we need to do ecological accounting on all of this and I wish, I wish the Manitoba government had done that four or five years ago. I know I sound repetitive, but we don't have enough information. I also think that it's still out there. We haven't seen the report, but these discussions about the line being in Lake Winnipeg or portions of it, still need answers.

The lot—a lot of ingredients in this and I really don't feel that we've had enough concrete information and good debate, nothing against politicians at the moment, but I'm taking your question literally.

**Madam Chairperson:** Seeing no, seeing no further questions, I'll thank you Ms. Whelan Enns for your presentation and call Mr. Glen Koroluk to the microphone, please.

Mr. Koroluk, do you have any written materials to distribute to the committee?

**Mr. Glen Koroluk (Beyond Factory Farming):** Yes, pictures and diagrams.

**Madam Chairperson:** I'll invite you to proceed with your presentation while you're distributing the materials.

**Mr. Koroluk:** Thank you, Madam Chair, and thank you committee for this opportunity. My name is Glen Koroluk. I'm with an organization called Beyond Factory Farming. We promote food sovereignty and socially responsible livestock production.

I just wanted to comment briefly on some of the clauses in The Environment Act, and I do agree with the previous presentation that there is a need for more transparency in, in, in the act, and one of the things that was brought up is that we do need further consultation in order to go ahead by amending The Environment Act. We did have a process over eight years ago. It was called the COSDI process, Consultation on Sustainable Development Implementation. That sort of died. That was with a different minister at the time and, and now all of a sudden, we get what I would call major amendments to the act without a real public process informing people to get engaged in, in, in this important action.

So what I would like to have seen with amendments on Bill 29 would be some transparency clauses. One that, one that does come to mind is, is public notification, a better public notification process instead of a little ad in a local newspaper. I would say 99.999 percent of the people don't realize that there are many proposals out there and they don't have the opportunity to get engaged in the licensing process.

I would also like to have seen amendments that would make our approvals process or our hearings process, I should say, more independent. We had a, a COSDI recommendation saying that it would be a good idea to have a, an environmental auditor. We now see that the, the, the provincial auditor is starting to get into environmental issues, the Ombudsman's office, both those bodies are, are independent. They report directly to the Legislature, so I would, I would like to see more of that in a, in The Environment Act, and having a body that overlooks environmental issues.

Just to go through some of these clauses. Clause 12.0 1, it says, public consultation by proponent to be considered. I, I feel that clause is, is a bit, could be a bit dangerous. It could be used as a way for the minister to say that if a developer has public consultations, we don't have to do a hearing if there's a lot of public concern about the particular project. And, including with this clause, I'd also like to see the minister or the director consider other types of information, such as peer reviewed science and independent research. And why not even, you know, take into consideration public consultations conducted by the public themselves?

The next clause, the climate change considerations, 12.0.2. The way I read it, the clause is very wishy-washy. I mean, it doesn't really tell us what should be done in terms of greenhouse gases. It doesn't say we should reduce them or we could trade them. So it doesn't really tell us what is taken into account and what that means. So it's, I'd like to see more clarification there.

And again, it was mentioned previously about minor and major alterations, and I think this is a real important issue that a minor and a major alteration should be defined more succinctly and not according to what the director or the minister thinks a minor and major alteration is. We've just seen, recently, Hytek expand their production at the Springhill plant by over 50 percent with, you know, the addition of a waste-water treatment system, and that was considered as a minor alteration. The same thing with the Maple Leaf plant in Brandon where they doubled production and that was considered a minor alteration, and we didn't have any hearings or the public wasn't engaged in the, in the environmental assessment process.

Moving along here, I guess coming to the bones of my contention here, and that's section 30.1, subsection 2, and this is the exemption clause for agricultural operations. Basically, the act is taking the definition of a normal farming practice from another piece of legislation, the farm practices and protection act, and saying that if you're a normal farm practice, you could be exempt from the act, unless there are other pieces of legislation that covers a normal farming practice. I mean, this is not a good way to go.

And I just want to refer to the handouts I gave. If you could see the two pictures, the two—the barns, this is what a normal farming practice is. The one on the top has got 10,000 pigs crammed inside, from

western Manitoba. The picture in the middle is only half of the operation. There's another eight barns to the right that we couldn't get into the shot, so there's 16 barns in one section of land. That's 32,000 animals and that will be classified as a normal farming practice and will be exempt from The Environment Act.

And if you flip over to the next page, the little diagram. Interestingly enough, this diagram I got from the hog industry, and they do call themselves an industry. It is an industry. You can see the inputs on hog production. I mean, they put antibiotics in the feed. The animals eat it and then it comes out into the environment through the feces and urine that isn't treated in any way, and then spread onto the land.

So, by exempting a normal farming practice, what we're doing is we're disregarding those types of impacts and, specifically, it's the admission of methane, which is a greenhouse gas; nitrous oxide which is a greenhouse gas, a deadly greenhouse gas, and then some of the toxic chemicals such as ammonia and hydrogen sulphide. And hydrogen sulphide, by the way, is regulated in this province by the oil and gas industry, The Oil and Gas Act, but if it's coming from a normal farming practice, we're not regulating hydrogen sulphide. It's, it's got a free pass.

\*(18:50)

So, so that, I guess, sort of summarizes some of my concerns. But, but really getting to the issue that it would have been nice to have some consultation on this. I don't see anyone from the industry here supporting the exemption clause that you're proposing. So I'm, I'd be curious as to where that's coming from. Thank you.

**Madam Chairperson:** Thank you, Mr. Koroluk. Is there any questions from the committee?

**Mr. Struthers:** Yeah, thanks, Glen, very much for coming out tonight and presenting to us.

I, I, I just wondered if you can kind of key in on the farm practices, that section 30 that you were, that you were talking about. You said it was sort of the bones of contention of your, of your presentation. So I think we should probably deal with what you think is the most important.

The—this exception has been in place for, for quite some time. It's based on the—it's based on the fact, as is, as you see in there, that, that there is a Farm Practices Protection Act that, that is already in

place that provides some rules that, that are in place in the farm community.

This is going to sound a little bit strange, but I'm going to actually use the example of Bill 17 to kind of go to bat for farmers here, although many farmers showed up last year and protested against Bill 17, but—we also have the, the few regulations that flow through The Environment Act, the ability to deal with putting in place a framework of protection, whether it's water or different parts of the environment. So there—it's not that—I, I, I can see your point. I somewhat disagree with the characterization of it being a free pass, however.

What, what kind of a framework would you propose instead? What would you—what would you prefer to see to, to what there is existing now?

**Mr. Koroluk:** In terms of The Farm Practices Protection Act—I'm sorry, Madam Chair. I need some clarification here.

**Mr. Struthers:** Just describe to me what kind of a framework you would want to see. I'm assuming you'd want this to flow through The Environment Act. You'd want me to bring an amendment forward strengthening The Environment Act in some way.

Is it simply that you would suggest that we should just get rid of section 30 and not provide an exception and have farmers fall both under The Environment Act and the farm protection—Farm Practices Protection Act? What, what would you be happy with in terms of that—of an approach there?

**Mr. Koroluk:** Yeah, I would get rid of the exemption, and, and—oh, thank you, Madam, Madam Chair. I would get rid of the exemption and I would also start to regulate the industry, the hog industry, as what it is, a hog industry—it is an industry. So, so some other mechanisms I would use as environmental assessment. I mean, you, you could see the pictures, the magnitude of its footprint, and there's many of these in the province, and we don't do an environmental assessment of these facilities. And, I mean, if you, you look through the schematics, you know exactly what the impacts are.

Another thing with The Farm Practices Protection Act is it, it gives these operations protection from, from citizens who sue them for nuisance, and we'd like to see that removed too. I mean, there's a difference between living beside a small mixed farm, you know, a half a section, and living beside these, these factory farms. And if you live beside a factory farm you can't—you can't sue

them. So that's another problem with The Farm Practices Protection Act; it protects these large operations.

**Madam Chairperson:** We have time for a quick question from Mr. Maguire.

**Mr. Maguire:** Thanks, Madam Chair. I just wondered if—how any minister that tried to do away with half of that—of a particular industry last year with Bill 17 could think that this was probably a, a positive thing for an industry like that.

But I'm wondering if, you know, in regards to the facts—I know, as well, Glen, I thank you for your presentation, but the municipalities in Manitoba—and I went through this with the land planning act a number of years ago—have the right to have—in fact, the R.M.s wanted the right to determine land use planning in their own regions, and the government provided that opportunity through The Municipal Act, and I wonder if you feel that the fact that a municipality has the right to put a moratorium on a particular segment of, of an industry in their own municipality is not enough of, of a, a benchmark, I guess, or a watchdog or a, a—enough of a protection against citizens in Manitoba.

**Mr. Koroluk:** Citizens should have the right to determine what type of development they wish to have in their locale. And, you know, not to get land-use planning mixed up with environmental affairs, I mean, they're two different things. I mean, of course you have to integrate that in some fashion but at the end of the day, I would want my environment department making sure, you know, my health and my environment is safe.

So, so it's, you know, the amendments that were made to The Planning Act, you know, they, they really did not give enough power for, for municipalities to place any type of moratorium within their municipality. And, in fact, what The Planning Act did is, it sort of sets the bar for manure management across the province. You have to meet these certain standards through the manure management regulation. But—which is fine, but, The Planning Act did not allow for municipalities to go above the bar if they wanted to. So I think a municipality has that right. So, that's one of the deficiencies in The Planning Act changes. It could be very well that a certain municipality does not like certain production types or production systems in, in their region and they should have the right to say that.

**Madam Chairperson:** Thank you, Mr. Koroluk. The time for questions has expired and I thank you for your presentation.

This concludes the list of presenters for Bill 29.

We now go on to Bill 5.

**Hon. Kerri Irvin-Ross (Minister of Healthy Living):** I'd like to suggest that we go to Bill 20 for the out-of-city presenter.

**Madam Chairperson:** What is the will of the committee? Is the will of the committee to proceed out of—

**An Honourable Member:** Bill 20.

**Madam Chairperson:** To Bill 20?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed and so ordered.

**Bill 20—The Manitoba Hydro Amendment and  
Public Utilities Board Amendment Act  
(Electricity Reliability)**

**Madam Chairperson:** I will now call the first presenter to Bill 20, Ms. Gaile Whelan Enns. Please come to the microphone.

Ms. Gaile Whelan Enns, do you have anything to distribute amongst—

**Ms. Gaile Whelan Enns (Manitoba Wildlands):** No, no, I don't and I'm going to find my page if I may. Thank you for your patience.

**Madam Chairperson:** Ms. Whelan Enns, you're ready to begin?

**Ms. Whelan Enns:** Yes.

**Madam Chairperson:** Go ahead, please.

**Ms. Whelan Enns:** Thank you.

I wish there were more presenters this evening. *[interjection]* Yes, I'll do my, I'll do my best here. And I'd like to start by saying that, again, as a qualifier, I could not get on-line today at home in terms of looking at the full existing act. So there may be some assumptions or some gaps as a result.

Let's see. There's a couple of things that are contexted, I suppose, and that is that from our point of view in our office, and Manitoba Wildland's role, including in Climate Action Network nationally, and my role in Sierra Club, nationally. We watch things that are continental. That's part of the context in terms of comments this evening.

One of the observations, then, would be that in terms of electrical grids and electrical service, resource reliability in the continental region, that Manitoba, Saskatchewan and I think six, at least six states share that much more access to, and requirement to post information publicly, exists in the U.S. states than it does in Canada. Okay, so that, again, is also context.

\* (19:00)

And it's quite, it's quite obvious, participation in the Western Climate Initiative was an eye-opener in this respect. You—as a Canadian, you make certain annou—assumptions and then you find that anything to do with the WCI has to be posted publicly in the States, but not so here.

I—if I was a radical and I was having a really cynical day, I would look at this bill and say, oh, this is to avoid any decentralization of the grid in Manitoba. This is to avoid private enterprises adding to the grid in terms of our energy resource in Manitoba. That would be one way of reading this and there probably will be those who will look at the bill that way. Being a bit more pragmatic, I tried to figure it out, okay? Fifteen-point-zero, five, two would cause anybody to sort of want to think about being a radical, okay. It's not clear who the compliance body might be. If you read this sort of sideways a couple of times, it's entirely possible that you could end up where Manitoba Hydro or one of its subsidiaries or an entity that Manitoba Hydro sets up becomes its own compliance body and standards body. So, again, looking at the language, it's a little surprising. Okay.

It's also not clear anywhere in this bill who's paying for what, nor is it clear why some of the ingredients in the bill, some of the actions and new aspects to the bill, aren't taken outside of the act, that is, are left wholly and completely with the utility, including certain of the sanctions and legal actions and—well, back to 15.0.5(2).

Okay. Why isn't this a positive bill? Why isn't this a bill about making sure that we maintain standards, but that we're actually enabling grid connections? Why isn't it a bill that will facilitate all the forms of new alternative energy we need, and I mean the ones we haven't even thought up yet? Okay, why, why does it only do this? Most of the standards management and requirements in terms of being part of this huge North American utilities

association—it's all been going on anyway, so why a bill now, would be, would be, would be a sort of a fairly straightforward question.

Again, not, not as knowledgeable in this area, but I found myself wondering a couple of things, so in 15.0.1(1)(f) and (g), without definitions, it's very hard to know how this is going to work with—for the PUB and the PUB doesn't have a public registry, just like the CEC doesn't keep anything in archives on their Web site. You know, this access to information for, for business purposes, communities, individuals—not just environmental organizations—is fairly significant. In (g), the PUB is not authorized to do with—to, to deal with anything outside the province, so I—again, non-lawyer—am looking at this and trying to figure out exactly what the PUB's role is and I come right back to, oh, well, is this to block access to our grid. Again, not trying to think like a radical; (h) says the guidelines are non-binding, which is interesting 'cause as you start reading the language, there's a whole lot of things that are really leg—legal and high-risk as you move forward. In five-o—5.0.2, same question. No regulations, no Cabinet responsibility; how come? 5.0.3(1). I would suggest that even as the utility can do all of these things, you still, you still have all kinds of aspects of administrative law and other, perhaps, laws or acts in the province that would start weighing in here, so again, the sequence was not understandable from where I sit.

The use of "person" over and over again is also not clear or understandable, because as you move through 15, it's a person, a person, a person. I'm thinking private enterprise. I'm thinking a Hutterite farm that's got darn good energy to put on the, on the grid. I'm trying to figure out why it zeroes in on "person", okay?

15.0.4(3): I made a comment regarding a different bill last night where it was exactly the same wording, so maybe this is a, a query for Leg Counsel or for Manitoba Justice, but I really think we are a little bit better than this in Canada, in our province. And the mess you could have if somebody who's dealing with a search warrant on their premises—excuse me—dealing with a search warrant on their premises who's so upset they forget to ask for identification, and then find they have no standing because they didn't ask for identification? This is really simple to fix. The requirement to show identification should be a premise in terms of fair treatment.

Working right through 15, again, it's, it's the, it's the utility enforcing the law. Why? Why? Why? Why no regulations? Why no responsibility in Cabinet? And then in 15 it says they can turn off the power. I suppose that means they can turn off the power when it's 45 below. It's, you know, as a bill I think it's theoretical. I don't think this has had a good enough look and that's sort of the end of my comments.

**Madam Chairperson:** I thank you for your presentation.

### Committee Substitution

**Madam Chairperson:** Before we get to the questions, I just want to say we have a substitution. Honourable Mr. Rondeau is in for Mr. Dewar, effective immediately.

\* \* \*

**Madam Chairperson:** Do I have any questions from the committee?

**Mr. Cliff Cullen (Turtle Mountain):** Madam Chair, and I thank you for your, your presentation on this particular piece of legislation.

I guess, I thank you for all your comments. You made a lot of very interesting comments, and one, one comment that caught my eye was the concept of being a little proactive here in terms of legislation, and we know other jurisdictions are moving ahead with alternative forms of energy and how do we connect those alternative forms of energy to the grid.

And I think it's a real public discussion that we're really missing here in Manitoba. You know we're pretty focussed on, on hydro electricity, and we're missing some of the other possibilities, I think, and it's, it could be a real positive thing for Manitoba.

Now, and, and you talk a little bit about Cabinet and, and regulations here and one, one place there is Cabinet authority here to, to determine regulations and, and maybe I should just back up a little bit here because the PUB here in this case are actually going to be the judge and jury. So, if there is a fine levied by the Public Utilities Board here in Manitoba, then the Cabinet has the authority under 134(5) to determine who those penalties are gonna be paid and I'm just wondering if you have a comment on, on that because that, that does kind of open up the Cabinet to, to determine where those, those penalties, where those fines might go, if you have an idea of where

you think those fines or those penalties should, should be used for.

**Ms. Whelan Enns:** Thank you for your question.

This just a small sidebar, the part that I—the reason I was making a comment about the Public Utilities Board is because we're still talking about standards, organizations, compliance organizations and the standards they set, which organizations may in fact be outside the Manitoba jurisdiction. So that's why I was saying the Public Utilities Board can only do what? Inside Manitoba. Okay. And that's, that's part of what's perhaps not clear to, to my reading at this point.

Now, the moving it into Cabinet and terms of penalties is not dissimilar to moving it into Cabinet in terms of appeals and the previous bill. I don't know whether we have a pattern because our resources don't necessarily allow enough comparison. I wanted, for instance, before this evening, to take a good look at the new bill in Ontario. There's a couple of pieces of legislation in Ontario and do a comparison.

I would say that in a democracy it's best for Cabinet to avoid making decisions about persons, and there's a lot of persons language in this bill. So, if a person has a raid, 'cause the justice of the peace issues a warrant, and the person fails to ask for identification and doesn't even know what's going on and then all—and then it goes on and on and on and on and finally appears before Cabinet, could be another government, could be years down the road, it could be where the paper's all gone astray but Cabinet—Cabinet shouldn't be making decisions about persons, let alone fines. It doesn't make sense.

**Madam Chairperson:** We have time for one more question.

\* (19:10)

**Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines):** I'd like to thank you very much for the questions and the presentation and I can assure you that I take your presentation very openly as far as the suggestions as where it can go in the future. I, I believe this bill is to look at connectivity right now, and we'll continue to move forward on the green energy and different types of energy. And one of the reasons why we chose to put it into regulations is 'cause I don't know what's coming down the pike yet, and no one does, and that's one of the intentions. And I just wanted your impression on (a) where the new green energy

opportunities lie, and where you think Manitoba should be heading in that direction.

**Madam Chairperson:** Ms. Whelan Enns, and I'll just say we've got about a minute left.

**Ms. Whelan Enns:** Thank you. Thank you.

Glad to hear this is about connectivity. I'm glad to hear, then, that one doesn't need to think in negative, radical manner in terms of, you know, an industry association in the States telling us what to do.

New green energy? Well, I think that the Stronachs have got it figured out this week. I really do. We need Canadian companies getting ready for electric cars, including in the middle of, of the meltdown that's happening in the industry. That doesn't mean we need to be producing hydrogen in Manitoba, okay, in terms of kinds of vehicles. I think that the biggest single difference in terms of green energy is actually in all of our own habits and changes in everything we do that involves a fuel, energy or material.

**Madam Chairperson:** Thank you, Ms. Whelan Enns. Our time has expired. This concludes the list of presenters for Bill 20. So we will now go on to Bill No. 5.

**Bill 5—The Highway Traffic Amendment Act  
(Promoting Safer and Healthier Conditions  
in Motor Vehicles)**

**Madam Chairperson:** And I will call on Derek Hay to come to the microphone. Derek Hay. Mr. Hay, do you have any written materials to distribute to the committee?

**Mr. Derek Hay (Radio Amateurs of Canada):** Yes, I do.

**Madam Chairperson:** Mr. Hay, you can begin.

**Mr. Hay:** Good evening. Thank you, Madam Chairperson and members of this committee. I'm talking to you today about Bill 5, or, basically, I'm going to call the cellphone bill. This bill is relatively vague in its description. I realize it's, it's brand new, however, the way it is currently worded, the broad form it has—it has some, for what I would like to call dire consequences to industry and service for people that travel in their vehicles and use two-way radios in their vehicles.

I'm speaking today on behalf of Radio Amateurs of Canada, and I thank you for allowing me to speak on this issue. I'm a federally licensed, permitted,



amateur radio operator since December of 1990, under the federal regulated Radiocommunications Act. For the last 18 years I've operated my two-way radio station in both fixed mode and mobile mode without an incident of any kind.

I, like nearly 1,900 licensed amateur radio operators in Manitoba have put a lot of effort into ensuring we operate our radios in a safe manner, be it in fixed mode or mobile mode. Having talked to many of the other amateur radio operators in Manitoba, no one can recall any incident of, of a traffic accident involving an amateur radio operator that was caused as a result of using his radio at the time.

The bill, as it now stands, will restrict the ability of amateur radio operators to use their radio equipment in a mobile environment and, in particular, during the honoured ability to assist in the event of a disaster or an emergency. Amateur radio operators provide emergency and public service communications on a volunteer, uncompensated basis. Amateur radio is an avocation which is intended by the federal government, federal department of industry, to encourage and promote technical self-training, international good will, non-commercial communication service, particularly with respect to emergency communications. Amateur radio operators are responsible for many advances in electronics and in communications technology over the past 100 years.

Amateur radio operators routinely equip their motor vehicles with two-way radios operated most often with hand-held microphones. These radios are typically installed in vehicles utilizing fixed speakers, unlike a cellular telephone, which are speaker—the speakers are not held to, to our face. Radios remain in recep—receive mode most of their time. Transmissions typically are brief and infrequent. The microphone is held only when a transmission is being made or is imminent to be happening, and is otherwise stowed in a position where the operator can reach it without rec—removing his or her eyes from the road. Amateur radio operators often conduct mobile communications as participants in a network of stations controlled often by a fixed station, not unlike a commercial dispatch mobile radio system. Amateur radio operators have routinely used mobile—two-way mobile radios over the past 70 years.

The Province of Manitoba encourages mobile opera—radio operation as a public benefit. Every

municipality in Manitoba is required to have an emergency plan in place and Manitoba Emergency Measures Organization encourages each municipality to include amateur radio into their plan. I urge you to contact the office of the honourable Minister Steve Ashton, Minister responsible for Manitoba Emergency Measures Organization. Ask him how they plan to operate in the field when users of the radio equipment, be it their own people or backup amateur radio operators are restricted in their use while operating in mobile mode.

They, the authorities, the Province of Manitoba, has issued personalized licence plates since the early 1960s to motor vehicles licensed by amateur radio operators showing their Industry Canada assigned call signs in order to identify them.

The ability for radio amateurs to use their radio while in mobile mode in a motor vehicle is a very important function for the relaying of information from the field to the central dispatcher and then on to various government departments and served agencies. Amateur radio operators were an important member of 1997 flood of the century, being placed behind the ring dikes, with their own equipment, sending information back to Winnipeg on conditions that were happening in the field.

Ham radio operators also relayed emergency during—information during times of severe storms, such as last summer's F5 tornado near Elie. This information was sent directly to the radio CANWARN station located in the Prairie Storm Prediction Centre of Environment Canada office on Main Street.

During non-emergency times, amateur radio provides communication service for a number of public service events such as the Manitoba Marathon. Without the services of amateur radio, Manitoba Marathon would not have been able to operate as it has over these many years. It's the behind the scenes use of amateur radio that's important to the runners by providing medical, therapy, aid dispatch throughout the entire course.

In other words, amateur radio is used in motor vehicles much the same way that emergency services such as police, fire and ambulance, public works, transportation, et cetera, use their radios in their motor vehicles. While these emergency services use their radio for routine exchange of information on a daily basis, on occasion exchanging emergency information during times of crisis. Amateur radio operators also use their radios on a daily basis

exchanging information between each other. While this information may be personal in nature, 95 percent of the time, it is also used to develop skills and knowledge of radio use that can and do get used during times of need, be a public service or during emergency situations.

For amateur radio operators to operate their vehicles safely, their two-way equipment is imperative—with their two-way equipment it is imperative to be trained. It is only through day-to-day continued use of amateur radio, while in mobile mode, can the amateur radio operators be properly trained for its safe use. There's no point in having the equipment mounted and ready for use if the operators have not been trained for the proper use of the equipment in a calm environment, so they can be ready to serve when called upon and be able to perform the service in a stress-filled environment. There is not one service anywhere in the world that trains during actual emergencies. All training is done in non-emergency times, and it is repetitive training to the point where it becomes almost routine that really aids the operator to perform the service during an emergency.

If amateur radio operators are restricted in the use of two-way radios in their vehicles, they'll tend not to mount them in their vehicles, thusly, they'll not invest the \$200 to \$1,500-plus on mobile radio equipment, and thus when the need for emergency comes up, amateur radio will not be equipped to perform their requested service.

The documentation I've submitted just includes a small example of some of the emergency assistance and public service work that amateur radio provides to the citizens of Manitoba. You've all heard of examples of amateur radio is the only form of communication that is working. Think of Katrina, the tsunamis of 2007, or earthquakes around the world, there are countless other examples which I can draw upon all over the world, the United States, Canada, and even right here in Manitoba. Examples all show one thing, when all else fails, amateur radio is there.

The simple approach for this committee is to add a clause to the bill, such as, communication apparatus and/or persons licensed or permitted to operate under the Canada radiocommunications act are exempt. This one line would negate the need to make separate amendments for police, fire, ambulance, public service, amateur radio operators and other users of the radio waves who might need specifically—might need to be specifically named on

the proposed law or regulations. In all cases, the person, equipment or both are licensed under federal law. It should also avoid any challenges to law over federal-provincial jurisdiction issues. Since neither cellphones nor the users—nor their users are actually licensed, they would not be exempt. However, if any of the exempted people abuse common sense, they could be charged for careless driving or dangerous driving under already existing laws.

\* (19:20)

The intent of Bill 5 is to make highways safer by prohibiting drivers from demonstrable high-risk activities such as hand-held cellphone use, text messaging, watching entertainment videos, et cetera. This must be balanced with historically low risk presented by trained amateur radio operators who have passed rigorous Government of Canada regulation examination in order to earn the privilege of operating their equipment. After decades of mobile amateur radio operations, there has been no concern voiced by this province or any other province in Canada, and I note the provinces of Québec, Nova Scotia, Newfoundland and Labrador have exempted amateur radio from their provisions of the equivalents, their equivalents of Bill 5.

The province of Ontario is being asked by Radio Amateurs of Canada to also put in the same exemption. In closing, to ensure that amateur radio remains a viable resource for emergency response officials and public service activities, I request, Madam Chairperson, that you and your committee members give amateur radio operators similar consideration. Thank you.

**Madam Chairperson:** Thank you, Mr. Hay. That concludes the presentation. Are there questions from the committee.

**Mr. Kevin Lamoureux (Inkster):** I was wondering if you could indicate to the committee, have you had the opportunity to approach any of the ministers—in particular, you make mention to Minister Ashton—to express your concerns, and if so, what response did you get?

**Mr. Hay:** I have sent letters to the honourable Minister Ashton, the Minister of Transportation (Mr. Lemieux), Madam Chairperson, Erin Selby, I've sent her letters as well as my MLA, indicating all of these—all this information. I've received notices that they've received my letters, and that's all I've received. I've asked to be sitting on an—if there was an industry action committee, if I could sit on that

committee. I've never received any response to it. This was my only course of action was coming to this committee today.

**Mr. Lamoureux:** Finally, to the best of your knowledge, were any of the industry stakeholders, whether it's emergencies or amateur associations, you know, tow trucks I suspect, use these type of, this type of radio equipment? Are you aware of anyone that has actually been consulted or if they've in fact been, this issue been discussed with them?

**Mr. Hay:** I know there was a questionnaire that was sent out to a few industry people for which I did not get one, but I did hear of it, and I did provide input to a person who did respond on this, and I believe this person is in speaking tonight, and I'm sure he's going to be bringing this up as well. The questionnaire did exist, and I did have some information that I put into it.

**Mr. Larry Maguire (Arthur-Virden):** Thank you very much, Mr. Hay, for your presentation, as well, and I only caught the latter part of it. I apologize for that myself, but I wanted to—I did catch the concern that you have, and you indicated, and I wonder if you could, just for the record, again indicate how many other provinces have exempted your style of communications.

**Mr. Hay:** To my knowledge, Québec, Nova Scotia, Newfoundland and Labrador have already exempted amateur radio, be it by exemption to their own bill or be it by regulation. The province of Ontario, I believe, is going to put an exemption in by regulation.

**Mr. Maguire:** And they've done this by an exemption of those as opposed to the inclusion of firemen, policemen and paramedics, that sort of thing?

**Mr. Hay:** I am not exactly sure. I'm sure that you people have better resources than I do to find out what's happened in the other provinces, but I do know from my counterparts in those provinces that amateur radio has been exempted in one form or another. I do not know about police, fire and ambulance.

**Mr. Maguire:** It was just in regards to that. The indication was that, and I thought, I may have misunderstood you then, and I'll go through your presentation more thoroughly, but that that kind of an exemption was brought in for your type of communication as opposed to one that exempted the emergency measures people, if you will, and police

in that type of a presentation, so I stand corrected if I misunderstood you on that, but I take that you're feeling that Manitoba could comply with this by following the example already set in these other provinces to the east.

**Mr. Hay:** That is what I'm looking for and/or the exemption of the single line, which would then provide a broad exemption of anyone who is federally licensed to operate a two-way radio, which would not include cellphone users because they are not licensed operators.

**Madam Chairperson:** Seeing no further ques—I'm sorry, honourable minister.

**Hon. Kerri Irvin-Ross (Minister of Healthy Living):** I just wanted to say thank you very much, Mr. Hay, for your presentation.

**Madam Chairperson:** Seeing no further questions, thank you, Mr. Hay. We'll go on to the next presenter, Mr. Bob Dolyniuk, and forgive me for the pronunciation.

Do you have any written materials for distribution?

**Mr. Bob Dolyniuk (Manitoba Trucking Association):** Yes, I do.

**Madam Chairperson:** And how do you say your name, sir?

**Mr. Dolyniuk:** Bob.

**Madam Chairperson:** Touché.

**Mr. Dolyniuk:** Trust me, Madam Chair, it's easier that way. It's actually Dolyniuk.

**Madam Chairperson:** Thank you. You may begin.

**Mr. Dolyniuk:** Good evening, Madam Chair, honourable ministers and committee members. I'm Bob Dolyniuk—Dolyniuk, General Manager of the Manitoba Trucking Association.

The MTA represents trucking companies in Manitoba and is the voice of trucking in Manitoba. Our association is a founding member of the Canadian Trucking Alliance, the CTA, our national federation. Collectively, the MTA, CTA and our sister associations across Canada represent the interests of our industry at the civic, municipal, provincial, federal and international levels.

I'd like to begin by stating that the MTA supports the intent of Bill 5. Daily, members of our industry witness inappropriate use of hand-held

electronic or communication devices by drivers throughout Canada and the U.S. This is concerning to us as safety is a top priority for our industry. After all, the entire roadwork network of our country is our workplace. The safety of our employees and the safety of the general motoring public must be a priority for all.

The MTA board of directors has had the opportunity to deliberate and debate this issue. Having done so, the MTA has adopted a position which supports the use of hands-free electronic or communication devices while a vehicle is in motion.

In the development of this position, the MTA also recognized there is a need within the legislation to give consideration to commercial vehicles and the electronic, GPS, satellite, radio, and push-to-talk technologies utilized by the trucking industry to maintain contact between the drivers and their companies while on the road. A complete ban on the use of electronic communication devices while driving in Manitoba would not be practical or reasonable for the trucking industry. Electronic communication devices play a vital role in the trucking industry and this should be taken into consideration as this legislation and the related regulations are introduced.

We also wish to note that most jurisdictions where similar legislation is in place—and I believe the previous spokesperson or speaker mentioned those jurisdictions—recognition has been given to the fact that, for commercial vehicles, there are legitimate and necessary communication issues related to the operation of their vehicles and consideration has been given in this regard. And we understand that, although Ontario is still in the process of introducing their legislation, there is consideration within their regulations as well. This has been accomplished by governments working collaboratively with their industry partners in order to develop regulations that satisfy the government, the public and the industry's needs.

We recognize that the proposed legislation includes a section that permits the Lieutenant-Governor-in-Council to make regulations, quote, respecting the exemption, with or without conditions of certain classes or types of devices or vehicles, or certain classes of persons, from the operation of a provision of this section.

The MTA would be pleased to address our issues with the government in a safe and responsible

manner as the regulations are developed in this regard.

On a related note, we are cognizant that the Council of the Federation, in its August 2007 announcement agreed to harmonize transportation regula—regulatory codes and eliminate those standards and regulations that are unjustifiable barriers to trade in the transportation sector. While there is an apparent desire to harmonize transportation regulations, Bill 5 is an example of the lack of harmonization of transportation regulations in Canada. While Manitoba is in the process of introducing legislation regarding the ban of hand-held communication devices while driving, other Canadian jurisdictions have already done so. Yet we see each jurisdiction introducing differing legislation and regulations regarding commercial vehicles. Imagine a commercial driver operating in various jurisdictions in Canada and trying to remember and comply with the specifics of each jurisdiction. It is often that the finer details within legislation and regulations that creates the lack of harmonization and truly a challenge for our industry.

\* (19:30)

In closing, we support the intent of Bill 5, and we encourage the government to work collaborat—collaboratively with our association to develop regulations that satisfy the needs of the public, our industry and government. We also encourage the government to give more serious consideration to harmonization of transportation regulations when introducing such regulations or legislation.

Thank you, Madam Chair.

**Madam Chairperson:** Thank you, Mr. Dolyniuk.

**Mr. Maguire:** Thanks very much, Mr. Dolyniuk for your presentation tonight, and in discussions we've had in other areas, certainly this harmonization of issues is a, is, is a pertinent issue, and when I was a farm leader, it was an important issue for me as well. So it still is as a politician, and I think that it's a—it is something that we should look at a little further when we are looking at types of legislation.

I know, you know, between here and Medicine Hat you can run into—between Brandon and Medicine Hat, it's not that long a trip and you easily make it in a day in the truck and you're looking at three different areas of jurisdiction that might have dissimilar types of, never mind weights and measures, but also this type of legislation.

When you mentioned—of course, safety being paramount—and you mentioned Canada and U.S., which I noted wasn't in part of the presentation, but you made that comment, and I wondered if you can just expand on what kind of harmonization might be between here and the United States in regards to some of these issues as well as opposed to across Canada. I know it's not all similar, that's for sure, and, and I'm wondering, you made the comment at the top of the second page of your presentation about the types of devices that you can work with the government through regulations, 'cause there will be regulations coming in around bills.

Can you just give me an example of how you feel that can be done? It, it, it—your—I think your implication was that through regulation, you can probably solve some of your issues on this i—i—matter and I wondered if you could just give us an example of that.

**Mr. Dolyniuk:** I guess to answer your, your first part of the question, harmonization, if, if we take a look at the specifics—and, and it's like the National Safety Code; we have a global policy or objective that everybody agrees to. But when you get down to the nitty gritty, the actual details, and as the saying goes, the devil's in the details, and if you take a look at Québec's legislation, Newfoundland, Labrador, Nova Scotia, Ontario and our legislation, the intent, I believe, is the same, but when you get down to the details, there's the differences. Based on the current wording of the Manitoba proposed legislation, I cannot push a button on a device regardless if the device is fixed or not fixed. I cannot look at the display on the device whether it's fixed or not fixed.

In Québec as an example, if, if the base of the device is fixed, you may touch it, you may look at it. All right? It's something as simple as that. Now, I personally don't know how that's going to be enforced, but it's those details that always end up to be a challenge to our industry that's operating across Canada and the U.S.

I believe your second question, I'm sorry, was how, how would we work. Well, hopefully, we'd be working with government, 'cause I don't think government will give us the authority to write regulations we would see fit, but I, I think as an example, taking some of the—what some of the other jurisdictions are doing as far as commercial vehicles. We have technologies in our vehicles that we do need to use and, and I, I know a previous presenter was talking about greenhouse gas and reducing

grees—greenhouse gas emissions. Well, in our mind, to take a 62,500-kilogram truck from a rolling speed of, of five—of, of 90 to 100 kilometres an hour to a stop to push a couple a buttons to start up again, the gross excessive waste or, or emission of greenhouse gases is, is just—would be astounding, quite frankly.

So what we're saying is let's take a look at what the other jurisdictions are doing, and, and I'll use Québec as a model where if the technologies are fixed to the vehicle, the base of the technology is fixed to the vehicle, you can touch it, I'm not saying manipulate, but you can touch, you can push buttons.

I hope that answers your question.

**Madam Chairperson:** We have time, we have time for a quick question.

**Mr. Lamoureux:** It wasn't that long ago we were talking about CentrePort and how wonderful the trucking industry and the role it's going to play in it. And I think that, in looking at and listening to, to your comments very specifically, if, if I hear you correctly, you would rather see a legislative change that would make some sort of an exemption as opposed to rely on, on regulation? Is that a fair assessment or did I miss something here?

**Mr. Dolyniuk:** I guess if we had a choice of priorities, the first priority would be to change the legislation for an exemption and if that's not an option, than No. 2 would be dealing with the issue through the regulations.

**Madam Chairperson:** Our time has expired. Thank you very much for your presentation.

I now call on Jeff Dovyak. Mr. Dovyak, do you have a written presentation to hand out?

**Mr. Jeff Dovyak (Amateur Radio Emergency Service):** Yes, I do, Madam Chairperson.

**Madam Chairperson:** You may begin.

**Mr. Dovyak:** Thank you, Madam Chairperson, members of the committee. Thank you for extending the opportunity to speak on the highway traffic amendment act.

I represent the Amateur Radio Emergency Service in Manitoba and incidentally, my Industry Canada assigned call sign is VE4 mike bravo Québec and I do have Manitoba licence plates with my call sign on them.

It's the position of the Amateur Radio Emergency Service that amateur radio operators who operate emer-amateur radio transceivers while driving a motor vehicle should be exempt from the provisions of Bill 5, which, as is currently written, may be interpreted to prohibit operation of amateur radio and other radio transceivers while driving.

Amateur radio operators in Manitoba have a long history of supporting municipal, provincial and federal emergency management activities. Part of our value to emergency management officials is our flexibility that we can operate in a number of different ways: fixed, mobile, out on foot on a dike somewhere. We feel we're going to lose that flexibility if Bill 5 is not amended to grant us a specific exemption.

Mobile amateur radio operations have been conducted in Manitoba in a variety of emergency management ways: flood operations in 1979, 1997 and just this spring; Y2K operations in Winnipeg and generally throughout the province; the attacks of September 11, 2001, we had about 25 people mobile in Winnipeg and in the capital area doing things; and we've been doing summer severe weather events for Environment Canada since 1998.

This past spring, 39 certified amateur radio operators supported the City of Winnipeg flood operations for a month from March the 25th to April the 25th. Many of those amateurs were operating mobile in their vehicles on the way to sandbagging sites or diking sites or whatever you'd like to call it.

In the R.M. of St. Clements, 25 certified amateur radio operators supported the R.M.'s emergency operations from March the 26th to April 11th and the majority of that operation was done mobile. So people were in their vehicles driving down River Road or whatever, reporting on river flow, ice jamming, flooding conditions over the road, things like that. One of the handouts I passed to you folks is a copy of the Winnipeg ARES flood report that details what we did this past spring.

We are aware that several emergency management officials have written to Minister Lemieux and I believe they may have copied Minister Ashton, basically outlining the value that disaster management professionals place on amateur radio. People that we know have written to Minister Lemieux for sure include Randy Hull who's the emergency preparedness coordinator for the City of Winnipeg, Jim Stinson the emergency coordinator for R.M. of St. Clements and Dave Carlsen who is

the—was at the time, the warning preparedness meteorologist for Environment Canada.

\* (19:40)

We don't just do emergency things. As one of the previous presenters mentioned, we support charity and mass public events. So, for instance, we've had amateur radio operators mobile in a vehicle using their radios for the Manitoba Marathon since 1979, during the Pan Am Games in 1999 and a number of teen handball championships were held in Winnipeg, for reasons unknown to us. And another one of the handouts I gave you sort of just gives you a capsule summary of what we did in those different events.

So, just in closing, I would just like to reiterate the position of the Amateur Radio Emergency Service: that certified amateur radio operators should be specifically exempted from the provisions of Bill 5 that could be interpreted as prohibiting the operation of amateur radio equipment in moving vehicles by certified amateur radio operators.

**Madam Chairperson:** Thank you, Mr. Dovyak.

Is there any questions from the committee?

**Hon. Steve Ashton (Minister responsible for Emergency Measures):** Thank you. *[inaudible]* me on the direct correspondence to the minister, and I do want to acknowledge the ongoing contributions, the most recently 2009 *[inaudible]* radio operators, and I certainly will be looking at your presentation and the former presentation that Mr. Hay made earlier today to, to ensure nothing in the legislation would, would prohibit the kind of support that amateur rad-radio operators have given.

It's ironic, by the way, we—the chiefs of police have been working with fire chiefs across the country, and actually having a conference this week on interconnectivity, and one of the key issues is ability to communicate in a, in an emergency situation. And, certainly, amateur radio, as, as you've said, it's the fallback that everybody looks to when everything else fails. So, certainly, I thank you for your presentation, the previous presentation, and certainly we'll, we will be considering it. Thank you.

**Mr. Dovyak:** Thank you to members of the committee and Minister Ashton. Your opening remarks at yesterday morning's CIDig seminar were very good. Thank you.

**Madam Chairperson:** Mr. Lamoureux. There's still some more questions, Mr. Dovyak—Mr. Lamoureux.

**Mr. Lamoureux:** Just very quickly, just based in terms of what it is that the minister just indicated to you—and I asked the question previously—do you feel it would be in the best interests of amateur radio in general that the exemption be put into—incorporated into the legislation as opposed to regulation?

**Mr. Dovyak:** Our preference is exemption by legislation. If we have to settle for exemption by regulation, we will, but we think it's preferable to cover it in the act.

**Mr. Maguire:** Thank you very much, Mr. Dovyak. I've had concerns in regards to some of these issues, and I have written the minister a letter. The reply that I have received back indicates that the—there will be some exemptions, but that amateur radio operators will not be one of them, and I'm—but I do know that you've—have carried on a great—it's been a great benefit to emergency systems and emergency services and emergencies, period, in our province from time to time. And, as well, I asked this question earlier: the similar legislation that's come in in other provinces—are you aware that they have exempted your type of amateur radio operators in those province—in any of those provinces?

**Mr. Dovyak:** Yes, I am aware of those exemptions.

**Mr. Maguire:** And is it in all of the same provinces that Mr. Hay indicated to me earlier, Québec and east?

**Mr. Dovyak:** Yes, it would be the same list as Mr. Hay provided you.

**Madam Chairperson:** Seeing no further questions, thank you, Mr. Dovyak, for your presentation.

And I now call forward Cameron Oberton. Cameron Oberton? Cameron Oberton's name will now be dropped to the bottom of the list.

We'll go on to the next presenter, Ms. Loretta Corbeil.

Ms. Corbeil, do you have a handout for the committee?

**Ms. Loretta Corbeil (The Lung Association, Manitoba):** Yes.

**Madam Chairperson:** You may begin.

**Ms. Corbeil:** I'm here to represent The Lung Association, Manitoba, as a tobacco reduction co-ordinator. Thank you for the opportunity to speak to you tonight on Bill 5, promoting safer and healthier conditions in motor vehicles.

The Lung Association, Manitoba, is a non-profit, registered health organization serving the people of Manitoba for over 100 years. Our efforts are focussed on lung disease education and management, tob—tobacco cessation and prevention, improved air quality environment, tuberculosis and occupational lung health services. The Lung Association's tag line, "When you can't breathe, nothing else matters," captures the fundamental mission of our organization.

We strongly support policies to protect people from the dangers of second-hand smoke. Second-hand smoke is harmful for everyone but is especially harmful for babies and children. As a society we have a fundamental duty to protect our children. Children travelling in cars with smoking adults do not have any choice but to inhale the toxic smoke.

The problem with smoking in cars with children is that research has shown us that children exposed to second-hand smoke are at much higher risk for many health problems. They breathe in more air relative to their body weight which means they absorb relatively more tobacco smoke. Their immune systems are immature and their lung function is still developing. An adult breathes 14 to 18 times a minute. A newborn can breathe up to 60 minutes—breaths a minute. Children under five can take between 20 and 60 breaths.

The Canadian Cancer Society 2007 fall confirm that Canadians are ready to support laws banning smoking in cars carrying young people. A vast majority of Canadians supported this, even people who smoked.

Airing out cars will not help. In 2008 a study of the University of Waterloo, researchers found that levels of second-hand smoke in vehicles with the windows up exceeded the U.S. Environmental Protection Agency guidelines by up to a hundred times in just 20 minutes of a burning cigarette. Opening the window does not eliminate children's exposure to toxins in second-hand smoke. Tobacco is smoke pollution which is easily inhaled deep into the lung poses a serious health hazard to children because of the car's small cabin space contributing to concentrated exposures according to the principal researcher, Dr. Fong.

The risk is that tobacco smoke contains over 4,000 dangerous toxic—toxins, chemicals and carcinogens. Exposure in vehicles is especially potent because of the restricted spaces. According to

Statistics Canada in 2003, 10 percent of 12 to 19 year olds were regularly exposed to second-hand smoke in private vehicles in Manitoba. In 2005 a Canadian community health survey from Statistics Canada 8.6 of non-smokers 12 to 19 year old were regularly exposed to second-hand smoke in private vehicles.

Children who are regularly exposed to second-hand smoke have increased risk of sudden infant death syndrome. They have more coughing and wheezing, higher incidents of asthma, reduced lung capacity, double the risk of bronchitis, croup and pneumonia. They have more chances of taking up smoking themselves and they have more ear infections.

An example of the Canadian Lung Association's ongoing dedication to this cause resulted in an e-advocacy campaign to bring attention to this important health issue and that was at [www.cleanairforkids.ca](http://www.cleanairforkids.ca).

Each provincial lung association is calling upon their provincial government to ban smoking in vehicles carrying children under the age of 18 years old.

Nova Scotia, British Columbia, Ontario, the Yukon, New Brunswick and Prince Edward Island have introduced legislation banning smoking in cars with children. Exposure to cigarette smoke in a confined space of a car is a serious threat to children's health and yet every day children in Manitoba are forced to ride in smoke-filled cars.

The Lung Association strongly supports banning tobacco use in vehicles with children present and as well as banning children from under the age of 18 from using tobacco products while driving a car.

We recognize the relationship between first and second-hand smoke and illness. The Lung Association supports Bill 5 with amendment to the age of 18 as this is the age of majority. Cigarettes cannot be sold or given to youth under the age of 18 and they should also be protected from second-hand smoke as well.

We believe that Bill 5 will be an important part of the provincial tobacco reduction strategy and will help to protect the health of Manitoba children. We recognize that children are often powerless in changing the environment they live within. We need to be a voice for these children to protect them from the dangers of second-hand smoke and we all have a role to play in protecting the health and wellbeing of our province and our community.

The Lung Association, Manitoba applauds your efforts in taking this important step to protecting the health and wellbeing of our children. And this is a matter of public health not civil liberties. And given the serious health that comes associated with second-hand smoke, smoking in cars where children are present should be strongly discouraged through legislation and accompanying education. Thank you.

\* (19:50)

**Madam Chairperson:** Thank you very much for your presentation.

Are there any questions from the committee?

**Mr. Maguire:** I'd like to thank you very much for your presentation, Ms. Corbeil. As a, as a person who seconded the motion to ban smoking in public buildings some years ago in the Legislature here on a private member's bill, I commend you for your stand and certainly I believe that the bill is moving in the right direction in this particular section.

Can you just indicate and I know you've, you're indicating that you'd like to see it at age 18 instead of 16 as opposed to—in an amendment form, and the age of majority is the reason you're looking at that. Can you tell me if that's parallel to some of the other provinces in Canada or jurisdictions in the U.S. as well?

**Ms. Corbeil:** Actually, most of the provinces in Canada, it is under 16. Nova Scotia is under 19, so—

**Mr. Lamoureux:** Mr. Maguire had taken the question I was going to ask in terms of the age, but I still want to just to take the opportunity to applaud the efforts of your organization. I know I've had opportunity to visit the Web site. In fact, there was individuals even in drafting a private member's bill that I had, I had some discussion with and appreciate everything that you and your organization has done in general to heighten the sense of awareness. Because, you know, since I've been talking about it, I have yet to find one individual that has been critical of, of the idea of banning smoke when you're driving with minors, and I think, in part, it's because of some of the posters that you have developed. You know, a picture says a thousand words and, I really do just want to express our appreciation in terms of the efforts of your organization. Thank you.

**Ms. Corbeil:** Thank you very much. Thank you, and I want to thank you for all your work, too, and the things that you've done. And I think that, really, parents really want to do the best for their children



and sometimes it is just a matter of education and raising awareness about these important issues.

**Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines):** I'd like to thank you very much for your organization for the first bill, the Bill 15, that I had the pleasure of introducing in the Legislature, and I'd like to thank you for continuing to focus on keeping people well and I think it's good. So, on the public record, thanks for your and your organization's hard work in this regard.

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

**Madam Chairperson:** Seeing no further questions, I thank you for your presentation, and I will call up the next speaker, Geoff Bawden.

Mr. Bawden, you may begin when ready.

**Mr. Geoff Bawden (Winnipeg Amateur Radio Club):** Thank you, Madam Chair. Yes, another amateur radio operator, and it's a consistent message. I'm the president of the Winnipeg Amateur Radio Club, and I happen to be the one that post the first reading that MIT chose to consult with as a stakeholder. So what I've handed, in the spirit of conservation and recycling, is the thoughts that we had during the consultation, post-first reading.

When amateur radio became aware that there was this bill coming out, which is labelled to ban cellphones, we looked at it and realized it was much broader than that and banned all kinds of transceiver use in the mobile vehicles.

So the various groups came together: the Winnipeg Amateur Radio Club, which I'm the president and the largest radio club in Manitoba; the Radio Amateurs of Canada, you've heard it from our director, our local director, Derek Hay; the Manitoba Repeater Society; the Winnipeg Amateur Radio seniors club and the Amateur Radio Emergency Service, and you heard from Jeff Dovyak today on the subject of the service that amateur radio brings to the province of Manitoba, and the fact that this legislation, there's a risk of reducing public safety rather than enhancing public safety.

I have no intention of reading through this questionnaire. I'm sure you can read the questions and answers. The questions were reasonable questions developed by staff at MIT and the answers, more than reasonable, developed by the amateur radio community. I'll read you two paragraphs but

before that, let me comment on the use, or not the use but how you get an amateur radio.

You cannot go into a store and buy one. You need to have—be federally certified in order to get that radio. How do you get to be federally certified? You need to be trained, and that's why I'm inviting you all to come to the Princess Street campus in September to start your training session to become amateur radio operators. After 72 to 80 hours of training, you'll get an exam and we'll see whether or not you could actually be allowed to use that radio. That's the big difference, or one of the big differences between cellphone use, amateur radio use: federally certified and trained. Provides a discipline that's not otherwise found. There's also other qualitative differences between cellular telephone use and radio use. I won't go into them. You've heard from my colleagues, Mr. Hay and Mr. Dovyak. I completely agree with them.

I am going to read just into the record, two paragraphs from the conclusion of the questionnaire, and the question seven from our colleagues, or our staff at MIT, are: Are there any other issues in respect to the proposed Bill 5 legislation that you would like to discuss? Our comments, comments of those clubs and radio amateurs are: You'll have noted the civic nature of our members and our commitment to public service and safety. We believe that the banning of mobile communication for trained and federally certified amateur radio operators is inappropriate and will not increase, but will decrease public safety. The day-to-day use of the radio leads to proficiency which is employed for the public good. Banning mobile radio traffic will result in fewer radios being available and amateurs that are less proficient when emergencies and public events occur. Amateur radio is a community resource and amateur radio operators are proud to serve their community. We are confident that upon consideration and reflection, that the government will note the public safety capacity and public service that amateur radio operators provide and will, as other jurisdictions have done before, exempt federally licensed or certified amateur radio operators from this legislation.

**Madam Chairperson:** Thank you for your presentation.

**Mr. Maguire:** Thank you very much for your presentation, Geof.

I got a couple of questions, and I have no doubt, and I've stated it earlier, about the importance of and

role that you play as amateur radio operators in emergencies in the city and across the province.

One question that has come to my mind since you stepped forward is—that I didn't think of asking the other gentlemen—is how many of those emergency situations, if we were using them for, say, flooding, particularly, or even a severe accident at an intersection between involving vehicles, would you be making—while in motion, while mobile—would you in most cases, if it was a case around a flood or of the kind of accident that I've indicated—would you not be stopped at least anyway and, therefore, of course, you can go ahead and use your—use the equipment.

**Mr. Bawden:** Obviously, works will stop. However, let me give you an example. During the recent flood I was tasked by ARES to go out to Scotia Street in order to help with the radio communications there. To get to Scotia Street. I was in communication with the City of Winnipeg Emergency EOC to find out exactly where the heck on Scotia Street was I going. During the course of driving to Scotia Street to help with the, with the emergency there, with helping with the sandbagging, I heard op—radio operators in their cars while driving along reporting on ice conditions along the Assiniboine and Red River. Also, I heard radio operators proceeding to the ring dikes or the areas that there might have been ring dikes. So radio—mobile radio communication was essential during that example.

**Mr. Lamoureux:** In your last paragraph that you read, you make reference to the, to the legislation, and I think I want to emphasize this point, only because there's a very good chance that this legislation will pass committee this evening whether it's amended or not, and there is legal counsel—or Legislative Counsel behind the tables here, and they have the abilities to be able to draft an appropriate amendment that would exclude amateur radio, radios from, from the legislation.

Is it—to be very clear—your position and your opinion and position of individuals that you've been acquainted with that it's better to have it in the legislation as opposed—an exemption in legislation—as opposed to regulation?

**Mr. Bawden:** My apologies. I don't think it can be done by regulation. I think it requires the change to the legislation because the wording around telephoning. But I will let the legal counsel determine whether that interpretation is correct. An

exemption based on federally certified would certainly be effective from our point of view.

\* (20:00)

**Madam Chairperson:** Seeing no further questions, I thank you—oh, I'm sorry. Mr. Maguire.

**Mr. Maguire:** One quick one as well, and it may not be as relative to, to directly to amateur radio operators, but a number of the circumstances that have come up over time—this is for any type of vehicle quoted and described as a vehicle other than a vehicle that's run by manpower alone. If your type of radios are going to be included in this type of legislation, can you—what would you think of bicycles not being included in this kind of legislation, because at the present time, they are a manpowered vehicle? And I wonder if you could just offer an opinion at least on bicycles, people text messaging, cellphoning on those as well and being any kind of a, of a distraction, I guess, if you will, from the public as well.

**Floor Comment:** I have to—

**Madam Chairperson:** Mr. Bawden.

**Mr. Bawden:** I keep interrupting. I'm sorry. I, I, I have to admit, I've never put my mind to bicycles, but let's be clear on the issue of text messaging and cellular telephones. The amateur radio community is not proposing that text messaging or cellphone use is allowed. Right? That's not what we proposed, and, and I know that some amateur radio operators do use other equipment while on bicycles. I would have to take that back and discuss it with others without—I don't want to give you, off the top of my head, advice on that matter, but, again, we are not proposing for a moment that text messaging or cellular telephone use is a matter that we believe is—needs to be changed in this legislation.

**Madam Chairperson:** The time for questions has now expired. Thank you, Mr. Bawden, for your presentation.

I now call Dr. Beverley Temple to the podium. Dr. Beverley Temple? Having called Dr. Temple's name once, it will now go down to the bottom of the list, and we will call the next presenter, Joan Wilson.

Ms. Wilson, do you have something to hand out to the committee?

**Ms. Joan Wilson (Unicity Taxi):** No, I don't.

**Madam Chairperson:** Then please proceed.

**Ms. Wilson:** Thank you, Madam Chairman, and good evening to the committee members. My name is Joan Wilson. I'm the general manager of Unicity Taxi. Unicity Taxi is the largest taxi company in Winnipeg, and we've been using a computerized dispatch system since 1982. We like to think that we're very progressive in our industry, and in reading Bill 5, we have discovered that perhaps our equipment would be in violation of this particular act.

It would be very difficult for us to change the way we do business. All of our data is sent back and forth between the cars and the office via computer, which is the device that the drivers have to look at, and they also have to use their hand to book in, accept trips, emergency switches. Everything is on their computers.

We are regulated by the Manitoba Taxicab Board. In 1999, a regulation was put in place for taxicab drivers where we were not allowed to use our cellphones when we have passengers in the car. We certainly have no problem with the cellphone part of the bill. We feel that that's probably a very good idea, but the problem with us is with our computer and how it is used, and the wording of this particular amendment is—it describes exactly what we have in our vehicles.

As well, we use two-way radios. We use this communication if a driver wants to talk to a supervisor, someone in the office for clarification to ask questions or perhaps they need directions. Not being able to use our two-way radios would also create a position where we would not be able to do business, and in fact, this particular act would stop Unicity Taxi and the majority of the industry from doing business. That's why we're here tonight and we're asking the committee to take into consideration an exemption for the electronic equipment that are in taxicabs. The Ontario government is considering now exempting the logistic equipment used in taxis. I believe that law does not come into effect in the fall, and they are looking at it now. We are hoping, as well, that Manitoba will look at it and exempt us by legislation as opposed to regulation. Thank you.

**Madam Chairperson:** Thank you for your presentation, Ms. Wilson.

Are there any questions from the committee?

**Mr. Lamoureux:** Yeah, I do want to take the opportunity, because I have very positive

appreciation of the taxi industry and would ask the presenter: Have you corresponded your concerns with any of the departments regarding the impact that the legislation is going to have on the taxi industry prior to coming here this evening?

**Ms. Wilson:** Actually, we were right out of the loop. We've—we got an anonymous call yesterday morning stating that this particular traffic amendment act was going for third reading, and as well that there was a committee meeting here this evening. So I apologize for not being as prepared as perhaps we should be, but certainly the industry itself was unaware of this.

**Mr. Lamoureux:** Were you within the loop when the legislation was being drafted? Were you consulted at all, talking 450 in terms of plates within the industry that's permanent? To the best of your knowledge, was anyone consulted prior to the legislation being introduced?

**Ms. Wilson:** The industry was not consulted at all.

**Mr. Lamoureux:** Then, finally, is it safe to say that it would be your opinion that this is a legislative amendment that would be required that you're not happy to hear that we'll just let the regulations deal with it? Is that a—I don't want to put words in your mouth, but is that, what would you have to say to that?

**Ms. Wilson:** Yes, we would prefer a legislative exemption as opposed to a regulatory.

**Mr. Maguire:** Thank you for your presentation, Ms. Wilson, as well. You indicated that a lot of your technology today is computerized in dispatching and in the taxis themselves. In the computerization in cabs today, and I guess my question is in regards to the same thing as the trucking association was talking about, if the items are fixed and solid on the, on it, there's been some discussion there about the example used in Québec. Are there taxi companies in other provinces and where the ban has already been put in place on this type of equipment? Are there exemptions that exist in those provinces that you're aware of, pardon me, for the taxi industries in those provinces?

**Ms. Wilson:** The only other province that would be using the computerized equipment at this point in time is Ontario, and the Ontario government is considering an exemption.

**Mr. Maguire:** Sorry, a late one. Would it be practical then, for your industry here in Manitoba, to put solid based, or fixed based, computer systems in

the vehicles that would continue to meet the requirements, I guess, that would bypass your industry on this bill?

**Ms. Wilson:** No, I don't believe so. Our computer system today would cost a million dollars, and to replace it, the industry just couldn't do it.

**Ms. Irvin-Ross:** Thank you very much. Thank you. I just wanted to say thank you for coming out and making this presentation on such short notice, and wanted just to clarify that this legislation is about hand-held, not hands-free, and then also just acknowledge how your industry were pioneers in making sure that hand-held wasn't being used.

And I wanted to clarify and also put on the record that there was a consultation with the secretary to the taxi board commission that did happen, that was part of the process of consultation.

**Ms. Wilson:** The Manitoba Taxicab Board is the regulatory body that regulates the taxi industry. I feel that the 450 plate holders and shareholders of the industry would have been better to have consulted with as opposed to the regulatory body.

\* (20:10)

**Madam Chairperson:** Thank you for your presentation. I'll now call the next speaker to the podium. Curtis Basso. Do you have a handout for the committee, sir?

**Mr. Curtis Basso (Manitoba Association of School Business Officials):** Yes, Madam Chair, I do.

**Madam Chairperson:** You may begin when ready.

**Mr. Basso:** Thank you, and please bear with me. I'm battling with bronchitis so I hope my voice holds out.

The Manitoba Association of School Business Officials represents the interests of the province of Manitoba's public school system administrative officers in the areas of transportation, maintenance and finance, as well as other educational business functions.

Representing the concerns of the 37 public school divisions in Manitoba, I'm speaking before you with respect to the language of the proposed Bill 5.

The intent of the bill is shared and is supported by all the transportation supervisors of the province, promotion of greater safety for the cargo we transport daily. Our cargo is the most precious

commodity on earth and the future of mankind: our children.

Upon review of the language of proposed 215 1(1) of the bill, numerous concerns were identified that may be at odds with the intent of the bill insofar as the application to the school bus transportation industry.

School divisions regard communications as a significant safety aid, a tool at the disposal of our industry to prevent potential risks to our passengers. The introduction of radio communications in school buses for this intended purpose was strongly supported in the mid-1980s by the Minister of Education at the time and promoted as a significant safety initiative by the Pupil Transportation Unit of Manitoba Education, Citizenship and Youth. School divisions were enthusiastic and embraced such safety enhancements to our operations.

Representing transportation supervisors through the province of Manitoba Association of School Business Officials we wish reconsideration of the language of the sections mentioned in that its current form will prohibit the use of radio communications while a vehicle is in motion.

The specific clauses, those of 215.1(1)(b) through (e) inclusive and 215.2(a) and (b) raise concern regarding that stopping a school bus to operate the radio may in actuality introduce a greater concern for our passenger safety by exposing them to one of our industry's greatest times of vulnerability: that of when a school bus is stopped.

Statistically, school bus impact from the rear when stopped is one of the highest incident occurrences. One which school divisions employ great effort and priority on reducing by instituting routing practices to minimize exposure. School buses are long, some in excess of 40 feet and wide, eight feet or more, and occupy a significant portion of available spaces, often intruding into the travelled portion of the roadway when they are sitting at the roadside.

Within the currently proposed language of Bill 5, use of radios will be prohibited for the purposes of transferring a related-safety-related information between offices and buses, between buses or between buses and schools, unless the bus is stationary at the side of the roadway.

This would occur because the language as proposed prohibits radio communications while moving because radio communication devices

require the use of the operator's hand to operate one of the functions: the activation of the microphone. The microphone must be held in the user's hand for operation and several divisions—numerous divisions actually—employ communication systems very similar to those of law enforcement, fire and emergency medical systems in that they incorporate a telephone function—Fleet-Net for example, and I've included a photo of that system for your information.

This raises concerns within the school bus transportation community due to several factors, not the least of which is that Bill 5 will have a significant implication on additional vulnerability by adding to the time that buses will be parked alongside busy and narrow residential and business district streets or intruding on the travelled portion of rural roadways in, in periods of poor visibility and inclement conditions. Be mindful that typically in rural areas we are the first vehicle on the road when none other have been and roads have been unmaintained. Restricting use of radio communications as represented by the current language of Bill 5 may have the opposite intended impact on the safety of the students we transport.

In closing, I would like to leave you with several comments to be considered in your deliberations. I would like to bring to your attention that professional school bus drivers are the only transportation sector in the province of Manitoba that require additional training on the highly tactile environment of operating the school bus vehicle, including the communication devices, that is outside of the Manitoba Public Insurance Corporation. School bus operators must be trained and be issued a school bus operator's certificate by the Pupil Transportation Unit of Manitoba Education, Citizenship and Youth in conformance with section 485/88R of The Public Schools Act to legally perform their function. School bus drivers are conscientious, professional drivers entrusted with the future in their hands. We rely on their judgment daily.

While transportation officials of the province of Manitoba had concerns regarding the aspects of radio communications defined in the proposed Bill 5, none expect—expressed concern with regards to introducing cellular telephone limitations or limitations on telephone function capabilities of the radio systems.

Consider the limitations of alternative and communication methods in more remote areas of the province and full awareness of the various types of

radio equipment and technology in use throughout the industry, are worthy of note.

The Manitoba Association of School Business Officials welcomes the opportunity to dialogue with representatives as a stakeholder to provide insight into the school bus transportation industry and work to assist in the creation of a bill that can reach full potential as an enhancement to safer motor vehicle operation. Thank you.

**Madam Chairperson:** Thank you, sir. I'm glad your voice held out. We now have some time for questions.

**Mr. Maguire:** Thank you very much for your presentation, Mr. Basso.

I, too, would like to ask whether your Association of School Business Officials were contacted by the minister's office or the department prior to the legislation coming forward for consultation purposes?

**Mr. Basso:** No, my professional association was not contacted, although the Pupil Transportation Unit of the Manitoba Education, Citizenship and Youth did actually attend and provide some insight. Mr. Sandy Campbell, senior field officer, one of the senior field officers for PTU, attended but was not completely versed in all the various types of technology that school divisions do use. And, due to financial constraints, some divisions do use rather archaic and relatively unrestricted types of communication.

**Mr. Maguire:** Thank you. Coming from rural Manitoba myself, I certainly take into heed what you said in regards to the first ones out. Whether I was on the bus, or my children, it goes back awhile. They were quite often the first ones out on the road in the mornings and particularly in winter periods. And the fact that we now have communications, radio communications in buses, has been a great plus and a benefit to, to the provincial scene in regards to the safety of children and the operations of, of school buses.

So again, I guess, I'm wondering if you feel that the type of legislation that would be required could be dealt with through the regulations or better performed by an exemption.

**Mr. Basso:** With respect to ensuring uninterrupted service and the safety of our students that we transport, we would feel that it would best served by amendment in legislation rather than by regulation.

**Madam Chairperson:** And seeing no further questions, I thank you for your presentation and will call the next speaker up to the microphone, Phil Walding.

**Floor Comment:** Thank you very much for your time, Madam Chair.

**Madam Chairperson:** Mr. Walding, do you have any written presentation you'd like to hand out?

**Mr. Phil Walding (Duffy's Taxi):** No, Ma'am, I do not.

**Madam Chairperson:** Then please begin.

**Mr. Walding:** I'd like to thank Madam Chairman and the members of the committee on behalf of my company, Duffy's Taxi, for the privilege of appearing before you. My name is Phil Walding. I'm the general manager of Duffy's. We have been using digital dispatch since 1999, not quite as long as our—as Unicity—but for 10 years.

This would—this legislation would cause great torment to our operation. We do believe that the mobile data terminals that we use in conjunction with our computerized dispatch, which are also used by 93 percent of all standard taxis in the city of Winnipeg, is by far the most useful and efficient way of delivering taxi service to Winnipeggers.

I do appreciate that these are not hand-held devices that we use but they are not entirely hands-free. Our drivers have to update where they're going to us, both for the purposes of servicing our clients as well as their own safety, because we have to be able to monitor where they're going in the event that there is emergencies. We also use a two-way radio system so that when we do detect there may be an emergency taking place in a vehicle, that to, to allow us to have access to the driver to find out exactly what's going on, do we need to send further taxis to assist him; do we need to send the police.

\* (20:20)

We feel that, that this legislation, as written, will cause our drivers to not be able to do their jobs in anywhere near an efficient fashion. Although it is true that our drivers could pull over to the side of the road to take the actions that they need to as cab drivers, I'm sure, as members of the committee being taxi customers yourself, if you were being required by the taxi you were in to pull over to the side of the road every minute so that he could talk to his computer, you might find that to be just a tad annoying.

The mobile data terminals that we use are approximately at least 10 inches by four and a half inches. If you've ridden in any of our cabs, you've seen them. They are at dash level. You don't need to take your eyes off the road to use them. The buttons are all large on them. There are five main buttons that they use, as well as a cursor to move back and forth. The amount of time that they do use it while they're on a trip is limited. We don't believe that there is any imposing safety issue with them. They are used in Ontario and Manitoba in Canada, but if you go state-side, it's very hard to find a city of any size that doesn't use them, and efficiently.

I myself have been in this business on the management side for about 20 years. I've operated companies that used hand-held radios, attach radios, BlackBerrys, cellphones, and I can tell you that in my experiences with all of these devices, the MDTs, the mobile data terminals that we use, are by far the most efficient and safe way of us to deliver service to our customers and to be safe with the other vehicles that are on the road. Thank you.

**Madam Chairperson:** Thank you, Mr. Walding. We have time for questions.

**Mr. Lamoureux:** Yea, just to be clear. You, you had requested that there be an exception in the legislation that would allow for mobile data terminals.

**Floor Comment:** Correct.

**Madam Chairperson:** Mr. Walding.

**Mr. Walding:** Sorry. Yes, that is correct. We have no problem with cellphone exemptions. We are not a big fan of texting. We have—the Taxicab Board has rules in place against cellphone use. We also have company rules against it. We also operate a Handi-Transit division through the City of Winnipeg in our company, where our drivers are instructed to allow their cellphones, because we don't use mobile data terminals for our Handi-Transit, to allow their cellphones to go to voice so that they can get their cancels and add-ons when they're clear of customers. This is in co-operation with the Handi-Transit department of the City of Winnipeg.

**Mr. Maguire:** Thanks for your presentation, Mr. Walding, Phil, and I just have a quick question in regards to safety, and I think—I'm pretty sure I have a clear idea of what the answer may be, but can you just answer for me, given the training and everything else that taxicab drivers go through, how many accidents your company would have had in the last year in regards to, and even if, I know, you can't

prevent all accidents, but how many accidents you might have had caused by a distraction from using such a device that you have in your vehicles today?

**Mr. Walding:** Well, all of our vehicles are independently owned and operated. Duffy's Taxi is a co-op. So being able to track exactly would be, would be hard. I would say that, over the course of the last year, there's probably been at least a couple of hundred instances of accidents. To my best of my knowledge, none of them have been related to the mobile data terminals. The majority of them are people running into our cabs or getting in the way of high-speed chases, as we saw last week with one of our Duffy's cars. But I have never heard of anybody being in an accident as a result of using an MDT.

**Madam Chairperson:** Seeing no further questions, I thank you for your presentation, Mr. Walding.

We'll now go to the names that were called and dropped to the bottom of the list. Cameron Oberton, that name will now be dropped off our list. Dr. Beverley Temple, seeing no one, that name is also removed from the list. That concludes the list of presenters I have before me.

Are there any other persons in attendance who wish—who wish to make a presentation? Seeing none, that concludes the public presentations.

In what order does the committee wish to proceed with clause-by-clause consideration of these bills?

**An Honourable Member:** Do it in numerical order.

**Madam Chairperson:** It has been proposed that we do it in numerical order. Is that agreed upon? Has that been agreed upon?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed and so ordered.

During the consideration of a bill, the enacting clause and title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee for the longer bills, I will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed?

**Some Honourable Members:** Sure.

### **Bill 5— The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)**

**Madam Chairperson:** We will now proceed to clause-by-clause consideration of the bill. We're beginning, as agreed, with Bill 5.

Does the minister responsible for Bill 5 have an opening statement?

**Hon. Kerri Irvin-Ross (Minister of Healthy Living):** I'm very pleased that Bill 5, promoting safer and healthier conditions in motor vehicles, passed second reading on May 27th. Bill 5 is comprised of two initiatives under The Highway Traffic Amendment Act that are intended to enhance the health and safety of vehicle occupants.

Prohibition against smoking in vehicles with children. This will protect children from the hazards of second-hand smoke. The amendments will make it an offence to smoke tobacco in a motor vehicle when any person who is under the age of 16 is present. The offence will also prohibit any person who's younger than 16 from smoking in a motor vehicle regardless of whether there are other occupants in the vehicle. The law will apply to both moving and stationary motor vehicles regardless of whether there is an open rooftop, sunroof, door or window. The offence will be enforced by the police who are authorized to stop vehicles and issue offence notices under The Highway Traffic Act.

Bill 5 also creates a prohibition against using a hand-held cellphone or text messaging device while driving. The public has become increasingly concerned about the driver distraction associated with the use of hand-held cellphones and text messaging devices while driving. A 2007 poll conducted by Manitoba Public Insurance revealed that 20 percent of Manitobans identified drivers on cellphones as the single greatest driving problem. Studies indicate that there is a positive correlation between drivers' cellphone use and deteriorated driver performance. There is also evidence that indicates cellphone use while driving leads to a fourfold increase in the likelihood of a collision.

Manitoba is following the lead of other Canadian jurisdictions including Newfoundland, Québec and Nova Scotia by implementing a ban on using—the use of hand-held cellphones while driving.

The bill includes an exemption for drivers using hand-held cellphone or text message device to

contact the police, fire department or an ambulance service in an emergency. We want to further clarify this exemption by dealing directly with the use of cellphones and text based messaging devices by police, firefighters and ambulance drivers. Consequently, we are proposing an amendment to the bill that will exclude police, firefighters and ambulance drivers from the ban provided that, that the prohibited devices are being used only in the course of duty.

I'd like to point out that Bill 5 allows for exemptions to be made through regulation. Government will consider possible exemptions for the use of hand-held communication devices that do not have a cellular telephone function and, and for text-based dispatch messaging devices that are not normally held in the users hand with an eye to both public safety and the communication needs of industry, government and other organizations.

Bill 5 will come into force on proclamation to allow time for the government to provide the public with education and awareness about these new initiatives. I look forward to learning of any concerns about the bills and the opportunity to address these questions.

**Madam Chairperson:** We thank the minister.

Does the critic from the official opposition have an opening statement?

**Mr. Larry Maguire (Arthur-Virden):** Yes, thank you, Madam Chair.

Yeah, so there are a number of circumstances that have arisen tonight that have been talked about here as well. And I guess I know that the minister has just indicated that they'll be bringing forward a, an amendment to this bill that will exempt police, firefighters and ambulance operators from that prohibition as long as they're using the device while moving for an emergency.

Can—I mean it's a question that I've put forward to the minister. It's about enforcement. Who's left to enforce whether or not a policeman is using his cellphone or a similar device as to whether he's reporting an emergency or not? I think that's a—you know it's difficult enough to enforce a bill like this but it's a—you know, and I, I have no problem with the exemption that you're bringing forward. I just wonder how it will be enforced in that regards.

\* (20:30)

And I also think that with no consultation from many of the groups, if any of the groups, that have come before us tonight to have had this kind of legislation come forward based on 20 percent of a poll that was taken saying that, that, that we may need it; 20 percent is a long ways from majority.

I'm wondering if, you know, there—it raises a number of questions that have come about. Certainly, I take into consideration the, the concern of Mr. Basso from the school business officials, having school buses sitting on the side of a road—whether it's in rural Manitoba or on a city street—is not something that we would want to have, I don't think, as a, a standard fact, that we wouldn't want that happening very often, never mind just once in a while, Madam Deputy Speaker, and I think that those are some of the concerns that I would raise in this.

Another one is agricultural equipment in regards to people utilizing the—that type of work now as well. There are GPS systems in, in farm machinery today, quite a number of them being used on a regular basis. Perhaps it's used for a different purpose than what the minister's bill is—has the intent to be used here today on roads, but can also be used on roads on, on—in farm equipment as well. And the industry has gone to great lengths to include GPS, global positioning types of systems, in their industry in the last few years, and it's a, you know, that is an area I know that has concerned some farmers that have talked to me about this as well.

And so I, I guess that's, you know, we've seen these circumstances coming forward from the amateur radio personnel as well as the taxi industries and, you know, while we're all in favour of safety and moving forward in these areas, I just wanted to put it on the record that there was—seemed like very little consultation done with a host of these individuals, and I'm glad to see that they've come forward tonight to make their presentations to this bill.

And I wanted to raise the concern, you know, I've had a number of people indicate to me as well that, that while—I, I, I guess I feel that you may have included it by having the definition of vehicles here and the motor vehicles, and you try to do it with motorized equipment. I raised the issue of bicycles from one of the speakers tonight as well, because, you know, maybe we need to do something. I've seen a number of circumstances where those individuals have been text messaging and cellphoning, using head sets as well, Madam Chair, and that's certainly a



distraction not only to their—their safety in a much more terrible situation when you're bicycling down city streets and doing that sort of thing. And, I mean, it's, it's endless.

It's ironic that this bill is before us tonight because I actually drove down Broadway on my way to the Legislature this morning and watched a lady eat cereal, or, or—I guess—it was pink, and maybe it was yogurt, out of a bowl while driving down Broadway avenue, and I couldn't believe it the first time. So I slowed up to make sure that it was actually happening, and it continued to happen all the way down Broadway—went for about five blocks this morning, and so, you know—*[interjection]* The member indicates that they may have seen men shaving before. Well, I didn't see that this morning, but I can swear to—or I'll testify here tonight that I certainly saw—and I don't doubt her for that—but I certainly indicate where you draw the line on this same type of circumstance.

**Madam Chairperson:** We thank the member.

Shall clause 1 pass? *[interjection]* Oh, I'm sorry. Mr. Lamoureux.

**Mr. Kevin Lamoureux (Inkster):** Yep, and we're on clause 1, I assume then, yes? Thank you, Madam Chair.

I do have a couple of questions of the, of the minister. I was glad to hear that she was going to make an exemption, but then she started to lose some of that support the moment she stopped after emergency vehicles.

I think that there has been a very clear message here this evening in terms of additional amendments that would be in the best interests of the trucking industry, school buses, in particular, the children of our province. We've talked about taxi industry, amateur radio. I know that the government seems to be quite content on saying, not to worry, that once we develop the regulations, we'll deal with, with these things. Yet these industries, all of which I just listed off, are, are critically important industries, and it seems to me that what they're asking for is the government to reconsider and bring in an amendment to the legislation that would allow them to, to be exempted.

Can the minister indicate whether or not she believes—and I'm going to list the four: the trucking industry, the school bus industry, the taxi industry and the amateur radio—licensed amateur radio, radio operators—should be exempt in terms of being able to

use the equipment whether it's the mobile data terminals or the hand radios? Does she believe that they should be exempt?

**Ms. Irvin-Ross:** I want to again put on the record about the consultations that we made with our stakeholders and again reflect that our position will be that we will look at exemptions through regulation.

**Mr. Lamoureux:** I'm not, I'm not asking the minister if she's going—like if she says she's going to look at. Does the government, does the government actually have a position today? Do they believe that the bus industry, for example, should—school bus industry, for example, should be exempt from the current legislation, or are they to wait until whenever the government decides to let them know whether or not they're going to be exempt? Does the government actually have a position on it today?

**Ms. Irvin-Ross:** What I will say again to the member is that throughout this process that there were ongoing consultations, and through those consultations the legislation was developed, and what we are prepared to do is continue to look with other industries, have conversations and look about, refer about exemptions through regulations.

**Mr. Lamoureux:** Madam, Madam Chairperson, I, I can recall the Unicity representative that was here, and I'd asked the question in terms of consultation and, and there wasn't. And it's only by, by luck that she actually ended up being here this evening. Now, in, in, I, I, I believe that maybe the government hasn't done the consultation that it's referring to on this particular issue. I think it's important for these industry reps to know this evening: is it the government's intentions or what does the government really believe? Does the government believe that the taxi industry should be exempted and be allowed to use mobile data terminals? It's a very simple question. If we pass this and it's given royal assent next week, two weeks from now, will the taxi industry be able to use mobile to data terminals?

**Ms. Irvin-Ross:** I have a, a list here of two and a half pages of consultations that were, that were made. And what I have said previously that we have consulted stakeholders. We have developed the legislation with them. We will continue to develop the regulations as we go forward, and as we develop those regulations, exemptions will be made where it's felt necessary.

This is about public safety for all Manitobans and working within co-operation. I need to remind the committee that there is a commitment of a one-year education and public awareness campaign that will be happening. So there will be opportunity for ongoing negotiations and consultations.

**Mr. Lamoureux:** Madam Chair, what I'm asking the minister do is make a very simple statement, you know, that the taxi industry—and we had two representatives, both Joan Wilson and Phil Walding, one representing Duffy's Taxi and another representing Unicity. Combined, they represent in excess of 400 drivers in, in the province or in the city of Winnipeg. They have a vested interest in knowing what this government's true intentions are.

Why cannot—why can the minister not tell this industry that it will be okay to continue to use mobile data terminals? Will she not make that commitment right now?

**Ms. Irvin-Ross:** I sat here, participated in the hearings, was very impressed with the information that was shared. We will continue to go forward as we develop the regulations and consult and develop the reg—the exemptions that we feel that's necessary. Thank you.

**Mr. Lamoureux:** Do, do you feel this is a necessary exemption for the taxi industry?

**Ms. Irvin-Ross:** What I'm saying is that there were consultations that happened in the development of this legislation. They were consulted, and, as we go forward, through regulations, exemptions can be made. And we will consider them.

\* (20:40)

**Mr. Lamoureux:** Well, Madam Chair, I think that we need to have a discussion on this issue. You know, I have dozens of drivers and owners of taxis that are constituents of mine and I suspect many other members around this table have constituents that are driving these taxis. This is their livelihood and we need to protect their livelihoods.

We could talk about the children that are hopping on buses day in and day out, going to schools, going on different sorts of trips. We've heard from the representative from that industry saying how important it is that they be exempt.

My question now to the minister is: Is she, at the very least, prepared to say that she will give that exemption to the school busing industry?

**Ms. Irvin-Ross:** I'd suggest that we are having a conversation right now and what I have said, and I will repeat again, that we have consulted numbers of people. That we have and that we will continue to look at all safety issues for Manitobans and that we will be drafting exemptions through regulation and we will have a comprehensive package.

**Mr. Lamoureux:** Imagine how assuring—reassuring that will be, you know. The minister says, well, we'll continue to consult. You didn't consult with the taxi industry, Madam Minister, you know. You didn't consult with the school bus industry, you know. I don't, you know, I don't understand why it is the government does not see the merit to respond to these industries and to acknowledge the need for an exemption that would go beyond just the emergency, emergency vehicles, and I would ask the minister again, would she be prepared to bring in amendments this evening dealing with exemptions of these important industries?

**Ms. Irvin-Ross:** As I've previously—previously stated, that we will be looking at all solid safety arguments, and what we will be doing is we will look at developing a comprehensive package that includes exemptions through regulations.

**Mr. Lamoureux:** Well, why would you give exemptions to some in the emergency, knowing full well that there are other industries that require that exemption? Why such a resistance to give those industries the exemption in legislation?

**Ms. Irvin-Ross:** I want to again put on the record that there have been ongoing consultations and that what we will do as we go forward and develop these regulations, based on solid safety concerns, that we will consider exemptions, and we will come forward with a comprehensive package.

**Mr. Lamoureux:** If I understand it correctly, what you're hoping to do is to get consultation done so that you can feel that all those presenters that presented here this evening, when they talked about the safety of our children, for example, or the safety of others, you want to verify that that is true before you would allow for the exemption.

Am I understanding that correctly?

**Ms. Irvin-Ross:** I participated in this exercise. I listened carefully to what everybody had to say. What I'm telling you is that there have been ongoing consultations throughout the development of this legislation and as we go forward with the

regulations, we will look at making exemptions when there is solid safety issues that need to happen.

**Mr. Lamoureux:** You're suggesting then, for example, that any time a taxi requires to deal with his terminal, that he or she is going to have to pull over and deal with it and then start, start again. That's—is that not your—the government's opinion as of today?

**Ms. Irvin-Ross:** My opinion today is—I will repeat again, that you could probably say it with me by now—that there have been consultations with all industries and stakeholders across the province in the development of this legislation. As we go forward and prepare the regulations, where there is a good safety argument, we will look at the implementation of exemptions.

**Mr. Lamoureux:** Madam Chair, I'm going to bite. Can the minister show me what consultation she's actually done with the taxi industry? She says she has two pages. Can she indicate anyone from the taxi industry that she's actually consulted with?

**Ms. Irvin-Ross:** It was the secretary of the Taxicab Board.

**Mr. Lamoureux:** And can she give any sort of indication in terms of the discussion that would have occurred? Was it in regards to the mobile data terminal? Was that issue even talked about in that consultation in terms of the government was looking at denying them in legislation the ability to be able to use that terminal?

**Ms. Irvin-Ross:** The consultation did include the existing equipment that they have in their taxicabs now. We're very familiar with it.

**Mr. Lamoureux:** So it was the industry through that consultation that suggested that they didn't have any problem with being exempted—I mean, with being a part of the legislation?

**Ms. Irvin-Ross:** We are aware of the equipment that they're using. We are prepared to continue as we have consulted with them in the development of the legislation; and, as we go forward and develop the regulations, we will consider exemptions.

**Mr. Lamoureux:** When you say that you consulted with them, was the discussion on the terminal and was it the position of the industry that they didn't require an exemption because I think that's an important part, because, you know, I'm looking at the possibility of having a third reading amendment? In fact, I've given notice that I would like to introduce a third reading amendment if, in fact, we're not going

to amend it. I'd like to see it debated, then, inside the Chamber.

So, you know, I want to be sure on that particular point. You know, what is, in the minister's opinion, the position of the industry. We had two reps that were here earlier, both from Duffy's and Unicity. They seemed to imply that they would like to see an exemption in the legislation. What the minister is implying is that she consulted with that industry, and that's not her impression.

**Ms. Irvin-Ross:** The department consulted with the industry, and I've explained that before, that there was a consultation that happened, and once again, that we are prepared to look at exemptions when there is a sound safety argument in the regulations.

**Mr. Leonard Derkach (Russell):** Obviously, the minister, from her weak responses, is making it very clear that she hasn't done her homework on this legislation, and I would like to—and when we've listened to the presentations tonight, it's obvious that she hasn't consulted with the people who are very key to the safety of Manitobans, one of them being the school bus drivers.

\* (20:50)

And I want to ask whether the minister has ever travelled in a snowstorm in rural Manitoba with a load of students in a bus, where there has been an immediate need to contact somebody at the headquarters regarding the safety of a road or what a school bus driver should do in that circumstance?

**Ms. Irvin-Ross:** I will love to put this on the record, my involvement on travelling, not in rural Manitoba, but in rural Saskatchewan, on buses. I went from grade 3 to grade 12 on buses. For an hour and half one way. No matter what the weather was like, we were on the bus, often stuck. What I'm saying is that we've—[interjection]—all kidding aside—

**Madam Chairperson:** Order.

**Ms. Irvin-Ross:** We have consulted with transportation, the Department of Education, had the conversations. We will continue to review the possibility of exemptions when there are safety issues present through regulation.

**Mr. Derkach:** Did the minister of her department consult with the association of school bus drivers in the province of Manitoba? And can she tell me who it was specifically that they consulted with from the school bus drivers association?

**Ms. Irvin-Ross:** It was the depart—it was the Department of Education, public transportation unit in which we spoke with.

**Mr. Derkach:** So the government consulted with government is what the minister is saying. They didn't consult with the people who are on the road, actually driving school buses in sometimes severe conditions, conditions that may pose a danger to the students in these situation. So all that the minister said in a mid—in a very misleading way, was that yeah, we consulted but we actually only consulted with the Department of Education, transportation unit, not with the people who actually drive school buses and make decisions on a daily basis regarding the safety of students in the province of Manitoba. That's what the—that's what the minister is saying. So she is actually misleading us in terms of who she consulted with.

**Ms. Irvin-Ross:** These are the individuals who are setting the policies and working closely with the frontline people. These are the ones that set up the policy that we consulted with to help support us in the development of this legislation. They were able to tell us the facts about bus transportation, of the precious cargo, our children, and we trust them.

**Mr. Derkach:** Well, it's funny that tonight we heard a presentation from people who actually are responsible for the safety of our children in school buses, and there's obvious disagreement between what the minister is saying and what these people are saying who are responsible for the safety of the transportation of our children. And so, you know, the minister's words ring hollow and she's losing her credibility here. And I'm wondering whether or not she shouldn't table this legislation until she's had time to consult with the people who actually make these decisions.

We've also heard from the taxi board, who are the taxi drivers, two taxi companies, who are asking the questions, what are we suppose to do in terms of communicating with our, our dispatch unit? So, obviously, the minister hasn't done her homework and she's bringing a piece of legislation here that is fraught with errors. And now she's going to make those changes in regulation.

What do we have legislation for if the minister is going to be making single-handed decisions through regulation when part of it is suppose to be, or all of it should be in legislation? I don't understand this.

I mean, last night we listened to the Minister of Health (Ms. Oswald) who brought forward a very substantial bill and in the bill—now the minister of natural resources or Conservation is telling, it doesn't have to be in the legislation.

Well, who are you representing? *[interjection]*

**Madam Chairperson:** Mr. Derkach has the floor.

**Mr. Derkach:** And that, they said bring in their amendments.

**Madam Chairperson:** Order. Order.

Mr. Derkach has the floor.

**Mr. Derkach:** The Minister of Conservation (Mr. Struthers) has his hands full with manure management and other things, so he should probably not try to get into the transportation issue.

But Mr.—but, Madam Chair, Madam Chair, the minister has brought forward here a piece of legislation that is riddled with holes in it or errors, and now she's going to be bringing in other changes to regulation. What is the purpose of legislation when the minister is going to ignore legislation and bring in regulation? I don't understand it. And, and on what basis is she going to bring in the regulations? Is it on the basis of a consultation that she's going to have in the future? We've heard from the people tonight. This is the purpose of this committee.

Last night we had a Minister of Health (Ms. Oswald), who was here before this committee with a very substantial piece of legislation. She was bold enough to say that we had some errors in the way that this was drafted in the beginning, some omissions, and they brought forward a huge number of amendments to the bill. She did it right, and she wasn't afraid to come forward and say there were omissions in the bill and we have to correct it, and she brought in the amendments herself.

Now there's nothing wrong with doing it. That's how legislation is passed. That's the purpose of this committee. The purpose of this committee is to listen and to respond to people who come before the committee.

Now the Minister of Conservation is shaking his head. I know he's shaking his head because he heard over 400 presentations to his legislation and never

made a single change. So I understand his attitude. It's arrogant. I call it arrogant.

Now, Madam Chair, the minister has an opportunity to amend this legislation, and before it passes in third reading I'm asking the minister whether she's prepared to bring in the amendments based on the recommendations and on the consultations that we heard here tonight. This was consultation. Consultation with people who are directly involved in the industry, not with some other bureaucrat in another department. *[interjection]*

**Madam Chairperson:** Honourable Minister Irvin-Ross has the floor.

**Ms. Irvin-Ross:** I want to clarify for the committee that consultation was done with many stakeholders, and what I've stated earlier repeatedly that there will be further consultations as we del-develop the regulations. These consultations and the purpose of this bill is to ensure the safety of all Manitobans.

Radio communication equipment is complex, and we need to ensure that—that the equipment is properly addressed and that, when we make these regulation exemptions, that it's based on safety issues.

**Mr. Derkach:** Madam Chair, I don't know how much more glaring the evidence can be, then, from people who actually provide safe transportation for the children and, and the students of our province. I don't know how much more glaring that can be.

But I want to ask the minister one other question. Does the legislation contemplate the use of hand-held devices such as VHF radios that also can be used as telephones? But can those devices be used for the purpose of commu-communicating between two vehicles? And I'm talking about the farm industry here where you have a truck driver who is communicating with a person in the field who might be using a combine. This is done all the time to direct, either the person operating one piece of equipment or the other regarding directions, regarding which way to travel, regarding safety issues that might be prevalent on the highway, regarding warning of oncoming, oncoming traffic that might be hazardous and where precautions have to be taken by a driver who could be in a, in a, in a country road that is full of dust, and radios have saved, not only lives but I think many incidents of potential accidents. So I want to ask the minister whether these devices will still be allowed to be used by this industry.

**Ms. Irvin-Ross:** I want to put on the record for the member that, as we sat through the committee, everyone agreed with the intent of Bill 5, and I want to clarify that the equipment that we are talking about is equipment that has a telephone function. Those are the ones that are prohibited. So I am not, I'm not familiar with the equipment that the member speaks of.

\* (21:00)

**Mr. Derkach:** Madam Chair, in this age of technology, there's all types of equipment, but some of the equipment that is used as a two-way radio can also be used as a telephone as well, and it's—now, if you're using the two-way radio function, are you allowed to used that or are you prohibited from using that?

**Ms. Irvin-Ross:** I just want to clarify again that not all radios have dual functions. The ones that do have a telephone function will be prohibited.

**Madam Chairperson:** Mr. Maguire.

**Mr. Maguire:** I'll defer to my colleague from Turtle Mountain.

**Madam Chairperson:** Then the next one on the list is the Honourable Minister Ashton.

**Hon. Steve Ashton (Minister responsible for Emergency Measures):** *[inaudible]* the ultimate consultation of this committee and, I think, the minister put forward the fact that the minister, the department, and this is the Department of Infrastructure and Transportation, is listening, has been listening to the presentations that were brought forward. And one of the reasons I wanted to be recognized was because some of the issues that were raised do cross over into Emergency Measures and, certainly, it's quite correct the amateur radio operators have been in contact with EMO and, certainly, we will be considering their presentations, both in, in writing and also today at the committee.

And I was just so much surprised with the tone of some of the discussion because my understanding is this bill was supported unanimously on second reading. So I, I would assume we all share the basic principle. I think, if I could perhaps, more as Deputy House Leader, I was surprised with the tone of some of the discussion because quite frankly we do listen and MLAs have the ability both at committee and third reading to bring in amendments if they wish. It is also not unusual for issues to be dealt with through regulation.

I've heard at least half a dozen different situations tonight, quite different, but with similar, similar themes, and I, I think the position taken by, by the minister and by the department is the appropriate way of dealing with it. There's clearly situations that have been identified, concerns have been identified. I think part of the line of questioning we've been hearing is, is it really could have been probably dealt with more through a detailed briefing if members are interested. I think that mi—would probably still be available. And I, I, you know, I think it's important to understand the, the intent and I think the minister's brought that out quite effectively.

But I did want to put on the record that, as we talk about consultation, that's why we're here at committee. We listened tonight and it is not unusual for response to come either in the form of amendments, and that's certainly the option available to members of the committee, or through the regulations, and that's not unusual as well, particularly when you're dealing with complex issues here, when you're dealing with particular types of equipments, equipment and particular operating scenarios.

You know, taxi dispatch systems are not amateur radios, are not the equipment that are in school buses and I, I have a bit of an advantage here. I'm th—one of the former ministers of Transportation. I can tell you that when you're dealing with a, a, a lot of these issues it is often in the best interests of the—of the interests that are being expressed not to lock it into legislation because if you're dealing with specific types of equipment you may have unanticipated consequences down the line that prevent you from being flexible but maintaining the principle of the bill. So one of the advantages of re—regulation is the degree to which you can identify specific circumstances and respond to those specific circumstances.

So notwithstanding some of the line of questioning I want to indicate, certainly, when it comes to the Emergency Measures issues that were raised I will be working with, with the minister and ministers who are responsible for this, and I think it would be incumbent on—I think it's quite legitimate for members to raise issues coming out of presentation. But I would suggest that we be very careful not to create further difficulties down the line for the presenters that came forward with legitimate concerns by locking into legislation what are essentially here equipment and operating issues. No

one is trying to prevent, you know, significant, unanticipated consequences.

We all know this is about people who are using cellphones or text messaging devices while driving. We know that that is proven to be unsafe, and what we have already seen indicated in this particular case is a number of scenarios brought forward where people have expressed concern that that should not apply to them. I think the minister's already given some clarification on that, but I would suggest we focus in on the specific concerns. We can have—members can move amendments, if they wish.

But, quite frankly, I would stress, again, that many of the issues under The Highway Traffic Act are dealt with under regulation because the alternative is an inflexible bill that can create more difficulty down the line. This is not unique, and I would just hope that we focus in on here what is the basic intent of this bill, which is to significantly improve safety for Manitobans.

**Mr. Cliff Cullen (Turtle Mountain):** Thank you very much, Madam Chair.

A very interesting discussion tonight, and Mr. Derkach does raise some interesting points, and I want to thank Mr. Basso coming all the way from the southwest corner of Manitoba to make presentation tonight. And I know Mr. Basso does have first-hand knowledge of, of school buses 'cause he does work for the Prairie Spirit School Division and does look after the—supervise the bus routes in that area. And they do have, you know, first-hand and state-of-the-art radio technology there, and these—this technology is, is, is new, and it's not like the old press-and-talk system. They also have the capability to, to use the phone system. So it's a very important piece of technology. And, you know, talking with Mr. Basso, there, there's emergency situations arise fairly regular on a school bus, and they do want to have the ability to use this new technology. They pay, you know, a tremendous amount of money to have that new technology available, available to them, and they, they're a little afraid to be restricted by this particular legislation because it actually goes the other way. It can, can impede the safety of, of our children.

So, you know, before we jump too far ahead on this thing, I think we—we as a government—we have to make sure that we understand what's out there in terms of technology.

And I know there's been quite a bit of discussion about what the consultation process has been here

tonight, and I just wonder if the minister would be able to, to table for us the list of people, organizations that, that she has consulted with.

**Ms. Irvin-Ross:** Thank you very much. During the process of preparing this legis—legislation there was a re—comprehensive review of what the technology was out there in the public, and that's what we—as we went forward, we realized that part of our bill, that it was going to have to have targeted regulations in order to have a strong bill. And we need to make sure that, as we go forward with our bill, that the regulations allow us to be flexible, to be able to adapt to the ever-increasing technology that's happening out there and also the needs of industry.

So we will continue to consult and to work with them as we go forward.

**Mr. Cullen:** Well, I'm assuming by the minister's comment that she's not prepared to table tonight the stakeholders, if we use that term, that have been involved in the consultation process.

**Ms. Irvin-Ross:** I can make a commitment that we can provide you with a list of the groups that we consulted with.

\* (21:10)

**Mr. Cullen:** Well, I thank the minister for that.

Clearly, the regulations that may come forward are going to be quite paramount to this legislation.

Has the minister developed regulations in terms of the clause that we've been talking about tonight?

**Ms. Irvin-Ross:** We've identified a process in which we're going to go forward and develop the regulations.

**Mr. Cullen:** This legislation, to me, is another one in a trend of what we've seen out of this government over the last few years here. You know, we've seen, we've seen the government bring forward legislation that has a nice title on it, and it leaves the perception with the public that they're going to feel good about this particular legislation. And I'm sure that's the impression that the public gets, and the government does a good job of trying to sell that as a public safety item, but they really haven't done their homework on it.

You know, I go back, we talked about Bill 15, the greenhouse gas reduction act, and again, it's a feel-good piece of legislation that was brought forward a year ago, but, at the end of the day, it really doesn't, doesn't measure up. There's no nuts

and bolts. There's no, there's no legislation there that actually has any repercussions on government to make sure they fulfil the mandates they've laid out.

We talk about Bill 20, even tonight, hopefully, we'll get into Bill 20 a little later on, the hydro amendment act, and it talks about electrical—electricity reliability. And this is, this is the point that I want to make. In here, again, it leaves a lot of the legislation, and a very important piece of legislation, up to regulation. So the Cabinet will have the ability to dictate a big portion of what the legislation means. And that's exactly what we're seeing in this particular bill here.

You know, we as legislators have a hard time passing legislation when we don't really know what the repercussions are going to be going forward. And that's really what we're having difficulty with tonight.

So I'm asking, I'm asking the minister—I know we've a, a pretty good, and I want to thank all the people that brought forward their comments tonight. Some very good comments there that should be considered by the government, and I just would hope that the minister will take the message to the Minister of Infrastructure and Transportation and highways as well, that this particular legislation, obviously, needs some work. Just from our perspective, we have a hard time moving forward in legislation when there's so many things unknown, and that, I think, is the message that we want to leave.

*Ms. Flor Marcelino, Vice-Chairperson, in the Chair*

**Ms. Irvin-Ross:** Bill 5 is an important bill that prohibits smoking in cars when there is a child, 16 years or younger, with you. That's an important aspect that we heard the Lung Association come out and support. And we know in our communities, that we've talked about the safety of our children, and that is important that we continue to ensure that they are not inhaling second-hand smoke in an enclosed area, and that's going to make a difference.

The issue of ensuring that people cannot use cellphones and text messaging while driving, is, again, we cannot underestimate the importance for the health and safety of Manitobans. Every presenter that spoke supported Bill 5. What they spoke about and what they encouraged us is to look at the impact of Bill 5 on their particular industry and what this government is committing to is to, through regulation, to develop exemptions that are developed

through a consultation process and that have a specific safety issue that's identified.

**Madam Vice-Chairperson:** Mr. Derkach. I'm sorry—Mr. Maguire.

**Mr. Maguire:** I guess, I wanted to ask the minister, you know, I know that they've said that there was consultations done with some of the stakeholders. I go back to Mr. Dolyniuk's presentation from the Manitoba truckers association where he indicated that this kind of legislation was moving away from—further from harmonization of the transportation industry. I know that we'd like to all see weights and measures and those types of things come more commonly between us; there are differences in road bases and bases of soil that have to be taken into consideration and road styles and sizes and that sort of thing as well. But can the minister indicate to me whether or not they had discussions with, with other provinces, neighbouring provinces, Ontario, Saskatchewan, Alberta, perhaps because of the transportation connection we have in the Prairies, with a lot of movement to British Columbia, I mean, perhaps that province as well?

Can the minister just indicate to me what kind of consultation or harmon—discussions that took place between the neighbouring provinces as well as some of the neighbouring states?

**Ms. Irvin-Ross:** I want to confirm to the member that, yes, part of the process of the development of this legislation was reviewing bills and acts in other jurisdictions.

**Madam Vice-Chairperson:** Mr. Derkach?

**Mr. Derkach:** He's not finished.

**Madam Vice-Chairperson:** Oh, you're not. Okay, I'm sorry. Mr. Maguire.

**Mr. Maguire:** Thank you. Is the minister indicating, then, that the—in developing this bill, they looked at the neighbouring acts, or did they consult with the ministers in the other departments, in the other provinces?

**Ms. Irvin-Ross:** There was department-to-department consultation that happened throughout jurisdictions. I also want to put on the record that Manitoba does have a representative on the Canadian association of motor transportation administrators where this issue has been raised before.

**Mr. Maguire:** Can the minister indicate as well—you know, the bill states clearly that the hand-operated

electronic devices means a cellphone or another electronic device that includes a telephone function or normally is held in the user's hand. During use it requires the user to use his or hand to operate any of its functions or an electronic device that is not otherwise described as class A or B. And I know that one of the concerns of the Manitoba Trucking Association is this electronic communication devices that don't fall under A or B, and his quote tonight was, and I quote: a complete ban on the use of electronic communication devices while driving in Manitoba would not be practicable or reasonable for the trucking industry. End quote.

I know that he went on to say that as the taxi board—taxi people did, here tonight from both Duffy's and Unicity, that Ontario is considering changes to legislation that would perhaps allow for some of these cases that my colleagues have been talking about tonight.

Has the—can the minister tell me what consultations they've had with Ontario in regards to the consideration of, of what Ontario has been moving towards, and if they were aware of that, can she tell me why they were not included in the exemptions?

**Ms. Irvin-Ross:** I can tell the minister that, yes, we've been in conversation with Ontario as they move forward, and once, once again, want to say that we did consult with the Manitoba trucking industry and we are aware of the technology that they use. We are aware of the impact of this bill, and we will address this in regulations.

**Mr. Maguire:** Madam Chair, can I take from that, then, that the example used by Mr. Dolyniuk tonight in Québec where the equipment that he's speaking of is fastened to the dash or fastened in the vehicle as a hard-and-fast issue where they are allowed to touch those screens then, would be allowed to be used in Manitoba?

\* (21:20)

**Ms. Irvin-Ross:** We are aware of the equipment that they use in the trucking industry here in Manitoba, and we will continue to consult with them as we go forward and develop the regulations.

**Mr. Maguire:** Is the minister aware of the equipment described by Mr. Dolyniuk tonight being used in Québec for the trucking industry there?

**Ms. Irvin-Ross:** I cannot speak that I am intimately involved with what the equipment is like in Québec,



but we are working with the Manitoba trucking industry, and we will make the necessary exemptions if that is what's felt in the best interests of the safety of individuals.

**Mr. Maguire:** In a letter that the—that I received just this morning in reply to some queries that I had in a letter to the Minister of Intergovernmental Affairs—or Infrastructure, Transportation and government services, pardon me—and a reply that I received from such minister, cc'd to the minister before us this evening, Minister of Healthy Living, as well as to my colleagues Mrs. Driedger and Mr. Eichler, because of his concerns in the agricultural sector and because of Mrs. Driedger's concerns about the smoking circumstances in these vehicles, of which I note in the minister's letter that I've just referred to, that the proposed smoking prohibition does not apply to the occupants of farm equipment, nor does it apply to occupants of special mobile machines, construction equipment, motorcycles, scooters and mopeds. It doesn't apply to bicycles. They do not meet the definition of a vehicle, Madam Deputy—or Madam Minister.

And so the concern that I have with this letter, though, is, after having had these consultations prior to this evening I'm assuming that you had, this letter also states, and I quote: Radio amateurs and other operator—radio operators, using a communication device that is capable of making a telephone call, would not be permitted to use this device while driving unless the device is being used in a hands-free manner to make a telephone call—end quote. It's pretty definitive. I don't know how much more room you have for regulations to be changed after that statement and given the service that could be used in these areas.

Now I want to go back to the member tonight who spoke, Mr. Bawden, I guess it was, from the Winnipeg Amateur Radio Club, who indicated that he was driving while speaking on his ham radio, hearing other conversations that were taking place along the rivers, the Red River, on his way to Breezy Point and other areas. I believe he indicated that while he was being used in the emergency situations of the flood tonight, would the minister consider the type of use that he described tonight to be an emergency situation where, even though he was driving down streets, it was still an emergency situation because a flood was on? Would that be considered to be something that would fall under the exemption of an emergency case that the minister

has indicated she's bringing a bill forward to deal with tonight, or an amendment to deal with tonight?

**Ms. Irvin-Ross:** This can be addressed in regulation, as I've previously stated.

**Mr. Maguire:** Okay. You know I guess the lack of clarity is what concerns the radio amateur operators, the truckers, the school bus drivers, the others that we've heard from tonight as well and, you know, I—the taxicab people as well. I guess that's why it's a concern that these issues weren't raised. I know that the minister indicated that the former minister of transport indicated that some of these things weren't raised earlier, Madam Deputy—or pardon me, Madam Chair—and I guess that's why my colleagues are raising this concern again.

They were raised. Some of these have been raised in a letter that I sent to the minister, and I wondered just exactly how you were going to deal with some of these in regulation after the strong statement for radio amateurs and other radio operators that I read out in the letter that you've sent to me here this morning. It's somewhat disconcerting, I guess, to see that the—you know, I mean, from my perspective I felt that these people were cons—had been consulted in regards to this process, but it appears otherwise. And I just wondered if the minister, then, is bringing more than one amendment forward tonight, and if she can indicate whether there will be other amendments that she will be bringing forward, if not tonight, then report stage.

**Ms. Irvin-Ross:** We knew as we developed this legislation, through consultation, that there would have to be targeted regulations that would be necessary to deal with the technology that's ever-changing in our society and make sure that there's some flexibility. And we strongly believe that, that this is, is not a flaw to this bill, that it's a benefit to this bill. And I am bringing one amendment to the table tonight.

**Mr. Derkach:** Madam Chair, to say that we are disappointed in the minister's reactions and responses would be a very—a statement that doesn't really, that doesn't really address the, the, the magnitude of the seriousness of this.

Because my concern, first of all, was with regard to the safety of students in school buses that are being transported, but this has so many implications to it because not only is the safety of students here at risk because of this legislation, but, secondly, the cost to school divisions to try to adapt to this bill by

having to invest millions of dollars into different technology is something else that needs to be considered in light of the fact that, first of all, through this bill, we don't actually make things safer for students; we go the other way. And, secondly, we impose a cost on, on school divisions that has to be born by taxpayers that's in the millions and millions of dollars.

And, Madam Chair, I want to ask the minister whether there was any consideration given to circumstances where a school bus driver, in the middle of transporting his students, has to get in touch with medical people because of a—either an asthmatic attack or some reaction, allergic reaction that happens on a school bus. And this happens on a daily basis, where school bus drivers have to communicate with medical personnel to ensure that that's student's safety is going to be secure until that student is either delivered to his home or, if that—in fact the, the driver then has to call on medical personnel to meet him at a certain location because of an attack a student may have on the bus. And I think those of us who are parents who live in the rural areas understand the seriousness of this and understand why it's important that there be some kind of communication system, in this day and age, on school buses where school bus drivers can, in fact, contact medical personnel or the parents of that child in the case of an emergency or in the case of some misfortune happening on that school bus.

**Ms. Irvin-Ross:** I need to ensure to all members here at the commi—committee that child safety is a priority for us. And, as we have learnt, as this conversation has gone on for an hour and a half, that this is an extremely complex issue with a number of variables and a number of unknowns, and one of them being the changing technology that happens every day in our society.

And I also want to clarify for the member that when we did our consultation around school bus transportation, what we found out is that many of the radios within the school buses do not have a dual function, which means they do not have a telephone function. Therefore, they would be permitted to use them.

**Mr. Derkach:** Well, and, and this is where the minister's remarks are what—somewhat contradictory because if, in fact, that device has a dual function and one of those functions is a radio function rather than a telephone function—now, I can understand that a school bus driver can be directed by law that if he's

going to use the telephone function, he or she will have to pull off the road or stop at some safe place to use that device. But in fact, if that—and that's important to have as well because not area—all areas of the province are covered by radio towers. You'd have to build numerous radio towers in order to be able to cover the entire province. I use as an example Frontier School Division that covers, you know, a third of this province. How do you then begin to communicate or have capability to communicate without the installation of, of hundreds of radio towers so that, in fact, those people can be in communication with one another or with their offices?

\* (21:30)

But even in rural Manitoba, where the populations are sparse, the towns are far between, we, I think, education, school divisions have invested in dual-function radios which can be used for either purpose.

Now I'm asking the minister whether she's prepared to bring in an amendment that will allow school divisions and school bus drivers, to use the radio function while they're driving but not to use the telephone function during that purpose of time? Instead of, of just banning the entire unit, creating enormous costs for school divisions, why would the minister not just be able to, through the regulatory body of school bus—the transportation unit of the Department of Education, issue a directive that says that the dual function, the telephone function on a dual-function radio-telephone, can not be used but the, but the radio function can be used in a transportation situation? I mean, this, this is not future technology. This is technology that's here right now. It's installed in our school divisions and it needs to be utilized. We can't simply throw it out the door.

And I think the minister, you know, I have to give her some credit in terms of being able to be somewhat flexible in regulation, but this isn't a regulation issue. This is a policy issue; this is a legislation issue. And it's quite easy to write an amendment which says that that function for school bus drivers is exempt from the bill. And I'm asking the minister whether she's prepared to come forward with that kind of an amendment. We still have third reading and report stage to go through in this legislation. But if she's prepared to make that commitment to the people who have the best interests at heart for the safety of our children on school buses, so they can continue to do their job and

do it well, I think would send a tremendous signal to all of the transportation and school divisions in this province, outside of the city of Winnipeg, of course.

*Madam Chairperson in the Chair*

**Ms. Irvin-Ross:** I want to assure the member that safety is a priority for all of us. Not one person would dispute that. And that's why the bill was developed, for the safety of our children. Addressing, addressing, second-hand smoke in cars, addressing the use of cellphones and text messaging.

This is extremely complex and by telling the committee that we are going to be completing further consultations and developing exemption through regulation, where it is felt necessary, and for the issue of safety, is not ignoring what we heard tonight and is not throwing it out the door. It is showing commitment, a process, working with our stakeholders and going forward.

**Mr. Maguire:** Why were bicycles excluded from this legislation?

**Ms. Irvin-Ross:** They're not considered under the definition of a vehicle.

**Mr. Maguire:** I assumed that, and I know that, and I guess I'm wondering if the minister thinks that's—I mean I guess I feel that probably in the area of bicycles, they're probably more at risk from severe injury by utilizing the—particularly a cellphone or text messaging product on a bicycle driving down the streets in Winnipeg or any other city or country road than even in a vehicle, except for the speed of course. And given the fact that it's much easier for them to just pull over and stop and use the cellphone in a normal manner, has the minister considered putting them in under regulation?

**Ms. Irvin-Ross:** For the purpose of Bill 5, which is talking about vehicles, it is—bicycles do not meet the definition of a vehicle or a motor vehicle.

**Mr. Maguire:** I understand that, and my question was would the min—is the minister considering an amendment that would bring bicycles in under regulation?

**Ms. Irvin-Ross:** This is the first time that this has been raised, and so what we will do regarding the bicycle issue is, you know, as we go forward with our regulations and we're consulting, if it is raised, we may consider this.

**Madam Chairperson:** Shall clause 1 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 1 is accordingly passed.

Shall clause 2 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 2 is accordingly passed.

Shall clause 3 pass?

**Ms. Irvin-Ross:** I have an amendment, please. I move—

**Some Honourable Members:** Oh, oh.

**Madam Chairperson:** Order. Order.

**Ms. Irvin-Ross:** I move that clause 3 of the bill be amended by adding the following after the proposed subsection 215.1, subsection iii, exemption, police, fire, and ambulance personnel, two hundred and—exception, sorry. Exception, police, fire and ambulance personnel, 215.1, subsection 3.1, subsection 2 does not apply to any of the following persons in relation to the use of a hand-operated electronic device in carrying out his or her duties: (a) a member of the Royal Canadian Mounted Police force or another police officer, police constable, or a constable; (b) a firefighter employed by a fire department; (c) an ambulance operator as defined in section 1 of The Emergency Medical Response and Stretcher Transportation Act.

**Madam Chairperson:** It has been moved by the Honourable Minister Irvin-Ross that—

**Some Honourable Members:** Dispense.

**Madam Chairperson:** Dispense.

The amendment is in order. The floor is open for questions.

**Mr. Derkach:** Madam Chair, I'm wondering whether the minister would consider a further amendment to add to this exemption: school bus drivers of the province of Manitoba.

**Ms. Irvin-Ross:** As I stated before, that we will consider looking at that as a regulation, as exemption in a regulation, but what I'd like to say is that, you know, certainly, with the issues that have been raised this evening to us that—we all agree that safety is No. 1 and that these issues need to be addressed. And so, as we go forward, we will consider further amendments.

**An Honourable Member:** Further amendments?

**Ms. Irvin-Ross:** We're open.

**Mr. Maguire:** Then I guess I'd have to ask, as well, if the minister would consider an addition of (d) under this as mobile data terminals in the taxicab industry as well?

**Ms. Irvin-Ross:** What we're prepared to do is, as we go forward, we will consider looking at those exemptions for regulation.

**Mr. Maguire:** I guess, having said that, and I go back to the quote that I made earlier, it would be very hard for the minister now to consider radio amateur operators in this as an exemption here as well, and so I hesitate to even ask about that because we already know that (a) answer so I guess I just wanted to raise that issue and once again put on the record that I'm concerned about the fact that the trucking industry, which Manitoba has a great number of—we've been very dependent upon the trucking industry as the colleague from Inkster has pointed earlier tonight. The CentrePort issues that I'm critic of for our caucus is front and centre on everybody's mind. It's a great opportunity for Manitoba to move forward with that industry, but we've got to look at the trucking industry as well, and we all want safety. And that certainly was pointed by their executive director tonight, Mr. Dolyniuk, in regards to the Manitoba Trucking Association. And so I urge the minister to look at what can be done in regards to including their needs in this exemption as well.

\* (21:40)

**Ms. Irvin-Ross:** As I stated earlier, that we all agree that this is an important bill for the safety of Manitobans for everyone, and that safety is No. 1 for all of us. And what I had said in my last answer is that, as we go forward and we're considering new regulations, we can also look at the potential for the implementation of amendments. But we need to go and consider these very, very carefully and make sure that we are going forward in a—in a way that keeps integrity of this Bill 5 and supports the safety of all Manitobans.

**Mr. Lamoureux:** Madam, Madam Chair, as I indicated earlier, I was actually pleased to hear that there was going to be an amendment. But what I'm interested in knowing was, when the minister initially drafted the legislation, obviously, this wasn't a part of it, and there would have been a, some point—at some point—where she made the decision to bring this amendment, and I'm wondering in, in terms of when that would have been and why it is—

what was the rationale behind this amendment, as opposed to ignoring the other suggestions?

**Ms. Irvin-Ross:** This, this exemption was made to ensure that emergency personnel could do their job while they were on duty, while they were protecting us, while they were dealing with emergencies. What makes this exemption? This exemption is clear because we're talking about emergency personnel.

**Mr. Lamoureux:** And to use the example of, of the school bus driver, while they're on duty, and there's an emergency situation, according to the legislation—because we don't really know what's going to happen in terms of regulation—that bus driver would have to pull over in whatever sort of environment that that bus driver might be in order to be able to communicate, or they would be breaking, breaking the law.

Why wouldn't you give the same benefit of the legislative exemption, given that we're talking about while they're on duty, and it is a safety issue? We had very clear indication that it was a safety issue from representative from within that industry. Would she not agree?

**Ms. Irvin-Ross:** What I have said and stated earlier, that as we went through consultation with bus drivers, with the policy mak—with the policy makers through the—*[interjection]* Excuse me—with the pe—the Manitoba transportation who developed the policies for busing transportation and our children, that we discovered that there is many equipment that is not dual function, that is not—does not have the telephone capacity.

But, as I already stated earlier, that we will consider further regulations as we go, exemptions, but there needs to be further consultation and, and also we need to ensure the safety of the children.

**Mr. Lamoureux:** I'm curious, Madam Chair, was it this minister that came up with the idea for the amendment, or would have it be the Minister of Transportation (Mr. Lemieux) that came up with the idea for the amendment?

**Ms. Irvin-Ross:** It was the Minister of Transportation.

**Madam Chairperson:** The committee ready for the question?

**Some Honourable Members:** Question.

**Madam Chairperson:** Shall the amendment—*[interjection]* No?

**Mr. Maguire:** Just in regards to 215.1, subsection 4, under regulations, the Lieutenant-Governor-in-Council may make regulations—(a), under section (a), it—

**Madam Chairperson:** Order. Order. We're currently discussing the amendment, not the clause.

Is the committee ready for the question?

**Some Honourable Members:** Question.

**Madam Chairperson:** Shall the amendment pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The amendment is accordingly passed.

Shall clause 3 as amended pass?

**Some Honourable Members:** Pass.

**Mr. Maguire:** Yeah, under the regulations 215.1, subsection 4(a) is, for the purpose of the definition: hand-operated electronic device, in subsection (1), prescribing other devices as hand-operated electronic devices. And I wonder if the minister could give me an example of what might be included in there under other devices.

**Ms. Irvin-Ross:** It would be considered entertainment devices such as an iPod, DVD.

**Mr. Maguire:** Thank you, and in regards to use in, in subsection (b), the purposes of definition: use, in the subsection (1) describing—prescribing other functions that, when done with or in relation to the hand-operated electronic device, constitute using it. Does this—this, obviously, and from our previous discussions this evening, includes CB and FM radios, the hand-held clicking functions of those?

**Ms. Irvin-Ross:** CBs are not prohibited under Bill 5.

**Mr. Maguire:** Would the use of MM-FM radios as well, because they have a licenced function as well?

**Ms. Irvin-Ross:** These would not be prohibited under Bill 5; they do not have a telephone function.

**Mr. Maguire:** The last one I have in section (d) is the—respecting the, any matter the Lieutenant-Governor-in-Council considers necessary or advisable to carry out the purposes of this section. What have you left? I mean, we've seen other areas here. Is this the normal type of open-ended legislation that would be left this way? I know you need some catch-all, I suppose, to look at other areas, but can you give me an example of, of what it might be used for?

**Ms. Irvin-Ross:** This is a standard provision for all regulatory measures that's seen on many bills.

**Mr. Derkach:** I have one question for the minister. In the constituencies on the west side of the province, there are some people who still use the horse-and-buggy mode of transportation, and these vehicles, of course, have licence plates on them. And they have to have signal lights and they also have lights. And I'm wondering whether the minister could tell me whether these, these one-horsepowered units are also considered vehicles, and cellphones could not be used in them either.

**Ms. Irvin-Ross:** Yes, they are included. They are considered a vehicle.

**Madam Chairperson:** Shall clause— *[interjection]*

Order.

**Mr. Maguire:** So, just to be clear, the bill, as you've indicated, then—the bill strictly does require the definition of a vehicle to be one in which is solely moved by human muscle power, so if it's moved by horsepower, it is a vehicle. Horse-drawn vehicles—'cause we have lots of horse-powered vehicles that obviously aren't cars, but—

**Ms. Irvin-Ross:** The horse-drawn vehicles that have licence plates on them.

**Madam Chairperson:** Shall clause 3 as amended pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 3 as amended is accordingly passed.

Shall Clause 4 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 4 is accordingly passed.

Shall the enacting clause pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The enacting clause is accordingly passed.

Shall the title pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The title is accordingly passed.

Shall the bill as amended be reported?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** The bill shall now be reported as amended.

\* (21:50)

**Bill 20—The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electricity Reliability)**

**Madam Chairperson:** Order. We'll now go to clause by clause of Bill 20.

Order. Does the minister responsible for Bill 20 have an opening statement? Order. Order. Does the minister have an opening statement?

**Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines):** No, I don't.

**Madam Chairperson:** I thank the minister.

Does the critic from the official opposition have an opening statement?

**An Honourable Member:** No.

**Madam Chairperson:** Mr. Cullen?

**Mr. Cliff Cullen (Turtle Mountain):** No.

**Madam Chairperson:** We thank the member.

Shall clauses 1 and 2 pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** Clauses 1 and 2 are accordingly passed.

Shall clauses 3 and 4 pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** Clauses 3 are 4 and accordingly passed.

Shall clauses 5 through 7 pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** Clauses 5 through 7 are accordingly passed.

Shall clause 8 pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** Clause 8 is accordingly passed.

Shall clause 9 pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** Clause 9 is accordingly passed.

Shall the—[interjection] Order. Order—shall the enacting clause pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** The enacting clause is accordingly passed.

Shall the title pass?

**An Honourable Member:** Pass.

**Madam Chairperson:** The title is accordingly passed.

Shall the bill be reported?

**An Honourable Member:** Agreed.

**Madam Chairperson:** Agreed. The bill shall be reported.

Order. Order.

**Bill 24—The Colleges Amendment and le Collège universitaire de Saint-Boniface Amendment Act (College Degrees)**

**Madam Chairperson:** We'll go on to Bill 24 now.

Does the minister responsible for Bill 24 have an opening statement?

**Hon. Diane McGifford (Minister of Advanced Education and Training):** No, thank you, Madam Chair. I do not.

**Madam Chairperson:** We thank the minister.

Does the critic from the official opposition have an opening statement?

**An Honourable Member:** No.

**Madam Chairperson:** We thank the member.

Shall clause 1 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 1 is accordingly passed.

Shall clauses 2 and 3 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 2 and 3 are accordingly passed.

Shall the enacting clause pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The enacting clause is accordingly passed.

Shall the title pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The title is accordingly passed.

Shall the bill be reported?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed. The bill shall be reported. Order.

### **Bill 29—The Environment Amendment Act**

**Madam Chairperson:** We go on to Bill 29.

Does the minister responsible for Bill 29 have an opening statement?

**Hon. Stan Struthers (Minister of Conservation):** No.

**Madam Chairperson:** Thank the minister.

Does the critic from the official opposition have an opening statement? *[interjection]* Thank you.

Shall clauses 1 and 2 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 1 and 2 are accordingly passed.

Shall clauses 3 and 4 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 3 and 4 are accordingly passed.

Shall clauses 5 and 6 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 5 and 6 are accordingly passed.

Shall clauses 7 through 9 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 7 through 9 are accordingly passed.

Shall clauses 10 through 12 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 10 through 12 are accordingly passed.

Shall clause 13 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 13 is accordingly passed.

Shall clauses 14 and 15 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 14 and 15 are accordingly passed.

Shall clause 16 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 16 is accordingly passed.

Shall clause 17 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clause 17 is accordingly passed.

Shall clauses 18 and 19 pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Clauses 18 and 19 are accordingly passed.

Shall the enacting clause pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The enacting clause is accordingly passed.

Shall the title pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** The title is accordingly passed.

Shall the bill be reported?

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed. The bill shall be reported.

One moment, please.

For the record, the committee agreed Bill 5 shall be reported as amended.

The hour being 9:55, what's the will of the committee?

**Some Honourable Members:** Rise.

**Madam Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 9:55 p.m.

**WRITTEN SUBMISSIONS PRESENTED  
BUT NOT READ**

Re: Bill 5 The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)

To: Ron Lemieux

Dear Mr. Lemieux,

I've read the attached proposed legislation and strongly disagree with some of the wording as it implies that there would be no touching or holding of a device even in hands-free mode. <http://web2.gov.mb.ca/bills/39-3/b005e.php>

Except in cases where some of the latest higher end cars are starting to offer blue tooth voice recognition/voice dialing, there is no practical way for the vast majority of people to operate a cellphone in hands-free mode without touching it in some manner no matter how briefly.

This includes units that have a built in speaker phone or while using any of the popular wired or wireless headsets that are now available. The legislation also seems to imply that use includes - communicating by means of the device with another person or another device, by spoken word or otherwise;

This would seem to contradict the ability to use the device hands-free. While I agree there needs to be limits placed on people driving and holding cellphones, they are hardly more distracting than talking live to a person in the car, listening to a radio or MP3 player. People do many other dangerous things like drinking coffee, eating and many other distracting things while driving.

Technically adjusting the heater, turning on the wipers or operating many of the other electronic systems in a car today could potentially be included under this legislation.

I believe the wording should be adjusted to target and eliminate the behavior it's intended to impact and not be so general as to leave too many potential interpretations.

I would be happy to discuss this with you at your earliest convenience.

Yours truly,

Bryan H. Crowley  
President & Chief Imagination Officer  
Consider the Possibilities TM Inc.

\* \* \*

Re: Bill 5 The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)

Executive Director  
Manitoba Tobacco Reduction Alliance

The Manitoba Tobacco Reduction Alliance (MANTRA) wishes to use this opportunity to register the following comments in regard to Bill 5 and its intent to protect children in vehicles from the harmful effects of second-hand smoke.

First of all, we would like it to be known that our comments are directed specifically toward that portion of the bill that deals with smoking in vehicles when children are present. While we agree in principle with the legislation dealing with cellphone use in vehicles, it is not our area of expertise.

**Science and the Evidence**

The facts regarding the risks of exposure to second-hand smoke have long been known and were the basis of arguments presented at the all-party task force hearings that were conducted throughout the province beginning in 2002. The end result was legislation in the form of Bill 21 which protected Manitobans in public places and work places from harmful exposure to environmental tobacco smoke and in so doing set a standard for all of Canada. The evidence for extending that protection to children in vehicles is also clear.

In 2005, the Ontario Medical Association released a position paper entitled *Exposure to Second Hand Smoke: Are We Protecting Our Kids*. The position paper clearly documented the dangers of children being exposed to second-hand smoke and listed a number of settings in which this should be eliminated. In particular it recommended that "Caregivers should not be permitted to smoke in



vehicles while transporting children, and the provincial government should take steps to protect children from SHS while traveling in vehicles through the introduction of legislation banning the use of tobacco inside vehicles used to transport children”.

In 2006 MANTRA released its own discussion paper entitled *Protecting Children From Second-Hand Smoke*. More than 20 agencies/organizations involved in the care of children were invited to discuss recommendations based on the evidence. Once again, the facts of the dangers of exposing children to SHS were reviewed based on scientific evidence. The conclusion: The facts are clear. Children exposed to ETS are at risk. It is equally clear that all reasonable measures should be taken to protect them.

In 2007, the Non-Smokers' Rights Association Smoking and Health Action Foundation released a paper on *Smoke-free Cars with Children Present*. Using a 2006 study by Rees and Connolly they demonstrated that “neither having the driver's side window down slightly nor having all 4 windows open half-way adequately clears the car of smoke. They concluded by supporting the implementation of laws to ban smoking in private vehicles when children are present.

Finally, in 2008, the Ontario Tobacco Research Unit released a study by Sendzik, Fong Travers, and Hyland entitled *An Experimental Investigation of Tobacco Smoke Pollution in Cars*. The study demonstrated that TSP (Tobacco Smoke Pollution) in cars can reach unhealthy levels under the most realistic ventilation conditions. Smoking one cigarette in a car can lead to levels of tobacco smoke pollution that match and exceed by several times the levels found in the smokiest bars and restaurants.

### Public Education

Has the public been made aware of the dangers of exposing children to second-hand smoke? Many health-related organizations have continued to make available educational materials to bring this understanding to the public.

MANTRA alone has been responsible for the following efforts:

In 2003, MANTRA released its Comprehensive Strategy for tobacco control. A major recommendation was “that mass media/public education campaigns be employed to alert parents to the dangers of second-hand smoke..” Immediately following, plans were put in place to embark on an

ongoing campaign to raise awareness of the need to protect children from second-hand smoke.

In 2005/06 we launched our first mass media campaign entitled “Please Take it Outside”.

It included television, radio and newspaper ads as well as a poster campaign. Subsequent polling of 11 worksites across the province indicated that up to 49% of those polled had seen or read some portion of the campaign.

In 2007 a larger mass media campaign was launched with the same theme. It included 299 television spots, several billboards, 929 radio spots 200 DVD's in schools and 5000 posters.

Again in 2008, the same campaign theme was repeated. It included television, radio, urban and rural newspapers and more than 72,000 smoke-free home and car brochures delivered to homes across northern and central Manitoba.

### Public Opinion

At the conclusion of each campaign, surveys were conducted to gauge public awareness and sentiment.

In 2005/2006 92.8% of respondents indicated that they believed second-hand smoke was harmful to children who were exposed to it and 87.8% indicated that they would not allow others to smoke in their motor vehicle if children were present.

In 2007, 98.1 % of respondents indicated that they believed that second-hand smoke was harmful to children who were exposed to it and 90.4% indicated that they would not allow others to smoke in their vehicle if children were present.

At the conclusion of the 2008 campaign, the firm of PRA was hired to include a series of questions on the *Attitudes of Manitobans to Smoking and Extending the Ban on Cigarette Use* as part of an omnibus survey. The following results are of note:

- 90% support the ban on smoking in all public places
- 76% would strongly support a ban on smoking within 5 metres of a doorway on all public buildings.
- **79% would support a ban on smoking in cars and other private vehicles where a child under the age of 18 is present**

It is obvious from the above that three key elements are in place to support the proposed legislation:

1. The scientific evidence is clear and the recommendations that accompany that evidence are also clear.
2. The public is well-informed on the issue of second-hand smoke as it applies to children and although they largely agree that children should be protected, their actions are not always consistent with their beliefs.
3. Public opinion is extremely favorable to implementing legislation to protect children under the age of 18 from exposure to second-hand smoke in vehicles.

### **Is This a Good Piece of Legislation?**

The Manitoba Tobacco Reduction Alliance fully supports the need for legislation to offer protection to children in vehicles who are being subjected to second-hand smoke.

Our concern is with this protection only being offered to those who are under the age of 16.

All Manitobans deserve to be protected from second-hand smoke. That was made clear in the legislation passed in 2004. However, this legislation is specifically about protecting children. The rationale for setting the age at 16 is unclear and perhaps cannot be rationalized. Our contention is that all who qualify as minors (those under the age of 18) need to be protected. The rationale being that until they are able to make choices which allow them to absent themselves from circumstances such as a family vehicle in which smoking is practiced, they are being put at risk.

The issue is not about, nor can it be about whether or not it is safer for a 16 year old to be present in a smoke-filled vehicle versus a 15 year old being present in a smoke filled vehicle. The risks are probably similar. It should reflect on whether or not the individual has the ability to choose to be in those circumstances.

There is also a danger that by not having a rationale, harm may be done to ongoing efforts to educate the public to the fact that smoking in any confined space is harmful to anyone who is present. The unintended message may be, "Please check to see if occupants are 16 or over before deciding to smoke in a confined space such as a car or home"

It is our hope that the legislation in no way conveys to young people that it is ok to be subjected heavily to tobacco smoke at age sixteen. It could well lead to young people concluding that smoking at age 16 may not be harmful either. Consistency between the age at which a young person can purchase cigarettes (18) and the age at which they can make the choice to subject themselves to cigarette smoke either directly, by smoking, or indirectly (SHS) seems a more rationale approach.

### **The Best Smoke-Free Environments**

The best smoke-free environments are arrived at through a continued reduction in the number of individuals who are smoking. Smoking cessation is the best way to guarantee that others are protected from the harmful effects of second-hand smoke. This was recognized and documented by the All Party Task Force for Environmental Tobacco Smoke in 2004. A comprehensive approach to tobacco reduction involves both protection and cessation among other things.

Smoke free spaces create supportive environments for smokers who would like to quit. A 2008 survey by The Lung Association entitled *Making Quit Happen 2008* made a number of very clear points.

- More than three quarters of Manitoba smokers would like to be smoke-free
- 93% of Manitoba's smokers believe that quitting, despite being difficult is possible
- 62% of Manitoba smokers believe that an increase in the affordability of smoking cessation medications would help motivate them to quit.
- In Manitoba, only 37% of the smokers surveyed said that their family doctor or other health care professional suggested ways to try and help them quit when they last discussed cessation. Anywhere else in Canada, the percentage is nearly 60% or higher.

The desire to quit is high. It's time for Manitoba to come up with a comprehensive strategy for smoking cessation that dramatically increases our capacity to assist those wanting to quit. Ultimately the best smoke-free environment.

Murray Gibson

The Legislative Assembly of Manitoba Debates and Proceedings  
are also available on the Internet at the following address:

**<http://www.gov.mb.ca/legislature/hansard/index.html>**