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SECOND SESSION, 38TH PARLIAMENT

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Proceedings in the Douglas Fir Room

TUESDAY, APRIL 25, 2006

The House met at 10:03 a.m.

Prayers.

L. Mayencourt: Yesterday, in a very spirited moment in debate, I characterized the opposition using an unparliamentary term. I'd just like to withdraw that, and I thank you very much.

Introductions by Members

Hon. L. Reid: Visiting the precincts today is Dr. Margaret Carr. She is here for some deliberations at the University of Victoria. They are around early childhood development. She's representing the University of Waikato in New Zealand, and they are doing extraordinary work in this area. I'd ask the House to please make her welcome.

[1005]

Orders of the Day

Hon. C. Taylor: I call committee on Bill 20, and in Section A, Douglas Fir Committee Room, it is continued estimates on the Ministry of Advanced Education.

Committee of the Whole House

SECURITIES AMENDMENT ACT, 2006

The House in Committee of the Whole (Section B) on Bill 20; S. Hawkins in the chair.

The committee met at 10:07 a.m.

On section 1.

Hon. W. Oppal: I wish to acknowledge the presence and the assistance of Allan Seckel, Deputy Attorney General, and Brian Dillon and Leigh-Anne Mercier from the Securities Commission.

L. Krog: The act purports to harmonize the definitions of "director," "insider" and "officer" with other provinces. I'm just wondering: can the Attorney General outline to the House whether it is an exact definition? Are we talking similar definitions, or how do we compare to other provinces in terms of this proposed section and definition?

Hon. W. Oppal: Yes, the definition is the exact definition.

L. Krog: With respect to the changes around use of the term "insider," which is obviously important for investor confidence, I'm just wondering…. In light of the Attorney General's answer, it's consistent with provinces across Canada. Can the Attorney General tell us: are we on the cutting edge of it in terms of defining what an insider is? How does it compare to American legislation?

Hon. W. Oppal: I would suggest we're at the cutting edge because it allows the commission to clarify who is caught within the definition. In other words, the commission would have the authority and the discretion — to be exercised fairly of course — to determine who is an insider.

L. Krog: I would have some concern if there is some discretion in the Securities Commission to define who in fact is an insider. Is that strictly for the purposes of the civil penalties, or are we talking about with respect to criminal penalties? I would suspect that our courts would have some difficulty with the concept of Securities being able to define what was criminal behaviour, so to speak.

[1010]

Hon. W. Oppal: These are not discretionary findings after the fact. These are matters that will be determined in the future, so the conduct would be defined.

L. Krog: I take it that conduct will be defined by regulation. Is that the intention?

Hon. W. Oppal: By order.

L. Krog: With respect to the other definitions — "economic interest," "investment fund," "investment fund manager," "non-redeemable investment fund," etc. — again, will those sections as set out in the explanatory notes be entirely consistent with legislation across the country? In other words, are we truly going to be in a regime where the securities acts across Canada will share the exact same definitions in these sections?

Hon. W. Oppal: The definitions are by and large the same, except where it says "economic interest." In that case, other jurisdictions may come to this same conclusion by different means.

L. Krog: Will our definition be more inclusive or exclusive? How will it compare to other definitions? In other words, is it going to give a broader scope to the commission to attach to people or insiders, so to speak, or will it give a narrower scope?

Hon. W. Oppal: It's the same scope for insider trading.

L. Krog: The act adds a number of definitions. Is the Attorney General satisfied that all of the definitions added will in fact increase investor confidence? In other words, are we doing something where the financial community has said to the government: "Look, if you bring in these provisions, we are going to enhance investor confidence in British Columbia by the broadening of definitions generally"?

Hon. W. Oppal: The whole intent of the act is to increase investor protection and also to have harmonization with other jurisdictions across Canada — with the exception of Ontario. They're not a part of the memorandum of understanding. They haven't signed onto it.

J. Kwan: In the definitions section, the term "defaulting reporting issuers" is not defined — not in the old act — and it's not being added in the new act. Is there a reason why that is? What exactly does "defaulting reporting issuers" mean in the context of the Securities Act?

Hon. W. Oppal: There is no definition as such in the act. The reason for that is to permit the province to harmonize its definitions and regulations with other jurisdictions across the country that are signatories to the memorandum of understanding.

The Chair: Attorney General, did you want to finish your comments?

[1015]

Hon. W. Oppal: Thank you.

That is done so that our obligations under the memorandum of understanding will be consistent with other provinces.

J. Kwan: With other provinces, then, the terminology "defaulting reporting issuers" — what is the general understanding? Does that just mean to say companies that have not filed their annual report…? Does it, therefore, make that company a defaulting reporting issuer? Is that the understanding across the country, then, and is that the terminology in which it refers?

Hon. W. Oppal: Those definitions have not been defined. They will be, with consultation with other provinces.

J. Kwan: Once they're defined, will there be a further amendment, then, to the Securities Act? Is that the intent?

Hon. W. Oppal: Policy or rules.

J. Kwan: Then it will be defined by OIC in some form or by some sort of government policy across all the jurisdictions?

Hon. W. Oppal: The rules are established by the Securities Commission, not by OIC.

J. Kwan: It will be up to the Securities Commission to define what a defaulting reporting issuer is, and that work will be done across the country with those who have signed onto the passport model, I would assume. That means Ontario has opted out, so therefore, Ontario would not be part of the group that would be participating in defining this term.

I guess my question is: if we don't know what the definition is as of yet, how will this act apply in its enforcement in the meantime, and when will this act come into force?

Hon. W. Oppal: Ontario will take part in the discussions. The rule, if and when formulated, would be published, and eventually the minister will approve the rule after public consultation.

J. Kwan: Okay. The term will be defined by this national group of people participating, and that terminology would have to be brought back to the minister for approval. Then it would be approved by the ministry either, I guess, by OIC or by some sort of government policy-procedural way, if I'm understanding this correctly.

I also heard the Attorney General say: "If and when the group comes forward with a definition…." In the meantime, before the definition comes forward, how will one understand what a defaulting reporting issuer would be, given that it is not defined in the act and given that the national group has not come forward with a definition as of yet?

Hon. W. Oppal: The policy rule would not come into effect until it's been agreed upon and the prescribed procedure has been followed.

[1020]

J. Kwan: When this act, Bill 20, passes through this House…. Maybe the Attorney General can tell me: when will this act, then, come into force and effect?

Hon. W. Oppal: The amendment would come into effect as a rule of policy when the rule is completed.

J. Kwan: I'm not a lawyer, so I'm having some difficulty in understanding what the Attorney General just said.

When the policy would come into effect…. Does that mean, then, that until the national group comes together to define what a defaulting reporting issuer is, this amendment would not actually come into effect until that takes place? Is that what the Attorney General is saying to me in this House?

Hon. W. Oppal: The answer to that is yes.

L. Krog: The Attorney General's answers to these questions have given me some concern. If the concept of the act is to ensure investor confidence and to, presumably, define the roles and responsibilities of persons participating in companies in British Columbia, surely to God, then, the definition of what may constitute a defaulting reporting issuer is important. I mean, surely certainty is the basic principle of the law. I guess I need to hear a little more from the Attorney General this morning as to how this is going to give certainty to the conduct of directors, officers and insiders in corporations.

Hon. W. Oppal: The rule will be enacted, and it'll provide a definition at that stage. The rule will be enacted before it comes into effect.

L. Krog: That obviously begs the next question, which is: what sort of a time line are we potentially talking about in terms of bringing about this brave new world of confidence in the Securities Commission and corporate behaviour?

Hon. W. Oppal: Because each of the provinces is looking at the new procedures, it is estimated that the time frame would be approximately a year and a half or maybe two years.

J. Kwan: Are other provinces also bringing forward amendments to their own securities acts? The Attorney General anticipates that each of the provinces, with the exception of Ontario, would, at some point in time in the next year and a half, bring forth some sort of amendment to their act and that within that year and a half, in that context, a definition for the defaulting reporting issuers would be defined in that process as well.

Hon. W. Oppal: The goal is to have every province amend its legislation by the end of the year. Ontario will be working in a similar fashion.

J. Kwan: I thought Ontario had opted out of this passport model. Have they changed their position already so that, therefore, they are part of the passport model and they will be bringing forward legislation to reflect that?

[1025]

Hon. W. Oppal: Ontario did not sign onto the memorandum of understanding, so formally it's not a part of the process. However, they are taking part in all of the discussions, and they've attended all of the meetings. In fact, there were meetings here in February of this year, and Ontario was represented.

J. Kwan: With respect to all the other provinces, how many of them have legislation in place? Does the Attorney General know? Are we the first to introduce such legislation for amendment?

Hon. W. Oppal: Alberta has introduced legislation. I think Alberta and British Columbia are further ahead than other provinces that have been signatories to the memorandum of understanding.

L. Krog: The act, as set out, proposes a change to the definition of "mutual fund" to make it inclusive and specific so that it conforms with the existing wording of the act. I'm just wondering: what's the purpose of changing it from an inclusive test to a specific test as opposed to giving some broader ability to the commission to define what a mutual fund may be?

Hon. W. Oppal: The section essentially amends the definition of "mutual fund" to replace the word "includes" with "means." The amendment is necessary because mutual fund will now be part of the new definition of "investment fund," which uses "means." The amendment also harmonizes the definition of mutual fund with the definition in other provinces. There really is no practical change in the interpretation of the term "mutual fund."

Section 1 approved.

On section 2.

L. Krog: Section 2 purports to repeal unnecessary provisions as rule and regulation powers allow these concepts to be addressed in subordinate legislation. I'm just wondering: if we are trying to harmonize and make the system more simple, why isn't this all contained within the Securities Act? In other words, what are we talking about in terms of subordinate legislation?

Hon. W. Oppal: These provisions will be moved to a national insider-reporting rule, and that's the reason.

L. Krog: I'm not sure that I understand exactly what the Attorney General's response is in this regard. What would constitute subordinate legislation with respect to section 2 and its repeal? Not wishing to deny my colleagues at the bar who practise in this area and make huge fortunes doing it, surely we should try and make law as simple and understandable as possible, and that generally would include keeping it all within one statute. So if I may repeat: what is subordinate legislation, and why not try and include it all in one statute if possible and, in particular, this statute?

[S. Hammell in the chair.]

Hon. W. Oppal: Having it in a rule will make it more conducive and easier to harmonize nationally.

L. Krog: Again, when the Attorney General talks about subordinate legislation, I simply need to understand: are we talking about subordinate legislation as in legislation that comes through this House, or are we talking about rules or some contract or treaty or whatever?

Hon. W. Oppal: We're talking here of rules. That's what we're talking about.

[1030]

J. Kwan: I am just trying to understand this a little bit myself. Section 2, according to the explanatory notes "repeals unnecessary provisions as rule and regulation making powers allow these concepts to be addressed in subordinate legislation."

If you go back to the original act where section 2(2) is being repealed — and section 3, but we'll just stay at

section 2 for the moment — section 2(2) reads: "If an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer is deemed to have been an insider of the reporting issuer for the previous 6 months or for the shorter period that the person was a director or senior officer of the issuer."

Basically, it kind of outlines what an insider is in that context, in terms of where a violation might have taken place. If we take that definition out and there's going to be some sort of national definition so that we can harmonize it with everyone, when will we be able to see that national definition? When would that come into force? Would that be another year and a half as well?

All of this work in which we're now not defining terminologies and we're deleting clauses is subject to work that's yet to be done, and we don't know what that work looks like at this moment. Is that the essence of this bill before us?

Hon. W. Oppal: We are estimating the time frame to be approximately a year and a half.

J. Kwan: I'm a little bit confused about the time line here in terms of this debate. Why would it be the case that we actually have this amendment, the entire act for that matter, and more specifically, section 2(2), before us before we even know what the outcome is going to be? We don't know what the outcome is going to be for another year and a half. If we repeal this now, what would actually apply in-between time, in the year and a half?

Hon. W. Oppal: The present legislation will be in effect until the new act comes into effect.

J. Kwan: What's the purpose of debating this bill and bringing passage to this bill a year and a half in advance of knowing what the replacement is going to be? Why wouldn't we actually have the replacement and then talk about what sections should be repealed or not?

Hon. W. Oppal: The purpose of these amendments now is to lay the framework for a harmonized program, and it's better that we do this now and harmonize the legislation with other provinces so as to protect investors who may invest in other provinces. They may be residents of British Columbia who may invest in Saskatchewan or Manitoba. The objective is to have those people comply with the regulations in their own province. This has to be done in advance, because we're embarking on a nationally harmonized program.

J. Kwan: Yes, I understand that we're embarking on a national harmonized program and that we need all of the players to come together and to sort of be going down the same path. The issue that I have is this. While there is agreement that we want to harmonize the program here with everyone else and it appears that all the other players have signed on — with the exception of Ontario, which technically has not signed on to the memorandum even though they're at the table — that work is underway and won't be completed for another year and a half.

[1035]

I understand that once that work is completed and we know what that work looks like, you're then coming forward to say: "Okay, we're now replacing the existing act by repealing the sections, changing the definitions, and so on and so forth, because we have a replacement before us."

I don't understand why, before we have that replacement, we are doing this work now when we don't know what that replacement is. Debating this bill at this time without knowing what the replacement is — and passing various sections and amendments of this bill, but without bringing it into force for another year and a half — would not advance harmonization, nor delay harmonization versus if you were to do it at the time when you actually have the work completed before you.

It's just perplexing to me in terms of, frankly, why this act is even before us. Wouldn't it be more helpful for members in this chamber and for the public, as well, to see what the proposed changes are so that you can actually make that comparison? Then at that time, in a year and a half, the time line would be for every province who signed onto the memorandum to bring passage of the proposed changes at the same time. Wouldn't that be a better approach?

It just seems odd to me that we're debating legislation for which we don't know what the replacement is, other than to know there is some work being done that will come to fruition in about a year and a half and that will harmonize, to a degree, measures related to the Securities Act.

Hon. W. Oppal: It is common for regulations to follow an act. In this case, for consultation purposes, because other provinces are involved, that suggested this perhaps is a most efficient way of doing this. We have to work with other provinces that are passing similar legislation.

J. Kwan: I guess I'll have one final go at this, because I have to say that the explanation that the Attorney General has provided is insufficient at best. The logic is such that to say this is the best way because the other provinces are doing it…. One begs the question why the other provinces are doing it. I wonder: in their own Legislature are they asking the same kinds of questions that we are today?

It would seem to me that it would be better policy and a better approach to have the proposed legislation, the proposed changes, before this chamber so that we can talk in context of how those changes are going to be and as it applies. But we don't have that information. I dare say that the Attorney General doesn't even know what those changes might look like, because that work hasn't been done yet and won't be completed for another year and a half.

It just seems to me that this is a backward way of doing things — of bringing forward legislation, appealing legislation, saying there would be replacement. Yet we don't know what that replacement is, other than to say there's some form of harmonization. It just doesn't make sense to me.

It would make me wonder whether or not repealing the legislation before us is the right thing. I have no certainty of saying that this is, in fact, the right thing to do without knowing what that replacement is and what that replacement looks like at this point. Is the Attorney General concerned about that at all?

[1040]

Hon. W. Oppal: First, it takes time to get on a legislative agenda in each province, but I don't anticipate any difficulties. There will be a consultation process in place. I think that's the best I can do to address the concern here.

Section 2 approved.

On section 3.

L. Krog: With respect to section 3, if the Attorney General could just confirm my limited understanding of this section. I take it that by substituting the term "issuer" as opposed to "reporting issuer," the concept is to expand it to any issuer — is that correct? — and therefore broaden the definition and scope of application.

Hon. W. Oppal: The section is amended so it can relate to all issuers and not merely reporting issuers, so it expands the definition.

L. Krog: Just so I'm clear: in terms of a non-reporting issuer, what would constitute a non-reporting issuer?

Hon. W. Oppal: The act provides for exemptions for certain companies, and this definition would take into account the activities of those people who now have exemptions.

L. Krog: What would constitute, again, a non-reporting issuer, if you will? What sorts of companies are we talking about? I mean, are we talking about privately held corporations? In other words, what are we talking about? Illuminate me. Give me a legal lesson here this morning. I'm just a lowly, small-town lawyer from Nanaimo, and I need the Attorney General's help.

Hon. W. Oppal: An example has been given to me. A company that trades its shares over the counter in the United States is a company that would be subject to this legislation.

L. Krog: To the Attorney General, who obviously bears the same depth — politely I say this — of ignorance as I do in these very complex matters. An over-the-counter trade, as defining a U.S. company, would only have application, I assume, if that company was then registered in British Columbia to do business in British Columbia. Is that what the Attorney General is driving at?

Hon. W. Oppal: There must be some connection to the province. It may sell shares here. It may manage a company that trades here. There has to be some kind of connection to the province.

[1045]

L. Krog: Just so I understand, this would apply to a company, then, not extraprovincially registered or whatever, that's doing business in British Columbia. In other words, the Securities Commission would apply to that corporation that's actually carrying on some kind of business in British Columbia, issuing shares, even though it is not registered?

Hon. W. Oppal: Yes.

Section 3 approved.

On section 4.

L. Krog: With respect to section 4, this "empowers the commission" — as I understand the explanatory note — "to exempt a non-redeemable investment fund from regulatory requirements under the Act." I guess, given that the purpose of the act is to increase investor confidence, why would we want to give the commission any power to exempt a non-redeemable investment fund from regulation?

Hon. W. Oppal: This section gives power to the commission…. It parallels a current power for mutual funds and is necessary because of the addition of the term "non-redeemable investment fund" to the act.

L. Krog: Will this provision, empowering the commission to exempt non-redeemable investment funds, in fact, bring us into line with other provinces? Are they coming into line with us? In other words, what's the practice across the country? What's the proposed practice, in light of the harmonization of the scheme?

Hon. W. Oppal: Yes, Alberta has a similar provision, other provinces are contemplating a similar provision, and the purpose here is to harmonize provisions similar to other provinces.

J. Kwan: Could the Attorney General please advise: why is the non-redeemable investment fund being exempted under this section of the act? I understand that the act before us, in the definitions section, is amended by adding the terminology "non-redeemable investment fund," but why should non-redeemable investment funds be exempted from regulatory requirements?

Hon. W. Oppal: The power would be exercised if it's not prejudicial to the public interest.

Section 4 approved.

The Chair: Just for clarity, sections 2 and 3 have passed and are so ordered.

On section 5.

L. Krog: On section 5, this purports to expand "the power of the commission to make designations for regulatory purposes." Can the Attorney General explain how that power will be expanded? And frankly, is it in the public interest to give so much authority to the Securities Commission to do this, as opposed to the Legislature of British Columbia?

I say this in the broadest context: that there is, with great respect, a growing trend — and I don't know if it applies across this country — in terms of legislation, to give enormous regulatory powers to cabinet instead of having the legislation come before the House to be scrutinized by members of the opposition and, therefore, the public. It seems to me that this proposed section is the same kind of approach. It's not a healthy approach; it's not a democratic approach.

[1050]

Frankly, I'm not sure it genuinely serves the public interest that it doesn't come back before this House, so if the Attorney can explain to me: what's the purpose of this? Is it simply to make it easier for the commission to operate out there on its own?

Hon. W. Oppal: The harmonization process can only be achieved through regulation.

L. Krog: Hon. Chair, with great respect to the Attorney General, I don't think it's that difficult that the able offices of the respective Attorneys General across this country couldn't get their act together sufficiently to propose legislation — as opposed to regulation — that would, in fact, serve the same purpose in terms of defining it.

What this section says is: "If the commission considers it to be in the public interest, the commission may, for the purposes of this Act, order that a person is (a) an insider, (b) a mutual fund, (c) a non-redeemable investment fund, or (d) a reporting issuer."

In essence, this section passes over to the commission — which is not, with great respect, directly responsive to the public in the way that the government is — the power to make these definitions, which one would normally expect to pass through the Legislature. I have no problem with ensuring that investor confidence is increased in British Columbia, but I do have some difficulty with the concept that we appear to be abrogating our obligation to the public, passing it over to the commission and basically saying, much like with B.C. Ferries: "Well it's a private corporation. We're not responsible anymore." That appears to be what this particular section is doing.

Hon. W. Oppal: This allows for more flexibility, and if one examines closely the old section with the proposed new section, the powers are virtually the same. What really happens here — what the new section does — is that it repeals and replaces the old section and the commission's existing and new powers to designate persons as fitting within some key, defined classes of persons within the act.

L. Krog: To the Attorney General: I come back to a point I made about earlier sections around definitions. Surely, certainty in the law is important. As much as I well appreciate the government's and the state's inability, often, to catch the white-collar crime that goes on in our community — which is a far more profitable venture than breaking into houses in downtown Nanaimo…. Appreciating that I want to encourage the government to catch as much white-collar crime as possible, nevertheless, surely, certainty in the law is important.

I thought it was our job as legislators to make the law. It wasn't the job of the Securities Commission to define what may amount to criminal behaviour in a sense, within the act, as opposed to giving the commission rights for civil remedies, which would be available to all of us. Again, I come back to it. I ask the Attorney General: correct me if I'm wrong, but I understand this to say that the commission gets to define who's an insider, and we don't.

Hon. W. Oppal: The definition will be in the rules, and this gives the commission power to deal with emerging situations. It should be noted that frauds sometimes take place in a hurry. Legislation cannot catch up to frauds that are taking place in the marketplace, but the rules will be clearly defined so that people know what the prescribed conduct is.

[1055]

L. Krog: What this section does is add — through (b), (c) and (d) — the mutual fund, non-redeemable investment fund, reporting issuer, etc. That's a significant expansion of the existing section. That's my reading of it. Is that correct? Go ahead.

Hon. W. Oppal: The power is there now. This merely expands the definition and the scope. The power is already there.

J. Kwan: Let's just get the wording from the old Securities Act on record in terms of what we're amending here. Here's what it says. Section 3.2(1) reads: "If the commission considers it to be in the public interest, the commission may, for the purposes of this Act and the regulations, order that an issuer is a mutual fund." That's the old wording.

We're amending that now to say: "If the commission considers it to be in the public interest, the com-

mission may, for the purposes of this Act, order that a person is (a) an insider, (b) a mutual fund, (c) a non-redeemable investment fund, or (d) a reporting issuer." It increases the scope in three separate ways by adding three other categories to the commission's authority to define these categories.

When the Attorney General says that the power has not been enhanced and it is just the scope, well, by enhancing the scope, the reach of the commission is much broader. The question that my colleague the critic for the Attorney General had been asking centres around, if you will, the devolution of authority from government to the commission in the scope related to these three entities.

Therefore, the issue of accountability is a question, because the level of accountability on applying the sections of the act would be far greater if that level of accountability came from legislators. But we're transferring that authority over to the commission. The commission, in essence, is like a private entity similar to the example which my critic colleague used, such as B.C. Ferries — a private entity. Much of that work is not subject to public scrutiny. Hence the concern on accountability, for the purposes of investor confidence, and information that needs to, I think, flow to the public.

From that point of view, my question is whether or not the Attorney General has any concerns around that — by increasing the scope of the commission. The Attorney General made a comment to say that well, we can't be creating legislation to catch up fast enough with the people who are defrauding the system. With the act, we're not talking about needing legislators to create legislation to catch up with people who are defrauding the system. We are talking about an enforcement tool that needs to be in place to ensure that those who are defrauding the system are indeed caught and are therefore accountable to the rules that apply.

Wouldn't it be better that the authority and the enforcement, if you will, of the people who might be deemed to be insiders, and so on, are retained by legislation without that authority being transferred to the commission?

[1100]

Hon. W. Oppal: The only expansion of powers or authority here deals with the definition of an insider. The other definitions in sub (b), (c) and (d) are there in the other sections of the act. They are essentially consolidated. The only increase in powers is in the definition of insider, and that's been expanded, as stated earlier.

J. Kwan: I would venture to say that it's actually one of the most important definitions — isn't it? In defining insider, the commission therefore has the authority to deem who is an insider. Around investment, if there's insider trading and so on, yes, the commission has a role to play. I would say that a bigger role and a larger accountability mechanism of that would be through the processes set out by the Legislature but not through the commission that has a greater accountability provision to define who is or is not an insider.

Hon. W. Oppal: This provision is designed and intended to protect investors and not necessarily insiders. It expands the definition of insiders so as to protect the investing public from the activities of insiders. That's the purpose of it.

J. Kwan: Yes, I understand the purpose of it. The question is whether or not the proposed change, the amendment that's before us, would achieve that goal. Maybe what I'm missing is this. Maybe the Attorney General can tell me and outline for this House: what process, then, would the commission go through to identify someone as an insider?

What sort of process would the commission go through? Would there be public hearings? Would there be investigations and so on? Maybe the Attorney General can outline that for me so that I can get the confidence that, in fact, there's greater protection for investors.

Hon. W. Oppal: The general procedure is for the commission to allege that there has been unlawful insider activity. There would be an open process wherein a hearing is held, and it would be for the alleging party to prove that, in fact, the person was an insider within the definition of the law.

The Chair: Shall section 5 pass?

[1105]

J. Kwan: Sorry. On section 5, Madam Chair. My apologies. I didn't jump to my feet, because I thought the Attorney General was going to jump right back up. I think the chair caught him, and he didn't jump right back up.

Just so that I understand this clearly. The commission makes an allegation against someone as potentially an insider. There's a public hearing process that takes place, and then it's up to the commission to prove that the person is, in fact, an insider. That's the process which the Attorney General had outlined for the commission that orders that a person is an insider.

Maybe the Attorney General can tell me and this House…. The hearings that are held and that are public — who adjudicates these hearings?

Hon. W. Oppal: Commissioners conduct the hearing, and during the course of that hearing, evidence is led by commission counsel. The party who is accused of unlawful insider activity may be represented by counsel. A hearing is held, and at the end of the day, based on the whole of the evidence, depending on the circumstances and the facts of each case, the commission is entitled to make a finding.

J. Kwan: In the system now, before the amendment…. That process that the Attorney General just outlined is the system now, isn't it?

Hon. W. Oppal: That is the present system in place now. What this legislation does is expand the definition of insider, and thereby the allegations that are alleged would have a wider…. It would expand the definitions so that any wrongdoings would perhaps be easier to prove — for want of a better expression — in that it expands the definition of insider in order to protect the investing public. But it would still be up to commission counsel to prove that in fact and in law, there was improper conduct.

J. Kwan: The definition sections talk about the insider and define what an insider is. This section adds the terminology — or the entity, if you will — of an insider to be a person that the commission can consider to be in the public interest to order is an insider. Formerly, that wasn't in place. The commission does not have the authority to order that a person is an insider.

I guess where I'm having trouble here is this. If the process is such that the commission could allege someone is an insider, the commission then goes to a public hearing process. The commission sits and adjudicates that process, and then the commission ultimately orders that that person is an insider. Doesn't that seem like there's something wrong with that approach versus before, when the commission didn't get to order that person was an insider? Someone else did.

I don't know how that adds to public confidence in terms of protection for investors. I think it detracts from it — does it not?

Hon. W. Oppal: What this provision does is permit the commission, in appropriate circumstances, to designate that someone is an insider, based on the facts and the evidence that the commission has before it.

[1110]

J. Kwan: Okay, then. Under what circumstances would that apply?

Hon. W. Oppal: I would point out that there are a number of reasons for this expanded definition, if you will. One example is that a person could come before the commission and get an advanced ruling as to whether or not one is an insider. If a person has a query as to whether or not he or she is an insider, they could come before the commission and get an advanced ruling on that.

J. Kwan: The Attorney General means to say, then…. Let's just say, for example, I came before the commission and said to the commission: "Will you make a decision on whether or not I'm an insider?" The commission will then fast-track that process to determine and give me an answer on whether or not I'm an insider. That's what this section of the act does?

Hon. W. Oppal: There are several ways that a person who is concerned about his or her activities could approach this. A person could go before the commission and lay out a set of circumstances and ask the commission for an advanced ruling as to whether or not he or she is an insider. That's one scenario. Another scenario is that the commission could allege by itself that someone is an insider.

There are various scenarios. How the process is kicked into play will vary upon the circumstances of the case. But at the end of the day, the commission has the power and the authority based on the existing facts to make a finding as to whether or not someone is an insider or not.

Sections 5 and 6 approved.

On section 7.

L. Krog: I just want to confirm. I take it that the Administrative Tribunals Act applies now to the work of the commission. Is this just — how shall I say? — something to define it and enshrine what is practised, or is this in fact a change?

Hon. W. Oppal: The section repeals and replaces section 4.1, so the relevant provisions of the new Administrative Tribunals Act apply to the commission. This amendment is necessary because section 162 of the Administrative Tribunals Act amended the Securities Act, 2004, instead of the current act.

Section 7 approved.

On section 8.

J. Kwan: Just a quick question on section 8. The explanatory note says that it repeals an unnecessary provision. Section 8 in the original act refers to section 12, which is the B.C. Securities Commission Securities Policy Advisory Committee, which allows the minister to establish a B.C. Securities Commission Securities Policy Advisory Committee.

Is it not necessary now because of the harmonization approach that's going forward, so there would then be one national advisory committee? Why is it unnecessary?

[1115]

Hon. W. Oppal: The commission intends to retain the present process, the advisory committee. There is a committee now in place, and members are recruited through public notice and the application process. So there is a committee in place now, and it will remain in place.

J. Kwan: The advisory committee that's in place now…. Its members are recruited by the commission itself, and it has nothing to do with government or the minister. There are no appointed individuals on that commission? Is that why it's not necessary — because the commission is just doing its own advisory committee work on its own?

Hon. W. Oppal: The minister appoints an advisory committee. The 2004 Securities Act repealed the ap-

pointment provision because the detailed board resourcing and development office process for statutory appointments was too cumbersome and intrusive for a voluntary advisory committee.

J. Kwan: Is the minister saying that the minister now does not appoint any individuals to the advisory committee?

Hon. W. Oppal: Well, the present law is that yes, the minister does that. But if this passes, then the process will change.

J. Kwan: Okay. That was my original question. That is to say that what this amendment does is change the original act to say that the minister will no longer appoint an advisory committee. It eliminates that.

Is the minister saying that by eliminating this section of the act, the advisory body will be formed by the commission in the future and that they could appoint anybody they want and the minister would have nothing to do with it? Well, let me just ask that first question, and then I'm going to ask my second question related to it.

Hon. W. Oppal: The question is correct. I haven't articulated it well, but the minister will have no role in it under the amendment. The commission will intend to retain, through a non-statutory appointment process, a broadly based advisory committee. It will be the commission, through a public process, to appoint a new committee….

J. Kwan: Will there be a national advisory body, through this harmonization process, that advises the respective commissions across the country?

Hon. W. Oppal: The short answer is no, at the present time, but there is dialogue taking place as to whether or not there ought to be a national regulator. If that happens sometime in the future, there no doubt will be some kind of national advisory committee or an advisory body, but that's pure speculation at this stage.

[1120]

J. Kwan: I guess I'll just raise this question related to that. Now we're moving into a situation where — in previous sections we talked about it — the commission will be given greater scope of authority in, for example, defining what an insider is and designating someone as an insider. Then on the advisory body, the government will no longer have a role in making appointments of individuals to the advisory body of the commission. All of that will be done by the commission. The advisory body will be chosen by the commission itself. So more and more we're moving into a situation where, pretty well, we're relying on the commission for a whole lot of things, separate and apart from any involvement from government. I just want to flag that.

I'm not quite sure that is necessarily in the best interest of promoting public confidence — not to say that the commission itself is not doing good work, but oftentimes one could anticipate the commission might well have a viewpoint that is not shared amongst others and sometimes with government. To have an advisory body where the government has a role in appointing somebody to that body might be an important component in that, in broadening the diversity of opinions around the table, as opposed to relying just on one source in choosing that advisory body.

I just want to flag that for the Attorney General's consideration, because it seems to me that as we go through the act and the amendments related to the act, we're moving more in the direction of really giving greater authority to the commission and really putting a lot of the public trust in this matter on the commission alone.

Section 8 approved.

On section 9.

L. Krog: Just so I can understand. Essentially, as I view it, this section will permit the commission to spend moneys that it may recover through its work on its — how shall I say? — own operations as opposed to putting it in court and leaving it in court or, as I understand it, a disgorgement order — in other words, giving an opportunity to investors to claim funds that have been paid into court. That's the way I understand this. Basically, this is sort of like the Escheat Act in a sense. If nobody claims it, steps forward, then it's going to flow into the commission to be used for its own purposes. Is that correct?

Hon. W. Oppal: In the unlikely scenario that no one claims the money, the section permits the commission to retain the money and to use any remaining money only for education.

J. Kwan: The minister advises that the unclaimed money can only be used for education. Are there guidelines, if you will, that set out what constitutes education?

Hon. W. Oppal: The money must be designated for use for education of investors. I assume from that that there would be discretion on the part of the commission as to how they would educate members of the public on investing.

Section 9 approved.

On section 10.

[1125]

L. Krog: This section, as I understand it, is simply going to require the commission to notify the public when it gets moneys and ensure that in fact the public will have an opportunity within a three-year date to come forward and claim those funds, therefore avoiding the unlikely possibility the Attorney General re-

ferred to in his previous answer that no one would step forward and actually ask for the dough.

Hon. W. Oppal: The answer is yes.

J. Kwan: What is the notification mechanism?

Hon. W. Oppal: The government will regulate as to how the notice is to be given.

J. Kwan: Has the government done some of the work in terms of what that notification would look like, or is that work to be completed in the next year and a half? Is that a harmonized process across all jurisdictions in terms of the notification process across all of the provinces?

Hon. W. Oppal: There was a notice amendment done for the 2004 act, and it is proposed that those same provisions would be used.

J. Kwan: What the minister is saying is that the notification process and requirements would be based on what was in place in 2004, and so there are no new regulations coming forward. Given that we're moving in the direction of harmonization and given that other provinces are also expected, I would expect, to bring forward this kind of reporting mechanism, would the other jurisdictions be required to undergo the same kind of notification mechanism? Will there be, in other words, a nationalized notification approach?

Hon. W. Oppal: In that sense, this province is ahead of other jurisdictions in that this is not a harmonization issue. This is something that the 2004 act contained, and so we've already moved in that area of notifying the public through the act.

J. Kwan: The Attorney General just said something curious. He said that some things are harmonization issues and some things are not, and this is not one of them. With respect to the debate in the bill, maybe as we go along, the Attorney General can identify for this House, so that we're clear, which of the issues are harmonization issues and which ones are not.

As I understood it when we first discussed this in the definitions section, the whole thrust of this amendment act was around harmonization, but it turns out only segments of it are around harmonization. Segments of it are now not part of the harmonization process. If the minister could clarify that for this House, that would be very helpful.

Hon. W. Oppal: Well, there are three significant areas of the securities law that we're dealing with. One is to implement the passport system by harmonizing securities laws across the country and by protecting investors. Once these changes are implemented, the changes will facilitate easier access to markets within Canada. That's the general philosophy and the intent of the act.

[1130]

L. Krog: So that I'm clear with respect to this section, the public is going to be notified, and it requires that a claim must be made to the Supreme Court. In an era of rising legal costs and studies by the Supreme Court around the issue of cost and the lack of access to justice, if I have a claim for $10,000 — as an investor — to hire counsel to make application to the Supreme Court, which is what I believe this section contemplates…. It seems a bit excessive, as opposed to allowing me to simply make my claim in Provincial Court.

I'm wondering if the Attorney General has given any consideration to that section, because often it's not a situation involving, with great respect, Jimmy Pattison investing in a company. It's Mabel Schwartz in Williams Lake who has sunk $10,000 into something and for whom that represents a great deal of money, and a legal bill of half of that is just beyond her means.

Hon. W. Oppal: Usually when there are competing claims for moneys, as the member knows, the money is paid into court, and competing claims are then made. As far as legal assistance available to prospective claimants, that's an issue that the government is still working on.

L. Krog: One of the concerns expressed by many is that we have a commission and the chair, as I understand it, or the president or the chief executive officer is making close to a half-million dollars a year. I'm under the understanding — and the Attorney General, I'm sure, will correct me if I'm wrong — that there's certainly no provision in this legislation to allow for a review of that salary. With great respect, people making that kind of money sometimes lose touch with the public and the small investors out there who don't live in that high stratosphere of economic security.

It seems to me that if the government has some intention, and I certainly hope it does, to lessen the legal cost to British Columbians who have already presumably lost money — which is why there are these disgorgement orders made, etc. — surely it would be more effective to set up a system under the Securities Commission, a kind of administrative tribunal approach, that would take this out of the Supreme Court and the necessary expenses that would flow from that.

In other words, if we've got ten people going after a fund and we're talking $200,000, the person who's got a million bucks is going to hire the best legal talent in downtown Vancouver. To come back to my mythical Mabel Schwartz in Williams Lake, I don't think she's going to be hiring Borden Ladner Gervais or whoever to pursue her claim. Essentially, you have shut her out of the process.

It seems to me that if you can't allow and rank some statutory provision to enable this to occur in Provincial Court, for competing interests to be dealt with in Provincial Court or under an administrative process that would be far less onerous than the requirements of appearing in Supreme Court…. That would be a far more effective way of assisting the public and giving

the public confidence that if they do suffer a loss or if they are victimized, they will actually have a genuine remedy that is within their financial grasp, as opposed to simply the commission's tossing it into Supreme Court and saying good-bye and good luck.

[1135]

I'm wondering if the Attorney General can comment on what I've just had to say with respect to this section and whether or not the Attorney General is giving serious consideration to putting into place a more user-friendly public system that does not involve the necessity, with great respect to my profession, of always having to hire lawyers to pursue what may be fairly paltry sums when you compare them to the legal costs of succeeding in making a claim.

Hon. W. Oppal: The Securities Commission, of course, doesn't have the necessary expertise to deal with competing claims. Therefore, the money has to be paid into court. If it's beyond the monetary jurisdiction of the Provincial Court small claims division, then it goes into the Supreme Court. Once it goes into the Supreme Court, if there's only one claimant, then the solution ought to be easy. The one claimant gets the money. However, the complications arise where there are competing claims and where there may be a large amount of money.

The issue raised by the member is a valid one. Does that necessitate every claimant having to go and retain expensive counsel? The only answer I would have to that query is this. It is the obligation of judges in the Supreme Court to assist unrepresented litigants. That happens — not on a fairly regular basis, but not on an irregular basis — where judges do assist unrepresented litigants. I might add that the court registry staff and the people in the court services branch assist unrepresented litigants in gaining access to the courts.

L. Krog: With great respect to the Attorney General's comments, we have a bankruptcy system in this country that doesn't require hearings in the formal sense. If I'm a creditor, I make a claim in the bankrupt's estate. The trustee reviews the claims and basically comes to a decision on whether or not the claims are valid. I share in the pot of money that's available, such as it is — subject to secured creditors, preferred creditors and the priorities as set out therein.

In these circumstances it's not even going to be as complex a system in terms of secured creditors, because that's not likely to arise, based on my understanding of the legislation. I suppose there may be somebody around, but arguably it would be a fairly simple adjudicative process that could be handled — if I can use the term in the kindest way — in a bureaucratic, administrative process as opposed to in a formal court process, thereby giving the public more access to obtain moneys that have been wrongfully taken from them, so to speak.

With great respect to the Attorney General, I don't think it's any answer to say: "The Supreme Court will help you out from time to time." I think the suggestion that you have a simpler process, a more people-friendly process, would be far more effective and would enhance the confidence of the public in the work of the Securities Commission — and investor confidence generally — knowing that if they are victimized, they are not going to have to spend a great deal more money than they potentially invested simply to make recovery.

Surely we have enough talent in a province of four million-plus people that we can set up that kind of process. I would like to hear the Attorney General explain why the system as proposed under section 15 should be implemented when, with great respect, a simpler system could be put in place.

[1140]

Hon. W. Oppal: There's no doubt that other statutory bodies from time to time do assist the courts in making findings and assisting courts. The registrar's office is an example of that. Referees are often appointed by courts and can help determine difficult issues of fact in law. There is a working group that is working towards a more streamlined form of justice so that access can be achieved. I would invite the member and others to assist in determining whether or not there can be another process that can be brought into play in ensuring that justice is achieved amongst competing claims in the Supreme Court.

L. Krog: As much as I'm flattered by his suggestion that I assist the government in this, to use those lines from Milton, *On His Blindness*, "Thousands at his bidding speed, and post o'er land and ocean without rest" — not on the opposition side, underfunded as we are in terms of research and communications. I'm certainly willing to provide my advice to the Attorney, but it seems to me that it is the government's obligation to ensure that a system is put in place. They have the talent available to do that.

With respect to the process, again, I appreciate the Attorney General's comments around the court's staff assisting. But we're not talking about making a small claim for the fact that Joe didn't connect the pipes properly when he came to plumb your house. We're talking about making claims under a fairly complex piece of legislation that the Attorney General will appreciate as complex — and the public as complex.

To suggest that the court staff should be providing legal advice or assistance is no real answer — and the suggestion that the court can make appointments. Nevertheless, you have to get through that door. You have to get into a courtroom. You have to understand the process to get there, and with great respect, that is not an easy process. That is how roughly 10,000 British Columbians make their living as counsel, acting on behalf of people to get them access to justice.

Again, I just strongly suggest to the Attorney General — if he is concerned about access to justice, as I firmly believe he is — that he consider some other system, particularly because this is a section dealing with people who have already been victimized.

Hon. W. Oppal: Well, I wasn't suggesting that the court staff or anybody give legal advice to prospective claimants. What I was suggesting was that court registry staff assist people in the documentary process of filing claims. The difficulty here is a constitutional one, in that only section 96 judges — federally appointed judges — are entitled to deal with claims of $25,000 or more, so that brings you into the Supreme Court. It is only when the money is $25,000 or more that the Supreme Court assumes jurisdiction.

The province has limited jurisdiction to deal with moneys that are in excess of that amount, insofar as appointing tribunals or courts to deal with those matters. As the member knows, the monetary jurisdiction of the Provincial Court small claims division is $25,000. Anything over and above that takes you into the Supreme Court.

L. Krog: I don't want to get into too protracted an exchange with the Attorney here this morning, but candidly, the last time I checked, this Legislature could increase the monetary jurisdiction in the Supreme Court. Indeed, it may even be possible to do it by regulation. Surely it's not that difficult a proposition for a government that can bring forward this lovely, lengthy piece of legislation involving the Securities Act to make the legislative changes necessary to accommodate the suggestions I've made in the House this morning.

[1145]

Hon. W. Oppal: We're really into a constitutional grey area here, and I'm not so sure…. We might be, with the greatest of respect, getting far afield as to what the intent of this section is. In any event, the most I can say here is that this mechanism, in our view, provides an effective means by which a disgorgement order can be made by a court. It provides for the payment out of moneys to innocent victims, investors who were wronged. In the government's view, this is an effective way of doing it.

Section 10 approved.

On section 11.

L. Krog: As I understand the provisions of section 11, it's simply going to repeal section 34(2) and section 37, as they are unnecessary. These powers will now be addressed in subordinate legislation or by policy.

Section 34(2) reads in its present form: "An application for registration or for renewal or reinstatement of registration or for an amendment to registration must be made to the executive director in the required form and must be accompanied by the prescribed fee." I guess I need to know: what in fact is the proposal to replace that existing provision?

Hon. W. Oppal: Section 34(2) is really unnecessary because there is a similar requirement in a national rule that addresses the same issue.

L. Krog: Just so I'm clear, the existing legislation will continue in place until this new national rules system, which will not in fact face legislative scrutiny, comes into being. Is that correct?

Hon. W. Oppal: Well, the national rule is already in place. I can say that section 37, which is a part of this amendment, is unnecessary because it's an administrative issue, and it can be addressed in a policy statement.

Sections 11 and 12 approved.

On section 13.

Interjections.

L. Krog: I'm so delighted to hear from members of the House on occasion during this scintillating debate. I'm sure they've been inspired.

With respect to section 13, can the Attorney General explain the purpose of the provision relating to section 13?

Hon. W. Oppal: I think the vociferous response may have been militated by the member and myself putting everybody to sleep in here.

This section repeals and replaces section 41 to require the commission to accept a surrender of registration unless it is prejudicial to the public interest. It removes the requirement for the commission to be satisfied that the financial obligation of the registrant to its clients has been discharged. That is only one factor that the commission should consider in determining if the surrender is prejudicial to the public interest.

This new section permits the commission to impose conditions or restrictions on a registration where a person applies to surrender registration. The power has been added in order to assist the winding up of a business of a registrant.

[1150]

Section 13 approved.

On section 14.

L. Krog: We're talking about a significant portion of the act that's disappearing under section 14. I'm wondering: can the Attorney General explain why these provisions are no longer necessary?

My comment on this is that it appears to suggest that, once again, we're going back to this subordinate legislation which, as I understand it, is not really legislation. It's just the rules. Can the Attorney General comment on that?

Hon. W. Oppal: A national registration and prospective exemptions rule includes many of the exemptions. What this amendment does is facilitate the passport system by helping to ensure that a registration exemption is available across the country and not just

in some provinces. Exemptions not included in the national rule will be moved to a local exemptions rule if necessary.

Sections 14 and 15 approved.

On section 16.

L. Krog: Section 16, as proposed, repeals the existing 54(2) — substitutes this subsection. I'm just wondering if the Attorney General can advise: is this, in his view, an improvement? Does it narrow the scope? Does it widen the scope? In fact, what will be the actual legal effect of this section? Does it represent an improvement in terms of ensuring that guilty parties are in fact caught?

Hon. W. Oppal: The current section has some inherent weaknesses in that it only addresses lying about being registered, but many other types of misleading conduct or misleading statements can be made in order to induce an investor to invest. What this section does — the repeal and the replacement here — is prohibit a person from making a false or misleading statement about something that a reasonable investor would consider important in deciding whether or not to enter into or maintain an advising relationship. It takes into consideration where something a reasonable investor ought to be apprised of and wasn't told. That's basically what it is. It expands the definition of improper conduct.

L. Krog: Noting the hour, I think it might be reasonable to move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:53 a.m.

The House resumed; Mr. Speaker in the chair.

Committee of the Whole (Section B), having reported progress, was granted leave to sit again.

Committee of Supply (Section A), having reported progress, was granted leave to sit again.

Hon. C. Richmond moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until two o'clock this afternoon.

The House adjourned at 11:55 a.m.

PROCEEDINGS IN THE DOUGLAS FIR ROOM

Committee of Supply

ESTIMATES: MINISTRY OF ADVANCED EDUCATION AND MINISTER RESPONSIBLE FOR RESEARCH AND TECHNOLOGY
(continued)

The House in Committee of Supply (Section A); H. Bloy in the chair.

The committee met at 10:08 a.m.

On Vote 11: ministry operations, $1,981,707,000 *(continued).*

Hon. M. Coell: I'd first like to introduce the staff that are with me this morning. I have Deputy Minister Moura Quayle; Ruth Wittenberg, assistant deputy minister; Tom Vincent, assistant deputy minister; and Heather Brazier, director of post-secondary finance.

At the conclusion of debate yesterday I committed to a number of items for the members across the floor. The first one was information on the criteria that private post-secondary institutions must meet for their students to be eligible for government financial assistance. I have those policies and procedures, and I'll give that to the members across for their information.

The other one was…. The opposition had requested some information under the Freedom of Information and Protection of Privacy Act. Staff have let me know that that is well underway. The delay is because it involves the Private Career Training Institution Agency as well as the ministry. So we're coordinating that, and it should be resolved soon.

The other issue that we had some discussion on was the reallocations of spaces within institutions. What we did is in cooperation with institutions ask them how many spaces that they felt they would need in addition or how many spaces they were willing to give up if they couldn't fill them. So it's a very small number; it's 72 reallocations out of almost 4,400 new spaces this year. I'll just give a breakdown.

[1010]

The College of the Rockies will receive 69 new seats, but they gave up 30. The College of New Caledonia has 67 new seats. They gave up 20. Northern Lights will get 45, and they gave up ten. North Island will get 45. They gave up seven. Northwest Community College will get 51. They gave up five. That's a total of 72 reallocations.

The recipients of those are Emily Carr, which will receive an additional 20, bringing it to 54; the Justice Institute will receive 20, bringing its total to 20; BCIT will receive an extra 15, bringing its total to 163; UCFV will receive an additional ten, bringing its total to 405;

and NVIT aboriginal programs will receive seven, bringing their total to 15, which totals 72.

We did that with the agreement of all of the institutions, and we'll probably continue to do that over the next four years as well. Every year we'll reassess as to which could develop more programs and which are not able to develop the ones that they were allocated. If that is helpful, I'll sit down, and we'll continue debate.

G. Robertson: Thank you very much to the minister and staff for providing the information so promptly, and the updates. It's much appreciated.

I'd like to start this morning by circling back and finishing off some questions on student financial assistance, scholarships and bursaries. I had asked the minister questions around the total envelope for student financial assistance funding and a question regarding that funding appearing to be static. There were some clarifications regarding the interest rate calculations.

The nugget that I was trying to get at there was per-student funding related to student financial assistance. Though the number of students that are receiving funding may be increasing, it appears that per-student funding, based on the numbers as they've been translated to me, continues to drop somewhat here, adjusting for inflation, interest rates and increased numbers of students qualifying. My concern — and I think it's a broadly shared concern — is that there is no carefully articulated vision here for per-student funding increasing in conjunction with the increasing costs of attending school and living expenses associated with that.

Can the minister clarify per-student funding and whether there is a commitment by the ministry to ensure that per-student funding is increasing by the rate of inflation, at least?

Hon. M. Coell: That information is available to me. It will take a few minutes. If the member wishes to go on with other questions, I'll come back to that with a full answer.

G. Robertson: That would be fine. I'll ask something beyond that that's a little more specific. It's a question about the occupation-specific loan remission programs. I've noticed that in the information provided by the ministry to the public, these are continually identified as student financial assistance programs, when by all intents and purposes, occupation-specific loan remission programs are very targeted and are essentially recruiting programs to get students into specific occupational training, not to alleviate financial barriers for students.

Can the minister clarify that distinction between a recruiting program and a program that's designed to alleviate financial barriers?

Hon. M. Coell: I think it's really a bit of both. I think what we're attempting to do is influence the decision after graduation as to where they would go and practise their new profession. The initial program targeted doctors, nurses, midwives and pharmacists.

[1015]

There are parts of the province where there is a lack of those professions, so what we're doing is basically saying to someone: "We're going to forgive your loans if you will practise your new profession in an area of the province that needs you right now." I think that while it is obviously an assistance in reducing debt, there's a benefit to the province as well.

G. Robertson: This does end up tying back into my first question about the overall vision of the ministry for student financial assistance. If you look at occupation-specific recruiting programs and the student financial assistance that's labelled for those programs, they don't appear to be specifically targeting students who have financial barriers. Again, it ends up being an offset to the overall allocation to students in terms of per-student funding. When the minister has gathered the information regarding per-student funding, I'd be interested in hearing the minister's overarching vision here.

I think there are a lot of questions about: where is the line going to be drawn, what is the ministry committed to in terms of ensuring that student debt doesn't run away and continue to accelerate on students, and how does per-student funding play a role in that?

Hon. M. Coell: It's a good question, and I think the best way I can answer it is to show what the increase is. In 2005-2006 the budget was $136.44 million. This year, in 2006-2007, it's $158.383 million. That's a 16-percent increase, or almost a $22 million increase, so the budget is increasing. I think one of the overarching principles for government is that family income should not hamper a person's ability to get a higher education. We see that increase as helping.

I think one of the other things that…. In capping the tuition at 2 percent, that, with the increase, makes it more accessible for students to achieve an education, whether it's at the college or university college or university. So that's the increase. I think that is good progress in a 16-percent increase in that budget.

G. Robertson: Appreciating the 16-percent increase, one needs to keep in mind the cost-of-living and inflationary increases and, I think most alarmingly, the tuition increases that took place over that period of time in relation to the increase in student financial assistance. I think the tuition increase far outstripped that when it was in most cases calculated at an average 100-percent increase across B.C.

Again, it brings up the question of how we are doing per student. Is the ministry tracking this? Is this a focus of the ministry, to ensure that per-student funding with student financial assistance is a priority?

[1020]

Hon. M. Coell: I just wanted to touch…. I'm still waiting to get some of that information for the member. There are a number of things that the B.C. student assistance program offers over and above the ability to

get loans and loan forgiveness. I mean, we have the Canada student loans; the Canada study grant for students with dependents; B.C. student loan; the Canadian Millennium Scholarship and the provincial funds in the form of loan reduction; the millennium access bursary; the Canada access grant for students from low-income families and the Canada access grant for students with permanent disabilities; and the Canada study grant for female doctoral students. There's a whole range of programs that, in many instances, are cost-shared with the federal government, and that's the same with all provinces and B.C.

I think, too, that in many instances there are a number of programs that people can access at different stages through their degrees or programs. We want to continually look at that, the debt associated with that, whether it's the gross amount of debt that people are having or the number of students having to access debt. Staff do watch that on a regular basis, and a lot of that is why capping the tuition fee at the rate of inflation, or 2 percent, and then having a 16-percent increase in funds available takes care of the increase in students.

It also takes care of the increased cost, as the member mentioned — the living expenses, whether you run a car or rent an apartment or house. That varies throughout the province too. You can track that as to…. Students in the north have different costs than some of them on the Island and Victoria and Vancouver and the bigger centres. It's something we watch closely.

We want to make sure that people don't have huge debts at the end of their university or college careers. Again, as we were talking about yesterday, 50 percent of students actually graduate with no debt. It's important that the people who need to borrow some money have access to money, and that's why the increase of 16 percent in this budget.

G. Robertson: Shifting a little to the repayment side of the equation on the student assistance program, there's been some talk lately of people musing on the concept of income-based repayment plans. I'm curious if the ministry is doing any work or research on this kind of a repayment plan.

Hon. M. Coell: We did, and I think we touched on it yesterday, have a look at the British and Australian models. With a number of aspects of our program, we felt it had some drawbacks. With the loan forgiveness and a number of other added benefits to our programs, we felt there wasn't a need to change at this point.

G. Robertson: So it's safe to say, at this point, that income-based repayment plans are not in the works or are not being looked at by the ministry. That is reassuring to hear, noting a lot of controversy around those schemes in other jurisdictions.

[1025]

Shifting a little here to scholarships and bursaries, the minister was good enough to provide some detailed information flowing out of last year's estimates related to the scholarships and bursaries that exist in the province. I do note that there is a dearth of scholarships and bursaries available to graduate students. I'm curious if there are programs that are being considered right now or opportunities that the ministry is pursuing to create scholarships and bursaries for graduate spaces or for graduate students.

Hon. M. Coell: I'll elaborate a little bit for the member. We have three scholarships: the Premier's Excellence Awards, the Queen Elizabeth scholarship and the Irving K. Barber scholarship foundation, which were all undergraduate scholarship programs. They've all been increased, and the Irving K. Barber one is a new one this year. The Premier's awards went from $5,000 to $15,000.

Those are undergraduate scholarships. Historically in B.C., the universities have done the post-graduate scholarships and continue to do that. They differ from university to university. We don't foresee us changing that course in moving into doing scholarships for masters and doctorates, but the universities do a very good job of that and have done for decades in British Columbia.

G. Robertson: I do note in the information that the minister provided that the Irving K. Barber scholarships are at no cost to the ministry. They are funded outside of the public sphere, which is fantastic, but that contribution is made by the Barber family.

The Premier's Excellence Awards and Queen Elizabeth II scholarships I have here totalling only $140,000 of provincial funding, which, compared to the cost of graduate studies in B.C., seems like a drop in the bucket, if not the ocean.

Given that there are concerns…. The minister stated yesterday the ministry is recognizing the need to create graduate spaces and fund them more robustly with institutions. With the need, as well, for merit-based funding, the merit-based scholarship appears to be something that would come hand in hand with that funding, given that the province has to this point almost solely relied upon institutions and private funding to support graduate students. Is there no effort being made within the ministry to look at merit-based scholarships to accompany increased graduate spaces?

Hon. M. Coell: Firstly, the scholarship programs within the ministry and within government are quite extensive. I'll just go through a few of them, and talk about graduate student strategies as well.

The world scholarship is $424,000, Queen Elizabeth is $75,000, the Premier's Excellence is $250,000, the Passport to Education is $12 million, provincial and school district scholarships are $5.63 million, which is a total of $18.486 million.

And then bursaries. We have $50,000 for midwifery; student society emergency aid, $100,000; part-time student assistance is $210,000; disabled student grants, $600,000; health care scholarships are $950,000;

the B.C. permanent disabilities benefit is $2 million; the nurse education bursaries are $2 million; and the ABE student assistance bursaries are $3.7 million, totalling $9.6 million.

[1030]

Loan forgiveness was $1.2 million. The B.C. loan reduction program alone last year was $30.8 million. Debt reduction and repayment was $6 million, and interest relief was $4 million. In total, you're looking at almost $60 million worth of scholarships, bursaries and loan forgiveness last year alone. That's quite substantial.

The scholarships that we're looking at for a grad strategy would be scholarships that would attract people to British Columbia. We're also looking at seats, and we talked yesterday about upgrading some of the 25,000 to graduate-level seats and internships as well.

I think one of the things that British Columbia has done quite well over the last few years is the foundations. When you look at each one of those foundations — whether it's the Michael Smith Foundation or Genome B.C. — the number of graduate students that they support and attract….

The other one is the Leading Edge chairs throughout the province, and that was $52 million. In each one of those chairs there are lots of graduate students that are attracted to be around those chairs and have access to funds as well. There's a number of different ways of funding graduate-level spots, but we are looking — as we were saying yesterday — at upgrading some of those. With that, there would obviously be a scholarship to attract increased seats and internships as well.

G. Robertson: The information provided by the minister last February 2 in the letter specifically on B.C. student assistance programs, scholarships and bursaries…. I'll just quote one piece of it: "In fiscal year 2004-2005, 56,540 students received negotiated British Columbia student loans; 338 students received provincial scholarships, and 562 students received bursaries."

I was shocked when I saw the numbers, just comparing the numbers of over 56,000 students receiving student debt and 900 receiving scholarships and bursaries from the province, which is 1½ percent of the loan recipients. I'm not clear if the information is referring to a very narrow window of the scholarships and bursaries. Purely taking the information that was sent over by the minister, it looks like a shockingly low number of students being supported by scholarships and bursaries in comparison to the number of students who are receiving and negotiating debt loans. Can the minister clarify that?

Hon. M. Coell: I guess there are always two ways of looking at this — sort of like a glass half empty or a glass half full. In fact, 28,000 students last year received loan reductions from the other end of completing and then having it come off, rather than at the beginning. That totalled $67 million. I guess it depends on how you look at whether that one is considered a bursary….

In any event, it's money savings to the students who have finished their diplomas or degrees. Again, that was 28,000 students who received money back — totalling $67 million, but at the other end, rather than at the beginning.

G. Robertson: The concern there is that not enough students are given a green light at the front end. It's fantastic that there is loan reduction available and that many students managed to qualify for it. The question is: how many students, because there wasn't anything available at the front end…? In this case only 900 students had anything at the front end to ease their way in and reduce their financial burden going in. How many students opted out — which we talked about in detail yesterday?

A question now, specific to provincial scholarships and bursaries that are targeted for vocational or training programs: is there anything that the minister can tell me about those?

[1035]

Hon. M. Coell: As I mentioned earlier, the Passport to Education was $12 million. What that is, is credits that can be used at post-secondary institutions. That continues. There's a number of additions that I think could take place with regard to the Passport to Education, but I believe it is working well at this point.

G. Robertson: The Passport to Education, which is high school–oriented scholarship credits, funding credits…. Those are, right now, the only vehicles for scholarshipping or financially supporting vocational and training programs? Is that the only program that's available?

Hon. M. Coell: The Passport to Education, or the $12 million, is credits earned in high school that can be used for college, career training or university. It's a program that's been in place for a number of years and seems to be well used by students in high school.

G. Robertson: As a business person — or maybe I'm a former business person now — I would encourage the ministry to consider targeting some scholarships or bursaries specifically around vocational and training. Given the skills shortage, the shortages that many businesses around the province are grappling with right now, creating more incentives to ensure that students pursue vocational training or trades training, I think, is really critical at this point — to get them into the college system and ensure that we have all of those skills continuing on into the future for the benefit of our economy and our communities.

My last question relates back to per-student debt. I'm just curious if the responses to the questions I asked earlier this morning on per-student debt will be forthcoming on paper, or if that is going to be while we sit here today.

Hon. M. Coell: Staff back at our offices are working on that, and I'll give it to the member as soon as it's received.

G. Robertson: That sounds great.

The question now is about funding for adult basic education. I have some questions directly related to those people on income assistance and their ability to pursue education. The college-based programs for training poor people on social assistance used to benefit from a budget of about $4 million — which was in the institute-based training budget — and, from my findings, used to serve about 20,000 people, which seems like a fairly modest budget to try and move a large number of people into the workforce who need a specific quality of education and training. That IBT program was only taking people who, at the time, were phase three on social assistance — had multiple barriers to work.

I'm curious if the ministry is working on anything right now to replace what was the IBT budget — whether there is anything in the works to help people who are on income assistance to pursue post-secondary education and training.

[1040]

Hon. M. Coell: This is an issue that crosses a number of ministries — Employment and Assistance, Education and Advanced Education. I can give a little bit of history. When we made changes in income assistance, we looked at a number of studies that showed the longer someone stayed on income assistance, the harder it was to get them off. It was also found that to get employed would keep you off the longest time. So the caseload has been reduced quite dramatically in the past five years in British Columbia.

Now what we're finding is that the people on income assistance may have different needs, so within this ministry and within Employment and Investment we're also looking at what the needs of that particular group of people are. It may be, as well as a job, literacy skills. So we're looking at that.

One of the things that I think is very important for people who leave income assistance is that they're really…. Even at $8 and $9 an hour, you're looking at probably double the amount of money than you would be on income assistance. If we can get someone into the workforce and stabilized, it's much better for them as an individual and their family for them to be able to go back part-time — even at night — to start work on literacy skills and then to get back into adult basic education.

There are a number of things that we are looking at with that reduced caseload, so I appreciate the comments of the member.

G. Robertson: I'm encouraged to hear that there's some action on this, given the startling statistics in terms of the number of people who have been on income assistance for more than two years. The statistics that I have: 145,000 people on income assistance, 35 percent of those in the expected-to-work category, and almost a third of those have been on income assistance for over two years.

I mean, obviously — and the minister acknowledged this — these people require a different quality of training. Literacy is certainly a factor in that, which I'm hearing a lot about in the Select Standing Committee on Education, which is hearing a lot of the challenges in terms of literacy and funding for literacy, particularly to help people in this predicament.

Coming back to this ministry's policy related to it. The regulation that's in place, as I understand, is that unless you have a recognized disability, students can't be on social assistance. Right now there's a clear line that's being drawn there. Is that policy being revisited?

Hon. M. Coell: Sorry to ask. Could the member just clarify which policy it is that he's asking about?

G. Robertson: The regulations that I believe were implemented in 2002, which stated that students cannot be on social or income assistance. They basically excluded anyone on income assistance from qualifying as a student — financial assistance.

Hon. M. Coell: That regulation would be in Employment and Assistance. I'm not aware there are any changes coming to that. I can tell you that what we were attempting to do was move people into employment, and that was successful.

I think that when you look now at the caseload of Employment and Assistance, there are people with higher barriers, and a lot of that is literacy. That's the piece that we're looking at. Through the select standing committee, I'm sure the member is getting those comments that we have a number of people who can't find employment because of the literacy barrier. That's something that this ministry will be looking at.

[1045]

G. Robertson: In addition to that, I guess there are…. It's interesting that Employment and Income Assistance — that ministry — is the lead on this. I urge the Minister of Advanced Education, given that there's a great deal of this education that can and does take place at colleges here in B.C….

Given that enrolment, in some cases, over the last years has declined or is flat, in a number of cases there are opportunities at numbers of schools to encourage more people to get involved. In particular, these people in the expected-to-work category, who need a different quality of training, would certainly benefit from free adult-based basic education, which is no longer available other than for high school completion. For specific training programs, it would be a great advantage to be making that available.

Is the cost of adult basic education being considered by the ministry as part of this? Are you looking at coming back to free adult basic education?

Hon. M. Coell: A person can attend PSE while on income assistance if it's an evening class. It would still be free. So there are ways, as I mentioned.

What we wanted to do was move people into the workforce. At the same time, once they were stabilized, they could take adult basic education in an evening

course, which would be free. As I mentioned, it is something we're looking at with the people with persistent multiple barriers on income assistance to see whether they need greater assistance with literacy training.

I do have some of the numbers of those receiving awards that the member asked for. This is combined federal and provincial and includes both loans and grants. In 2004-2005 the average award was $8,786, and in 2005-2006 — and this is primarily due to the increase in the federal lending limits — the average award would be $9,695. Those are the numbers, and I thank staff who were able to put those together quickly for us.

G. Robertson: Just a question on those numbers specifically. Do those awards relate specifically to student financial assistance and to BCSAP? Or are they specific to scholarships and bursaries?

Hon. M. Coell: It's the combined federal-provincial, which includes both loans and grants.

G. Robertson: Is it possible to break those numbers out and to know the available student financial assistance component of that versus what's being provided federally — in other words, to isolate the ministry's funding for student financial assistance per student?

Hon. M. Coell: Yes, it is, but it's something that would take a bit of time to do. I will commit to doing that and getting it to you.

G. Robertson: Thanks to the minister and his worthy staff.

Just one final point on adult basic education. I note that attending post-secondary education for training on income assistance is possible, but the limitations in terms of when you can attend and what you can be covered for — whether it's a high school diploma or training programs — end up being quite a complex realm to navigate. People on income assistance have enough challenges navigating at this point to find their way into the workforce, much less to pursue educational opportunities.

[1050]

I would like to see this ministry playing a really strong role in ensuring that those people have access, have support. I'll note that in the past there was support for transportation, for child care. There was additional support for housing and counselling support to help find the placements. That whole continuum of support for people facing challenges to pursue education, coming from income assistance, needs to be in place for it to be a really meaningful effort. I encourage the minister to play a lead role along with the Minister of Employment and Income Assistance.

Just moving on, I think we've pretty much canvassed student financial assistance and various tentacles of that arena. I'd like to ask a few questions related to ancillary fees at all our institutions. At this point I've heard continually from students concerns around the mandatory fees that are charged to students, in addition to tuition, for the use of facilities — for example, libraries, student services, athletics, technology services. Despite the fact that these programs are essential to the quality of an education, students are charged fees above and beyond tuition fees.

I think we'd all agree that use of the library, use of technology, use of sports facilities are an expectation and a part of student life. The fact that they're charged above and beyond tuition fees is puzzling. It creates further financial barriers that at this point do not appear to be regulated by the ministry.

I'll pull up one example. Students at College of New Caledonia next year will be charged a $5-per-course fee for access to computer equipment that was previously free to use. No doubt, some of this stems from challenges that our institutions are having with their funding and their ability to deliver programs with that funding.

My question is: will the ministry budget include ancillary fees for student services in the ministry's policy of capping tuition fees — the increase in tuition fees to the rate of inflation? Will ancillary fees be tied directly to that, or will they continue to be unregulated and at the whim of the institutions?

Hon. M. Coell: I, too, have been monitoring the issue closely since it was drawn to my attention by the Canadian Federation of Students in January. I can say that one institution actually had a reduction in these fees. Ten have had no change. Six were below the 2-percent cap, and we had six increases above 2 percent that we're looking into.

The spirit is that increases should be within that cap. We're going to be communicating with the system and monitoring the spirit and the letter of the cap, which is 2 percent, or inflation.

The one that you mentioned at CNC. The fee actually replaces a previous fee that was difficult to administrate. It's not a new fee; it replaces one that was discontinued. We'll continue to monitor the situation.

G. Robertson: I'm glad to hear that the minister and his ministry are paying attention to this and to having more details on where we're dealing with fees above 2 percent. I guess my question is: how solid is the commitment? Is there a commitment that these ancillary fees will be a part of the 2-percent cap and that institutions need to abide by that?

Hon. M. Coell: Yes, that's my understanding of the agreement.

[1055]

G. Robertson: That's good to hear. I think students will be reassured to hear that is part of the commitment.

A question, maybe more broadly again. I know we've talked about this at length in the past, specific to the throne speech promise from over a year ago on

legislating a tuition cap. Obviously, the ancillary fees…. There's a connection here and then being part of that 2-percent rate-of-inflation cap. Is there ongoing discussion about legislating that tuition cap?

Hon. M. Coell. As long as we have cooperation from the system partners, I'm not anticipating any legislation. I want to make sure that we build a relationship that is cooperative and one that works for both us and the institution. During the year we added $30 million to the university budget and $10 million to the college budget to cover off their need for greater inflation than 2 percent. I think that works.

In the past when we had a freeze, there wasn't money put into the institutions, and that caused some serious problems. In the agreement we have with them, they keep their tuitions to the rate of inflation or around 2 percent, and we continue to add that money to their budgets on a yearly basis.

G. Robertson: I'll take that as a no — that legislating the tuition cap continues to not be on the table for the government, which is a concern, obviously, in terms of long-term security and assurance for students that they have only a verbal agreement or something less formidable than legislation to rely upon for the costs of their education going forward.

That said, is the minister looking at any opportunities, any ways to specifically address cost of tuition and possibly introduce fee reductions in the future?

Hon. M. Coell: One of the benefits to having the model where we have the cooperation from the institutions is that they can raise the fees at the rate of inflation rather than legislating it. Institutions like Capilano College had a zero increase; Vancouver College, a zero increase; College of New Caledonia, zero increase; and Selkirk, actually a minus 1. Indigenous Government was a zero increase, and the rest were all in the 2-percent range.

If we had legislated a 2-percent cap, they probably would have all been at 2 percent, whereas we have the ability for some flexibility to even have a drop in fees in one facility and zero in a number. I think that from my perspective of developing that relationship, that's the proof I needed that it's working.

G. Robertson: I think it's maybe overstating the point. On legislation it wouldn't necessarily require a 2-percent increase in tuition. My understanding was that the commitment in the throne speech…. The promise was made that it would set the bar at the maximum increase of 2 percent. So its only function was really to set some parameters, to set a limit for a tuition increase, to give security and assurance to students that could count on the near cost of education tuition, specifically, to be no more than the cost of inflation and that increase, which is a much firmer commitment than the agreements.

I will agree with the minister that having worked out agreements with institutions is fine in terms of relationships and in terms of keeping things flexible, but that flexibility with institutions, that flexibility within those relationships comes at a cost of certainty for students around the cost of their tuition. It didn't need to be prescriptive. It didn't need to be hard-hitting. All it needed to do was set a limit, which I think many people expected coming out of that throne speech promise — that that limit would be set firmly.

[1100]

From there, relationships could be cultivated, and institutions would have the freedom to even lower tuition as they saw fit. The direction of their enrolments maybe would persuade them to decrease tuition in some cases to attract more students and to grow more robustly in new program directions.

My question, just coming back to that, specifically on tuition reduction: is the ministry looking at any new avenues to reduce tuition, working with institutions on possible programs? Are some of the institutions in certain regions working on ways in which that institution may be able to reduce tuition?

Hon. M. Coell: That's an interesting thought, in that some of them have not followed the rate of inflation, have zero and have reductions.

What we wanted to do — and I'll take a bit of time to explain the theory behind this — is have the tuition in British Columbia around the national average, which it is. Only one province in Canada has frozen tuition fees, and that's Quebec. As the member knows, they have quite a few different systems than the rest of Canada. We're lumped in with the national average. Most of them are keeping around the rate of inflation.

We were talking about financial assistance earlier. Someone could come in and borrow an amount of money over a four-year period. We're paying the interest on that. At the end of four years, to apply for loan forgiveness and to have that….

They've had the benefit of the money without the interest, and then it's paid down at the end. It's a philosophical change to how financial assistance was done in the '80s and '90s.

The premise is that we want people to have access to funds to access post-secondary education. We want them to complete. We don't want them to just take half a course or to take one year. We want them to set a goal and complete that goal, and then we start paying down their loan.

I guess in an ideal world, we'd be able to pay down more and more of that every year. But we'll continue to monitor that, and where funds are available, we'll make more funds available to have loan forgiveness increased. It's a philosophical change. Funding something at the front end worked, I think, for the governments that were in power in the '80s and '90s. We believe that we want to fund at the back end and that we want to fund success.

You know, there is a fair amount of money. As I said, 28,000 people last year got a grant. That grant was $67 million. That's a sizeable grant program, but it's at the opposite end of your education spectrum.

G. Robertson: It's interesting, listening to the minister and thinking of the polar extremes politically that we have endured for generations here in B.C. — seeing an almost lockstep swing in terms of front-end loading and back-end loading within the cost of post-secondary education.

I'd like to think we end up somewhere closer to the middle, where there are opportunities at the front end that encourage people to pursue education and pursue training, particularly given the skills shortage and the challenges we are facing economically due to a lack of skilled workers.

We also have incentives at the back end. There's hopefully a balance in this that emerges in the near term so that we are encouraging on all sides of this and creating incentives all the way through. I'll encourage, once again, the minister to look at providing opportunities at the front end.

[1105]

A question, speaking of dollars and cents, on federal money and the $1.5 billion allocated in the last federal budget to post-secondary education, which seems to have disappeared into thin air. It's been very difficult to get any clarity federally, certainly, as to where that money went, if in fact it has gone anywhere — whether the transfer to the provinces is underway and when it will happen. I'm curious if the minister has any update on whether there is any new news on B.C.'s share of that post-secondary education funding and whether he is going to be putting that to work soon.

Hon. M. Coell: I'm probably in the same position as the member opposite, in that I'm waiting anxiously for the May federal budget to see whether that money appears in the new government's budget. We'll both have to stay tuned.

G. Robertson: Is the minister saying that despite the funding being legislated last spring…? My understanding was that once the budget update, which happened almost six months ago now, confirmed that there was a surplus, those funds would, at that point, be targeted or would be released to the provinces. I'm confused that we're now looking at a new budget in terms of that allocation being made. Is that correct?

Hon. M. Coell: I'm optimistic. But again, we really need to wait and see what is in that federal budget, whether that commitment is kept or whether it's changed in any way. There was obviously a federal election — a number of parties with different priorities.

I'm optimistic. I think that the provinces, as the member knows, are all pushing for this money to come forward for advanced education throughout the country. We will continue to push the federal government on this issue, but I think we've got a couple of weeks to wait.

G. Robertson: I was disappointed to see, over the last months, a lack of that push coming from B.C.'s Premier. Other Premiers have been very vocal in advocating for post-secondary education — advocating for that funding and for a much larger increase to the federal transfer that was targeted for post-secondary education.

[J. Nuraney in the chair.]

It was a real concern to many of us here in B.C. that our Premier was not standing shoulder to shoulder with the Premiers of Ontario and Quebec, particularly in advocating and pushing for B.C. to get its share and for the federal government to make a more significant investment in post-secondary education. Does the minister share that concern?

Hon. M. Coell: There are a number of things. The Premier has been pushing for a national strategy and was actually the leader in putting that together in the previous year, and also a trade skills strategy for the country.

The chairs of that committee are the Premiers of Quebec and Ontario, and we've had a number of meetings over the past year, putting together a provincial ask of the federal government. I think that from British Columbia's standpoint, we want to see that national strategy. We want to see that funded.

The group that has been meeting…. I think, actually, that the member was there in Ottawa at the joint meeting of all of the provinces with stakeholders. We had about 50 stakeholders from British Columbia join that meeting as well. That meeting came forward with an ask that went to a dinner that we were represented at with the Prime Minister. That position of the national strategy and a skills strategy was presented with an ask of a certain amount of money that would flow through to the provinces.

[1110]

That money is the money that the member is suggesting would come to British Columbia over a period of years, and that would be put into this ministry to develop more programs, to develop, as I say, a national strategy output from British Columbia and a skills strategy output from British Columbia. I'm anxious and optimistic at the same time to see the federal budget and see whether that commitment is continued or whether it's changed and how it's changed to address our concerns, which the Premier put forward, of developing that national strategy on trades training and advanced education.

G. Robertson: I'm curious whether the minister — or the Premier, as the representative on this national strategy — has been in consultation with the new federal government regarding that funding or a shift to funding for post-secondary education. Have there been ongoing consultations with the new government that the minister is aware of?

Hon. M. Coell: There have been a number of letters going back and forth between the provincial and federal government mentioning the need for that strategy.

I think one of the important things for us is that it be a national strategy. I think some of the other provinces are more attuned to just having funds go into the different provinces. The province builds its own strategy from a perspective of being the gateway to immigration and the gateway to Asia. This province has really pushed hard, and the Premier has really pushed hard, for that national strategy to be developed.

From our perspective — and we've said this at a number of meetings — we don't have an objection to the federal government dealing directly with students or directly with institutions, whereas some of the other provinces do. They feel that's an infringement on their constitutional mandate. I've been at a number of meetings — and I know the Premier has too — and said that if the national strategy is something the federal government wants to deal directly with institutions on, we would not stand in the way of that as a province. We're probably the only province in the country that feels that way though.

G. Robertson: A question specific to the $1.5 billion that was promised: is the ministry working on the application of that funding, given that it may be imminent? It may be within weeks. There could be confirmation of it. If so, the money was labelled on a federal level to improve access for students specifically. Is the ministry working to implement, in particular, on access? Specifically, a component of that was for first nations students. We would like to know if the minister has been working on uses for that funding, particularly around access.

Hon. M. Coell: It's hard to tell at this point. I guess our understanding would be that they would try and move that money outside of their entity so that that money would be a separate fund that could be drawn down as that national strategy was developed. We would be part of that.

It would be my hope that those funds would be available and that we could develop strategies and apply for funds that would come to British Columbia but be part of a national strategy. But again, it's two weeks to know whether that's the direction they're moving. We hope it is.

G. Robertson: Then, at this point the ministry is not working on a game plan or contingency plan — a projection for the use of additional federal funding specifically for access and decreasing the barriers that face students financially.

Hon. M. Coell: We have done some preliminary plans as to how that money could be spent. There are, I guess, a number of different ways. If it is one-time money that comes once and that's it, then we would definitely be spending it a different way than if it's going to be spread over five years.

[1115]

The priorities are obviously students and facilities. We have the ability to do some renovations of older buildings on all the campuses and also to build new buildings. You could speed up the building of some of the construction programs and also have a number of updates for student financial assistance, student needs and those sorts of things. But until we know how that money is going to flow, we really can't put that plan in place.

G. Robertson: The minister just provided a good segue to going into operating grants of institutions, some of which are facility-related. I think, in terms of staff, that now is a good time to switch over.

I will say one word that stuck in my head from the last few exchanges was that B.C. is now in the national average for tuition, which doesn't sit well with me and probably not with a lot of students. The notion of being average, I think, is never something to strive for or to be proud of. It would be a lot more desirable to be above average and well above average in terms of affordability and access for our students.

I will shift now to operating grants. I'm curious right off the bat if the minister would provide some additional information about the allocation of the wage settlement contingency to the post-secondary sector. It appears, without this information, or in the absence of it right now, that the per-student funding will drop by more than 5 percent over the next three years after accounting for inflation. Can the minister explain that?

Hon. M. Coell: The member is correct. The estimates don't reflect the agreements that have been reached, and the province will be flowing those moneys to the institutions once they're fully costed and ratified.

G. Robertson: From the minister's answer, my sense is that there will be an adjustment based on the negotiations that were successful, that have completed. Is the commitment of the minister that per-student funding will not drop, accounting for these increases and accounting for inflation — that per-student funding will be level or will increase over the coming years?

Hon. M. Coell: I can confirm that the funding costs for FTEs have continued to increase, and we'll continue to do that to '08-09. On top of that, the costs of the agreements will be covered by government for the institutions.

G. Robertson: So the additional costs related to the successful negotiations will be added on, if you will, to those budgets. But as the budgets are presented in the service plan, that per-FTE student funding will continue to increase as specified there. That sounds like that's where we are with that. That's great.

A question specifically around accountability provisions and the performance-based system that was tied to FTE targets. My understanding was that there is a performance-based system that is tied to institutions achieving those targets. How has the ministry rewarded institutions that have achieved the target that's

set for them? And the reverse: what are the implications for institutions that have not achieved their targets?

[1120]

Hon. M. Coell: Basically, we talked about that at the beginning of the morning. That's the reallocation. There haven't been significant changes. There've been 72 seats reallocated throughout the province. I think Emily Carr was one that picked up 20, and Northern Lights gave up 20. That's the reallocation for people who think they can do better than the original allocations.

I suspect that will happen between now and 2010. There'll be a number of reallocations. I don't suspect there'll be any in the major category, but tinkering around the edges is probably the best way to look at it.

G. Robertson: Is the process for determining who gets more, who gets less a formal process? Is it clear to the institutions on paper what their increase or decrease may be depending on where they are with their targets?

Hon. M. Coell: I guess the bottom line is that it's a discussion between the institution and the ministry as to what they think they can do. The ones that come quickly to the forefront are…. A good example would be Emily Carr saying, "We can use another 20," and then someone else saying: "Well, we don't think we can get that program up and running this year, so we'll give up that 20 and move it to someone who can produce the seats."

G. Robertson: Are there examples? It sounds like there will be more institutions that ask for more seats versus relinquishing seats, given the impact that may have on their core funding. Are there institutions that are meeting those targets that are not getting seats they are requesting?

Hon. M. Coell: Not at this point. We spoke briefly about it last night. There have been a number of suggestions that some of the universities would like to turn some of the seats into graduate-level seats. I think that's reasonable if they're saying: "Well, we're going to get 3,000 seats. We believe we can do with 2,000, and we'd like a thousand of those to be graduate seats."

Those are the discussions I want to have over this next coming year. I think that 25,000 is obviously a lot of seats. There are areas of the province that are growing that will probably…. The Fraser Valley is an example of an area that's growing rapidly. They will probably come back in a couple of years and say: "You know, we could probably do with another hundred seats." We'll try and accommodate that through the system, as you saw with the minor reallocation this year.

I think the discussion's good. I think everyone's willing to be part of that discussion. A lot of that is the relationship we're trying to build with institutions. We talked about the 2-percent cap being voluntary and a commitment being made. Those are the sorts of relationships I'm trying to build with the institutions.

G. Robertson: A more general question on the operating grant formula: are all 26 of the public post-secondary institutions funded on the same operating grant formula?

Hon. M. Coell: The institutions all receive the same untargeted funding that they can use. There are different criteria for targeted funding. That would be for physicians, nurses, pharmacists. Those have a negotiated agreement with different institutions on what the funding levels will be.

G. Robertson: In terms of the different funding formulas that are negotiated, how many of the 26 institutions have a different formula that is incorporated into their operating grant?

[1125]

Hon. M. Coell: I think the example I would use is physicians. Whereas all of the universities and colleges have the untargeted amount they would get, they might have a different mix in each college or university. But in specific instances, where UVic, UNBC and UBC all share a doctoral program in medicine, they would have a different targeted funding. That funding would flow on top of the other untargeted funding.

G. Robertson: Therefore, there is a negotiated targeted funding envelope in addition to the untargeted funding. Everyone gets the untargeted funding per FTE. On top of that, there's a negotiated targeted formula based on the programs that are being delivered. Do all 26 institutions have some negotiated targeted funding that they are negotiating for?

Hon. M. Coell: I think it would be safe to say that the majority of institutions have some sort of targeted program that they've developed in consultation with the government.

Just to go back to physicians for a moment, the reason it would be called targeted is that it costs so much more to train a physician than an arts student or a science student. Those have been historically worked out with the ministry over, I suspect, decades of targeted funding.

G. Robertson: In terms of that negotiation, I was in Alberta recently and was interested in seeing how their per-FTE allocations were categorized in the same probably targeted manner specific to programs and the cost of delivering those programs.

Are there actual categories for all the different programs that the ministry works with? Or is the negotiation more of a loose negotiation in terms of what those costs are for different programs to be delivered?

Hon. M. Coell: I think what I might do is offer to the member…. I'll supply him with a list of the univer-

sities, university colleges and colleges and the targeted programs in each one of those. There aren't that many, so they'll be quite easy to see. Those have been developed over a period of years. I mean, UBC has had a medical school for decades and decades, whereas some of the other ones have just recently been targeted. I'll put that together. It will probably take a few days, but I will get that to the member.

G. Robertson: Thank you to the minister. That would be fantastic to see in more detail.

A question about institutions creating new programs — their ability to apply for new targeted funding for a program or for existing programs that may cost them more internally to deliver, which they consider to be more targeted, and differentiating them from the untargeted programming that exists there.

Could the minister describe that process for institutions moving into qualifying for targeted funding for existing programs or for introducing new programs that will be funded as targeted?

[1130]

Hon. M. Coell: I think that's actually a very good question. Historically, what's happened is that the Ministry of Advanced Education has worked with the Ministry of Health, and Health will tell us what professions they see a need for in sort of a five-year time frame. Then we would go out to the institutions and say: "Who can deliver this program?"

I'll give you the example of nursing, because we just said we would double the number of nurse spaces. We went from the Ministry of Health saying that we need nurses, to the institutions saying: "Who can deliver those?" A number of them said: "We can deliver." Then we negotiate the amount of money they need to provide those nursing spaces, and then that money starts to flow in the first year of their course and continues on.

It's actually a very good way of doing that. It's been done, again, for many years in British Columbia. The increase in doctors — doubling the doctors and doubling the nurses — was done through that way with Health, Advanced Education and the institutions, and then going out to find students.

G. Robertson: The process sounds sensible. The minister refers specifically to the Ministry of Health which is able, I think, because of its integration with all of the health care delivery systems, to gauge exactly what the needs are, going forward.

Shifting that to trades training, more specifically, is there an equivalent procedure that takes place with the Industry Training Authority, Ministry of Labour or Ministry of Economic Development to bring those assessments in and to be able to, in effect, double the number of electricians in the programs available?

I hear a lot of concerns about waiting lists and shortages in the trades, in particular. My impression to date is that there isn't that same kind of quick feedback loop that allows for those spaces to qualify for targeted funding. Can the minister clarify that?

Hon. M. Coell: Just to correct myself, I meant doubling the number of doctors — not doubling the number of nurses — in my last statement.

The ministry works with a number of groups. The oil and gas consortium is one group that we work with to identify what's needed in those areas. Also, the tourism and hospitality consortium would be another. I suspect the estimates for ITA will be up in the big House this afternoon; that would be an avenue to get some of that information.

Historically, the colleges have worked to identify what they see in their areas in different areas of the province and will develop programs to address those needs in conjunction with the ministry. I think there has been a need in the last few years, and we've developed those consortiums — as I said, oil and gas, tourism and hospitality — to give us information. We get the information from Health, through the health authorities, as well. So there's a fairly good flow of the need for skilled trades in different areas. Then we can work with institutions to do that. Those are the initial groups we use for feedback.

[1135]

G. Robertson: In light of the challenges, specifically comparing the quick response on doctors and doubling the amount of spaces for doctors…. I guess quick is relative, but it happened over a relatively short period of time. The shortages that we face in the trades and a number of the professions — engineering, technology professions…. My sense is that there isn't quite the same urgency or feedback loop. There have not been those spaces created at institutions at any kind of a pace here. Given the reallocations or the increased seats to a number of institutions that the minister shared this morning, it doesn't look like there is a significant response in this coming year to the shortages that are taking place in a number of professions. Is there an action plan to address these shortages and create spaces where they're needed?

Hon. M. Coell: I'm a little reluctant to get into the ITA, because it will be in estimates, I think, in the main Legislature this afternoon. The ITA board is quite plugged into chamber of commerce, into industry and into the community colleges. They have a substantial increase in their budget, and I would direct the member to maybe questioning the minister responsible for the ITA this afternoon or tomorrow.

G. Robertson: I will raise a real concern here. This relates specifically to the ITA being the place where I need to go for these questions when all of this training and education takes place in our post-secondary institutions.

I think the movement of all of that — of the ITA, specifically — out of Advanced Education and into Economic Development when there is a very clear need for coordination in all of the education that takes place within our institutions…. Here is a good example of where the responsiveness cannot happen in a timely

fashion when there are multiple ministries having to juggle a challenge like this.

No doubt there is a role related to economic development — a role that's related to industry. Certainly, those voices need to be at the table in terms of planning, in terms of needs. But this training and this education take place within post-secondary institutions, so it's of great concern that the ministry doesn't have a handle on this directly.

Not only doesn't it have a handle on it, but when we're facing shortages in professions and occupations, the ministry itself can't grab a hold of it — as the ministry has done successfully in health professions — and address those needs. Again, I think we will come back to this later. From what I understand, there are health professions where these challenges exist as well, obviously.

The cross-ministerial communication and functioning to create spaces where there are shortages specific to different ministries and the fields of work that they're responsible to. My concern is that the Ministry of Advanced Education is not in charge of this, is not able to say, "You gotta give us the numbers," and is empowered, which it should be, to address the shortages that are needed. When we're dealing with the biggest skill shortage in B.C.'s history, we need a quicker response. It's apparent here that the ministry is not empowered to take that on and solve the challenge in a timely enough fashion. That's a big concern.

I'll step away from that and maybe return, specifically, in terms of creating new spaces. We've just talked more about spaces specific to the targeted programs, spaces that would be specific to targeted populations. This is directly related to the skill shortage, again, where….

[1140]

We have first nations population. We have a population of people on income assistance. We have pools of people who require education and training who, with that specific quality of training, would be able to pursue opportunities in the workforce and to fill gaps in occupations. Is there a strategy in the ministry to create more spaces for some of those groups — for first nations, for people on income assistance — so that the institutions that can provide those high-quality programs, and quality programs specific to those people, are able to create spaces to address the challenges we face?

Hon. M. Coell: I would disagree somewhat with the member regarding the Industry Training Authority. There was a deliberate decision made to move those funds out, and that's in this year's budget. Their funds are $90 million. The reason I'm hesitant to debate the ministry's estimates is because they're not my estimates, and there is another minister responsible for them.

They have a $13 million increase in their budget this year. The idea of moving that into an industry training authority outside this ministry was to build the consortiums. The trades consortium that BCIT leads is plugged into the ITA. It's connected to the chambers of commerce around the province. It's connected to industry. It's going to be the fastest way of industry and the economy telling the institutions what they need to develop.

In the next three years there is no reduction to any of the institutions in the Industry Training Authority, but there will be a lot of additions of youth programs, including ACE IT; newly approved ITA programs; and expansion of training availability through ELTT. I think that the member, in assuming that it should be part of this ministry, doesn't see the benefits of having a separate minister responsible for that $90 million pool of funds who will actually be quite responsive to the economy and be able to target those funds into the colleges, for the most part; BCIT; and into some of the institutes. I believe it is working well. I would encourage the member to debate those estimates as they come up in the House.

With regard to aboriginal post-secondary education, the ministry has done a number of things in the last few years. In 2005-2006 we had a $1.8 million fund for special projects within the institutes, colleges and universities. That is going to provide a total of 150 projects this year that encourage more aboriginal learners to participate. I guess what we're hoping for is that they stay in the institutions and complete their studies. There are a number of programs for aboriginal learners that we can get into later, but the ministry has continued to increase funds for those projects and will continue to do so in the coming years.

G. Robertson: The minister raises the issue of the aboriginal special projects funding. I just have a question specific to that. I learned recently at the grand opening of the IIG — the All Nations Institute in Burnaby, in their new facility — that they did not receive any aboriginal special projects funding or any form of annual capital allowance. This sounded surprising, given that it is an aboriginal post-secondary education institution. Can the minister clarify the status of that?

Hon. M. Coell: They would be eligible. They would need to come forward with a project and have that evaluated. We have about 150 different projects totalling $7.8 million over the last four years. All the institutions are eligible for that. Some have been very innovative.

[1145]

I think that one of the things I was very impressed with…. I will give you an example. At the University of Northern British Columbia they have an area set up that is very welcoming, that is supportive, that has staff on site to assist aboriginal learners. The idea there is that if you're happy and you feel welcome, you're going to stay, continue and succeed in your education. So no, all of the institutions would be eligible to come forward with ideas.

The Chair: Member, noting the time.

G. Robertson: Noting the time, just a quick follow-up on that. Is it an application process? If so, it sur-

prised me that one of our institutions which is dedicated to aboriginal education did not receive any aboriginal special projects funding. Is there an application process that they went through and did not qualify through, or were they not even at the table in terms of seeking project funding?

Hon. M. Coell: Different proposals come forward, and they're reviewed with an external review team that makes recommendations. As you notice, we have a certain pot of money. There may be more requests that year for that money, so we try and go through a review process that is external to us, and then those recommendations come forward for funding.

The Chair: Member, noting the time again.

G. Robertson: Thank you, Chair. Noting the time, and looking forward to this afternoon, after lunch, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:47 a.m.

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