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Chair

The Honourable Wayne Easter

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● (1130)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): We'll call the meeting to order. We're continuing our meeting with officials on the budget implementation act, Bill C-97.

I'm not sure whether you were done your presentation or not, Ms. Tepczynska. Do you have anything more to add? If not, we'll go to questions on part 4, division 1, which is subdivision A, the Bank Act. Was there anything more you wanted to add?

Ms. Margaret Tepczynska (Director, Strategic Initiatives, Financial Institutions Division, Department of Finance): No, Mr. Chair.

The Chair: Okay. I know there are some who are here but weren't here yesterday. We went through the presentation from the group before us, so we're open to questions.

Mr. Sorbara.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

Before we were stopped yesterday.... In reference to the changes that will impact credit unions in Canada, these will only apply to federally regulated credit unions. Is that correct?

Ms. Margaret Tepczynska: That is correct.

Mr. Francesco Sorbara: As the chair of the all-party credit union caucus, that will have the benefit to them that it will not be as cumbersome to reach out to their shareholders, if I'm not mistaken.

Ms. Margaret Tepczynska: That is correct as well.

Mr. Francesco Sorbara: Okay, so there should be some cost savings for the credit unions. I think there are two federally regulated credit unions. Is that correct?

Ms. Margaret Tepczynska: There are two federally regulated credit unions: Coast Capital Savings and UNI Coopération financière. Indeed, the changes that are being proposed will increase optionality with respect to voting, and will allow the federal credit unions that have transitioned from the provincial regimes to continue to use some of the methods that they used under provincial regimes. Yes, indeed, there will be cost savings.

Mr. Francesco Sorbara: Thank you, Chair.

The Chair: Mr. Fergus.

Mr. Greg Fergus (Hull—Aylmer, Lib.): Just quickly, out of those two federal credit unions, how many of their votes are presently done by proxy?

Ms. Margaret Tepczynska: The credit unions do not vote by proxy. They have a different regime. Most of the members would be either voting in person or voting in advance. That is one option that members have, given that the proxy system is not available.

Mr. Greg Fergus: Then do you feel that these changes would increase or decrease the participation of their members?

Ms. Margaret Tepczynska: Federal credit unions have indicated that it would increase participation of members, and they see these changes as beneficial to the improvement of the democratic process at general meetings.

Mr. Greg Fergus: Perfect. Thank you.

The Chair: Are there any other questions from anyone else?

Okay, thank you very much. That deals with subdivision A.

Then on part 4, division 1, subdivision B this time, Ms. Trepanier and Mr. Gibson, the floor is yours.

Ms. Julie Trepanier (Director, Payments Policy, Financial Systems Division, Department of Finance): Thank you, Chair.

I'm Julie Trepanier. I'm the director of payments policy at the Department of Finance. I'm joined by William Gibson, who is an economist and on the payments team as well.

The Canadian Payments Act prescribes Payments Canada's mandate, membership and governance framework. Part 4, division 1, subdivision B, makes technical amendments to the Canadian Payments Act in order to, first, allow elected directors to be elected for two additional three-year terms, from the present one additional term; extend the term of the chair and the deputy chair of the board from two to three years; and add an overall limit of six years.

[*Translation*]

In addition, these amendments would permit the remuneration of members of the stakeholder advisory council subject to by-laws. For example, some members of the advisory council, such as consumer organizations, face resource constraints that may inhibit their ability to participate. These technical amendments were announced in the budget and follow a statutory review of the Canadian Payments Act concluded by the government in February 2019.

[*English*]

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): You just said that consumer representatives will now be remunerated. Is that correct?

Ms. Julie Trepanier: Thank you for the question.

The proposed changes will make it possible to remunerate the representatives of consumer organizations.

Mr. Pierre-Luc Dusseault: What's the scale of the remuneration being considered? Will sitting on the committee become almost a full-time job? Will the remuneration be symbolic, and will it enable people only to travel and spend a few hours a month or a year working on the committee?

Ms. Julie Trepanier: The details will be specified in the by-laws. The advisory council will meet three or four times a year. Remuneration will be based on participation.

Mr. Pierre-Luc Dusseault: It will obviously not be a full-time job.

Ms. Julie Trepanier: No.

Mr. Pierre-Luc Dusseault: They'll remain consumers. I'm concerned that these people would no longer be just consumers, but would become experts. These people must continue to further promote the interests of consumers, meanings the interests of those who may have less expertise and who don't have many years of experience in the field.

Ms. Julie Trepanier: As I was saying, the details will be determined in the regulations, but the purpose is to allow these organizations to participate.

Mr. Pierre-Luc Dusseault: Is the fact that they aren't currently remunerated a barrier?

Ms. Julie Trepanier: Consumer organizations are currently part of the advisory council. However, these changes are the result of a statutory review. This is part of the feedback that we received from stakeholders.

Mr. Pierre-Luc Dusseault: Okay.

Thank you.

[*English*]

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: During your consultations with representatives of this sector, did they tell you that they had difficulty encouraging people to become members of the board of directors? I just want to know why the term of the members of the board of directors was extended.

● (1135)

Ms. Julie Trepanier: Thank you for the question.

A term is added for members of the board of directors because payment systems are complex subjects and it takes a long time to develop the necessary expertise. An additional term ensures that the expertise acquired by the members of the board of directors can continue to be used.

Mr. Greg Fergus: These experts don't grow on trees. They're rare.

Ms. Julie Trepanier: Exactly.

Mr. Greg Fergus: Okay.

Thank you.

[*English*]

The Chair: Are there no further questions? All in, all done?

Thank you very much.

We'll go to part 4, division 2. We'll start with subdivision A and the Canada Business Corporations Act. There are several subdivisions here. If everyone wants to come to the table, there's probably room. You're welcome to it. Then we don't have to shuffle chairs each time.

Mr. Schaan, I believe you're likely the one giving the presentation.

We have with us Mr. Schaan, director general; Mr. Wright, director, financial crimes governance; and, Mr. Patterson, director of the corporate, insolvency and competition policy directorate.

The floor is yours.

[*Translation*]

Mr. Mark Schaan (Director General, Marketplace Framework Policy Branch, Innovation, Science and Economic Development Canada): Thank you, Mr. Chair.

[*English*]

Today the changes we're discussing are related to the Canada Business Corporations Act. They follow on from changes that were part of budget 2018, related to beneficial ownership transparency. In budget 2018, we introduced changes to the Canada Business Corporations Act to require corporations to hold information related to beneficial ownership and those who exercised significant control over privately held corporations registered under the Canada Business Corporations Act.

That was part of a broad federal-provincial-territorial agreement that was reached by ministers of finance in 2017 as a commitment from all jurisdictions to be able to proceed with the same agreement arrangements within their own corporate statutes. The change we're introducing here is a further clarification of the rules we set out in those amendments, which is related to who can access that initial information.

In particular, the changes specify that an investigative body would be able to access these records upon request. Notably, those investigative bodies in question are police tax authorities and any investigative body added by regulations, so we've left ourselves some flexibility in the future.

The investigative body can make a request if it has reasonable grounds to suspect that the information would be relevant to an investigation of one of the offences set out in the schedule and at least one of the requested corporation itself, a CBCA corporation sharing, an investor of significant control with the requested corporation, or another entity over which one of the requested corporation's investors of significant control has investor of significant control-like control.

It establishes penalties for non-compliance and it also sets out some safeguards for the usage and request of that register of significant control, notably that an investigative body must file an annual report to the director of Corporations Canada on aggregate use of the request power. It also sets out that investigative bodies must keep records when they use the request power.

The Chair: It's open to discussion. The finance committee did a study on the money laundering and terrorism financing act.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: That's why I'm asking the following question.

Mr. Schaan, is the $5,000 fine enough to encourage private companies to keep their information up to date?

Mr. Mark Schaan: Thank you for the question.

There are two aspects of the penalties set out in the bill.

First, the $5,000 fine is only for administrative errors made by a company that doesn't comply with the details described in the bill.

Moreover, the bill includes an additional fine of $200,000 and a prison term of up to six months for non-compliance with the provisions of the bill.

● (1140)

[*English*]

It's a distinction between the two types of penalties. There are administrative penalties for an organization that simply makes an administrative error in their registry of beneficial owners or for failure to do so in an administrative manner. Then the second type of penalty is for a clear contravention of the spirit of the law, which is when you knew of information related to a beneficial owner that you failed to include. That can be up to $200,000 and up to six months in prison.

We do think that balance is right in terms of administrative burden for the vast majority of these private corporations that are small and medium-sized enterprises, but there's also the significance of a significant fine and prison time for those who are bad actors using corporate shells.

Mr. Greg Fergus: For those bad actors—and thank you for making that distinction—is it up to $200,000 and up to six months in prison per error, or is it in general for being a bad actor?

If someone is purposely trying to falsify information, if they're laundering money and the extent of that.... Is that a maximum or is there some discretion involved there for the prosectors?

Mr. Mark Schaan: The courts and the Public Prosecution Service would be those who would interpret the penalty scheme, but it's essentially for intentional non-compliance. If they were able to articulate before the courts that they felt that there were multiple counts of intentional non-compliance, for each entry or other factors, the courts may be in a position to adjudicate that there's warrant for multiple penalties of a similar offence.

Mr. Greg Fergus: Thank you.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

Thank you for following up on the report of the Standing Committee on Finance on this subject. Although this falls short of the committee's expectations, it's still a step in the right direction.

My first question concerns the registry maintained by investigative bodies. It isn't specified how long the investigative bodies must maintain the registry of requests, which records all the details of each request and the follow-ups.

First, what's the purpose of this measure?

Mr. Mark Schaan: Investigative bodies must prepare a report each year. The first bill, the 2018 budget bill, stated that the registry spoke for companies. It's necessary to maintain an annual registry containing all the changes made.

[*English*]

On a going forward basis, corporations will have to maintain their registry of significant control, including any changes that are brought to their attention.

In terms of the investigative bodies, they'll have to file annually as to the number of records they've requested. In terms of how long they would keep them for, that would be subject to the particular laws that they're subject to on information management.

[*Translation*]

In this context, if an investigation continues, it's necessary for investigative bodies to maintain these documents.

Mr. Pierre-Luc Dusseault: You referred to the significant participation in the company. I think that we're talking about 20% or 25% in this case. Is that correct?

Why did you choose this figure for the significant participation? It seems fairly high. People who may have bad intentions could quite easily bypass this 25% rule.

Mr. Mark Schaan: Thank you for the question.

Your question has two important points.

First, the definition of control rating has two aspects. The first aspect is the percentage of shares that a person holds and that give the person control, which is 25%. The bill also includes a definition of a person who controls a company with less than 25%.

● (1145)

[*English*]

We think we've captured that because we have both aspects. There's also an important linkage to other aspects of our total approach to money laundering, terrorist financing and proceeds of crime, in that enterprises already, under FINTRAC regulations, when they utilize a Canadian financial institution, are required to deposit with their financial institution any beneficial ownership information related to the exact-same percentage. We see this as boots and suspenders in that it also provides ease for the corporation in that the same requirements they're subject to for banking purposes are the same requirements they're subject to for corporations. We think that parallel actually builds a strong system.

[*Translation*]

Mr. Pierre-Luc Dusseault: I have a question about the registry, and not necessarily the registry maintained by the investigative bodies.

Is the ultimate purpose of this measure to create a central registry of beneficial ownership of companies registered at the federal, provincial and territorial levels? Will there be a central registry of all this information?

My personal idea would be to make it public. I'm not talking about all of it, of course, but some of it. I know that the government doesn't support this position. Will there at least be a central registry?

Mr. Mark Schaan: Thank you for the question.

This project is broader than the scope of the bill.

The project to improve the system of transparency with regard to corporate profits in Canada involves all the provinces and territories. All the stakeholders agreed to carry out the work in two phases. The first phase, which is described here, requires each company to maintain these records and documents. Investigators must also have access to them.

[*English*]

The second piece of this project is to work with the provinces and territories to identify how we want to move forward with further access, recognizing that in the world of money laundering, terrorist financing and tax evasion, you need a coherent system across all of the corporate registries, because if you only do one, then everyone just re-registers in a potential other jurisdiction.

The second phase of this is to work with the provinces and territories to identify how we would like to be able to share this information and what makes the most practical sense in terms of who should have access and how we should store it. For right now, corporations have to hold it and competent authorities can access it when there's a suspicion and a linkage to an investigation. The second phase is who else and where it should be stored.

The Chair: Is that it, Pierre?

Mr. Fergus.

Mr. Greg Fergus: Mr. Schaan, you've appeared before this committee several times, and for the first time I can actually say you made a mistake. It's “belts and suspenders”, not “boots and suspenders”. It's a redundancy.

Mr. Mark Schaan: Thank you, Mr. Fergus.

Mr. Greg Fergus: You're very welcome.

Seriously, following up on a comment from Monsieur Dusseault, in regard to the 25% significant ownership threshold that we've established, could you speak to some of the other thresholds that other jurisdictions are doing? I'm speaking in particular of what the U.K. and the EU are offering.

Mr. Mark Schaan: I'm trying to remember. Darryl will look that up. In the world of publicly traded corporations, it's a 10% threshold because the feeling there is that the transparency of ownership when it's a share of a publicly traded corporation is of a different order, in part because the transparency isn't so much about money laundering or crime necessarily, but about who potentially has access to the proxy and who can control decision-making.

In the U.K. and the EU it's.... There we go. Ian knows this.

Mr. Ian Wright (Director, Financial Crimes Governance and Operations, Financial Systems Division, Financial Sector Policy Branch, Department of Finance): Within the general world, and within the Financial Action Task Force discussions, it's generally 25%. That's the number that's tossed around, although there are variances. I think that's seen as an appropriate balance between the burden placed upon reporting entities and individuals who fail to report versus the ability to control a company. The ability to get collusion among five, six, eight or 10 individuals is much less of a risk than when you only have to get two or three or four people joined. That said, I think there will be further discussion on that number. A lot of discussion is going on internationally and with our colleagues in other countries on what thresholds are appropriate as the threats and the risks begin to grow.

● (1150)

Mr. Mark Schaan: We did quite a bit of international scanning as we developed this project. The one piece where I think we made a number of improvements, which relates more to the 2018 changes than these, was around the fact that the registry needs to include the actual person at the end of the chain for the beneficial owners.

From the U.K. model, we learned of their requirement to list only the next entity, which means that you end up having to follow a chain of a series of numbered corporations to finally get to the ultimate owner, whereas we've asked corporations to go as far down the chain as they can.

Mr. Greg Fergus: Mr. Chair, I'd appreciate it if Mr. Wright and Mr. Schaan could perhaps send to the committee the latest scan of the international standards from the U.K. and the EU in particular.

It was my understanding that they were going to move to a threshold lower than 25%, if not now, then soon.

Mr. Mark Schaan: I could do so.

The Chair: Okay. If you could get us that....

You mentioned, in your opening remarks, that there are safeguards for the usage. Could you outline the key three? There is some fear about access out there. We heard that during our hearings.

Mr. Mark Schaan: One is the types of offences the investigative bodies would potentially be able to secure these records for. The schedule of offences is essentially those that have a tie to money laundering, proceeds of crime and terrorist financing.

The second threshold is that there needs to be a reasonable nexus between the information and the investigative body. It can't be a fishing expedition.

The third is the duty to report. The investigative bodies have to file an aggregate to the director of Corporations Canada so that there can be some transparency as to how often a power is being used and who is using it.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: I'll be brief.

You said earlier that, to find the identity of the natural person who owns a company, you sometimes need to go through a whole series of companies, which may own each other, until you can find the owner of the company concerned. This company may be the subject of an investigation.

Take the example of a case where the information isn't accurate. In other words, the company has done everything in its power to discover the identity, but it has made a mistake or it hasn't succeeded because the person concerned doesn't co-operate and disclose their identity. To what extent does the legislation enable us to take action? How does the legislation address this issue? Criminals are unlikely to co-operate and identify themselves at the end of this chain of companies.

Mr. Mark Schaan: That's a good question. It generated a great deal of discussion in the team that helped develop the bill.

First, we must establish that this issue is the reason for the two types of penalties. It's not the companies' fault if they fail in their efforts to investigate the people who control the shares in the company.

The second important aspect is the incorporation of other tools.

[*English*]

This is just one tool. What we've tried to do, across the overall approach to money laundering and terrorist financing, is to create a set of tools that can collaborate with each other, so among the tax authorities and the investigative bodies and the additional resources that have been placed there. You're right. We can't place too much burden on the corporation, because its full-time job is not to investigate, ultimately, who may be shareholders in their enterprise. Its full-time job is to run the company.

This is one more tool for competent authorities, amongst other things such as tax filing, tax investigations and financial authorities. We hope that it's an additional aspect of the overall effort, recognizing that it has limitations but that these can be made up for in other zones.

● (1155)

The Chair: Okay. Thank you.

From subdivision A, we will turn to strengthening the anti-money laundering and anti-terrorism financing regime, subdivision B.

We have with us Paul Saint-Denis, senior counsel, criminal law policy; Mr. Trudel, director general, specialized services sector; and Ms. Trotman, director, financial crimes.

Okay, Mr. Saint-Denis, the floor is yours.

Mr. Paul Saint-Denis (Senior Counsel, Criminal Law Policy Section, Department of Justice): Thank you, Mr. Chairman.

The proposal contained in the bill is a very simple one. We are proposing to amend the offence of money laundering with an additional mental element of recklessness. This would mean that this modified offence would have three potential mental elements as alternatives: one of knowing, one of believing and one of being reckless as to the origins of the property that may be proceeds of crime.

We believe that, with this amendment, it will be easier for prosecutors to prosecute certain types of the money laundering offences.

The Chair: Okay.

Are there any questions on this section?

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Mr. Saint-Denis.

I would like to ask you and your team whether other countries use the recklessness test and what results these countries achieve.

Mr. Paul Saint-Denis: In Australia, I think that the federal government uses the recklessness test when it prosecutes money laundering offences. However, I don't know to what extent convictions for this offence are based on the recklessness test or other tests such as knowledge or belief.

Mr. Greg Fergus: Perhaps I should have asked about the differences between Canada and other countries that have been very successful in their fight against money laundering. For example, does their criminal code contain elements that aren't found in our code?

Mr. Paul Saint-Denis: It should be noted that money laundering is a particularly difficult offence to prove. In particular, it must be demonstrated that the individual knew that the amounts they were dealing with were proceeds of crime. I think we could say that no country is very successful when it comes to this offence.

In Canada, we actually have two possible charges when we believe that an individual has committed a money laundering offence. In addition to the money laundering charge, we have a related charge of possession of property obtained by crime. We'll charge the individual with both offences, but the crown will drop the money laundering charge, which is much more complex, and keep only the possession charge. This charge is easier to prove, and the penalty is the same as the penalty for money laundering, namely, a maximum penalty of 10 years in prison.

However, to answer your question more directly, I can't think of any specific country that has been very successful in its money laundering prosecutions.

● (1200)

Mr. Greg Fergus: I asked this question because, during the study that we conducted last year, we learned that Canada didn't score well in the report of the financial action task force, or the FATF. I wouldn't say that we were the worst, but we weren't the best. I imagine that there are examples in other countries that we could learn from. This was the basis for our recommendations.

Mr. Paul Saint-Denis: It's important to remember that common law applies in Canada. A number of FATF member countries have a civil law regime, where the approach to prosecutions is completely different.

Mr. Greg Fergus: I completely agree. That's why we focused on the United States and the United Kingdom.

Mr. Paul Saint-Denis: When the FATF came to assess Canada's measures to fight money laundering and terrorist financing, we held several discussions on the distinction between the prosecution of a possession offence and a prosecution of a money laundering offence.

The FATF is particularly interested in money laundering and terrorist financing. When we explained to its representatives that we institute proceedings for the related offence of possession, they were less interested because the offence wasn't money laundering. Yet these two offences are very similar. In Canada, the crown will opt for the least difficult method to achieve the same result. In other words, the crown will institute proceedings for possession. However, for the FATF, this method isn't ideal. I think that we were penalized because we don't choose the ideal solution, which would be to prosecute for money laundering.

That said, we must nevertheless recognize that money laundering offences are extremely complex. The investigators must have extensive financial analysis expertise, which is very costly. As your committee likely learned during its study, not only was the RCMP reorganized, it also reassigned its staff to focus more on national security issues. Since fewer investigators were available, fewer money laundering investigations were conducted.

As a result, the FATF has described Canada as less than stellar in the investigation and prosecution of money laundering.

[*English*]

The Chair: Mr. Wright, I believe you wanted in. Go ahead.

Mr. Ian Wright: Yes, maybe I'll add a little bit to that. This change to the Criminal Code is, we feel, necessary, but it's not necessarily sufficient for us to address the broader issues that we have with prosecuting and trying to enforce money laundering and terrorist financing.

Budget 2019 has quite an extensive suite of other activities and other funding that we're bringing forward. There's the ACE team. There's this trade-based money laundering centre that's being created. There's funding provided to the RCMP to support the federal policing and funding for FINTRAC.

I think we should look at this as one part of a broader effort by the government to strengthen overall, and hopefully that will then lead to stronger enforcement, prosecutions, investigations and such.

● (1205)

The Chair: Mr. Fergus, is that it?

Mr. Greg Fergus: I'm fine for the moment. Thank you.

The Chair: If there are any other witnesses who want to come in at any time, just raise a hand and I'll catch you.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

Obviously, this is a step in the right direction. However, I'm not convinced that it will help catch people who are involved in professional money laundering. It's often a chain of people, as we said earlier. The person at the end of the chain, a money laundering professional, is well protected. They've set up barriers and walls everywhere to protect themselves and to avoid knowing everything that goes on with the offence until the money or proceeds reach them.

Will this really resolve the issue? The person can still protect themselves fairly easily from charges, even with the addition of the recklessness test.

Mr. Paul Saint-Denis: Your observation is fair.

Of course, people who engage in professional money laundering are three, four or five degrees removed from the offence that generates the proceeds of crime. We know that. The addition of the recklessness test may help in some cases, even in the case of money laundering professionals.

However, you're right to believe that this tool won't resolve the issue. That goes without saying. However, we believe that this tool will help us in cases where the current tools wouldn't give us the means to successfully institute proceedings.

We hope that this will be a useful additional tool. That said, no single response or legislative amendment will resolve the issue of professional money laundering. The things that we have here will help, but I think that professional money laundering will remain an issue.

Mr. Pierre-Luc Dusseault: We need to find one, however. That's the challenge.

Mr. Paul Saint-Denis: If there were a solution, I'm fairly certain that we would have found it by now.

Mr. Pierre-Luc Dusseault: Indeed.

Thank you.

[*English*]

The Chair: Thank you, both. Thank you, all.

We'll turn to subdivision C, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

Ms. Trotman, go ahead.

Ms. Tamara Trotman (Director, Financial Crimes Governance and Operations, Financial Systems Division, Financial Sector Policy Branch, Department of Finance): I will be dealing with amendments relating to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, or the PCMLTFA.

The first set of proposed amendments would add the Competition Bureau and Revenu Québec as disclosure recipients of the Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, intelligence. This is intended to support the investigation of tax evasion and mass marketing fraud.

The second set of amendments modifies the timing and the discretion of the director of FINTRAC to make public certain information related to an administrative monetary policy. These amendments will also clarify the information for which confidentiality orders could be issued in an administrative monetary penalty litigation, which would exclude the identity of the reporting entity, the nature of the violations and the amount of the penalty imposed.

Finally, there are technical amendments that clarify terminology and improve readability of the text.

Thank you.

The Chair: Does anyone have any questions?

Just to start, can you expand on what mass marketing fraud is?

Ms. Tamara Trotman: Sure.

The Competition Bureau has a central role in the fight against deceptive marketing practices and mass marketing fraud, which can include communication via traditional mail, telephone or email. The Competition Bureau included them as disclosure recipients in these proposed amendments to the legislation because they do have a large intelligence-gathering function.

The Chair: Is that also via the Internet, via phone calls?

● (1210)

Ms. Tamara Trotman: That's correct.

The Chair: Are there any other questions?

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: My question has to do with the administrative monetary penalties and the issue that was flagged by a court, I believe. The court deemed the process to be overly vague and subjective, saying it lacked clear criteria.

Does this remedy the problem?

Ms. Tamara Trotman: Thank you for the question. I'm going to switch languages to answer.

[*English*]

Yes, this is intended to remove the discretion of the director of FINTRAC, so it would make the naming automatic when an administrative penalty has been either issued or following an appeal process. The entity would be named automatically.

[*Translation*]

Mr. Pierre-Luc Dusseault: It concerns only the naming of the entity. However, does it remedy the underlying issue, in other words, the overly vague and broad nature of the director's discretion? Entities being penalized didn't really know how the director had arrived at the specified amount, finding it excessive.

[*English*]

Ms. Tamara Trotman: Exactly. The second piece of the proposed amendments would allow for an ongoing court proceeding, and if the courts had issued a confidentiality order, FINTRAC would still be able to name the entity, the amount of the penalty and what it was for.

Mr. Ian Wright: I would also add that outside of this FINTRAC is revamping the process, and they are working on issues around ensuring greater visibility and transparency within how fines are determined and how the process works. That's separate from this. This is just a procedure talking about the naming process, but FINTRAC is working quite actively to address the issues raised by the court in the proceedings you're referring to.

[*Translation*]

Mr. Pierre-Luc Dusseault: Therefore, the problem still stands. Only part of it has been addressed.

[*English*]

The Chair: Is there anyone else on this section?

Thank you on subdivision C. We'll move to subdivision D, the Seized Property Management Act.

[*Translation*]

Mr. Nicholas Trudel (Director General, Specialized Services Sector, Receiver General and Pensions Branch, Department of Public Works and Government Services): Thank you, Mr. Chair.

I am going to briefly describe the status quo in relation to the Seized Property Management Act and, then, explain how it will work after the amendments are made.

[*English*]

Currently, my organization is responsible for administering seized property that's being seized pursuant to federal criminal charges only. There are specific charges for which the act is eligible. These are specific charges under the Criminal Code, the Controlled Drugs and Substances Act and the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. These are very specific charges for which we are able to serve, and this would be upon issuance of a management order by a judge.

The current legislation and the limits that it has prohibit serving cases such as the fraud case that was described pursuant to your question, Mr. Chair.

Also, these criminal cases I think are not static. Although they may start out as a federal criminal charge, as a prosecution proceeds and investigations proceed, what began as an expected federal criminal charge may conclude ultimately in some other outcome: acquittal, a lesser charge, a plea bargain, etc.

The inability to provide services beyond the current scope of the act has some challenges associated with it. Firstly, if we're unable to serve law enforcement as a service provider for the management of these assets, that law enforcement is required to manage the assets themselves. If they are laying charges beyond or haven't laid charges yet, these assets remain with law enforcement to do. That means they spend law enforcement resources managing assets.

Certainly, the uncertainty of outcome from the outset of an investigation through to the end can prohibit the confiscation or seizure of assets or suspect assets. Lastly, as a challenge, it could spell inefficiency, in that we have multiple levels of organizations—provincial, municipal, federal—all maintaining the capacity to deal with seized assets.

The changes to the act would allow my organization to serve any federal public official, provincial public official or municipal public official. We would be able to serve any offence: a specific violation of any provincial or federal law for assets that are connected to an offence, or when assets are believed to be intended for the commission of an offence. It's a much broader ability to support and we'll be authorized to manage and dispose of those assets and provide advice to client organizations.

It would require consent. Provinces, territories and municipalities would choose to use those services. This is not imposed. It's available to them if they so choose. Our minister or his representatives would be required to agree to provide the service, with a mutual agreement between the two of us. They would also need to agree to share the net proceeds, so if the outcome is that a seized asset is forfeited to the Crown and sold or liquidated and costs are recovered—that's how the program is paid for under the current act and how it will continue to be paid for after the proposed amendments—then the net proceeds of sale are shared with the jurisdictions that participated in the law enforcement action. That's also part of the existing regime.

Really, it represents a broadening of who we can offer services to and in what context, but the core function remains as it is today.

● (1215)

The Chair: In terms of proceeds from the sale of assets, is that shared now?

Mr. Nicholas Trudel: Yes.

The Chair: It is shared now and based on an agreement with the provinces or whatever.

Mr. Nicholas Trudel: That's correct. The current regulations, which aren't affected by these amendments, specify the sharing methods, both within Canada and abroad with foreign jurisdictions that participate in a prosecution.

The Chair: Could you give me an example of an asset that would need management? Would it be a yacht or whatever?

Mr. Nicholas Trudel: It's pretty much anything you can imagine. There are two general categories of assets. These are assets that are used in the commission of an offence. These are offence-related properties such as a vehicle used to smuggle, a property used for a clandestine lab, etc., and then there are the proceeds of crime themselves: the cash, the fancy cars, the luxury properties that folks would buy. They also include things such as businesses that can be used to launder money.

Prior to conviction, these assets, although seized, remain the property of the accused, so they need to be maintained. A business may need to continue to be run or a luxury vehicle may need to be preserved in the state in which it was seized. Even a residence may continue to be occupied by the accused while the process unfolds, and that can take years.

The Chair: Okay. Are there any other questions?

To the witnesses, if you have anything you want to add, just put up your hand and we'll catch you.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: I have a simple question, Mr. Trudel.

Was the amendment added at the request of the provinces and territories so that the government would help them with the disposal of assets?

Mr. Nicholas Trudel: My program staff are very engaged with their provincial and municipal counterparts.

In some cases, we already have mutual aid agreements in place. A number of provinces have signed memoranda of understanding regarding either the management of a particular case or the rules and procedures for co-operation. It's important to understand that a criminal case involving an asset is ever-changing. The process can be initiated with the expectation that it will take place at the federal criminal level, but the outcome can be completely unexpected. The asset may indeed be seized, but by another authority.

Therefore, we need to make sure we dovetail our approaches. The support being proposed is very much in line with the active co-operation that already happens between municipal, provincial and federal police authorities. They, too, work together very closely to determine how best to pursue the investigation.

Mr. Greg Fergus: Thank you, Mr. Trudel.

[*English*]

The Chair: Are there no other questions?

Are there any questions on subdivisions A, B, C or D, on this section in total, division 2?

Yes.

● (1220)

Mr. Greg Fergus: I guess I could go back to subdivision C, then, since you're opening that door.

The Chair: It all interrelates. Ask them now or we'll never get them answered.

Mr. Greg Fergus: I guess I would try to figure out how we are taking into account, of course, the advent of Bitcoins, or cryptocurrencies, the abstracted term for it. How are we dealing with that, with crypto-wallets and the like?

Ms. Tamara Trotman: We're currently following the previous parliamentary review of the PCMLTFA at the regulatory stage. We're currently developing—

Mr. Greg Fergus: That's the 2013...?

Ms. Tamara Trotman: It was 2012, but yes, that's correct.

We're currently in the process of the second phase of regulatory amendments. We're developing regulations related to virtual currencies, which include things like Bitcoin, etc. I guess it was in June of last year, in 2018, that we went out with the prepublication version, and are trying to finalize, before the end of this session, the regulations in that respect.

Mr. Greg Fergus: I have other colleagues around the table who are more adept than I am at understanding cryptocurrencies and that whole aspect. Forgive me if I'm out of my league on this one. It just seems like we're catching up to the last report, of 2012, in 2018. My sense from a lot of the testimony....

Sorry, Kim, you weren't there, but Pierre-Luc and Tom were there, or Dan was there, and Francesco.

I'm just trying to figure this out. There were a lot of demands for us to really try to get ahead of the game, because the market has evolved enormously since six years ago.

Ms. Tamara Trotman: Currently the Financial Action Task Force, which is the international standard-setting body in the space of financial crimes—money laundering, counter-proliferation and terrorist financing—is in the process of developing guidance around what they call virtual “assets”, what we call virtual “currencies”. Our legislation is largely compliant with the direction they are moving in. However, we're coming out in advance of the agreement on that standard internationally. We are slightly ahead of other jurisdictions in that respect.

Mr. Greg Fergus: Very good. Thank you.

The Chair: I believe Mr. Trudel wanted in.

Mr. Nicholas Trudel: To carry on with regard to the question, we've already seen some confiscation of virtual currency. We're dealing with our first case. Part of the benefits of the amendments we're proposing is that we will be able to lend that expertise to other jurisdictions within Canada. You can imagine a small municipality or provincial detachment that comes across a virtual currency confiscation. They may not have the capacity to know exactly how to handle it technically.

That's something we've worked on with the RCMP, in contact with colleagues internationally, in terms of figuring out how best to do this. We know that in some instances the real owner is invisible and not necessarily in Canada, so you can't necessarily lay a criminal charge within Canada. The amendments that we propose here and the expertise that we have, with the other changes that are proposed, would help us to get after these kinds of more complex assets that are used by more sophisticated operators.

The Chair: Are there no more questions?

All right. Thank you very much to all those folks who have come forward on division 2.

We turn to part 4, division 3, the Employment Equity Act.

Ms. Gertrude Zagler (Director, Employment Equity, Compliance, Operations and Program Development Branch, Labour Program, Department of Employment and Social Development): Good afternoon.

The Chair: Good afternoon. Who's leading off? Is it you, Ms. Zagler?

Ms. Gertrude Zagler: Yes.

The Chair: We also have Ms. Sharmin Choudhury. Welcome.

The floor is yours.

Ms. Gertrude Zagler: Great. Thank you.

We're here today because we're seeking an adjustment to the reporting requirement outlined under the Employment Equity Act in order to implement pay transparency for the federally regulated private sector. It's a technical amendment to subsection 18(1) of the act to allow the collection of specific annual wage data from federally regulated private sector employers, which is currently authorized through the legislation. This amendment supports the introduction of pay transparency measures announced in budget 2018.

As amended, this provision will require employers to report salary information beyond salary ranges, as prescribed by regulations, to make wage gap information by occupational groups more evident.

● (1225)

The Chair: That one is short and concise.

Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): What kind of information are you looking to get exactly?

Ms. Gertrude Zagler: Currently we collect annualized salary, so instead, now what we're doing is asking for components of the salary that allow us to calculate an hourly wage gap. In addition, we'll be collecting bonus information and overtime information.

Mr. Tom Kmiec: Would that also include benefits for total compensation calculations?

Ms. Gertrude Zagler: No, it doesn't include the benefits.

Mr. Tom Kmiec: There won't be benefits, say, the other half of the pension contribution. It won't include things like health and dental benefits.

Ms. Gertrude Zagler: No.

Mr. Tom Kmiec: Extra vacation days...?

Ms. Gertrude Zagler: No, we won't be including any of that.

What we're looking at is trying to boil down to the hourly wage rate and then comparing those males against females as well as against the other three designated groups within the Employment Equity Act.

Mr. Tom Kmiec: But it says “any other information in relation”. Is there anything beyond this that you could ask an employer for?

Ms. Gertrude Zagler: We could, but we would have to go back and change our regulations yet again—but, yes, potentially in the future. However, what we're doing is we're modelling on some work that's been done in the U.K. as well as what's happening in other parts of the world. We're starting with this first piece.

Mr. Tom Kmiec: When this salary information is collected, is it also adjusted for the salary ranges of employees? There's the basic and then additions. Do you collect information on the seniority of the person?

Ms. Gertrude Zagler: The way that we collect the data under the Employment Equity Act is actually by collecting against what we call “employment equity occupational groups”. We've basically broken the workforce down into 14 strata, so you do know who are senior managers, clerical staff. Again, it's 14 different groups within that—so yes.

What we're envisioning is that we will be able to look at the highest and lowest within the four quartiles for each of those occupational groups.

Mr. Tom Kmiec: Would federally regulated organizations like railways, airlines, banks, be required to comply with this?

Ms. Gertrude Zagler: Correct.

Mr. Tom Kmiec: Did you consult with anybody on adding these couple of lines here? Was anybody consulted?

Ms. Gertrude Zagler: Absolutely. We've been out consulting throughout the process. We just completed seven in-person consultations. We invited 2,200 participants. We had approximately 260 who attended those. Then we went out with a further online consultation. Using the findings of our in-person, we made a few changes after what we heard and we sent those out. That just wrapped up at the end of March.

Mr. Tom Kmiec: Okay, and that consultation included, I hope, the privacy and information commissioners.

Ms. Gertrude Zagler: We work with the privacy group always throughout this process. However, what we're doing is changing the way we collect the information, but we already collect the salary information from these employers. It's really just changing it. We have worked with privacy in the past and we continue to do so.

Mr. Tom Kmiec: Good. So the commissioner's office...?

Ms. Gertrude Zagler: Yes.

Mr. Tom Kmiec: Okay, that's just to make sure.

Did you also consult with CPHR, with the Chartered Professionals in Human Resources associations?

Ms. Gertrude Zagler: We did put out a call. Our online consultation was open to everyone.

I'm just looking to Sharmin. I know we did have some input from some of the human resources groups. I'm not sure if that group specifically provided input.

Mr. Tom Kmiec: Would you get back to the committee maybe after to tell us if they were in fact?

Ms. Gertrude Zagler: Certainly.

Mr. Tom Kmiec: I'm thinking if this was an accounting change, we would have consulted—I'm assuming—with the CPA, and I would hope that we would do the same thing with the HR professionals who are responsible for keeping track of salary information for their employers.

Ms. Gertrude Zagler: Absolutely.

Again, when we go out and do our consultations, that is a group that we reach out to for the most part. We do reach out to the CEOs as well as the employers, but also the HR groups.

Mr. Tom Kmiec: Okay. Thank you.

The Chair: Ms. Choudhury, did you want to add anything?

Are there any further questions over here?

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Unless I'm mistaken, what you're asking for today is the regulatory authority to request more information or different information that would help you with your calculations.

When can we expect the regulations to be pre-published and then published?

● (1230)

[*English*]

Ms. Gertrude Zagler: We're working on the regulations now. As to when they will be prepublished, that will all depend on Treasury Board dates, as you can appreciate, but we are in the drafting room now and hope to move these forward as soon as possible.

The Chair: Mr. Dusseault.

Mr. Pierre-Luc Dusseault: *Oui,* as soon as possible.

The Chair: In addition to the information you're providing to the committee, through the clerk, for Mr. Kmiec, could you also outline the 14 strata that you're doing this analysis on?

Hearing no further questions, thank you both very much.

We'll go to part 4, division 4, “Payments”. I know there are several sections under this. If all the witnesses want to come forward at the same time, that's fine. We'll deal with them section by section. There's “Climate Action Support”. There's “Payment in Relation to Infrastructure”. There's the “Federation of Canadian Municipalities” section and there's the “Shock Trauma Air Rescue Service”.

We'll bring them all up to the table. We'll go through them one by one, but we'll have the whole crew here.

Who's leading off on “Climate Action Support”?

We have Mr. Millar, director general, corporate finance, natural resources with Finance Canada; Mr. Fleming, executive director, implementation; and Ms. Meltzer, director general, environmental protection branch, with the ECCC.

Go ahead, Mr. Millar.

[*Translation*]

Mr. Samuel Millar (Director General, Corporate Finance, Natural Resources and Environment, Economic Development and Corporate Finance, Department of Finance): Thank you, Mr. Chair.

[*English*]

We're here to speak initially to clause 129 of the bill. This is a proposed provision that is entitled, “Climate Action Support”. The provision would enable the Minister of Finance to specify another federal minister, such as the Minister of Indigenous Services, to be able to requisition payments from the consolidated revenue fund for payments to be made for purposes and in locations to be specified by the Minister of Finance.

The purpose of this provision is to allow for the return of a portion of the fuel charge collected in certain provinces that do not meet the federal standard for carbon pollution pricing. As additional context for the committee, I'd draw your attention to the Governor in Council's decision on March 26 of this year to amend schedule 1, part 1of the Greenhouse Gas Pollution Pricing Act, to list four provinces in that schedule: Ontario, Manitoba, Saskatchewan and New Brunswick. It entered into force on April 1 of this year and applied the fuel charge in those provinces. As of April 1, proceeds of that fuel charge will begin to be collected by the federal government, and the provision that is proposed in the BIA would allow for a portion of those to be returned, as I mentioned, in a manner specified by the Minister of Finance.

I should note that the proposed provision puts a cap on the amount that could be requisitioned, and the cap is.... There's a bit of a complicated formula that's outlined in the bill, but in simple terms, it caps the amount based on the total proceeds collected by the fuel charge less any amounts that are rebated to provinces or individuals, including through the Income Tax Act. The climate action incentive returns to individual residents of those provinces, and that is the principle mechanism for rebating portions of those funds.

Just by way of context, I would also draw the committee's attention to the government's announcement in October in terms of its intent for how payments will be made pursuant to the provision, if approved by Parliament. The intent of the government is to use the payments to support sectors of the economy that can be expected to incur additional expenses related to carbon pricing. Those would be small and medium-sized enterprises, municipalities, universities, hospitals, schools, colleges, not-for-profit organizations and indigenous communities.

The budget plan does not specify particular amounts. Those amounts would be booked at the time when its funds are requisitioned, so that's just to explain further why the budget is silent on that, but it does include an indication of the government's intent to bring forward this legislative amendment in annex 3 of the budget plan.

I guess I'll conclude there, Mr. Chair.

● (1235)

The Chair: Mr. Poilievre.

Hon. Pierre Poilievre (Carleton, CPC): Thank you, Mr. Millar.

You mentioned that there was a cap, but I missed to what that cap applies.

Mr. Samuel Millar: The cap, and it's laid out in subclause 129(4), which would be a maximum, and—

Hon. Pierre Poilievre: A maximum for what?

Mr. Samuel Millar: The maximum amount that could be requisitioned pursuant to the authorities here.

Hon. Pierre Poilievre: Can you define “requisition”?

Mr. Samuel Millar: I think requisition—I'm not a lawyer—is a legal term that relates to the authority to draw funds from the consolidated revenue fund.

Hon. Pierre Poilievre: To draw funds for the purposes of the rebate...?

Mr. Samuel Millar: For the purposes of making these payments.

Hon. Pierre Poilievre: Which payments?

Mr. Samuel Millar: The payments that are defined in this section.

Hon. Pierre Poilievre: Could you give some examples for the record of what kinds of payments might come out of this?

Mr. Samuel Millar: That's not specifically defined here. What is defined here is that the Minister of Finance would have the ability to set terms and conditions for the nature of the payments.

I would point to the October announcement of the government's intent to provide payments to the target sectors of the economy that I listed a moment ago. The payments could be in relation to supporting those entities to increase the efficiency of their operations, for example, in order to further reduce greenhouse gas emissions.

Hon. Pierre Poilievre: There is a ceiling but not a floor in this bill for this money. Do I have that right? You mentioned that there's a cap, but you didn't mention that there was a floor. A cap holds things down. A floor holds things up. Is there a minimum amount the minister must expend, or just a maximum?

Mr. Samuel Millar: There's only a maximum. Again I draw your attention to subclause 129(4), which includes a somewhat complicated algebraic formula. In plain language, the maximum is set by the amount of the proceeds from the fuel charge. Subtracted from that are any rebates the government provides, related to those proceeds, through other means such as the climate action incentive to individual taxpayers.

Hon. Pierre Poilievre: Is the rebate formula in law, or is it subject to discretion of the minister?

Mr. Samuel Millar: Do you mean the formula that I just mentioned?

Hon. Pierre Poilievre: No, I mean the formula by which the rebates are determined. I know the minister is authorized to provide rebates to people in backstop provinces, but does the law require it?

● (1240)

Mr. Samuel Millar: If I understand your question, Mr. Poilievre, you're asking really about provisions of the Income Tax Act and of the Greenhouse Gas Pollution Pricing Act. I'm not familiar with those.

Perhaps my colleague, Ms. Meltzer—

The Chair: If anyone else wants to come in at any time, just raise your hand.

Mr. Samuel Millar: We could also undertake to provide exactly the reference in those two pieces of legislation.

Hon. Pierre Poilievre: That would be great, yes.

Ms. Judy Meltzer (Director General, Environmental Protection Branch, Department of the Environment): I can confirm that under Greenhouse Gas Pollution Pricing Act, there is a requirement to return all direct proceeds from the application of the federal system to the jurisdiction of origin.

Hon. Pierre Poilievre: Is the share of that return dedicated to rebates defined in statute?

Ms. Judy Meltzer: To the best of my knowledge, it's not defined in the Greenhouse Gas Pollution Pricing Act. It talks about the proceeds, the direct proceeds from the application of the federal system, but as my colleague mentioned, we can certainly follow up to confirm.

Hon. Pierre Poilievre: The question for which I'm asking you to return an answer is the following: Is the rebate to residents in backstop provinces defined in statute or subject to government discretion?

The Chair: You can get back to us on that through the clerk as quickly as possible.

Hon. Pierre Poilievre: Do you have a rough time frame to get back to me on that?

Mr. Samuel Millar: That can be done very quickly.

Hon. Pierre Poilievre: Today...?

Mr. Samuel Millar: Today.

Hon. Pierre Poilievre: Excellent. Thank you, Mr. Millar.

Thank you, Ms. Meltzer.

The Chair: Is that it for now, Pierre?

Hon. Pierre Poilievre: That's all for me.

The Chair: Mr. Sorbara.

Mr. Francesco Sorbara: Mr. Chair, I have a quick question. It's something I'd like to put on the record.

Are any of you aware of or have any of you read the PBO report that came out on the pricing of pollution?

Ms. Judy Meltzer: Yes, I'm aware of it.

Mr. Francesco Sorbara: The PBO report did indicate that more monies or funds would be returned to Canadians in the four provinces where that would be collected by the government. Is that not correct?

Ms. Judy Meltzer: That's correct. That was my understanding of the report.

The Chair: Mr. Sorbara, we're going to stick to the legislation if we could and not get into the parameters around it.

We will go to Mr. Dusseault and then come back.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

Thank you for being here.

My biggest question pertains to how the calculation will work to estimate what is laid out in the bill. You're going to estimate the charges to be levied, and that's what the transfers will be based on—the payments you'll be making to the provinces that, in the federal government's view, are not sufficiently taxing carbon pollution. What is the formula, and how are you going to arrive at the estimates on which the transfers will be based?

Mr. Samuel Millar: Thank you for the question.

The estimates are not yet complete. The bill provides authorization to estimate the exact amounts. According to the formula in the bill, estimates for a specified period will be adjusted going forward using specific filters, to make sure the maximum amount will never exceed the reality.

Mr. Pierre-Luc Dusseault: You're preparing estimates for the first year, but it should be easier for subsequent years.

Mr. Samuel Millar: Precisely.

Mr. Pierre-Luc Dusseault: If you realize at the end of the year that the estimates weren't accurate, you are going to adjust the amounts.

Mr. Samuel Millar: That's precisely what subclause 129(4) says, in part 4, division 4, under element E.

Mr. Pierre-Luc Dusseault: Is the estimate determined in partnership with the province in question, or is it done independently by the federal government, in which case, the province then has to accept the calculation?

● (1245)

Mr. Samuel Millar: The provincial governments—and I already listed the four provinces currently mentioned in the bill—are not directly involved in these measures.

Mr. Pierre-Luc Dusseault: Is there no mechanism available that would allow them to object and refute the accuracy of the amount?

Mr. Samuel Millar: I don't believe so.

Mr. Pierre-Luc Dusseault: Do you think such a mechanism is necessary? Don't you think it would be useful?

Mr. Samuel Millar: Well….

[*English*]

The Chair: That's more up to the government to decide.

Mr. Pierre-Luc Dusseault: We are considering maybe amending this bill.

The Chair: As I understand the answer, it's not done. There's not an independent calculation other than the federal government's. The province is not involved. If you want to make an amendment along those lines, that's your choice, but I don't know how the officials can answer that question. It's not there at the moment.

Is there anything else, Mr. Dusseault?

Mr. Poilievre.

Hon. Pierre Poilievre: I will pass. I think Mr. Kmiec wants to speak.

The Chair: Okay.

Mr. Tom Kmiec: Just on the formula, the B portion of it is "[(E-F)-G]-H". Tell me if I'm wrong, but my interpretation of this is, under G, because it's deducting from that, if the Minister of Finance approves another minister to requisition money out of this amount for something else, a portion of it, that would be deducted from the totals that may be distributed to residents of that province. Is that what G is?

Mr. Samuel Millar: I agree.n It is somewhat complicated to read it in real time. In simple terms, for B, which comprises that somewhat complicated formula that you pointed to, of which G is a portion, the best way of thinking of it, I think, is as a true-up. There's an estimate in one year of the amount of the proceeds that will be collected from the fuel charge and that estimate is revised, based on the subsequent year's actual amounts.

Just to speak to G for a moment, it is the amount that has been paid out of the consolidated revenue fund, pursuant to the authority.

Mr. Tom Kmiec: Algebra was never a strong point of mine. I was told that carbon tax was simple and easy, and now I see algebra. I'm good at balance sheets.

Tell me if I'm wrong on this scenario. The Minister of Finance could define two ministers—say, the Minister of the Environment and Climate Change, and the Minister of Infrastructure—who may dip into the fund, if they want to use this money for projects. They could set out a bunch of criteria for it. Then those ministers could come to the fund and say, "We have a project or program that we want to do in a specified province." They could requisition money and that would be the "-G", so that the carbon rebate that would be going to residents would be diminished in the following income tax year.

Am I reading that correctly? The Minister of Finance could determine rules for taking out this money, which should be rebated to residents, so that instead it would go to government spending.

I'm worried about this.

Mr. Samuel Millar: Maybe I could just walk through the whole formula. That might be the best way.

The Chair: It might be a good job: [(E - F) – G] – H.

Mr. Samuel Millar: Would that be a fair way of...?

Mr. Tom Kmiec: I would prefer if you answered with a scenario, if it's possible to do that.

Mr. Samuel Millar: I'm just concerned that I didn't fully understand all of the subtlety of the scenario.

● (1250)

The Chair: There is no subtlety there.

Mr. Samuel Millar: I'll just briefly walk through the formula, which is, as I said, a touch complicated.

C is the amount estimated to be collected from the fuel charge. D is the amount estimated to be paid to individuals, and potentially others, under the Income Tax Act. You're basically making sure that any payments are taken into account before the maximum is set. When you get to B—and there are four components of B—that's looking at previous periods that have occurred to make sure there's a true-up in that period for previous periods.

That's why you're looking at, again, the amounts that have been collected from the fuel charge in E—the amounts that have been paid out to individuals and potentially others in relation to the rebates. Then, looking at the actual payments that have been made, which is G, pursuant to this authority, and then finally there is a true-up in relation to a lag effect related to entities' relationship with the Canada Revenue Agency. That is the purpose of H.

Mr. Tom Kmiec: Let's go back to the algebra example.

Am I correct, then, to assume that if the Minister of Finance, under subclause 129(5), which is G, creates conditions under which two other ministers, or another minister, can take money out for a program or for infrastructure spending, it would deduct from the total that could be redistributed, under H and other provisions, to residents of a province?

Mr. Samuel Millar: That's correct.

Mr. Tom Kmiec: Okay.

The Chair: Is there any further discussion in this area? Are there any other questions on climate action support?

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: I'll be quick, because I know we need to move on.

Did you calculate the cost to business, in general, and small and medium-sized enterprises, specifically?

Obviously, we are talking about amounts that taxpayers in the four specified provinces can claim as a credit on their tax return, further to the incentive measure whose name I can't quite recall.

Can small and medium-sized enterprises expect similar support measures for business, in other words, under the Income Tax Act? Or will that support be included in the payments to the provinces?

Ms. Judy Meltzer: Thank you for the question.

Given the context, I'm going to switch languages to answer.

[*English*]

The commitment in terms of the return of proceeds, as was announced publicly in the fall, is that 90% of the proceeds from the fuel charge in those specified jurisdictions of Manitoba, Saskatchewan, New Brunswick and Ontario go back to households. They're climate action incentive payments.

It was also signalled that about 10% of those direct proceeds from the fuel charge would be returned to other affected sectors, and that included small and medium-sized enterprises. It included what we call the MUSH sector—municipalities, universities, schools and hospitals—and indigenous organizations and the non-profit sector, etc.

At that time, when that was indicated on October 23, Finance Canada—and I'll defer to them for the details—published the estimated proceeds and the return that would go back to those sectors. There are estimates by jurisdiction and by year in the public domain, and we can certainly forward you the links if that would be helpful.

The details of the direct proceeds that are returned, that approximate 10% to those other affected sectors, are still being developed, so we don't have specific details on that at this time.

That's sort of the overall scenario, but the numbers in terms of estimated amounts going to small and medium-sized enterprises are available in the public domain.

[*Translation*]

Mr. Jesse Fleming (Executive Director, Implementation, Department of the Environment): Furthermore, according to the October 2018 announcement, approximately two-thirds of the 10% of proceeds flowing from the program will go to small and medium-sized enterprises, with about a third going to the other affected sectors. Those are the approximate figures, according to the announcement.

Mr. Pierre-Luc Dusseault: That 10% of proceeds will be returned via the transfer payments to the provinces. Is that correct?

● (1255)

[*English*]

Ms. Judy Meltzer: That's correct.

The Chair: Thank you.

Do you still want back in, Mr. Poilievre?

Hon. Pierre Poilievre: Yes.

On the disbursement of these funds to organizations and individuals affected by the carbon tax, on that subject, is there any guarantee that small businesses will get as much back in benefits from these expenditures as they pay in higher prices through the carbon tax?

Ms. Judy Meltzer: The details of how that 10% will be disbursed, including to small and medium-sized enterprises, are still to be determined. Just in terms of the expectation of how the approach works, there would be two things, I would say, with respect to small and medium-sized enterprises.

One is the expectation that many—if not most—would pass any additional cost incurred through to the consumer, hence the rationale for returning the significant portion of the direct proceeds to households, which will for the most part get back more than the costs they incur, but the other thing that is available to small and medium-sized enterprises is also the potential ability to opt into the output-based pricing system, if it makes sense for them from a cost-benefit analysis on their part.

Hon. Pierre Poilievre: On this 10% fund that will emanate from the carbon tax, is there any guarantee that this money will be used to compensate small businesses for the real costs that they must incur and can't pass along to their customers? Is there any guarantee in the law?

Mr. Samuel Millar: I think the short answer is that the details of how these provisions, if passed by Parliament, will be used in relation to small and medium-sized enterprises and other particularly affected sectors are still under development and really can only be released once the statutory provisions to enable the payments are enacted.

Hon. Pierre Poilievre: Why?

Mr. Samuel Millar: So as not to prejudge that the authorities will be available to the government.

Hon. Pierre Poilievre: But details are regularly introduced in budget books, for example, before legislation is passed, so why can't the details be known before this legislation is passed?

The Chair: The officials are not in a position to answer that, Mr. Poilievre. It's only the minister who can.

Hon. Pierre Poilievre: He hasn't answered it either.

The Chair: That's right.

Hon. Pierre Poilievre: I guess we're being asked to pass legislation and then find out, after we pass it, what it does.

The Chair: I don't think officials can answer on that. That's where we're at. We're at an impasse right there.

Mr. Oliphant.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you, Mr. Chair, and thank you to all the officials for being here today.

I'm not a member of the finance committee. I've not been blessed with that.

It means that I come at it rather naively. As I'm reading this section, I see the intent is to forward the revenue directly to households most affected. My assumption is that, in that formula that was done to get the payments to households through their income tax, it was factored in that costs would proceed at several levels through the chain of expenses related to a price on pollution.

If there were costs on various organizations, whether they be large businesses, small businesses, medium-sized businesses or other enterprises, was that factored into that part of the 90%?

Ms. Judy Meltzer: Yes, generally speaking as with other carbon pollution pricing systems, the expectation is that the costs are passed through, and that's why you see it's very common that proceeds are returned to consumers and households, for example, in different ways in Alberta and B.C.

What I can say is that the system, and I'm just talking about the overall approach for the design of the federal system, was also designed to take into account that there are industries and sectors that for various reasons, including international competitors in the market, are more limited in their ability to pass through those costs. For that reason, we have a separate regulated trading system for those industries so that we mitigate the risks of competitiveness and carbon leakage. That is the kind of underpinning of the approach that the price signal does get passed through and that's how the approach works.

● (1300)

Mr. Robert Oliphant: That's helpful for me because I was understanding that it generally passes through, because that's the way business works, and for those cases where it's determined that it would most likely not be able to be easily passed through, there is mitigation for that.

Then there are other possibilities to use some of the revenue to encourage the whole system because the whole thing is meant to tackle climate change not to produce revenue. Am I understanding that?

Ms. Judy Meltzer: That's correct.

The intent is not to generate revenue. The intent, as was indicated in the announcement in October and again in December, is to create an incentive for households to be able to further reduce emissions through climate action incentive payments, but also roughly 10% was identified that would be proposed to be targeted to the other affected sectors including SMEs and the municipalities, universities, schools and hospitals, etc. The idea is that those proceeds could also be invested in other ways to lower carbon footprint, to improve energy efficiency, foster further innovation, etc.

Mr. Robert Oliphant: Thank you.

Thanks, Mr. Chair.

The Chair: Mr. Poilievre.

Hon. Pierre Poilievre: The whole premise of this 10% fund is that there are some businesses that are going to end up paying more in taxes that they can't pass on to their customers, yet you can't confirm that small business owners will be reimbursed for costs that they can't pass on.

I have a couple of foundation layers who came to see me in my office two weeks ago. They say the extra fuel that is going to be associated with turning the cement into concrete, pouring the foundations and moving their workers, their trucks and other assets to workplaces can not all be passed on to their customers. These two small businessmen, who employ I suspect about a dozen people, are going to have to eat those expenses.

The government claims that they shouldn't be worried because 10% of the revenue from the carbon tax will go into this special fund that will help people just like them. I've asked you, “Can you guarantee that they will get back in rebates or some other compensation as much as they pay in taxes?” So far, I haven't had anyone on this dais tell me that the answer is yes.

Can anyone tell me that my two small businessmen from my community will be fully compensated for the tax they will pay as a result of this new carbon levy?

Mr. Samuel Millar: The proposed provisions are not a new carbon levy. It's an authority to allow for the return of some of the proceeds that will be collected from the fuel charge in four provinces for the moment.

Hon. Pierre Poilievre: When was that fuel charge instituted?

Mr. Samuel Millar: That came into force on April 1, 2019.

Hon. Pierre Poilievre: It's now May, so it is a new carbon levy.

Mr. Samuel Millar: Correct. I was referring really to the provisions that are proposed in the BIA.

As we said in October, the government identified a number of particularly affected sectors, including small and medium-sized enterprises, but there are several others including municipalities, hospitals, universities and indigenous communities.

Also at that time the government published estimates of what it believes the proceeds will be and, therefore, the overall size of the payments, using this authority, if passed. What has not yet been published, and I think goes to the core of your question, is the specifics of the program design that will support the return of those proceeds to each of those sectors.

The only accurate answer to your question at the moment is that it's under development.

● (1305)

Hon. Pierre Poilievre: When these constituents, these small business people, come into my office and say their costs are going up, They have to lay someone off or cut someone's pay, I'll say to them that some day the government is going to announce a program whereby they can fill out a form and maybe staple their receipts from gas and other expenses that have gone up and maybe someone in Finance Canada or Environment Canada will reply to them, thank them for their letter, and say they've looked over the expenses and here's a cheque.

Mr. Samuel Millar: I would agree that likely the best answer would be that the government is developing the specifics around how the program will be implemented.

Hon. Pierre Poilievre: I realize you're in a difficult spot here. You're conveying what's in the legislation. You're not at all to blame for the situation the government has put you in, but unfortunately, you can appreciate that my constituents are the victims of it. That's why I'm asking these questions.

The Chair: Can we move on?

Mr. Oliphant, do you want in?

Mr. Robert Oliphant: Yes. I have another concern from the other side of this equation, and it may be I'm seeing the glass half full, as opposed to the glass half empty.

Is there any concern that businesses that adapt and reduce energy costs and are incentivized to address climate change by reducing their carbon footprint, their electricity consumption, all of those things, or by changing the way they do business, and they drop their costs, such that...? I don't park downtown in Toronto very often, because it's $20, so I take the subway. But if parking was $2, I would probably drive, so I have adapted my abilities.

The businesses in my riding of Don Valley West may be different from other ridings. They're really smart and they're always cutting costs and they're always looking for.... They're also socially very responsible. They're attempting very much to address the problem of climate change and pollution, so they're dropping their costs.

Is there any guarantee they won't be oversubsidized, that the government won't give them too much money because they've dropped their costs so much?

Ms. Judy Meltzer: As was mentioned, the details are in development, but just generally speaking, reducing emissions and increasing efficiency will lower costs. A household, for example, that reduced its carbon footprint, would be receiving that climate action incentive rebate, but there would be more savings for the regulated trading system for a large industry. If their performance exceeds the threshold, they receive surplus credit. In short, it's to say there is still that price signal and incentive. In the pricing system, the reward—

Mr. Robert Oliphant: For the incentives, it's that both programs are incentives—

Ms. Judy Meltzer: That's right.

Mr. Robert Oliphant: —and socially aware businesses and smart businesses that are going to compete in the 21st century will figure it out. You might not want to comment.

Thank you, Mr. Chair.

The Chair: Moving—

Hon. Pierre Poilievre: I'm still up. I have a few more here.

● (1310)

The Chair: You do. Okay. I'm surprised.

Mr. Poilievre.

Hon. Pierre Poilievre: I know that Mr. Oliphant has revealed that his constituents are among the smartest people in the world. I want to assure him that before rendering that judgment he should come to the riding of Carleton and visit with the businesses I represent and that they are also very shrewd in how they conduct their affairs.

The problem for them is that it's all stick and no carrot here. Mr. Oliphant is saying, look, if you reduce your emissions, we will hit you a little less hard with this big stick of ours called the carbon tax. Then he asks people to be grateful for that.

What I was asking is, where's the carrot for the small business person? Again, I gave the example of two small businesses from my constituency that lay foundations for medium-sized commercial buildings and also for residential homes. These are the foundations we all take for granted in the buildings that we live in and work in.

They are going to pay more. The government tells them, “Don't worry, there's this fund you're paying into and part of the carbon tax will flow into this fund.” It's defined through a very sophisticated algebraic formula. Trust us, it says, you're going to get something back here—maybe. It says, “We can't tell you what, but one day we will tell you, and maybe you can staple your fuel and other costs onto a letter, send that letter to the minister and he'll send you back some money.”

Mr. Francesco Sorbara: I have a point of order, Mr. Chair.

The Chair: We have a point of order here. I think we're getting into debate that can happen in the House of Commons but that officials can't deal with.

What's your point of order, Mr. Sorbara?

Mr. Francesco Sorbara: Chair, as much as I respect and appreciate folks that build homes—I have many in my community—I do want to go back to the topic at hand, which is the BIA legislation and what is in the legislation.

Thank you, Chair.

Hon. Pierre Poilievre: Everything I'm talking about is in the legislation. That's the subject.

They're the parts of the legislation that you don't want to talk about, Mr. Sorbara, but this is in the legislation.

The Chair: I think it's the principle of the legislation that we're debating at the moment. If we can get into the details the officials can answer, maybe that's where we ought to be. I think we are having a great exchange. This is a wonderful exchange, but we really need to get into Bill C-97—

Mr. Robert Oliphant: Let's go for dinner.

Voices: Oh, oh!

The Chair: —and deal with what the officials can deal with, if we could.

Mr. Jesse Fleming: I suspect that both your ridings have innovative businesses and committed business owners. The thing that I think we can comment on is the fact that 100% of the revenues collected will be returned to the jurisdictions of origin.

I don't think we can say that all businesses will be equally affected, as MP Poilievre mentioned, and will all be able to innovate in the same way. That wouldn't be the expectation of price signals and then returns. The funding that isn't returned through the climate action incentive payment structure would be subject to the programming to which we're alluding, but I don't think we're going to make an announcement on it here today in front of this committee, with the three officials present.

The Chair: Okay. Can we move on to "Payment in Relation to Infrastructure"?

Who is heading off on that? Mr. Makuc.

Mr. Bogdan Makuc (Director, Governance and Reporting, Office of Infrastructure of Canada): Thank you, Mr. Chair.

I'm here to speak about clause 130 of the bill, which proposes to provide up to $2.2 billion for the purposes of municipal, regional and first nations infrastructure. This funding will be delivered primarily through an existing program called the federal gas tax fund. The gas tax fund is a permanent, legislated and indexed funding program. It has been around since 2005. It currently provides approximately $2.2 billion—last year—to 3,600 municipalities and communities across the country for the purpose of investments in their local infrastructure.

Through the program, funding is provided up front to provinces and territories that are signatories, and they then flow funds to the municipalities. Projects are chosen locally. Municipalities are allowed to choose among a wide variety of investment categories to address their needs as determined by local governments.

Generally in the past few years, the funding supports approximately 4,000 projects per year. As I said, it's very flexible, not only in terms of the categories but in terms of how the municipalities can spend the funds. They do not necessarily need to spend it in any given year. They can bank it to pool it for a larger amount to spend for a larger project if they wish. They can work with other municipalities to work on a regional project. It's a program that's very well appreciated and very well supported by all of our stakeholders.

I will conclude with that.

● (1315)

The Chair: We have Mr. McLeod first, and then Mr. Sorbara.

Go ahead, Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chair.

I just have a couple of questions so I'm clear on how this works. On the gas tax fund, has it been historically delivered by, it says here, "the Minister of State (Indigenous Services)"? Which department usually handled this?

Mr. Bogdan Makuc: There are two departments that historically delivered. The way the funds are set out, of the $2.2 billion, it's primarily on a population basis, and there's a portion representing indigenous people on reserve that goes to Indigenous Services Canada, and they manage that portion. I'm not privy to the details of how that bit is managed. I'm from Infrastructure Canada. We manage the majority of the funding that gets delivered to provinces and territories and then flows to municipalities.

Mr. Michael McLeod: Okay, you've gone to where I really wanted to go, and that is first nations funding, because Indian Affairs doesn't have a mandate for first nations people in the Northwest Territories. They fall under northern affairs, so the $18 billion or so that's under Indigenous Services does not come to the north.

When you say that first nations will also get the gas tax, how is that going to work in the Northwest Territories? Our indigenous people do not fall under the NIOs, national indigenous organizations. The land claims coalition doesn't get the gas tax. Is it then going to go to the Government of the Northwest Territories, who is now going to start acting as the new Indian Affairs for us? What's the delivery mechanism for the Northwest Territories' first nations?

Mr. Bogdan Makuc: Since the beginning of the program, the territories have been responsible for managing all of the funding for all of their communities, both indigenous and non-indigenous, in their area.

Mr. Michael McLeod: I've never heard of.... I'm not sure. Can you tell me if there are indigenous people who get the gas tax in the Northwest Territories?

Mr. Bogdan Makuc: There are communities that get the funding.

Mr. Michael McLeod: That's not what I asked you. Communities and municipalities are not indigenous first nations councils.

Mr. Bogdan Makuc: With respect to the way in which the territory manages that part of it, we have an agreement with the territory. There's a formula that's outlined in the agreement. I'm not knowledgeable about each of the jurisdictions.

Mr. Michael McLeod: That's my concern. Instead of delivering the money to the indigenous governments, we're giving it to provinces and territories to manage, which is almost like creating an Indian Affairs department, just smaller in each region.

Mr. Bogdan Makuc: I understand that. It's the way the program was designed and approved in 2005, and it has continued—

Mr. Michael McLeod: But it doesn't follow the nation-to-nation concept that we talk about.

The Chair: The way the gas tax refund works for, say, Northwest Territories is that it goes back to the territorial government, and they manage it. Is that what you're saying?

Mr. Michael McLeod: The gas tax in the Northwest Territories goes to the Government of the Northwest Territories. They provide it to the municipalities, not to indigenous governments, and the reason I raise this is because it does say “first nations” in this clause, which means there's a different standard for the rest of Canada compared to the Northwest Territories. Indigenous people and indigenous governments don't get it.

The Chair: That's a valid point, Michael.

I think Mr. Sorbara had a question.

Mr. Francesco Sorbara: Does Mr. McLeod wish to continue?

The Chair: No, he's complete. You're next.

Mr. Francesco Sorbara: First off, to my colleague Mr. McLeod, thank you for raising that point and explaining that to us. I wasn't aware of that either.

I have a quick question. When will the $2.2 billion be distributed to municipalities?

Mr. Bogdan Makuc: It's subject to the parliamentary approval of the legislation. Once that is done, then we will be in a position to flow the money to our signatories, which are the provinces and territories, who will then flow it to municipalities as per the terms of their agreements.

Mr. Francesco Sorbara: Of course. Its anticipated to be done once the legislation is passed, so effectively, this year.

Mr. Bogdan Makuc: If it is passed, yes.

Mr. Francesco Sorbara: I would hypothesize that it will be prior to the summer construction season, of course.

For the area I represent in York Region, the City of Vaughan, this effectively doubles the amount of funds received by municipalities and also by regions in Ontario. In my city, the city where I reside and the area, it will mean an extra $9.18 million that could be used by the city to build infrastructure and bridges, pave roads and create good jobs.

I will leave it at that, Mr. Chair. Thank you.

● (1320)

The Chair: I have one question.

In terms of the gas tax fund, if the $2.2 billion follows, as the previous one did, is stacking allowed?

Mr. Bogdan Makuc: Under the gas tax fund, a community can use up to 100% of this funding to build a project. There are no cost-sharing requirements. They don't have to contribute any of their own funding, nor do the provinces. It is treated as federal dollars with respect to other programs. In other programs that we run in our department, the gas tax fund is treated as federal dollars so the stacking provisions of those programs apply. But with respect to the gas tax fund, there are no stacking provisions.

The Chair: That's good, because on bridges and such, that's a problem for some of the very small municipalities or communities.

Thank you very much.

If there are no further questions on payment in relation to infrastructure, then we'll turn to.... I believe, Ms. Henry, you're up on the Federation of Canadian Municipalities.

Ms. Joyce Henry (Director General, Office of Energy Efficiency, Energy Sector, Department of Natural Resources): Thank you.

Actually, Bogdan's going to stay here with me, because there's an infrastructure component to this.

My name is Joyce Henry. I'm the director general of the office of energy efficiency at Natural Resources Canada. I'm here to speak to you about the proposal contained in clause 131, in division 4 of part 4, which proposes to provide $1.01 billion to the Federation of Canadian Municipalities on energy efficiency improvements for houses and buildings, and to improve strategic infrastructure decisions.

The clause is made up of four subclauses. They provide authorization for payments to be made out of the consolidated revenue fund to the Federation of Canadian Municipalities' green municipal fund and the asset management fund. They further allow for the Government of Canada to enter into an agreement that establishes the terms and conditions for the use of the funding in those two instances.

The Federation of Canadian Municipalities, as I'm sure you're all aware, is a long-standing partner of the federal government in delivering programs on environmental benefits. They're the national voice of municipal governments and their membership includes more than 2,000 municipalities of all sizes, including urban, rural and northern communities from coast to coast.

The proposal itself, with respect to energy efficiency funding, is for $950 million in additional funds to the green municipal fund. There's a breakdown within that of $300 million for sustainable, affordable housing innovation, $300 million for community eco-efficiency acceleration to advance home retrofits and innovative financing mechanisms related to that, and a $350-million allotment to fund the low-carbon cities Canada initiative and to collaborate on community climate action to improve energy efficiency in large buildings.

There's also a proposal to provide $60 million in additional funding to support the infrastructure development activities of the asset management fund. The asset management fund is supported by a contribution agreement between the Minister of Infrastructure and Communities and the Federation of Canadian Municipalities. It supports municipal-level capacity building for managing assets and improving strategic infrastructure investment decisions. New investments will contribute to smart infrastructure investments in support of environmentally and financially sustainable communities.

With respect to the green municipal fund, it contributes to environmental benefits for Canadians by offering grants and loans for environmental municipal projects in five key areas: energy, water, waste, sustainable transportation and brownfields. The funding proposed through budget 2019 is meant to focus on advancing energy efficiency in the built environment.

The Chair: Are there any comments or questions on this section?

Ms. Rudd.

Ms. Kim Rudd (Northumberland—Peterborough South, Lib.): Thank you.

The energy efficiency fund was certainly something I was pretty excited to see. I know that the Federation of Canadian Municipalities has been very engaged on this and has done good work on behalf of the municipalities.

I wonder if you could explain it a little more. You were running through the list a bit quickly, and I'm not quite sure I got it all. I think it's $350 million that engages the home retrofit program. Can you talk about how you anticipate that home retrofit program working and what it would include?

● (1325)

Ms. Joyce Henry: Sure. It's actually $300 million for the home retrofit portion, if I can call it that. It's called the community eco-efficiency acceleration. The details need to be worked out with the Federation of Canadian Municipalities. They are an arm's-length organization, although there are federal members, including me, who sit on the council. That work is fairly nascent but will begin soon. The idea, though, is that as municipalities apply under the criteria for grants and loans on this, they would then be able to make innovative programs with respect to this money for homeowners.

One of the ideas under that is an innovative program on financing, for example. It's called the property assessed clean energy model. It allows homeowners to make energy efficiency improvements to their households and then pay that back over time on their property tax bill. This already exists in Alberta and I think in Nova Scotia as well. It's been very successful in the United States and parts of Europe.

That's one innovative example, but there are others with respect to energy efficiency ideas for which municipalities could put forward an application.

Ms. Kim Rudd: That ties into my colleague Mr. Oliphant's comment about opportunities and the ways in which Canadians can create energy efficiency in their homes, save money, and indeed have more money in their pockets from the climate action incentives they're getting. That's the behavioural change. I wasn't aware of the loan system that's happening through the tax system. What a great opportunity for folks who can't put out what could be a significant amount of money to be able to do it that way. I hope as you progress in your discussions that this is certainly something that finds its way to the table.

Thank you very much.

The Chair: Thank you.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

I have tremendous confidence in the Federation of Canadian Municipalities and its management, but my question has to do with accountability. Today, we are being asked to approve significant amounts of funding, in excess of a billion dollars.

How will Canadians obtain detailed information on how every single dollar we approve today is spent going forward? Should they rely on the Federation of Canadian Municipalities for that information, or will it be available in the Public Accounts of Canada?

[*English*]

Ms. Joyce Henry: Absolutely. The FCM does an annual report each year on their activities under the green municipal fund. Equally, they do a forward-looking report on what they intend to use as objectives under the current green municipal fund. Both of those are publicly available and tabled in Parliament.

I can give a bit more detail on what criteria is required under them. It includes very detailed representations on, for example, the financial audit of the fund, which is required; the projects that have been funded and the outcomes from that; and those sorts of details.

[*Translation*]

Mr. Pierre-Luc Dusseault: I see. Thank you.

[*English*]

The Chair: Are there no further questions on this section? Okay.

Thank you very much for your presentation, folks.

We are now on STARS, the Shock Trauma Air Rescue Service, which is still under part 4 of division 4.

Mr. Joyal and Mr. Gallant, who's up?

Mr. Joyal.

[*Translation*]

Mr. Martin Joyal (Senior Director, Policy and Program Development, Emergency Management and Program Branch , Department of Public Safety and Emergency Preparedness): Thank you, Mr. Chair and members of the committee.

My name is Martin Joyal and I am from Public Safety Canada, in Ottawa. With me is my colleague Benjamin Gallant.

[*English*]

We're here to speak to you about subclauses 132(1) and 132(2) in the proposed budget bill. What is proposed in those two clauses is to provide the Minister of Public Safety with, first, the funding, and second, the authority to enter into an agreement to flow those funds to the not-for-profit organization named Shock Trauma Air Rescue Service, or STARS for short, which is based in Calgary.

The funding is to provide that not-for-profit with $65 million for the purchase of five new helicopters. STARS provides a critical emergency service, air ambulance services, in Manitoba, Saskatchewan, Alberta and parts of British Columbia. The ministers responsible for emergency management met in January and approved a new emergency management strategy for Canada. Under that, we are working with provinces and territories and the full community involved in EM to look at where gaps, or potential imminent gaps, are in our EM posture.

With the aging fleet at STARS, they had started undertaking a capital-raising campaign to renew the fleet. With the funding proposed here in the budget, to be provided from the minister to the organization, this would allow the organization to accelerate its renewal process. It had been estimated that it would take another 10 years in order to renew the whole fleet. This will significantly increase it and they should be in a position to have 100% renewal in the next three years. That is what's proposed here.

● (1330)

The Chair: Thank you very much. We met with the group when we were doing pre-budget consultations as well and made a recommendation.

Ms. Rudd.

Ms. Kim Rudd: Thank you, Chair.

Yes, we did. We had an excellent presentation by them. Certainly as an organization that's been around for some time, I was very surprised at the contributions they receive from organizations, charities and donations, which is really what keeps them going. This renewal of their fleet was urgent, if I can use that word.

In terms of STARS, the majority of their funding does come from non-governmental places, if you will. Is there a provincial-territorial contribution to this and if so, what is that or are you aware of it?

Mr. Martin Joyal: I could not quote you exact numbers, but yes. The proposed federal contribution here is only for helicopters. That doesn't speak to operations. Their operations since 1985, when they established themselves, have been through private, local, community fundraising, as well as having one agreement with each province in the Prairies, Manitoba, Saskatchewan and Alberta. They have operational agreements so that they integrate their operations and through that they get another amount of funding to support operations. It is also to better integrate their operations centre with the provincial operations centre so that the deployments are done in an integrated fashion. That's how they generate revenue to support the operational side of it.

As part of that as well, it's our understanding from STARS, with the federal grant to provide for five new helicopters, Alberta and Saskatchewan have also come to the table. I think Saskatchewan has made a public announcement about this, but they have also come forward to provide the funds for a helicopter each, so that's also contributing to the full renewal.

Ms. Kim Rudd: Excellent, so the federal contribution actually ended up creating more than originally thought by the provinces coming in.

Mr. Martin Joyal: All of this is contributing to the fleet renewal, yes.

Ms. Kim Rudd: Thank you.

The Chair: Thank you.

Are there any further questions? Thank you, gentlemen.

We'll turn to part 4, division 5, “Enhancing Retirement Security”.

I'm not sure who was heading this up. We have Mr. Schaan, Mr. Patterson, Ms. Wrye and Mr. Kanter.

Welcome.

[*Translation*]

Mr. Mark Schaan: Thank you, Mr. Chair.

In response to concerns about the security of workplace pension plans in the context of some corporate insolvencies, the government committed in Budget 2018 to undertake a whole-of-government, evidence-based approach to enhancing retirement security for Canadians. Consultations in late 2018 with workers, pensioners, companies and the public resulted in more than 4,400 online submissions, in addition to formal written submissions from stakeholder groups, on this important issue.

As a result of this work, the government proposes legislative amendments to federal insolvency, corporate governance and pension statutes. These amendments will enhance retirement security while continuing to support Canada's marketplace framework laws as strong platforms for economic growth, innovation and jobs for Canadians.

● (1335)

[*English*]

I'll briefly describe what division 5 of part 4 amends, and it amends a number of statutes.

First it amends the Bankruptcy and Insolvency Act to, first, clarify that the duty of good faith applies to all parties in proceedings, giving courts another tool to ensure that parties act honestly, reasonably and candidly. Second, it provides courts with further powers to address executive payments made before an insolvency, where appropriate, deterring executives from taking actions contrary to the interests of employees and pensioners. Third, it exempts registered disability savings plans from seizure by creditors in bankruptcy proceedings, providing assurance that the funds in these accounts are safe.

Division 5 of part 4 also amends the Companies’ Creditors Arrangement Act, and it does so in three key ways. First, it limits the scope of initial court orders and interim financing. It lessens the chances of extraordinary relief, such as suspension of pension contributions being granted at the outset, and gives courts more time to hear all parties' views before making more consequential orders. Second, it requires creditors to disclose their real economic interests in proceedings, if required by courts, helping to preserve fairness in insolvency negotiations by rectifying information imbalances amongst the parties. Third, in line with the Bankruptcy and Insolvency Act change, it clarifies that the duty of good faith applies to all parties.

Division 5 of part 4 also amends the Canada Business Corporations Act to, first, require publicly traded corporations to report on policies that pertain to workers' and pensioners' interests and the recovery of certain incentive-based compensation, providing more market oversight and encouraging conversations about factors impacting corporate strategy and decision-making processes. Second, it would clarify that corporate directors may consider employee and pensioner interests, among others, in their decision-making, encouraging directors to take a more comprehensive approach to assessing the long-term interests of the company. Third, it would require publicly traded corporations to hold non-binding shareholder advisory votes on executive compensation, facilitating conversations about more balanced executive compensation schemes in certain cases.

Finally, there are changes to the Pension Benefits Standards Act, 1985, which my colleagues from Finance will detail.

Ms. Kathleen Wrye (Acting Director, Pensions Policy, Department of Finance): Thank you.

Division 5, part 4 also amends the Pension Benefits Standards Act, 1985, in two ways.

The first is that it clarifies that a plan member's entitlement to their pension benefits cannot be made conditional on the continued operation of the plan. In other words, it clarifies that members are entitled to the same pension benefits on plan termination as when the plan is ongoing. This clarification is in order to ensure that employers fund all benefits properly.

Second, it also amends the PBSA to permit defined benefit pension plan administrators who purchase annuities from a regulated life insurance company to transfer their obligation under the plan to provide retirees and other beneficiaries with a pension to the regulated life insurance company, subject to certain conditions. This will help increase the benefit security of retirees for whom they are purchased, as those retirees' pensions would now be provided by a life insurance company. The retirees would no longer be subject to the risk of employer insolvency, and it also helps to improve the sustainability of defined benefit plans by allowing them to de-risk.

Thank you.

Hon. Pierre Poilievre: How will these changes affect the pension benefits paid to employees of newly bankrupt companies whose pension funds are inadequate to fulfill obligations?

● (1340)

Mr. Mark Schaan: The situation that you describe is an unfunded pension liability. This is when there is a portion of the pension that is insufficient in terms of the amount that's held in reserve, which is sacrosanct. I'll just make two distinctions.

Pension plans are regulated both provincially and federally. There are different standards to which companies are required to hold funds. Any—

Hon. Pierre Poilievre: Excuse me, but I'm speaking about after bankruptcy, when you have an unfunded liability after bankruptcy. I'm aware of all the regulations that exist beforehand, but I'm now talking about after a bankruptcy occurs.

What impacts will these changes have on unfunded pension liabilities?

Mr. Mark Schaan: They are threefold.

One, there is a certain number of preventative measures. I know you're speaking about what happens in an insolvency. If the situation is what it is right now, then the change that most affects that would be the change related to first issuance orders and duties of good faith insofar as that will allow for retirees and pensioners to be participants in the process at an earlier stage. Essentially, the first issuance order change ensures that only those essential orders are done at first. On those unfunded pension liabilities, those pensioners would be unsecured creditors to the bankruptcy and insolvency either under CCAA or BIA. This will allow them to be more aptly represented in that process as the restructuring and the negotiation of the insolvency continues.

Two, the duties of good faith are also important in that this will actually ensure that those obligations are now being placed on everyone who is party to the insolvency and that there are best interests being maintained.

Three, the economic proceedings are also important, particularly on the restructuring side. If it's a pure insolvency and it's a liquidation, that's another matter. If it's actually proceeding to insolvency under the possibility of a restructuring, that capacity to be able to know exactly who you're at the table with and to have full understanding of the other economic actors that are party to the restructuring is another zone.

The vast majority of these changes, though, are focused on the preventative side and aimed at trying to prevent the situation.

Hon. Pierre Poilievre: I did hear you mention amendments. I think it was for the Pension Benefit Standards Act. I think it was with Ms. Wrye.

You mentioned amendments that guarantee the right of the pensioner to his or her defined benefit even after the termination of the pension plan.

Did I quote you properly? If not, please feel free to correct me.

Ms. Kathleen Wrye: As I said, this is a clarifying amendment. There has been a suggestion that our legislation was unclear with respect to benefit entitlement at the termination of a plan.

This is clarifying the intent, which is that an individual's entitlement to their pension benefit is the same when the plan is ongoing as when it is terminated. It doesn't necessarily speak to what the funding in the plan is and how much they may get in an insolvency situation, but their entitlement is the same in all aspects when the plan is ongoing or when it is wound up.

Hon. Pierre Poilievre: When you say “wound up” you typically mean when the plan is converted into an annuity.

Ms. Kathleen Wrye: Yes.

Typically for a defined benefit plan, all of the people would receive an annuity in lieu of their pensions.

Hon. Pierre Poilievre: Right. Basically they take the orphaned pension fund, OSFI hands it to a supervisor, who converts it into an annuity, and that annuity pays out to the pensioner.

If there's not enough money in the fund to buy an annuity that meets the obligation the plan offered, what happens?

Ms. Kathleen Wrye: That's where it would turn to the insolvency statutes. All we are clarifying is that your entitlement to your benefit does not change.

Mr. Mark Schaan: It has two material changes.

The amount that you would be an unsecured creditor for would be the full amount. It's clear that what you were eligible for when the plan was living is what you're entitled to when the plan is winding up. Similarly, that would be the determination of what amount you're holding in the bankruptcy as the bankruptcy proceeds.

● (1345)

Hon. Pierre Poilievre: You're almost like an unsecured creditor at that point.

Mr. Mark Schaan: An unfunded pension liability is an unsecured creditor.

Hon. Pierre Poilievre: Right.

There's a lot of debate going on right now. I'm not going to ask you to comment or offer an opinion, but I just want to clarify the status quo.

Many are suggesting that pensions should be moved ahead of other creditors in the case of insolvency and bankruptcy. At present, can you please describe the priority of payout to creditors in the event of a liquidated insolvency or bankruptcy?

Mr. Mark Schaan: There's a relatively small number of layers to the priority system. The first priority goes to what some people call "super priorities". There are a very limited number of super priorities that already exist, in part because the goal of the super priority is essentially to pay out folks for whom there was almost no other economic option for them to be able to render back what was theirs.

The super priorities right now are for wages. There's one that relates essentially to a back-pay super priority for up to....

Mr. Darryl C. Patterson (Director, Corporate, Insolvency and Competition Policy Directorate, Marketplace Framework Policy Branch, Department of Industry): It's $2,000.

Mr. Mark Schaan: It's for up to $2,000 of lost wages.

As well, there's a super priority on any outstanding payroll deductions, EI and CPP essentially, so if your employer had failed to pay the CPP and EI on your last paycheque, those payments go forward. That's super priority, essentially. There is a limited number.

Hon. Pierre Poilievre: Okay.

Is that the only example of super priorities: just wages, and EI and CPP deductions?

Mr. Mark Schaan: Yes, and then you move to a preferred claim. There are not many preferred claims, but one of the preferred claims is to the trustee, the actual monitor. One of the views is that you need someone to be able to take on the work of managing through an insolvency and getting parties to work out the arrangements so the monitor is paid as a preferred creditor.

The third is then secured creditors, those who have lent on the basis of a security against the estate and assets, and they then get paid.

Then there are unsecured creditors, who are a whole range of people. They could essentially be anybody who has an account on pay, which would include unfunded pension liabilities. There would also be any unpaid benefits, as well as any of the suppliers and contractors who may have been party to the process. These often include a significant number of small and medium-sized enterprises.

Finally, if there's any money left after those have been paid out, it's for shareholders, but the shareholders are almost never paid because, by definition, if you had money left to pay all of your debts, all of your secured claims and your unsecured claims, and still had money to return to your shareholders, you wouldn't be insolvent.

Hon. Pierre Poilievre: Can you give me the name of the last category again?

Mr. Mark Schaan: It's the shareholders.

Hon. Pierre Poilievre: Oh, you said shareholders.

So we have super priority, secured....

Mr. Mark Schaan: It's super priority, preferred, secured, unsecured and then shareholders.

Hon. Pierre Poilievre: I have one last question.

If the unsecured pensions were given super priority, would that potentially put pensions in competition with unpaid wages in the event of an insolvency?

Mr. Mark Schaan: The way the insolvency system works is that it has a number of objectives. One of them is to prevent what we call a race to the courthouse. It tries to have an orderly mechanism to ensure that nobody can essentially call their loan or use other mechanisms to get paid at the expense of others.

The other element of that is that like gets treated like. Essentially, there's usually a prorated distribution across the entirety of a category, so all unsecured creditors, for instance, normally get a pro rata proportion of what's left at that point. Super priority would largely be the same. If you had a very significant call on the initial estate—and we should be clear that there are lots of examples where that's been the case, particularly when there's been provincially regulated pensions that have had significant unfunded pension liabilities—there may not be enough money to actually get through stage one. To our mind, that also has a significant knock-on effect, in terms of preventing restructuring.

● (1350)

Hon. Pierre Poilievre: Finally, do you see that there is a moral hazard in the present system, where management commits the company somewhere far down the road to pension obligations that the present management is not going to have to fulfill and leaves that problem for some other president or CEO to encounter? He might say, "Things are going great around here. I'm making a huge profit. My workers are really happy with me," without revealing the fact that he has made these commitments to the company that some other CEO is going to have to inherit down the road.

Do you not think that if you gave more priority to pensions in the event of insolvency, present-day lenders, those bond holders who are considering lending money to the company, might force the company to have a better funded pension?

Mr. Mark Schaan: I'd answer that question in two ways. First, I think it's important to look at the relationship between pension solvency rules and insolvencies. I won't trump my finance department colleagues, but just to state what our approach is federally, we have extremely stringent pension fund insolvency rules to prevent exactly that moral hazard.

We require federally regulated pensions to be funded 100% on a wind-up basis, which means there is enough money in the kitty, should the entity go insolvent, to be able to pay out their requirements. That's not the case in all provincially regulated pensions, so that's one way we deal with that.

Hon. Pierre Poilievre: We can say that's provincial jurisdiction, but when we fall into bankruptcy and insolvency, then it becomes federal.

Mr. Mark Schaan: That's right. We prevent that moral hazard.

On the second part of your question, though, if you were to start that on a brand new basis—if I were starting a brand new pension tomorrow—I think you're potentially right that the economic incentive to a lender would be to ensure that this pension was extremely well-funded, but we're not starting it at tabula rasa. We're starting with funds that already have unfunded pension liabilities, and they're in sectors and in parts of the country that are particularly hard hit.

The fear we have is that what ends up happening, instead of creating great behaviour around pension funding—even beyond what provincial regulators do— is that it calls a cavalcade of calls on loan, and that we push these firms into insolvency and liquidation more quickly. People would jimmy around with their loans to ensure they get paid, which is exactly what the insolvency system aims to prevent.

The Chair: Okay, we'd better move on to Mr. Dusseault. We're moving a little off the bill, I would suggest, but it is great information for us to have. Anybody who might want to do a private member's bill—

Hon. Pierre Poilievre: You should never have let me have the chair. That was your first mistake.

The Chair: I knew that before I left.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

For your information, a colleague of mine introduced a private member's bill to change the order of creditor priority, but it was defeated.

I have a question on that subject. It has to do with the consultations you mentioned, Mr. Schaan. What were the results of the consultations? I'm especially interested in the number of people consulted who recommended changing the order of creditor priority. Was that one of the main recommendations you received, or did people not really raise the issue?

Mr. Mark Schaan: The government received many submissions as part of the consultations, more than 4,000. Most of them were online submissions, many being form letters from organizations that had encouraged all their members to participate.

A lot of people said it was important to change the order of creditor priority, but others said they didn't think the change would make a difference if the company became insolvent. There wasn't a consensus on the issue. The purpose of the consultations, however, wasn't to determine how many people were for or against the change. Rather, it was to examine the issue as a whole and ascertain people's views.

● (1355)

Mr. Pierre-Luc Dusseault: I see. The fact remains that most people who participated in the consultations probably wanted something to be done about the problem, but here we are, today, with a bill that fails to meet their expectations. I want to say how disappointed I am that the bill does not include one of the main recommendations called for by stakeholders. We are talking about a change that was clear, explicit and entirely feasible.

That's the first thing I wanted to say.

Since I still have some time, I'd like to ask a few technical questions about the bill.

Subclause 143(3) seeks to amend the Canada Business Corporations Act by adding section 172.2, which deals with the “well-being of employees, retirees and pensioners”. Could you clarify what “information respecting well-being” means?

Mr. Mark Schaan: As with the other requirements applicable to organizations under the act, the usual process in this case is to specify the regulatory information that must be provided to shareholders annually.

Last year, Bill C-25 added to the act the requirement that corporations disclose to shareholders regulatory information on gender and diversity among directors.

That's what's being done here. Most of the information disclosed will be set out in regulation.

Mr. Pierre-Luc Dusseault: Very well.

I have another question about the approach on remuneration. A prescribed corporation is required to develop such an approach, which shareholders will vote on. The word “approach” can mean many things.

Could you please explain what the various possible approaches are and which mechanism will be used to submit the chosen approach to shareholders?

Mr. Mark Schaan: Further to the bill, the approach involves all aspects of remuneration, including salary, benefits and so on.

The bill makes it mandatory for directors to set out that approach.

Mr. Pierre-Luc Dusseault: Which directors are you referring to?

Mr. Mark Schaan: By directors, I mean those on the board of directors.

Mr. Pierre-Luc Dusseault: I see. They are responsible for laying out the approach.

Mr. Mark Schaan: Yes.

In the other areas of responsibility where similar obligations are imposed on corporations, the approach is also addressed. Corporations have to adhere to certain standards in how they approach remuneration, including salary and benefits.

● (1400)

Mr. Pierre-Luc Dusseault: Very well.

I'd like to talk about something else now, good faith. You changed the obligation—

[*English*]

The Chair: Mr. Dusseault, do you have many more questions on this point?

[*Translation*]

Mr. Pierre-Luc Dusseault: Yes.

[*English*]

The Chair: Okay. It is two o'clock, so we will have to adjourn. We'll have to start on Monday where we left off here. It looks as if we'll start Monday at 3:30 and go probably until we finish with the officials, which could be nine o'clock at night. That's where we'll be. If we don't finish by nine, we'll have to consider other alternatives.

With that, thank you, everyone.

Thank you, witnesses. You will have to come back again.

The meeting is adjourned.