Parliamentary Debates

(HANSARD)

FORTIETH PARLIAMENT

FIRST SESSION

2017

LEGISLATIVE COUNCIL

Wednesday, 6 December 2017

Legislative Council

Wednesday, 6 December 2017

THE PRESIDENT (Hon Kate Doust) took the chair at 1.00 pm, and read prayers.

BILLS

Assent

Message from the Governor received and read notifying assent to the following bills —

1. Iron Ore (Channar Joint Venture) (Hamersley Range) Agreements Amendment Bill 2017.
2. Mineral Sands (Cooljarloo) Mining and Processing Agreement Amendment Bill 2017.
3. Railway (BBI Rail Aus Pty Ltd) Agreement Bill 2017.
4. First Home Owner Grant Amendment Bill 2017.

WARREN DISTRICT HOSPITAL

Petition

HON ADELE FARINA (South West) [1.02 pm]: I present a petition containing 156 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned are opposed to the total demolition of the old Warren District Hospital.
>
> We therefore ask the Legislative Council to recommend to the Western Australian Parliament and the Department of Health to reconsider their decision to demolish the hospital and negotiate a change in the tender to retain ALL or the majority of the hospital for the following reasons.
>
> The building can be retained in its present state or brought up to 'fit for purpose" for a relatively small cost.
>
> The old hospital could be used for the following; crisis care, respite for elderly or people with disabilities and their families, training, allied health, drug and alcohol rehabilitation and mental health rehabilitation.
>
> Reasons; the hospital has a full commercial kitchen, ensuite rooms, large spacious meeting places, the building can be separated for different purposes and could be used for a host of purposes.
>
> The total DEMOLITION of this FACILITY would be an ABSOLUTE WASTE of a PUBLIC RESOURCE.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 975.]

BOARDING AWAY FROM HOME ALLOWANCE

Petition

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the National Party) [1.04 pm]: I present a petition containing 639 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament Assembled.
>
> We, the undersigned, say that cuts to the Boarding Away from Home Allowance will significantly impede the ability of regional and remote students to complete their schooling, place undue financial pressure on these families and force families to move to access secondary education.
>
> Students in regional areas should have equity in education and educational opportunities in line with metropolitan students.
>
> **We therefore ask the Legislative Council to call on Premier Mark McGowan to support regional families by reversing the cuts to the Boarding Away from Home Allowance and provide equity in education regardless of location.**
>
> **And your petitioners as duty bound, will every pray.**

[See paper 976.]

HAWTHORN RESOURCES — PINJIN PASTORAL STATION

Petition

HON ROBIN SCOTT (Mining and Pastoral) [1.05 pm]: I present a petition containing two signatures that is couched in the following terms —

> To the President and Members of the Legislative Council of Western Australia in Parliament assembled.
>
> We the undersigned residents of Western Australia respectfully request the Legislative Council to note that Hawthorn Resources Limited (ASX.HAW) is conducting exploration north east of Kalgoorlie on Pinjin Pastoral Station, an enterprise operated by the pastoralist Tisala Pty Ltd, a company owned and controlled by Aboriginal Australians. We request the Legislative Council to use all available means to ensure that Hawthorn Resources Limited:
>
> 1. ceases to breach mining tenement conditions, including condition number 28 on Mining lease 31/79, number 24 on Mining lease 31/78 and number 28 on Miscellaneous Licence 31/65
> 2. is issued with a stop-work order for breaching Regulations 97, 98 and 100 of the Mining Regulations 1981.
> 3. will never be permitted to justify or excuse mistreatment of the pastoralists and residents at Pinjin Station on the ground that the individuals involved are Aboriginal Australians
>
> And your petitioners as in duty bound, shall ever pray.

[See paper 977.]

ALPHA FINE CHEMICALS — NICKEL SULPHATE PLANT

Petition

HON COLIN de GRUSSA (Agricultural) [1.06 pm]: I present a petition containing 819 signatures that is couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned are opposed to the construction and operation of the Nickel Sulphate Plant proposed by Alpha Fine Chemicals for Lot 1 Myrup Road, Myrup in the Shire of Esperance.
>
> Nickel Sulphate is highly toxic, carcinogenic, and extremely poisonous to aquatic life, therefore the Nickel Sulphate Plant poses significant environmental and human health threats. Our concerns include:
>
> - The proximity of the proposed plant to the RAMSAR listed Lake Warden Wetland System
> - The risk of contamination from the site into the town's water catchment supply area
> - Health risks from potential air borne contamination
> - The amount of underground water required during the production process, which would adversely affect the water table and consequently existing agriculture in the area
> - The proposed site is in a location that is zoned Rural and is immediately adjacent to agricultural and food production sites
>
> We therefore respectfully ask the Legislative Council to thoroughly investigate the matters raised and ensure that the highest level of environmental scrutiny be placed on the proposed Nickel Sulphate Plant.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 978.]

INDEPENDENT PUBLIC SCHOOLS — NEW INTAKE — EXPRESSIONS OF PUBLIC INTEREST

Statement by Minister for Education and Training

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [1.07 pm]: I am pleased to advise the house that school communities will have an opportunity to become independent public schools in 2019. The Department of Education this morning called for expressions of interest from schools to be part of a development and selection process in 2018. Schools that successfully complete this process will go on to a transition program later in 2018 and will begin operating as independent public schools in 2019. This signals the government's intention to maintain the initiative. We want more schools to benefit from local-level authority, and this development opportunity will do just that.

I encourage all school communities that are not independent public schools to put their hands up and be part of the activities that will happen in 2018. The development program is an opportunity for school leadership teams, their staff and their communities to gain a better understanding of what autonomy means and how it can benefit students. The selection process will be rigorous, just as it has been in previous years, and schools will need to clearly articulate what they will do with the autonomy they will gain as independent public schools.

Just as we want more schools to have local autonomy, we also want more schools to benefit from those things that have to date been only for independent public schools. For example, we have already expanded the principals' fellowship program to allow all public school principals to apply, we have introduced a requirement for all principals to consider staff requiring placement, and we are making training available for both school boards and school councils. But there are still some key distinctions between independent public schools and other public schools. For example, independent public schools have greater flexibility to apply directly for capital works, award contracts and appoint their own school psychologists. They also have a one-off opportunity to reconfigure their staffing profiles. The Western Australian public school system will be stronger and more equitable as a result of us ensuring that all communities benefit from a development program that enables them to use their increased autonomy to make a real difference where it matters—in the thousands of classrooms across the state.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

110th Report — "Inquiry into the Form and Content of the Statute Book — Terms of Reference" — Tabling

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [1.10 pm]: I am directed to present the 110th report of the Standing Committee on Uniform Legislation and Statutes Review entitled, "Inquiry into the Form and Content of the Statute Book — Terms of Reference".

[See paper 979.]

Hon MICHAEL MISCHIN: At a regularly constituted meeting of the Standing Committee on Uniform Legislation and Statutes Review, which was held on 4 December 2017, the committee resolved to review the form and content of the statute book to identify enactments that are obsolete, exhausted, expired or as yet unproclaimed with a view to having them removed from the statute book. I commend the report to the house.

111th Report — "Committee's Treaty Function — Terms of Reference" — Tabling

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [1.10 pm]: I am directed to present the 111th report of the Standing Committee on Uniform Legislation and Statutes Review entitled, "Committee's Treaty Function — Terms of Reference".

[See paper 980.]

Hon MICHAEL MISCHIN: At a regularly constituted meeting of the Standing Committee on Uniform Legislation and Statutes Review, which was held on 4 December 2017, the committee resolved to inquire into its term of reference 6.3(c), as set out in schedule 1 of the standing orders of the Legislative Council. Term of reference 6.3(c) provides that it is a function of the committee —

> to examine the provisions of any treaty that the Commonwealth has entered into or presented to the Commonwealth Parliament, and determine whether the treaty may impact upon the sovereignty and lawmaking powers of the Parliament of Western Australia; …

I commend the report to the house.

PUBLIC AND HEALTH SECTOR LEGISLATION AMENDMENT (EXECUTIVE PAYOUT COMPENSATION) BILL 2017

Notice of Motion to Introduce

Notice of motion given by **Hon Tjorn Sibma**.

TOWN OF EAST FREMANTLE PLASTIC BAG REDUCTION LOCAL LAW 2017 — DISALLOWANCE

Order of Business — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.12 pm] — without notice: I move —

> That order of the day 1 be taken at a later stage of this day sitting.

If I may by way of explanation to the house, I have had some conversations behind the Chair and I think that we will probably deal with order of the day 1 in the last half-hour, or perhaps even the last 20 minutes, of this evening's sitting.

Question put and passed.

SCHOOL CURRICULUM AND STANDARDS AUTHORITY AMENDMENT BILL 2017

Second Reading

Resumed from 28 November.

HON DONNA FARAGHER (East Metropolitan) [1.13 pm]: I rise as the lead speaker for the opposition on the School Curriculum and Standards Authority Amendment Bill 2017. I indicate at the outset that the opposition will support the legislation; however, we have some reservations. There is a caveat on that, which will become clearer as I progress through my contribution to the second reading debate. Although we have not circulated amendments on the supplementary notice paper, I would like to go into the committee stage to ask a number of questions of the minister.

The bill, as it stands, is fairly short and deals with a couple of quite separate issues, which are also related. The issue at hand is the disclosure of student data.

I want to deal with the two main parts of the bill. The first part deals with NAPLAN Online. I understand that the School Curriculum and Standards Authority is currently prevented from releasing student data for the purpose of participating in NAPLAN Online. Given that NAPLAN Online is expected to commence in 2018, amendments are needed to permit the disclosure of identified student data that is held by the authority for the purpose of student registration; therefore, to enable participation. I want to thank the minister for giving us a briefing and for the subsequent discussions I had with SCSA about this bill. That was very much appreciated. As I understand it from the briefing and the minister's second reading speech, if these amendments are not approved, the authority will have to individually collect and manage consent from the 123 000 students who will participate in NAPLAN Online. SCSA has kindly provided me with more detail on this aspect of the bill. Should the bill pass, SCSA will be able to collect relevant registration data from the three school sectors. I am using politicians' talk; I am sure that I should use particular words, but hopefully everyone is getting the gist of what I am saying. The information will be loaded into the SCSA data system, then loaded by SCSA into a secure NAPLAN assessment platform which will be administered by Education Services Australia in a WA-specific section. I further understand that the WA-specific platform will be secure and that no-one other than SCSA will be able to access it. Once the information has been loaded, Education Services Australia will send the unidentified information to the Australian Curriculum, Assessment and Reporting Authority for analysis and marking. Once this has been done, the results will be loaded back into the WA-specific platform and linked back to the name of the student. The results will be made available to schools and the education sectors and systems. That is a fairly simple summary, but I hope that it captures the process. I indicate that the opposition is comfortable with that aspect of the legislation. We recognise the importance of making sure that those amendments go through.

The second part of the legislation will insert new provisions into the School Curriculum and Standards Act 1997 that will permit the authority to disclose identified student data for research purposes. The second reading speech states that this is to promote or understand outcomes connected with student achievement and wellbeing. Under the act, the authority is currently prevented from releasing personal student information. The opposition and I, as the shadow Minister for Education and Training, understand the importance and value of research both now and in the future. Indeed, the minister's second reading speech refers to the Telethon Kids Institute, which is an outstanding research institution—one of many that operate across our state. The concern that has been raised by the opposition about this element of the bill is that it provides fairly scant detail on the procedures and parameters regarding the level of information that will be able to be disclosed. At the end of the day, we are contemplating allowing student data, including personal information, to be released to research bodies under certain circumstances. I suggest that, as a general rule, it is more information than the minister can seek under the act. As I understand from the second reading, the minister can be provided with individual information in certain circumstances, but as a general rule the minister will seek information in aggregate form, not in individual form. As I understand from the briefings provided to me—these are some of the questions that I will put to the minister during the committee stage—some of the types of information being contemplated for release include a child's name, address, date of birth, Western Australian student number, gender, exemptions from school, student achievement data and so on. The opposition and I as shadow minister are certainly not discounting the worthiness of such work, but I believe that we, as a Parliament, should be clear on how and what level of this information can be released. I say for the benefit of members in this house—obviously we do not reflect on what happens in the other place, but it is important for this debate—that the bill before us has been amended since being introduced in the Legislative Assembly about three weeks ago. The bill was amended in the other place in response to some initial concerns that I raised with the minister prior to the debate in the other place, and I want to thank her for listening to my concerns and seeing that that amendment was put forward. To assist members, clause 8, proposed section 32B of the bill refers to the disclosure of information for research involving students. The original bill, under proposed subsection (6), stated —

> the Board —

That is, the School Curriculum and Standards Authority —

> must establish procedures to be approved by the Minister relating to the disclosure of information under this section.

More broadly, the opposition and I felt that the procedures should be subject to regulations that can be tabled in this house. This would enable Parliament and individual members to scrutinise those regulations when they are tabled and ultimately, if we are unhappy with it, could seek to disallow. Obviously, whilst removing the role of just the minister, it would be anticipated that any regulations tabled in this house would have been approved by the minister before coming in here, so the minister would still have a role. The amendment therefore moved by the government in response to my concerns and subsequently supported by the opposition in the other place was to remove proposed subsection (6) and replace it with the following —

> The regulations may prescribe procedures relating to the disclosure of information under this section that the Board must comply with.

I indicate to the house that although this amendment is an improvement, there are still some reservations. As I have said, during the committee stage I would like to seek some assurances from the minister about what she intends to have included in the regulations. I appreciate that the regulations obviously would not have been drafted yet, but I expect that we should be able to get some level of understanding from the minister about her intentions on their development and what will and will not be included. I will give just a couple of examples. Firstly, will the regulations specify all fields of data that the board will be able to disclose for the purposes of research involving students? Secondly, will the regulations stipulate that the disclosed information can be used only for the purpose for which it was originally requested? That relates to the fact that researchers will often have more than one research project underway at any point in time. I presume that individual requests would need to be put to the board for each individual project rather than using the information across a range of projects, but I would like to have that clarified by the minister. Also, would the regulations specify that SCSA maintains a register that will outline, amongst other things, the number of requests for information, what was released and so forth? With regard to that particular aspect, and I indicate that I have spoken to SCSA about this, it would be prudent for this information to also be detailed in the agency's annual report. I think that would add another layer of transparency to the process. I understand that other agencies provide similar information in their annual reports and I think that it would be helpful to Parliament and anyone else who takes an interest in this issue.

Another aspect raised during the debate in the other place was about any pre-existing orders that may be in place with regard to a child. I have sought further clarification on this issue. I understand that if the authority has been notified by a school that orders exist in relation to access to a child or their data, the authority must not release that data for the purpose of research without the express permission of the authorised caregiver of the child. It would be helpful if the minister could confirm whether my understanding is correct, and also whether this will be prescribed in the regulations.

I do not intend to delay the house too long on the second reading debate, because most of the questions about this bill can probably be answered at the committee stage. The opposition supports this legislation, albeit with some caveats with respect to research. I reiterate that the opposition supports research being undertaken. We recognise the value of research and that it can have a positive impact both now and into the future on student achievement and wellbeing and the like. That is certainly not in question. However, we are dealing with a bill that will enable identifiable information to be provided under certain circumstances. I expect that those will be very strict circumstances, and I also expect that it will not happen very often. However, it is important that the parameters and procedures with respect to the disclosure and accessibility of student information are clear to everyone. That includes not only the School Curriculum and Standards Authority and the board of the authority when they are making decisions on this matter, but also researchers who are seeking this information, and members of the community. We need to remember that we are dealing with sensitive data that relates to children, not adults who are able to make decisions for themselves about whether to participate or not participate.

Certainly from my perspective, we will be seeking assurances from the minister about the protections that will be provided. We also reserve our right to seek to disallow the regulations when they come to this house in due course if we are not satisfied that they provide adequate protections or reflect the assurances that will no doubt be provided by the minister during the committee stage. I hope we will be able to work through the outstanding issues. As I have said, we support the legislation, but we have some reasonable concerns, which I am sure the minister will be able to address fulsomely in her response. With those comments, the opposition supports the legislation.

HON ALISON XAMON (North Metropolitan) [1.27 pm]: I rise as the lead speaker for the Greens on the School Curriculum and Standards Authority Amendment Bill 2017. I indicate that the Greens will also be supporting this legislation. However, similar to the opposition, we have a number of reservations around this legislation and will be seeking some assurances from the minister throughout the course of this debate. We hope the minister will be able to give some undertakings about a range of safeguards within the future regulations, and we will be keeping a keen eye on what comes out in the regulatory framework. I want to raise a number of issues, and I hope the minister will be able to respond to most of those issues in her reply.

This bill seeks to amend the School Curriculum and Standards Authority Act 1997 to permit identified student data held by the School Curriculum and Standards Authority to be disclosed to enable Western Australian students to participate in the National Assessment Program — Literacy and Numeracy Online. The bill also seeks to correct

an oversight in the drafting when the School Curriculum and Standards Authority was created back in 2011. Amendments to section 9 of the act will permit the disclosure of identified student data for the purposes of registration in NAPLAN Online and clarify the authority's ongoing role as the test administration authority for NAPLAN and other assessments that are subject to state and commonwealth agreements.

I understand that this bill was declared urgent in the other place in the hope that if it was passed, it would enable Western Australia to be ready for NAPLAN Online next year. As I understand it, 200 schools are scheduled to commence NAPLAN Online in 2018, with the remainder to be online the following year. I understand that there are some significant challenges around the transition to NAPLAN Online, although this might provide the government with the motivation to improve the internet capacity in some schools, because I note that that remains an ongoing issue for far too many of our schools. From the briefing on the bill, I understand that there is a fix that can be applied for one year in the event that this legislation is not enacted, although the fix, as it has been described to me, is time limited and somewhat messy. The bill before us is relatively short and straightforward, and is designed to ensure that we do not have to go down that path.

In addition to the amendments facilitating Western Australia's participation in NAPLAN Online, proposed amendments to section 32 of the act allow identified student data to be disclosed for research involving students, and I will be speaking on this particular issue. Clause 4 of the bill contains the following definition —

> ***research involving students*** means research conducted by any person or body in relation to either or both of the following purposes —
>
> (a) promoting student achievement or student wellbeing;
>
> (b) understanding outcomes connected with student achievement or wellbeing;

I understand that the personal information that could be released under this provision is quite broad, and can include names as well as ages, addresses and details about parents, including their educational achievements, occupations and even their criminal history. I note that the board may impose conditions on the provision of the information. Proposed new section 32B provides for a statutory penalty of $10 000 for contravening the condition that applies to the disclosure of the information. This proposed section also provides for regulations prescribing the procedures relating to the disclosure of information that the board must comply with. I note, again, that this amendment was introduced in the other place, and I understand that further amendments have been foreshadowed or at least submitted in clarification.

The Greens are reasonably comfortable with the sharing of students' information for the purposes of NAPLAN Online. This is the tenth year of NAPLAN, and more than one million students in years 3, 5, 7 and 9 sit the NAPLAN test in Australia each year. In Western Australia, NAPLAN tests are taken across more than 1 000 schools in this state. The research arising from the results of standardised testing does not improve outcomes, and I note that the information provides only limited information about achievement, but the Greens recognise that it can be valuable to help ascertain where increased support is needed, and it also helps to build the evidence base to inform policy in this area. I note, however, that even with 10 years of NAPLAN data, we have made little progress in education outcomes.

The Greens also continue to acknowledge and share many of the concerns about NAPLAN, and how it has been evolving, including concern about the impacts on classrooms, particularly for younger children. In year 3, the earliest year in which NAPLAN testing can be undertaken, we are talking about children who can be as young as seven years old when they take the test, and there are concerns that this might be too young for many children. It is another example of what many educators would indicate as a disturbing trend in education in Australia—to push formal learning down to younger and younger children. The evidence shows that this is not necessarily in the best interests of our children and does not result in improved learning outcomes over the longer term. I am particularly concerned that for far too many children the NAPLAN tests have become quite high stakes and can result in high levels of stress. We know that the NAPLAN tests contribute to levels of stress for many children and are compounding a general reduction of play-based education and enjoyment in learning. As a qualified play leader, I find that a disturbing trend in educational approaches. NAPLAN results can too often distract from broader efforts to improve student experiences and ensure that all children are given the best chance to learn and succeed. I note that the concerns I raised about the impact of NAPLAN are fairly widespread and not new, but instead of being addressed, and I think they really need to be, it appears that NAPLAN is becoming even more high stakes from year to year, and that really needs not to be the case. It is only a narrow measurement and despite the test only reflecting a way an individual student may be performing on any individual day, results are nevertheless being increasingly requested in school admission applications. I am very concerned about that, because I do not think we have put that much pressure on students who are sitting their Australian tertiary admission rank, because at least that includes both exams and ongoing coursework throughout the year.

The Greens have concerns more broadly with the way that NAPLAN data is increasingly being used. We note that transparency and access to information are important within a democratic society, but we also have a responsibility to ensure that educational and other potentially sensitive data is being used in the best interests of children rather

than there being the potential for misrepresentation or even harm. It is important to distinguish between data that is useful to inform effective policy development and that which is appropriate to be released publicly. NAPLAN data is valuable and should be used for research that informs evidence-based decision-making, but the Greens remain absolutely adamant that the data should not be used for league tables or to rate classrooms or individual students.

The bill before us seeks to further broaden the potential for NAPLAN data to be used and published. This has potential benefits, but as we have already seen with NAPLAN, it also has some significant risks, and, as such, it is important that we are careful and diligent in our scrutiny of these sorts of moves. The bill will allow the sharing of identified student data with researchers. During the briefing, the Telethon Kids Institute and Edith Cowan University were used as examples of researchers that would like to have access to this sort of data. However, it was not made clear why they needed to have identified data. I would be interested in examples of the research proposed or anticipated that requires identified data. The definition in the proposed amendments of research involving students is broad and is not restricted to a university or other formal research bodies, which tend to operate under very strict ethical guidelines. Researchers are not named and they are not required to have any particular credentials, so my understanding is, for example, that under this legislation, if a government department or a private research consultancy wants to do research, there is nothing in the legislation before us to stop them applying for access to identified student data.

This provision is unlike provisions in other legislation that has enabled government data to be shared, specifically for the Telethon Kids Institute's developmental pathways project. The Greens are ardent supporters of high-quality research; it is something that we insist on all the time, particularly when findings can potentially feed into improved outcomes for students, and particularly for students from disadvantaged backgrounds. I am one member of this place who frequently draws on the incredibly important and useful research done by reputable institutions such as the Telethon Kids Institute, so I acknowledge that the bill requires that research be done for the benefit of students, which is very welcome. The Greens support data collection and evidence-based decision-making in education. In fact, the Greens education policy states —

> Decisions about curriculum, testing, reporting and teaching should be based on evidence and be made in consultation with appropriate educational experts, teachers, and their unions and other stakeholders.

We have a really strong position on the need to facilitate this sort of approach. The Greens are also strong advocates of government openness and transparency. Balancing that with this legislation is a challenge for the Greens because we are also a party that recognises and values human rights, which also includes an individual's right to privacy. This is where some tensions start to play out. The Western Australian "Whole of Government: Open Data Policy" 2015 provides some guidance on the release of government data. That policy states —

> Agencies are encouraged to adopt a position of data openness, with the prerogative in favour of data release, unless there is a clear need to restrict or preclude access for reasons of privacy, confidentiality, security or other relevant considerations …

The policy goes on to state —

> Before releasing data, agencies should carefully consider and address any privacy concerns. That is, data that is released must not be, or able to be, associated with any individual. Agencies may need to de-identify data, which means removing anything that can identify a person. Caution needs to be exercised where disparate datasets, individually de-identified, could potentially be linked or combined to re-identify individuals.

I have to say that this policy sounds very reasonable. Releasing identified data is generally not something government departments are permitted to do, and there are sensible reasons for that approach. Firstly, we know that releasing data that identifies individuals by its very nature infringes on a person's right to privacy. Privacy is a universal human right. In fact, I remind members that the right to privacy is acknowledged under the International Covenant on Civil and Political Rights, which recognises that a basic human right to privacy is premised on the autonomy and dignity of the individual. Under international obligations, Australia must respect the fundamental principle of protecting people's privacy. As a recognised human right, privacy protection generally should take precedence over a range of other countervailing interests, such as cost and inconvenience. However, that being said, I recognise that privacy protection is not absolute. The Australian Law Reform Commission has noted that often privacy rights clash with a bunch of other individual rights and collective interests, such as freedom of expression and national security. When circumstances require it, the vindication of individual rights must be balanced carefully against other competing rights. We must carefully consider any proposal that potentially infringes on the right to privacy and whether indeed this bill before us represents a case in which that balance weighs in favour of releasing personal information.

The second reason a government generally does not allow the release of people's data is the quite significant risks associated with doing that. Some people have quite compelling reasons for wanting to protect their address or that of the school that their children attend. Back in 2011, when I participated in debate on the Curriculum Council

Amendment Bill—the bill that set up the School Curriculum and Standards Authority—I spoke about safeguards around access to student records, particularly in cases in which there might be domestic or family and domestic violence and one parent may, for very good reasons, not have access to a student's address. I would like to know what extra safeguards we might be considering under the School Curriculum and Standards Authority Amendment Bill 2017 for these sorts of cases.

I will talk a little bit about the Australian Curriculum, Assessment and Reporting Authority. The NAPLAN data is collected nationally and it is already used for a variety of research projects. ACARA, which is the national body charged with administering NAPLAN, has strict protocols regarding access to the data that it manages. The protocols provide that the data to be released will be de-identified to a necessary level to prevent identification of an individual student to ensure student privacy is maintained. Where appropriate, it also maintains school test and item security. Furthermore, data that may hold a risk of potential identification of an individual due to the existence of unusual characteristics will be removed from the data prior to its release. I find it interesting that ACARA does not release identified student data to researchers, yet we are proposing to enable the School Curriculum and Standards Authority to do it. I would be grateful for the minister's advice regarding whether this was brought up during consultation on the bill and how people who were consulted responded to this.

I want to talk a little about the rights and protections for children and young people. Even as a parent, I would like to know about and have a say in who has access to personal information about me and my children. I think that parents' consent is extremely important. The bill before us does not give parents the opportunity to have a say in what happens to information about their own children or, in fact, themselves. As a parent, information and details to do with my life could potentially be released. Quite appropriately, as a society, we afford particular and special protections to young people under the age of 18 years, including protections around sharing information about them, particularly in the area of youth justice, but also more broadly. The Greens have long held the view that we need to ensure that children under 18 years have privacy protections. We also believe that it is important to enable children and young people to have a say in decision-making on issues that affect them. We should be thinking about not only parental consent regarding the release of information, but also the consent of children and young people themselves. In relation to consultation—there is a reason I mention this—all five universities, the Department of Education, Catholic Education of WA, the Association of Independent Schools of Western Australia, the Department of Health, the Government Chief Information Officer, the Information Commissioner, the Western Australian Council of State School Organisations, the Parents and Friends Federation of Western Australia, ACARA, the Telethon Kids Institute and the State Solicitor's Office were consulted in the development of this bill, but I am interested to know whether the Commissioner for Children and Young People was also consulted. The reason I ask is that I think this is an area about which the commissioner is likely to have an opinion. Both the current and the previous commissioners have often spoken about the need to ensure that children are consulted and are able to give consent around issues pertaining to them. Parents, schools and research bodies are represented in the list of those consulted, but, again, we are increasingly recognising that children often have very different views and ideas from those of adults and that they are important and valuable in their own right. This means that it is quite important to ask children their views on decisions that will impact them, and barring the capacity to undertake direct consultation, the Commissioner for Children and Young People's role includes being able to advocate on behalf of children. I think this is something that needs to be remedied.

In relation to the broader issue of consent in research, the School Curriculum and Standards Authority Amendment Bill 2017 seeks to circumvent the need for people to consent to their data being released in certain circumstances. I appreciate that seeking consent from research participants can be extremely difficult—of course it can—particularly for participants from rural and remote areas. I have heard, for example, about the extraordinary lengths that the Telethon Kids Institute went to to obtain consent from the parents of children who participated in the recent groundbreaking foetal alcohol spectrum disorder study done at Banksia Hill Detention Centre. That research also required informed consent from all the children who participated in the study. I understand that undertaking the process of gaining consent was extremely time-consuming and difficult, yet it was a really crucial part of the research that provided an amazing window into what was happening for these children. I think it has enriched what has turned out to be an incredibly valuable and also quite heartbreaking study about the prevalence of FASD and other neurodevelopmental impairments in young people in our justice system.

At the heart of this legislation is the question of when it is appropriate to infringe on people's right to privacy—an area in which I think Western Australia generally has quite a lot of work to do. We do not have overarching privacy legislation in this state. I think that is a pretty significant weakness in our legislative regime. The gap has been recognised for a long time; in fact, as far back as 1976 the Law Reform Commission was talking about the need to do something about this issue. I note that the development of a privacy bill stalled in the 1980s, apparently because of a perceived need for uniformity between jurisdictions within Australia, but since that time other Australian jurisdictions, apart from WA, have comprehensively managed to address privacy issues at least in the public sector. In most jurisdictions that has been done via legislation, although I note that in South Australia it is by administrative procedure. In the meantime, WA has continued to lag behind, with a collection of privacy provisions in different statutes and our freedom of information laws, which provide a person with access to and

a process for correction of their personal information. WA attempted to enact comprehensive privacy legislation via the Information Privacy Bill 2007, but momentum was again apparently lost before it was achieved. I understand that the government may be looking to remedy this, and certainly the Greens welcome progress in this space.

I raise the broader issue of the importance of data linkage—an issue we raised in the briefing. I understand from the briefing on this bill that it is anticipated that the disclosure of identified information provision will mainly be used for the release of large datasets on which it is just not possible to seek consent from each individual, rather than smaller sets of data that might involve a difficult and time-consuming process but we know we can still do it. Traditionally, access to large government datasets has been through Data Linkage WA, which undertakes quite a rigorous process of connecting bits of data about individuals and then de-identifying them to make sure it is not breaching the privacy of individuals before being released for use by researchers. Data linkage has been used for health and medical research in WA since the 1970s. Since its inception, Data Linkage WA has evolved into an enormous system that now includes over 40 years of data from more than 40 collections across the health, education and welfare sectors; recently, education attendance and suspension data was added.

Last year, a data linkage expert advisory panel established by the Department of the Premier and Cabinet released a review of Western Australia's data linkage capabilities entitled "Developing a whole-of-Government data linkage model". The report noted the long and highly successful history of data linkage in WA. Linking health data has attracted more than $136 million in research and related funding into the state from external sources and helped to support more than 400 studies into some really important issues, including research on improving mental health legislation, reducing criminal recidivism and changing vaccination schedules for children in the Kimberley. The success of linked health data has led to a growing demand for non-health data, including data relating to training and education, justice and corrections, as well as disability services and community. The review noted that broadening data linkage beyond health is seen as an important opportunity if WA is to make the best data-driven policy decisions for the community through a whole-of-government approach.

The review also identified some challenges to data linkage in Western Australia. The system is struggling with demand and that has led to increased costs and longer wait times, and evidence suggests that other states and countries are hesitant to share data with WA due to our lack of privacy legislation. The review recommended that the state government draft privacy legislation and consider the formulation of data-sharing legislation. Given that WA has a very strong and a very proud history in this area, why not use data linkage instead of committing the release of identified student data? I recognise that data linkage can be time consuming and expensive, but it also allows researchers to access more information while providing stronger protections for individuals' privacy. That is a positive outcome that we need to look at.

Last year, the Productivity Commission, in its inquiry into the establishment of a national education evidence base, reported on the importance of establishing linked education datasets. The commission looked into ways to address the challenge of what data to collect and how to use it to support the generation of evidence about what works best in education, and the application of this evidence to inform decision-making. Not surprisingly, at that point the commission found that existing data should be collected and used more effectively. It also found that WA's lack of a legislated privacy regime can hamper the sharing of information, given that several jurisdictions specifically allow the sharing of data with other jurisdictions provided the recipient is subject to the same privacy principles as the originating jurisdiction. This effectively signifies mutual recognition of privacy laws in like jurisdictions.

The commission recommended that the federal, state and territory governments develop a high-quality and relevant Australian evidence base about what works best to improve education outcomes and to support the use of that evidence. I think that the idea of establishing a national database that has rigorous research quality control processes sounds very promising. I hope that the Minister for Education and Training is engaged in new work to progress this sort of proposal.

Rather than seeking to permit the disclosure of data without parental consent, the Productivity Commission noted that advances in technology offer the potential to reduce the time and cost of seeking consent to use data for education research. It recommended that schools incorporate formal consent and notification to individuals about use of their personal information for education research at the point of data collection. The commission also recommended that the federal, state and territory governments introduce policy guidelines that give explicit permission to data custodians to share data to facilitate public interest research, and that the guidelines include time frames, conditions for release and the criteria for decision-making, as well as the reasons for decisions and review procedures. This proposal would create a less ad hoc approach to the release of data than the legislation before us.

As I mentioned, the issue of research ethics was raised in the briefing. Access to information about individuals for the purpose of research raises significant questions around research ethics. These are covered quite comprehensively in the "National Statement on Ethical Conduct in Human Research". The national statement was developed jointly by the National Health and Medical Research Council, the Australian Research Council and the

Australian Vice-Chancellors' Committee to provide clear guidance for those who are conducting research with people. The statement sets —

> … national standards for use by any individual, institution or organisation conducting human research. This includes human research undertaken by governments, industry, private individuals, organisations, or networks of organisations.

This statement recognises that researchers bear significant ethical responsibility towards research participants and trust is placed in researchers to protect participants. It also recognises that research can involve significant risks and it is possible for things to go wrong. Sometimes risks are realised despite the best of intentions and care in planning and practice and sometimes they are realised because there has been a technical error or ethical insensitivity or neglect or even just a blatant disregard. The statement discusses the issue of participant consent. It states —

> 2.2.7 Whether or not participants will be identified, research should be designed so that each participant's voluntary decision to participate will be clearly established.

The statement also notes —

> 2.3.5 An opt-out approach to participant recruitment to research may be appropriate when it is feasible to contact some or all of the participants, but where the project is of such scale and significance that using explicit consent is neither practical nor feasible.

According to these guidelines, the opt-out approach should be used only for research that carries no more than low risk to participants and when the public interest in the research substantially outweighs the public interest in protection and privacy. Requiring that individuals be provided an option to opt-out of having their identifiable data is probably worthy of consideration. I understand that the information about the National Assessment Program — Literacy and Numeracy is usually sent home to parents before children sit the tests. If it is not practicable to seek consent for the release of their personal information at that time, we could at least include the option to opt out for parents and children who have compelling reasons to do so.

Under the national statement, a research ethics review body may grant a waiver of consent if it is satisfied that —

> a) involvement in the research carries no more than low risk … to participants
>
> b) the benefits from the research justify any risks of harm associated with not seeking consent
>
> c) it is impracticable to obtain consent …
>
> d) there is no known or likely reason for thinking that participants would not have consented if they had been asked
>
> e) there is sufficient protection of their privacy
>
> f) there is an adequate plan to protect the confidentiality of data

The statement states that given the importance of maintaining public confidence in the ethics that are employed in our research processes, it is the responsibility of each institution to make publicly accessible summary descriptions of all its research projects for which consent has been waived. For example, this might happen in the form of annual reports. It is important for transparency and accountability. I am really hoping that we will see a similar provision within the regulations.

The statement also refers to research governance and states —

> Each institution needs to be satisfied that:
>
> (a) its human research meets relevant scholarly or scientific standards;
>
> (b) those conducting its human research:
>
> (i) are either adequately experienced and qualified, or supervised;

We would like to see that also reflected in the regulations. Clearly, significant work has gone into the development of the "National Statement on Ethical Conduct in Human Research". It provides a good overarching body of information about ethical considerations with regard to access to data for research. I think it is a very important framework for us to look at when formulating the regulations.

What are the other things the Greens would like to see in the regulations? As I have said, we would like to see many of the elements of the "National Statement on Ethical Conduct in Human Research". We also want to see a robust process that clearly articulates what tests will be used to establish that a disclosure is reasonably necessary. We expect that any research for which the release of identified data is mooted must at a minimum comply with the guidelines set out in the "National Statement on Ethical Conduct in Human Research" and be approved by a registered human research ethics committee. Human research ethics committees play a really central role in the

Australian system of ethical oversight of research that involves people. Ethics committees review research proposals that involve people to ensure that they are ethically acceptable and in accordance with relevant standards and guidelines.

We note that research undertaken by universities already requires approval by the university's ethics committee; however, I again note that this bill does not limit research to any particular individual or research body, so it is going to be very important to ensure we have review mechanisms for non-university research and that we apply the same level of rigour to the ethics surrounding approval of the use of such data.

With regard to the release of data from Aboriginal students, we would like to see special provisions that comply with the National Health and Medical Research Council's guidelines titled, "Values and Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research". We expect robust provisions to ensure that any publication of the research results do not enable identification of individuals. We would like any research for which identified data is released to be subject to ongoing monitoring and scrutiny to ensure that proper protections are in place throughout the use of such data.

Privacy protection provisions need to be subject to regular review. This is going to become particularly important, given technological developments that have implications for access to data and the risk of data being breached, and technological developments in new protections that are becoming available and that will change over time. The regulations should require identification of a data custodian so that responsibility for the data from initial handover to the deletion of all copies at the conclusion of the research is clearly articulated. If individuals—parents or students—are not happy with how their data has been handled, there needs to be a robust and clearly articulated complaints process that is easily accessible, including to children. Information about the complaints process should be provided on the School Curriculum and Standards Authority website. If people are unhappy with SCSA's review of their complaint, they should have the opportunity to take their complaint further—for example, to the Ombudsman or to the State Administrative Tribunal. We know that the proposed research needs to be subject to rigorous scrutiny and that data should not be released for inappropriate use to further political agendas or to promote narrow conceptualisations of outcomes.

As I mentioned earlier, it would be appropriate to require an opt-out approach to consent, when feasible, and to contact some or all of the families of students whose data is going to be used, in situations in which the project is of such a scale or significance that using explicit consent is neither practical nor feasible. As I mentioned earlier, we need a process in place to enable families to opt out when, for valid reasons, they do not want to have their address released and want to have their wishes respected. I appreciate that we are talking about a very small number of people—for example, those who have moved because of issues of family and domestic violence—but they should have the option to have that flagged on their records. We would also like the School Curriculum and Standards Authority annual report to include details on what information was released, to whom and for what purpose so that people can scrutinise how the information has been used. I suggest that a summary of research findings could also be included on the SCSA website at the conclusion of the research. This information should be provided to students and parents if at all feasible.

I note that in many ways, privacy issues have been exacerbated by advances in technology and information is able to be accessed and shared much more quickly and more widely than ever before. That means that government departments have access to a whole range of very personal and sensitive information, and it is even more imperative than it has been in the past that we ensure that government information is protected by significant safeguards. People need to trust that government departments will protect the personal information that they have in their care. People need to feel confident that it will not be abused. The implications of not doing the right thing—in this case, having data breached—could have wideranging implications, including undermining people's confidence in government.

The legislation before us potentially enables SCSA to release to researchers private information about students and their families. As I have already noted, the Greens are ardent supporters of quality research and we recognise that one of the things that hampers research in Australia is ready access to data. We recognise that the public interest benefits of allowing greater access to data are substantial, but we must remember that these benefits need to be balanced with the cost of infringing on people's right to privacy and the potential risks associated with the misuse of that data. As a parent, I regularly receive correspondence seeking consent for a range of things. Requests might come from government departments or researchers or directly from the school itself. In fact, recently I got a request for one of my children to participate in a particular research project being undertaken by the Mental Health Commission. I consented to that, and my son also needed to consent. As parents, we might choose to say yes or no, but, importantly, we are provided with the opportunity to consider each request on its individual merits. This legislation will take that right away from us.

The bill requires thorough scrutiny. It needs to be considered in light of the significant work being done on data linkage, privacy protections and database development. The absence of privacy legislation in WA means that these issues are being dealt with in a piecemeal fashion and in the absence of overarching legislative protections, which is obviously not ideal. Members know that some pretty horrific experimental studies have been conducted in the

past, but significant work has been done in the last decade or two on consent and participation, as well as on research ethics more generally, and we now have stringent requirements for universities and other research bodies. I would like to see the work that we do in this place build on those advancements in protections for research participants, rather than take us backwards. Any release and use of data should be guided by regulations and protocols that are framed in the best interests of children and their families and are aimed at developing a more socially just education system.

On that note, after balancing all these different provisions, the Greens have made the decision to support this legislation, but I have articulated a range of concerns that come with it and specifically the sorts of provisions that the Greens expect to see in the accompanying regulations. We hope that the passage of this bill at this time means that there will be time for the regulations to be compiled in a timely manner with the significant feedback from this place. I hope that the comprehensive regulations will try to strike that necessary balance between the importance of research and the importance of protecting privacy.

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [2.14 pm] — in reply: I thank members for their contributions to the debate. If I can put the School Curriculum and Standards Authority Amendment Bill 2017 in some historical context, it might be helpful to members when they contemplate the kinds of questions that have been asked so far. Nationally, every jurisdiction agreed to proceed with NAPLAN Online back in October 2014. The arrangements and requirement to share this information flowed from that decision. It is useful to note some other things. Hon Alison Xamon listed all the bodies that were consulted with in the drafting of this legislation, and it is important to note that that included the five universities; the Department of Education; the Catholic Education Office; the Association of Independent Schools of Western Australia; the Department of Health; the Government Chief Information Officer; the Information Commissioner; the Western Australian Council of State School Organisations, and for those new members who are new and do not realise it, that organisation represents the voice of parents in public schools across Western Australia; the Parents and Friends Federation of WA Inc, which is the voice of parents in Catholic schools across Western Australia; the Australian Curriculum Assessment and Reporting Authority; the Telethon Kids Institute; and the State Solicitor's Office. I draw particular attention to the two parents bodies because it is worth noting that they are supportive of the legislation before the house today.

In respect of some of the issues raised by Hon Alison Xamon in particular, I take her point that this bill is being progressed in a piecemeal fashion to the extent that it goes to issues around the way in which the ethics of research are managed, the way privacy is dealt with and the way that sharing information is dealt with. She is right to that extent. The broader issues that she raised about how we as a state deal with all those issues are not a debate for today. However, it is something that the government is working on and I encourage her, if she has not done so already, to seek a briefing from the Information Commissioner and the Government Chief Information Officer about how we are progressing those things. The difficulty we have and the reason we need to do this in a piecemeal fashion is that we are on a time line—not one created by this government, but, in fact, created by the previous government and governments across Australia in 2014 when they set the time line for when NAPLAN Online would roll out. We needed to take action to address an inadequacy in the existing legislation.

This legislation was last amended in amendments to the Curriculum Council Act in 2012, which saw the creation of the School Curriculum and Standards Authority and the board. I am advised that at that point there was an oversight, so the provisions around releasing identified student data for the purposes of testing and research were limited. We are fixing an error that was made back in 2012. We are on a time line that was set back in 2014. Although I understand the seriousness of the issues raised by Hon Alison Xamon, it is for those reasons that we are not able to address those issues in the legislation before us today.

In respect of some of the other questions asked about the detail of the legislation, I have some information that I will canvass now, and then I am happy to answer specific questions when we get into committee. The only data that could be released will be defined in the regulations, and it includes the Western Australian student number; the child's name, gender, address and date of birth; their Aboriginal and Torres Strait Islander status; the language of the student spoken at home; their parents' main language spoken at home if it is other than English; the educational program in or for which the child was enrolled or receiving home education; the option or combination of options under section 11B of the School Education Act, which is around university courses or workforce; educational programs other than what the student was most recently enrolled in; and education achievement. On the criteria to disclose data for research, a judgement has to be made that the disclosure is reasonably necessary; the purpose for the disclosure can only be achieved with the personal information that is held by the authority—that is, only from the list I have already read out; it is impracticable to obtain consent from individuals about whom the information relates; and disclosure is in accordance with procedures to be stipulated in regulations, which will be drafted to support the bill. Work has begun on drafting those regulations.

Another question was: when is data reasonably necessary to be released in an identified form? Applicants will have to demonstrate that their research is justifiable by its potential benefit and contribution to knowledge and understanding of education achievement and/or the wellbeing of children and young people, and applicants will

also have to demonstrate why it is impractical to seek individual permission from parents and caregivers. The processes for disclosing the data for research will be detailed in the regulations. I thank Hon Donna Faragher for raising that issue with me personally. I am pleased that we were able to shift it from what was going to be an internal policy to a disallowable instrument. The processes will resemble those that have already been developed by the Department of Health's data linkage unit. The process will include a data governance component, which will ensure compliance with relevant law; data protection and management; intellectual property and financial considerations; compliance with the authority's contractual conditions; and an ethics component, which will articulate the benefits of the research and the need for identified data without consent. The applicants will need to identify any risks to participants; complete a communication plan, which will include how the research will refer to individual data and researcher expertise; and complete a disposal plan, which will articulate how the researcher will dispose of the data once research is completed. This will have to align with the requirements of the authority, which will be articulated in the processes and procedures that will sit below those regulations. With respect to penalties, a statutory penalty of $10 000 does not limit civil remedy, which essentially means that the authority will be able to seek additional penalties, obviously on advice from the State Solicitor's Office, if a judgement is made that a breach goes beyond the provisions set out in the statutory penalty.

On the issue of communication to parents, it is proposed that identified data will be released, which assumes that it will be done without the permission of parents. However, it is important that the regulations articulate how the authority will report publicly. I appreciate that the question was raised about including such information in the authority's annual report. I am advised that the department is seeking advice on how it might do that. We are not yet sure how that will be done, but the department is working on that now. For those parents who might want to ensure that their contact details are not revealed, when the authority has been notified by a school that orders to access data relating to a particular child exist, the authority will not release data for the purposes of research without the permission of the authorised caregiver.

A question was asked about what kind of research will be undertaken, what information will be released and what we are envisaging. This is not driven by the School Curriculum and Standards Authority, but by whoever wants to do the research. To a certain extent, this is a hypothetical proposition. However, it is envisaged that such research would seek to understand and improve outcomes in educational achievement and related areas, such as health and the criminal justice system. I am sure that everybody in this house, particularly the two speakers, understands that there are intersections between those things. An example of this research, based on requests received by the authority in the past, involves linking education enrolment and achievement data with health records for particular groups of students to understand public health or social outcomes and trends. It may also inform the performance of the authority's statutory functions, policymaking and identification of actions to address public health and social issues. We do not have a sense of specific examples of what research might be the basis of a request. The information I have just given is based on requests that were made to the authority historically.

With those comments, I am happy to commend the bill to the house. I indicate that we will go into committee for further clarification of a number of issues.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Sue Ellery (Minister for Education and Training) in charge of the bill.

Clause 1: Short title —

Hon ALISON XAMON: I want to ask a couple of questions. When the regulations are compiled, is specific provision likely to be given to safeguards around access to student records, particularly in cases in which there is family and domestic violence? Is that likely to be a consideration?

Hon SUE ELLERY: Yes.

Hon DONNA FARAGHER: I seek the minister's guidance. I want to ask a number of questions about the regulations when we get to clause 8. I am happy to hold off until we reach clause 8 before asking my questions. I appreciate that a question has just been asked. It would be useful to get an idea as to whether I should ask them now or when we get to clause 8.

Hon SUE ELLERY: I am pretty relaxed. I think it makes logical sense to ask those questions in clause 8, which is where the regulations sit. The chamber may want to do something different. Clause 1 is about general matters, not the specifics.

Hon DONNA FARAGHER: I will ask a question that I was going to ask when we reach clause 8 that picks up on the points the minister raised about the annual report in her second reading response. I appreciate that the minister indicated that the School Curriculum and Standards Authority is seeking further advice about this, but if

information is included in the agency's annual report, that would increase the level of transparency in the process. If it is found for whatever reason that the advice provided to SCSA is that it is not possible, will the minister give an undertaking that a database will be set up in SCSA that will effectively provide the same information so that if someone—Parliament, a member of Parliament or anyone else—seeks that information, they will be able to gain it even though it is not able to be provided through an annual report process?

Hon SUE ELLERY: I cannot imagine why it could not be provided in the annual report, and I am supportive of it being provided in the annual report. I have to cover our bases; we need to get legal advice about that. The only thing that I think might be an issue is that obviously it would involve entering into a contractual arrangement, but it would not be the standard contractual arrangement. I cannot see any reason that we would not publish that material in the annual report, and that is my preferred policy position, which I will discuss with the executive director. I am happy to give the member the commitment that that is my preferred position. I cannot imagine why we could not do that, but given that we have not explored all the detail about how we would do it, I would be loath to say that we will do it without first getting advice from whomever I need to get it. However, I will give a commitment that we will be as transparent as we possibly can about making sure that the people of Western Australia, through their parliamentary representatives, will be able to access information about the nature of research projects that are being undertaken using that data, hopefully in a timely fashion.

Hon DONNA FARAGHER: I appreciate the two undertakings that the minister has provided. Similar to the minister, I would argue that I do not see any particular reason that the information cannot be put into an annual report. Whether it is in the annual report or not, I expect that in any event the School Curriculum and Standards Authority would establish a database that would outline the relevant details of the applicant, the research project and all the necessary information that might have been provided, or otherwise. Can the minister give me clarity on whether SCSA intends to establish such a database?

Hon SUE ELLERY: Indeed, I am happy to give a commitment that, in one way or another, we will deliver that.

Hon ALISON XAMON: I want to confirm whether the Commissioner for Children and Young People was consulted on this legislation.

Hon SUE ELLERY: No, he was not.

Clause put and passed.

Clauses 2 to 6 put and passed.

Clause 7: Section 32 amended —

Hon DONNA FARAGHER: My question relates to penalties. Clause 7 states, in part —

> Penalty for this subsection: $10 000 and imprisonment for 12 months.

I note what the minister indicated in her reply and I understand that this was raised during debate in the other place. Can I get some clarity about the suggestion that the penalty will not be limited to $10 000? The way that it has been written in the bill, it seems that the penalty will be a fine of $10 000 and imprisonment for 12 months. I think the minister indicated that civil penalties might arise if higher penalties are sought. Could the minister provide a little more detail on that aspect?

Hon SUE ELLERY: I am advised that the bill before us sets out the statutory penalty. On top of that, parliamentary counsel advises that, for whatever purpose, such as the breach was very serious—I cannot imagine the circumstances—the authority will not be limited in taking civil action to pursue an alternative penalty. Clause 7 sets out the statutory penalty, but I am advised that it will not prohibit the authority from taking civil action if it is deemed necessary.

Clause put and passed.

Clause 8: Section 32A and 32B inserted —

Hon DONNA FARAGHER: I have a few questions about proposed section 32B(6), which relates to the regulations that may prescribe procedures. I appreciate that the minister, in her reply to the second reading debate, outlined a range of identifiable information that could be provided. She said "including" and then referenced a whole heap of fields of data, if I can put it that way. I am just trying to get some clarity that the regulations, as the minister understands they are developed, will detail all the fields of data that can be disclosed. I ask that question because section 19E of the current act refers to how a student record is opened. It states —

> A student record is opened by the giving of the following information to the Authority, in accordance with section 19H, in respect of a student —
>
> (a) the student's —
>
> (i) name, including any previous name; and
>
> (ii) address; and
>
> (iii) date of birth;

and

(b) particulars of —

(i) any educational programme in which the student is enrolled or that is being provided to the student; or

(ii) any option under section 11B of the School Education Act for which participation arrangements have been made in respect of the student,

at the time when the record is opened, or in the case of an exempt child, particulars of the exemption; and

(c) any other prescribed information.

I sought some advice yesterday about whether any regulations that relate to this act detail the other prescribed information. I would expect that that provides a greater level of detail of what information can be provided. I will say—it was only very quickly asked yesterday—that we could not locate any prescribed information. I want to be clear on whether the information that can be disclosed effectively relates to the student record that is referred to in the act; and, if so, what is the other prescribed information? Is that the information that the minister provided in her reply; and, if so, is there other information?

Hon SUE ELLERY: The answer is yes. The list that I read out, which I will read again so that anyone reading *Hansard* can follow the debate, is the only data that could be released, and will be defined by the regulation. It will be limited to that list—I will read it out in a minute—and it is our intention that that list will be spelt out in the regulations. The list, for the purposes of those people who are reading this debate in 2075, is: the child's WA student number, name, gender, address and date of birth; whether they are Australian Aboriginal and Torres Strait Islander; the language of the student spoken at home; their parents' main language, other than English spoken, at home; the educational program in or for which the child is or was enrolled in, or receiving home education; the option or combination of options under section 11B of the School Education Act 1999, vocational education and training university courses or workforce; educational programs other than what the student was most recently involved in; and education achievement.

Hon DONNA FARAGHER: I thank the minister for providing that list. I ask the minister whether the School Curriculum and Standards Authority holds any other student data that is not included in that list.

Hon SUE ELLERY: The technical answer is yes; heaps. It goes to a range of things, but it includes more information about the parents' educational background and level of disability. I was flippant when I said that the technical answer is yes; heaps. There is no intention to include a reference or in any way incorporate that other information into what could be released for the purposes of this bill.

Hon DONNA FARAGHER: The reason I asked that question is to confirm that the list the minister has provided will not have a rider at the end of it that would enable the board to say, "A researcher would like X information, and because there is a clear and admirable need to disclose that information, we can get around what is on the list." The minister has said that what is detailed in the list she has provided is the only information that will be able to be provided. Will there be any extenuating circumstances under which a researcher could request additional information that SCSA might hold?

Hon SUE ELLERY: The answer is no. The list is limited to what I have just read out.

Hon DONNA FARAGHER: Thank you. I raised this question during the second reading debate, and I think I know the answer, but I ask it again for the purposes of *Hansard*. Will the regulations stipulate that the disclosed information can be used only for the specific purpose for which it was originally requested? It is understood that researchers will often have multiple projects underway, some of which might be related. I would expect that an individual request would need to be made for each individual project, and that the researcher or research body would not be able to use the information more generally across a range of projects. Could I get some clarification of that?

Hon SUE ELLERY: I am advised that the answer is yes. Researchers will be required to enter into a contractual arrangement that specifies that they are to use the released data for only the purpose for which they originally applied for that data. I presume that if they wanted to use that data for a project other than the project for which they were originally granted permission to use that data, they would need to make another application.

Hon ALISON XAMON: The minister indicated in her reply that there would be reference to specific guidelines around ethics. Is the minister likely to draw on the "National Statement on Ethical Conduct in Human Research", which is well established and understood, in order to provide consistency towards the approach to ethics?

Hon SUE ELLERY: Yes, we are.

Hon ALISON XAMON: Great; I am pleased to hear that. Further to that, as I raised during the second reading debate, will there also be specific provisions that reflect the "Values and Ethics—Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research"?

Hon SUE ELLERY: I am not in a position to give the member an answer to that question now. If that is incorporated in the national guidelines to which the member just referred, the answer is yes. I give the member an undertaking that we will look at that, and I will give the member an answer outside of this debate.

Hon DONNA FARAGHER: While we are on that, I was told in the briefing that was provided to me that an ethics committee would be established to consider applications and provide advice to the board. Can I confirm that such a committee will be established; and, if so, who will sit on that committee?

Hon SUE ELLERY: The committee will comprise individuals with relevant skills and expertise for a research application. It may include—so it will depend, I think—a parent association representative; a university-based ethics professional; an authority executive management member; relevant school systems and sector representatives; an authority board member and a member of the governance unit who is not one of the above; and any other members as the board might deem suitable.

Hon DONNA FARAGHER: I have a couple more questions. Again, the minister indicated this in her second reading response, but I want to be absolutely clear: will the regulations stipulate that, where the authority has been notified by a school that any orders exist in relation to access to a child or their data, the authority must not release that data? If yes, can the minister detail for me how that will be adhered to? I presume that would mean that, individually, SCSA may have to remove that data prior to its release, but it would be helpful to understand how the process would occur to ensure that that data is not provided to a research body.

Hon SUE ELLERY: Where the authority has been notified by a school that any orders exist in relation to access to a child or their data, the authority will not release data for the purpose of research without the permission of the authorised caregiver, and the authority itself will contact the caregiver to ascertain that directly. If permission is not given, the data will be removed before it is released to the researcher.

Hon ALISON XAMON: Will the regulations require the identification of a specific data custodian, so that responsibility for the data from the initial handover until the conclusion of the research is clearly articulated?

Hon SUE ELLERY: The best of the advice available to me is that the answer to that question is no. I think when the member was making her second reading contribution, she was referring to a broad set of best practice principles that might apply. That is why I made the reference in my second reading reply to some of the issues the member raised in her contribution. I acknowledge that we are dealing with this in a piecemeal way; in the absence of an overarching set of agreed principles by government, given the time lines not of our making, we will have to proceed with this in a piecemeal fashion. That is why I made the point to the member that I think it would be useful, if she has not done so already, to take advantage of a briefing from the Information Commissioner about the broad set of principles that the government as a whole should adopt.

Hon ALISON XAMON: In relation to these provisions, we are talking about being able to hand over data to a number of potential entities. I am talking about ensuring that, when that data is handed over, it is quite clear that someone is identified as being, if you like, the buck-stops-here person, in being able to maintain the integrity of that data, particularly any privacy provisions. This pertains to the regulations associated with the release of this particular data to the entities, as yet unknown, who will be the recipients of that data. It strikes me that it is quite essential there be a specific provision making it clear that someone is to be held responsible for making sure that that data is handled responsibly, from inception to the conclusion of the research.

Hon SUE ELLERY: I have been advised that we can do that. Bear in mind that the regulations have not yet been drafted.

Hon Alison Xamon interjected.

Hon SUE ELLERY: Yes, and I am trying to give the member an answer.

I am being advised that we can build that into the regulations. We know now that a contractual arrangement will be entered into, but I cannot say that one person will be identified as the holder of the information—where the buck stops—because the work has not been completed yet on what those contracts will look like, or what the regulations will look like. The authority has started work on what the regulations might look like, but it has not provided that to parliamentary counsel—with due respect to the advisers from the authority, of course—so there has not been that overriding legal look at what the contractual arrangement or the regulation should look like. However, I am happy to give the member a commitment to ensure that that issue is addressed in the drafting, and I will make sure that the authority seeks specific advice from parliamentary counsel, or the State Solicitor if that is required, about how that could be incorporated.

Hon DONNA FARAGHER: Can I also just confirm that no system or school sector would be identifiable in any information disclosed? I am talking about whether a school is independent or Catholic.

Hon SUE ELLERY: We are not identifying the sector that that child is enrolled in.

Hon DONNA FARAGHER: I thank the minister. That was a question that had been put to me previously and I just wanted to make sure that that was clear.

Under the regulations, will there be an ability for the board to be required to advise the minister of the proposed release of data prior to its release; and, if so, would there be an ability for the minister to withdraw the board's approval if she or he felt that the information could be requested directly from the school from which it was being sought? I recall from one of the briefings that a request had previously been put to the School Curriculum and Standards Authority for the release of certain information but that it had been rejected. Given the cohort that was being looked at, SCSA took the view that if a researcher was seeking individual information, it was reasonable to seek consent. I am looking at the failsafe option if the minister felt that she may take a different view to the board based on information presented to her; and, if so, whether that could be included in the regulations.

Hon SUE ELLERY: It is certainly not proposed in the bill before us that there be any kind of ministerial veto. Frankly, I would not want it. I cannot imagine the board wanting to give it to me either, but I would not particularly want it. The criteria are what I referred to in my second reading speech and they are determined by the board. I expect that the board might inform me in regular meetings that it has released data for project X, but the bill does not include or envisage any form of ministerial veto.

Hon DONNA FARAGHER: From my perspective as the shadow minister I would expect that SCSA would at the very least inform the minister when information is provided, given that it relates to students. If I have the undertaking from the minister that SCSA will ensure that she and future ministers are provided with that information, I would be pleased to have that confirmation.

Hon SUE ELLERY: I will be requesting it from the board. The board is pretty good, so I would imagine that it will provide it to me, or any minister frankly, as a matter of course, bearing in mind that we are talking about a board. I have the power to issue a directive, but I am not going to. I am assured by the executive director that it would be common practice for the board to inform the minister of the day what research projects have been facilitated through these arrangements.

Hon DONNA FARAGHER: My other question relates to the disposal of data. I might have missed it, but I think the minister mentioned that there would be a requirement in the regulations detailing the disposal of data—what is the disposal plan? Perhaps the minister could provide some further advice about that.

Hon SUE ELLERY: Similar to the Department of Health's arrangements, the process will include a disposal plan. When a decision is being made about whether to concede to the request, they will need to set out their proposed disposal plan and they will be held to account against that plan.

Hon DONNA FARAGHER: This is my final question, unless Hon Alison Xamon raises something that means I will have to jump up again, and it is about the regulations. I appreciate that the minister has provided us with a great level of detail about what she expects to be in the regulations. That has been enormously helpful. Once the regulations have been drafted, will SCSA consult with the Association of Independent Schools of Western Australia, Catholic Education of WA, parent bodies and others—effectively, those that the minister has identified have been consulted on the bill—to ensure that they are comfortable with the regulations?

Hon SUE ELLERY: Yes, it will. A commitment has already been given to those organisations that they will be consulted about the regulations.

Hon ALISON XAMON: I have a few more questions. Firstly, is it likely that the regulations will contain any complaints process for individuals who are unhappy with the way their data has been used?

Hon SUE ELLERY: We would need to get legal advice about that. It may be that that sits within the procedures that sit underneath. Generally speaking, certainly in the education portfolio, the complaints and dispute resolution mechanisms do not sit in disallowable instruments; they sit in the policies underneath—policies that are well ventilated—that is, those that are on respective websites et cetera. I would need to get advice about that, but I suspect that the answer is that it will be in the policy documents and not in the regulations.

Hon ALISON XAMON: Will the regulations contain any regular review process to see how the privacy provisions are being held up?

Hon SUE ELLERY: It is not normal practice, I am advised, to put that in the regs. There are certainly provisions in the act—that is, statutory reviews of the act. When those statutory reviews are done for this act and others, the regulations are looked at when that review is done.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Minister for Education and Training)**, and passed.

WESTERN AUSTRALIAN JOBS BILL 2017

Committee

Resumed from 5 December. The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Postponed clause 15: Exemption from s. 12(1) —

The clause was postponed on 5 December after it had been partly considered.

Hon PETER COLLIER: Before we start, I know we are recommitting clause 15, but yesterday the minister gave an undertaking to provide a list of organisations that were not captured under clause 3. I wonder whether the minister has that list and can table it first.

Hon ALANNAH MacTIERNAN: Yes, I undertook to get a list of all agencies that are included in this bill under the Financial Management Act because the member will recall that part of the issue was about which government trading entities and non-trading entities might be included by virtue of that act. We have a comprehensive list of those entities, including those that are included in the bill as government trading entities, and a short list of bodies that are not captured by the bill. That includes entities such as the Conservation and Parks Commission, the Independent Market Operator, the Salaries and Allowances Tribunal, the Teacher Registration Board of Western Australia and the Veterinary Surgeons Board of Western Australia. I seek leave to table this four-page document that gives further information on what agencies are included.

Leave granted. [See paper 981.]

Hon MICHAEL MISCHIN: Regarding that list, one of my questions was whether any government trading enterprises were not captured under the bill's definitions. I trust that there is a list or some advice on whether any government trading enterprises, within the statutory meaning of the term, are not embraced under the legislation.

Hon ALANNAH MacTIERNAN: The document that I have just tabled includes all the agencies, trading or otherwise, that we believe are not captured by the bill. That includes the list of entities that I just outlined. To our knowledge, they are the only authorities and bodies that are not captured by the bill.

Hon COLIN HOLT: Yesterday, we left clause 15 with the minister going to seek some assurances from the Premier, who has carriage of the bill, about including some of the requirements about exemptions in the annual reporting system. I wonder what the minister can report to the house.

Hon ALANNAH MacTIERNAN: I thank the member for raising this issue. I am pleased to say that this morning I received this letter from the Premier. It reads —

> In refer to the query raised in the Legislative Council on 5 December 2017 regarding clause 15 of the Western Australian Jobs Bill 2017. I acknowledge the concerns raised by the Hon. Colin Holt MLC in regards to the proposed manner in which exemptions are to be published.
>
> I commit to including all exemptions provided by the Minister under clause 15 in the report to Parliament which is required under clause 19 of the Bill.
>
> I would be pleased for you to table this letter.

The DEPUTY CHAIR (Hon Martin Aldridge): Minister, are you intending to table that letter?

Hon ALANNAH MacTIERNAN: Yes. I seek leave. Do I need leave?

The DEPUTY CHAIR: No. That document is tabled.

[See paper 982.]

Hon COLIN HOLT: I thank the minister and the Premier for that commitment. I do not have a copy of the letter just yet, but it refers to the minister's exemptions. I wonder whether that extends to the delegation in clause 16 who can also allow exemptions. Will that also be reported annually?

Hon ALANNAH MacTIERNAN: Yes. All the exemptions made under delegation are nevertheless still the minister's exemptions. Although it might be delegated, nevertheless the buck stops with the minister and so it will include all the exemptions made under that provision.

Hon COLIN HOLT: I appreciate that and I think it is important to get that clarification so that everyone knows what the expectation is. Given that, I have a proposed amendment on the supplementary notice paper that I withdraw. I did not move it in the first place so I probably do not need to, but I appreciate the work and response from the minister.

Postponed clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**, and passed.

SALARIES AND ALLOWANCES AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Second Reading

Resumed from 5 December.

HON SIMON O'BRIEN (South Metropolitan) [3.10 pm]: I rise to speak on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. It is heartbreaking sometimes when one has to pursue the thankless and hopeless task of trying to save members of Parliament from themselves, from Premiers and from governments and cabinets that do not have the guts to stand up to Premiers and say no. Once again, I find myself in the position of putting some remarks on the record so that I will at least be equipped to say, "I told you so." I get no pleasure from it. I cannot believe that we are contemplating this bill. The forces that have come into play to cause it to be so are beyond me. In contemplation of the failed motion to refer this bill to a standing committee, we heard that all sorts of things are wrong with the bill—indeed, they are. When, inevitably, members in this place buckle in sufficient numbers and the bill is second read, we will go through those problems with the bill in detail in the course of the Committee of the Whole stage.

We are going there anyway. Not least because the government, on the run, has proposed an amendment already. The amendment was promised in the other place before the bill had been dealt with and it has since appeared on our notice paper. Again, I disagree with the proposed government amendment. The people who drafted the bill for the government's stupid, ill-considered, pointless policy got it right. God knows what the government's instructions were, but the bureaucrats and the drafters of the bill got it right. Then, on the run, the Premier, flustered and not knowing what to do, said, "Heck, there must be a mistake in this. Don't worry; we'll fix it up with an amendment in the upper house." That is how we came to have a supplementary notice paper for this bill. Guess what? That amendment should not be supported, but we will come to that in due course. It is symptomatic of the hopeless approach to legislation taken by this government and the shallowness of the politicians who want to drag themselves down. What is wrong with politicians—the world over and certainly in this state—that they want to drag themselves down all the time and believe someone else's bulldust about how they are overpaid and not worth it? They go with the idea that politicians cannot possibly have a pay increase, because it seems to be the popular thing to do and they are worried that some media type might criticise them—ooh-ah! Members should have some guts and stand up for themselves!

I should not think any of this will find great favour with members across the house, so I will not go on in this vein at great length, not because I do not need to or I should not, but because it is pointless. Putting aside the fact that the policy is not being implemented properly and it is all over the place—we will come to that when we look at it at in detail no less—it reminds me of some things that I heard a very long time ago and some things I heard very, very recently. Just yesterday, we were starting to hear a lot of stuff—I do not know what the heck it had to do with this bill—about old superannuation schemes and whether people who are in the old superannuation scheme should be in the old superannuation scheme if they come back into Parliament.

Hon Alannah MacTiernan: I wonder whether it includes Hendy Cowan.

Hon SIMON O'BRIEN: He is not in Parliament. But what if he did —

Hon Alannah MacTiernan: What about what's-his-name? The former member for Dawesville—what happened with him? Kim Hames.

Hon SIMON O'BRIEN: Hon Kim Hames is a good example. He has now left Parliament for the second time. He would have been a member of the old scheme when he was first in Parliament, at the time of the Court government. He lost his seat, but he then stood again at a subsequent election and was re-elected and rose to even higher office in his second time around. He would have been required to be in the superannuation scheme on both occasions. It would have been suspended—it is not for us to speculate. But the point is that he would have been entitled, if pensioned, to have re-entered. He probably did not have a choice in the matter if that was the case, when he came back into the Parliament. But those rules applied when he was around and to other people who are in the old pension scheme. From constant repetition and questions from people, I understand that there are now five members in the old scheme. It is good to see the group growing. It shrank from about 10 to four last Parliament and now I understand that there are five—all of which has precious little to do with this bill, but it showed what a lot of carping and whingeing and small-mindedness we get from people when we mention members' entitlements. Is it not terrible that a scheme of which a lot of current members would like to be a part was closed off back in 2001, yet now this Parliament is about to put through the bill before us, which further attacks those current members' entitlements? Members are going to go along with it despite the faultiness of the rationale behind it. I will come to that in a moment.

I will tell members something: what makes members think that they are entitled to come grizzling to me in the future about any other superannuation or entitlement matter? Members want to attack people in the old superannuation scheme, but they will not stand up for themselves now. They are as weak as water. Members need to be called out as such, particularly you lot in the Labor Party. I do not know what they do in their caucus meetings.

Members need to stand up to the bloody Premier—excuse my French; stand up to the jolly Premier—who is trying to attack members and tell him to pull his head in, but members would not have the guts to do it, would they? A very wise man—he must be wise; he was my predecessor in South Metropolitan Region—by the name of Hon Clive Griffiths, AO, served with distinction and set some important precedents in South Metropolitan Region. He was certainly father of the house. At the time he told me the story I am about to repeat to members he was Chairman of Committees. He later went on to serve 20 years as President and, in total, served 32 years in this house. He then went on to be Agent General for Western Australia in London. As I say, he set some important precedents as a member for South Metropolitan Region.

For those who do not know him, he has a very dry, acidic, sarcastic, ironic sense of humour. When a subject like this came up, he repeated to me a story in these terms. He said, "You know, Simon, whenever you have a Premier"—I forget whom he was talking about; it might have been a Barnett, a Court, a Gallop or a Carpenter; I do not know who it was at the time, because I have seen a few of them—"who thinks it's the smart thing to do to interfere with the Salaries and Allowances Tribunal and say, 'Don't give members a pay rise', because he thinks it might give some sort of short-term popularity, make sure you kick him to the kerb." I said, "Well, that sounds like very sensible advice." He said, "No, be very careful about how you deal with them. Do you know, I still have people come up to me in the street"—this is Hon Clive Griffiths speaking—"and say, 'Mr Griffiths, you don't know us, but we're former constituents of yours, and we just wanted to say how much we appreciate the fact that you didn't get a pay rise in 1970", or whenever it was that he did not get a pay rise.

Obviously, he was dripping with irony when he said that because, of course, nobody comes up and says any such thing; nobody knows about it, and nobody cares. Yet Premiers get awfully uptight about it, and they send their people down to interfere with what goes on at the Salaries and Allowances Tribunal. They get messages down there from those overpaid fat cats that I did not think this Labor government liked—so it will probably produce a few of its own—and they are sent down to say, "Look, forget about your rules of independence. It's government policy that you don't give anyone a pay rise." That is what happens. I would have liked to have verified that, if we could have referred this bill for a standing committee inquiry, but this house, in its wisdom, decided to not do that. That is one of the things that are a pity—that we could not examine what is actually going on here. Maybe the house collectively does not want to know that truth.

Anyway, Clive made a very good point. He could remember back when pay rises for members of Parliament were awarded by the Parliament. What would happen, I should think, is that the government would obtain advice about what the appropriate level might be, with reference to the consumer price index or whatever other mechanisms they used in those dim, dark days. It was a scandal of the time—this was pre-Salaries and Allowances Tribunal—that it was almost the last item of business on the last sitting day of the year, at the eleventh hour, that this matter would be brought to the Parliament. Every year, it would be the same ritual. Every year it would go through very quickly, without any dissent, and every year the media would get out there and say, "Oh, isn't this disgraceful?" So the Salaries and Allowances Tribunal was invented to try to take that political nonsense out of the process so that it would not be an option for occasionally weak-kneed political groups to do this or not to do this. It was to put responsibility into independent hands. It was not to make recommendations to be put through the house at a minute to midnight on the last sitting day of the year; it was to make an independent determination so that political leaders could at least get out there and say, "Well, it's an independent process." Government members want to throw that all away. It is not just for themselves; it is for those who will follow them and for everybody else, in addition to members of Parliament, who will be caught by this bill. Ironically, a whole lot of people who have not been the subject of wage restraint and probably need to be will not be caught by this bill. But let us not let that get in the way of a good story!

The determination by this government and others is that it is a good idea to now interfere in an independent tribunal by giving it, in black letter law, a direction that it cannot get away from, and that is that this is the pay determination it shall have for all the classes of people covered by this bill: members of Parliament, the Governor, judges and a whole range of others. What a perversion of process that is, and the government is legislating for it! Another thing Hon Clive Griffiths used to say—he had some well-known sayings—about members of Parliament was that there are two capital offences in politics: one is saying something that is not true and the other is being stupid. In respect of the member in another place last week, he probably would have said that he should be hanged twice! The people who not only have proposed this bill, but also support it ought to consider how clever they are being by doing so. It is going to muck up systems that have been put in place to fix problems, and they are going to create them—and for what reason? Is a pay freeze, as people are wont to call it—of course, there is a little more to it than that—for members, judges and others warranted? In the case of members, the latest determination came down last Thursday, so that is that done for another 12 months. And guess what? There was no pay increase. What was the tribunal's response for members a year ago? It was zero—a pay freeze. What about the year before that? Does anyone remember? I seem to recall that it was zero as well, if my memory serves me correctly. Members are already three years into their pay freeze without this dopey legislation. That means the system is working, presumably, yet they want to interfere with it in this way. What unforeseen circumstances are likely to result? The thing about unforeseen circumstances is that they are just that—unforeseen. I predict there will be plenty, because

this policy has not been thought through. That has already been demonstrated in this house and in the public domain. Why on earth are we proceeding with it? It is pointless. The government wants to amend it because it thinks it has mucked it up. It will assert that it has mucked it up and it needs to be amended and then where do those amendments need to go? They need to go to another house that will not sit until February next year. The bill cannot proceed, and the rush for it was dealt with last week when this government could not manage to get its act together enough to get the bill through all stages.

The tribunal came down on this determination which, embarrassingly for the government, said "Zero increase", thereby obviously demonstrating that this is pointless, but it might be problematic. There is nothing in the Constitution of Western Australia that says that any law passed by this place has to make sense. Seriously, there is not; no such rule applies. It is a convention that we try to make it make sense, but there is no rule. This government has no safety net on this Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. If it wants to go through with this exercise in stupidity, it can. I certainly will not be voting for it. I do not know where my party landed on all of this. I think it decided that it had better go along with it a month or two ago. If I have any criticism that I have been letting out, it is directed to everyone who holds the weak-kneed view that we had better go along with it. Why? Because if we do not, we could be criticised. Gee, that is a good reason, is it not? I do not care if I am the only person standing on this side of the house when the vote is taken. At least I will be right. I have listened to a lot of members going on about how this bill needed to be referred to a committee because it is such a faulty bill, but if they want to vote yes to it, they should go ahead and do that, and then we will get on with the committee stage and have a closer look at it.

But let us go back to Hon Clive Griffiths and his old story about people coming up to him in the street and saying, "Thanks for not having a pay rise" back in 1970 or whenever it was when Charlie Court knocked it on the head. Of course, they do not do that. Does anyone here think that anyone has ever benefited from this sort of policy in the past? Probably the only person in the house that has is me, because the former Premier, the last one, and I know what regard you lot hold him in—almost as high as we do—managed to say, even when things were allegedly very good, "No pay rise." I think it happened during the late-2010 recommendation. A bit later on in the course of the following year when I was Minister for Commerce and also with responsibility for industrial relations, I had to get out at one media doorstop. The subject was why some public sector group or other was getting only the pay rise that we were offering and not what they were demanding. I remember that when Gareth or Dillon or whoever it was said, "Righto, Mr O'Brien, how much was the pay rise for members of Parliament last year?", I was able to look him in the eye and say, "Well, actually, it was nothing—zero." That got us away from an awkward line of questioning and they had to take another tack—there you have it! As far as I am aware, that is the only benefit any member of Parliament has ever got. I have derived that benefit that I did not need then and I do not need now. This debate must come down to not whether judges need to get a CPI pay rise or members of Parliament should get a CPI pay rise, but whether governments choose to interfere in the processes for which independent tribunals have been set up. This bill fails on every single count that I have mentioned, and then some. Looking at the supplementary notice paper courtesy of the government in the first instance, it actually wants to make it worse. I will describe that when we get to the relevant clause in the committee stage, unless I have convinced everyone otherwise. Hon Michael Mischin has some reasonable ideas to try to limit the damage, but we cannot make a silk purse out of this sow's ear. To remove any sense of doubt, I am not in favour of the second reading of this bill—I hope I was not in any way ambiguous about that! I hope all members have got the message loud and clear, because when the unforeseen consequences come through, I, at least—I do not know whether there will be anybody else—will be able to say that this was a dumb thing to do and I told members not to do it.

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.35 pm] — in reply: I thank members for their contributions to the second reading debate on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. I will take a bit of time, because a number of members raised a number of issues, and I want to deal with them. The first point I want to make is that the bill should not be viewed in isolation. It serves two purposes. Firstly, it is an integral part of the government's comprehensive attempt to achieve wages restraint across the whole public sector for the next four years to assist the government in budget repair and debt and deficit remediation. Some members have expressed the view in the course of the debate that saving $16 million alone is an insignificant amount. However, in the eyes of the community, which we serve, this is likely to be seen as a significant amount of money and, in any event, it is. Secondly, the bill sends an important signal to the community, the credit rating agencies and members of the public sector, who are also subject to wages constraint, that such constraint will also be imposed on the most senior members of government and the Parliament. To that extent, while the most recent decision of the tribunal is consistent with the intent of this bill, this bill remains a priority bill for the government because it sets the parameters beyond the immediate period in which the most recent tribunal decision will apply, and it sends the message to the credit rating agencies and others that we are serious about budget repair and we are taking every step possible to make savings wherever we can.

Members raised questions about the forecast savings and the figure of $16 million. The decision to implement a wage freeze for positions determined by the Salaries and Allowances Tribunal for four years was originally estimated to save the general government sector around $20 million. The initial estimate was calculated at a global

level and involved positions covered by the determinations for members of Parliament, the judiciary, special division and prescribed office holders, the Western Australian Industrial Relations Commission and the State Administrative Tribunal. The estimated savings reflect the difference between officers in these positions receiving a 1.5 per cent wage increase and no wage rise. I note that it did not include comparable positions in government trading enterprises, as their remuneration is yet to be determined by SAT. As part of the 2017–18 budget, the savings calculation methodology was applied to individual agencies using budget forecasts, resulting in a $16 million savings figure. That is lower than the originally estimated $20 million. The lower savings reflects the differences in the assumed 1.5 per cent escalation rates built into salaries budgets and the escalation for SAT positions built into individual agencies' budgets.

One of the key arguments raised by members in the course of the second reading debate is that this bill compromises the independence of the Salaries and Allowances Tribunal. The existing act—the parent act—does not refer to the tribunal's independence. However, it has long been accepted that the tribunal was set up as a body independent of Parliament, so that its remuneration determinations can be seen to be set independently of the political process or political influence. The Salaries and Allowances Act does provide a level of independence for the tribunal from the Parliament. For example, tribunal members are appointed by the Governor, the tribunal has the exclusive jurisdiction to determine or report on remuneration for officers within its jurisdiction, and the tribunal has the powers, rights and privileges of a royal commission and may inform itself as it sees fit. Although the tribunal operates independently of the political process of the government and Parliament, it continues to operate within the framework of the legislation set by Parliament. The Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 does not depart from that practice. The bill will place a fetter on the tribunal. Past examples of fetters placed on the discretions of the tribunal include, firstly, an amendment to the Salaries and Allowances Act, which was given effect by part 4 of the Workforce Reform Act 2014. That amendment inserted section 10A into the act and requires that when the tribunal sets remuneration for certain types of officers, it must have regard of government financial matters and the public sector wages policy statement. It is bound to consider those in making determinations. The matters it must take into account are fettered, were fettered, by Parliament three years ago. Secondly, the Temporary Reduction of Remuneration (Senior Public Officers) Act 1983 was passed by Parliament eight years after the tribunal was established. This act provided for a reduction in the remuneration of impacted office holders for 12 months, which bound the tribunal. Among other government positions, the reduction in remuneration applied to any person who held an office for which the remuneration payable was determined or recommended under the Salaries and Allowances Act, excluding judicial officers. Remuneration was reduced annually by 16.75 per cent for those who received an annual remuneration between $29 500 and $33 500; and, by 10 per cent for those whose annual remuneration was more than $33 500. Ministers and the Parliamentary Secretary of the Cabinet received a reduction of 12 per cent, and the then Premier received a reduction of 15 per cent per annum.

The bill before us today sets a time-limited fetter, and is a four-year budget austerity measure that the government has introduced as a result of the position of the state's finances. It is the government's intention to show credit rating agencies and others that it is willing to set an example of wage restraint from the top. The provisions of the bill that give effect to the pay freeze are a temporary measure that will conclude on 30 June 2021. During that period, the tribunal will continue to issue determinations as it sees fit, subject only to the parameters set by Parliament if it passes this bill that it cannot provide for increases in remuneration except when it is justified to do so by changing work values and when it re-classifies an office in the case of special division office holders.

Some members noted that when the tribunal makes determinations for certain officers impacted by this freeze, it must have regard for government financial matters, submissions and the public wages statement as a result of the fetter that Parliament placed on the tribunal three years ago. Those officers include ministers of the Crown; the Parliamentary Secretary of the Cabinet; a parliamentary secretary appointed under section 44A(1) of the Constitution Acts Amendment Act 1899; special division officers; prescribed officers; and executive officers of government trading enterprises if the GTE has been prescribed. However, it is not bound by those matters. This bill will bind the tribunal. In any event, I note that under the current provisions, when the tribunal determines the remuneration of members of Parliament, the Clerks and Deputy Clerks of either house of Parliament and judicial officers, it is not required to take into account government financial matters or the public sector wages policy. Members asked whether there are any instances in which the tribunal has determined or recommended to increase remuneration above the government wages policy. The need for the tribunal to consider government wages policy came into effect in 2014 as a result, as I said, of the Workforce Reform Act 2014. This requirement applies to only the officers that I have already identified, not members of Parliament other than ministers, parliamentary secretaries, the Clerks and Deputy Clerks and judicial officers. Since the requirement was introduced, I note the following instances in which increases were awarded above government wages policy. In 2016, the government wages policy was that future increases in wages and associated conditions for all industrial agreements be limited to 1.5 per cent per annum. The tribunal was not required to take this into account for judicial officers, to whom it gave a 1.8 per cent increase in remuneration. In 2014, the government policy was that future increases in wages and conditions were to be limited to the Perth consumer price index as published by the Department of Treasury,

which was 2.6 per cent. The Salaries and Allowances Tribunal was not required to take that into account for members of Parliament and afforded members a $5 585 flat increase to base remuneration, which amounted to a 3.8 per cent increase for members on the lowest salary. In 2006, the tribunal afforded a notable jump in remuneration after conducting a major review of special division work value and remuneration. As I have already noted, this pay freeze is a measure to make certain that the tribunal does not apply an increase in remuneration to the impacted office holders for its duration, and to signal to the community, ratings agencies and others the steps that the government is taking to address responsible financial management.

Hon Alison Xamon rightly identified that the Salaries and Allowances Tribunal was established in 1975 to ensure that remuneration for senior government officers would be determined by one body, rather than a number of different bodies, and to provide greater consistency in the remuneration determined for those officers. Although that was one of the fundamental reasons for the tribunal's establishment, both legislatively and in practice, there is not complete consistency or equity across its determinations. An example of that, firstly, in respect of practice, is that the tribunal issues a number of determinations for different kinds of office holders. The Salaries and Allowances Tribunal Act 1975 requires that most of those determinations be issued annually. By contrast, a determination for the Governor is issued only on appointment of a person to the office, which occurs every four years. That is one inconsistency that exists in the legislation. Secondly, the differences are reinforced by the provision that the minister may appoint different experts for each category of office to assist the tribunal in its inquiries. For example, the Public Sector Commissioner may nominate a person for special division officers, the Department of Treasury may nominate a person for executive officers of government trading enterprises, and the CEO of the Department of Local Government, Sport and Cultural Industries may nominate a person for local government determinations. Thirdly, although there may be, to a limited extent, some consistency in the tribunal's determinations, in practice, the tribunal does not necessarily use the same framework or comparisons to set remuneration for each different category of office. In fact, the tribunal often affords different increases in remuneration to different groupings of officers within its jurisdiction. I do not mention those to be at all critical of the tribunal. I am just noting what the practice has been.

Hon Michael Mischin: How's that relevant?

Hon SUE ELLERY: I am not sure whether Hon Michael Mischin missed it, but Hon Alison Xamon raised that issue, and I am responding to the issues that were raised in the course of the second reading debate.

Local government remuneration is set pursuant to the Local Government Act, which means that remuneration for local government CEOs and councillors may vary within bands that are set by the tribunal, subject to the discretion of local governments to set remuneration. The tribunal's determinations for local government councillors are not directly linked to remuneration for members of Parliament. In a similar way, remuneration for the Governor is not directly linked to remuneration for other kinds of office holders. Overall, the distinctions that the present bill makes between different types of office holders will be a temporary budget measure and will not greatly exacerbate the differences in remuneration that already exist between different kinds of office holders.

Government trading enterprises are covered by the bill. At present, remuneration for CEOs, who are referred to as executive officers in the Salaries and Allowances Act, is determined under the GTE's own enabling legislation by the board of management on the recommendation of the relevant minister. In line with government policy, ministers will not be recommending increases. Under the Salaries and Allowances Act, the GTEs that are listed in column 2 of schedule 2 of the act are brought within the tribunal's jurisdiction to determine remuneration when they are prescribed in the regulations made under the act. GTEs have not yet been prescribed. However, they will be prescribed during the freeze. Once prescribed, this means that when the current contracts for the CEOs of the government trading enterprises expire, their remuneration will then be determined by the tribunal during the freeze, in accordance with the provisions of the bill that is currently before us.

Questions were raised about remuneration for the chair of the Salaries and Allowances Tribunal in particular. A proposition was put that the chair of the Salaries and Allowances Tribunal is paid $325 000 a year and has the option of a government-provided vehicle. During her contribution, Hon Alison Xamon seemed to indicate that the Salaries and Allowances Tribunal sets its own salaries and conditions. There may have been a bit of confusion at that point and perhaps the Salaries and Allowances Tribunal was, for that purpose, being confused with the State Administrative Tribunal. In fact, the Salaries and Allowances Tribunal determines remuneration for State Administrative Tribunal members as follows. Firstly, the Salaries and Allowances Tribunal determines remuneration for non-judicial members of the State Administrative Tribunal who are prescribed officers under section 6(1)(e) of the Salaries and Allowances Act. Senior non-judicial members of the State Administrative Tribunal are provided $327 486 in annual salary and a motor vehicle lease or allowance according to the Salaries and Allowances Tribunal's latest determination. Secondly, the State Administrative Tribunal Act 2004 requires the president of the State Administrative Tribunal to be a Supreme Court judge. This means that the president is remunerated in accordance with the Salaries and Allowances Tribunal's latest report on judicial remuneration, which recommends that Supreme Court judges are provided with an annual salary starting at $441 057 and a fully maintained motor vehicle. By contrast, section 5(6) of the Salaries and Allowances Act

provides that the Governor determines the remuneration to be paid to members of the Salaries and Allowances Tribunal. The chair of the Salaries and Allowances Tribunal is paid $47 294 per annum and does not receive a government-provided vehicle.

Comments were made about judicious office holders. It is a fundamental principle of the Westminster system of government that a separation of powers is maintained between the executive arm of government, the legislative arm and the judicial arm. The judicial arm interprets the laws that are made by the legislature and the Westminster system emphasises that the judiciary, in performing this role, should be free from the influence of the politics of the executive and the legislature. That principle is relevant to the matter of how judicial remuneration is determined. After the introduction of the Salaries and Allowances Tribunal Bill into Parliament in 1975, the late Sir Charles Court emphasised in his second reading speech that in relation to judicial office holders, the tribunal would report on remuneration to Parliament rather than determining remuneration, as it does for other office holders. He noted —

> This approach preserves the long-standing constitutional convention that the Parliament fixes the salaries of the judiciary but in doing so the Parliament will, in future, have the benefit of the recommendations of the same tribunal which is to determine the salaries of Ministers of the Crown, officers and members of Parliament and other senior officials.
>
> … consideration was given to the judges being subject to the same determination, but the judges, themselves, preferred —

Later he says that the judges were "most insistent" —

> that the final decision … be that of Parliament even though the tribunal will make the recommendation.

Since the tribunal was first established, it has consistently reported to Parliament on remuneration for judicial office holders within the framework of the Salaries and Allowances Act as passed by the Parliament. The Parliament has always had the final say in whether to accept the recommendation of the tribunal. The bill does not amend the existing overall process for the tribunal to report on judicial remuneration—that is, the report is gazetted and it is then a disallowable instrument. I note that the advice I have received is that no-one has ever moved a disallowance. This does not depart from the longstanding accepted practice.

Members also raised during the course of the second reading debate the notion of exceptions to the bill. The purpose of the bill is to place a cap on the remuneration that is paid on an annual basis to the impacted office holders. The exceptions that have been identified can be classified into two categories. The first category of exception from the ambit of the bill is local government chief executive officers and councillors, because their remuneration comes not from state revenue but rather from other sources, and members of public university governing councils, because their remuneration is tied to federal funding.

The second category of so-called exception extends to certain kinds or classes of remuneration. The bill was prepared on the basis that we are seeking to freeze the remuneration that is paid to the impacted office holders as part of an annual salary. Therefore, the bill has not picked up other classes of remuneration, such as redundancy benefits for members, which in the tribunal's determinations are referred to as resettlement entitlements. The provisions in the bill that enable the prescription of certain kinds or classes of remuneration as being outside the scope of the freeze are incorporated as a safeguard in case it becomes apparent during the freeze that there is reasonable justification to exclude certain kinds or classes of remuneration. It is anticipated that if this bill is passed and comes into operation, such kinds or classes of remuneration will include from the outset superannuation for all office holders except for members of Parliament whose superannuation is already excluded from the freeze, no matter which scheme they are paid under, and fringe benefits tax, as these kinds of remuneration are dependent on determinations of bodies external to the Salaries and Allowances Tribunal. Other kinds or classes of remuneration may be raised with the government and considered for exemption if justified in the circumstances. Amendments to the relevant regulations will be published in the *Government Gazette* and tabled in Parliament, and therefore will become a disallowable instrument. It is not intended that the ability to preclude certain kinds or classes of remuneration will enable exclusion of a category of office holder, as this would circumvent the intent of the pay freeze for officers whose remuneration does impact on state finances.

Another issue that was raised during the second reading debate is that the bill provides that the tribunal is not required to make a determination during the freeze but may do so if circumstances require. This is to ensure that during the freeze, the tribunal may still issue determinations when new offices are created; when the tribunal sees fit to reclassify a special division office based on significant changes in work value; and when the tribunal needs to vary its determinations to account for changes in office holders. The tribunal may also see fit to adjust the amount of remuneration it determines without increasing the overall remuneration provided to an office holder. This is a safeguard to ensure that the tribunal is not prevented from issuing determinations if needed. The tribunal will continue to do all these things during the freeze, as well as issue its annual determinations for local governments and public university governing councils. The tribunal will also need to issue determinations for government trading enterprises when they are prescribed and the contracts of their executive officers expire.

Questions were also raised about when it will be appropriate to return to the previous arrangements and how the four-year duration of the freeze was arrived at. The four-year period was a policy decision that we made to reflect the temporary nature of the freeze, but also to provide enough time for meaningful savings to be achieved. The bill itself envisages that at the end of the freeze, the tribunal will return to its normal functions, subject only to the constraints that are set out in clause 9 of the bill as proposed to be amended—that is, not to afford compensatory determinations, and not to take into account in future determinations any cost of living increases that occur during the four-year period of the freeze.

A question was raised about independence and about whether this is setting some kind of precedent for future political interference. I note that the Temporary Reduction of Remuneration (Senior Public Officers) Act 1983 was passed by the Parliament eight years after the Salaries and Allowances Tribunal was established.

Several members interjected.

The ACTING PRESIDENT: Members!

Hon SUE ELLERY: Honourable member, I note that I am trying, in a methodical fashion, to address all the issues that were raised, and no matter how amusing the member finds his own interjections, I will not be entertaining them.

Hon Michael Mischin: They are pointed interjections, rather than amusing. They are very sad, actually.

Hon SUE ELLERY: Deadly pointed.

The ACTING PRESIDENT: Minister, it does not help if you interact with them, so if we speak through the Chair, please.

Hon SUE ELLERY: I promise not to interact with Hon Michael Mischin.

That act provided for a reduction in remuneration, as I have already said, for impacted office holders for a period of 12 months. Among other government positions, the reduction in remuneration applied to any person who held an office for which the remuneration payable was determined or recommended under the Salaries and Allowances Act, excluding judicial officers. I have already set out the levels by which remuneration was reduced. It could be argued that that was where the precedent was set, noting that it took things a step further than the current bill in reducing remuneration by the percentages that I have already outlined. Then, more recently, the Workforce Reform Act 2014 inserted section 10A into the Salary and Allowances Act, requiring the tribunal to have regard to government financial matters and the public sector wages policy in respect of a specified set of officers, excluding members of Parliament and some others. That, too, placed a fetter on the tribunal's determinations.

I was asked some questions about the membership of the Salaries and Allowances Tribunal. The act provides for tribunal members to be appointed for a term of three years, with eligibility for reappointment, and that the Governor determines the fees and allowances to be paid to tribunal members. The Governor last increased remuneration for members of the tribunal in 2011. The remuneration, and date on which appointment expires for the current members of the tribunal are as follows—Mr Bill Coleman, AM, the chair, receives $47 294 per annum and his appointment expires on 24 February 2018; Mr Brian Moore, a member of the tribunal, receives $31 214 per annum and his appointment expires on 13 January 2018; and tribunal member Ms Cathy Broadbent receives $31 214 per annum and her appointment expires on 24 February 2018.

Questions were raised about the possible reduction in the workload of the tribunal. During the freeze, the tribunal will still be required to issue determinations for local government chief executive officers and elected council members, members of public university governing councils—the tribunal is yet to issue a determination on this category of office—executive officers of government trading enterprises, when the GTEs are prescribed, and when the current contracts of the executive officers expire, new special division or prescribed offices that may be created during the freeze, significant changes in work value for special division officers, as well as other matters identified as being outside the scope of the pay freeze. The tribunal also issues regular variations to its existing determinations as required, for example, when a special division or prescribed office is vacant and is filled. There is also a role for the tribunal to continue to take submissions from office holders that may be taken into consideration in determinations it makes after the freeze. The tribunal may wish to issue determinations after the conclusion of the freeze.

A question was raised about whether consultation had been undertaken with Clerks and Deputy Clerks of both houses of Parliament. No, they have not been consulted, in the same manner that other impacted office holders have not been consulted. This reflects the importance of setting an example from the top on wages constraint.

An issue was raised about the proposed discrepancy between the government's proposed amendment to clause 9 and the second reading speech I gave when I introduced the bill to this place. The statement in the second reading speech relating to the tribunal's inability to make compensatory determinations continues to hold true. That is the way clause 9 is constructed. This is plainly set out in the explanatory memorandum that was tabled in Parliament

at the same time as the bill was introduced. The government has considered it appropriate to have clause 9 go further than its original construction; therefore we arranged for the preparation of an amendment to clause 9, which I will move when we get into committee. When the proposed amendment is moved, I will talk in more detail about the proposal.

Questions were raised about superannuation. The Parliamentary Superannuation Act 1970 is referred to at section 6A of the Salaries and Allowances Act. Members opposite indicated that they consider the exclusion of the tribunal's determinations from the scope of the freeze is to benefit those members subject to the parliamentary pension scheme that is being phased out. This is not the case. It is the intention to exclude superannuation entitlements of all impacted office holders from the scope of the freeze, aside from the five members who have had their superannuation set under the pension scheme. There are minimum superannuation entitlements set at the federal level for other impacted office holders that the state legislation cannot impinge upon. It is therefore intended to identify superannuation as a kind or class of remuneration that is not subject to the freeze.

In summation, the bill is an important measure to show the community, the ratings agency and others that the government, including its most senior members, are sharing an important task of budget repair. It will achieve savings, and any saving towards budget repair is important, given our current financial situation.

I commend the bill to the house.

Division

Question put and a division taken, the Acting President (Hon Dr Steve Thomas) casting his vote with the ayes, with the following result —

Ayes (26)

Hon Martin Aldridge	Hon Sue Ellery	Hon Alannah MacTiernan	Hon Dr Steve Thomas
Hon Ken Baston	Hon Diane Evers	Hon Kyle McGinn	Hon Colin Tincknell
Hon Jacqui Boydell	Hon Donna Faragher	Hon Samantha Rowe	Hon Darren West
Hon Jim Chown	Hon Adele Farina	Hon Tjorn Sibma	Hon Pierre Yang
Hon Peter Collier	Hon Nick Goiran	Hon Charles Smith	Hon Martin Pritchard *(Teller)*
Hon Stephen Dawson	Hon Laurie Graham	Hon Aaron Stonehouse	
Hon Colin de Grussa	Hon Colin Holt	Hon Dr Sally Talbot	

Noes (4)

Hon Tim Clifford	Hon Michael Mischin	Hon Simon O'Brien	Hon Alison Xamon *(Teller)*

Question thus passed.

Bill read a second time.

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Hon PETER COLLIER: I want to refer to a couple of points raised by the Leader of the House in her response to the contributions made by a number of members in the second reading debate. If anything, her response was pretty much about abolishing the Salaries and Allowances Tribunal. I have to be honest and say that if I were a member of SAT and I read that stuff that the Leader of the House read into *Hansard*, I would be very disappointed. I would feel very slighted if it was suggested that perhaps I was not doing my job. Let us make no bones about it, I think all members understand that. Members can say what they like about this bill, but it seriously undermines the autonomy of SAT. It is really a slap in the face for SAT. There is no doubt about that. It does not matter whether members are on the government side of the chamber, on the crossbenches or over here, this bill undermines the authority and autonomy of SAT. It sends a very clear and unambiguous message to SAT that the government knows best and has no confidence in SAT to make a determination in line with government policy and decisions.

At one stage, the Leader of the House referred to the Workforce Reform Act and stated that members must have regard to government policy, as though that is somehow a precedent for this legislation. It is not a precedent for this legislation at all. Having regard to government policy is the bleeding obvious. Having regard to government policy means just that: having regard to government policy. It does not mean this is government policy and you will do this whether you like it or not. That is the big difference.

Debate interrupted, pursuant to standing orders.

[Continued on page 6618.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

POLICE — CRIME STATISTICS

948. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer to the Western Australia Police Force crime statistics portal.

(1) Why have no crime statistics been published on the WA Police Force website since June 2017?

(2) Was the minister consulted on the decision not to publish any crime statistics since June 2017; and, if so, what was the outcome of the consultation?

(3) What changes, if any, have been or will be made to the methodology for the reporting of crime statistics since they were last reported in June 2017?

(4) When will crime statistics for the period since June 2017 be reported; and how often will the statistics be reported henceforth?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. The following information has been provided to me by the Minister for Police.

(1) The Western Australia Police Force advises that following a 2016 review of the WA Police Force crime statistics, work is proceeding to align the statistics with Australian Bureau of Statistics recommendations.

(2) The Minister for Police has been briefed on the work of the WA Police Force regarding crime statistics reporting.

(3) The WA Police Force advises that changes to the methodology include adoption of the Australian and New Zealand Standard Offence Classification 2011; additional offence types being made available for selection in the recording of incidents; aligning counting rules with the national crime recording standard; and the incident management system being updated to support changes in recording practices.

(4) The crime statistics will be released has soon as possible. Further details will be provided by the WA Police Force at that time.

POLICE — OFFICERS ASSAULTED

949. Hon PETER COLLIER to the minister representing the Minister for Police:

(1) How many people have been charged with assaulting a public officer in the course of their duties, for each month from January 2016 to December 2017 inclusive?

(2) Of those public officers assaulted in (1), how many were police officers, for each month from January 2016 to December 2017 inclusive?

(3) How many people have been charged with assaulting a police officer, with the officer suffering bodily injury that attracts a mandatory minimum sentence, for each month from January 2016 to December 2017 inclusive?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. The following information has been provided by the Minister for Police.

The Western Australia Police Force advises that the information requested is not readily available and would require significant resources to extract. I ask that the honourable member put this question on notice.

PATHWEST — CONFIDENTIAL PERSONAL INFORMATION — DISCLOSURE

950. Hon MICHAEL MISCHIN to the parliamentary secretary representing the Minister for Health:

I refer to the complainant and respondent referred to in the Public Sector Commissioner's report tabled on 29 November 2017, titled "PathWest's management of a complaint about disclosure of confidential personal information".

(1) On how many occasions from and including 2006 did the respondent have access to the complainant's medical records?

(2) Can the minister list those occasions in (1) by date and time?

(3) How many occasions in (1) were for plainly legitimate reasons and in the ordinary course of business?

(4) How many occasions in (1) were for plainly illegitimate reasons?

(5) Has there, since the complainant's complaint, been any other instance reported of a PathWest employee having illegitimate access to a patient's medical records; and, if so, what are the dates, times and circumstances of that access; and what action is being taken?

Hon SAMANTHA ROWE replied:

I thank the honourable member for some notice of the question and answer on behalf of the parliamentary secretary. I am advised —

(1)–(4) The report found that none of the patient data systems used by either PathWest or the Department of Health keep an audit log of when a user logs into the system or when a user views a patient record. The systems create an auditable log only when a user either creates a new record or makes a change to an existing record.

(5) Yes. There are two cases currently under review.

ABORIGINAL EDUCATION TEAMS

951. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to Aboriginal education teams.

(1) Can the minister confirm that all 36 Aboriginal education regional consultants, managers and coordinators within Aboriginal education teams currently located at regional offices have been advised that their positions have been abolished?

(2) If yes to (1), can the minister confirm that services previously provided by Aboriginal education teams will now be delivered centrally through either central office and/or the statewide services centre, Padbury?

(3) If yes to (2), how many staff, by headcount, will provide these services, what will be their position title and where will they be located?

(4) How will the minister ensure that schools, particularly in rural and remote locations, will not be impacted negatively by this decision?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of this question.

(1) Yes.

(2) The nature of these services will change. Under the previous government, the department had already redirected Aboriginal support services to focus on improved teaching and learning for Aboriginal students by the creation in 2017 of the Aboriginal education teaching and learning directorate with five new positions—one principal adviser and four principal consultants. Five of the staff in the abolished positions will join this team. Other staff whose positions have been abolished, excluding those who opt for a voluntary separation—prior to this decision a number had indicated an interest in the voluntary targeted separation scheme—or redeployment into another role will be placed in targeted schools with high numbers of Aboriginal students so support is as close to those students as possible.

(3) The final number and location of staff delivering these services will not be confirmed until the voluntary separation and redeployment processes are concluded.

(4) Schools in remote and rural locations will receive the support they require from the Aboriginal education teaching and learning directorate and/or the staff placed in targeted schools, and will continue to receive the range of supports from other positions that provide similar services.

GENERAL PRACTITIONERS — FAMILY AND DOMESTIC VIOLENCE TRAINING

952. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Health:

I refer to the answer to my question without notice asked and answered on 5 December 2017, in which the house was informed that the government fulfilled its advocacy commitment on 26 April 2017.

(1) Who fulfilled this on behalf of the government?

(2) Who else was present when this was fulfilled?

(3) What was the outcome of the advocacy on that date?

Hon SAMANTHA ROWE replied:

I thank the honourable member for some notice of the question and answer on behalf of the parliamentary secretary.

(1) It was the Minister for Health.

(2) Staff from the office of the Minister for Health were present when Western Australia's letter of support was signed, and the staff of the Council of Australian Governments Health Council secretariat were present when that letter was received.

(3) The issue was subsequently discussed at the CHC meeting on 4 August 2017. At that meeting, health ministers agreed to commit to working with the Royal Australian College of General Practitioners to develop and implement a national training package building on progress to date in Victoria. The commonwealth and Victorian governments have begun working on a pilot training strategy for general practitioners that includes minimum standards, core competencies and roles and responsibilities for identifying, assessing and managing the risk of family violence.

CASHLESS WELFARE CARD — GOLDFIELDS TRIAL

953. Hon JACQUI BOYDELL to the Leader of the House representing the Premier:

I refer to federal Labor's decision to oppose trials of the cashless welfare card in the goldfields.

(1) Does the Premier agree with federal Labor members of Parliament Jenny Macklin and Linda Burney that there is no credible evidence to support the establishment of further trials of the cashless debit card?

(2) Has the Premier consulted with the City of Kalgoorlie–Boulder and other affected local governments on this issue; and, if so, on what dates?

(3) Has the Premier lobbied the federal government to bring this initiative to the goldfields; and, if so, on what dates?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) Although the cashless welfare card is a commonwealth matter, I am aware of the criticism of the evaluation and the effectiveness of the card. In my opinion, the trials should be undertaken only when the community is supportive.

(2) It is not the responsibility of the Premier to consult with local governments on a commonwealth government matter.

(3) No.

POLICE — FIREARMS LICENSING — PAINTBALL

954. Hon AARON STONEHOUSE to the minister representing the Minister for Police:

I note that a category E firearms licence allows an individual to maintain a paintball marker and that a corporate firearms licence allows an organisation to maintain firearms to carry out a function approved by the commissioner.

(1) How many organisations in Western Australia are licensed to carry out the sport of paintball?

(2) How many individuals in Western Australia are licensed to maintain a paintball marker?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of this question. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advises the following.

(1) In Western Australia, eight organisations are licensed to carry out the sport of paintball.

(2) In Western Australia, 6 499 individuals are licensed to maintain a paintball marker.

MEDICAL CANNABIS — ACCESS

955. Hon COLIN TINCKNELL to the parliamentary secretary representing the Minister for Health:

I recently asked questions during the budget estimates committee about the operational cost of the medicinal cannabis advisory committee and the members on the committee. I received the answer that 13 people are on the committee and that it meets once a month.

(1) Does this mean that any member of the public in urgent need of access to medicinal cannabis has to wait a month to have any chance of gaining that approval?

(2) If so, does the government feel that it is fair and appropriate to make the public of Western Australia wait a month for approval, especially after having had to wait so long to reach the committee in the first place?

Hon SAMANTHA ROWE replied:

I thank the honourable member for some notice of the question and answer on behalf of the parliamentary secretary.

(1) No. Urgent cases are handled out of session by the Cannabis-Based Products Assessment Panel and decisions can be made within a week.

(2) Not applicable.

SHARK SHIELD — REBATE

956. Hon DIANE EVERS to the minister representing the Minister for Fisheries:

I refer to the minister's press release of 26 November.

(1) How many people have applied for the rebate for a Shark Shield Freedom7?

(2) Does the minister acknowledge that the Freedom7 is designed and marketed by its manufacturer for use in diving and kayaking, not surfing, as the minister's press release states, and that Shark Shield make a different device for use when surfing?

(3) If no to (2), why not; and, if yes, will the minister amend his claims about the Freedom7 being used when surfing?

(4) Is it possible that by early 2018, when verification trials of Shark Shield's Freedom+ Surf and Surfsafe's Rpela are completed, the additional $200 000 will already have been completely allocated to people claiming the rebate for a Freedom7?

(5) Does the minister agree that if Shark Shield's Freedom+ Surf and/or Surfsafe's Rpela are verified as effective at deterring great white sharks, the $200 rebate should be immediately extended to cover those devices, even if doing so requires allocating a further $200 000 to the rebate scheme on top of the total $400 000 announced since May; and, if not, why not?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The answer has been provided to me by the Minister for Fisheries.

(1) To date, 1 073 people have applied for a Shark Shield Freedom7 rebate.

(2)–(3) The minister's media release states that the Freedom7 can be used by both surfers and divers, which is correct.

(4) How long the rebate remains available is dependent on demand.

(5) When Labor announced the rebate policy, we made it clear that we have encouraged the makers of other devices to get them tested. If these devices prove effective, they will become eligible for the rebate.

PUBLIC SECTOR — EMPLOYMENT

957. Hon Dr STEVE THOMAS to the minister representing the Treasurer:

What has been the total general government cost of public service employment inclusive of wages, all superannuation costs and all additional employee costs in each financial year from 2001–02, or from the nearest available financial year, to the end of the 2016–17 financial year?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The answer to this question without notice is provided in tabular form and I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

Table 1 below shows salaries, concurrent superannuation costs, and other employee costs such as travel and regional housing expenses), as disclosed in the Appendix of the Annual Report on State Finances.

Table 1

GENERAL EMPLOYEE EXPENSES

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**
Salaries	8,284	8,829	9,605	10,154	10,682	11,089	11,383	11,610
Concurrent costs	793	841	913	965	1,030	1,107	1,167	1,166
other employee costs	323	367	419	446	432	430	370	358
Total employee expenses	**9,400**	**10,037**	**10,937**	**11,565**	**12,144**	**12,626**	**12,920**	**13,134**
	2001-02	**2002-03**	**2003-04**	**2004-05**	**2005-06**	**2006-07**	**2007-08**	**2008-09**
Salaries	4,209	4,486	4,787	5,253	5,694	6,182	6,906	7,764
Concurrent costs	375	436	458	519	557	602	666	746
Other employee costs	195	190	191	219	225	232	276	326
Total employee expenses	**4,779**	**5,112**	**5,437**	**5,991**	**6,476**	**7,017**	**7,848**	**8,836**

Note: Columns may not add due to rounding.

SENIOR EXECUTIVE SERVICE

958. Hon KEN BASTON to the Leader of the House representing the Premier:

I refer to today's *The West Australian* and the article entitled "Fat Cat Cull".

(1) How many senior executive service staff have left the public service since 12 March 2017?

(2) What was the position of each staff member who left the public service?

(3) How many years did each former public servant work for the WA government?

(4) Has the number of consultants hired by the WA government increased since 12 March 2017; and, if so, by how many?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. Given the nature of the question and the resources required to provide the information, I request that the member place the question on notice.

MAIN ROADS WA — GREAT EASTERN HIGHWAY

959. Hon MARTIN ALDRIDGE to the minister representing the Minister for Transport:

I refer to an article dated 2 December and titled, "WA's east road link crumbling", highlighting concerns relating to the condition of Great Eastern Highway.

(1) Has the contract to undertake permanent pavement repairs on this section of Great Eastern Highway from Northam to Southern Cross been finalised and did repairs commence last month, as previously advised?

(2) On what date did Main Roads WA last conduct a safety audit of this section of highway?

(3) Will the minister please table the most recent safety audit conducted?

(4) What measures has Main Roads taken to maintain road safety on the affected sections of the highway awaiting repair?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) Main Roads WA has undertaken repairs along Great Eastern Highway between Northam and Southern Cross, with high priority repairs completed in November 2017. Main Roads is also addressing the high priority edge drop-offs, with shoulder repairs to be completed over the summer months.

(2)–(3) A road safety review audit was undertaken in September 2016 that outlined a number of recommendations, some of which have been completed. I have requested a copy of the report and will table it in due course.

(4) In addition to the measures detailed in answer (1), Main Roads undertakes weekly inspections, identifies maintenance requirements and carries out repairs.

MINISTER FOR RACING AND GAMING — RACE MEETING ATTENDANCE

960. Hon COLIN HOLT to the minister representing the Minister for Racing and Gaming:

I refer to question without notice 934, asked yesterday, and the answers provided by the minister "in addition".

(1) Can the minister list the "multiple racing events" he has attended, including date and location?

(2) Can the minister list the specific race clubs he has visited, including date and location?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. I am disappointed he does not ask me about what race meetings I have been to! I went to a very interesting one on the weekend.

Anyhow, the following information has been provided to me by the Minister for Racing and Gaming.

(1) In addition to the information provided yesterday, the minister also attended the following racing events: the Horse Racing Awards at Hyatt Regency Perth on 12 August; the 2017 Apprentice Jockey Awards at Mandoon Estate, Caversham, on 4 September; and the Harness Horse of the Year Awards at the Pan Pacific Perth on 17 September. I feel like I am his secretary!

(2) The minister also visited the following race clubs: Broome Turf Club on 6 May; WA Provincial Thoroughbreds Association at Ascot on 12 May; Cannington Greyhounds, TABtouch Park at Cannington on 26 July—never home!—Mandurah Greyhounds at Kanyana Park in Mandurah on 26 July; Bunbury Turf Club in Bunbury on 6 November; and Bunbury Trotting Club on 6 November. Additionally, the minister visited Singapore in August to drive international interest and investment in the Western Australian racing industry. This was a first for any Minister for Tourism in this state.

STATEWIDE SPECIALIST ABORIGINAL MENTAL HEALTH SERVICE — REVIEW

961. Hon ALISON XAMON to the parliamentary secretary representing the Minister for Mental Health:

I refer to the review of the statewide specialist Aboriginal mental health service.

(1) When will the minister complete the review of SSAMHS?

(2) Will the minister commit to making the review publicly available?

(3) If no to (2), why not?

(4) Have any existing SSAMHS staff been consulted about service model options being considered under the review?

(5) If no to (4), why not?

(6) If a decision is made not to fund the service, will the minister advise how the expertise of the highly skilled Aboriginal mental health workers currently employed under this program will be retained?

(7) If there is no commitment to retain these workers, does the minister envisage that they will be part of the 3 000 public sector redundancies announced in the budget?

Hon SAMANTHA ROWE replied:

On behalf of the parliamentary secretary representing the Minister for Mental Health, I thank the honourable member for some notice of the question. I am advised as follows.

(1) An evaluation of the SSAMHS program has been completed by the Mental Health Commission. This evaluation was completed to support a budget submission through the 2017–18 midyear review process in line with the current Department of Treasury sunset clause.

(2) A summary of the evaluation will be made available by the Mental Health Commission in early 2018, subject to finalisation of consideration by the government.

(3) Not applicable.

(4) The Mental Health Commission worked with health service providers, including SSAMHS staff, on reviewing the current model of service.

(5) Not applicable.

(6)–(7) This matter is subject to cabinet consideration as part of the 2017–18 midyear review process and therefore is currently subject to cabinet confidentiality.

MINING LEASES — AUDIT

962. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:

I refer to the recent High Court decision in Forrest & Forrest Pty Ltd v Wilson & Ors (2017) HCA 30.

(1) Apart from the new legislation to be drafted to validate mining tenements, and given that the decision casts doubt over the validity of mining leases under section 74(1)(ca) of the Mining Act 1978, has the department undertaken an audit of mining leases to ensure that they remain valid?

(2) If no to (1), does the department intend to do so?

(3) If yes to (2), what is the time frame for the audit?

(4) If no to (1), why not?

(5) If yes to (1), please provide a list of the leases by lease number that have been impacted by the High Court decision.

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Mines and Petroleum has provided the following answer.

(1)–(2) No.

(3) Not applicable.

(4) An audit of mining leases is not required. The government has already announced that it will urgently draft legislation to validate granted mining tenements.

(5) Not applicable.

GAMES INDUSTRY — SUPPORT

963. Hon TIM CLIFFORD to the Leader of the House representing the Minister for Culture and the Arts:

Since the closure of the Film and Television Institute WA in June, the WA games industry no longer receives support or funding from the government.

(1) Can the minister explain why Screenwest does not offer funding to the games industry even though it was intended to take over the functions of the Film and Television Institute?

(2) Given that the global games industry is worth more than double the global film industry, will the minister commit to supporting the further growth of this industry in WA by delivering a funding and support package that meets the industry's unique needs?

(3) If no to (2), why not?

(4) If yes to (2), please provide details and an estimated time line for delivery.

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1)–(4) Screenwest provided funding and support to the Film and Television Institute to develop the emerging film and television sector. The Film and Television Institute had determined as part of its strategic plan to provide support to the WA games industry outside the funds provided by Screenwest in the provision of office space and support from an advisory officer. The Department of Local Government, Sport and Cultural Industries will work with Screenwest on delivering on the state government's commitment to provide support for the gaming industry in recognition of the potential it can have in diversifying the economy and creating jobs.

PARKS AND WILDLIFE SERVICE — VOLUNTARY REDUNDANCIES

964. Hon COLIN de GRUSSA to the Minister for Environment:

I refer to the offer for staff to take up voluntary redundancies across the state's Parks and Wildlife Service within the Department of Biodiversity, Conservation and Attractions.

(1) What is the target of voluntary redundancies in 2017–18 and 2019–20 respectively?

(2) What is the target figure of voluntary redundancies from the department in total?

(3) What is the total anticipated cost to be borne by the department as a result of redundancies?

(4) To date, how many staff have elected to take a voluntary redundancy?

(5) Which division and district office within the department did each of the staff in part (4) come from?

(6) What salary classification level was each of the positions and what was the respective redundancy payout figure?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1)–(3) The government is still working through how each agency will make a contribution to the voluntary severance scheme.

(4)–(6) Providing the information in the time required is not possible and I request that the honourable member place these parts of the question on notice.

PASSENGER TRAIN NETWORK — OPERATING COSTS

965. Hon JIM CHOWN to the minister representing the Minister for Transport:

(1) What is the annual operating cost of running the passenger train network as it exists today?

(2) Once Metronet is finished and operational, what is the estimated cost of running the entire train network?

(3) What value of the operational costs are subsidised by the government in dollar terms?

(4) Does the government, due to the current budget restraints, intend to implement full cost recovery and expenditure through increasing the cost of fares on metropolitan passenger rail lines?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

Hon Jim Chown: You're welcome.

Hon STEPHEN DAWSON: Good manners!

(1) The annual operating cost of running the passenger train network as it exists today is $324 million.

(2) Operational costs associated with these projects are being determined as part of the planning process. It is noted that the operational cost of the Forrestfield–Airport Link project was not funded by the previous Liberal–National government.

(3) The government subsidy for the operational costs of running the passenger train network as it exists today is $192.3 million.

(4) No.

MEMBER FOR DARLING RANGE — PERSONAL EXPLANATION

966. Hon TJORN SIBMA to the Leader of the House representing the Premier:

I note the member for Darling Range's statement provided on Thursday, 30 November in the other place and the Premier's subsequent decision to move to refer the aforementioned member to the Procedure and Privileges Committee, despite arguing against such a referral the previous afternoon.

(1) When did the Premier learn of the contents of the member for Darling Range's statement?

(2) With respect to (1), if the Premier had prior knowledge of the member's statement before 9.00 am on Thursday, 30 November, how was this knowledge obtained, and by whom or how was it conveyed, and at what moment?

(3) Was anyone in the Premier's office involved directly or indirectly in reviewing or drafting a version or versions of the statement subsequently provided by the member for Darling Range?

(4) Did anyone in the Premier's office receive or otherwise have prior access to a copy, even a draft copy, of the statement subsequently provided by the member for Darling Range?

(5) If yes to (3) or (4), who received or had access to a copy?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1)–(5) The Premier's position has been consistent throughout the matter; namely, that the member for Darling Range be afforded the opportunity to make a full explanation to Parliament before the government determined any course of action. The Premier learned of the broad content of the member for Darling Range's statement immediately preceding the delivery of the statement that morning. A version had been delivered to a member of his staff, Mark Reed, for noting. Neither the Premier nor his office knew of the full and final extent of the member's statement until he delivered it to Parliament. Once the member for Darling Range had his opportunity to explain himself, the Premier subsequently deemed it appropriate to refer the matter to the Procedure and Privileges Committee for further investigation.

ROADS — BLACKSPOT LOCATIONS

967. Hon MARTIN ALDRIDGE to the Minister for Regional Development:

I refer to the federal government's investment of $60 million into 106 blackspot locations nationally, including just one site in regional Western Australia.

(1) Did the federal government engage with the state government on the priority locations identified?

(2) If yes to (1), who did the federal government consult with and what was the extent of the consultation?

(3) Did the federal government seek a financial partnership with the state government for this round of funding for the Mobile Black Spot Programme?

(4) Is the lack of commitment to new mobile base stations in regional WA by the federal government in any way linked to the fact that the state government has allocated no funds in the state budget for new mobile base stations beyond those announced by the former Liberal–National government?

Hon ALANNAH MacTIERNAN replied:

I thank the member for some notice of the question. I hope he shares our outrage at the disgraceful treatment of Western Australia by the federal Liberal–National government.

(1) I can assure the member—we have had this checked on numerous occasions—that the federal government has never sought to engage on priority locations with WA for this third round of funding.

(2) Not applicable.

(3) The federal government did not seek a financial partnership with the state government for this round of funding.

(4) I can confirm that it is impossible that the federal government's decision was somehow based on any of our decisions because it had announced the mere trifling seven sites in Western Australia out of the 106 sites well before our state budget was brought down in September. The site selection was announced in May and we did not bring our budget down until September.

CORRECTIVE SERVICES FACILITIES — HOSPITAL TREATMENT

968. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

(1) For each month from January to November, how many prisoners at the following corrective services facilities required hospital treatment outside the facility: Melaleuca Remand and Reintegration Facility, Acacia Prison, Hakea Prison, Casuarina Prison, Karnet Prison Farm and Wooroloo Prison Farm?

(2) For each facility listed in (1), how many prisoners were treated and at which hospital each month?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. I am advised that, unfortunately, this question will require significant work and the Department of Corrective Services is unable to provide this information today. However, this information will be provided on 7 December—tomorrow.

NEW INDUSTRIES FUND — GAMING INDUSTRY

969. Hon TIM CLIFFORD to the minister representing the Minister for Innovation and ICT:

I refer to the minister's response to question without notice 887.

(1) Could the minister please table a list of all individuals and organisations from the games industry that were consulted ahead of the new industries fund announcement and the dates that those consultations took place?

(2) What is the process and criteria for applying for funding through the new industries fund and when will funding become available?

(3) Will any of the funding streams available through the new industries fund be exclusively available to the WA games industry?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following answer has been provided to me by the Minister for Innovation and ICT.

(1) Individuals and organisations from the innovation sector, including gaming, were consulted about the new industries fund via meetings, an industry consortium and a regional innovation summit.

(2) The new industries fund has a number of initiatives, each with specific criteria. These initiatives will be advertised as they become available.

(3) The new industries fund is for all Western Australian innovators, emerging businesses and small to medium-sized enterprises, including those from the gaming sector, and all are encouraged to apply for funds through fund initiatives. The fund has not been fully allocated, and further programs and initiatives will be announced in the future.

The PRESIDENT: I give the call to Hon Colin Tincknell.

Hon COLIN TINCKNELL: My question without notice is to the minister representing the Treasurer. Sorry for the dorothy dixer.

The PRESIDENT: Did you say "without notice"?

Hon COLIN TINCKNELL: Yes.

The PRESIDENT: You are asking a question of a minister who is representing another minister. You need to ask a question with some notice provided. You cannot ask a question without notice because they do not have access to that information.

Hon COLIN TINCKNELL: It is a pretty straightforward question. It is very easy.

The PRESIDENT: Member, you do not understand. Let me explain this. You are asking them in their capacity as a representative of another minister in a different chamber. They will not necessarily have that answer and they should not be expected to have that answer. You can ask them a question without notice if it is directly related to their own portfolios that they have responsibility for in this chamber.

Hon COLIN TINCKNELL: Okay.

NATIVE TITLE — YINDJIBARNDI CLAIM

970. Hon MICHAEL MISCHIN to the minister representing the Minister for Aboriginal Affairs:

I refer to the minister's answers concerning his congratulating the Yindjibarndi native title claimants for their success against the state, and his decision that the state will not appeal the judgement.

(1) Given that the minister is also responsible, on behalf of the state, for the portfolios of Treasury, Finance and Energy, can we expect him to congratulate other litigants who successfully sue the state of Western Australia or its agencies and instrumentalities; and, if not, why not?

(2) If, in truth, the general conclusion of the legal advice to the state was to the effect that it was in the best interest of the state not to appeal the Federal Court judgement, why did it require three sets of questions over the course of a week for the minister to provide to Parliament the simple information that I first sought on 2 November?

(3) Given that Fortescue Metals Group has indicated its intention to appeal the judgement, being satisfied that it reveals an error of law that, if allowed to stand uncorrected, may have wider implications, on what basis does the minister consider that FMG should abandon its appeal?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided by the Minister for Aboriginal Affairs.

(1) The minister is expected to make comment on issues relating to his portfolio areas as appropriate and will continue to do so.

(2) The minister provided answers to all questions asked.

(3) FMG's decision to appeal is a matter for it alone, and is presumably based on its independent legal advice.

INTERNATIONAL SCHOOL OF WESTERN AUSTRALIA

971. Hon ALISON XAMON to the Minister for Education and Training:

I refer to clause 26, the sunset clause, of "Non-Legally Binding Commercial Lease Terms—203 St Brigids Terrace, Doubleview" and the recent decision by the north west joint development assessment panel to once again defer assessing the plans for the International School of Western Australia to share the Doubleview Primary School site.

(1) Will the government commence building prior to the nominated sunset date of 31 December 2017?

(2) Have the government and ISWA agreed to a different sunset date for this project; and, if so, will the minister please provide this date?

(3) If building has not commenced by the sunset date, will the minister commit to dissolving this agreement and letting the International School of Western Australia remain at the City Beach high school site?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) No.

(2) Yes. The last date for commencement of landlord work has been extended to 31 August 2018.

(3) That would be dependent on further negotiations with ISWA.

DEPARTMENT OF EDUCATION — SUPPORT STAFF

972. Hon COLIN de GRUSSA to the Minister for Education and Training:

I refer to the abolition of positions from the Department of Education with regard to agricultural education.

(1) How many education support staff within the agricultural education and regional development branch have had their roles identified as "no longer required" to date?

(2) Has an appointment been made to the position of manager for the agricultural education central office support?

(3) If yes to (2), what is the length of position tenure and classification level?

(4) Is the minister retaining the agricultural education teaching and learning support position based in Padbury?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) Four roles will no longer be required.

(2) There will be no manager for agricultural education in central office. A manager at the statewide services centre will assume some responsibility for aspects of agricultural education as part of their portfolio. The

five principals of agricultural colleges are responsible for the delivery of teaching and learning programs at their individual colleges. All are independent public schools and have increased autonomy to make decisions that affect their schools.

(3) The manager at the statewide services centre is a permanent level 8 officer.

(4) All schools, including agricultural colleges, can access the extensive teaching and learning support offered by the statewide services centre. In addition, two positions, one level 7 and one level 6, will be retained to support agricultural colleges to manage the residential and farm aspects of their operations.

PUBLIC SECTOR — STAFF

973. Hon TJORN SIBMA to the Leader of the House representing the Premier:

(1) For the period 17 March 2017 to 29 November 2017 inclusive, can the Premier advise whether any staff members employed within a minister's office, be they a term-of-government staff member, public servant, or consultant, have taken personal leave of five consecutive days or longer, left their employment or had their term-of-government contract terminated?

(2) With respect to (1), from which minister's office or offices?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) Yes.

(2) The contractual and employment status of individual staff members, including the reasons for taking personal leave, are confidential. Should the member have a specific question, the member should ask that question.

LOCAL PROJECTS, LOCAL JOBS PROGRAM — MEMBER FOR DARLING RANGE

Question without Notice 942 — Answer Advice

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.08 pm]: I would like to provide an answer to Hon Michael Mischin's question without notice 942 asked yesterday, which I seek leave to incorporate into *Hansard*. It includes a long table.

Leave granted.

The following material was incorporated —

(1) The following is a list of Local Projects, Local Jobs grants that have been paid in the electorate of Darling Range.

Project Name	Amount ($)	Recipient Organisation
Armadale Soccer Club – new undercover seating area	35,000	Armadale Soccer Club
Stephen Michael Trust Fund – South Fremantle Football Club	350,000	Stephen Michael Trust Fund ($175,000 paid so far)
Byford Baptist Church – Youth Group and Playgroup - equipment	2,800	Byford Baptist Church
Byford Scout Group – equipment	1,600	The Scout Association of Australia/Western Australian Branch – Byford Scout Group
Roleystone Community Garden – Water Tank	7,000	Roleystone Community Garden Inc.
Mundijong Centrals Football and Sportsman's Club – fridges	10,000	Mundijong Centrals Football and Sportsman's Club
Roleystone Gymnastics – equipment	16,300	Roleystone Gymnastics Club
Roleystone Theatre – equipment	12,600	Roleystone Theatre Inc.
Serpentine Jarrahdale Tee-Ball Association – equipment	3,000	Byford Bushrangers Inc.
Serpentine-Jarrahdale Little Athletics Funding – equipment	10,000	WA Little Athletics
Salvado Catholic College – nature playground and shade sails	10,000	Salvado Catholic College
Woodland Grove Primary School – shade sails	10,000	Woodland Grove Primary School
Jarrahdale Primary School – upgrades	10,000	Jarrahdale Primary School
Serpentine Primary School – equipment	10,000	Serpentine Primary School
Roleystone Senior High School – all weather shelter for bus stop	20,000	MOU with PTA

Landcare Serpentine-Jarrahdale – revegetation project	1,500	Landcare Serpentine–Jarrahdale
Darling Range Wildlife Shelter – equipment	1,500	Darling Range Wildlife Shelter
1st Mundaring Scout Group – infrastructure upgrades	10,000	The Scout Association of Australia/Western Australian Branch – Mundaring Scout Group
Mundaring Voluntary Fire and Rescue Service – equipment	10,000	Mundaring VFRS
Rotary Club – new food van	30,000	The Rotary Club of Mundaring WA Inc.
Mt Helena Volunteer Bush Fire Brigade, Sawyers Valley Volunteer Bush Fire Brigade, Wooroloo Volunteer Bush Fire Brigade, Chidlow Volunteer Bush Fire Brigade, Darling Range Volunteer Bush Fire Brigade - equipment	50,000	Shire of Mundaring

(2)–(3) These were election commitments promised to community organisations in the lead up to the March 2017 State election.

The Department of the Premier and Cabinet has directed all agencies to deliver grants in accordance with relevant procurement processes and requirements, before grants are paid.

QUESTIONS ON NOTICE 415, 424, 439, 442, 463, 468, 485 AND 490

Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.09 pm]: Pursuant to standing order 108(2), I wish to inform the house that answers to question on notice 415, 424, 439, 442, 468, 485 and 490 asked of me as the Minister for Environment and question on notice 463 asked of me as Minister for Disability Services, will be provided on Thursday, 7 December 2017.

Point of Order

Hon NICK GOIRAN: Madam President, if I am not mistaken, the Minister for Environment has just indicated that he will provide the answer to question on notice 439 at a later date.

Hon Stephen Dawson: Tomorrow.

Hon NICK GOIRAN: Madam President, today I received an answer from the Minister for Environment to question on notice 443. I will not read out the question, but I am happy to provide it to you at a later stage. The answer provided by the minister is —

> Please refer to Legislative Council question on notice 439.

Madam President, you have previously indicated to the house that it is not your role to say whether an answer is correct or adequate. However, frankly, it is bordering on embarrassment to the chamber that I can be provided with an answer saying “Please refer to Legislative Council question on notice 439”, when moments ago the minister said he will provide an answer to question 439 at some later stage. Madam President, I know you will say that it is not your role to provide an opinion on the adequacy of an answer. However, this is disgraceful.

The PRESIDENT: Minister for Environment, on what date did say you will be providing a response?

Hon Stephen Dawson: Tomorrow.

The PRESIDENT: I would hope that by tomorrow, the member will have the response required.

Hon STEPHEN DAWSON: Madam President, if I could take a point of order and respond to that briefly. The answers were provided, but unfortunately the person who puts the questions on the notice paper did not get those answers in time and that caused us to miss the opportunity to provide the answers to the house today. Therefore, I am required to make a statement that the answers will be provided to the house tomorrow.

POLICE — STREET DRINKING

Question on Notice 430 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.11 pm]: Pursuant to Standing Order 108(2), I wish to inform the house that the answer to question on notice 430 asked by Hon Alison Xamon on 31 October 2017 to me as Minister for Environment representing the Minister for Police will be provided on 13 March 2018.

QUESTIONS ON NOTICE 416, 440 AND 487

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Stephen Dawson (Minister for Environment)**.

SALARIES AND ALLOWANCES AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Laurie Graham) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Debate was interrupted after the clause had been partly considered.

Hon PETER COLLIER: Prior to the interruption for question time, I had made the comment that this bill, in essence, diminishes the role of the Salaries and Allowances Tribunal—if anything, it is a slap in the face for the Salaries and Allowances Tribunal. I said in my contribution to the second reading debate that the government is saying to the Salaries and Allowances Tribunal that it does not have confidence that it will adhere to the government's wages policy. I had also referred to the Workforce Reform Bill. That was in response to the comment by the Leader of the House that determinations from the Salaries and Allowances Tribunal need to have regard to government policy. The Leader of the House is using the Workforce Reform Bill as a precedent and is saying that because our government did that back in 2015, the government can do it now. The Workforce Reform Bill is different from this bill. This bill seeks to provide a mandated salary for parliamentarians, the judiciary, senior public servants and so on. The two bills are completely different. The government's lack of confidence in the Salaries and Allowances Tribunal is quite profound. I want to make that very clear. There is no beating about the bush with this one; this is exactly what that is all about. Had we not had an election, I would suggest that there is absolutely no way on God's earth that we would be debating this bill now. We would not do it. This was purely and absolutely cosmetic, as we know. The government has spoken relentlessly, in questions, comments and media statements, about the parlous state of the books, and that this is one of the solutions. As I stated in my nearly two-hour contribution a couple of days ago, that has become so tiresome that it has gone beyond boring. This is just one of those examples of the government trying, yet again, to put the boot in and claim that it is seeking to implement debt and deficit remediation. We already know, as we have been told in the second reading speech, that we are looking at $16 million to $20 million in savings. In anyone's language that is a minuscule part of the overall budget.

Having said that, we need to look at a couple of areas, firstly the government trading enterprises. It was very interesting that the minister stated that the GTEs will be captured by this legislation once the contracts of the executive officers in those GTEs come to fruition. Did I understand that correctly?

Hon Sue Ellery: I said, once they have expired.

Hon PETER COLLIER: Yes, once they have expired. There is potential for the chief executive officers of the GTEs not to be captured at all, particularly the board chairs, if they have signed contracts for five years. As far as they are concerned, that would be completely redundant on their part. I appreciate the comments of the Leader of the House, and I think her explanation was quite comprehensive, but at the same time she missed a number of areas, and this is one area that she missed. Make no bones about it—there is potential that the chief executive officers of GTEs will not be captured by this bill at all. I would be interested to know whether there has been a flurry of re-signing of contracts in the GTEs, particularly in the energy sector—firstly, whether that is possible and secondly whether it has occurred. I suggest that it could be, because I can tell house now that, when I was Minister for Energy, one of the things I always used to fight about—I am sure the current minister will be having the same fights—was that the boards and the chairs of the boards get on very well with the senior officers of the GTEs, and will always be trying to find ways to increase their salaries and bonuses, or work out some way of improving their lot. That was something I had constant issues with, because it was always out of kilter with community expectations.

The other thing I would like to speak about is the very consistent commentary throughout the second reading speech about how we all need to do our bit, and it is only fair that we, as members of Parliament, also contribute, and so on. It talks about community confidence, and makes it clear that members of Parliament are not exempt from this important task. There is one area that the Leader of the House did not touch on, and that is the double dipping of the car allowance. It is a recommendation from the Salaries and Allowances Tribunal, and a number of members brought it up. It is a very valid issue, because it is not just the double dipping of cars. What needs to be remembered here, if we are all going to do our bit, is another ruling from SAT about our imprest allocation. Is everyone aware of that? The imprest has now changed. Now, we do not get an imprest allocation per term; it is embedded in our income. Is everyone aware of that? Whereas previously, if we travelled on government business or to do research, we would claim on our imprest account. That is now embedded into our salaries. I would love to know whether any minister will use one cent of their imprest over the next four years. They will not. I did not; and no-one will. I am saying that it is an addition to our salaries. Let us make no bones about it: it is not the $25 000 that ministers have already got; it is another $25 000.

The DEPUTY CHAIR: Member, are you going to ask a question?

Hon PETER COLLIER: I do not have to.

The DEPUTY CHAIR: Do we not have to?

Hon PETER COLLIER: No.

The DEPUTY CHAIR: The staff are advising me that you do at some point.

Hon PETER COLLIER: This is clause 1, is it not?

The DEPUTY CHAIR: Yes, this is clause 1.

Hon PETER COLLIER: Okay, I will ask a question at the end of my speech, but thank you for the direction, Mr Deputy Chair!

Having said that, this is valid and we did not get a response. The reason I am raising this point is that we did not get a response on this in the Leader of the House's reply to the second reading debate. If we are all going to do our bit, there is that $5 500, which I think eight or nine ministers have now pocketed, and we also have another $25 000 from imprest that will not be used. I assume that that the ministers are not going to return that $25 000 and will pocket that as well. If we are talking about all doing our bit, we need an explanation for that. I and, I have to say, a number of members on both sides of the chamber, have brought that up. As I said, it is all good and well to take a high moral ground on this issue and to do so not only relentlessly through parliamentary questions and in the media et cetera, but also actually embed it in the second reading speech of this legislation. However, if that is the case, I think we need an answer. If we are going to do our bit, I would be interested to know whether the minister is aware of any ministers who have decided to forfeit the amount from their imprest account. That is a valid point.

Hon Sue Ellery: Not in this bill.

Hon PETER COLLIER: It is a valid point, because if someone does not use it —

Hon Sue Ellery: People have their own personal financial arrangements, how would I know that?

Hon PETER COLLIER: That is why I am asking. The Leader of the House can speak personally regarding her $5 500 from the double dipping. I am saying that if we talk about this, we cannot talk about the public—the mums and dads and the public servants et cetera—doing their bit for the state with $1 000 a year, and at the same time get the $5 500 from double dipping on the cars plus not use the imprest amount. That imprest amount is there exclusively for members to expand their horizons, but ministers do not need it because they get everything paid for. The minister has just been to China and back and I am sure it was in business class. I do not begrudge her that; I did the same. That is one of the privileges of being in office. Is a minister in office who gets the privileges of being a minister, including travelling all around the state in a jet and flying interstate and internationally in business class, and who also gets their imprest, really doing their bit for the budget and the state's finances? Probably not.

Hon SUE ELLERY: The honourable member made a number of assertions at the beginning of his comments—none of which I accept—that this legislation undermines or in some way is an expression of the government's lack of confidence in the Salaries and Allowances Tribunal. I do not accept those assertions at all. The argument the member made towards the end of his contribution about SAT decisions that, for example, incorporate into everyone's salaries of what used to be available only by application—that is, the amount of money of the imprest—sets the argument of why from time to time it is a good idea to provide fetters on SAT about how it makes its decisions. That is what this bill is. It is the third time that a government has fettered the capacity of the Salaries and Allowances Tribunal. It does not mean that the government does not have confidence in SAT or that we are seeking to undermine it at all.

Hon MICHAEL MISCHIN: I was astonished with the supposed explanation given by the Leader of the House in her second reading reply to the various matters that were raised about the bill. The very idea that this is not something that interferes with the independence of a statutory tribunal that was established to depoliticise the setting of remuneration—I am talking about not only salary but also other necessary remuneration for MPs to do their jobs and to serve their communities—by putting a cap on what the tribunal can and cannot do for four years strikes me as an absolute admission of the lack of principle and trustworthiness of this regime. The government is showing a willingness to set restraint from the top, by telling a depoliticised tribunal that it cannot remunerate judicial officers, senior public servants and, more importantly, MPs by a sufficient amount to do their jobs. To say that that is not political interference and that does not compromise independence is a lie. It cannot be put any other way. It cannot be possible.

Withdrawal of Remark

Hon SUE ELLERY: I take objection to the honourable member characterising my response as a lie.

Hon MICHAEL MISCHIN: I am categorising the government's position in this as a lie.

Hon SUE ELLERY: That is not what you said. You were talking about my response.

Hon MICHAEL MISCHIN: You were simply reflecting the government's position, minister; the position of a government that says this is not an interference in independence.

Hon SUE ELLERY: Mr Deputy Chair, I raised with you my objection to the language that was used to describe my response.

The DEPUTY CHAIR (Hon Laurie Graham): I am sure the honourable member will not repeat that language directly to you.

Hon SUE ELLERY: No. Mr Deputy Chair, I am going to ask that perhaps you seek some advice. The standard practice is that he be asked whether he will withdraw the comment. I ask you to consider that.

The DEPUTY CHAIR: Member, would you withdraw the comment?

Hon MICHAEL MISCHIN: If it is ruled that in fact that comment is a breach of parliamentary convention, then I shall. What I am pointing out is —

Hon Sue Ellery: That is not unqualified—no.

The DEPUTY CHAIR: You have not indicated that you will withdraw.

Hon SUE ELLERY: If I may, Mr Deputy Chair, I have expressed objection to the language. The normal practice when I do that is that you ask the honourable member whether he is prepared to withdraw. Normally, if he intends to withdraw, it is an unqualified withdrawal.

The DEPUTY CHAIR: Honourable member.

Hon MICHAEL MISCHIN: To move the debate on, if the member considered I was referring to her as a liar, then I withdraw.

Hon Sue Ellery: Thank you.

Committee Resumed

Hon MICHAEL MISCHIN: The thesis upon which this bill was built is a lie. It is built on the false premise that somehow—I will repeat it—telling a statutory independent tribunal that it cannot do things for four years, that it cannot fulfil its function, is not interference. It shows an intellectual dishonesty and a lack of principle on the part of this government.

To say that a fetter was placed on the tribunal three years ago is, again, false. There was no restraint placed on the tribunal three years ago, which is what a fetter is. What was placed on the tribunal was simply an obligation to consider the very things that supposedly are motivating this government to take this step—namely, things that it was considering before but is now formalising, and that it take into account the fiscal position of the state and the government's wages policy. The minister might like to comment in due course on what a howl she and her compatriots in the Labor Party put up when they were sitting over here, and how that interfered with the independence of the tribunal and how simply requiring the Western Australian Industrial Relations Commission to consider those things was a dreadful mandating of interference in those tribunals.

The minister might choose to forget it, but we had a very lengthy debate, without any agreements behind the Chair on getting the legislation through, in which members opposite were quite content to sit as long as possible to grind down the bill. They hypocritically claimed that it was an unacceptable interference with independence, when all it was was a requirement to consider certain factors. The minister now sits there and tells us, with a straight face, that this bill does not affect the independence of a statutory tribunal. It is absolutely astonishing! This government is saying—the crossbenchers might like to ponder this because of their position of not wanting to even look at this bill and examine it—that any government of the day in the future, if it claims it is necessary and expedient to do so, is justified in interfering with an independent tribunal in order to "send a message". I expect this from the Labor Party. We have noted the precedent that was set as an example of principle back in 1983 or '84 under that illustrious Burke government. The government is now repeating, over 30 years later, that this is justified. What is being done here should not be underestimated. The next time any government comes before this place and says, "Look, we've got a terrible financial situation. We think we ought to interfere with something"—perhaps the Western Australian Industrial Relations Commission will be next—I trust there will be no complaint from those on the other side of this chamber because they will not be able to stand there with any spine or principle and say, "Hey; this is wrong." They have acquiesced in this, and I expected that to come from a caucus of Labor people who have no principle and simply rely on expediency for political purposes. That is fine. I am disappointed about members who have come into this chamber and are prepared to be the voice trumpets of this government. They say they stand up for principle—they say they are not professional politicians and they will have regard for principle—yet, without even examining this legislation, they have chosen to march in step with this government. So be it; that is their choice. Again, they need to consider what they are doing, but it is a bit too late now. They will have to live with it.

Hon Simon O'Brien: We're still on clause 1; it's never too late!

Hon MICHAEL MISCHIN: We are still on clause 1; that is true. We can still look at this properly. I am comforted by the minister's assurances that there is no need to refer this bill to a committee because the Committee of the Whole will answer all our questions in the same fashion. The minister said there is no need for a committee to examine this bill because she will answer all questions. We will see how far that goes and whether there will be a few, "I can't help you there", "I don't know", "You'll have to ask someone else", "I'll have to ask the Premier, whose bill this is", or, "I'll have to ask someone in the Labor Party." That is not the way that committees work. We can examine the theses that underlie legislation, but the minister has said otherwise. We will see how we go. The minister might wish to start by telling us why this bill is so urgent that the government has pushed out, in this last sitting week of Parliament, all the other legislation that would have some practical benefit to the people of Western Australia, including the Health Practitioner Regulation National Law (WA) Amendment Bill 2017, which we were told needed to be passed in September if it was at all possible. Why is the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 so urgent that it cannot be properly considered by a parliamentary committee over the Christmas break?

Hon Sue Ellery: That's already been determined.

Hon MICHAEL MISCHIN: There was no explanation of that, other than that the government would not support a referral —

Hon Sue Ellery: The house has already made a decision on that.

Hon MICHAEL MISCHIN: — and that all questions would be asked in the committee. I again ask what has made this bill so urgent from the point of view of the government?

Hon SUE ELLERY: I am glad that the member made reference to what he thinks the minister said in response to how the debate will be conducted during the committee, because I think I was verballed on several occasions during the course of the second reading debate. I have in front of me an extract from *Hansard* of what I said in this place on Thursday, 30 November, as part of my response to the referral motion. I said —

> The government will not be supporting the referral. It is entirely possible for us to examine the bill in detail when we go into Committee of the Whole. Indeed, when we were last sitting—I think it was on 7 November but I will stand corrected —

I will correct myself now: I think it was actually 8 November —

> I wrote to the leaders of each of the parties and said, "This is the list of the government's priority legislation. I'm happy to give members as much time as they need to go through the detail of each piece of legislation and there are some ways in which we can generate some extra time to do that. I welcome your feedback on how we might achieve that." The aim was to give everybody as much time as they needed in the house to consider the detail of all the legislation and to meet the objective of getting that legislation through by the time we rise next week. We have been able to reach agreement behind the Chair about how we might do that. An agreement has been reached that we can examine the bills in all the detail that people need to, and I respect the right of people to do that, in the committee process of the bill that is before us now.
>
> …
>
> I asked members, through their respective leaders, to tell me how much time they thought they needed to deal with the detail of this bill in the course of our proceedings leading up to next Thursday, and an agreement has been reached on how we do that.

That is what I said.

In respect of the commentary provided by the honourable member, as with my response to the commentary of the Leader of the Opposition, I do not accept the assertions that he made. I think he referred to the very idea that it does not interfere with the independence of SAT—I do not accept the proposition that the member put. The member says "obligation"; I say "fetter". The member said what his government did in 2014 was not to impose a fetter; it was to impose an obligation. That is the word I just wrote down that the member said. In the context of what we are debating now, I get that the member's argument is that he takes objection to the nature of the obligation or the fetter we are putting on the Salaries and Allowances Tribunal by way of this legislation, but I think the two words are interchangeable in the context of what we did. The Salaries and Allowances Tribunal exists as a function of a piece of legislation created by the Parliament of Western Australia. It is a product of the Parliament of Western Australia. It is within the rights of the Parliament of Western Australia to change from time to time the parameters, the obligations or the fetters—the member can use whichever word he chooses. It is within the rights of the Parliament of Western Australia to do that. The Salaries and Allowances Tribunal exists as a creation of the Parliament of Western Australia. I understand the depth and strength of feeling of those who see this as an undue interference; I understand that. I have heard that argument and I understand it. I do not accept it, but I understand the point that the member is making. I reiterate what I said when I started in my response to the member. I invite members to look at the *Hansard* of 30 November as to the commitments I set out to the Parliament, and if members opposite are going to quote at me the commitments I have given, please go and check what I actually said.

The DEPUTY CHAIR: Minister, before we continue, I would just like to make a statement. A member of the Legislative Council speaking to clause 1 of the bill may make points that are pertinent to the various other clauses of the bill, so long as the remarks do not effectively amount to a second reading debate speech. I am sure that in the first two sessions that is where we have been, so if we could go back, the conclusions are obviously recorded in the parliamentary notes.

Hon MICHAEL MISCHIN: Thank you, Mr Deputy Chair. We will take it piece by piece.

Does the minister accept that the requirement of several years ago for the Salaries and Allowances Tribunal and the Western Australian Industrial Relations Commission to take certain matters into account was a requirement of the legislation—yes or no?

Hon SUE ELLERY: If I understand the question, the member had used the word "obligation" but he is now using "requirement". If the member is saying the same thing, then yes.

Hon Michael Mischin: I'm not quibbling about words. It was required under the changes made back then that those two bodies consider matters.

Hon SUE ELLERY: Correct.

Hon MICHAEL MISCHIN: Does the minister accept that nevertheless they could disregard those considerations in the exercise of their discretion?

Hon SUE ELLERY: My understanding and recollection of the changes is that they were required to take them into consideration. That was the extent of the obligation and of the requirement. I take no issue with the fact that the requirements, the obligation or the fetters are different—that is not a matter of dispute—but I say that it is a fetter, an obligation or a requirement. We disagree about the extent to which they go and whether it is a reasonable thing to do or not.

Hon MICHAEL MISCHIN: I am not using the word "fetter". We will not argue about semantics. So the answer to that question was: yes, they could disregard those factors after they had taken them into account. Does the minister accept that with this legislation, on the other hand, there is a limitation on what SAT will be able to do notwithstanding taking into account those considerations?

Hon SUE ELLERY: I thought I had made this clear already. Yes, there is a limitation. We disagree about whether we think that is reasonable or not. But, yes, this legislation will set an obligation, a fetter, a requirement, a parameter—whatever word the member wants to use. There is no disagreement that that is what we are doing; the disagreement is whether it is a reasonable thing to do or not. The argument the member put, which I understand, is that he thinks that this is unreasonable political interference. I understand that that is the member's argument, but I disagree with it.

Hon MICHAEL MISCHIN: Thank you, minister. Whereas under the previous legislation, which the minister said is a fetter, if the SAT or the WAIRC had come to the view that notwithstanding government wages policy and the state's fiscal condition some increase in remuneration was just and necessary, those bodies could increase remuneration—yes or no?

Hon SUE ELLERY: I will determine how I answer the question.

Hon Alannah MacTiernan: That's right.

Hon SUE ELLERY: Thank you very much.

I will determine how I answer the question. I have already answered it.

Hon MICHAEL MISCHIN: Does the minister accept that under the previous legislation, if those bodies, taking into account the "fetters"—as the minister says—that were placed on them, nevertheless came to the view that an increase in remuneration was necessary and just, they could increase remuneration?

Hon SUE ELLERY: I am not sure that I can answer that question in any other way or more explicitly or more clearly than I have already.

Hon MICHAEL MISCHIN: The minister can, by simply saying yes.

Hon Sue Ellery: I've got nothing further to say on that.

Hon MICHAEL MISCHIN: I will take that as a yes then.

Hon Sue Ellery: You shouldn't take that as anything other than me saying that I have nothing further to say on that.

Hon MICHAEL MISCHIN: This is going to take some time, is it not, because we cannot get out anything other than weasel words and speeches?

Hon Sue Ellery: You're the one talking.

Hon MICHAEL MISCHIN: I take it that the minister cannot disagree that under the previous changes in 2014, which the minister regards as fetters, if the Salaries and Allowances Tribunal or the Western Australian Industrial Relations Commission came to the view that notwithstanding these fetters an increase in remuneration was necessary and just, they could increase remuneration? I do not hear any argument to the contrary. Can the Leader of the House argue to the contrary? No. However, in this case, if the Salaries and Allowances Tribunal came to the view that remuneration, whether by way of salary or electorate allowance or any other sort of allowance, is necessary and just, is it able to increase that remuneration—yes or no?

Hon SUE ELLERY: I explained in the course of the second reading debate, and I think I have already done it in the course of the Committee of the Whole stage, that I understand the differences between the changes that were made in 2014 and the ones being made now. The policy of the bill has already been settled by way of the second reading, and that policy is that there are constraints on what the Salaries and Allowances Tribunal can do, and those were articulated in the course of the second reading debate. The policy has been set and, as a consequence, the answer to the honourable member's question is that there are constraints on what the Salaries and Allowances Tribunal can do. I am not hiding from that. That is the policy of the bill and the house has determined that. I am not sure what further I can do to satisfy the member that that is indeed the policy of the bill.

Hon MICHAEL MISCHIN: Would the Leader of the House accept that it interferes with the independence of the Salaries and Allowances Tribunal doing its job?

Hon Sue Ellery: I have nothing further to say.

Hon MICHAEL MISCHIN: It is pretty obvious what has happened. It is simply because the minister cannot get around those factors in the same way as the good old Burke government set the precedent back in 1984, I think it was. It is not simply a matter of a difference of degree. It goes to the heart of the function of the SAT. What does the minister regard as the function of the SAT?

Hon SUE ELLERY: What I regard as the function of the SAT is irrelevant. The function of the SAT is set out in the legislation that created it. If the honourable member is unsure about what those functions are, I suggest that he read the act, because it quite clearly sets out the functions. I am not sure whether that question progresses us in respect of the changes we are seeking to make as a result of the bill before us now.

Hon MICHAEL MISCHIN: It goes right to the heart of it because it affects the manner in which the SAT is to discharge its functions, particularly in respect of some clauses that come later that are the subject of amendment. I am traversing the function of the SAT to point out that what is proposed is contrary to not only the principle and the whole point of its being established, but also the manner in which it can satisfactorily function. If I put it to the Leader of the House that the Salaries and Allowances Tribunal was established to take out of the hands of Parliament—leave aside the government of the day, which might have a majority—the setting of remuneration for parliamentarians and senior officers of Parliament, would she agree with that; yes or no?

Hon SUE ELLERY: I appreciate the member's advice on how I should answer the questions that he puts to me, but I reiterate that I will choose how I answer the questions the member puts to me.

The functions of the SAT are clearly set out in the act. I have made the point already that the tribunal is a function that exists. The tribunal exists as the result of legislation of the Parliament of Western Australia. It is within the purview of the Parliament of Western Australia to change that legislation, and that is what we are doing today. As I said in my reply to the second reading debate and in my second reading speech, we find ourselves having to do this to address the state of the finances and to send a clear message to the community and to the credit agencies that we have a clear plan and path for reining in expenditure and for taking serious steps to address the financial mess we inherited.

I understand the argument put by the honourable member—that he thinks the method by which we are seeking to do that is unreasonable, and he characterises it as political interference and a step too far. I understand that argument; he has put it several times. I am not sure I have any other way of answering his questions about whether or not I am going to accept his argument, because the short answer is: no, I am not.

Hon MICHAEL MISCHIN: So the minister does not accept the proposition that the Salaries and Allowances Tribunal was set up to take out of the hands of Parliament the setting of remuneration for members of Parliament and others? Is that correct?

Hon Sue Ellery: Why don't you finish your contribution and I'll see if I can add anything?

Hon MICHAEL MISCHIN: Does the minister accept that this puts back into the hands of Parliament the setting of remuneration for members of Parliament?

Hon SUE ELLERY: We continue to talk at cross purposes here. I understand the arguments being put by the honourable member. I understand that he holds his convictions strongly, and I respect that, but we disagree. I cannot accept the premise of many of the assertions he has made to date. There is no way he can express them that will persuade me to accept the premises of what he is suggesting. I respect his point of view and the conviction

with which he holds it. I respect that he has taken action to vote in a different way from some other members of his party, and that is not an easy thing to do. I respect all of that, but I cannot accept the assertions he has made and I do not accept that this is undue political interference.

The CHAIR: Members, I think I might be able to offer some assistance from the Chair, if members would resume their places, because otherwise the debate will possibly become tediously repetitive. That is one thing, but more to the point, this is not a clause 1 debate.

Several members interjected.

The CHAIR: Order, members! It is good to see that there is plenty of goodwill in the chamber at this time of year, when things can sometimes get a bit ratty!

Let me just remind members now that the short title debate is intended to do no more than give an opportunity to range over the clauses of the bill, to foreshadow amendments and to indicate, consistent with the policy of the bill, how it might be improved. Clause 1 can, in itself, be defeated, and that would see the disposal of the bill, but that does not mean that the clause 1 debate becomes a re-run of the second reading debate, which has already been had and decided by the house. While recognising that if members do not want the bill to proceed, they can vote against it at clause 1, the clause 1 debate does not give us another crack at the second reading debate. I think everyone involved knows that, but I thought it might be useful to restate it in simple terms so that we can make some progress.

Having said all that, the short title debate also contemplates a number of forms that it can take, so I am not seeking to artificially constrain members, but I will insist that we have a genuine clause 1 debate from here on in, which I know is what members want.

Hon MICHAEL MISCHIN: Thank you, Mr Chair; I am obliged for the reminder on the scope of the debate. Just to recap, I understand that the Leader of the House takes a different view. It is not a question of due or undue interference. I take it that she does not accept the premise—she has said that she rejects the premise—that the Salaries and Allowances Tribunal was established to take out of the hands of Parliament the question of remuneration for parliamentarians and she rejects the proposition that putting a restraint on its ability to increase remuneration, notwithstanding its independent assessment of it, is not an interference with its independence. That makes it clear for any future arguments about this and other independent statutory tribunals.

I turn to the difference in the manner in which the act operates and has operated to date and the manner in which other tribunals and the like operate. There is talk about sending messages and so forth about restraint in remuneration, but of course public servants are faced with a very different position. There may be a wage policy, but it does not mean that they have to accept that policy; and, if there is an argument, it can always be resolved by the Western Australian Industrial Relations Commission. If there is an agreement by way of negotiation between the public sector unions and the government, it is for a limited period—two or three years. There are some differences in the manner in which this regime has been set up. Firstly, there is no negotiation. It is not a question of accepting things on any particular terms. A decision of the Salaries and Allowances Tribunal is imposed. There is no appeal and there is no review. Some might consider that to be a good thing and some might consider it to be a bad thing, but there is a distinction in the messages that are being sent out. Secondly, there is no question of it being for only a negotiated period—either good or bad. This review takes place every year statutorily. However, it raises a question about why the period that has been selected is four years. Perhaps the Leader of the House can clarify that, because it underpins the nature of the legislation we are dealing with. Why is there an imposition of four years? What business case underpinned the bill that might have informed whether this was a good idea or whether there will be any significant savings? Is the Leader of the House prepared to put forward the business case? I make the point that if this were being examined by a committee of this house, it would be the sort of thing that the government would be obliged to answer questions about and actually produce materials on so that a committee could examine it. We do not have that opportunity, but I am sure that the Leader of the House will be prepared to help out as much as she can on this.

Hon SUE ELLERY: There was not a business case in the sense that a business case is developed for the consideration or implementation of a particular policy. I do not think I have ever seen a business case prepared for the preparation of a bill. Maybe the member did in his time in government, but I did not see one when I was a minister the last time we were in government, and I certainly have not seen one in the last nine months. There was not a business case and I am not sure that that is the process by which a bill would normally be put together. I am sure that the member is familiar with the process of drafting instructions from cabinet and then approval to print from cabinet.

On the matter of the four years, we wanted to do it on a temporary basis; we did not want it to be ongoing. We wanted to generate savings. The position was reached that that was a reasonable period to achieve some savings and we put an end date on it so that it was not an ongoing measure and it was true in the sense that it was a temporary measure to deal with what we trust will be a temporary set of circumstances with the state's finances.

Sitting suspended from 6.00 to 7.00 pm

Hon NICK GOIRAN: I am pleased to have an opportunity to ask a few questions about this matter. I indicate to you, Mr Deputy Chair, and also for the benefit of the minister, that I have a few questions about clause 1. I will also have some questions about clauses 2, 7, 8 and 9.

With regard to clause 1, is the minister able to advise whether the policy of the bill includes a freeze of remuneration paid to members of Parliament?

Hon SUE ELLERY: Indeed, it is included in the policy of the bill that we just determined in the second reading debate.

Hon NICK GOIRAN: Has the minister had an opportunity to read the determination issued by the Salaries and Allowances Tribunal on 30 November?

Hon SUE ELLERY: I have not.

Hon NICK GOIRAN: Is the minister aware that that determination orders that no increase be provided to members of Parliament?

Hon SUE ELLERY: I am aware of that.

Hon NICK GOIRAN: In light of that, why is the bill necessary?

Hon SUE ELLERY: My reply to the second reading debate specifically addressed this very point. The point is that, although it is certainly the case that the tribunal's most recent determination for members of Parliament is completely consistent with the government's policy on this bill, the bill is still necessary for a couple of reasons: first, it sets the policy beyond the immediate term of the determination just made by the tribunal; and, second, we think it is important to send a message more broadly, in particular to the ratings agencies and the community, that the government is serious about having a plan made up of a number of different elements to address the finances of the state.

Hon NICK GOIRAN: Apart from the bill being necessary, as the minister said, to set the policy for future years and to send a message to other external bodies, is it also the government's position that the bill is necessary because the determination on 30 November applied to only members of Parliament, whereas the government's bill deals with other officers?

Hon SUE ELLERY: I addressed these issues in my reply to the second reading debate. I indicated all the people that this bill's remuneration arrangements will capture and I made the point that it will set the parameters beyond the immediate period covered by the most recent decision.

Hon NICK GOIRAN: Does the minister agree that the policy of the bill is wider in its application than just members of Parliament?

Hon Sue Ellery: There's no question about that. I said that in the second reading speech and the second reading reply as well.

Hon NICK GOIRAN: I just wanted to confirm that. Does the policy of the bill include a freeze of remuneration paid to the Clerks and Deputy Clerks of the Legislative Council and the Legislative Assembly?

Hon SUE ELLERY: Yes, it does. Again, I make the point that I set this out in my response to the second reading debate.

Hon Nick Goiran: The minister mentioned the Clerks and Deputy Clerks?

Hon SUE ELLERY: I did.

Hon Nick Goiran: The minister did?

Hon SUE ELLERY: Yes.

Hon Nick Goiran: Okay. That is great.

Hon SUE ELLERY: I mentioned all the classifications that will be captured.

Hon NICK GOIRAN: That is wonderful. I thank the minister for confirming that. Which of those clerks was consulted about the bill?

Hon SUE ELLERY: Again, I specifically addressed this issue in the second reading reply. I said none.

Hon NICK GOIRAN: Why were none of those clerks consulted about this bill?

Hon SUE ELLERY: None of the officers who will be captured by the policy of the bill were consulted. It is not normally the practice to consult widely with everybody who will be captured by a bill of this nature. Nothing was unusual about that, but we did not do it.

Hon NICK GOIRAN: The minister has said that it is not normally the practice to consult on those things but, in itself, this bill is not normal. In her reply to the second reading debate, I think the minister indicated that this had happened —

Hon Sue Ellery: This is the third.

Hon NICK GOIRAN: This is the third time? Is the minister saying to the chamber that the other two times there was or was not consultation with the people who were —

Hon Sue Ellery: With due respect, I wouldn't know.

Hon NICK GOIRAN: The minister does not know?

Hon Sue Ellery: I wouldn't know.

Hon NICK GOIRAN: I understood that just moments ago the minister said that it was not normal for these stakeholders to be consulted on the bill. To me, "normal" would indicate that this happens from time to time. The government of the day seeks to tell the tribunal what it can and cannot do and that normally there would not be consultation with these stakeholders. It seems to me that there is no normal here and that what we are doing is abnormal. I do not think that it is quite right to give the impression to the chamber that it is routinely the case that we do not consult with people about these bills, because we really do not have any proper precedent to base this on.

Hon SUE ELLERY: I guess I was talking in a more generic sense about whether government consults with everyone who will be affected by a piece of legislation. I was not limiting my comments to this bill. The point that the member made is a point that I reiterated in my second reading reply; that is, officers who will be captured by the bill were not consulted with.

Hon NICK GOIRAN: That would, of course, include judges, District Court judges, the master of the Supreme Court, and magistrates?

Hon SUE ELLERY: In my second reading reply, I specifically addressed this issue because someone—it may even have been the member —

Hon Nick Goiran: Did the minister mention them by name?

Hon SUE ELLERY: I specifically listed the classifications that will be captured by the legislation because someone—it might have been the member—raised this very issue.

Hon NICK GOIRAN: The minister may well have mentioned that. I do not recall that. I appreciate that I was not here for the entirety of her reply, but I watched it elsewhere when I had the opportunity. I had some other urgent parliamentary business to attend to. Nevertheless, without even having to check *Hansard*, I would be very confident that the minister would not have mentioned registrars of the Supreme Court and District Court. Can I ask why that was the case?

Hon SUE ELLERY: They are captured in a special division of the public service. I did refer to the special division.

Hon NICK GOIRAN: The minister referred to the special division but she never mentioned registrars of the Supreme and District Courts.

Hon Sue Ellery: Correct.

Hon NICK GOIRAN: The special division is officers of the public service holding offices included in the special division of the public service. The minister is indicating that they are captured by this bill. We now know, either through the minister's reply to the second reading debate or through her comments now, that these people were not consulted. Can the minister indicate to the chamber who those officers are?

Hon SUE ELLERY: Does the member want the list of officers in the special division?

Hon Nick Goiran: Yes. Please do not say you do not know.

Hon SUE ELLERY: Honourable member, it is quite a lengthy list. It is set out in the document that I have in my hand, titled "Salaries and Allowances Act 1975: Determination of the Salaries and Allowances Tribunal for Clerks and Deputy Clerks of the Parliament, Public Service Office Holders included in the Special Division of the Public Service and Persons Holding Offices prescribed in Salaries and Allowances Regulation Number 3". I do not have a spare copy, but I am sure we could get a copy made for the member and I would be happy to table it. It is a publicly available document in any event, but I am sure that we could arrange for the member to get a copy tonight if he needs one.

Hon Nick Goiran: I definitely want a copy.

The DEPUTY CHAIR: Are you tabling it now or are you getting a copy?

Hon Nick Goiran: The minister could get a copy and I will ask some more questions.

Hon SUE ELLERY: Okay; we will get the member a copy, because this is the only one at the advisers' table tonight.

Hon NICK GOIRAN: While we wait for that to arrive, for the benefit of members, I understand that according to the provisions of the act, the freeze the government will impose will also apply to the Parliamentary Inspector of the Corruption and Crime Commission. I will not ask the minister whether that is the case, because I know she will tell me that she has already told me this during the second reading reply. Is the minister able to advise the chamber of the current remuneration of the Parliamentary Inspector of the Corruption and Crime Commission?

Hon SUE ELLERY: I do not have the number available right now. I have an adviser with an iPad. If the member wants us to look it up, we could find it. It is publicly available information, so it would not be hard for the honourable member to find it himself. If he wants us to look it up, we will do that.

Hon NICK GOIRAN: While we wait for the answer to that question, I note that the government's bill will freeze the Parliamentary Inspector of the Corruption and Crime Commission's salary for the next four years. That is the policy of the bill, it is the government's intention, and it is the policy that has been agreed to by the house during the second reading. This person's unknown remuneration, which we will find out in a moment, is going to be frozen. Is the minister able to advise the chamber whether this person is paid on a full or part-time basis?

Hon SUE ELLERY: The salary paid to the Parliamentary Inspector of the Corruption and Crime Commission is $176 422. That information is provided from the Salaries and Allowances Tribunal schedule titled "Report on the Remuneration of Judges, District Court Judges, Masters of the Supreme Court, Magistrates, and the Parliamentary Inspector of the Corruption and Crime Commission: Remuneration Arrangements, Incorporating Recommended Alterations". This report tells me that that rate is correct as at 1 July 2017. I am advised that it is possible for that position to be held part-time, but I cannot confirm whether it is currently.

Hon NICK GOIRAN: I thank the minister; that is very helpful. I am happy to indicate to the chamber that it is the case that the Parliamentary Inspector of the Corruption and Crime Commission is remunerated on a part-time basis, hence the figure is $176 422. The reason I want to know and have that confirmed is that the intention of this bill is to freeze this person's salary for the next four years. Does the government still intend to empower the Corruption and Crime Commission to make unexplained wealth applications?

Hon SUE ELLERY: Bear in mind that the responsibility for that bill is not mine; it rests with the Attorney General. Nothing in this bill changes the functions of the parliamentary inspector. I am not sure that I can give the member any more information than that.

Hon NICK GOIRAN: Is the minister, as a member of cabinet, able to advise whether the government intends to pursue what the Attorney General has said publicly—namely, to empower the Corruption and Crime Commission for the first time to make unexplained wealth applications?

Hon SUE ELLERY: The honourable member would be well aware that I cannot talk about what is said in cabinet. I am not saying that because I am trying to hide something. I am saying that because I genuinely do not know. That might have been canvassed, but I do not know.

Hon NICK GOIRAN: I draw the minister's attention to the *Daily Notice Paper*, which lists as order of the day 15 the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. The *Daily Notice Paper* is very useful, because listed next to the bill is the government member who has carriage of the bill. In the case of order of the day 15, the minister who has carriage of the bill is the Leader of the House representing the Attorney General. If the minister is not already aware, the purpose of that bill is to give the Corruption and Crime Commission the capacity to make unexplained wealth applications. I am simply asking whether the government still intends to give the Corruption and Crime Commission that power.

Hon SUE ELLERY: Yes, that bill is on the notice paper. The member prefaced his remarks by asking me whether cabinet has given any consideration to doing anything different. I have said that I cannot answer a question that starts with that premise. I cannot tell the member whether something has been considered in cabinet. I am not the Attorney General. If the member is asking me a question in this place in my capacity as minister representing the Attorney General, I would seek advice from the Attorney General. I have no reason to believe that cabinet has any intention to do anything other than proceed with the legislation as it is listed on the notice paper.

Hon NICK GOIRAN: That being the case, minister, has the government consulted with the Parliamentary Inspector of the Corruption and Crime Commission about whether he is agreeable to taking on the new functions that the government will be giving him as a result of the bill listed as order of the day 15 when his pay will be frozen for the next four years?

Hon SUE ELLERY: I am struggling here, because I am not the Attorney General. If the member were to ask me that question in question time, he would do it with some notice, and I would get an answer from the Attorney General. I am not able to provide the member with an answer about a matter in a portfolio for which I have a representative capacity. I am not trying to be difficult. I am not in a position to provide an answer to that question.

Hon NICK GOIRAN: Can the minister indicate to the committee when she might be able to get an answer to that question?

Hon SUE ELLERY: I could certainly ring the Attorney General in the morning and seek an answer for the member.

Hon NICK GOIRAN: The problem I have is that I understand that there is some enthusiasm on the part of the government for this bill to be concluded this evening. Unfortunately for me, I am not going to be able to get an answer to the question that I have until tomorrow morning, when the Leader of the House is able to ring the Attorney General. This troubles me, because, as a result of this bill, we will freeze the salary of the Parliamentary Inspector of the Corruption and Crime Commission. Hon Michael Murray, QC, is a very honourable man. He has not been consulted on this bill. We already know that, because the Leader of the House has confirmed on multiple occasions, as I understand it, that there has been no consultation with this honourable gentleman. He has no capacity to have a say on whether his salary will be frozen over the next four years. At the same time, we know that this government intends to give him new tasks to do. He is remunerated at the moment only on a part-time basis. He is given $176 422, according to the evidence provided by the Leader of the House. For a lot of people in Western Australia, $176 000 is a lot of money, but he is a retired Supreme Court judge, who is used to earning over $400 000. It troubles me that this is just one of numerous office holders who are having their remuneration frozen as a result of this provision by the government, and we are not able to get the information this evening. Nevertheless, I understand and I agree with the minister that she is not trying to be troublesome whatsoever. She has been most accommodating this evening, so I will move to the next area. However, I indicate to the minister that I will not be happy to move off clause 1 until such time as I am able to get an answer on the issue of the parliamentary inspector.

I understand that it is also the intention that this bill will impact "persons holding other offices that are prescribed for the purposes of section 6(1)(d)". Can the minister indicate who those persons are?

Hon SUE ELLERY: I am advised that this refers to the office holders in the determination, of which the member has been provided a copy.

Hon NICK GOIRAN: I am obliged to the minister, because she tabled this document earlier.

The DEPUTY CHAIR: I do not think it was tabled.

Hon Sue Ellery: I do not think I formally did. I got it copied and given to you.

Hon NICK GOIRAN: I have been provided, very helpfully, by the minister, whether tabled or otherwise, with a copy of this document. I wonder whether it should be tabled for the benefit of other members, but I will leave that to the minister to determine in due course. If the minister still has a copy in front of her, the version I have lists, at table 1, "Special Division CEOs", and then it goes on to list, at table 2, "Prescribed Office Holders". Are they the people the minister is referring to?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: It is quite an extensive list; I count 33 prescribed office holders. Is the minister able to confirm that none of those 33 prescribed office holders was consulted about the freezing of their salary for the next four years?

Hon SUE ELLERY: That is correct. I have said it before: none of the officers who are captured was consulted.

Hon NICK GOIRAN: Along the lines of what I said earlier about the Parliamentary Inspector of the Corruption and Crime Commission, is the minister able to advise the chamber whether the government has any intention to give any of these 33 prescribed offices any additional duties during the next four years?

Hon SUE ELLERY: I am really not in a position to answer that question at all.

Hon NICK GOIRAN: That causes a problem, because how am I to know whether these people are being told that their pay is frozen for the next four years and the government is about to double their workload? The minister has indicated she does not know the answer to that, which is fair enough. If she does not know, she does not know; but if she does not know, I do not know. Yet I am being asked to agree to the minister's proposal that we freeze these poor people's salaries for the next four years without any consultation with them and no indication of whether their workload will be increased. That seems a little unfair, does it not?

Hon SUE ELLERY: I am not sure that it is unfair. If the member knew that he was going to go down this line of questioning, there were other ways he could have sought information, bearing in mind that he knew that the minister dealing with the bill was not, for example, the Attorney General or the minister with responsibility for the public sector. I am here in a representative capacity. The member knew that he would be asking me questions about the things that matter to him. He is entitled to prepare his line of questioning as he wants, but perhaps he could have asked a question on notice. Nevertheless, I am here and I am going to endeavour to answer the questions to the very best of my ability, but I do not think it is unreasonable that I am not able to give a detailed answer to the question the member has asked about whether I or my advisers are aware of any intention to change any of the duties of any of the 33 officers listed on that piece of paper.

Hon NICK GOIRAN: At the end of the day, it is the minister's responsibility to have the answers available in the chamber to the questions we have. I understand that the minister does not know the answer, and that is fine, but it is not unfair for me to be asking the question, especially, as I indicated to the house yesterday, that it was not my understanding that this matter would not be referred to a parliamentary committee, where I would have asked all those questions. It is news to me that the matter is now going to be considered at length here this evening. Now I am asking the questions because this is my opportunity. Nevertheless, I take the member's point that she does not have responsibility for all those office holders, but guess what? One of them is the director general of Education, so perhaps the minister could advise us about that.

Hon SUE ELLERY: I would be happy to. I certainly have no intention of changing the duties of the director general of the Department of Education. I hope she goes nowhere. I hope she stays exactly where she is for the duration of my term as Minister for Education and Training. I think she is an outstanding director general.

Hon NICK GOIRAN: According to this schedule, the director general of Education is in band 1, the office holder is S. O'Neill and her salary is $441 406. Is the minister advising the chamber that there will be no change in her duties over the next four years?

Hon SUE ELLERY: What I just said was that I have no intention of changing her duties and I hope that she goes nowhere and she stays exactly where she is right now.

Hon NICK GOIRAN: Is the minister able to inform the chamber whether it is currently permissible for any of these people I am referring to to send a submission to the tribunal before a determination is made? The minister has indicated that she is not sure about the other ones; we have talked about the director general of Education, but she cannot help us with the others, including the Parliamentary Inspector of the Corruption and Crime Commission.

Hon SUE ELLERY: There is no restriction on them making a submission.

Hon NICK GOIRAN: Does the tribunal have the capacity to consult with those people before they make any decision about their remuneration?

Hon SUE ELLERY: I am advised that they certainly have the power to consult. Whether or not they do, I am not sure, but they certainly have the power to.

Hon NICK GOIRAN: The minister is not sure, but can someone advise us whether the tribunal currently routinely seeks submissions from these people? Is that normal practice for the tribunal?

Hon SUE ELLERY: I am advised that it is usually the case, but it has not always been the case.

Hon NICK GOIRAN: If it is usually the case that the tribunal seeks submissions from people before it decides to decrease, freeze or increase someone's pay, why has the government not done that on this occasion?

Hon SUE ELLERY: There are two separate bodies. The member was asking how the tribunal conducts its normal business, and I have answered that. I have already answered the question about why the government chose not to consult. I accept that the member may not appreciate the answer, but I have already answered that question.

Hon NICK GOIRAN: The problem is that the government is quite happy for the tribunal to routinely consult with these people before it freezes their salaries, but when the government decides to do that on behalf of the tribunal, to usurp the power of the tribunal, the government says that it does not need to consult. There is a principle of natural justice here. Before restricting someone's remuneration, before the tribunal imposes its will on them, the tribunal does the right thing—it consults. It invites and takes submissions, but this government does not. This government says that it does not need to consult. When I asked the question, the minister said that she had already answered the question. That is very disappointing. As I indicated earlier, people like Hon Michael Murray, QC, are currently being asked to fulfil a job on a part-time basis. He would normally, routinely, get to put a submission to the tribunal. In due course, the government is going to shiftily move to order of the day 15 and give him extra work to do, and say, "By the way, Mr Murray, guess what? We've just frozen your salary for the next four years." I suspect that if any member in this chamber were put in that position, they would be most upset, but that is what seems to be happening.

I have a range of further brief questions on clause 1, but my colleague has other matters to pursue at this point.

Hon MICHAEL MISCHIN: Thank you, Hon Nick Goiran. I would like to raise a couple of questions about the bill generally, but it strikes me that there has been consultation with one group, has there not, and that is the ministers?

Hon SUE ELLERY: Does the member mean because, as members of cabinet, we have to approve the drafting of legislation? Is that what the member is referring to?

Hon MICHAEL MISCHIN: No; I am referring to it on a number of levels. Firstly, the decision had to come from somewhere. Whether it would be a viable policy and whether it would affect certain people more than others, and what those effects might be, had to be debated. Finally, it had to be the subject of a cabinet submission, and drafting instructions approved by cabinet, and there would have been cabinet approval to print and, of course, a decision whether to pursue it in the caucus room and to get the approval of members of the Labor Party. Would that not be right?

Hon SUE ELLERY: I think the member has just answered his own question. That is the process by which legislation is prepared for the house.

Hon MICHAEL MISCHIN: Ministers, at any rate, had an opportunity to weigh up whether they would be unduly benefited or prejudiced by any freeze on their salaries and electorate allowances for the next four years, whether they would be able to discharge their responsibilities, not only in the case of ministers, but also with all the additional resources at their availability, and whether it would affect their ability to service their electorates. Would that not be right, minister?

Hon SUE ELLERY: In his previous question, the member outlined how legislation is prepared for consideration in Parliament. As a former minister, the member would be well aware that I am restricted in what I can say about the process within cabinet. The process that the member outlined whereby cabinet makes decisions about legislation is correct.

Hon MICHAEL MISCHIN: I take it that I am correct there was a debate about this; the minister does not have to tell me what it was. Ministers had the opportunity to be consulted about this proposal and whether it was a good idea from their point of view. Presumably, as part of that consultation process, they would also manage to chip in their ideas about whether they thought they would suffer from it. Would that not be right, minister?

Hon SUE ELLERY: I am not sure that I can say this any other way; I am restricted in what I can say about cabinet. I have answered the question already. The member has outlined the normal process by which legislation is prepared for Parliament.

Hon MICHAEL MISCHIN: Were there no discussions about this informally, outside cabinet, between the Premier and his closest advisers amongst the ministerial team?

Hon SUE ELLERY: Not that I can recall.

Hon MICHAEL MISCHIN: Maybe the minister is not part of the inner circle. I will move on to the question of what cost–benefit analysis has been carried out. The minister has indicated that it would be unusual to do so in this sort of case but, as I understand it from what the Premier told the other place, this was not the government’s idea; it was Treasury’s idea. It was put up very early in the piece as a means of cost-cutting and saving some money. Was a cost–benefit analysis conducted or requested? Was any material taken from Treasury to weigh up other alternatives to simply a freeze over a period of time?

Hon SUE ELLERY: The process by which legislation is prepared for Parliament includes information being provided by an agency, through a minister, to cabinet. I am not sure that I can add anything more. The member understands that I am restricted in what I can say about the cabinet process. I am not sure that I can take my answer any further than I have already.

Hon MICHAEL MISCHIN: I can assist the minister there because there was advice to the Langoulant inquiry on what materials come within public interest immunity as cabinet documents. It drew a distinction between those that are prepared for cabinet and those that are prepared simply by a department for the information of a minister or as part of a business case that will not necessarily go to cabinet. Given that the minister is representing the Premier, is she able to tell us whether he explored any alternatives to simply a blanket remuneration freeze over four years, which is imposed as a fetter on the Salaries and Allowances Tribunal? Or was some other alternative explored, and why were they not explored?

Hon SUE ELLERY: A range of budget measures have been put in place —

Hon Michael Mischin: I’m not talking about budget measures generally; I’m talking about alternatives to this proposal from Treasury.

Hon SUE ELLERY: The place where that would have been considered, if it had been considered, is the place that I am restricted from talking about. I am not sure that I can take my answer much further, but this is one of a whole suite of measures that the government has put in place to address budget repair. That is an ongoing process. Regarding what was considered or not considered in the course of cabinet making a decision about whether to adopt this legislation, I do not think I could add anything more to that.

Hon MICHAEL MISCHIN: I think the minister can. While the minister is sorting out the answers to Hon Nick Goiran’s questions, she might want to ask the minister she represents—namely, the Premier—before he submitted this matter to cabinet, what alternatives to a simple blanket freeze were proposed by Treasury, which would “send a message” and satisfy the ratings agencies. For example, did he consider an alternative proposal, because of the step being taken, to simply amend section 10A of the Salaries and Allowances Act to specifically require the Salaries and Allowances Tribunal to take into account government wage policy and the fiscal position of the state? That was the sort of proposal that caused howls from the Labor Party when it was proposed by us three years ago, but it was rather less extreme than the one we are now faced with and did not interfere with the ability of the SAT to make an assessment based on merit, but simply to inform itself and to take things into account. Was that explored? If the minister does not know the answer, I can understand that, but I am sure the Premier will be able to tell the minister overnight. Would the minister be prepared to find that out and inform us?

Hon SUE ELLERY: I am happy to give the member an undertaking that I will contact the Premier in the morning and ask him what he is able to provide. I am not sure, though, so I do not want to give a commitment that I and the Premier cannot meet. If the answer to the member's question lies within cabinet, the member will not get an answer to his question. I will get the *Hansard* and raise with the Premier the issues the member has raised. If I am able to give the member any more information than I already have, I give an undertaking that I will. But I put the caveat that I am not sure I will be able to.

Hon MICHAEL MISCHIN: I just want to make it clear so that I am not making it difficult for the minister—in fact, I am making it easier. The minister does not have to worry about what cabinet considered or what was put to cabinet. I am asking about what was put to the Premier or what the Premier asked advice about before he made his cabinet submission seeking approval to draft. So, what he dealt with with Treasury, which he claimed came up with this idea that he was reluctant to agree to—he does not like the idea—but it was one of Treasury's ideas that has been translated into legislation. I would like to know whether he considered, before he made his cabinet submission seeking approval to draft, alternatives that would not go so far as a four-year blanket, one-size-fits-all cap on the remuneration of judicial officers, members of Parliament, Clerks and others, and whether he considered the prospect of an expansion of section 10A to cover those officers. All right?

Hon Sue Ellery: I will get the *Hansard* and consult with the Premier in the morning.

Hon MICHAEL MISCHIN: Okay. I thank the minister.

The short title of the bill is the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. The minister has mentioned that part of the "message" being sent out is not just to the community, which has or may have misconceptions as to levels of remuneration, as the second reading speech states, but also to ratings agencies. I note that neither the minister nor the Premier in the Assembly made any mention of ratings agencies as being the recipients of this communication—this telegraph. But what has been repeatedly mentioned is debt and budget repair, and debt and deficit remediation. The minister has said that a figure of about $16 million has been somehow calculated, but the minister does not have a business case for it. Is the minister prepared to provide a breakdown of how Treasury came to the conclusion that there would be that level of savings? Is there a spreadsheet we can have a look at that shows the assumptions to determine whether it is realistic or sensible and the premises upon which that assessment is based? Because it is not much of a message to the ratings agencies if the figure is significantly lower than that. Can that be right?

Hon SUE ELLERY: In my second reading reply, I described the methodology and how originally there were forecast savings of some $20 million, but that that was revised down to $16 million. I am not able to provide the member with any modelling, because I do not have Treasury officials sitting here at the table, but I provided the answer I was able to. The member raised this issue in his contribution to the second reading debate, and I specifically provided him with an answer in my second reading reply.

Hon MICHAEL MISCHIN: Might I take it from that—fuzzy as the figures are—that we are looking at a saving of roughly $4 million a year over the four years—or is it $5 million?

Hon SUE ELLERY: It is correct that it will result in a $16 million savings figure over the four years.

Hon MICHAEL MISCHIN: We started off with $20 million over four years. Now the minister has revised that down to $16 million. That is a reduction of $4 million. The minister said that she mentioned there was some methodology used, but we have not been able to see it. Is the minister prepared to produce the methodology tomorrow? If this were before the legislation committee, the minister would no doubt be asked about this and be prepared to provide it. It must be available, somehow, to underpin the calculation of $20 million over four years, which has now gone down by $4 million. How was that calculated? Why was it reduced by $4 million, for example?

Hon SUE ELLERY: Honourable member, with the greatest respect I actually spent some time spelling this out in my second reading reply and I will do it again. I specifically addressed how the $20 million dropped to $16 million, and I will do it again for the member now. The original decision was estimated to save the general government sector around $20 million. The initial estimate was calculated at a global level and involved positions covered by the determinations for members of Parliament, the judiciary, special division and prescribed office holders, the Western Australian Industrial Relations Commission and the State Administrative Tribunal. The estimated savings reflected the difference between officers in these positions receiving a 1.5 per cent wage increase and no wage increase, noting that it did not include comparable positions in government trading enterprises as their remuneration is yet to be determined by the Salaries and Allowances Tribunal. As part of the 2017–18 budget, the savings calculation methodology was applied to individual agencies using budget forecasts resulting in a $16 million savings figure. The lower than previously estimated savings reflects the differences in the assumed 1.5 per cent escalation rates built into salaries budgets and the escalation for SAT positions built into individual agency budgets.

Hon MICHAEL MISCHIN: So, there is every prospect that the savings will be considerably less than $16 million over the years to 2020–21. Treasury got it wrong this time around when it looked into it more carefully. Is there a prospect that the savings figure of $16 million might in fact be a whole lot less?

Hon SUE ELLERY: I guess that is a question about Treasury forecasting generally. This is a forecast by Treasury based on best endeavours at the time. That is the information that I am able to give the member. The member asked me to second-guess or to presume whether that figure will be solid across the four years. That is Treasury's forecast. That is what the budget figures included and were based on. The member knows from his own experience that forecasts can be wrong, forecasts can be right, forecasts can be up and forecasts can be down.

Hon MICHAEL MISCHIN: Thank you. That is hardly a basis for taking the step that the government is taking, is it? It is hardly comforting to know that the figure might be $20 million, but, in fact, probably will be $16 million. It might be $16 million, but it might not be anything like that at all; yet the government thinks it is proper to take a one-size-fits-all blanket step such as this when it is not prepared to, or able to, provide any more robust material, such as the calculations prepared by Treasury that underpin this legislation. Is the Leader of the House able to do that? Tomorrow morning will she provide and table for us the calculations and reviewed calculations from Treasury?

Hon SUE ELLERY: No, member, I will not. The honourable member is well aware, having been through several budget processes himself, that Treasury forecasts are what Treasury forecasts are. Sometimes they are above. Sometimes they are below. Mostly they hit the mark. These are budget forecasts prepared by Treasury and tabled in the house as part of the budget process. The member is well aware from his own time in government and previous budgets how the process works and how the forecasts are prepared and provided. I am unable to provide the member with any more information than that which I have just given.

Hon MICHAEL MISCHIN: Essentially, the Leader of the House is saying that this is necessary legislation because it will save $16 million to $20 million over the next four years. In fact, that was at least 20 per cent wrong because it is only $16 million now and it might—because the government cannot produce any methodology or calculations—be less than that and this will be a waste of our time. It would have cost more debating this over the last couple of days than we are going to save, but, as a matter of principle, the Leader of the House thinks that this legislation sends a message to the community and rating agencies. Is that a fair summary?

Hon SUE ELLERY: It is the member's summary. I have said it a couple of times: the difference between us is that I do not accept some of the assumptions behind the member's thinking. I understand his point of view and the strength with which he holds it, but I do not share the same assumptions.

Hon MICHAEL MISCHIN: My assumptions are based on analysis. The Leader of the House's assumptions are based on figures for which she cannot produce the calculations.

Hon Sue Ellery: That is your judgement. I disagree.

Hon MICHAEL MISCHIN: Produce the figures, please.

Hon SUE ELLERY: I have explained the methodology, honourable member. I am unable to explain it any more.

Hon MICHAEL MISCHIN: I would like the document that influenced the Premier to create a cabinet submission seeking approval to draft. That is not subject to public interest immunity. He must have had something in front of him, surely, before he decided on this step. Treasury came up with the idea. Presumably, Treasury came up with the reasoning and the calculations for it. He must have had something, surely. Would the Leader of the House be able to confirm that and produce it?

Hon SUE ELLERY: Honourable member, with respect, I have explained the methodology that has been used. I have given the member an undertaking to find out whether the Premier, prior to it going to cabinet, considered an alternative or variations along the same theme. I have given the member an undertaking that I will ask the Premier for that information in the morning. Beyond that, I am unable to give the member any more information on the forecasting of the savings generated. I have explained to the member the methodology. I can agree with the member that sometimes Treasury's forecasts do not hold. Most of the time they do, but sometimes they do not, and governments of both persuasions have had experience of that.

Hon MICHAEL MISCHIN: When this legislation has passed, will the government go out publicly and say that it has sent a message that it does not know how much money it will save by this legislation, but it is a good message anyway?

Hon SUE ELLERY: The member is saying that we will go out with that message. We will not go out with that message.

Hon MICHAEL MISCHIN: The government will be saying to the public something it cannot sustain by any calculations produced by the body that was responsible for proposing this legislation.

Hon Sue Ellery: That is the member's judgement. I disagree with the member.

Hon MICHAEL MISCHIN: Am I wrong? Where am I wrong with that?

Hon SUE ELLERY: I really do not think I have anything more to add on that.

Hon MICHAEL MISCHIN: No.

The DEPUTY CHAIR: Member, I think you might ask the question a number of ways and still get the same answer, so I invite you to move on.

Hon MICHAEL MISCHIN: I agree. The minister is not capable or willing to provide the information that supports the second reading speech claims underpinning the policy of the bill. I accept that.

Where is the money going, given that this is a debt and deficit remediation bill? Are these savings notional or being hypothecated into any fund that will reduce debt or go towards the deficit as opposed to simply less money being drawn out of consolidated revenue? Is it going into the fund that the Treasurer indicated he wanted to set up to squirrel away money for debt reduction and so-called budget repair?

Hon SUE ELLERY: It is certainly not hypothecated. It will go into doing all the things that governments need to do like schools, hospitals, police, roads and public transport.

Hon MICHAEL MISCHIN: There is $39 million for the Local Projects, Local Jobs fund, is there not? Will it go in there?

Hon SUE ELLERY: I think most of that has already been paid for, so I doubt it, but if there is anything outstanding, I guess it could. It will go to all the things that governments normally do.

Hon MICHAEL MISCHIN: To say then that this is debt and deficit remediation is strictly not true, is it? It may sound like a good slogan, but this is not going towards paying off debt; nor is it going towards being set against the deficit. The amount that is being saved is simply less of a draw on consolidated revenue so that the money can be spent on schools, roads, hospitals, nurses, doctors, grants, and election promises by Labor members of Parliament. It can be spent on other grants, another overseas trip by the Minister for Tourism—his second or perhaps third in the last few months—to China —

Hon Alannah MacTiernan: Oh, my god! Tourists should stay at home!

Hon MICHAEL MISCHIN: Maybe as a tourist, he should stay at home.

Several members interjected.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Order! Order, minister!

Hon MICHAEL MISCHIN: It can be spent on Hon Alannah MacTiernan's visits to the local races and to Albany—all those sorts of things. Will the government move an amendment —

Several members interjected.

The DEPUTY CHAIR: Order! Can we just focus on what we are doing, please.

Hon MICHAEL MISCHIN: How can we be confident at all that any of this is going towards debt reduction, deficit remediation or budget repair as opposed to a bit of extra money in consolidated revenue to spend on whatever the government thinks is a good idea, like funding the election promises of its members?

Hon SUE ELLERY: Everything ministers of this government do every single day is targeted at trying to identify ways of dealing with the financial state we inherited and the consequences of decisions made within the first few months of the year by organisations such as the Commonwealth Grants Commission. There are also the consequences of the change in iron ore revenue. A combination of things happened in the first couple of months of the year that resulted in nearly $400 million in revenue reduction. Everything we do, every day, is targeted at continuing to address debt and deficit, while at the same time honouring our election commitments and providing the ongoing business of government that has to happen every day across the state.

Although this legislation does not have a component that specifically hypothecates where the money will go, it is all directed at doing those things: addressing debt and deficit every day, making sure we get on with the business of government, and delivering the things that the people of Western Australia want us to deliver.

Hon MICHAEL MISCHIN: Can I draw comfort from the fact that the savings to consolidated revenue will also help fund the $5 500 that certain ministers got as a double dip on their car allowance?

Hon SUE ELLERY: I am not sure what it would take for the honourable member to draw comfort—I really am not sure.

Hon Michael Mischin: Can we, should we, draw comfort?

Hon SUE ELLERY: The member can draw comfort how, from whom and where he chooses. I am happy to answer the questions that I am able to about the elements of the bill before the chamber. I am pleased to get on and do that, but I am not sure that I can answer that particular line of questioning in any other way.

Hon MICHAEL MISCHIN: I am just curious, because this fundamentally underpins the bill. It has been said that it is about budget repair. The Leader of the House told us that it does not necessarily go towards debt reduction or deficit remediation; it goes towards having money—just a little bit of extra money—available in consolidated revenue that can fund all sorts of things. One of the things that the taxpayer has had to fund is the windfall that

certain ministers managed to obtain through not only getting a car allowance permitted by the Salaries and Allowances Tribunal, but also having a ministerial vehicle available. When the Leader of the House says that everything the government does every day is targeted around debt and deficit reduction, does that include that additional windfall?

Hon SUE ELLERY: I am not sure that I can give the member the answer. I know the answer that he wants and I am not in a position to give it to him.

Hon Michael Mischin: I just want an answer.

Hon SUE ELLERY: Does he? I am doing my very best to provide him with the information I can about the bill, and I am happy to keep doing that. I am not sure I can provide him with any more information about that line of questioning.

Hon MICHAEL MISCHIN: It just seems to me that some of the debt and deficit reduction might be assisted by a little bit of a sacrifice from the ministers who seem to have profited quite well out of that. I can see Hon Alannah MacTiernan is very disturbed about the idea that people are being asked to tighten their belts, but certain ministers have profited —

Hon Alannah MacTiernan: I was wondering whether we could do a value-for-money analysis of your time as Attorney General.

Hon MICHAEL MISCHIN: I would be happy for that.

Several members interjected.

The CHAIR: Order! Members are allowing themselves to become a little bit distracted. The question before the Chair is that clause 1 be agreed to. Let us not get beyond the scope of that question, because I can tell members that, just lately, the committee has. Let us draw it back.

Hon MICHAEL MISCHIN: I am just dealing with judicial salaries. The Leader of the House has indicated quite rightly that there is a different process there. There is no need for a blanket cap, because judicial salaries that are recommended by a report presented to the relevant minister then come before houses of Parliament and can be disallowed, can they not? In that case, there is already a process for Parliament to put a cap, if you like, on those. Why is it thought necessary that a new procedure be set up to say that those reports cannot be made and any increase provided for?

Hon SUE ELLERY: This is not a replacement; this is additional to. The tribunal can still make a report to Parliament. What it includes in that report is subject to what is in the bill that we are debating now.

Hon MICHAEL MISCHIN: So what is the point of the tribunal providing a report stating, "We've looked at judicial salaries and we've taken into account current economic circumstances, the fiscal position of the state and the government wage policy, but we think that the salaries or allowances for judicial officers ought to increase by such an amount but we've been told that we can't recommend an increase"? What is the point of that exercise?

The CHAIR: I am going to offer the call to the minister if she wants to take it, but it occurs to me that matters of such detail are best reserved for consideration in clause 9. It seems that members are canvassing the entirety of the bill in consideration of the opening clause. I will allow it so far if the minister wishes to respond.

Hon SUE ELLERY: Thank you. There is nothing that prohibits the tribunal from making a report. The bill does not contemplate changing that arrangement. However, as I said, the bill sets parameters around what the tribunal might include in that. Whether the tribunal chooses to make a report is up to the tribunal.

I am in your hands, Chair, and I welcome your advice. If members are relaxed and want to move on to the detail of the bill, I am happy to go clause by clause. If there are more questions along those lines that fit better into consideration of clause 9, I am happy to deal with them then.

Hon NICK GOIRAN: I cannot agree to that course of action because, of course, I am not yet clear about which people will be impacted by this bill. Before we get to that, the minister indicated earlier that she had a document that she was getting photocopied. Is it the minister's intention to table that document?

Hon SUE ELLERY: If the member is referring to the document that I gave him a copy of, yes, I am happy to table that. If I were to physically hand it over to be tabled, I would have to get another copy because only one copy is here, but for the purposes of Hansard, I will identify it. The document is titled "*Salaries and Allowances Act 1975* Determination of the Salaries and Allowances Tribunal for Clerks and Deputy Clerks of the Parliament, Public Service Office Holders included in the Special Division of the Public Service and persons holding offices prescribed in the Salaries and Allowances Regulation Number 3".

[See paper 986.]

The CHAIR: That document is deemed to be tabled. Perhaps I could ask chamber staff to make a couple of copies for interested members.

Hon NICK GOIRAN: Can the minister advise the house what the appropriation is for the tribunal for each of the next four years?

Hon SUE ELLERY: Can we get some clarification of what the member is seeking? He said he wanted it for the tribunal.

Hon Nick Goiran: Yes, its appropriation.

Hon SUE ELLERY: The total appropriation?

Hon Nick Goiran: Yes.

Hon SUE ELLERY: We do not have the budget papers in front of us, which, of course, are publicly available, but I am advised that it is about $1 million.

Hon NICK GOIRAN: It is about $1 million for each of the next four years; I will take that. Is that consistent, approximately, with each of the past few years?

Hon SUE ELLERY: I am advised that broadly, yes, it is.

Hon NICK GOIRAN: In the next four years, the tribunal will not have to do the same amount of work that it has done in the last four years, so why are we appropriating $1 million for the work of the tribunal?

Hon SUE ELLERY: I addressed this question in my reply to the second reading debate. I think the honourable member who is asking the question now raised it in his contribution to the second reading debate. I provided an answer about the kind of work that the tribunal will continue to do over the next four years for the duration of the freeze.

Hon NICK GOIRAN: The minister did; I heard that and I made some remark at the time. The minister listed, quite rightly, a range of tasks that the tribunal will have to do over the next four years, but it already has to do that, and had to do that in previous years, all with a budget of $1 million. Now, for the next four years, we are asking it to do those things, but we are also asking it not to do a range of things: "We really don't want you to do a determination for MPs, judicial officers or the Parliamentary Inspector of the CCC et cetera, but we are still going to give you $1 million." My question is: why?

Hon SUE ELLERY: I am not aware of any proposals to change the budget, but I advise the member that we are of course about to go into the period of preparing the next budget, which is anticipated to be around the normal time that budgets come down every year—in May. There is not much time left in the existing budget cycle before we start crunching the numbers on the next one. There is every possibility for that amount of money to be reconsidered as part of the budget process, but I am not aware of the detail of any consideration on that.

Hon NICK GOIRAN: If we were to pass this bill, including agreeing to clause 1—which is a precondition to considering any further clauses—it will tell the members of the tribunal that we want them to, in effect, be part-timers for the next four years. Those are my words, not the minister's, but it is the only reasonable conclusion to draw from everything that we have heard from the minister. They are going to do some work for the next four years, but there is a whole range of things that we are telling them not to do. We are still going to give them $1 million. I take comfort from what the minister just said because, apparently, a process will be undertaken in the near future. I read from that that we should expect significant savings, because the tribunal is going to have its budget allocations slashed by this government for at least the next four years. At the end of the four years, it can have its money back because it will have to do a full range of work—the members will have to be full-timers again. This $1 million—I seem to recall the minister saying earlier that the chairman of the tribunal gets about 40–something thousand dollars.

Hon Sue Ellery: It is $47 000 or so.

Hon NICK GOIRAN: That is one person.

Hon Sue Ellery: The other two get around $30 000.

Hon NICK GOIRAN: That is right. What is the rest of the $1 million spent on? There are only three members.

Hon SUE ELLERY: I would imagine that it is spent on providing them with technical and administrative support, and having an office and the equipment that an office needs.

Hon NICK GOIRAN: Does that include staff?

Hon Sue Ellery: It may; I would presume so.

Hon NICK GOIRAN: Can the minister advise the house whether the tribunal has any staff?

Hon SUE ELLERY: I am advised it has three.

Hon NICK GOIRAN: Which of those three will be losing their job as a result of this bill?

Hon SUE ELLERY: I consider that to be a cute question. I am not in a position to advise whether any members of staff of the tribunal will be losing their jobs.

Hon NICK GOIRAN: This has become rather interesting. Three tribunal members will become part-timers. As I understand it from the minister, the chair will still get his $40 000-plus a year. The two members will still get their $30 000 a year for their part-time work and the three members of staff who provide them with assistance are going to play solitaire. They are going to twiddle their thumbs—not all the time; not on a full-time basis. They are not going to be full-time professional solitaire champions, only part time, because of course they still have to do some determinations with regard to local government and certain other things as per the list that the minister gave earlier. They would normally spend time investigating and taking submissions. Remember earlier that the minister told the house that it is customary, routine practice for these three tribunal members and their three staff to take and invite submissions from the judiciary, members of Parliament and all those 33 office holders that I heard about before. They are not going to do that for the next four years. When they would normally do that, instead they are going to play solitaire! That just strikes me as odd; I cannot imagine that that would be the case. These would be very professional public servants. They would want to be doing something with their time and I am interested to know from this minister what the government's intention is for these people's valuable time over the next four years?

Hon SUE ELLERY: I think it is unfortunate to characterise hardworking public servants as playing solitaire. I do not think that is a fair characterisation to make.

Hon Nick Goiran: Tell me what they are going to do, then. Answer the question.

Hon SUE ELLERY: I am answering the question.

Hon Nick Goiran: I will listen with interest.

Hon SUE ELLERY: I am advised that the staff are employed by the Public Sector Commission, so the Public Sector Commissioner himself could make decisions about how he allocates work to them. As I have indicated, we are going into the process of setting the new budget, and I am sure these things will be considered as part of that process.

The CHAIR: Members, as much as these matters are of great interest, the fact of the matter is that the policy of this bill was decided at the second reading vote, and that is not something that we can revisit. If we allow questions to spread to a very wide field, we are in effect doing just that. I ask members to be a bit more focused and to address their questions to the clause 1 debate, which may canvass the whole bill and how it is to be implemented, but should not be a free-ranging debate about anything remotely connected with, in this case, the Salaries and Allowances Tribunal. The question is that clause 1 be agreed to.

Hon NICK GOIRAN: Thank you, Mr Chair. We know as a result of the debate on clause 1 that the minister and the government consider this bill necessary. We have had that discussion. We also know that there has been no consultation with the people who will be affected by this bill. That is relevant, because the chamber is about to make a law that will freeze the salaries of these people, without any consultation. Had there been consultation, some of these stakeholders might have identified problems with the clauses of the bill. I would then have been able to ask the minister what problems have been identified by the stakeholders. However, because there has been no consultation, we are not able to advance that any further. The debate has been most profitable in that respect. We also know that the government is content to progress with this bill on the basis of a double standard. The government routinely has the Salaries and Allowances Tribunal consult with people before it makes decisions. However, this government has not done any consultation. We also know that the government currently provides the tribunal with about $1 million to do its work. If this bill becomes law, the tribunal will become a part-time tribunal and the members of the tribunal will do other work. The explanation from the Leader of the House has been useful, because it is clear that the Public Sector Commissioner intends to shift those three workers to do other work for the commission. If that is within the lawful remit of their employment, the commissioner is entitled to do that. However, we need to be clear that that is what we are agreeing to at this time.

Earlier, the minister tabled a document that I understood was her response to my question about the prescribed officeholders who will be impacted by this bill. I have had the opportunity to look at that list. The minister was very quick to say that she was unable to tell me about a range of people in that list, because it does not fall within her direct portfolio, and she would need to consult with other ministers, such as the Attorney General. I note that the list includes the director general of Education. We have discussed that point. Interestingly, the list also includes the director general of Education Services. Does that position still exist?

Hon SUE ELLERY: The position may technically still exist. However, as a result of the machinery-of-government changes that took effect from 1 July this year, no person is currently holding that position. The three education agencies—the School Curriculum and Standards Authority, the Department of Education Services and the Department of Education—have effectively been amalgamated and one director general now has responsibility for the functions that were previously performed across those three separate agencies.

Hon NICK GOIRAN: When I asked the minister earlier to tell the house who are the officers of the public service holding offices included in the special division of the public service, she indicated to me that they were contained in this list. Is the list correct?

Hon SUE ELLERY: I am advised that the document I tabled earlier provides a comprehensive list of all the positions that were captured, in the positions described in the title of the document, as at 30 June. The honourable member will note that, when I first read it in, I read out that date. The machinery-of-government changes took effect from 1 July 2017.

Hon NICK GOIRAN: Minister, can we have an updated list?

The CHAIR: Minister, do you have a document you wish to table?

Hon SUE ELLERY: I might, but I am not sure whether it will help the honourable member. There is not a comprehensive, single document. I have a second document that is a variation to the document that I have already tabled, and the variation is effective on and from 1 July 2017. I am happy to table that, but there is not one physical—here tonight—comprehensive document. I am told one is publicly available, and I think it is on the website, but physically, here in the room tonight, there is the original document and this variation.

Hon NICK GOIRAN: If we collate those two documents, will it be readily apparent to members of the Legislative Council, before they pass this bill into law, which offices will be impacted by this law, the people who currently hold those positions, and the remuneration that those people are receiving at the moment, which will be frozen the instant this bill receives assent?

Hon SUE ELLERY: If the two documents are read together, they give the title of the office, the department or agency, the band, the office holder and the salary. The information that may not be before the house is if, in the variation document, an office holder position was vacant at that date and has subsequently been filled. I do not have that information in front of me now, but in terms of the positions, yes.

Hon NICK GOIRAN: For example, the document I have in front of me lists director general, Department of the Premier and Cabinet, band 1, vacant, salary, dash. Does the minister's document have something different about the director general of the Department of the Premier and Cabinet; and, if it does, what is the name of that person, and how much is that person going to be getting that will be frozen for the next four years?

Hon SUE ELLERY: The position for Department of the Premier and Cabinet is listed here. The band number is listed here. As at 1 July, that position was vacant. The dollar figure is not listed, but I know that I have provided information to the house. Thanks to the wonders of technology, I can advise the member that that position, band 1, with office holder, D. Foster, has a salary of $441 406.

Hon NICK GOIRAN: I thank the minister for that additional information. That is not in the document that I have, which the minister tabled earlier. It is not in the document that the minister has available, which I hope she will table shortly. It will be in some third document that we will then have to collate. We will have to collate three documents to properly understand and reconcile them. Would it be possible, with the resources of government, that sometime before the house rises this week, we could be provided one comprehensive, simple list with all the people impacted by this bill, their band, their name and their salaries that will be frozen for the next four years?

Hon SUE ELLERY: Yes. I table this document. If the honourable member proceeds to ask a series of questions about this document, I will need to get a copy before I table it.

[See paper 987.]

Hon MICHAEL MISCHIN: I have a few more questions on this. This comes back to the consultation point. Is the minister able to help us know whether the chief of staff to the Premier was involved in any of the discussions about this bill and whether he was consulted about the political ramifications and the desirability of this legislation and the formulation of the title of the bill regarding debt reduction, budget remediation and the like?

Hon SUE ELLERY: Just to be clear, is the member asking about the Premier's chief of staff?

Hon Michael Mischin: Yes.

Hon SUE ELLERY: The Premier's chief of staff would be involved in consideration of matters going before cabinet, but beyond that I am not able to give any information about what role he may or may not have played in respect of the title of the bill.

Hon MICHAEL MISCHIN: It seems to me that the people who have been consulted about this bill are the ones least affected by it. Just dealing with the question of the setting of the cap for a period of four years, the minister mentioned that four years was considered to be a reasonable period to effect savings. Was any lesser period considered and why is a lesser period allowing for a sensible review of the merits of this proposal not thought proper? It is no secret that I have foreshadowed an amendment that provides for, firstly, a review of the operation of this proposal to be able to see whether it has any unforeseen circumstances or consequences that might be undesirable, and, otherwise, amendments that shorten the period from four years to two years. Can the minister indicate the government's view on those two matters and why they are not acceptable?

Hon SUE ELLERY: We have canvassed this before. I think that the first thing that the member requested information on—that is, whether the Premier considered a shorter period—is captured in the question that the

member effectively put on notice in asking me to check with the Premier in the morning about what other things he might have considered before the bill went to cabinet. I think that information is probably captured in that and I am not able to answer that tonight. I have addressed the question of why we chose that period. I flag now that we will not support the amendment in the notice paper in the honourable member's name. The effect of his amendments would be an 18-month freeze and we are looking for it to go longer in order to save the additional amount of money we have already identified. I have already addressed that issue in my second reading reply and in a series of questions tonight.

Hon MICHAEL MISCHIN: Could the minister indicate why that is? I am flexible about whether it is two or three years, or any other time, but could it be some reasonable period of time to assess whether the legislation is actually achieving a worthwhile saving for "budget repair", whether the consequences are such that they are undesirable, or, indeed, whether the circumstances might change over that period of time? Would anything less than four years be negotiable with or considered by the government at any stage, or is it so critical that it be four years that the government can provide me with some material to support the time criticality of it, or is it just an arbitrary figure that has been picked by the Premier and will be inserted for public relations purposes, or is there some other reason why it is four years and carries over past the next election?

Hon SUE ELLERY: With the greatest of respect, the policy of the bill has been set, and the policy of the bill includes a four-year period. I have explained that already in my second reading reply. I understand that the member does not agree with the four-year period and would like the opportunity to shorten it. I understand that. That is not the policy of the bill, as has already been determined by the chamber in the second reading debate.

Hon MICHAEL MISCHIN: This touches on the operation of the legislation generally, but it is a totally separate issue and one that, of course, does not interfere with the policy of the bill. Is the government prepared to accept a review clause, as proposed in my amendments? That will not affect the policy of the bill, but it will allow an assessment, will it not, about whether the bill will operate effectively or whether any problems will be exposed by it? Surely, that cannot be a difficulty.

Hon SUE ELLERY: It is quite a short period of time in any event. The prospect of inserting a review period into the middle of what is a relatively short period of time—I know the member does not accept this—means that we would effectively be starting to conduct the review when there was limited time to consider any unintended consequences, if that is what the member is referring to. We would then have limited time to make any changes, if that is what we wanted to do. We are not talking about a piece of legislation that is ongoing, which, I agree, it would be perfectly reasonable to insert review clauses into to make sure that we tweak something. This is a time-limited measure and, for that reason, we do not think it is practicable to insert a review provision. But I note that there is an amendment in the member's name and I will be happy to have the debate about that when we get to that.

Hon MICHAEL MISCHIN: I do not want to argue the amendment, but, again, I am curious about this. The minister says that it is only a short period of time, but four years is four years—it is a term of government. If economic circumstances change, as they have been known to do in the last four years, the effects could work to a significant detriment or a significant advantage.

The minister has mentioned already how the estimates of savings have been revised by something like 20 per cent just between when the minister delivered the second reading speech and now. She mentioned that the figures are fuzzy and that we cannot have any confidence that they are sufficiently robust.

Hon Sue Ellery: That's your description, honourable member, not mine.

Hon MICHAEL MISCHIN: The minister has mentioned that Treasury estimates can be up or down, or somewhere in the middle. The minister has mentioned that she cannot provide any figures or methodology that we can rely on; they are just estimates. All sorts of things could happen in 12 months. The figures have changed over the last couple of months. Since the minister is talking about not only salary remuneration—I will get back to it—but also the ability of members to do their jobs, why is 12 months too short a period to be able to look at whether problems need to be addressed? As for the time to fix them, the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill has been declared urgent. It will not come into law by any stretch of the imagination before next year, yet we are spending considerable time on it now. The government can deal with it within a fairly short time, particularly if all parties in this place have the information and the government is willing to address these problems. I will get back to it: why is it so time critical that it has to be four years, and why is it so time critical that any review of the bill's operation is against the policy of the bill and will not be entertained by government? We have inserted review clauses on numerous occasions in the past. When we were in government, they were proposed all the time, and we would introduce them unless there was very good reason not to. Why can we not on this occasion?

The CHAIR: The honourable member has canvassed possible new clause 11, which will presumably be considered in due course. The time to get down to the sort of detail that is being entertained at the moment is when we come to the consideration of that proposed new clause, unless the minister wishes to entertain further comment at this point?

Hon Sue Ellery: I don't, Chair.

The CHAIR: Then we will canvass that a bit later. We are still on clause 1. I give Hon Nick Goiran the call.

Hon NICK GOIRAN: Minister, I am still trying to get to the bottom of the list of people who will be impacted by this bill. The minister has kindly indicated that she will provide a comprehensive list by the end of the week, or before we rise. I might get a bit more specific about that in a moment, but the second document that the minister tabled a little earlier refers to the director general of Communities. It states the position is band 1, and that the office holder is vacant. The salary is represented by a dash. I do not know what to make of a dash; it is not really nil. I would like to know whether that means that the salary for the director general of Communities is frozen at nil for the next four years. I think the minister's trusty advisers are about to tell her to refer the member to clause 10 of the bill, at which the government is looking to insert proposed new section 10D(4). It states —

> (4) If an office referred to in section 6(1)(d) or (e) was vacant immediately before commencement day, unless subsection (6) applies, the remuneration determined by the Tribunal to be paid or provided in respect of the office must not be more than the remuneration paid or provided to the last person to hold the office before commencement day.

In other words, if the position is vacant, we should not worry about it; the starting salary is whatever the previous person had. When I go to the earlier version of the bill from 30 June, there is no director general of Communities. What do we do if there is a vacant office and no-one held the office previously, so there is an inaugural office holder?

How does the bill deal with the frozen salary for that person for the next four years? It is a bit of a mess.

Hon Sue Ellery: No, I'm looking at a different document than you are looking at.

The CHAIR: The minister has the call.

Hon SUE ELLERY: Sorry to hold up the committee. I am advised that because it is a new position post machinery of government, the tribunal will be within its powers to assess the position and make a determination, and, in doing so, the act provides that it will take into account comparable positions.

Hon NICK GOIRAN: Minister, are we referring to a particular provision in the bill? Maybe the minister can take me to the —

Hon Sue Ellery: It is proposed new section 10D(6).

Hon NICK GOIRAN: Proposed new section 10D(6)?

Hon Sue Ellery: We are finding it. Let us find it in the bill, my friend.

The DEPUTY CHAIR (Hon Martin Aldridge): The minister has the call.

Hon SUE ELLERY: We are referring to proposed new section 10D(5), which reads —

> Subsection (6) applies if —
>
> (a) an office referred to in section 6(1)(d) or (e) was vacant immediately before commencement day, and the last person to hold the office before commencement day was not in office on or after 1 July 2016; or
>
> (b) the Tribunal has not previously determined the remuneration to be paid or provided in respect of an office referred to in section 6(1)(d) or (e), for example because it is a new office.

Hon NICK GOIRAN: The second document the minister tabled—the determination variation—lists the director general of the Department for Communities' position as vacant but no salary. Is that because the tribunal has not yet made a determination?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: The minister indicated that she would provide us with an updated list of people who would be impacted by the legislation. When will that be provided to the house?

Hon SUE ELLERY: Is the member referring to the consolidated version?

Hon Nick Goiran: Yes.

Hon SUE ELLERY: The consolidated version consists of the two documents I have tabled already and anything else that might exist that I do not know about. I will endeavour to get that list to the member by the time the house is currently scheduled to rise at about 5.20 pm tomorrow.

Hon NICK GOIRAN: This is getting a bit messy. There are two problems. The chamber is not aware of who will be impacted by this bill and that is on the list, but we will only be provided with that list when the house rises tomorrow, which, I presume, is a time by which the minister would like the bill to have passed. We are expected to pass a law to freeze people's salaries, but we do not know who those people are. We know who some of them

are, because we can, sort of, piece it together, but we do not have a list of those people. The chamber is not aware of who they are. That is particularly important because, as I identified earlier, we know that Hon Michael Murray, QC, will be affected by this bill. Hon Michael Murray currently fulfils part-time responsibilities as the Parliamentary Inspector of the Corruption and Crime Commission. We know that the government intends to give him more work in the near future and that it would like to freeze his salary for the next four years. Members, that is patently unfair. Whatever members think about this bill, it is unfair to say to Hon Michael Murray, an esteemed retired Supreme Court judge, that we will freeze his salary for the next four years. Everyone has a different reason for supporting or not supporting this bill, but we will freeze Hon Michael Murray's salary for the next four years in full knowledge that the government intends to give him more work to do, and that is patently unfair.

My problem is that the minister is telling me that she will provide the list to the house by 5.20 pm tomorrow, but, for all I know, there could be more Hon Michael Murrays buried in that list. I do not know whether or not there is because I do not have the list. This is a real problem. It is a real mess. I am happy to debate the other clauses, but can we consider deferring clause 1 until we have the list?

The CHAIR: Before I ask the minister whether she wishes to respond, clause 1 of any bill is not the sort of clause that can be deferred. The short title has to be agreed to before a bill can proceed.

Hon SUE ELLERY: Perhaps I can clarify: the chamber has a list of all the office positions in the two tabled documents. The additional information that I will get the officers to provide by the end of tomorrow is the names of positions that have been filled and are currently identified on that document as vacant because the document was dated, I think, 1 July. I will be able to give members the names, but the chamber already has before it in those two tabled documents the office holder positions with each of the officers captured.

Hon MICHAEL MISCHIN: There is an alternative to this, of course, as I am awaiting some information, too. I am told that the minister will endeavour to get that information to me by tomorrow morning. I can continue to ask questions relevant to clause 1, but I do not want to waste the chamber's time. The minister scoffs, but as I recall it, the Workforce Reform Bill took an awful lot longer than this, and to less purpose. That problem was solved by referring the bill to a committee. That is something that the government did and it was supported. It is something that this government is afraid to do even though this bill cannot pass into law until next year. All this could have been cut short if the government had been less intransigent and had been unafraid of having the bill scrutinised. The Leader of the House can scoff as much as she likes, but this is the government's decision.

Hon Sue Ellery: It is the house's decision.

Hon MICHAEL MISCHIN: The Leader of the House ordered the business of this house and she has the chance to change the order of business. I understand that the government is anxious to have other legislation passed before we rise, including the payroll tax legislation, which perhaps arguably goes towards budget repair and debt reduction—not to mention a disallowance motion and other legislation also have to be dealt with today. The Dangerous Sexual Offenders Legislation Amendment Bill still needs to be debated and completed. I leave it to the government. We can, of course, adjourn this debate until tomorrow morning and resume and, in the meanwhile, do something productive; the government can get its act together and provide the information or at least endeavour to find the information that it claims it might have that supports elements of the bill that have caused concern. I ask the minister to entertain that, or is she just going to try to bludgeon her way through it? I thought that there were better ways of using the house's time. It will not prejudice the government at all. The matter will be dealt with. The government will have the opportunity to show that it supports the bill and its bona fides. It would show the government's good faith and also allow us to get on and deal with things that are apparently not as important as this bill, which will not become law until next year, and that, according to the second reading speech and the headlines, might protect people in the community from dangerous sex offenders. We could also deal with the payroll tax matter that is supposed to be critical to budget repair, rather than debate the zero to $16 million that might be saved by this measure. I invite the Leader of the House to consider that prospect. It is a win–win, as far as I can see.

Hon SUE ELLERY: I thank the member for his very kind invitation, but I graciously do not accept it. The honourable member started his contribution by referring to the fact that he was awaiting some information that I have given an undertaking to provide.

Hon Michael Mischin: That you would try to provide.

Hon SUE ELLERY: Yes, and I will. That information is not on any of the clauses in the bill before us. The member has asked me to find what else the Premier considered when he decided whether to proceed with this bill. It does not go to any of the detail about which the house needs to make a decision tonight. It does not go to any particular clauses. It does not go to any technical information. It is about whether the Premier considered other variations before he decided to send this legislation to the house. I am not sure how that holds up the consideration of the detail of the bill, which is what we are doing in Committee of the Whole right now.

Hon MICHAEL MISCHIN: It is clause 1. If I can just expand and assist on that —

The CHAIR: Order! The question is that clause 1 be agreed to, and the Chair has allowed a fair bit of latitude as is our normal practice in all of this, but I feel that now we are getting to a stage at which we are going to have to come down and focus a little more narrowly. Hon Martin Aldridge, are you seeking the call?

Hon MARTIN ALDRIDGE: Yes.

The CHAIR: You have it.

Hon MARTIN ALDRIDGE: I was driving to Parliament this morning and I heard on the wireless a news report about the Premier reaffirming his commitment to make senior public servants accountable to their salaries and their performance through revised key performance indicators. If I recall correctly, I think I heard him say that there would be an up to 20 per cent reduction in their salaries if they do not meet their KPIs.

Can the minister tell me how those provisions might operate in the context of this bill, if passed? I assume most of the senior public servants that the Premier is targeting with this policy would have their salaries determined by the tribunal.

Hon SUE ELLERY: I am happy to provide the member with some information about that, but it is not captured within the bill that is before the house now. The Premier's comments this morning related to the service priority review, which was released today. It sets out a range of recommendations. The Premier has indicated that the government will work through those recommendations, which broadly accept the recommendations of the report, and will work through how they need to be implemented. But the recommendations about key performance indicators and linking achievement of KPIs to remuneration is not captured within the provisions of the bill that is before the house now.

Hon MARTIN ALDRIDGE: It is my understanding that when the tribunal issues a determination on officers' salaries, as well as other things, those salaries need lawfully to be paid. If the policy that the Premier is talking about were to be enacted, would it mean the chamber at some future time considering another amendment to this legislation? Is that correct?

Hon SUE ELLERY: That may well be the case. The government has yet to consider how it will proceed to implement the recommendations of the service priority review. It may be the case that it requires an amendment to the Salaries and Allowances Act, but it may require other things as well.

Hon MARTIN ALDRIDGE: When we received a briefing on this bill from the government we were provided with a four-page briefing note titled, "Briefing Note for Opposition: Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017", and it appears to have been authored by the Public Sector Commission on 11 October 2017. Was this document authorised by government and is it still current?

Hon SUE ELLERY: The member might have to give me a copy of it, because I do not know which document he is talking about.

Hon MARTIN ALDRIDGE: Mr Chair, I table the briefing note.

The CHAIR: Will it do if we just pass it over?

Hon SUE ELLERY: I am advised that the document was prepared by the Public Sector Commission and the final paragraph of the document—which is conveniently highlighted—would change if the house were to accept the amendment standing in my name on the supplementary notice paper.

Hon MARTIN ALDRIDGE: In respect of the final paragraph that I conveniently highlighted, I understand that the bill in its current form was introduced into the Legislative Assembly on 11 October. Has there been a policy change by government in the time between the issuing of this briefing note and the introduction of this bill and now, which has led to the amendment foreshadowed by the minister in this place?

Hon SUE ELLERY: It is only in respect of the amendment that is on the supplementary notice paper in my name. That is an amendment that is endorsed by government.

Hon MARTIN ALDRIDGE: To be clear, it was the government's intention—it was not a mistake, it was not an error and it was not a matter that needed clarification—to introduce a bill that would provide, as the briefing note suggests —

> … the Tribunal can take into account changed economic circumstances since the freeze commenced. For example, if CPI were to increase by 5 percent in total over the freeze period, the Tribunal could provide for remuneration of 5 percent to be applicable from 1 July 2021 onwards.

Was that the policy that was signed off by cabinet that then caused the drafting of the bill, which was then approved by cabinet and introduced into the Legislative Assembly, or was it not?

Hon SUE ELLERY: I am somewhat restricted in what I can say about cabinet. I can tell the member that the amendment on the supplementary notice paper in my name is there because it will close off what might otherwise be considered a mechanism that I think was not intended. I am kind of restricted when the member asks me a question about cabinet doing X, Y or Z. I can tell him that we believe that the amendment on the supplementary notice paper in my name makes it absolutely explicit what the tribunal can and cannot do.

Hon NICK GOIRAN: I have only two final questions on the short title that may assist in facilitating its progress. The Leader of the House is aware that I have a concern about the impact of this bill upon the Parliamentary Inspector of the Corruption and Crime Commission. She has advised the chamber that she will speak to the Attorney General about my earlier question about whether the parliamentary inspector is agreeable to overseeing the new functions that are proposed by the government while his pay has been frozen for the next four years. She is going to speak to the Attorney General tomorrow morning and let us know. It would assist me if she could indicate which clause in the bill impacts upon the parliamentary inspector. If she can identify that clause, I can desist from asking about this matter until we get to that particular clause. Secondly, it would also assist if she could provide that comprehensive list of the office holders that will be impacted by the bill before we sit tomorrow rather than at 5.20 pm.

Hon Sue Ellery: I am sorry but I can't. There's a proposal that we sit from nine o'clock. I have to let the officers go home and I do not think I could get it before nine.

Hon NICK GOIRAN: I am just indicating what would assist in the expedient passage of the bill. Firstly, which clause freezes the parliamentary inspector's salary for the next four years? Secondly, is there any prospect of getting the list earlier than 5.20 pm tomorrow; and, if there is, what time would that be?

Hon SUE ELLERY: In respect of the provision within the bill, essentially it is proposed section 10E. I cannot give the member that commitment to provide him with that information any sooner. I can say that I can try, but I cannot give him the commitment that I can give it to him before nine o'clock in the morning.

Hon NICK GOIRAN: Is the minister saying that proposed section 10E, "No increases in judicial remuneration before 1 July 2021", will freeze the salary for Hon Michael Murray, QC, the Parliamentary Inspector of the Corruption and Crime Commission, who is no longer a judicial officer?

Hon Sue Ellery: I am sorry. I was listening to my adviser.

Hon NICK GOIRAN: I was just clarifying things. The minister has indicated that it is proposed section 10E, titled, "No increases in judicial remuneration before 1 July 2021". However, my question is about the Parliamentary Inspector of the Corruption and Crime Commission. He is not a judicial officer; he used to be but he has retired now. Are we really sure that it is proposed section 10E?

Hon SUE ELLERY: I am advised that that process is dealt with under section 7 of the current act and proposed section 10E will change the relevant bit of section 7 where he is captured.

Hon Nick Goiran: Okay, I agree.

Hon MICHAEL MISCHIN: I have nothing further that I can usefully explore with clause 1 via the information that has been given to date. What has become apparent, however, is that the title of the bill is, at best, questionable if not false. It has nothing to do with debt and deficit remediation other than to provide additional funds, by way of not paying them, to consolidated revenue that allows the government to spend money that it otherwise would not have. This bill has nothing to do with debt remediation. No money is set aside for state debt. No reduction can be calculated to say that it has dropped by $1 million, $2 million or $16 million; it is just additional money to spend. This bill then has absolutely nothing to do with budget repair as claimed in the rhetoric, the media releases and the second reading speeches both here and in the other place. There is no repair going on. This bill just allows a little bit of extra spending money.

Secondly, we have learnt that the minister is not in a position or not willing to answer certain questions to a level of detail that is desirable. She is not able to, for example, answer questions and provide the methodology. She has mentioned methodology but is not able to provide any of the documentation or calculations by Treasury or whoever's idea this was to allow us to have any confidence that the estimates, which have already been proved wrong by some 20 per cent by admission of the government, had any substance. The minister is not able to provide any information—she said she will try—without breaching any cabinet confidence. We do not even know if alternatives were considered that might have been more effective in achieving the ends that the government claims it is trying to achieve through this bill or that might achieve better ends in a way that is more effective and more measured rather than interfering with, through Parliament, a body that was specifically set up to take these issues away from Parliament. We do know, from what the Premier has said elsewhere, that it was Treasury's idea. The government does not like it but it is going to go along with it; that is as much as we know. Some of the assumptions underpinning it, if they came from Treasury, have already been proved wrong. There is no suggestion that any of the principles of independence et cetera and the history of this tribunal have been even considered by Treasury, let alone weighed in the balance against political expediency and what might be no specific savings at all and without considering what the consequences might be.

The CHAIR: Order, member. I am hoping that you are going to relate this to clause 1 and not engage in a second reading debate mark II, because that is what I am hearing at the moment. Please relate this matter to clause 1, because that is the only opinion we have at the moment.

Hon MICHAEL MISCHIN: Very well, Mr Chair. What I was leading into and providing, I suppose, was my speech in advance to renew the motion made by Hon Alison Xamon that this bill be discharged from the notice paper and referred to the Standing Committee on Legislation for consideration and report by no later than Tuesday, 20 March 2018; and the committee have the power to inquire into and report on the policy of the bill. I have already explained my reasons for that. If there is a bar to that, then so be it, but it does seem to me from everything that we have heard that this bill is flawed, the premises underlying it are flawed and we are not going to get the information we need.

The CHAIR: Members, I am unable to entertain such a motion in my role as the Chair of the Committee of the Whole House. It is a matter for the house to contemplate the motion that the member raised. It is possible, via report from the Committee of the Whole House to the house, to propose such a motion, but that would have to be initiated from the committee table.

Clause put and passed.

Clause 2: Commencement —

Hon NICK GOIRAN: The minister will note that clause 2 includes a provision that the rest of the act will commence on a day fixed by proclamation, and different days may be fixed for different provisions. Why is that?

Hon SUE ELLERY: The honourable member would be aware that is a fairly standard clause to include in bills. I am advised that there is no intention at this point to split the days of commencement. It is anticipated that all the provisions of the bill would apply from the same date of commencement. The wording of the clause, though, is a fairly standard one provided by Parliamentary Counsel.

Hon NICK GOIRAN: Minister, that is not quite right, is it? From time to time Parliamentary Counsel includes a provision like this, but equally there is plenty of legislation that would state that it commences the day after sections 1 and 2 receive royal assent. There is more than one way that Parliamentary Counsel can draft this. Indeed, this is a matter that is regularly considered by the Standing Committee on Legislation and the Standing Committee on Uniform Legislation and Statutes Review. Indeed, I note that as recently as the thirty-fourth report of the Standing Committee on Legislation, chaired by Hon Dr Sally Talbot, the committee stated on page 18 —

> Commencement of legislation by proclamation is increasingly common, and should be avoided unless absolutely necessary. It is an issue that often confronts the Standing Committee on Uniform Legislation and Statutes Review of the Legislative Council, which pointed out as recently as October 2017 that where commencement by proclamation is provided for in legislation, this leaves the Executive to determine commencement dates, potentially eroding the sovereignty of Parliament. It is conceivable that a proclamation may never be made and the will of the Parliament, in passing the Bill, would be frustrated.

Therefore, minister, it is not quite right to say that this is at the feet of Parliamentary Counsel. I know the government is very keen for this freeze to come in as soon as possible. I ask whether the minister would entertain an amendment to clause 2 so that it would read that the rest of the act comes into operation on the day after sections 1 and 2 come into operation.

Hon SUE ELLERY: If the member were to check what I said when I responded to his first point, I said that this is a fairly standard clause by Parliamentary Counsel. Therefore, I am not able to agree to an amendment in respect of that. I can tell the member that I have been advised that it is anticipated that the commencement date will be the same for each of the provisions. However, the government wants the flexibility that has been provided by Parliamentary Counsel. In one sense, the honourable member is right—this is an ongoing tussle between Parliamentary Counsel and the Legislative Council, no matter who is in government. We anticipate that all the provisions will come into effect on the same date. Therefore, I am not able to entertain an amendment to change the commencement date.

Hon NICK GOIRAN: The government is keen for this bill to be expedited this week. I suggest that clause 2 would be expedited very quickly if the minister were to agree to that very simple amendment. That amendment would cause no trouble to the government whatsoever—it will mean that the government's wonderful freeze legislation will start even sooner. The minister probably has the Premier on speed dial on her phone. I suggest that the minister has a quick chat to the Premier overnight and says, "This annoying guy, Nick, is referring to other reports that have been done by Hon Dr Sally Talbot, and he is going to start quoting from Hon Adele Farina, who likes talking about these kinds of things, too, and that is before Hon Michael Mischin even gets started. We can make things go very quickly tomorrow if we can sort out clause 2." I reckon there is a reasonable prospect that the Premier would say, "Just do it and get this bill done." We will then be able to get clause 2 through in about five minutes tomorrow. Unlike the debate on clause 1, which apparently we could not defer, would it be possible to defer the debate on clause 2 to enable the minister to have a quick chat with the Premier overnight and deal with that clause tomorrow?

Hon SUE ELLERY: I will be talking to the Premier about other matters, so I am happy to raise it with him. Mr Chair, given where we are this evening, because there are two other matters that the house has to deal with before we rise tonight, including a disallowance, I think the best thing I can do is ask that you report progress.

Progress reported and leave granted to sit again, on motion by Hon Sue Ellery (Leader of the House).

BUSINESS OF THE HOUSE

Standing Orders Suspension — Motion

On motion without notice by **Hon Sue Ellery (Leader of the House)**, resolved with an absolute majority —

> That on Thursday, 7 December 2017 the Council shall meet for business at 9.00 am.

TOWN OF EAST FREMANTLE PLASTIC BAG REDUCTION LOCAL LAW 2017 — DISALLOWANCE

Motion

Pursuant to standing order 67(3), the following motion by Hon Robin Chapple was moved pro forma on 7 September 2017 —

> That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the Town of East Fremantle Plastic Bag Reduction Local Law 2017 published in the *Government Gazette* on 2 June 2017 and tabled in the Legislative Council on 13 June 2017 under the Local Government Act 1995, be and is hereby disallowed.

HON ROBIN CHAPPLE (Mining and Pastoral) [9.22 pm]: It is actually quite a sad piece of legislation that the Joint Standing Committee on Delegated Legislation has had a look at. Unfortunately, a number of processes were carried out, and I will articulate those shortly, that made for an invalid law. A problem that the committee has always had is that we quite often reject laws because they do not fulfil the criteria of delegated lawmaking. In this case—we have had a couple of others in the past—the law by its very nature is invalid. At one level we did not have to disallow it, because it had no function.

I will run through the essence of the issue. In making a local law, the Town of East Fremantle breached section 3.12.4 of the Local Government Act by adopting a law that was significantly different from the law that had been proposed. It had been gazetted, and was changed after the gazettal. Between the time it was gazetted and the time that we got to see it, it had changed. That simply cannot be done without going through the whole process again. I know we have time constraints, so I will just go to the fundamentals. The issue then became that, because the law was invalidly made—it is important that the law comply with sections 3.12.4 and 3.13 of the Local Government Act—the town then attempted to re-establish the process without going through the formal requirements of such legislation. In essence, that meant that the town breached section 3.13 of the Local Government Act by failing to recommence the local lawmaking process under section 3.12 of the LGA when it decided to make the instrument, which in the committee's view amounted to a local law that would be significantly different from the one proposed. This was in relation to the size of the plastic bag in microns. Originally, a ban on plastic bags of 30 microns was looked at and then, under advice from the Western Australian Local Government Association, the town sought to change the size to 60 microns. That might not seem much, but when a law is established, that is the law that we go by. Having made an amendment to the size of the plastic bag, the town thought that the amendment would not need to be reviewed by the Minister for Local Government. Our term of reference 10.6(a) states —

> In its consideration of an instrument, the Committee is to inquire whether the instrument —
>
> > … is within power …

The committee was of the view that the instrument was invalid by reason of noncompliance with sections 3.12 and 3.13 and it offended the term of reference 10.6(a). The committee therefore recommended to Parliament that the instrument be disallowed.

All the local authority has to do is start the process again and make sure that it puts the right figure in the law and there will not be a problem, so it is not anything to do with the policy.

This disallowance is one of the unusual ones because we are disallowing something that has no status in law, so if we did not disallow it, it would not be able to be effected anyway, but we go through this process of disallowance to let the public know, by putting on the public record, that it has been disallowed. It is one of those odd instances we come across occasionally. I can only remember twice disallowing something that has no stature in law anyway. It is a bit of a weird scenario. I just thought I would explain that to the chamber and I hope I will get the chamber's support on behalf of the Joint Standing Committee on Delegated Legislation.

HON DONNA FARAGHER (East Metropolitan) [9.27 pm]: I rise briefly on behalf of the opposition to indicate that given the recommendation of the Joint Standing Committee on Delegated Legislation that has just been articulated by Hon Robin Chapple that the local law be disallowed on the basis that the Town of East Fremantle breached sections 3.12 and 3.13 of the Local Government Act 1995 when making it, the opposition will support the disallowance. As the honourable member said, local councils must adhere to the procedures set out in the act and it is clear from the committee's report, again articulated by the member, that that did not occur in this situation. Therefore, as I said, the opposition will support the disallowance.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [9.28 pm]: I indicate, too, on behalf of the government, that we will support the disallowance. It is unfortunate that the Town of East Fremantle did not follow proper procedure. I indicate from my perspective that dealing with waste issues and the issue of plastic bags is a priority for me. Although this law presumably will be disallowed tonight, its intention will be reached in the middle of next year when a plastic bag ban is in place across the state of Western Australia. It is disappointing. I am the first person to acknowledge and congratulate the Town of East Fremantle for acting to ban plastic bags. The use of plastic bags is a significant issue in the community and although it does not have the biggest of impacts environmentally, this is certainly an issue that the community is behind. It is with a heavy heart in one sense that the government supports the disallowance, but the Town of East Fremantle did not follow proper procedure. In light of that fact, the government will support the committee's recommendation.

Question put and passed.

PAY-ROLL TAX AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017
PAY-ROLL TAX ASSESSMENT AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Cognate Debate

Leave granted for the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017 and the Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017 to be considered cognately, and for the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 7 November.

HON SIMON O'BRIEN (South Metropolitan) [9.32 pm]: The Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017 and the Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017 we are contemplating cognately are the machinery necessary to implement changes to payroll tax arrangements announced in the government's recent budget. Although these bills are at first glance daunting documents to contemplate, particularly if members have not had much to do with payroll tax in the past, the impact of them is relatively simple, even though the wording and the construction of the amended provisions may seem quite mind-boggling and confusing at first glance. Basically, the proposed changes will introduce measures to gather further revenue for the state over the period 2018–19 to 2020–21, raising an estimated $435 million in excess of what was previously forecast.

The explanatory memoranda to the bills are self-explanatory, and the opposition notes all that. What I want to do in my brief contribution this evening is offer further comments about the nature of payroll tax for members to contemplate. Payroll tax was introduced into this state in 1971. It was a creation of the commonwealth 30 years before that. When the responsibility was passed to the states, the rate was 2.5 per cent and the exemption threshold was $20 800. We have certainly seen how times have changed.

I think payroll tax is misunderstood and abused in political circles. I want to spend just a few minutes discussing that and asking members to contemplate how we treat and view payroll tax in the political sphere. Across the state budget are a number of sources of revenue of all sorts, some of which are purely matters of taxation while others are fees for services and so on. The state claims for itself a number of major sources of income—royalties come to mind—plus, of course, a number are administered by the commonwealth, but I am not going to go there. There are any number of minor taxes but generally the state has three significant tax revenue sources to draw from at its own discretion. It is a very narrow tax base and the options are strictly limited. Those three major revenue sources are often referred to in the public sector as the three ugly sisters. They are land tax, stamp duty and payroll tax. Land tax and stamp duty have their pros and cons. Apart from the advantages of providing revenue sources for government to do what it needs to do, it is more con than pro because it distorts markets and impacts—I think, unfairly—on various discrete industry or market sectors. Changes in those areas can have a significant impact on retiree investors, for example, that are not shared by the rest of the community. Indeed, I think the Liberal Party paid a very heavy price for some of the initiatives it took on land tax a few years ago. We will probably get to make our peace with people who perhaps have been former supporters. That is another debate for another occasion; this is about payroll tax.

Payroll tax is generally viewed in the political sphere as a political football to be argued about. There are strict rules. I know Hon Martin Pritchard wants to know about this, so I will briefly mention them. I have seen them from different perspectives. When in government, payroll tax is a vehicle by which the government can either regretfully raise some further revenue by minor adjustment, or give relief to thousands of good family businesses who employ Western Australians. When in opposition, payroll tax is a tax on jobs and therefore it is terrible! The truth is rather different. I offer that observation because from the point of view of the Minister for Environment, I am the most inconvenient thing to have in the house at this time: a member who knows a little bit about the subject up for debate, or thinks he does. I do not know whether anyone else here has been responsible for the Office of State Revenue as a minister, but I have, so, unfortunately, I do know a bit about payroll tax and, more to the point, I have contemplated it. Who knows, minister? Will I be his nightmare in the course of this debate or will

I be a dream come true? Hopefully, I will be the latter, because it is my party's position that it will not be opposing the measures that are contained in the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017 and the Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017, which are enunciated in the documents that have been provided. I am also aware of the realities of time, so I will not spend excessive time rehashing the proposed changes. I will honour my pledge to Hon Martin Pritchard and make a few brief observations, before I conclude in a few minutes, about the nature of payroll tax.

When my friend opposite becomes Minister for Finance in the next six months or so, when whoever is doing it at the moment falls over, he will find, particularly if he is also Minister for Commerce and Industrial Relations; Small Business at the same time, that he will receive representations from people saying that payroll tax is to be done away with because, "It's a tax on jobs, don't you know!" The McGowan Labor government, as it calls itself, is all for jobs, so there cannot be a tax on jobs. When the minister goes around and holds forums with small and medium-sized businesses and asks them how it is going and how the government can get off their backs, before they start telling him about red tape, they will tell him that payroll tax is, "A tax on jobs and it's holding us all back." The minister might want to ask them, "If we lower the payroll tax rate by half a cent, how many people are you going to employ?" They will tell him none. If the minister says he is going to raise it by half a cent, which is a lot in the scheme of things, and asks them how many people they are going to lay off, the answer will be none. That is the reality of it. It is actually a tax directly related to a payroll, and in a sense—I am quoting the former Commissioner of State Revenue, Bill Sullivan—it is probably actually one of the most equitable forms of taxes there is, if we have to have taxes. In contemplating the sorts of impositions on employing someone, payroll tax generally does not figure prominently in the list of considerations. There are all sorts of costs—compulsory superannuation, workers' compensation insurance, and the administrative burden. Probably 15 per cent of the cost of employing additional employees is other administrative costs making up the payroll, such as arranging for them to have uniforms and somewhere to sit or work and all the rest of it.

Interestingly, the Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017 and the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017 do not necessarily seek to appeal to those small to medium businesses. They will actually go after what is called the "big end of town" to raise $400 million. They will target employers with massive payrolls and will raise some very significant funds from them. I do not have all the time I might like, but I will come directly to the point. The point is this: if a business or employer is about to be hit for millions in payroll—it is not the tuppenny–ha'penny stuff that would have applied in that small business forum that the minister might have attended—or perhaps tens of millions, the employer will have a response to that and the response might well be to prune its workforce. That is something that members perhaps need to consider when thinking about payroll tax; the rhetoric is often quite different from the reality.

Nonetheless, the government made its decisions, the budget was passed, and we will examine this measure a little more when a supplementary notice paper is contemplated. But for now I conclude my remarks on these two bills by indicating that the government will not oppose the passage of this legislation—the opposition will not be and I hope the government will not either! Her Majesty's loyal opposition will not actively oppose these measures. I am sure the government acknowledges it is always regrettable to have to put taxes up, and we recognise that as well. I also indicate that we will not be pushing to run the government from opposition by moving various amendments. We will get to that in due course, and I conclude my second reading remarks at that point.

Debate adjourned, on motion by **Hon Martin Pritchard**.

The PRESIDENT: Are there any members' statements tonight? Hon Ken Baston. Hon Ken Baston!

CONTAMINATED SITES — EXMOUTH

Statement

HON KEN BASTON (Mining and Pastoral) [9.44 pm]: Sorry, Madam President, I just thought you were being nice to me. I thought I would wait to see my crew get together.

The PRESIDENT: I was being nice to you.

Hon KEN BASTON: Thank you very much. I appreciate it.

This year, I have become aware of the very concerning issue of groundwater contamination across multiple sites in the light industrial area of the town of Exmouth. In March 2017, the Contaminated Sites Committee found that Lance Gregory and his wife, Francine, were responsible for the presence of hydrocarbons under their service station, better known as Exmouth Fuel Supplies, located at 26 Nimitz Street, Exmouth, or lot 617 on the plan. I visited the site in September this year. The Gregorys' property is across the road from the disused Exmouth power station, which is also a contaminated site. The former Exmouth power station operated from 1960 until 2008, when the power station was decommissioned. The site comprises two lots. One lot is owned by the Regional Power Corporation, which now trades as Horizon Power. The other lot is owned by the Shire of Exmouth. On 5 September, I received an answer to a question without notice that confirmed that this power station site is contaminated with diesel and oil. I asked the Minister for Environment quite a few questions and it is clear from the answers provided to him by his department that there is no precise or complete understanding of the level of contamination at the site. No-one understands the enormity of what the site might be contaminated by.

On 5 September, I asked the following question without notice of which some notice had been given —

> (2) When was the earliest known episode of contamination at this site?

I was provided with the following answer —

> (2) The contamination at the former power station was first identified during a site inspection by the then Department of Environmental Protection in 2000. The former power station commenced operation around 1960, and the diesel contamination has been dated at around 30 years old.

I understand that it is very difficult over that time frame to collate everything, particularly because ownership of the power station changed when Western Power was split up and Horizon Power was developed. Horizon Power ended up with responsibility for the site. I remember that one of my questions had to be referred, because we asked Western Power when it should have gone to Horizon Power. Western Power was split up during my first years in Parliament and Geoff Gallop was the minister at the time. The Minister for Environment's answer to my question was that there is an understanding that the site is contaminated, but that a source site does not exist.

An excerpt from the executive summary of a report by Environmental Resource Management, a company acting for Horizon Power, about the Exmouth power station, published on 9 June 2017, states —

> A recent determination of responsibility for remediation made by the Contaminated Sites Committee … found that Horizon Power had zero responsibility for remediation of impacts present on the EFS site.

Exmouth Fuel Supplies refuted this claim, and has engaged environmental scientist Mr Colin Walker from Geo & Hydro Environmental Management to investigate on its behalf. Numerous witness statements and statutory declarations illustrate instances of spills and leaks et cetera going back many years. I have copies of those in my office. The environmental safety run became more of an issue in the 1970s and, with environmental protection, more modern practices took place. One hopes that there are also more modern practices for clean-up. There was a significant period, of course, before that, and that period caused the damage.

In 2016, the Contaminated Sites Committee provided Horizon Power, via Environmental Resources Management, with an opportunity to respond to Cornerstone Legal and Geo & Hydro Environmental Management's submissions to it on behalf of the Gregorys. The closing statement stated, in part, that ERM considered that the Gregorys had not presented a credible model that showed that the power station contaminated their service station. This is despite decades of people putting in affidavits to state that there was spillage. It seems that an onus of proof is being put on a small family business to prove that they did not contaminate it—not the other way around. I point out that the power station is only some 25 metres across from the service station. It would be a road width away. There is still the old bund there. Back in the 1960s the fuel used to be supplied by the US Navy, so it used to pull alongside, push a hose through the fence and flip it up. Every time someone put that hose through, which was about 75 to 90 millimetres wide, it would have some diesel in it. There are also records of some 24 000 litres of diesel being dropped there. Those people who know Exmouth well will know that it is limestone underneath and very cavernous. Of course, that can store fuel for many years.

I do not believe that that small business should be the only one responsible. It should be a collective responsibility because if we start remediating one area—particularly where the service station is, because the powerhouse is above that; there is a slight elevation—we will still have contamination coming down the hill again underneath. We need a holistic approach to clean it up, and it is extremely important that this site is fixed. I would like to throw open an invitation to the Minister for Environment. I know that it will not be a problem for him because it is in his electorate anyway. I am more than happy to help facilitate that and to get this on the road. It has been going on for far too long. It is a family business and this issue continues to put pressure on the couple who own it. It can also devalue the land, which is extremely important.

GAMES INDUSTRY

Statement

HON TIM CLIFFORD (East Metropolitan) [9.53 pm]: I rise tonight to support the games industry. I quote —

> The global games production industry is worth approximately $100 billion USD and is growing annually. Western Australia has a small but talented games industry. However, 40 per cent of the games produced in Australia come from Victoria where State funding support is provided for game development.

Does that sound familiar? It should. They are the Premier's words. Even though I am a proud Greens member, I support them wholeheartedly because I support the industry. I am doing this because the games industry deserves support. I know that the McGowan government gave a pre-election promise that it would allocate a certain amount of funding to the games industry and have parameters around it. I also challenged the government in my inaugural speech and said that it was worth its while to expend political capital to get things done. From a few of the groans I have heard in this chamber when games were mentioned, I know that it may be something not so popular; it has been referred to as a "hipster hedge fund" or whatever else people want to call it. Those words were thrown around. It is unfortunate, because this industry is double the size of Hollywood. Think about that. It is double the size of the film industry worldwide, and we could have a bit of that. We could have more than mining in this state. We could have a games industry fund and we could have people in jobs, and other industries flowing from that.

The new industries fund is commendable, but to me it is not enough. I think that we need to carve out a specific fund and we need champions of this industry. We need people to get behind it and to put their name to it; otherwise, we are not going to get that share. Perth and, more broadly, Western Australia being where they are geographically, we hear a lot about the importance of us re-engaging in the Asian markets, taking advantage of China's boom and the tech industry in Japan. South-East Asia is one of the largest markets for games in the world, and its proximity gives us a real competitive advantage that we need to take advantage of because over the last few years literally hundreds of developers have unfortunately left the state to go to places like Victoria and New South Wales. Recently the South Australian government announced a $2 million games fund, and a lot of developers are considering moving there. A few weeks ago I went over to Victoria to chat to developers directly at PAX AUS and to find out their personal experiences of what it is like for them in WA. It was pretty sad; I spoke to a young guy named Louis who runs a games bar in Fitzroy, who said that there was nothing here for him. He had to move interstate to open up a bar that should have been opened up in Perth. This is something really simple; with a little encouragement, Louis would have stayed here in WA.

Stirfire Studios is local; it has been gridded out and it has managed to pull things together and put out a game that has made it onto the PlayStation network, which includes PS4; I know everyone here plays PS4. Judging by the silence, maybe not! We have one over there! In all seriousness, we need to properly support the development of this industry. As I said earlier, games sales amount to more than the film industry, and I know a lot of members like films. We have in this industry directors, producers, technicians, animators, computer programmers, visual artists, games designers, writers, sound engineers and educational specialists, and the list goes on. All these people play a big role in developing games in this industry, but they also branch out to work in the healthcare industry and education and end up developing things of practical use for people's children or people who might be suffering from Alzheimer's—all these things stream into everyday life. If you have a phone, you have something that is related to that industry and might have been developed by someone who started off by developing a game in their bedroom.

We are punching above our weight for what we have. Of the whole industry, we have 10 per cent of the total games market in Australia, with minimal support, but just imagine what we could do if we had more support. Victoria is leading the way with 47 per cent of the market share. This has come about through real support from Film Victoria looking at what is going on. Victoria also has Games Arcade, with one of the best developers in the country attracting talent from overseas. The people over there told me that when they spoke to their government officials, it was like nothing to them; it was not even second-guessed. It was like going and applying for an everyday grant. They did not have to get into a new industries fund in which they would be competing with start-ups; we have to remember that this is an established industry with billions of dollars worldwide.

Hon Alannah MacTiernan: Sorry, how did they get started? What was it the government did?

Hon TIM CLIFFORD: In Victoria? It put forward the policies to specify funding for games, like —

Hon Alannah MacTiernan: So it is funding?

Hon TIM CLIFFORD: Yes, there is funding. It also backs the infrastructure. As I said, it has Games Arcade. The government created a space for developers to work within, including people as young as 13 years. I went to the Perth Games Festival the other weekend and listened in on some panels. There were kids as young as 13 talking about the games they were developing and how they hoped to get involved in the industry. Unfortunately, the parents who took them to the festival were in despair because although their children wanted to get educated and have an opportunity to work in the industry, they knew that they possibly would not have an opportunity here because the support just is not here. It is not outlined and it is not carved into a specific fund; it is sitting somewhere in the new industries fund, and, as I said before, it needs to compete with many other things.

Credit goes out to Perth because it has a lot of resilient people who will continue to lobby the government and the Minister for Innovation and ICT. A lot of work has been put into this. I am lucky to be here. I get to give a voice to these people, because they are dismayed at the lack of direction. I cannot tell members how much time I have spent listening to people's stories. They say, "If only we had a few thousand dollars, we could maybe take a few hours off work to put a bit more time into this." I have spoken to a number of people who work a 40-hour week and then go home and sit up all night programming and coding to develop a product. I was proud to see some of these people use a grant to pay for a ticket to go to Victoria to showcase their game at the PAX AUS Indie Showcase. For every one person who showcased their product there, there were probably 10 who could not afford to do that.

Hon Alannah MacTiernan: Were any of them from the regions or were they all from Perth?

Hon TIM CLIFFORD: As far as I know, they were from Perth. The beauty of this industry is that it does not matter whether people are in Mt Newman or Perth; it is online, so they can do these things. If the national broadband network was up and running, maybe things would be a bit easier for these people. I am going to keep pushing this issue. It is not the last that members will hear from me. I encourage members to come to Playup Perth next Friday night, where a lot of games will be showcased. A lot of local developers will be showcasing their piece. I hope that the Minister for Innovation and ICT makes his way down there, because I am sure he will be well received.

GOLDFIELDS — INFRASTRUCTURE

Statement

HON ROBIN SCOTT (Mining and Pastoral) [10.02 pm]: I would like to refer to my member's statement last night and why it was compared with that of Hon Colin Tincknell. One Nation was referred to as the oxymoron party by Hon Darren West. I am sure that the honourable member knows what oxymoron means—for example, an honest thief or something that is freezing hot. My leader spoke about saving money in areas like marinas, roofs over swimming pools, trial wave power stations, computer games —

Hon Alannah MacTiernan: I thought you liked wave power.

Hon ROBIN SCOTT: Yes, I do like it, but that is something that would be nice to have. I am all for wave power; in fact, it is the number one renewable energy. The member also spoke about the "Metrodebt" light rail—sorry; Metronet light rail! If it ever gets underway and is completed, it will cost us about $50 million a year in subsidies.

I spoke about lifesaving equipment and improvements. I did not ask for a light rail for Kalgoorlie, although a light rail running along Hannan Street, Boulder Road and Bourke Street, where my office is, would be great. I would certainly use it. I asked for a magnetic resonance imaging machine for Kalgoorlie. An MRI machine in a town that has approximately 32 000 people and, I hope, will soon have 40 000 people with the growth in the mining industry would complete the medical imaging equipment that is required for a hospital like Kalgoorlie's.

Hon Alannah MacTiernan: We committed to that during the election.

Hon ROBIN SCOTT: We are not getting it soon enough. There is talk that it is three years away.

Hon Alannah MacTiernan: The Leader of the House gave the answer the other day and explained that the planning has been done and it will be ready mid–next year.

Hon ROBIN SCOTT: Minister, they are only doing the planning. They have not applied for the licence or the Medicare rebate licence yet. I will continue, Madam President.

I did not ask for a roof over the Laverton swimming pool; I asked for a new hospital. We are very fortunate that Laverton Hospital is manned by very dedicated staff who are working in an old asbestos hospital. No-one will go there to work. If these people leave that hospital now, Laverton will be sunk. We need to get a new hospital there. That is much more important than putting a roof over a swimming pool in Collie so that half a dozen swimmers in Collie during the wintertime do not get a chill. The other thing that I did not ask for was a marina at Leonora; I asked for an aged-care facility. At the moment there are three people in the Leonora Hospital who are not ill, but they cannot leave the hospital because there is nowhere for them to go. We need to have some facilities in Leonora to look after the elderly. The other thing I did not ask for was a trial wave power station on the Wiluna–Meekatharra road. I asked to have the final section of that road completed. I have travelled on that road many, many times. It is a dangerous, dusty and long road. If that road could be sealed, it would complete the section all the way from Kalgoorlie to Newman, which means that transport trucks coming from the eastern states would not have to go via Perth; they could straight to Wiluna, through to Meekatharra and then to Mt Newman. I remind everybody that One Nation is not an oxymoron party. The questions asked by my leader, Hon Colin Tincknell, were about saving money for nice things that we would like. I was asking for things that are a necessity and we need them now. Thank you.

PUBLIC SECTOR — SENIOR EXECUTIVE SERVICE

Statement

HON TJORN SIBMA (North Metropolitan) [10.06 pm]: Bearing in mind the couple of days we have had and the extensive line-up of members' statements this evening, I pledge to keep my remarks very brief. I thought that would gain acceptance with the chamber. Members might recall earlier this morning I gave notice of a motion to introduce a bill to amend the Public Sector Management Act 1994 and the Health Services Act 2016 for the purpose of reducing payout compensation for senior executives appointed under those acts. I want to provide a bit of context on why I decided to take that action and what the implications might be.

First of all, I want to begin by expressing my respect for the Western Australian public service. I have worked with those public servants in varying capacities over the last 10 or so years. I actually began as a commonwealth public servant in the Department of Defence as an analyst. I have an understanding of how that sector operates, the dedication of senior executives in both those respective services, and their higher calling to provide sound advice to governments, irrespective of their political hue, for the betterment of their society, state or nation, as it may be. However, I have been moved to undertake work in response to a problem identified by the Premier earlier this year when certain senior executives in the Western Australian public service were, for one reason or another, relieved of the burden of fulfilling their contract. From time to time governments undertake those kinds of decisions. I am not going to reflect on those decisions or their reasons, other than to reflect on the time line and concerns that the Premier observed about the quantum of money required to pay those people out. I think that is a legitimate public policy issue to raise and the Premier is completely entitled to do it, but apropos this morning's front page, I want to review the time line in remediating this issue, if the Premier indeed takes it seriously.

With members' indulgence, I mention that it has been eight months since the first senior executive officers in government were advised that their services would no longer be required, it is now five months since the Premier advised the media that he was working on ways to reduce the payout to senior executives and it is three months since the Premier advised the media that his government and future governments wanted to avoid large successive payouts, which is fair enough. But it is also three months since the Premier said, in the estimates hearings in the other place, that he has a new policy for limiting these payouts and that limitations will apply once legislative amendments have passed. I have asked a series of questions in this place. It has not been an overwhelming focus of mine, but I have sought some clarification and updates about how this process might be proceeding. At one stage, I offered my services to the Premier and he wisely rebuffed that overture. I took that on the chin, as it were. Nevertheless, I was undeterred in my curiosity. I just want to explore how difficult these kinds of things are to do.

On 1 November I submitted a request through the Parliamentary Counsel's Office to draft a bill that would give effect to the policy direction that the Premier had outlined, and that was to investigate means by which public sector compensation payouts to senior executive officers might be appropriately limited. Within three and a half to four weeks I received it back. If that is easy for someone like me to do, I query why the government, with all its resources, has not been able to achieve this outcome, particularly in light of the fact that there are reviews on foot, but outcomes of those reviews would have been foreshadowed. The government cannot propose to undertake significant re-orderings of the public sector without also factoring in that a serious quantum of senior positions would be reallocated or removed. That is just a fact of life.

Hon Alannah MacTiernan: Can you just clarify that? You said earlier that the Premier said that he needed to wait until he changed legislation.

Hon TJORN SIBMA: That is my understanding, from testimony given in estimates.

Hon Alannah MacTiernan: You haven't got the —

Hon TJORN SIBMA: I do not have the transcript with me, minister, that is correct. I am prepared to be corrected if that is not the case, but that was certainly the implication that I drew.

This has been a very easy process to undertake. It has been achieved in four weeks and the Premier has had eight months. I propose to do two things: firstly, to set a time limit on notice to be given for the early expiration of contracts. As it stands, the only requirement is that there be not less than four weeks' notice, but I note there is no mention of any maximum period of notice. That is not a material thing, but it is something that is worth clarifying. Secondly, and more importantly, I propose to limit the compensation payable to officers of the senior executive service whose contracts have been terminated prior to their contracted expiry date. Currently, the Public Sector Management Act and the Health Services Act provide for a compensation payment that is the equivalent of up to 12 months' remuneration. It does not mean that that 12 months is applied. There is certain discretion that the practice has been to pay up to 12 months, plus entitlements. This proposal is to amend both the Public Sector Management Act and the Health Services Act in respective sections to replace this 12-month limit with six months as the maximum period of compensation, without any limitation being placed on entitlements, leave provisions and the like. If this kind of act had been in place prior to the 18 senior executives being relieved of their jobs earlier this year, then the $5.1 million compensation quantum would be reduced to a figure of approximately $2.5 million. It is not a lot of money, but, obviously, we follow the logic.

Hon Alannah MacTiernan: But, member, just read your act. It is "up to".

Hon TJORN SIBMA: Yes, "up to".

Hon Alannah MacTiernan: That's a question of policy. That can be changed by policy.

Hon TJORN SIBMA: There is a limitation, however, minister. The practice is that that 12 month period is in most cases paid out.

Hon Alannah MacTiernan: That was the existing policy.

Hon TJORN SIBMA: That is the practice. I am reducing that ceiling down by half with the expectation that that entire period would be paid out. That would be the effect given to this particular change.

Hon Alannah MacTiernan interjected.

The PRESIDENT: Order! This is member's statements; it is not debating time.

Hon TJORN SIBMA: Fair enough, and I will come to a very swift conclusion. I am genuinely happy to have a discussion on this issue outside this chamber, minister.

I put it to the Premier that he should give consideration to what I am proposing, if only for the fact that the hundred or so senior executive positions identified are likely, conservatively, to represent a liability of up to about $20 million or $25 million in compensation payouts. That is if we apply the same logic that applied to the 18 people who were relieved earlier this year. This is a generic, conservative and ballpark estimate. I am providing the government with an opportunity to reduce that cost by half, and take control of government financial expenditure, as I have been invited to do by the Premier on a number of occasions this year. Thank you.

CEO SLEEPOUT — 2018 REGISTRATIONS

Statement

HON PIERRE YANG (South Metropolitan) [10.15 pm]: Noting the time, I will make sure that my member's statement is brief as well. Earlier this year, I participated in the 2017 CEO Sleepout. I wish to inform this honourable house that the 2018 CEO Sleepout is open for registration. I have taken the liberty to register a team under the name "WA Parliamentarians". Prior to registering that name, I sought some guidance from you, Madam President, and I thank you for advising me that it is not inappropriate to use that name. After I returned from the 2017 CEO Sleepout, a number of my colleagues in both this and the other place told me informally that they were interested in participating. I ask the honourable members in this place and the other place to consider joining me for the 2018 CEO Sleepout.

As my first parliamentary year comes to an end, I want to express my gratitude and say it is an honour to be part of this honourable Legislative Council of Western Australia. I would also like to thank honourable members for their support and indulgence over the past six and a half months. Thank you.

MENTALLY IMPAIRED ACCUSED

Statement

HON ALISON XAMON (North Metropolitan) [10.16 pm]: I rise tonight because I wish to speak about the unhappy experience of two of my constituents whom I have been assisting out of my office. Unfortunately, their story is not unfamiliar to me. It is important that we start to talk about these issues. This couple is struggling with the fact that their son is a mentally impaired accused person. That highlights some of the problems in the system. This is a very articulate and committed couple, who recognise that their son has lifelong complex needs. They have been struggling to get their son the care that he needs while he is also dealing with the justice system. Their experience serves to highlight that even when a person has a committed and supportive family that has access to all the supports that are currently on offer, our system is continuing to fail some of the most vulnerable people in our community.

The fact that this couple has approached me at this point is particularly concerning. I am aware that they have been dealing with this issue for years yet, despite their best efforts, their son's situation has only deteriorated further. Their son acquired a brain injury during birth. Their son is now in his 40s, and they have spent four decades fighting for the best interests of their son. This couple has been granted plenary guardianship over their son, because he has an intellectual disability, coupled with a psychiatric condition and a history of substance use. His finances are managed by the Public Trustee, and he has been admitted into the People with Exceptionally Complex Needs program, so by any measure he is recognised as being an extraordinarily vulnerable person.

Earlier this year, unfortunately their son was charged with a number of serious offences, and he is currently being held on remand at Hakea Prison. Getting to Hakea did not happen overnight but was a long process. The parents have relayed to me that in the period leading up to their son being held on remand, he was experiencing deteriorating mental and physical health. He was living in accommodation that was not suited to his needs, and they could see that he was becoming unwell, but they were effectively unable to intervene to prevent his downward spiral, so he ended up becoming severely unwell. He was eventually involuntarily detained at Graylands, from where he escaped a number of times, and it is alleged that when he absconded, he committed a string of offences.

During the time he has been kept in remand—this is the first issue—he has dismissed three lawyers, and is now choosing to represent himself, and it is clear that he does not have the ability to do this. With the guardianship order, the State Administrative Tribunal has declared that he is unable to make reasonable judgements on matters relating to his person, and is in need of oversight care and control in the interests of his own health and safety and protection of others, and yet he has been left to defend himself in a court of law. My constituents' current and most pressing concern is for their son to be appropriately represented and for his disability and his mental impairment to be taken into account. In my view, my constituents' request for assistance should be considered entirely achievable. They want to retain a lawyer on their son's behalf, and they would like to ensure that their son is being detained in an environment appropriate for him. Despite the fact that this couple has, for 44 years, been navigating the system and are connected with many government agencies, they feel that at the moment they are really struggling to be heard, rather than being partners in achieving the best for their son as well as the community. They continue to advocate, when others would not, and we really need to think about how we would deal with such a situation.

Unfortunately, like many people with an acquired brain injury, their son is very vulnerable in prison at the moment. He has been beaten up twice already, and he has found himself deeply in debt to other prisoners. Like a lot of people with psychosocial disability, his medication is in demand in the prison, and so he is not necessarily getting the medication that he needs. We know that this is not a particularly unique story. About 40 per cent of the people in our prisons have some sort of acquired brain injury, although many of them have not had a formal diagnosis. It happens that this man has had such a diagnosis. We are talking about a man who has a clearly documented

disability, and a recent documented history of acute mental illness, and there is no doubt that prison will only exacerbate this further. It has always been a concern of my constituents that he end up in a suitable environment, such as a disability justice centre, but in order to be eligible he needs to come under the Criminal Law (Mentally Impaired Accused) Act. I am aware that the Attorney General is utterly committed to reviewing that act and, having had many conversations with him, I am aware that he is taking his time to make sure that it is done properly, and I have some respect for that. However, at the moment it means that men like this young man are in absolutely invidious situations, not being able to be appropriately dealt with by the law, being kept in entirely unsuitable accommodation, and unable to access the one place in this state that should be the right place for someone like him to be appropriately detained.

Despite decades of time and resources being invested into this person, we have not been able to alter the trajectory of his life, for a range of reasons, which really highlights the inadequacy of the services that have been available to date. That is the story for so many people with mental impairment who fall foul of the justice system. I am concerned that he has been unable to get legal assistance, and his parents have been unable to ensure legal assistance for their son, and he will be effectively left to represent himself. I am really concerned that the Criminal Law (Mentally Impaired Accused) Act, as it currently stands, seems to be the only option that can be pursued for this man. I am very concerned that he is in Hakea, and is clearly unsafe. It is clearly not the place that is right for him. His parents are at their wit's end trying to get the right supports for their son. They love him the way that we all love our own children. A little bit of me always thinks that there but for the grace of God go I, because any one of our children could be a recipient of an acquired brain injury at any point. This can be and is often the story for far too many people. We need to be able to do more to help people in this situation, and I will continue to advocate for these parents.

House adjourned at 10.25 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

BUSH FOREVER — SWAN COASTAL PLAIN

416. Hon Robin Chapple to the minister representing the Minister for Planning:

I refer to the Bush Forever strategic plan and the comprehensive, adequate and representative reserve system to retain regionally significant bushland, which aims to conserve at least 10 per cent of each of the original 26 vegetation complexes of the Swan Coastal Plain portion of the Perth Metropolitan Region, and to protect threatened ecological communities, and ask:

(a) for each Heddle Vegetation Complex:

(i) what was its pre-European extent in hectares;

(ii) what is its current extent in hectares;

(iii) what is its current percentage of the pre-European extent;

(iv) what percentage of each Heddle Complex is proposed for protection in Bush Forever;

(v) what area in hectares is secured for conservation; and

(vi) what percentage is secured for conservation;

(b) for each of the 287 Bush Forever Areas and any additions, will the Minister please provide details of ownership and management responsibility;

(c) for each Bush Forever Area, will the Minister please identify those legally secured for conservation as 'A' Class Reserves for the stated purpose of nature conservation;

(d) how many Bush Forever Areas are fully secured as 'A' Class Reserves or equivalent for the stated purpose of nature conservation;

(e) how many Bush Forever Areas are wholly owned by the Western Australian Planning Commission;

(f) what funds have been secured for the management of the Bush Forever Areas that the department is proposing to manage; and

(g) which Bush Forever Areas is the department proposing to manage?

Hon Stephen Dawson replied:

(a) (i)–(vi) [See tabled paper no 984.]

Bush Forever set a target, where achievable, of protecting at least 10% of each of the 26 Swan Coastal Plain vegetation complexes. Upon release of Bush Forever in 2000, seven complexes had less than 10% remaining. Of the complexes with greater than 10% remaining, Bush Forever aimed to secure the target of 10% in all but three complexes where past commitments and approvals reduced the area available for conservation.

(b)–(c) [See tabled paper no 984.]

(d) Thirteen Bush Forever areas have more than 95% of their total area secured as Class A reserve.

(e) Five.

(f) The Western Australian Planning Commission is currently funding the management of the Bush Forever areas under its management via the Metropolitan Region Improvement Fund.

(g) The Western Australian Planning Commission, through the Department of Planning, Lands and Heritage, is responsible for the management of all Bush Forever areas that it owns. Further work on the future management arrangements for Bush Forever areas is being considered.

FOREST PRODUCTS COMMISSION — STATEMENT OF CORPORATE INTENT

421. Hon Diane Evers to the minister representing the Minister for Forestry:

I refer to the answers to Question 3(b), provided by the Forest Products Commission (FPC) in the 2017–18 Budgets Estimates Hearings – Questions Prior to Hearings and ask, could the Minister please:

(a) advise when will the Statement of Corporate Intent (SCI) be tabled; and

(b) confirm that the 2018–19 SCI will include the forecast profit/loss for the FPC for each year, given the previous SCI (2016–17) on the FPC's website only details one year?

Hon Alannah MacTiernan replied:

(a) The Statement of Corporate Intent (SCI) for 2018–19 will be tabled in Parliament in due course. The State Budget was released later this year, therefore causing a delay with the Statement of Corporate Intent being tabled.

(b) Each Statement of Corporate Intent covers one financial year only as required by the Forest Products Act 2000.

PLANNING — METROPOLITAN REGION IMPROVEMENT FUND

422. Hon Robin Chapple to the minister representing the Minister for Planning:

I refer to the Metropolitan Region Improvement Fund (MRIF), and ask:

(a) what is the current balance of the MRIF;

(b) which authority is responsible for the management of the MRIF;

(c) under which legislation is the fund managed, please include the section or sections of the legislation;

(d) does Treasury and/or Cabinet have any jurisdiction over the allocation and/or expenditure of the MRIF;

(e) if yes to (d), will the Minister table any correspondence between Treasury and the Western Australian Planning Commission during 2017;

(f) if no to (e), why not;

(g) will the Minister provide details of how the MRIF is being used; and

(h) if no to (g), why not?

Hon Stephen Dawson replied:

(a) $376.8 million (as at 31 October 2017).

(b) Western Australian Planning Commission.

(c) *Planning and Development Act 2005*, Part 12, sections 198 and 199.

(d) Yes.

(e)–(f) Please refer to the State Budget papers.

(g)–(h) The application of the MRIF is reported in the annual report of the Western Australian Planning Commission.

PLANNING — BUSH FOREVER

426. Hon Robin Chapple to the minister representing the Minister for Planning:

(1) Is the Minister aware that Bush Forever was introduced and commenced in December 2000 and was meant to be completed in 2010?

(2) Is the Minister aware that in 2012 the Urban Bushland Council, with the support of the Department of Environment and Conservation held a Bush Forever Report Card Conference, which revealed the extent of the implementation and the incomplete actions?

(3) Is the Minister aware that at the Bush Forever Report Card Conference in 2012 the Minister for Planning committed to the preparation of an audit as a priority to be completed by early 2013?

(4) I refer to question without notice No. 439 asked on 12 May 2016 by Hon Lynn MacLaren regarding Bush Forever Sites, and ask:

    (a) now that the "Perth and Peel Green Growth Plan for 3.5 million" has been released, will the Minister please table the audit results; and

    (b) if no to (a), why not?

Hon Stephen Dawson replied:

(1)–(4) Fifteen broad actions were identified in the Bush Forever document released in 2000. As of 2012, 14 actions were implemented or initiated and ongoing (such as advisory services and on-ground management). In relation to the remaining action, being an audit of Bush Forever, an initial audit of commitments and sites has been undertaken and is currently being assessed.

Since 2000, when the Bush Forever document was released:

over $150 million has been spent by the Western Australian Planning Commission on the acquisition of 1680 hectares of Bush Forever land; and

there has been:

an increase of Bush Forever sites that are reserved for Parks and Recreation to just over 80 per cent (up 16 per cent since 2000); and

a decrease of 5 per cent of Bush Forever areas in private ownership to 4.2 per cent.

PREMIER — DREDGING — ROEBUCK BAY

427. Hon Robin Chapple to the Leader of the House representing the Premier:

I refer to the $7 million allocated to dredging Roebuck Bay and the statement the Premier made on the radio on 26 October 2017, which described the dredging as "…it's basically getting rid of some rocks…it's not that environmentally significant…", and I ask:

(a) is the Premier aware that part of Roebuck Bay was designated a "Wetland of International Importance" under the Ramsar Convention in June 1990, an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources;

(b) is the Premier aware that the Bay is used by up to 300,000 shorebirds annually, is a feeding ground and transit area on migration for Loggerhead and Green Turtles which are both on the international threatened species Red list;

(c) is the Premier aware that the Bay is a nursery and refuge for Sawfish which are listed as Totally Protected under the *Western Australian Fish Resources Management Act 1994* and also listed as Critically Endangered on the International Union for Conservation of Nature and Natural Resources or IUCN Red List (IUCN 2008);

(d) is the Premier aware that Roebuck Bay is Australia's most important wetland in terms of the diversity of wader species it supports in internationally significant numbers;

(e) is the Premier aware that the proposed dredging is within 500 metres of crucially important seagrass beds that provide important feeding grounds for protected migratory dugongs and green turtles as well as a nursery for recreationally important fish and crabs;

(f) is the Premier aware that the second largest snubfin dolphin population in the world lives in Roebuck Bay and that they are vulnerable to noise disturbance;

(g) is the Premier aware that the proposed dredging is within 3.7kms of the Yawuru Nagulagun Roebuck Bay Marine Park;

(h) is the Premier aware that water and sediment quality are a key performance indicator in the Yawuru Nagulagun Roebuck Bay Marine Park and that despite the large tidal ranges, some areas of the bay are not well flushed and modelled retention times for nutrients in the water column can be more than 20 days at certain times of the year;

(i) is the Premier aware that the proposed dredging is 4kms away from Paspaley's pearling lease;

(j) is the Premier aware that according to the Yawuru Nagulagun Roebuck Bay Marine Park management plan, it is generally understood that strong tidal currents flow through the Roebuck Deeps, where Channel Rock is situated, from north-west to south-east and back on flood and ebb tides respectively and that the Paspaley pearling lease is situated at the south east end of Roebuck Deeps;

(k) is the Premier aware that the Port of Broome has stated that 85,000 cubic metres of seabed as a minimum will need to be dredged including 15,000 cubic metres around the wharf;

(l) will there be any blasting taking place;

(m) does the Premier still believe that the dredging programme is about "…basically getting rid of some rocks…" and that it's "…not that environmentally significant…";

(n) will the Premier ensure that the Environmental Protection Authority assesses this proposal at the Public Environmental Review level in order to make sure that the dredging does not have negative impacts on seagrass beds and the dugong and turtle that feed on them, the marine park, the Paspaley pearling lease and important recreation fish species; and

(o) if no to (n), why not?

Hon Sue Ellery replied:

(a)–(o) The Premier is aware that the $7m budget for the dredging of Broome Port to allow for all-hours access for cruise liners, includes funds to conduct the necessary environmental studies for the environmental assessment process.

CORRECTIVE SERVICES — ABORIGINAL MENTAL HEALTH WORKERS

438. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

I refer to recommendations made by the Coroner as a result of the inquest into the death of Jayden Stafford Bennell regarding the engagement of Aboriginal mental health workers to form part of the mental health team in prisons, and I ask:

(a) how many Aboriginal mental health workers are currently employed at correctional facilities; and

(b) if none, why not?

Hon Stephen Dawson replied:

The Department of Justice advises:

(a) Nil.

(b) The Departments of Justice and Health, together with the Mental Health Commission, are working together to determine if there would be better health outcomes for offenders and greater efficiencies and professional support to staff if Prison Health transferred to the Department of Health.

BANKSIA HILL DETENTION CENTRE — ABORIGINAL COMMUNITY ORGANISATIONS

440. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

I refer to the engagement of Aboriginal community organisations in prisons and at Banksia Hill Detention centre, and I ask:

(a) for each prison and for Banksia Hill Detention Centre, please advise:

(i) which, if any, Aboriginal-controlled community organisations currently deliver programs at the facility;

(ii) which, if any, Aboriginal-controlled community organisations currently undertake other activities at the facility;

(iii) the nature of the program delivered or other activity undertaken by each organisation;

(iv) how many prisoners/young people are engaged in the program/activity; and

(v) how regularly staff from the organisation visit the facility to deliver the program/activity?

Hon Stephen Dawson replied:

The Department of Justice (the Department) currently has arrangements with various Aboriginal-controlled community organisations to deliver programs and other services at prisons across Western Australia (WA). There are currently two ways in which organisations can be engaged with the Department for this purpose:

Through funded arrangements which are specified and managed through a service agreement between the Department and the organisation including a set funding level for the delivery of the specific service; or

Through a 'volunteer services' arrangement, where a community organisation may submit a request to the Department to deliver their specific program or service to offenders in prison, or in the community, on a voluntary basis without funding from the Department. This may include volunteer based organisations or organisations who receive funding through Commonwealth or other State agencies. The Department does not maintain data on the number of prisoners engaged with these services or the number of visits by these services to the prisons as they are not engaged and managed through a service agreement.

(a) [See tabled paper no 985.]

"REPORT OF AN ANNOUNCED INSPECTION OF BANKSIA HILL JUVENILE DETENTION CENTRE" — SECURITY CLASSIFICATIONS

441. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

I refer to the Inspector of Custodial Services Report of an *Announced Inspection of Banksia Hill Juvenile Detention Centre (April 2015)*, and to the Inspector's finding that the "security classification process for detainees remained severely under-developed", and that there "was no established minimum-security regime, which was a missed opportunity to manage detainees in more flexible ways and provide a behaviour incentive for detainees", and I ask:

(a) has a new security and classification tool been implemented;

(b) if yes to (a), will the Minister please provide information about the tool, including:

(i) how the security classifications of individual young people are determined;

(ii) the different security classifications available;

(iii) how often each young person's security classification is reviewed;

(iv) the numbers of young people currently accommodated at Banksia Hill Detention in each security classification;

(v) how the security classification is used to determine where young people will be accommodated;

(vi) whether young people with different security classifications are accommodated together;

(vii) whether there is now an established minimum-security regime;

(viii) if yes to (vii), please describe this regime; and

(ix) if no to (vii), why not;

(c) if yes to (a), has the tool been evaluated;

(d) if yes to (c), will the Minister please table a copy of the evaluation;

(e) if no to (c), why not;

(f) if no to (d), why not; and

(g) if no to (a), why not?

Hon Stephen Dawson replied:

The Department of Justice advises:

(a) Work on a new classification tool is currently underway.

(b) Not Applicable.

(c) Not Applicable.

(d) Not Applicable.

(e) Not Applicable.

(f) Not Applicable.

(g) Not applicable.

MINISTER FOR ENVIRONMENT — MEETINGS — SOUTH METROPOLITAN REGION

443. Hon Nick Goiran to the Minister for Environment:

I refer to the email from the Minister's office, dated 24 October 2017 notifying that the Minister will be in the Bateman electorate on Wednesday 25 October 2017, and I ask:

(a) for what period of time was the Minister in the South Metropolitan Region;

(b) further to (a):

  (i) how many meetings, events, functions or similar did the Minister attend;

  (ii) who attended each of the meetings, events, functions or similar with the Minister; and

  (iii) did the Minister receive or create any documents during or in preparation for the meetings, events, functions or similar;

(c) if yes to (b)(iii), what were those documents;

(d) further to (c), will the Minister table those documents;

(e) if yes to (d), when; and

(f) if no to (d), why not?

Hon Stephen Dawson replied:

Please refer to Legislative Council Question on Notice 439.

WESTERN AUSTRALIAN PLANNING COMMISSION — CITY OF VINCENT —
POLICY 7.1.1 – BUILT FORMS

459. Hon Alison Xamon to the minister representing the Minister for Planning:

I refer to the City of Vincent's decision on 13 December 2016 to adopt Policy 7.1.1 – Built Form, and I ask:

(a) when did the Western Australian Planning Commission receive the landscaping and setback provisions of this policy for approval pursuant to Clause 7.3.2 of State Planning Policy 3.1 – Residential Design Codes;

(b) is there a statutory timeframe by which a decision regarding these provisions should be made;

(c) if yes to (b), what is this timeframe;

(d) if there has been a delay, will the Minister please explain why; and

(e) when will the Western Australian Planning Commission make a decision on these provisions?

Hon Stephen Dawson replied:

(a) The Western Australian Planning Commission received a request for approval to amend the deemed-to-comply lot boundary setback and landscaping provisions of the Residential Design Codes on 23 January 2017.

(b) No.

(c) Not applicable.

(d) The Department of Planning, Lands and Heritage is undertaking a thorough assessment of the draft policy, in collaboration with the City of Vincent Development Services Division.

(e) It is currently anticipated that the Western Australian Planning Commission will consider the request for approval in December 2017.

ENVIRONMENT — COCKBURN CEMENT LTD

461. Hon Robin Chapple to the Minister for Environment:

(1) When will Cockburn Cement Ltd complete the transition from burning coal to burning natural gas exclusively for its processes at its premises in Russell Road, Munster?

(2) If Cockburn Cement Ltd has not yet begun transitioning towards eliminating the storage and burning of coal at its premises in Munster, has the Minister or his Government made a decision to impose a mandatory requirement on this company to commence and complete the transition to burning natural gas exclusively within a specified time?

(3) If yes to (2), what is the timeframe?

(4) If no to (2), why not?

(5) Has the Minister revoked the direction made under section 36(1)(b) of the *Environmental Protection Act 1986*, gazetted on 16 November 2010, which directed the Environmental Protection Agency not to review the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999*?

(6) If yes to (5), what is the timeframe?

(7) If no to (5), why not?

(8) Has the Minister directed the Environmental Protection Agency to undertake a review of the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999* insofar as it applies to the premises in Munster operated by Cockburn Cement Ltd?

(9) If no to (8), why not?

(10) If yes to (8), what is the timeframe for the review and reporting of the review?

(11) If yes to (8), will the review be made publicly available and, if so, where will it be published?

(12) If no to (11), why not?

(13) Does the Minister or his department have information that groundwater extracted by Cockburn Cement Ltd at its premises in Munster contains sulphur and/or sulphur compounds and, if so:

   (a) what sulphur compounds are present;

   (b) what is the range of concentrations of sulphur compounds present at each extraction point;

   (c) what other naturally occurring and introduced impurities are present at each extraction point; and

   (d) what is the range of concentrations of each of those other impurities from each extraction point?

(14) Do the existing conditions or any proposed new conditions on the licence, granted by the Minister's department to Cockburn Cement Ltd to operate its Munster premises, contain a requirement to remove sulphur or sulphur compounds from groundwater it extracts at this site?

(15) If no to (14), why not?

(16) Do the existing and any proposed conditions on the licence, granted by the Minister's department to Cockburn Cement Ltd to operate its Munster premises, contain a requirement to remove impurities, other than sulphur and sulphur compounds, from groundwater it extracts at the site?

(17) If no to (16), why not?

(18) Will the Minister provide a list of how many megalitres of groundwater were extracted for use at the Munster premises operated by Cockburn Cement Ltd in each of the calendar years 2010 up to and including 2016?

(19) If no to (18), why not?

(20) Has the Minister, pursuant to section 37A of the *Environmental Protection Act 1986*, declared that the National Environmental Protection Measures be an approved policy or does he intend to do so?

(21) If yes to (20), what is the timeframe?

(22) If no to (20), why not?

(23) If the Minister and his Government do not intend to implement the National Environmental Protection Measures in Western Australia, what air pollution standards will his Government adopt in respect of residential areas in Perth?

(24) Does the Minister and his Government intend to impose the same maximum limits on toxic gas and particulate emissions from the Munster premises operated by Cockburn Cement Ltd as those prescribed in the National Environmental Protection Measures?

(25) If yes to (24), what is the timeframe?

(26) If no to (24), why not?

(27) If Cockburn Cement Ltd does not presently comply with the National Environmental Protection Measures in relation to toxic gas and particulate emissions from its Munster premises, what additional pollution control technologies and practices could be mandated by Government to ensure this company complies with world's best practice in reducing its emission of such toxic gases and particulates?

Hon Stephen Dawson replied:

The Department of Water and Environmental Regulation conducted a risk-based review of Cockburn Cement Ltd's Munster operations in 2016 and granted an amended licence on 9 December 2016. Conditions of the amended licence L4533/1967/16 are currently under appeal. As I will be determining the appeals, it is not appropriate for me to comment on matters relating to those appeals.

(1)–(4) There is no current requirement from government for Cockburn Cement Ltd's Munster operations to transition to exclusively burning gas and I am not aware of such a proposal from Cockburn Cement Ltd.

As I am responsible for determining the appeals on licence conditions for the Cockburn Cement Ltd premises at Munster, it is not appropriate for me to comment further.

(5) No.

(6) Not applicable.

(7) The direction expired on 16 November 2017.

(8) No.

(9) I am expecting to receive advice from the DWER in the near future in relation to several environmental protection policies, including the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999*.

I also understand that further monitoring programs will be undertaken as a result of the advice provided under section 16e of the *Environmental Protection Act 1986* (EP Act) titled "*Consideration of the potential health and amenity impacts of dust in determining the size of a buffer for urban development in the Mandogalup area*".

Before I consider asking the Environmental Protection Authority to review the policy, I will await the advice from the DWER. I will also ensure the timing of any review allows for the incorporation of the results of the monitoring programs.

(10)–(12) Not applicable.

(13)–(17) The DWER does not monitor groundwater quality at the water extraction points. Various monitoring bores provide the Department with the information on which it bases its decision-making at Cockburn Cement's Munster premises.

As I am responsible for determining the appeals on these licence conditions, it is not appropriate for me to comment further.

(18) The volume of water taken from the Munster premises operated by Cockburn Cement in each year from 2010 to 2016 is:

2010 – 4 373 mega litres (ML)

2011 – 3 622 ML

2012 – 3 616 ML

2013 – 4 073 ML

2014 – 4 123 ML

2015 – 3 570 ML

2016 – 3 592 ML

(19) Not applicable.

(20) No.

(21) Not applicable.

(22) Section 7 of the *National Environment Protection Council (WA) Act 1996* (NEPC Act) provides that the State of Western Australia will, in compliance with its obligations under the Intergovernmental Agreement on the Environment, 'implement, by such laws and other arrangements as are necessary, each national environment protection measure in respect of activities that are subject to State law (including activities of the State and its instrumentalities)'.

In Western Australia, National Environment Protection Measures are implemented by the DWER under the NEPC Act and the relevant State legislation as necessary.

(23) The *National Environment Protection (Ambient Air Quality) Measure* and *National Environment Protection (Air Toxics) Measure* contains standards for reporting of cumulative ambient air quality within an airshed, not regulatory standards intended to apply to individual industry premises. Jurisdictions, including Western Australia, use these standards to inform regulation and to guide policy development. Emissions from prescribed premises are regulated under the EP Act.

(24)–(27) As I am responsible for determining the appeals on licence conditions for the Cockburn Cement Ltd premises at Munster, it is not appropriate for me to comment further.

FORRESTFIELD–AIRPORT LINK — POLYFLUOROALKYL SUBSTANCES

466. Hon Dr Steve Thomas to the minister representing the Minister for Transport:

I refer to the potential contamination of soil and water by chemicals known as per and poly fluoro alkyl substances (PFAS) found in retardant foam, and I ask:

(a) is the Minister or the Public Transport Authority (PTA) aware of PFAS contamination in soil taken, or likely to be taken, from the Forrestfield Airport Link tunnelling project being overseen by the PTA;

(b) can the Minister confirm the stockpiling of PFAS contaminated soil from this project;

(c) if yes to (b), where is this stockpile of PFAS contaminated soil located; and

(d) if yes to (b), what plan is in place to manage the PFAS contaminated soil?

Hon Stephen Dawson replied:

(a) Yes. During routine site investigations minor yet detectable concentrations of PFAS were encountered in soil for the Forrestfield Airport Link (FAL) project commissioned by the Public Transport Authority (PTA).

(b)–(c) Soil with minor but detectable levels of PFAS excavated by the FAL project is currently being temporarily stored on PTA land at 777 Abernathy Road, Forrestfield to ensure that construction continues to progress on schedule.

(d) The State is discussing a number of initiatives for the final disposal of the soil with the Federal Government and the relevant State agencies, principally the DWER.

We anticipate that the PFAS National Environmental Management Plan which is currently being developed by all States, Territories and the Commonwealth will provide guidance on management of soil containing minor concentrations of PFAS, such as that excavated by the FAL project.

ENVIRONMENT — NATIVE VEGETATION CLEARING —
SOUTH WEST REGION AND SWAN COASTAL PLAIN

469. Hon Robin Chapple to the Minister for Environment:

(1) Will the Minister provide a table of how much native vegetation has been cleared in Western Australia for each of the last ten years?

(2) If no to (1), why not?

(3) For the South West Region of Western Australia, which is an internationally recognised biodiversity hotspot for conservation priority, will the Minister provide a table of how much native vegetation has been cleared in each Local Government Authority's (LGA) area in each of the last ten years?

(4) If no to (3), why not?

(5) For the Swan Coastal Plain portion of the Perth Metropolitan Region, will the Minister provide a table of how much native vegetation has been cleared for each of the last ten years?

(6) If no to (5), why not?

(7) What legal provisions are in place to prevent any further clearing, specifically for the LGAs, that have only 10 percent or less than 10 percent of pre-European extent of native vegetation remaining?

(8) If the answer to (7) is none, what legally binding provisions to prevent any further clearing will the Minister introduce and when?

(9) If the answer to (8) is none, why not?

(10) How is the extent of native vegetation clearing monitored?

(11) How is the extent of native vegetation clearing reported?

(12) Is a report publicly available and, if so, where may it be found?

(13) How often is native vegetation clearing monitored and reported on?

(14) If native vegetation clearing is not monitored and/or reported on, does the Minister have plans to do so and, if so, when and how?

(15) If no to (14), why not?

Hon Stephen Dawson replied:

The government values Western Australia's unique ecology and its extraordinary biodiversity and acknowledges the impact that clearing of native vegetation can have on the environment. Early in its term, the government recognised that there are deficiencies in the way the extent of native vegetation clearing in Western Australia is recorded, which poses a challenge for understanding the impacts of clearing and ensuring that Western Australia's biodiversity is adequately protected. The government is working to address those deficiencies.

(1)–(6) At present there is no complete and consolidated record of native vegetation cleared in Western Australia in the last ten years, as clearing is regulated by several government agencies and approvals processes which do not have consistent data collection and retention arrangements.

(7)–(9) There are no legal provisions that specifically prevent further clearing within a local government area with less than 10 per cent of its pre-European extent of native vegetation. The impact of cumulative clearing is a relevant consideration in the assessment of proposals referred to the Environmental Protection Authority under Part IV, and the assessment of clearing permit applications under Part V Division 2, of the *Environmental Protection Act 1986*. Decisions regarding the acceptability of proposals to clear native vegetation are based on a range of factors. There are circumstances where clearing in these local government areas may be necessary, such as clearing for the maintenance of existing firebreaks. Therefore I do not support a restriction of this type.

(10) The Department of Water and Environmental Regulation (DWER) identifies suspected unlawful clearing through reviews and analysis of remotely sensed images that identify vegetation change, such as satellite data and aerial photography, and inspection of the land.

(11)–(13) Information on the extent of potential clearing associated with individual clearing permit applications is published through the clearing permit system on the DWER web site and updated as clearing permit applications are received and determined. Cumulative data on the extent of clearing is not published.

(14) I have asked the Department of Water and Environmental Regulation to provide me with advice on how to improve the collection and reporting of data relating to clearing of native vegetation.

(15) Not applicable.

BURRUP ROCK ART — SENATE INQUIRY — STATE GOVERNMENT CORRESPONDENCE

480. Hon Robin Chapple to the Minister for Environment:

I refer to the Senate inquiry into the Protection of Aboriginal Rock Art of the Burrup Peninsula, and ask:

other than submissions made by state government agencies, has there been any submissions or correspondence to the Senate inquiry, or has there been any other correspondence with any party in the Federal arena in relation to the Senate inquiry made by:

(i) current Ministers;

(ii) other current Members of the Labor Government;

(iii) ministerial advisers;

(iv) other ministerial or political staffers; and

(v) individual departmental staff;

if yes to (a), please identify:

(vi) who sent the correspondence; and

(vii) who received the correspondence; and

if yes to (a), will the Minister please table all correspondence in relation to the Senate inquiry into the Protection of Aboriginal Rock Art of the Burrup Peninsula?

Hon Stephen Dawson replied:

Please refer to Legislative Council Question on Notice 485.

MINES AND PETROLEUM — ANGLO SAXON MINING PROPOSAL REG ID 55921

482. Hon Robin Chapple to the minister representing the Minister for Mines and Petroleum:

I refer to a letter, apparently dated 22 December 2015, signed by Bill Marmion MLA, Minister for Mines addressed to Mr Mark Kerr, Chairman Hawthorn Resources Ltd titled "Anglo Saxon Mining Proposal Reg ID 55921", and ask:

(a) is it correct the above referred to letter in part states "It is my understanding that the assessment is currently on hold pending written consent being obtained from the Pastoralist at Pinjin Station to conduct mining activities with buffer distances from pastoral infrastructure as specified in section 20(5) of the *Mining Act 1978*";

(b) if no to (a), what is specifically correct in terms of what was stated in the above referred to letter;

(c) can the Minister explain why the former Minister for Mines wrote to Hawthorn Resources specifically stating that the assessment was on hold pending written consent being obtained from the Pastoralist Station to conduct mining activities within the buffer distances from pastoral infrastructure in section 20(5) of the *Mining Act 1978*;

(d) if no to (c), why not;

(e) are Hawthorn Resources Ltd authorized under the *Mining Act 1978* to destroy, alter and damage yards/stockyards, water piping located both below and above the ground supplying occupied buildings with people residing and living in the buildings, fencing on the common reserve 10041 belonging to the Pinjin station, some of which has existed in one form or another for nearly 70 years;

(f) if yes to (e), why; and

(g) if no to (e), why not and which specific sections of the *Mining Act 1978* prevent this?

Hon Alannah MacTiernan replied:

(a) The letter referenced is for Mining Proposal Reg ID 55291, not Reg ID 55921.

Yes.

(b) Not applicable.

(c) The letter of the former Minister is explanatory in nature on the rationale at the time.

(d) Not applicable.

(e) No.

(f) Not applicable.

(g) Section 20(5) of the *Mining Act 1978* protects certain Crown land, which includes land reserved as Common and pastoral lease land.

BURRUP ROCK ART — SENATE INQUIRY — STATE GOVERNMENT CORRESPONDENCE

483. Hon Robin Chapple to the minister representing the Minister for Mines and Petroleum:

I refer to the Senate inquiry into the Protection of Aboriginal Rock Art of the Burrup Peninsula, and ask:

(a) other than submissions made by state government agencies, has there been any submissions or correspondence to the senate inquiry, or has there been any other correspondence with any party in the Federal arena in relation to the senate inquiry made by:

   (i) current Ministers;

   (ii) other current members of the Labor Government;

   (iii) ministerial advisers;

   (iv) other Ministerial or political staffers; and

   (v) individual departmental staff;

(b) if yes to (a), please identify:

   (i) who sent the correspondence; and

   (ii) who received the correspondence; and

(c) if yes to (a), will the Minister please table all correspondence in relation to the Senate inquiry into the Protection of Aboriginal Rock Art of the Burrup Peninsula?

Hon Alannah MacTiernan replied:

(a) (i)–(ii) Not to my knowledge.

(iii) No ministerial advisers in my office have made any submissions or corresponded with the senate inquiry. I have no knowledge of what other Minister's advisers have done.

(iv) No Ministerial or political staffers in my office have made any submissions or corresponded with the senate inquiry. I have no knowledge of what other Minister's staff have done.

(v) Not to my knowledge.

(b)–(c) Not applicable.

MINISTER FOR CORRECTIVE SERVICES — PORTFOLIOS — STAFF — SALARIES AND UNION MEMBERSHIP

487. Hon Peter Collier to the minister representing the Minister for Corrective Services:

(1) How many staff within the Minister's portfolio have received a salary last financial year, that is:

(a) more than 50 per cent of their base salary; and

(b) more than double their base salary?

(2) What is the base salary, total salary, role and the entitlements, allowances and overtime for each position in (1)?

(3) Do any of the staff in (1) hold union positions or hold union membership?

(4) If yes to (3), which positions and which union?

Hon Stephen Dawson replied:

The Department of Justice advises:

(1) (a) 389

(b) 19

(2) [See tabled paper no 983.]

(3) Yes.

(4) A variety of positions, including: Member, Delegate, State Councillors and Executive members of either the CSA, ANF or WAPOU.

STATE DEVELOPMENT — ALCOA — STATE AGREEMENTS

488. Hon Diane Evers to the minister representing the Minister for State Development, Jobs and Trade:

(1) I refer to Alcoa of Australia Ltd's mining and refining activities under three State Agreements and ask, will the Minister please list by item, the current members and terms of the Mining and Management Program Liaison Group?

(2) If no to (1), why not?

(3) Will the Minister please table documents containing the agreement between the State Government and Alcoa which has allowed Alcoa to export up to 2.5 million tonnes per annum (mtpa) of raw bauxite from the State?

(4) If no to (3), why not?

(5) In relation to (3), have there been discussions between Alcoa and the Government regarding increasing Alcoa's shipments of raw bauxite above to 2.5mtpa, including up to five million tonnes per annum?

(6) If yes to (5), will the Minister please give details?

(7) What are the projected annual royalties from Alcoa's raw bauxite exports, in dollars per year?

(8) How many direct FTE jobs in Western Australia are the exports of up to 2.5mtpa of raw bauxite expected to generate over and above jobs in Alcoa's existing operations?

Hon Alannah MacTiernan replied:

The Department of Jobs, Tourism, Science and Innovation advises:

(1) The function of the Mining and Management Program Liaison Group (MMPLG) is outlined in Procedure 4 of Ministerial Statement No. 728. The MMPLG is chaired by the Department of Jobs, Tourism, Science and Innovation and has representatives from the Departments of Mines, Industry Regulation and Safety, Biodiversity Conservation and Attractions, and Water and Environmental Regulation and other agencies as required.

(2) Not applicable.

(3)–(4) Under clause 9(8) of the *Alumina Refinery Agreement Act 1961* (State Agreement) on 15 December 2016 the then Minister for State Development approved the export up to 2.5 million tonnes per year of bauxite through the Kwinana Bulk Terminal (KBT) for up to five years commencing from 5 December 2016 and subject to Alcoa securing appropriate export slots. On 21 July 2017 under clause 9(8) of the State Agreement I approved Alcoa the use of Berth 8 at the Port of Bunbury, in addition to the KBT, for a period of two years commencing from 21 July 2017. The State Agreement is available on the State Law Publisher website.

(5) Alcoa has flagged with the State possible further requests for approval to export bauxite beyond the current approved five year period. Each such request will be considered on a case-by-case basis.

(6) See (5) above.

(7) Alcoa will pay royalties at 7.5% as set out under the *Mining Regulations 1981* for all bauxite it exports.

(8) Alcoa has advised that approximately 100 construction jobs and 100 jobs related to fabrication and supply of equipment and building materials in Western Australia will be created.

FOREST PRODUCTS COMMISSION — NATIVE FOREST PRODUCTS AND MARKETS

491. Hon Diane Evers to the minister representing the Minister for Forestry:

(1) I refer to the Forest Product Commission (FPC) annual report and ask, has the FPC sold any logs sourced from native forests, including those listed under "other bole volume", to companies that would use them as feed stock for energy generation?

(2) If yes to (1), will the Minister please list, by item, the names of the companies and the volume, in cubic metres, and weight, in tonnes, sold to each of them?

(3) If yes to (1), what species of wood were sold, by volume?

(4) With reference to the comment on page 117 of the FPC 2016–17 annual report, "expansion of native forest markets", will the Minister please explain what specific expansion there has been, including all new uses for native forest-sourced timber, the names of any new companies buying native forest-based products, and, if the expansion relates to increased demand for an existing product, the type of native forest product and the reason for increased demand for it?

(5) Does the Government intend to sell any native forest timber products, including any residue products, for use in bioenergy generation in the foreseeable future?

(6) If yes to (5), will the Minister please provide details including which product and species, the quantity by volume, and the intended customer(s)?

Hon Alannah MacTiernan replied:

(1) No.

(2)–(3) Not applicable.

(4) Comments in the Forest Products Commission (FPC) 2016–17 Annual Report relating to the "expansion of native forest markets" refer to the increased demand for jarrah other bole volume products. The primary products contributing to this expansion are jarrah residue used for silicon production, and jarrah green firewood from existing customers.

New native forest sales were restricted to two new customers, each of which purchased only small volumes (less than 250 tonnes) of jarrah products.

The new customers and product sales were:

Gilchrist R: 205 tonnes of large bole sawlog

Rod's wood n posts: 120 tonnes of dead firewood

The increased sales were due to changes in harvesting processes (such as the removal of bark) that increased the recovery of jarrah other bole volume products.

(5) Yes.

(6) The FPC has two current contracts that are expected to result in the use of native forest timber for energy production:

Contract of Sale (COS) 18-022 to supply up to 10,000 tonnes of jarrah and marri other bole volume to Bio Growth Partners. The wood is salvaged from mine site clearing and the FPC understands that the customer is marketing some of the wood to energy generators.

COS 7006 to supply 28,500 tonnes of karri other bole volume to WA Chip and Pulp. The wood is salvaged from the Northcliffe fire area and the FPC understands that the customer is marketing the wood to energy generators.

LANDS — CARLTON HILL STATION PASTORAL LEASE

492. Hon Robin Chapple to the minister representing the Minister for Lands:

I refer to Carlton Hill Station in the Kimberley owned by Kimberley Agricultural Investment (KAI), and ask:

(a) what is the maximum amount of cattle allowed on the station;

(b) when was the station last inspected to determine if it was complying with its obligations regarding ecologically sustainable management and not exceeding its cattle quota;

(c) have any erosion problems been identified on Carlton Hill Station;

(d) if yes to (c), where is erosion an issue and what has KAI been asked to do to solve the problems;

(e) is the Minister aware that there are heavy infestations of calotropis procera, a declared weed in Western Australia on Carlton Hill Station;

(f) has the department taken any measures to ensure this declared weed is being managed by the station owners, KAI;

(g) if no to (f), why not;

(h) how many hectares of land has been estimated to be infested with calotropis procera;

(i) is the Minister aware of the Priority 1 ecological community "Assemblages of the wetlands associated with the organic mound springs on the tidal mudflats of the Victoria–Bonaparte Bioregion" north of Carlton Hill Station;

(j) is the Minister aware that these threatened ecosystems are currently being damaged by cattle and the likelihood of the cattle being from Carlton Hill Station due to the station not being properly fenced to these areas;

(k) will the Minister ensure that KAI will fence the boundary of the station to ensure that mound springs and the Ramsar listed wetlands are not damaged by cattle; and

(l) if no to (k), why not?

Hon Stephen Dawson replied:

(a) There is no maximum limit. The Pastoral Lands Board may from time to time determine the maximum livestock numbers on a pastoral lease. However, no such determination has been made in relation to Carlton Hill Station.

(b) The last rangeland condition assessment (RCA) on Carlton Hill Station was carried out by the then Department of Agriculture and Food in 2004. A follow up inspection occurred in 2008.

(c) Yes.

(d) Severe erosion was noted in the Ivanhoe land system as part of rangeland condition assessments conducted in 2004 and 2008. The lessee at the time was required to submit a management plan to address land management issues.

(e)–(h) Management of declared weed species is regulated under the Biosecurity and Agriculture Management Act 2007, which is administered by the Department of Primary Industries and Regional Development.

(i)–(l) This relates to a conservation matter managed by the Department of Biodiversity, Conservation and Attractions. The Land Administration Act 1997 does not empower the Minister for Lands to require pastoral lessees to construct boundary fences.

LANDS — CARLTON HILL STATION PASTORAL LEASE

493. Hon Robin Chapple to the minister representing the Minister for Lands:

I refer to Carlton Hill Station in the Kimberley owned by Kimberley Agricultural Investment (KAI), and ask:

(a) when was the unmanaged reserve as identified in the Ord River and Parry Lagoons nature reserves management plan, on Carlton Hill Station which abuts the Ord River, handed over or sold to KAI;

(b) how much of this unmanaged reserve land was handed over or sold to KAI;

(c) how much did KAI pay for the land;

(d) when did KAI pay for the land;

(e) what tenure status does the land now have;

(f) what conditions were put on the sale of the land; and

(g) what was the weed status of the reserve before it was handed to KAI?

Hon Stephen Dawson replied:

(a) The land remains an unmanaged reserve.

(b) None.

(c)–(g) Not applicable.

LANDCORP — AFFORDABILITY PERFORMANCE

497. Hon Tim Clifford to the minister representing the Minister for Planning:

What has been the percentage of housing set aside as affordable housing on each Landcorp development for each of the following financial years:

(a) 2014–15;

(b) 2015–16; and

(c) 2016–17?

Hon Stephen Dawson replied:

LandCorp has achieved the following affordability performance on single residential lot sales. Affordability performance reporting has changed over time.

(a) 2014–15

Affordability measure	**Percentage of lots sold**
Lots sold at or below the state-wide median lot price ($245,000)	52
Lots sold at or below the metropolitan median lot price ($268,000)	67
lots sold at or below the regional median lot price ($172,750)	40

(b) 2015–16

Affordability measure	**Percentage of lots sold**
Lots sold in metropolitan Perth at or below an affordable price (based on affordability price points provided by the Department of Communities)	46
Lots sold at or below the REIWA metropolitan median lot price ($261,000)	57
Lots sold at or below the REIWA metropolitan lower quartile lot price ($215,000)	25
Lots sold at or below the REIWA regional median lot price ($177,500)	57
Lots sold at or below the REIWA regional lower quartile lot price ($135,000)	27

(c) 2016–17

Affordability measure	**Percentage of lots sold**
Lots sold in metropolitan Perth at or below an affordable price (based on affordability price points provided by the Department of Communities)	60
Lots sold at or below the REIWA metropolitan median lot price ($252,000)	60
Lots sold at or below the REIWA metropolitan lower quartile lot price ($200,000)	29
Lots sold in regional WA at or below an affordable price (based on affordability price points provided by the Department of Communities)	77
Lots sold at or below the REIWA regional median lot price ($173,000)	67
Lots sold at or below the REIWA regional lower quartile lot price ($130,000)	51

____