LEGISLATIVE COUNCIL

Thursday, 4 June 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:16 and read prayers.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Chair of the Board of the Australian Crime Commission—Report, 2013-14

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Alinytjara Wilurara Natural Resources Management Board—Report, 2013-14

By the Minister for Aboriginal Affairs and Reconciliation (Hon. K.J. Maher)—

Aboriginal Lands Trust—Report, 2012-13
Aboriginal Lands Trust—Report, 2013-14

Question Time

VOCATIONAL EDUCATION AND TRAINING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about regional training places.

Leave granted.

The Hon. D.W. RIDGWAY: The government's decision to move subsidised training places from the regions to TAFE means that approximately 20 training places will be available for Certificate III in Agriculture, all at Mount Gambier. I am reliably informed that the diploma and advanced diploma will not be available at all, other than as fee-for-service. Students will not be able to access the VET FEE-HELP unless the RTO is registered through the commonwealth, and sometimes it is taking up to 12 months to get that registration.

What this means is that, unless farmers leave the farm to get training, they will not be upskilled. I spoke today with Mrs Caroline Graham, who I think the minister spoke with and, incidentally, Mr President and members, she is sitting in the gallery today joining us for question time. She says that her operation, Regional Skills Training, has trained some 1,500 young farmers over the past 14 years. Of those farmers, some of them are now coming back with their own children, who are participating in schools-based training.

It is interesting that one of the biggest cohorts in the diploma and advanced diploma has been young women who have come from the city. Often they have married a young farmer and come to the region from the city, and they want to make a contribution to the farming family business they are involved with. Sadly, with the government's changes, these opportunities will be taken away. I understand also that when the cuts and changes were announced, some 300 farmers enrolled almost immediately at Regional Skills Training. My questions to the minister are:

1. Does the minister concede that the 300 farmers immediately applying at RST when funding cuts were announced is a clear indication that the city TAFE-based training is not viable in this regional-based industry?

2. Does the minister appreciate that we currently have high calibre, skilled and qualified young farmers and that, in 10 to 15 years with the lack of training and access to lower quality TAFE training, the calibre will be significantly diminished?

3. Given the reduction in the number of training places for agriculture and the number of providers able to deliver this training and the geographical location of the training opportunities, how can this decision by the government support what is one of their seven strategic initiatives, which is food from a clean, green environment?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:20): I thank the honourable member for his important questions. I acknowledge Ms Caroline Graham and also Mr Colin Cook in the gallery today. We had a very productive meeting today with them and other private providers as well, where we are continuing a dialogue with the private training providers to identify the specific impacts of WorkReady on their business cases and to try to ameliorate adverse impacts on their businesses.

Our private training providers are very important to us, and that is why with WorkReady we have designed a training program that transitions or will be phased in over the next four years. This is a training program that will be more efficient, more targeted to real industry needs and real job outcomes with improved completion rates in an improved competitive marketplace.

In terms of the regions, I have indicated in this place previously and on various media programs that in fact, overall, the regions gain a number of benefits from the increased proportion of new subsidised enrolments being placed in the TAFE sector because, generally speaking, overall, our regions rely far more heavily on training coming from TAFE than private providers. As I said, that's overall. I remind honourable members in this place that we have not cut training; we don't plan to cut training next year. In 2015-16 we are providing subsidised funding for 81,000 training places—81,000 training places—around about, and that was 80,000—

Members interjecting:

The Hon. G.E. GAGO: You just don't understand your figures. You lot have got no idea! The Finance and Budget Committee—what a little Mickey Mouse committee that is; they haven't got a clue. They have confused themselves; they don't understand their figures—

The Hon. D.W. Ridgway: It comes from your list; I can't believe it!

The Hon. G.E. GAGO: You don't. You just don't understand your own figures. It's hilarious! A former failed treasurer. No wonder! No wonder he doesn't understand his own figures.

Members interjecting:

The Hon. G.E. GAGO: I won't be distracted, Mr President. I'll get back to regions; it's very important.

Members interjecting:

The PRESIDENT: Order! The minister has the call. The Hon. Mr Maher—quiet.

The Hon. G.E. GAGO: The Hon. Terry Stephens made an unparliamentary comment; he said that the leader is a fool. That is unparliamentary, and I am asking him to withdraw it and apologise.

The Hon. T.J. Stephens: How do you know I was saying it to you?

The PRESIDENT: It doesn't matter. The Hon. Mr Stephens, it is unparliamentary. It would be much desired if you would withdraw that comment.

The Hon. T.J. Stephens: I am happy to withdraw it, and I'm not apologising.

The Hon. G.E. GAGO: Thank you, Mr President.

The Hon. G.E. GAGO: I know that in his heart of hearts he is apologetic, and I do accept his apology. In terms of the specific agriculture places that the Hon. David Ridgway refers to, we have not stopped training in those areas. However, we have moved a lot of that across to TAFE.

TAFE is saying that it has the capacity to deliver that training, and it is working through the details of how and where it will provide that. In terms of any further details about where those courses might be provided, which locations, etc., I would refer the honourable member to TAFE SA.

The other area that provides some assistance to private providers (and I know I went through this with Ms Caroline Graham and Mr Colin Cook today) in terms of the Jobs First employment program, there is a $7.5 million allocation of funds to that program. There are no limits on the types of courses that would be eligible to be subsidised under that training bucket, and the sorts of courses that Ms Graham and Mr Cook raised today would no doubt be eligible for application and would be the sorts of courses that would be quite suitable for that program. Jobs First is a training component that partners training outcomes with training providers, local industries and businesses that can deliver real employment outcomes, real jobs. I have encouraged Ms Graham, Mr Cook, and others I have met with today and yesterday, to consider applying for those funds.

VOCATIONAL EDUCATION AND TRAINING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): By way of supplementary question, can the minister confirm that there are only 20 places for Certificate III in Agriculture based with TAFE in Mount Gambier? Instead of referring it as an operational matter, will she make a representation to TAFE to make sure those courses are available to all regional centres in South Australia, given that one of the government's seven strategic priorities is food and wine from a clean environment?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:27): I do not have the details of the number of courses and their locations. There are 700 different qualifications on our subsidised training list, 700 of them. I am not able to bring that level of detail. That information is publicly available and we know how lazy the opposition leader is. We know that he is too lazy to get online and look for himself. He likes to come along here and politically grandstand and shoot off his mouth. We know how lazy and ill prepared they are. We know how they regularly come into this place, distorting figures, confused with figures. They are too lazy to even work out what figures they are bringing in here and what they mean. They shoot off at the mouth and they are wrong most of the time.

VOCATIONAL EDUCATION AND TRAINING

The Hon. T.A. FRANKS (14:28): By way of supplementary question, the minister noted in her original answer the adverse impacts this had on the broadacre agricultural sector. I ask the minister: why were these adverse impacts not identified prior to this point?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:28): We have recognised, and I have acknowledged in this place on several occasions, that we had an influx of once-off additional funding that has been made available over the last three years or so. Those moneys were made available to assist the government to achieve its $100 million—$100,000, I should say—

The Hon. D.W. Ridgway: Who gets their figures wrong again?

The Hon. G.E. GAGO: They haven't got a clue; they have not got a clue.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: They haven't got a clue. They come into this place day in, day out, making all sorts of assertions and accusations, waving figures around that they don't even understand. They've got no idea, Mr President. It is so embarrassing. That Budget and Finance Committee is an absolute embarrassment in terms of the opposition members of that. They haven't got a clue. They are just a bunch of Mickey Mouse, political opportunists. They haven't got a clue.

Members interjecting:

The Hon. G.E. GAGO: Anyway, I won't be distracted. I was asked a very important question by the Hon. Tammy Franks, and I will answer that—

Members interjecting:

The PRESIDENT: The Hon. Ms Lee.

The Hon. T.A. FRANKS: Point of order, Mr President: when you spoke, the minister sat down because she thought that you were indicating that—

The PRESIDENT: No, she had finished.

The Hon. T.A. FRANKS: Well, she said just then that she wanted to answer my question. She has still not answered my question.

The Hon. G.E. GAGO: I can provide more information, Mr President.

The PRESIDENT: If you want. Minister.

The Hon. G.E. GAGO: Thank you, sir. It is those interjections that are, of course, just eating up really important question time. If the opposition want to interject and waste precious question time, that's a matter for them, but the Hon. Tammy Franks has asked an important question. Those additional funds were made available. We know that we are now contracting after a great deal of stimulation in training activity during that time, and we know that there is a contraction in that budget activity that will impact on training outcomes.

We have worked very hard, through efficiencies, to minimise that. As I said, we know that we are able to deliver 81,000 subsidised training places for 2015-16, which is slightly more than this year, and we know that that is well above pre-Skills for All training activity levels. So, we are ahead. So too is the funding, although that has contracted from that stimulation of increased once-off funding; nevertheless, the funding of $285 million is still above pre Skills for All funding levels.

I have encouraged the private sector to work with us in this regard. Each business has a completely different business configuration, they have different scopes, they have a range of fee-for-service and other private business activities that they don't report to DCD on, so it is important that we meet with those who believe they are going to be affected in an adverse way and that we work with them to identify where that is going to occur, the magnitude and how we can work with them to help minimise that.

REGIONAL EMPLOYMENT

The Hon. J.S. LEE (14:32): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about regional job opportunities.

Leave granted.

The Hon. J.S. LEE: Regional South Australian businesses have expressed their concerns to me and to other members on this side of the house in relation to the loss of job opportunities for young people living in regional South Australia as a result of the government's funding reforms to private RTOs.

Pringles Ag and Crouch Rural, a medium-sized agricultural machinery business, advised that the government's decision will result in less employment and training of young people in the sector. South Australia's regional unemployment is already a major concern, with the regional unemployment rate reaching a staggering 21.8 per cent, the highest rate in 14 years.

Pringles stated that it is important for them to enrol their diesel mechanic apprentices with VTech, a private provider, as Pringles confirmed that they are not satisfied with the quality of training provided by TAFE, along with the travelling times for apprentices going to training and the lack of organisation at TAFE.

These concerns are mirrored by Caroline Graham, Manager at Regional Skills Training, who is here today and who noted that the changes are going to remove private providers from the delivery of training to the kids at school, meaning that there are going to be about 56 schools which will not

be able to easily access training within agriculture, horticulture and mechanics, critical skills for country South Australia. My questions to the minister are:

1. Regional businesses have clearly outlined to the government that they are unhappy with the services provided by TAFE for their apprentices. What strategies will the minister introduce to ensure TAFE is reaching its KPIs and delivering real outcomes?

2. Can the minister outline what consultation meetings she has had with regional training providers to assess the impact on regional businesses?

3. With the funding cuts influencing the training within regional schools, how does the minister intend to address the high youth unemployment rate in the regions?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:34): I thank the honourable member for her most important questions. Both DSD and myself continue to meet with private providers and, for that matter, TAFE as well, on these matters. I have already gone into quite a lot of detail about that ongoing dialogue and what the purpose of that dialogue is, so that is how I intend to continue to engage with them.

I have already indicated that TAFE has indicated that it does have the capacity to fulfil the training activity identified in the subsidised training list for 2015-16, and I am certainly continuing to encourage TAFE to engage with employers to ensure that they reflect industry needs and are able to deliver training that is well fitted and well suited to achieving real job outcomes.

In terms of ongoing youth employment or employment overall, the objective of WorkReady is to ensure that very precious public money, taxpayers' money, is not necessarily spent on providing jobs for training providers but, rather, is focused on delivering training outcomes that equip particularly our young people and young people in regions, for real jobs. We make no apology about that; that is what our purpose is, and that is what WorkReady will do.

WORKREADY

The Hon. T.A. FRANKS (14:36): I have a supplementary question. Is the minister aware of what the broadacre agricultural sector job outcomes were before the RTOs lost their funding?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:37): I am not sure if the honourable member is asking me if I know what the employment outcome is for regions.

The Hon. T.A. Franks: Not for regions; for the broadacre agricultural sector RTOs.

The Hon. G.E. GAGO: I do not have that with me, but I receive regular reports in terms of regional labour force data, and I have that here if the honourable member wants it. It does not identify the employment. They are ABS figures, and they do not identify particular RTOs. They identify our regions and give a breakdown of employment levels per region.

WORKREADY

The Hon. T.A. FRANKS (14:37): Supplementary: does the minister use ABS figures to evaluate the success of the spending of public money, or does she use actual outcomes from reporting through the sector?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:38): As the honourable member would be well aware, we collect a range of data that looks—particularly since Skills for All has been in place— at measuring success using a number of different measures: participation rates, completion rates and employment outcomes. I have talked about all of those figures in this place, so they are well and truly on the record in *Hansard* for the honourable member to see.

VOCATIONAL EDUCATION AND TRAINING

The Hon. J.M.A. LENSINK (14:38): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question regarding government, in particular Labor Party, election commitments.

Leave granted.

The Hon. J.M.A. LENSINK: On 28 February 2010 a media release was issued by former premier Mike Rann entitled '100,000 New Jobs Target'. It stated:

> The Rann Labor Government will invest $194 million to help create an extra 100,000 apprenticeships and training places needed to keep driving our State's economic boom.
>
> Premier Mike Rann today—at Labor's State campaign launch in Norwood—directly linked the training investment to a new target of 100,000 extra jobs in the next six years.

He says:

> To help get there we intend to increase the number of vocational education and training places by 100,000 in the next six years.

This would take us to February next year. Further in the media release, the former Premier refers to 50,000 places for women and 4,000 additional training places for Aboriginal people. He also stated:

> We will be reversing the trend we have seen for too long—where young people have had to leave our State to get work elsewhere.

1. Can the minister advise how that trend is going with young people leaving our state to get work elsewhere?

2. Can she report on the 100,000 jobs and the 100,000 training places and, in particular, whether those targets for women and Indigenous training places have been met?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:40): I thank the honourable member for her most important question. I have talked in this place before about our 100,000 jobs aspiration. I have spent a great deal of time in this place on several occasions answering that, so I am more than captured on the record on that. I have also spoken at length about our 100,000 additional training places, which we have more than achieved well ahead of time, and we are well in advance of those numbers. Was it older Australians? Aborigines?

The Hon. J.M.A. Lensink: It was 50,000 women and 4,000 Indigenous.

The Hon. G.E. GAGO: In terms of Aboriginal employment, is that the 2 per cent by 2014? I am not too sure which target, as there are quite a few of them. There is Target 51, which looks at Aboriginal unemployment: halve the gap between Aboriginal and non-Aboriginal unemployment rates by 2018. I have been advised that in 2008, that baseline year, the gap between Aboriginal and non-Aboriginal unemployment rates was 14 percentage points. In 2010 this gap then widened to 21.5 percentage points, before then declining to 10 percentage points in 2011. I am advised that no new data has been released since 2011 and, on this basis, progress rating is unclear. As you can see, there is a fair bit of volatility in those figures.

The sort of actions being taken to achieve that target include things like the Skills in the Workplace program and Skills for Jobs in Regions which are identifying a range of potential opportunities to help connect enterprises and disadvantaged South Australian jobseekers on government funded projects, so we continue to work in that space. I do not have the women's figures with me, so I will have to take that part of the question on notice and I will be happy to bring back a response.

VOCATIONAL EDUCATION AND TRAINING

The Hon. J.M.A. LENSINK (14:43): The question in relation to women and Aboriginal people was actually that the media release referred to 50,000 training places for women and 4,000 training places for Indigenous people, not employment.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:43): I will have to take that on notice and bring back a response.

VOCATIONAL EDUCATION AND TRAINING

The Hon. K.L. VINCENT (14:44): Are there specific training places with a target for people with disabilities and, if so, how many?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:44): I am not aware whether that includes a target for disability and, again, I am happy to take that on notice and bring back a response.

REGIONAL SCIENCE EDUCATION

The Hon. T.T. NGO (14:44): I seek leave to make a brief explanation before asking the Minister for Science and Information Technology a question about increasing interest in science subjects across regional South Australia.

Leave granted.

The Hon. T.T. NGO: I understand that there is evidence that students in regional areas appear to be taking up the study of science subjects at a lower rate than their metropolitan counterparts. Can the minister advise the chamber what the government is doing to inspire young people in regional communities to embrace science?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:45): I thank the honourable member for his most important question. Science goes to the heart of lifting the opportunities, health and skills of Australia's workforce and social and economic prosperity. Scientific advances underpin much of the state's prosperity, and not just in the metropolitan area. Science is critical to the prosperity of our regional industries and communities. It is for that reason that we need to create a South Australia that is more than just science literate; it needs to be known as a place where science is greatly valued, respected and celebrated, a state where science can truly flourish.

Earlier this month the Inspiring South Australia program was launched. This is a unique partnership between the federal and state governments, the South Australian Museum and our three public universities, all working together to inspire all South Australians to share the passion for science. One of the important priorities of this partnership is to build science engagement in regional areas, to inspire young people in regions to study science and technology subjects, and to increase innovation and economic diversity in regional businesses.

Therefore, a key part of the Inspiring South Australia program is the creation of regional science hubs. These science hubs will build a network of regional community groups, organisations and businesses to help bring the celebration of science to an increasing number of South Australians. The hubs will provide science demonstrations and activities in their communities throughout the year, but particularly during National Science Week. To encourage the success of this new initiative the state government will provide seed funding of up to $17,500 for the launch of each new regional science hub and to support them in hosting community events held during national science weeks for the next three years.

I was very pleased to be advised that 15 expressions of interest were received from educational organisations, local government, environment groups and industry associations in regions across our state. This is a real demonstration that our regions are enthusiastic about inspiring their communities about the wonders of science, and it is also pleasing that these science activities will be embedded in a diverse range of local organisations.

The government will initially establish four regional science hubs this year, and the intention is to grow that number over the next few years and, after, reviewing their success and building on best practice models. I hope all members in this place are looking forward to National Science

Week—which, this year, will be held from 15 to 23 August—as much as I am. I encourage everyone to be involved.

VOCATIONAL EDUCATION AND TRAINING

The Hon. J.A. DARLEY (14:48): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about training.

Leave granted.

The Hon. J.A. DARLEY: I understand that earlier this morning the minister met with Mrs Caroline Graham and Mr Colin Cook, representing agriculture training providers in South Australia. During that meeting Mrs Graham and Mr Cook sought confirmation from her that the Australian school-based traineeship program, as well as the training guarantee for SACE students, will continue as of 1 July this year and for the next four years on a demand-driven basis for eligible school students, irrespective of the industry sector. My advice is that she did provide the confirmation sought.

My question is: will the minister again confirm, for the public record, that the Australian school-based traineeship program, as well as the training guarantee for SACE students, will continue as of 1 July this year and for the next four years on a demand-driven basis for all eligible school students, irrespective of the industry sector?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:49): We did spend quite a bit of time going through those issues with Ms Graham and Mr Cook this morning, and I did provide them with reassurance about the ongoing nature and commitment to those training activities.

The Hon. S.G. Wade: You couldn't tell us yesterday.

The Hon. G.E. GAGO: Yes, I did. That is just nonsense, absolute nonsense

The PRESIDENT: There will be no interjections while the minister is answering the question.

The Hon. G.E. GAGO: They say anything in this place

The PRESIDENT: Answer the question.

The Hon. G.E. GAGO: This government wants young people to undertake further education or training to ensure that they gain a qualification to unlock good and viable careers. Young people do not have to leave school before completing SACE in order to start vocational education in industry areas of economic significance in this state. There are three ways through which school students can be subsidised to start a vocational pathway as part of their senior secondary education and have it counted towards a VET qualification; They are, through the Training Guarantee for SACE Students (TGSS), Australian School Based Apprenticeship and Traineeship (ASbA) and Innovative Community Action Networks (ICANs). These pathways were subsidised under Skills for All and will continue to be subsidised under WorkReady. This is information that I gave Ms Graham and Mr Cook.

The Training Guarantee for SACE Students (TGSS) scheme supports selected senior school students to commence certificate II or III courses as part of SACE and complete certificate III post-school with the same training providers. The School Based Apprenticeship and Traineeship combines attendance at school with commencement of apprenticeship or traineeship with an employer. The training contributes towards SACE while the student commences a vocational career or trade. ICANs offers students who are 16 years and over who are disengaged from mainstream schooling and who are not likely to complete SACE the opportunity to commence a vocational pathway and enrol in a VET course.

Supporting school students to undertake training is clearly linked to the government's key strategic priority, particularly in relation to Every Chance for Every Child. Popular courses commenced by TGSS students are in early childhood education and care, hairdressing (which is very popular), automotive servicing technology, electronics, aged care, digital media and technology. In relation to WorkReady, TGSS (Training Guarantee for SACE Students) will continue to be supported under WorkReady. Under WorkReady, certificate II courses with the highest public value

that are approved to be undertaken by TGSS students will continue to be fee free. Arrangements in relation to certificate IIIs will remain unchanged.

TGSS courses are clearly identified on the subsidised training list. Students can undertake TGSS courses either with TAFE SA or, in some cases, with private providers. Some of the examples on the subsidised training list include aged care, construction pathways, cert III in agriculture, cert II in construction, hairdressing, rural operations, engineering, electrotechnology—it's quite a lengthy list. That pretty comprehensively outlines what our commitment has been and what we continue to remain committed to under WorkReady.

MANUFACTURING SECTOR

The Hon. A.L. McLACHLAN (14:54): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a question regarding South Australia's manufacturing industry.

Leave granted.

The Hon. A.L. McLACHLAN: A report recently published by the University of Adelaide's Dr Ronald Grill has revealed that Adelaide's electronic industry could be the state's advanced manufacturing saviour. I understand that the industry is currently not recognised as a key advanced manufacturing sector in the state government's Manufacturing Works strategy. My questions are:

1. Has the Advanced Manufacturing Council established by the government been monitoring the performance of the electronics industry in South Australia?

2. Is the government considering recognising this industry as one of the state's key advanced manufacturing sectors in its Manufacturing Works strategy?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:54): I thank the honourable member for his question. I am afraid it is again a very perceptive and insightful question, and he again lays down the challenge to those on his front bench. So I thank the honourable member for his very, very good question.

Members interjecting:

The Hon. K.J. MAHER: And the frontbenchers get very angry when he asks such insightful questions; they are interjecting all the time. As the honourable member insightfully points out, the electronics industry and manufacturing of electronics goods is a very important industry for South Australia. There is no doubt that electronics and technology play a central role in the competitiveness of the South Australian manufacturing industry. They support innovation, driving product and service development, and improving manufacturing performance. They will play a key role in driving change and will help to underpin the transformation of the South Australian economy.

There are a number of areas the government is supporting that have direct linkages to supporting the electronics industry. Some of the programs that the electronics industry can avail themselves of, and some that they have recently, include:

- the $750,000 program to facilitate engagement between manufacturers and public research organisations to develop medical technology under the Medical Technologies Program. To date, 10 projects have been accepted in this program from 65 applicants.
- $750,000 for the delivery of the Photonics Catalyst Program to connect South Australian manufacturers with emerging laser and sensor technologies being developed at the University of Adelaide's Institute of Photonics and Advanced Sensing. I had the good fortune of visiting them last week and was exceptionally impressed with the work they are doing. To date, under that program, 10 projects have been accepted into the Photonics Catalyst Program and an additional 35 projects are in the pipeline.
- $500,000 has been allocated to deliver the NanoConnect Program for companies to access advanced nanotechnologies for application to their business. Currently, the program has 15 manufacturers exploring new opportunities to experiment with nanotechnologies.

These key enabling technology programs are successfully supporting the development of new high-value niche products, components and service offerings with clear commercial potential and which predominantly will require input in the areas of electronics design, manufacture, assembly and integration. In addition, the state government is seeking to build on these programs and explore new opportunities in other areas that will assist our ongoing and potentially very lucrative electronics industry.

ADELAIDE INTERNATIONAL BIRD SANCTUARY

The Hon. J.M. GAZZOLA (14:57): My question is to the Minister for Sustainability, Environment and Conservation. Minister, will you inform the chamber about the progress to date of the Adelaide International Bird Sanctuary?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:58): I thank the honourable member for his most important question and, Andrew Fischer, this one is for you. On Friday 8 May, I had the pleasure of taking part in a flyover of the Adelaide International Bird Sanctuary.

Members interjecting:

The Hon. I.K. HUNTER: Thank you. That was half-hearted—you might want to try again, there are plenty more to come! This was a wonderful opportunity to gain an aerial perspective of the land that has been purchased to become the sanctuary. The sanctuary is located along the Gulf St Vincent coastline, from Barker Inlet in the south to Port Parham in the north—although there is some contention about whether there actually is a Port Parham; I understand on the maps it is mostly just signed as Parham.

By way of background, members will recall that in mid 2014 the South Australian government spent $2 million to purchase 2,300 hectares of land north of the Light River. By 2018, we will have invested a further $1.7 million into the Adelaide International Bird Sanctuary. We believe that it will draw bird watchers from around Australia and the rest of the world.

The sanctuary, once proclaimed, will be one of the longest continuous coastal reserves in the state and will include beautiful and largely untouched coastline. On average, I am told, about 25,000 shorebirds visit the sanctuary area every year. Some come from as far away as Siberia and Alaska, passing through 22 countries as they travel here. More than 50 species are represented in that number, 29 of which are protected, including 17 that are listed as rare and two that are listed as vulnerable.

The sanctuary is a critical feeding ground for the thousands of migratory shorebirds that fly along the East Asian-Australasian Flyway. It also provides a vital habitat for birds that have resided there for their entire life cycle. In addition to these important environmental and ecological benefits, the bird sanctuary will also create significant economic opportunities for Adelaide and, in particular, the northern suburbs.

The sanctuary can offer nature-based tourism opportunities such as birdwatching, bushwalking, kayaking, fishing, camping and bike riding. In addition, discussions are underway with the local Kaurna community to hold cultural camps within the sanctuary, including bush tucker and storytelling, with educational stories about culture.

The location of the bird sanctuary close to Adelaide's food bowl offers significant opportunities. We can link local produce through things such as annual food festival events, farmers' markets and guest chef or bush tucker food demonstrations. We are also working very closely with the different local communities and stakeholder groups about these great opportunities, and the enthusiasm was evident when I met with community members at Thompson Beach in April.

The Thompson Beach township in the northern section of the sanctuary has been identified as an ideal location for a northern gateway to the sanctuary. It offers walking trails and birdwatching opportunities, and is a hot spot to view the migratory shorebirds when they arrive every spring. It was evident that ecologists, the local Kaurna community, the local council and community groups saw great potential in the Adelaide International Bird Sanctuary.

This is an exciting time for the north of Adelaide and their communities. They want to engage with us on how we design and construct an international bird sanctuary, and my instruction to my department is that I want them to go out and work with the community to make sure we get a bird sanctuary that works for the local community; that they have partnership in designing and feel that sense of ownership and protection. That has certainly been indicated in the enthusiasm that has been in evidence when I have met with community members. So, I look forward to working with them as we develop the very best wild bird sanctuary in the world while showcasing the best of the northern suburbs.

I would like to take a second of the chamber's time to thank my adviser, Mr Andrew Fischer, who has been working very closely with me and the communities on this international bird sanctuary and various other portfolio areas. If I can borrow from that great author, Douglas Adams, a little quote that the dolphins gave when they left the planet: 'So long, and thanks for all the fish'—and fun.

DISABILITY HOUSING

The Hon. D.G.E. HOOD (15:02): I seek leave to make a brief explanation before asking the minister representing the Minister for Disabilities a question regarding potential housing for people with disabilities.

Leave granted.

The Hon. D.G.E. HOOD: Carer Helen Moyle has been campaigning for the conversion of the former Inverbrackie detention centre to be transformed into accommodation for young people with disabilities who either want to or need to move out of their current accommodation. Ms Moyle has campaigned on this long and hard and has pointed out that there is a great need for this type of accommodation in South Australia; accommodation which provides not only a form of independent living for young people with disabilities and in need of ongoing support but also peace of mind to ageing parents, in some cases, that their children will have the best society can offer them in order to help them cope.

Currently, there are extremely limited accommodation options and some of our young people end up in nursing homes. Inverbrackie is going to be sold off and is the perfect location for the type of accommodation that our young people need who are suffering various conditions. The Gillard government upgraded the Inverbrackie centre at a cost of approximately $10 million. It boasts somewhere in the vicinity of 80 houses which could be transformed into on-site carers' quarters, a medical clinic, library, and a community centre.

The residents would even be able to grow their own food and attend courses to aid their learning, as the facilities currently exist for that to occur. Implementing housing support such as this would ease the burden that currently exists within the community. It would also prop up the local economy around Woodside, which is greatly assisted by the operation of the previous centre. My questions to the minister are:

1. Has the government considered a private/public partnership to purchase and develop the site?

2. If so, what work has been conducted?

3. If not, will the state government commit to investigating the options for acquiring the Inverbrackie location and engaging in a private/public partnership, or something of that nature, in order to develop this site for disability accommodation?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:04): I thank the honourable member for his important questions and will refer to them to the Minister for Disability Services in the other place and bring back a response.

NATIONAL PARTNERSHIP AGREEMENT ON SKILLS REFORM

The Hon. R.I. LUCAS (15:04): My question is directed to the leader of the government. Can the minister explain why a greater guaranteed share of subsidised training places is required for

TAFE in years 4 and 5 of the national partnership agreement when measures to assist TAFE to adapt to contestability were meant to have been applied from the start of the national partnership agreement?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:05): I thank the member for his questions. Indeed, they were applied from the beginning of the partnership agreement and they continue to apply right throughout the agreement, and we believe that WorkReady fully complies with all aspects of the national partnership agreement.

As I put on the record in this place before, the contestability component of WorkReady for 2015-16 continues to remain at 25 per cent, and that still exceeds that which most other jurisdictions have ever achieved. We have successfully met all our national partnership agreement milestones—not only met them all but exceeded them in most cases. I am absolutely assured that WorkReady continues to comply with that agreement.

It is a absolute disgrace, an absolute disgrace, that Senator Birmingham, a South Australian senator, would indicate that he is prepared to renege on the commonwealth government's commitment to that national agreement; prepared to renege—he is prepared to just walk away. What does he think that will do? Not only is it an incredibly treacherous thing to do, to renege on an agreement, but what does he think that will do?

Does he somehow think that will hurt the government? That money is training money that goes to students to help prepare them for jobs. So, Senator Birmingham, a South Australian senator, is prepared to punish South Australian trainees or students. It is an absolute disgrace, because that is what that partnership money is spent on: it is spent on providing subsidised training to South Australian students to better prepare them for employment outcomes. What an absolute disgrace Senator Birmingham is!

VOCATIONAL EDUCATION AND TRAINING

The Hon. R.I. LUCAS (15:07): By way of supplementary question, has the minister had any legal advice as to whether the federal government is able legally to provide training moneys directly to private training providers outside the national partnership agreement?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:07): That is a matter for the federal government.

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: No, the federal government has an agreement with the South Australian government in relation to training. We have met all those requirements, and the federal government is now going to renege on it. That is what this is about. Shame on Senator Birmingham, shame on him for being prepared to walk away from a federal agreement with which South Australia has fully complied.

In relation to advice in terms of whether we have complied or not, I have sought advice. Obviously, I cannot refer to particular legal advice or crown advice, but I have sought advice and I am absolutely confident that we have complied and continue to comply—and shame on Senator Birmingham!

VOCATIONAL EDUCATION AND TRAINING

The Hon. R.I. LUCAS (15:08): By way of supplementary question arising from the minister's answer, given that the minister conceded that it was up to the federal government in relation to whether it supplied funding direct to private training providers, does the minister therefore agree that, if the money was provided direct to private training providers, training could continue at equal or greater numbers in terms of total training places than under the national training/national partnership agreement?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for

Business Services and Consumers) (15:09): We know how sneaky the Hon. Rob Lucas can be in this place. We saw him come in yesterday waving around his Budget and Finance Committee figures that he did not have a clue about. He had no idea what those figures were or what they meant. Between them, he and the illustrious opposition leader completely misrepresented those figures. They just haven't got a clue.

Now we see the Hon. Rob Lucas coming into this place and missing the point completely. The federal government has an agreement with the South Australian government, enshrined in a national partnership agreement, and the federal government wants to renege on it. They want to walk away. They simply want to wash their hands and walk away and risk those funds not being able to be passed on to our South Australian students to help subsidise their training, to improve their employment outcomes. Shame on them, and shame on the Hon. Rob Lucas! Shame on him for not standing up for South Australian students. Shame on him for condoning his federal colleagues reneging yet again on a national partnership agreement. Shame on him!

AUTOMOTIVE TRANSFORMATION SCHEME

The Hon. G.A. KANDELAARS (15:10): My question is to the Minister for Automotive Transformation. Has the state government made a formal submission to the Senate economics committee—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.A. KANDELAARS: —inquiry into the future of the Australian automotive manufacturing industry?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (15:11): I thank the honourable member for his continuing interest in the automotive industry and for his question about the Senate economics committee inquiry into the future of Australia's automotive manufacturing industry.

That committee had hearings in Adelaide on 13 March this year. I appeared before that Senate economics reference committee on that date, and at that hearing the state government asked the federal Liberal government not to proceed with their proposed cuts to the Automotive Transformation Scheme. The hearing noted that brave Labor senators, along with Greens and Independents, had stood up to the federal Liberal government and not allowed legislation to pass that would have scrapped the Automotive Transformation Scheme.

This hearing in March would have been the perfect opportunity for the South Australian Liberal Party to make a strong statement to say, 'We don't support our federal colleagues ripping the guts out of this scheme. We don't support our federal mates cutting funds that could go to diversification and to supporting new industries.' The state Liberals could have used this opportunity to stand up to their federal party, like our Premier bravely did to his federal colleagues over the River Murray.

Mr President, do you know what we heard from the state Liberal Party at this hearing? Nothing—not a single thing. All we heard from there was their federal representative, Senator Sean Edwards, sticking up for what they have done—the increasingly erratic Senator Edwards sticking up for cutting and ripping the guts out of this scheme.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Will the minister sit down. Will the Hon. Mr Stephens try to contain himself. Just let the minister answer the question. The minister shall speak in silence.

The Hon. K.J. MAHER: Thank you for your protection, Mr President. The opposition backbench is firing again. The Hon. Terry Stephens is obviously coveting moving down one row of seats. The Hon. David Ridgway is shifting very, very uncomfortably at the strong performance from the people behind him.

The 2015-16 commonwealth budget has forecast that the Automotive Transformation Scheme will be underspent in its current format by some $795 million. The state government this week made a written submission to the Senate inquiry. Submissions have now closed, and I am pleased to inform the chamber that the South Australian government's written submission has recommended a number things, including that the federal government reinstate and extend the original date of the Automotive Transformation Scheme to at least the end of December 2020.

The state Labor government recommends that the Automotive Transformation Scheme guidelines be expanded to enable automotive supply chain companies to use the $795 million in funds currently designated as a federal budget saving to develop and implement diversification strategies. The South Australian Labor government's submission recommends that redirected, underspent ATS funds be used to create a targeted structural adjustment program to build economic growth and assist displaced workers to find jobs in consultation with state and local government and local communities.

As we know, following the announcement by Holden that it would end car production in 2017, the state government very quickly announced the Our Jobs Plan, a policy to prepare the South Australian economy for the closure of Holden. That is because we recognised, when the federal Liberals killed the automotive industry in this state, that our community would face economic challenges that would have repercussions on industry, business, jobs and workers across the state. We knew that the government had to assist to ensure that the automotive supply chain was able and best placed to transition into new global supply chains or into entirely new industries.

As a government, we also understand the challenges the industry faces and the need to adapt in policy responses to assist in meeting those challenges. That is what we are doing as a state government. For example, we have recently expanded the eligibility of support under the Automotive Workers in Transition Program to include labour-hire workers. I have spoken previously in this place about those changes which will ensure that many more workers in the automotive and automotive affected industries have access to the important support provided by the Automotive Transformation Taskforce and the Automotive Workers in Transition Program.

I can also inform the council that the government has developed a new fast track enabler initiative which will assist eligible businesses in the supply chain to access grants for projects such as web design, certification, consultation and market research. This change to the automotive supply diversification program is recognition that the state government is committed to reviewing and, where necessary, amending our support programs to give businesses the best opportunity to diversify their operations, and to secure alternative revenue streams for a sustainable future.

The federal Liberal government must act in a similar way. We are not asking them to do anything at all that we are not prepared to do. As I said, we have continued to advocate having the slated budget savings of almost $800 million from the federal Automotive Transformation Scheme repurposed to enable the South Australian automotive industry and supply chain companies to diversify once GM stops producing cars by the end of 2017, and we will continue to do this.

The South Australian state government is committed to working collaboratively with local councils, industries and communities to give businesses the best possible chance of making the transition. We want the federal government to work in a similar way. We want them to live up to their responsibility to South Australia and to South Australians. However, to achieve this there must be changes to the Automotive Transformation Scheme. We want the federal Liberal government to commit to allocating unspent ATS moneys for structural adjustment and to support new industries.

More than anything else we need the South Australian state Liberals to get on board, to support manufacturers, but they do not seem willing to help. They do not have a plan to do this. They do not have a plan to help South Australia. They do have plans—as revealed on the front page of *The Advertiser* earlier this week: they have secret plans. They have secret plans to win elections; not one of them was standing up for South Australians.

Their genius plans were things such as: get good candidates; win more seats; talk to voters; whinge about the boundaries—these were their secret plans, as revealed. I am sure there was a sealed section we do not know about, about getting good leadership in the Legislative Council as well. We have seen the backbench here auditioning for it today.

Last week we saw the federal Liberals continue to lob depth charges at the SA sub building capabilities. This time industry minister Ian Macfarlane said that SA might not build the first new subs and that some of Australia's current defence efforts had been a shocker. That is what the federal industry minister said. This time members opposite can stand up for South Australia: go ahead, make sure that the self-declared most senior Liberal in South Australia, the member for Sturt, demands that the subs—all the subs—are built here in South Australia. We can't afford to sit on our hands and we can't afford to hear the member for Sturt issue vague platitudes.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: Point of order: Mr President: the minister has been on his feet for eight minutes with his extraordinarily repetitive answer, and I ask you to direct him to bring it to a conclusion.

The PRESIDENT: The Hon. Mr Maher, I want you to conclude this within 36 seconds.

The Hon. K.J. MAHER: I take on board the Hon. John Dawkins' erstwhile, if not entirely repetitive, points of order on these matters. There is one Liberal who is prepared to stand up for South Australia. There is one Liberal who is willing to fight for subs to be built here and fight for our auto industry. It is the Independent Liberal, the member for Waite, minister Martin Hamilton-Smith. Those present know how much he has fought for South Australia. He has fought for submarines to be built here. He is the one Liberal who is standing up for this state and standing up for South Australians.

Ministerial Statement

TAXI AND CHAUFFEUR VEHICLE INDUSTRY REVIEW

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (15:20): I table a copy of a ministerial statement relating to the review of the taxi and chauffeur vehicle industry made earlier today in another place by my colleague the Minister for Transport and Infrastructure.

Bills

STATUTES AMENDMENT (BOARDS AND COMMITTEES - ABOLITION AND REFORM) BILL

Committee Stage

In committee.

Clause 1.

The Hon. I.K. HUNTER: While we are in committee, I would like to respond to some questions that were raised in the second reading contributions. Firstly, I would like to respond to questions raised by the Hon. Tammy Franks. When the Premier announced the reforms, he outlined that they were expected to save at least $5.5 million over the forward estimates. As part of the 2012-13 Mid-Year Budget Review, the government approved savings of $1.3 million per annum from the 2013-14 year by reducing the cost of government funded boards and committees, with the savings target to increase to $1.4 million per annum by 2015-16.

While the reforms will assist agencies to meet budget savings targets, the Premier has also made it clear that he expects resources to also be reinvested in alternate community engagement activities. The government is committed to realising its vision of a modern open Public Service which will support community engagement and representation. Initiatives such as the Citizens' Jury, GOVchat, YourSAy, and Country Cabinet are already making a difference in this space.

In addition, and as mentioned by the honourable member, the government's Better Together principles provide a foundation for engagement by government agencies in South Australia which aims to involve people in decisions that affect their lives and give them a genuine role in decision-making.

The whole-of-government approach is to embed good engagement practices across agencies. The Department of the Premier and Cabinet's Strategic Engagement and Communications Unit provides training and consultancy services across government to support engagement practices that involve everyday people in decisions about things that matter to them. I am confident that these latest reforms will support the delivery of these savings over forward estimates, and enable new and innovative rules of engagement to be adopted to make and shape government decisions.

The Hon. John Darley also sought clarification in his speech about how appointments will be made to the independent assessment panel which will oversee expenditure from the Charitable and Social Welfare Fund under the Gaming Machines Act. I am advised that, as with current practice for the appointment of boards and committee members, potential members of the assessment panel will have the required level of skill and experience, will be identified by the department and provided to the minister for consideration and decision.

The current legislative requirements of the Gaming Machine Act 1992 are that the membership consists of five members, being persons who have between them appropriate expertise in financial management and charitable and social welfare organisation administration, at least two of whom are women and two men. I am advised that these same requirements will still apply; however, it is expected that the panel will have more than five members and will include a broader range of knowledge and representation, encompassing, for example, multicultural and Indigenous committees and services. I trust this information is of use to honourable members. If more detailed information is required now or during debate on individual clauses I am happy to take further questions.

Clause passed.

Clauses 2 to 13 passed.

Clause 14.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–1]—

Page 12, lines 6 to 7 [inserted definition of animal ethics committee, paragraph (b)]—Delete:

'for the purposes of this Act' and substitute 'under section 23A'

This change adds clarity, more accurately reflecting in the definition of an animal ethics committee that there are two types of committee, one established under section 23 and the other approved under section 23A.

Amendment carried; clause as amended passed.

New clauses 14A to 14D.

The Hon. I.K. HUNTER: I move:

Amendment No 2 [SusEnvCons–1]—

New clauses, page 12, after line 7—After clause 14 insert:

14A—Amendment of section 6—Establishment of Animal Welfare Advisory Committee

(1) Section 6(2)—delete 'Governor' and substitute 'Minister'

(2) Section 6(2)(b)—delete 'the South Australian Farmers Federation Incorporated' and substitute 'Primary Producers SA Incorporated'

(3) Section 6(2)(f)—delete 'Institute of Medical and Veterinary Science Act 1982' and substitute 'Health Care Act 2008'

(4) Section 6(3)(a)—delete 'the South Australian Farmers Federation Incorporated' and substitute 'Primary Producers SA Incorporated'

(5) Section 6(4)—delete 'Governor' and substitute 'Minister'

(6) Section 6(5)—delete 'Governor' and substitute 'Minister'

14B—Amendment of section 7—Term of office of members

Section 7—delete 'Governor' wherever occurring and substitute in each case 'Minister'

14C—Amendment of section 8—Allowances and expenses

Section 8—delete 'Governor' and substitute 'Minister'

14D—Amendment of section 11—Secretary

Section 11(2)—delete 'Public Sector Management Act 1995' and substitute 'Public Sector Act 2009'

The purpose of these amendments are threefold. Firstly, this forms part of the government's commitment to red tape reduction by providing a simpler membership appointment process to the animal welfare advisory committee. This is to be achieved by vesting the power of the appointment with the minister rather than the Governor. Secondly, the name of the nominating body for membership is updated from the South Australian Farmers Federation Incorporated to Primary Producers SA Incorporated (Primary Producers SA supports this change, not surprisingly).Thirdly, the act names are updated to reflect current titles.

The Hon. D.W. RIDGWAY: In relation to the removal of or deletion of the word 'Governor' and substituting 'Minister', the explanation that was provided by the minister's advisor said that the government introduced a number of amendments in this bill and the amendments were procedural in nature, being an effort to reduce red tape and ensure a simpler appointment process. Have we done this? I probably should have looked at the rest of the bill, but have we done this for any others? From how many other boards and committees have we deleted 'Governor', and now have 'Minister'? Will there still be a requirement for the minister to seek cabinet approval for the appointment of these or is it just at the whim of the minister?

The Hon. I.K. HUNTER: I do not have the number of changes of that type that have been made accurately, but I understand that it is in the order of dozens. The process would, of course, involve a cabinet process, but the change is to make sure that the minister then has the power to do the nominations, in accordance with the requirements that are in each act. Most of these acts, for example, would provide for the class of person that should be appointed and, in some cases, the nominating bodies, be it the LGA or Primary Producers or so on. That is not changing.

The Hon. D.W. RIDGWAY: I need to clarify that the process that will be undertaken for the appointment to these boards and committees will still require some form of cabinet process.

The Hon. I.K. HUNTER: It may well be that it is via process of a note rather than a submission. I cannot say offhand how it would occur in every single case but that would be my expectation.

The Hon. D.W. RIDGWAY: Should a minister not follow the act, it would be the minister's interpretation of whether the people who they appoint to these boards have the suitable skills to undertake the role. I am concerned that it will allow potential ministers in the future just to appoint whoever they feel like. I accept that we want a reduction in red tape and a much more streamlined process, which is why the Liberal Party, by and large, has supported this whole bill to reduce the number of boards and committees, but I am a little concerned.

Recently, minister Bignell, Minister for Tourism, indicated that he had appointed Mr Sean Keenaghan as chair of the South Australian Tourism Commission board. I know Mr Keenaghan. I cannot remember his exact title but his is the senior adviser on the China engagement strategy. He is a very competent and quite successful local government lawyer but from looking at his CV, etc., on LinkedIn, which is probably not the most comprehensive CV, there was no mention of any expertise or activity in the tourism sector. This is a little concerning.

When someone is appointed—and I have not looked at the act today—to a chair of a particular board, in this case the tourism board, I suspect that some skills are required, such as having a good working understanding of the tourism industry. Some 18,000 small business operators across the state make up our tourism industry. It is quite a unique one. That is one of the reasons why we were keen to move amendments to retain the South Australian Tourism Commission board; and we are delighted the government has seen perhaps the error of its way early in the piece and come to its senses and supported it because it is a little different from a lot of other boards and

committees. I am concerned about making sure we have the right skills and expertise in these positions.

The Hon. I.K. HUNTER: Let me assist the Hon. Mr Ridgway by putting his concerns to rest. Nothing changes in the requirements in terms of how boards are to be put together. Those provisions still remain in the act. The requirements that they have representations from stakeholders, for example, as I mentioned earlier, are still there. I cannot speak for every minister because I have only had a couple of portfolios in my experience, but from my broad experience so far, advice to ministers comes from a department. Advice to ministers about how appointments are made, who would fit the criteria in the acts are all based on advice from stakeholders initially who, for example, may be required to put up four nominations, half being women, for example—I have made that up but that is a standard requirement. The department gives you advice about the statutory interpretation of the act and whether those nominations meet the requirements of the act. None of that changes whatsoever.

New clauses inserted.

Clause 15.

The Hon. I.K. HUNTER: I move:

Amendment No 3 [SusEnvCons–1]—

Page 12, line 8—Delete 'Animal ethics committees' and substitute:

Establishment of animal ethics committees by licensee

This amendment changes the title of section 23 to more accurately reflect its purpose and to clearly differentiate it from the new section 23A.

Amendment carried; clause as amended passed.

New clause 15A.

The Hon. I.K. HUNTER: I move:

Amendment No 4 [SusEnvCons–1]—

New clause, page 12, after line 15—After clause 15 insert:

15A—Insertion of section 23A

After section 23 insert:

23A—Approval of animal ethics committee by Minister

(1) The Minister may approve a body as an animal ethics committee for the purposes of this Act.

(2) The Minister may only approve a body under subsection (1) if satisfied that—

(a) the body is constituted in accordance with the membership requirements for an animal ethics committee (within the meaning of the Code) as laid down in the Code; and

(b) the body has appropriate procedures and standards in place to enable the body to comply with the Code in performing functions for the purposes of this Act; and

(c) the body is otherwise suitable to act as an animal ethics committee for the purposes of this Act.

(3) An approval under subsection (1) may be conditional or unconditional.

(4) The Minister may vary or revoke an approval under subsection (1).

This amendment continues a series of amendments to reform animal ethics committees by providing the minister with an option of approving the use of an existing animal ethics committee. This is of particular value to persons who are located in another jurisdiction but who are licensed to conduct research and teaching using animals in South Australia. This new provision, section 23A, describes the considerations the minister must give to approving an existing committee for this purpose. It also allows a minister to approve conditionally or unconditionally and to revoke or vary an approval.

New clause inserted.

Clause 16.

The Hon. I.K. HUNTER: I move:

Amendment No 5 [SusEnvCons–1]—

Page 12, after line 24—After line 24 insert:

(1a) The quorum for a body approved as an animal ethics committee under section 23A is to be determined in accordance with the Code unless the Minister specifies otherwise.

This amendment provides for more flexible quorum arrangements for existing animal ethics committees approved to be committees for the purposes of the act. The need for this separate provision can be best illustrated using the following example: although most animal ethics committees in Australia do include a person with responsibility for the daily care of the animals used, this is not always so. Take the example of a stock feed company which may use privately-owned livestock to determine whether modifications in food formulas improves growth rate.

The company does not own any animals itself and its committee does not therefore include a person with responsibility for the daily care of animals. This amendment would allow the minister to determine whether or not the daily care member is required to establish a quorum. The code strongly recommends the inclusion of a daily care person on an animal ethics committee but does not mandate it, although most do have one, I am advised.

Amendment carried; clause as amended passed.

Clauses 17 to 69 passed.

Clause 70.

The Hon. M.C. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Part 14, page 22 line 20 to page 24 line 37—Part 14 will be opposed

The amendment I have moved is to oppose Part 14 and all of the clauses within that part. Effectively, the purpose of this amendment is to retain the Fisheries Council. In my second reading contribution I put a number of points on the record and effectively made my argument as to why the Fisheries Council deserves to be retained. I have since ascertained, from discussion with honourable members, that this amendment is unlikely to have support. So, whilst I will persist in moving the amendment, I do not intend to divide on it.

The Hon. I.K. HUNTER: I rise to indicate that the government will oppose this amendment, although I admire the Hon. Mr Parnell's persistence. This amendment would retain the Fisheries Council of South Australia. With the abolition of the Fisheries Council there will be more efficient and effective grassroots and regional engagement with industry and other stakeholders. The board will be replaced with direct engagement with the sector, involving direct consultation with each of the industry sectors and convening issue-specific committees as required.

There will be quarterly meetings between the Department of Primary Industries and Regions and each fishing sector for specific issues. Advisory committees with a defined lifespan specific to a task may be temporarily established and then abolished when the task is completed. The act contains mandatory provisions for public consultation and the development of management plans. All consultation and reporting requirements within the act have been maintained.

These requirements include the requirement to publish newspaper notices relating to the preparation of fisheries management plans and to publish a notice in the government *Gazette* of the adoption of such a plan. This will not change. In addition, the practice of the Department of Primary Industries and Regions has always been to consult directly with industry peak bodies and industry members before making significant fisheries management decisions. The abolition of the Fisheries Council will not change this practice.

The Hon. D.W. RIDGWAY: I indicate that the opposition also will not be supporting the Hon. Mark Parnell's amendment. I might make a broader comment now, too. When the opposition

looked at the bill itself and at all the boards and committees that were to be abolished or have their status changed, I guess we could have taken the approach to go through and amend every possible one. However, we took the view that we were supportive of trying to streamline government to try to cut red tape and make things more efficient.

There are three or four bodies, I think, where we moved some amendments and the government supported them: the Tourism Commission, the Pastoral Board, the Animal Ethics Committee and the Health Performance Council. They were the four we thought were important to retain in their current form. I know members opposite think they will win another election, and who knows quite what will happen, but I expect that, if we are fortunate enough to win the election in 2018, we will consider any of the issues that have been raised by the Hon. Mark Parnell—and I know the Hon. John Darley has an amendment shortly. I think there will be an opportunity for us to see whether the actions of abolishing these boards and committees, or changing their status, has improved the performance of the sector or the interaction between industry and government.

It will be a good time to review that after the next election. If we think that something was overlooked, or something has not worked as well as the government thought or we had thought at this juncture then, of course, we will naturally be prepared to look at it. But at this point in time, we are delighted that the government has seen fit to support our amendments to retain the four that we identified, and each industry sector and every group will always want to mount a strong argument as to why they do not want any change. We were happy to allow that change and, as I said, we will continue to monitor and be happy to look at it; but any changes may be after the next election.

The Hon. J.A. DARLEY: I indicate that I will be supporting the Hon. Mark Parnell's amendment.

Amendment negatived; clause passed.

Clauses 71 to 79 passed.

Clause 80.

The Hon. J.A. DARLEY: I move:

Amendment No 1 [Darley–1]—

Page 25, lines 1 to 12—Part 15 will be opposed

As I mentioned during my second reading contribution, my concern is that, if it is abolished, decisions regarding payments from the fund will be left to the minister responsible for the administration of the Family and Community Services Act. Whilst the government has sought to streamline its funding administration and assessment processes through an independent assessment panel, concerns have been raised with me about this process. In that respect, I also express concern about what experience such members will be required to have. I am a huge advocate for reducing red tape, but I do not want to commit to a measure that will jeopardise much-needed funding for charitable and social welfare organisations. I urge all honourable members to support this amendment.

The Hon. I.K. HUNTER: The government will oppose this amendment. This amendment opposes the abolition of the Charitable and Social Welfare Fund—also known as Community Benefit SA. In the scale of grand funding programs in government, Community Benefit SA is a relatively small grant funding program of up to $4 million per year. The Community Benefit SA board has responsibility to allocate payment of funds for financial assistance to charitable or social welfare organisations.

The Department for Communities and Social Inclusion currently administers the grant funding process, including the call for applications, receiving and initial assessment of all applications, and consultation with external agencies when needed. Currently, the Department for Communities and Social Inclusion provides the board with a full report of applications, a summary, and recommended funding allocations for their consideration.

The Community Benefit SA board is an unnecessary level of red tape for a very small funding program. The abolition will support the government's commitment to reduce red tape for the community services sector. As part of reducing the red tape initiative, the assessment processes for a range of community service grants will be aligned. This process will include establishing an

independent assessment panel which will provide independent advice and oversight and make funding recommendations on applications under a whole range of Department for Communities and Social Inclusion grant programs.

The assessment panel will have a broader role than the Community Benefit SA board, as it will oversee and review a number of grant funding programs which support community programs. This holistic view will allow government to be more flexible when a community organisation applies for grant funding. Assessment panel members will have a high level of expertise in the community sector on social issues, financial management and community sector funding.

Overall, this will achieve better allocation processes and an easier, more consistent process for the charitable and community sector. In addition, the government is currently trialling the Fund My Community approach participatory budgeting through $1 million of Community Benefit SA Funding, which allows for a higher level of community engagement and involvement in funding decisions. It is proposed that the assessor panel will oversee and review the new approach.

Allocating and administering grant funding is part of the core business of the Department for Communities and Social Inclusion, which provides over $200 million in grant funding every year. This includes grants in the areas of Office for Youth, Office for Volunteers, Multicultural SA, disability grants, housing, and the homeless.

Currently, $3.8 million of the $4 million funding allocated to Community Benefit SA per year is dispersed in grants to community and charitable organisations. $200,000 is allocated for administration costs for the board, including board fees and promotional and executive support, etc. Other costs incurred by the department are met from existing resources. From 1 July 2014 to 30 December 2014 approximately $10,000 was spent just on sitting fees for this board, I am advised. This will be no additional cost under the proposal to abolish Community Benefit SA. There will be some savings in the level of executive support required as the processes for this grant funding program are brought into line with other grant programs.

The Hon. D.W. RIDGWAY: The opposition will not support the Hon. John Darley's amendment. As I outlined earlier, a strong case can be made for a whole range of boards and committees, but we have chosen to support the government's reduction of red tape and streamlining these services.

The Hon. M.C. PARNELL: The Greens are supporting this amendment. It is our view, and I think a view shared by the honourable member, that the harm done by gambling in this state, and by poker machines in particular, is mitigated only to a very minor extent through the reallocation of some funds to charitable and social purposes. We think that the best approach is to make sure that, whilst those funds are modest (I do not know whether the minister would agree, but he said they were modest funds—I think they are too modest), we want to make sure they are targeted in the best possible way, and we believe that maintaining the status quo gives the best way of chance of doing that, so we will support the amendment.

Amendment negatived; clause passed.

Clauses 81 to 126 passed.

Clause 127.

The Hon. M.C. PARNELL: Clause 127 is the clause that creates the parks and wilderness council. I will have a bit more to say about that when we get to my amendment in relation to the Wildness Advisory Committee, but I note that in the terms of reference, as it were, for this new parks and wilderness council under the proposed new section 19 of the act, it says that 'the council is subject to the direction and control of the minister'. That is a standard form of words.

Whilst this body will be advising the minister, the minister is also able to give instructions to the council. My question of the minister relates to how the parks and wilderness council might engage with the community. If I use as a parallel example the Environment Protection Authority under the Environment Protection Act, one of its requirements is to actually hold a round table of stakeholders once every year to try to ensure that stakeholders know what they are doing and understand the thought process behind various policy changes, and it strikes me that that is a good model.

My question of the minister is: whilst there is no such requirement for the parks and wilderness council to engage with the community in any particular manner, has the minister given thought to using his powers to direct and control this council to perhaps at first suggesting to them, rather than directing and controlling them, to perhaps form an engagement policy with the community that might include an annual round table of stakeholders?

The Hon. I.K. HUNTER: I thank the honourable member for his most interesting question. In fact, he is probably tapping into my thought processes right now.

The Hon. G.E. Gago: Frightening!

The Hon. I.K. HUNTER: Could be, but we are simpatico on many issues, the Hon. Mr Parnell and I. Perhaps he has some latent memory of an answer I gave previously today in question time about the International Bird Sanctuary and how the government is partnering with the community and trying to make sure ensure that communities are engaged very early on in the work we do as a government agency.

So, whilst, yes, there is no direction in the legislation in terms of how the new parks and wilderness council might engage with the community, it is not envisaged in any way, shape or form that I would preclude them from doing so—just the reverse. In fact, when we sit down and talk at one of our first meetings, that will be part of the process that I want the council to engage with: how do we find out what the community wants from us as an agency?

Indeed, the honourable member may also remember some of the engagement that the agencies are involved in right now in terms of how we are spending approximately $10 million worth of funding to improve facilities in our peri-metropolitan national parks. We have had community forums, for example, in the south and in the north, having stakeholders in, and a couple of local MPs have sneaked in a couple of times (I think that the member for Morialta was at one of them) and actually asking them: what do you want this money spent on? So, that is the new paradigm we will be working with in this engagement process for council.

Clause passed.

Clauses 128 to 136 passed.

New clause 136A.

The Hon. I.K. HUNTER: I move:

Amendment No 6 [SusEnvCons–1]—

New clause, page 39, after line 6—After clause 136 insert:

136A—Amendment of section 53A—Review of decision of Minister under section 53

Section 53A(1)—delete 'South Australian National Parks and Wildlife'

This amendment is consequential. It removes a reference to the South Australian National Parks and Wildlife Council.

New clause inserted.

Clauses 137 to 173 passed.

New Clauses 173A to 173D.

The Hon. I.K. HUNTER: I move:

Amendment No 7 [SusEnvCons–1]—

New Part, page 46, after line 16—After Part 27 insert:

Part 27A—Amendment of Pastoral Land Management and Conservation Act 1989

173A—Amendment of section 12—Establishment of Pastoral Board

(1) Section 12(2)—delete 'Governor' and substitute 'Minister'

(2) Section 12(2)(a)—delete ', will be appointed on the nomination of the Minister'

(3) Section 12(2)(d)—delete 'the South Australian Farmers Federation' and substitute 'Livestock SA Incorporated'

(4) Sections 12(4) and (5)—delete 'Governor' wherever occurring and substitute in each case 'Minister'

173B—Amendment of section 13—Conditions of office

Sections 13(2) and (3)—delete 'Governor' wherever occurring and substitute in each case 'Minister'

173C—Amendment of section 14—Allowances and expenses

Section 14—delete 'Governor' and substitute 'Minister'

173D—Amendment of section 25A—Establishment of pool of persons for the purposes of section 25B

Section 25A(2)—delete 'the South Australian Farmers Federation' and substitute 'Livestock SA Incorporated'

The purpose of these amendments is twofold. The first continues the government's commitment to red tape reduction through simpler membership appointment processes for the Pastoral Board, with the minister appointing the members rather than the Governor. The second is to update the name of the nominating body for membership of the South Australian Farmers Federation Incorporated to Livestock SA Incorporated. Primary Producers SA and Livestock SA both support this change, I am advised.

New clauses inserted.

Clauses 174 to 258 passed.

Clause 259.

The Hon. M.C. PARNELL: I move:

Amendment No. 2 [Parnell—1]—

Part 41, page 62, line 29 to page 66 line 9—Part 41 will be opposed

This amendment seeks to retain the Wilderness Advisory Committee. I mention, for the benefit of honourable members, that the Presiding Member of the Wilderness Advisory Committee, Mr Eric Bills, and the campaign coordinator of the Wilderness Society, Mr Peter Owen, are in the gallery.

I would like to start by thanking the minister for the answers he gave on Tuesday to the questions I posed in relation to how we can make sure that the particular issue of wilderness protection does not get lost within a larger new Parks and Wilderness Council. The minister, on Tuesday, basically said that, if there was a need for additional expertise to be brought in to do a wilderness assessment, for example, it would be certainly possible for a subcommittee or a short or time-limited working group to be formed to achieve those objectives.

I would like the minister to perhaps explain a little bit further, if he can—and it follows from what he was saying earlier about the government's attitude to public engagement. He said on Tuesday that, if the Parks and Wilderness Council itself decides that it needs more help, he will respond to that request, but it may well be that the call for this extra assistance for wilderness assessment does not come from within the organisation, it might come from without. Those of us who have been around the block a few times know that human nature is such that it can be often very difficult to admit that you are not managing something or that you do not have the time or the resources to put into it.

My question to the minister is: will he be open to approaches from outside bodies, in particular, groups such as the Wilderness Society, to review how the new Parks and Wilderness Council is going about its work and to determine whether the minister might need to use his powers of direction to tweak the system that has been created by this bill?

The Hon. I.K. HUNTER: Sure. The government obviously opposes this amendment. The amendment seeks to retain the Wilderness Advisory Committee as a stand-alone committee rather than seeing its integration into the newly formed Parks and Wilderness Council. The merger will

facilitate a whole-of-landscape approach to conservation. In most cases, wilderness areas are joined or are surrounded by national parks and conservation parks. The new Parks and Wilderness Council, in providing advice on the establishment and management of parks and wilderness areas, will enable wilderness areas to be placed in their context as core protected areas and reinforce their role in conserving biodiversity in the face of climate change.

Treating them in isolation will weaken this primary role of wilderness into the future. There will be no impact on the creation of new wilderness areas or the management of existing wilderness areas from the merger, and the Parks and Wilderness Council will have a responsibility to undertake wilderness assessments. I expect the new council will provide advice early in its term of assessment area. In terms of whether I will be open to discussing with community leaders or community members ways that the new council will work, if there are perceived gaps in that work program or work structure of course I will be. I think the honourable member, if he consults with stakeholders, will probably get the impression that I already do that, and I will continue to discuss with them any key issues.

The whole concept of having stand-alone committees addressing different parts of environmental areas I think is out of date. What we need to have is a council with a helicopter view, a landscape approach to conservation where it can bring in all of the threads that need to be considered, not just one narrow aspect of it. Certainly we are not going to be throwing the baby out with the bathwater; that would be very silly. Wilderness will be a central component of the work program for this new body, but I will certainly be open to discussing ways that those gaps can be filled if there is a perception that they are not being addressed.

The Hon. J.M.A. LENSINK: I rise in relation to similar concerns addressed by the Hon. Mr Parnell, and I thank the Wilderness Society for providing a very detailed paper on their concerns with the merging of a number of these committees. Is it the government's intention to establish some form of wilderness subcommittee as a standing committee and, if not, to what extent is such a committee likely to be established into the future? What triggers will be likely in order to see the need to establish such a committee if it is required?

The Hon. I.K. HUNTER: Gosh, that is a very hypothetical question. No, it is not my intention at this point in time to establish a subcommittee. It is entirely possible that at some time in the future I might come to the view that, in fact, a subcommittee is essential for the proper processes of this committee. However, I want to give this new committee a go. I want to get this new committee, give it a new charge and try to bring together disparate players in the field to see if we cannot actually get a better outcome from this one committee than we have had from a range of separate committees. That is what I want to try first. However, as I said, if it is apparent or there is a perception that gaps are existing in its work program then that is when I will be open to consider alternative processes.

The Hon. J.M.A. LENSINK: I will place on the record that the Liberal Party will not be supporting this particular amendment, but we will be watching the activity of the new merged committees with great interest. Just to repeat the comments by the leader in this place, in relation to boards and committees in general, we will reserve the right in the lead-up to the next election to reconsider whether some of them should be reconstituted or whether new boards and committees may be required, based on the performance of the ones that will exist into the future.

The Hon. M.C. PARNELL: I thank the minister for his answer to my question and the Hon. Michelle Lensink's question in the same vein. Whilst I am under some small amount of pressure from my office trainee—it is her second-last day at work today and she has not seen a division in this chamber—I will incur her wrath and I will not be calling a division on this occasion, as I do see where the numbers lie. Whilst I have certainly moved the amendment and I maintain it is the right course of action, I will not be dividing.

Amendment negatived; clause passed.

Remaining clauses (260 to 272) and title passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:00): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUPPLY BILL 2015

Second Reading

Adjourned debate on second reading.

(Continued from 2 June 2015.)

The Hon. T.J. STEPHENS (16:00): I rise today to speak to the Supply Bill 2015. As is the convention, the opposition will be supporting this bill; however, I think it is important for us on this side to ensure that all appropriations are being spent wisely and in accordance with the measures agreed to by the parliament. This appropriation is for $3.29 billion from the Consolidated Account, a figure which seems high enough in itself, and at this point every South Australian capable of doing so should be thinking: what is this being spent on? Are we getting good bang for our buck?

Government expenditure, as a percentage of GSP, is currently 17.2 per cent. With that figure at such a disgracefully high level, how can the South Australian taxpayer be happy with this situation? How can they have confidence in this government? They are clearly being conned by the Premier, by the Treasurer, and ultimately by this Labor government.

The rise in government expenditure has not coincided with a dramatic rise in the size of the public sector. Natural rises, along with population growth, CPI and the like, are to be expected, but ultimately the growth in net public debt to $13 billion is a result of budget blowouts as well as infrastructure spending and cannot be explained simply by these natural rises in cost. To suggest, as the Leader of the Government often does in this place, that the debt is due to the global financial crisis shows a gross misunderstanding of the state's finances and the economy.

Questions on the nature of government spending go to the heart of what South Australians want from their government, and I implore all South Australians to pay more attention to what they need, rather than what they want. It is something of a philosophical difference between the opposition and this government that we would prefer people to keep the money they have earnt, rather than take it away from them, arrogantly suppose what they actually want, and return it to them in the form of subpar and inefficient services.

Many services both sides consider essential include health, education, law enforcement, and emergency services, just to name a new, but the government has an obligation to deliver these services in the most efficient and best way possible, as equally as possible, to all South Australians. This may mean more spending in regional or lower socioeconomic areas of the state, and that should be expected and taken as a given.

If efficiencies are sought and adhered to then the increase to the public sector and therefore government operating expenditure would be modest at best. These increases cannot be justified by capital expenditure on infrastructure projects over the past 13 years, some necessary, others not so, and some having white elephant status. The desalination plant comes to mind. This means that, if in a rare case unbudgeted expenditure is required, it can easily be absorbed.

However, we know that unbudgeted expenditure has not been rare in the life of this government. In fact, the figure is now up to $3.9 billion in a total net public debt of $10.84 billion. If you take this figure and the $1.89 billion cost of the desalination plant, which sits there collecting dust and which also has an operating cost of $130 million per year, total debt is halved, not to mention the future debt saved on interest. The interest paid on this debt alone is over $700,000 per day, totalling $260 million per year. The increasing interest and the borrowing to service it is why debt is predicted to rise to $13.2 billion by 2016-17.

Let's not forget that these figures are calculated with historically low interest rates. Heaven help us when they inevitably rise. Now, the Treasurer assures us that this is a peak figure; however, given many of the other figures we have been promised over the life of this government, how can this be trusted? Given that Labor is so quick to spend for its own political gain, how can the South Australian taxpayer be assured there will not be another spike in spending, leading to even more debt and deficit?

My contribution at this point has largely been on the government's budgetary position, something that may seem relevant only to politicians but not to the average punter. This is not true. Every time the government blows its budget or spends on infrastructure it has to find the money from somewhere, either directly by raising the capital itself or by borrowing; it is no different from the private citizen, except that the raising of capital by government is not by earning and saving but by taxing its citizenry.

State government revenue is raised through payroll tax, land tax, stamp duty and various other fines and levies on the individual. In addition to this, the government is at the mercy of the commonwealth and its GST handout. What this means is that the government of the day is reliant heavily on the strength of the economy as to whether it has the revenue to cover the everyday operating costs, the bills, and the large capital infrastructure projects. Therefore, the government has an obligation to live within its means; it can promise the world in services and shiny new infrastructure, but ultimately it will come to the taxpayer for the money—which is exactly what we have seen.

We hear platitudes from the Premier and the Treasurer about payroll tax relief but we know that land taxes have increased and we see stamp duty relief only in very strict circumstances; however, we have seen exorbitant and extreme increases in the emergency services levy and in water charges, and the debt is still increasing. These increases will only get worse because the government refuses to make savings anywhere else.

We have seen the Treasurer sell off the Motor Accident Commission, which is predicted by the government to produce rivers of gold, but this remains to be seen. Unlike what the previous Liberal government did following the State Bank, none of this will lead to a dramatic pay-down of debt, which is what is required. The paying down of debt frees up the funds being spent on interest, and around it goes. The lower the levels of debt, the more can be spent on operating costs, which will lead to surpluses which can then be used for infrastructure upgrades or more competitive tax rates. This would spur on the economy, driving government revenue up through greater economic participation from business and consumers.

A stronger economy means more people in employment and less people reliant on government services, further reducing the financial burden on government. So it can be seen that the nitty-gritty of the budget and government expenditure actually does have a ripple effect which affects everyone within the state, and this should be realised by the Treasurer and the government. The effect of a strong economy on government revenue is something that clearly is not realised by this government, or that the government serves the people and not the other way around. The big government project from the Premier has led to a clouding of what is important.

It is plain to see that South Australia is floundering economically under this government. We have the highest unemployment rate in the nation, the lowest rate of start-ups, the highest tax rates, and burdensome regulation and red tape. It is difficult to start a business here even if one would want to, and clearly people do not.

On many of these economic indicators we have now fallen behind Tasmania. This has happened only in the past 18 months, which, curiously, aligns with the term of the newly elected Hodgman Liberal government. I will let honourable members draw their own conclusions, but I hope the people of South Australia are wary of that coincidence. With those few words I commend the bill to the council.

The Hon. J.S. LEE (16:08): I rise today to also support the second reading of the Supply Bill 2015, and would like to make a few remarks regarding that. Essentially, the government is asking permission of the parliament to spend $3.291 billion to cover the government's activities until the budget is brought down. Like every other year, my colleagues and I support the passage of this bill as it is needed to cover the wages and expenses within the government. Of course, we are hoping that the government will spend our money wisely.

Unfortunately, after 13 long years of Labor, the Weatherill government does not have a strong track record in the financial management of our state. South Australia's key performance indicators are shocking. Labor's economic mismanagement has resulted in South Australia having a

net debt of $10.8 billion in 2014-15, as the Hon. Terry Stephens has already pointed out, and we are heading for record debt of $13 billion in 2016-17

South Australia remains the highest taxed state in the nation, and we are becoming less and less competitive. The unemployment rate is the highest in the nation, and I am not sure where the 100,000 new jobs by 2016 that the Labor government promised will come from. Questions have been asked over and over again in this chamber and the other place, but the government is unable to provide a truthful answer—because perhaps it simply does not know.

South Australians and businesses are struggling to pay their bills and make ends meet due to the high cost of living within South Australia. In 2012-13, 10,100 South Australian dwellings had their power cut off because they could not pay their bills. This is a jump of 50 per cent from 10 years ago. Other reports have shown that the number of customers who could not pay their water bills has also increased to about 6,000 customers per year.

The Labor government is putting South Australian families and businesses under more financial pressure by introducing yet another emergency services levy increase. There is absolutely no justification for another ESL hike, given that the Weatherill Labor government is set to receive an additional $857 million in unbudgeted GST revenue from the federal government. The Weatherill government's massive increases in the emergency services levy tax does not just hit house owners, it is levied on sporting clubs, community organisations, churches and independent schools. Let's face it, the ESL is a tax on families, businesses and the whole community.

Everywhere I go, whether speaking to community members in the multicultural sector or small business operators, they are shaking their heads in disbelief and disapproval of the Labor government's disgraceful and irresponsible actions. Increasing the ESL again shows just how out of touch Premier Weatherill is with South Australians, given that South Australians are struggling to make ends meet. It is completely unacceptable!

Small businesses are the engine room of our economy. They are run by people with families and each of them has to manage their business finance as well as a household budget. Any business that wants to grow their business or employ more people will be hit harder by the ESL increase. Anyone who has a building business or is contributing to the state's economy is affected the hardest by the ESL increase, particularly landowners and farmers because they are asset rich and perhaps financially or cash poor.

Along with all these additional taxes imposed on the average South Australian household, what is also concerning is the lack of confidence within businesses and consumers. As shadow parliamentary secretary for small business I have consulted with various business owners far and wide, and they have all raised with me how tough it is to do business in South Australia and how difficult it is for their business to survive under harsh economic conditions. The March 2015 Sensis' survey shows a sharp 13 point fall in business confidence in South Australia, meaning that South Australia continues to have the lowest business confidence of any state or territory in the nation.

Small businesses are struggling under high taxation and are in urgent need of relief. My colleague in the other place the member for Stuart has highlighted that 60 per cent of government contracts are given to interstate companies. How can that be? Why would over half of South Australia's governmental contracts be given to interstate companies? Do we not have capacity in this state to handle government contracts or does this state Labor government ignore the fact that we have capacities in this state to do the job well? Does the government know what impact it has on local industry when contracts are allocated to interstate firms? With a government that does not even have confidence in local businesses, it is no wonder business confidence in South Australia is continuing to decline and continuing to go downhill.

Small businesses are the economic engine room and job creator for the state. Therefore, if we do not support small businesses and allow them to expand and grow within a healthy economic environment, we will start to see damaging effects in employment, consumer confidence and business confidence and it will affect the economic growth of this state. Business confidence in South Australia now sits at just +6 whilst the national rate is +27, and the rate in New South Wales has soared to +38.

We renew our call for state Treasurer Koutsantonis to follow the commonwealth government's lead and back small business to grow our economy in next month's state budget. The Weatherill government needs to deliver genuine taxation relief to South Australian business, because it is currently struggling under the nation's highest tax regime.

The South Australian unemployment rate is 7.5 per cent, whilst the national rate sits at 6.2 per cent. Tax relief, a reduction in red tape and a government committed to generating economic growth is needed to improve confidence for small business in South Australia. We call on the Weatherill government to stop playing games with people's lives. We call on Treasurer Koutsantonis to do the right thing by reversing tax increases such as the emergency services levy.

Like many, I welcome and congratulate the commonwealth government on their $5.5 billion jobs and small business package announced in their 2015 budget. I, and many of my colleagues, were at the Prescott's budget lunch with federal Treasurer, Hon. Joe Hockey, as the guest speaker. Some of us also attended the SACOME and Property Council Australia's business luncheon where the Prime Minister, Hon. Tony Abbott, was the guest speaker. The business community is overwhelmingly supportive of the small business and jobs creation packages announced by the federal government. They see this as a great way to kickstart our state's economy.

The federal Liberal Coalition government has listened attentively to the business sector, unlike the Weatherill Labor government, and they have acted responsively by providing much-needed tax relief, a reduction in red tape and numerous other specific initiatives to get our economy back on track. Growth in small business, including the expansion of existing businesses and new start-ups, will open up opportunities for employment and serve to address the jobs crisis in South Australia.

There is no doubt that a robust small business sector can play a significant role in filling the gap when Holden ceases manufacturing in 2017. It is vital that government and industry work together to provide encouragement and to get the conditions right for small business to invest more, to grow our economy and to create new jobs. I join the leader Steven Marshall and state Liberals who call on the Premier and Treasurer to learn from the commonwealth government and start having a better focus on small business in next month's state budget.

As we know, many small businesses in South Australia are exporters. It is great that South Australian products are in great demand overseas. I want to turn my attention to international trade, which is also in my portfolio. In the week that Premier Weatherill has returned from China, the latest ABS data has revealed that the value of South Australia's merchandise exports has hit a crisis point. South Australia's value of merchandise exports were valued at $878 million in April 2015, which is 16.9 per cent lower than the corresponding period 12 months ago. The value of merchandise exports has plummeted 7.1 per cent to $11.43 billion over the last 12 months in South Australia. These statistics show that the South Australian export industry has reached a crisis point under the Weatherill Labor government.

This is not surprising, of course, because since the 2011-12 budget Labor has slashed funding for the main state government program aimed at stimulating exports from $30 million to $19 million. The Weatherill Labor government has continuously reduced funding to assist exporters and has missed prime opportunities to open new export markets. South Australia currently does not have individual trade strategies for a number of countries which are key export partners. This Labor government has closed and reduced funding to programs that assist our state to become more competitive on an international scale and its time investment is improved in an area that is critical to the state's economy.

I would also like to turn my attention to the high unemployment rate and the disastrous WorkReady program. I think many questions have already been asked in this chamber throughout the week, but this WorkReady program denies young, unemployed South Australians critical training to enhance their job prospects and denies current employees training to improve their work skills.

These disastrous decisions to cut critical job training programs will further impede South Australia's struggling economy and reduce investment and employment in this state. We call on the Weatherill government to look at some of the decisions made and start looking at the priorities they have. I hope for all of our constituents that there will be some relief in sight for small businesses,

employment and average households in the next budget. With these words, I commend the Supply Bill to the chamber.

Debate adjourned on motion of Hon. J.M. Gazzola.

LOCAL GOVERNMENT (BUILDING UPGRADE AGREEMENTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 7 May 2015.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:21): I rise to conclude the debate on this bill and will be seeking the support of the council to have the committee stage adjourned to another day. I would like to thank honourable members for their time and consideration on this bill.

I will briefly remind honourable members that the bill before the chamber today enables the introduction of a voluntary building upgrade finance mechanism in South Australia which is designed to help owners of existing commercial buildings access finance to fund the environmental upgrades of their properties. It is also designed to help to address the split incentive between landlords and tenants in lease buildings, where the building owner incurs the costs of the upgrade but the tenant receives the benefits through reduced utility bills and improved accommodation.

Equivalent schemes have already been established in the City of Melbourne in Victoria and in New South Wales. In developing this bill, we have sought to harmonise with these as much as possible. I will briefly recap the key parameters of the building upgrade finance. Under the mechanism, a local council can voluntarily enter into a building upgrade agreement with a building owner and a financier.

The building owner agrees to undertake upgrade works in respect of their building. The financier agrees to advance money to the building owner for the purpose of funding the upgrade works, and the council agrees to levy a building upgrade charge against the land on which the building is situated. This charge is paid by the building owner to the council. The council then passes the received repayment to the financier to recoup the loan.

As a result of the arrangement, the loan is effectively tied to the property rather than the property owner, with loan repayments collected via the building upgrade charge. In the event of the transfer of ownership of the property, the charge can remain with the property if the purchaser agrees. The strength of the mechanism lies within this statutory charge. The charge effectively secures the loan, being ranked senior to mortgages, taxes and other charges in the event of default.

This is a key feature of the mechanism which provides heightened security to the financier, allowing them to offer finance to the building owner at more attractive terms, including longer terms at a fixed interest rate. This is the key to what makes the mechanism work. The bill is clear that local councils are not exposed to any financial liability relating to the payment of the building upgrade charge if repayments from a building owner have not been received or recovered by the council.

This is a long-awaited piece of legislation. The South Australian government commenced its investigations on this legislation in 2012, and the bill we consider is a result of a collaborative partnership between state and local government based on the business case investigations, public consultations and input from stakeholders.

The bill has the in principle support of the Local Government Association of South Australia and the Adelaide City Council. The South Australian division of the Property Council of Australia is supportive of the introduction of the mechanism, and Business SA gave its in principle support via its 2014 Charter for a More Prosperous South Australia.

However, as an honourable member mentioned in her speech, Business SA takes a view that the consent approach should be the only pathway to the recovery of a tenant contribution to a building upgrade charge. I need to remind honourable members that we are considering enabling legislation to establish a voluntary mechanism designed to unlock retrofitting activity in our existing

commercial buildings, to realise the associated environmental and economic benefits, including savings for businesses, be they the owner-occupiers, landlords or tenants.

As I have mentioned, the mechanism is specifically targeted at overcoming two entrenched market failures that prevent building owners from undertaking upgrades that give rise to these savings and to environmental performance. These are the access to finance and split incentive barriers I mentioned earlier.

I will address the issue of access to finance a little further. As I mentioned earlier, the super secured status of the building upgrade charge is what makes the mechanism work. Without this level of security there will not be a building upgrade finance mechanism; it really is quite that simple. With regard to the second issue, by entitling a building owner to recover a tenant contribution to a building upgrade charge, the mechanism helps to address the split incentive issue. It also allows for the upgrade to occur mid-lease, therefore, bringing forward investments that could only otherwise occur at lease renewal.

If we remove provisions that enable the full potential to tackle the split incentive barrier in leased buildings, the ability to facilitate upgrades will be compromised. To ensure that costs and benefits arising from the upgrade are shared in a fair and transparent way without adding administrative complexity, building on the interstate experience the bill specifies two pathways under which the tenant's contribution can be recovered by a building owner: one, a consent approach where the tenant consents to the payment of a contribution towards the building upgrade charge, or, two, a 'no worse off' approach, where the tenant's consent is not required, provided the amount recoverable does not exceed a reasonable estimate of the cost savings to the tenant resulting from the upgrade.

Under this pathway the cost savings must be estimated in accordance with an approved methodology, which will be developed by the state government and published in the *Government Gazette*. This is the approach that is operating in New South Wales. We recognise the importance of tenant protection provisions. The feedback received during the consultation process, including that from Business SA, has informed the overall design of the legislative framework for introduction of building upgrade finance.

We should be mindful that we are considering legislation designed to apply to different types of commercial buildings, individual landlord/tenant relationships, tenant profiles and types of tenants. Some tenants are small businesses and some are large corporations. With that in mind, I reiterate that the bill outlines two pathways for fairly sharing the benefits and costs of a building upgrade.

The first allows an administratively easy approach, where the building owner and the tenant agree on cost-sharing arrangements through commercial negotiations, without prescribing how this should occur. That is probably going to be easiest for smaller buildings that have very few tenants. The second allows a building owner to recover a contribution via notification but is highly prescriptive in terms of how this occurs, where the tenant is afforded legislative protection to ensure the tenant is not financially disadvantaged and is afforded a means of redress.

Through consultations we received views on and support for both of these options. As an honourable member acknowledges, the Property Council is comfortable with the provisions as they are. Further, the Shopping Centre Council of Australia, in both its 2012 and 2014 submissions, indicated the importance of the 'no worse off' approach. Also, in their 2012 submissions to the consultation paper, both Low Carbon Australia Limited (which is now part of the Clean Energy Finance Corporation, I am advised) and the National Australia Bank expressed views indicating that the 'no worse off' approach is essential. I quote from the National Australia Bank's 2012 submission that:

> Another feature of the New South Wales scheme worthy of mention is the ability of the EUF obligations—

it is called EUF (Environmental Upgrade Financing) in New South Wales—

> to be passed through to tenants of the building without the explicit consent required of each tenant under certain and strictly monitored circumstances. The tenant is afforded legislative protection to ensure that he or she is not adversely impacted. This approach allows for the sharing of the capital burden and also the benefits associated with the upgrade in an equitable manner, without the requirement for the building owner to chase multiple tenant consent forms attached to a single building upgrade. This increases the attractiveness of the EUF as a mechanism for sustainable investment.

Can honourable members just imagine a large shopping centre owner wanting to invest in, for example, a large solar photovoltaic system and having to secure over 100, 200 or 300 individual consents? It is just not likely to ever happen. Also, I can continue by quoting NAB:

> …by sharing the capital cost between the mutual beneficiaries (building owners and tenants) of the retrofit, capital investment can be realised earlier. Bringing forward capital investment has noticeable positive impacts in that it brings forward environmental targets and goals for both building owners and tenants whilst continually stimulating the economy.

I would like to reiterate, therefore, the point that the bill is drafted to balance views of various stakeholders; provide for pathways to suit individual circumstances, landlord-tenant relationships, tenancy profiles and types of tenants; and ensure that the split incentive barrier can be addressed without causing a financial detriment to tenants whilst not affecting the mechanism's potential for uptake.

I note that some honourable members have expressed concern about the methodology for calculating the reasonable estimate of tenant cost savings. Members would probably understand that, before proceeding to the development of the methodology, we need to have legislation in place. However, I can advise that the methodology will seek to align with existing methodologies, for example, the methodologies used in New South Wales as part of their environmental upgrade finance mechanism.

Honourable members have observed that the bill is silent on dispute resolution mechanisms, and there is a good reason for this. The bill is fundamentally about introducing a new way of securing and repaying finance, and we have deliberately not confused this with other separate issues pertaining to commercial leases. We are not seeking to duplicate existing mechanisms for resolving commercial disputes. We do not seek to introduce red tape measures.

Instead, the bill relies on existing arrangements when it comes to dispute resolutions between tenants and landlords. This means that, for tenancies under the Retail and Commercial Leases Act 1995, dispute resolution provisions under this act apply. I am advised that a tenant may apply to the Small Business Commissioner for mediation. If not happy with the outcome of the mediation, the tenant may take the matter to the Magistrates Court. For tenancies not covered by the Retail and Commercial Leases Act 1995 the tenants are expected to follow dispute resolution processes specified in their lease agreement.

I would like to thank honourable members for their concern about how these mechanisms will be administered, and I will briefly outline now how this mechanism is administered by councils interstate. In Victoria, the Sustainable Melbourne Fund, which is fully owned by the City of Melbourne, administers the mechanism on behalf of the City of Melbourne. In New South Wales, each participating council administers the scheme individually.

In our state, feedback received through consultation indicated a universal preference for a central administration model for the delivery of the mechanism. The state government committed $1.9 million for the establishment of the Building Upgrade Finance mechanism in South Australia. The majority of this funding is envisaged to go towards the establishment and operation over four years of a central administrator.

The central administrator's key role is to support South Australian councils to offer and administer building upgrade agreements within their municipalities. This is intended to avoid administrative duplication between councils, centralise expertise, reduce barriers to council participation, as well as provide a one-stop-shop for building owners and financiers.

This administrator is expected to support participating councils by undertaking most of the functions associated with the administration of building upgrade agreements, for example, educating councils about the mechanism, assisting councils to establish relevant internal procedures, undertaking assessment of applications and providing advice to councils, preparing agreements, and undertaking general education and awareness-raising activities.

The operation of a central administrator will reduce associated costs to participating councils and make it easier for them to offer the mechanism within their municipal areas. The administrator is not expected to get involved in tenant dispute resolution processes; as I mentioned earlier, these will

be addressed through existing processes. It is important to note that the decision to participate in the scheme is the prerogative of a local council.

Also, following the administrator's assessment of an application for building upgrade finance, to ensure that it complies with the requirements of the legislation, the decision as to whether to sign an agreement will remain with the local council and it will be council's role to collect and distribute building upgrade charges. Local government is central to the functioning of the mechanism.

The majority of the administration of Building Upgrade Finance will be the responsibility, as I said, of local councils. Given that the central administrator will be providing services to these councils, it will need to be able to understand council's business and procedures.

The Local Government Association of South Australia has been identified as a potential candidate for the role of the central administrator. I am advised that officer level discussions have occurred in relation to this model. Subject to the passage of the bill, the state government will continue to work with local government to establish a robust delivery model.

There is no potential conflict of interest associated with this model as building upgrade finance is a financial mechanism that involves an agreement between a council, a property owner and a financial institution. This model has a number of benefits. The LGA is constituted to provide services, support and leadership for the local government sector and is established under the Local Government Act 1999. As the professional body, the LGA is best positioned to support councils in offering and administering the program.

The LGA has a long history of service delivery in partnership with both the state and commonwealth governments. These include community wastewater treatment programs, for example, electricity procurement processes, commonwealth reform projects—and the list goes on. The LGA also administers financial programs, such as the Local Government Research and Development Scheme which distributes funding to local government entities annually to advance the sector. The LGA has the capacity and expertise in establishing prudent governance and financial mechanisms to deliver and maintain a high level of public integrity. This includes independent auditing processes. This model would not preclude the LGA from engaging external specialists to provide advice or undertake certain aspects of scheme administration, of course.

As to the issue of the imposition of a cost of the administration on to the tenant, the legislation is clear that the tenant either consents to the payment of the building upgrade charge or contributes an amount which is up to the tenant's savings resulting from the upgrade. In the absence of a central administration body, individual councils will be expected to administer the mechanism. This would be, I would suggest, a very inefficient model and is contrary to feedback received during consultation phases.

One of the honourable members has mentioned the risk associated with subordination of the first mortgagee. The overleverage test and the requirement to notify the mortgagee are the primary means of mitigating this risk. These are modelled on a scheme in place in Victoria, I am advised. Upon receiving notification the existing mortgagee would be able to assess any risks, raise any concerns with a prospective building upgrade finance provider (assuming they are not one and the same organisation) and consider the building upgrade charge in future dealings with the property owner.

With regard to the Hon. Mr Darley's question about the capital value being used for the purpose of administering the overleverage test, I can advise that the bill defines 'capital value' as to have the same meaning as in the Valuation of Land Act 1971. As such the capital value of the land is inclusive of the value of improvements on it—that is the buildings. The Valuer-General value estimates will be suitable for the purposes of the overleverage test. However, this does not preclude the central administrator, on behalf of the council, from accepting value estimates undertaken by financiers. Therefore, councils will not be precluded from using a more conservative value estimate if that is their determination.

This will be clarified in the guide to building upgrade agreements to be developed in conjunction with the central administrator. The test relies on the capital value of land prior to the upgrade—that is, there is already a buffer as it does not take into account value improvements

resulting from the upgrade. Furthermore, the total value of the building upgrade charge includes both principal and interest, creating a further buffer.

Also, financiers generally do not lend to the full amount of the market value, and generally request some form of mortgage insurance or security against other assets with equity, where the amount being borrowed exceeds their loan to value ratio. The lending practices of financial institutions already ensure a buffer between the market value of the property and the debt secured against it without the need for it to be regulated. Prescribing a specific threshold in legislation could potentially stop certain types of upgrades from going ahead, thereby not delivering a full range of environmental and economic benefits.

The honourable member further asked about finance sector engagement in our consultation process. I can advise that the National Australia Bank and the Clean Energy Finance Corporation have been engaged throughout the process; both are involved in offering environmental upgrade finance interstate. Other financial institutions were also invited to provide feedback on the draft bill. These included the ANZ Bank, Commonwealth Bank, Westpac, bankmecu. However, these organisations did not provide feedback, I am advised.

Whilst ANZ Bank and bankmecu have not engaged directly in the development of the legislation in our state they have loaned to environmental upgrade agreement projects interstate and are familiar with the mechanism. I am advised that officer level discussions have been held with representatives from other financiers in our local market, including Bank SA and Beyond Bank.

I think the Hon. Michelle Lensink has raised concerns regarding regulations. As I indicated during the second reading of this bill, it is my intention that regulations will be developed following the passage of the bill as is normal practice and that key stakeholders will be consulted regarding these before they are finalised.

The provisions of the subsequent regulations will be influenced by the parliamentary debate on the bill. In other words, let's not put the cart before the horse. It is our intention to prescribe the following items via regulation:

- restricting the mechanism to non residential buildings defined as buildings used wholly or predominantly for commercial, industrial or other non residential purposes;
- extending the mechanism to heritage upgrades as eligible upgrade work and we will consult broadly on this with stakeholders when working on regulations; and
- requiring the Building Upgrade Agreement template, which will be developed by the state government, to specify a building owner's reporting requirements to a financier and a local council, as well as any information disclosure provisions.

Depending on stakeholder feedback, the subsequent regulations may also define:

- the method of calculating the penalty interest rate on money advanced by the financier;
- potential additional requirements regarding the contents of a building upgrade agreement;
- any additional requirements regarding the notice that building owners must provide to an existing mortgagee;
- any additional requirements that must be met before a council may enter into a building upgrade agreement; and
- any additional requirements regarding the notice of the building upgrade charge issued by the council.

As I said, these will be informed by consultation. An honourable member made a comment regarding interstate uptake, which I understand has been low. It would be unfair to single out a single reason for this but contributing factors, I am advised, are understood to include the general global economic downturn, perceived complexity of the building upgrade agreement template, the limits of the tenant consent pathway in Victoria, the relative newness of the mechanism, and in Victoria the current restriction on the limitation to just the city of Melbourne.

However, upward pressure on electricity, water and gas prices in these states continues and the cost of clean energy technologies, such as solar, energy storage and trigeneration, is coming down. There is still a strong sense of optimism about the scale of upgrades that this mechanism could unlock.

To respond to the Hon. Mr Darley's question about the number of eligible buildings in South Australia, I am advised that a study by Arup in 2012 entitled 'Quantifying the environment and economic opportunities from retrofitting commercial buildings across SA' identified over 3,000 separate titles associated with commercial and industrial buildings just in the city of Adelaide. Over half of these were associated with commercial office buildings, around one-third were commercial shops, and the remainder was a mixture of accommodation, warehousing and industry. I am also advised that the Property Council of Australia's data covers some 1.4 million square metres of office building stock alone in the Adelaide CBD across some 400 buildings.

In developing this bill we kept a number of key considerations in mind that members should be aware of.

1. We recognise the importance of harmonising with other state schemes, given that financiers and many property owners operate across different jurisdictions and that South Australia is a relatively small market.

2. We recognise that the broader the coverage of the scheme, both geographically and in terms of eligible buildings, the greater the potential economic and environmental benefits to South Australia.

3. We recognise the need to ensure that tenants are protected, but without creating additional red tape for building owners that prevents projects which would provide benefits to tenants from going ahead.

4. We also recognise that this bill is fundamentally about securing and repaying finance and the mechanism should rely on existing processes wherever possible, including processes relating to development approvals for certain types of upgrades and existing dispute resolution mechanisms regarding commercial leases.

5. By being the third state to develop such legislation, we have had the benefit of examining both the Victorian and the New South Wales' schemes and being able to adopt the best elements of both based on their experience implementing the schemes.

Building Upgrade Finance mechanisms continue to gain momentum in our country. I understand Victoria is moving to expand the coverage of its scheme to all Victorian councils. Tasmania's recent energy strategy includes an action to investigate the case for Environmental Upgrade Agreements.

In conclusion, the bill as it stands takes into consideration all interests and has adopted the best elements of interstate schemes and therefore sets the new benchmark for other states considering adopting this model. I commend the bill to the house.

Bill read a second time.

HEALTH CARE (ADMINISTRATION) AMENDMENT BILL

Second Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:45): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Health Care Act 2008* came into effect on 1 July 2008. The Act changed the way hospitals and health services were administered in this State to ensure that the health care system was responsive to health care demands both now and into the future.

The Act has brought together hospitals and health services to deliver services that meet the needs of their local communities, whilst at the same time providing for greater coordination and accountability of services, with the

Minister and Chief Executive ultimately responsible for the delivery of services in South Australia. The Act has provided, and continues to provide, a solid governance basis for the system as it strives to reform health services and provide effective and efficient modern health services that meet the changing health service needs of the community.

The Health Care (Administration) Amendment Bill 2015 before the House seeks to make a number of amendments to the Act, aimed at ensuring that the Act continues to function effectively and meets the administration and governance needs of the South Australian public health system, and to clarify the intent of some of the Act's provisions.

This Bill is the same as that which was passed in the House of Assembly of the Parliament of South Australia on 30 October 2013 and read a second time in the Legislative Council on 31 October 2013. This Bill was not progressed at that time due to the subsequent prorogation of the Parliament. The Bill will therefore be familiar to those members who were sitting members in the previous Parliament.

The Bill covers seven areas of amendment, which I will now outline in detail for the benefit of members.

Fees for services provided by the SA Ambulance Service that do not involve ambulance transport

Section 59 of the Act allows the Minister to set fees, by notice in the Gazette, to be charged for ambulance services. An ambulance service is defined in the Act as 'the service of transporting by the use of an ambulance a person to a hospital or other place to receive medical treatment, or from a hospital or other place at which the person has received medical treatment.'

The Act, however, does not currently provide a basis for the Minister to set fees for services provided by South Australian Ambulance Service paramedics that do not involve transportation in an ambulance. These type of services are those where a member of the South Australian Ambulance Service responds to a request for emergency medical assistance and attends a person's home or some other place to provide emergency assistance, and the person is then assessed and/or treated at that place but then does not require transportation by an ambulance. These services are commonly referred to as 'treat no transport' services.

Fees are currently set and charged for these services, under the Fees Regulation (*Incidental SAAS Services) Regulations 2009* under the *Fees Regulations Act 1927*. This situation is an anomaly for fees charged by SA Health for the provision of health services, as all other fees for services are provided for under the *Health Care Act 2008*. The Bill therefore makes provisions to allow fees to be set for incidental services such as 'treat no transport' services and to be set in the same way as all other fees for health services under the *Health Care Act 2008*.

Employment of clinicians in the Department for Health and Ageing (central office)

This amendment is technical in nature and seeks to provide an appropriate mechanism for the employment of doctors, nurses and midwives to work in the central office of the Department for Health and Ageing. There are a number of positions within central office that require the professional skills, qualifications and clinical knowledge that only medical practitioners, nurses and midwives possess. These are existing funded positions within the Department to provide independent professional advice to the Chief Executive, the Chief Public Health Officer and the Minister.

The Department employs medical practitioners, public health medical practitioners and nursing and midwifery staff to undertake key clinical advisory functions related to their professions. For example, as part of its public health role, the Department receives notifications of prescribed diseases and medical conditions and these notifications may require public health responses. For example, doctors and nurses are employed in the Department to provide a public health clinical response to diseases such as meningococcal disease where advice needs to be given as to which of the people in contact with an individual who has meningococcal disease need to receive antibiotics. The Department's clinicians also provide advice on immunisation to doctors, nurses and the community, receiving over 16,000 calls per year.

Clinical expertise is essential within the Department both for policy advice and for linkage with professional clinical networks.

In South Australia, a medical practitioner, nurse or midwife working in a public hospital is employed pursuant to the *Health Care Act 2008*. The relevant industrial awards and agreements, that is, for medical officers: the South Australian Medical Officers Award and the SA Health Salaried Medical Officers Enterprise Agreement 2013 and for nurses and midwives: the Nurses (South Australian Public Sector) Award 2002 and the Nursing/Midwifery (South Australia Public Sector) Enterprise Agreement 2013. These awards and agreements not only outline the conditions of employment for these clinicians but also recognise specific career structures and continuing professional development requirements for these professions.

It was previously thought that clinicians could also be employed to work in the Department for Health and Ageing's central office under section 34 of the Act, if they performed functions in connection with the operations or activities of an incorporated hospital. However, the Act as currently worded does not support this, and clinicians working in the Department would be required to be employed under the *Public Sector Act 2009*, pursuant to the South Australian Public Sector Wages Parity Enterprise Agreement: Salaried 2012, as the Department is defined within that Act as an administrative unit of the public sector.

It has become apparent to the Department that this is not an appropriate employment mechanism because the SA Public Sector Salaried Employees Interim Award and the South Australian Public Sector Wages Parity

Enterprise Agreement: Salaried 2012 do not recognise the qualifications, entitlements and continuing professional development requirements for these professions. The Government believes that clinicians who choose to work in the Department should be able to retain any entitlements in line with their professional award. Continuing these professional entitlements will also assist the Department to continue to attract and retain suitably qualified medical practitioners, nurses and midwives and ensure flexibility in the workforce across the Department and the public health system.

The employment and conditions of employment of clinicians currently engaged to work in the Department remain secure since the Bill includes specific transitional provisions that ensure this. The provisions should also provide certainty to these employees that their employment, conditions and entitlements are not in any way altered by the previous oversight and by the introduction of the new employment mechanism as set out in the Bill. The South Australian Salaried Medical Officers Association and the South Australian Branch of the Australian Nursing and Midwifery Federation have been notified about the Government's intention to correct the anomaly that exists and to ensure equity with those working in incorporated hospitals and they recognise that this is a needed technical amendment.

Proclamations to dissolve three now non-operational incorporated associations and transfer their assets to the appropriate incorporated Health Advisory Council (HAC)

The Bill includes specific transitional provisions to resolve some ongoing issues related to three non-operational incorporated associations namely, Lumeah Homes Inc. (Lumeah), Miroma Place Hostel Inc. (Miroma), and Peterborough Aged and Disabled Accommodation Inc. (Peterborough) that attempted transfer of their assets and their undertakings to their local country hospital sites in the 1990s and early 2000s.

At the time of the attempted transfers, the associations, and hospitals involved, which were then incorporated under the former *South Australian Health Commission Act 1976*, determined that the assets, liabilities and undertakings of the associations should be transferred to the hospitals. However, these transfers were never legally effected and as such the assets legally remain with the non-operational incorporated associations, although they have in practice been managed by the country hospital sites since the time of the transfers.

Since then, the *Health Care Act 2008* came into operation and Health Advisory Councils (HACs) have been established for specific geographical country communities. The functions of these HACs include holding assets on behalf of the country hospital sites to which they relate. The country hospital sites are all part of the Country Health SA Local Health Network Inc. If the assets of the non-operational incorporated associations had been legally transferred to the relevant country hospital sites at the time, they would now rightly be held by the relevant HAC. The transitional provisions included in the Bill will allow for these outstanding issues to be resolved and for the assets to be formally transferred to the appropriate local HACs, as is envisioned by the Act. The HACs that will formally receive these assets are the Lower North HAC, Lower Eyre HAC and the Mid North HAC. It will also enable the cancellation of the incorporation of the named associations whose functions were taken over under the *South Australian Health Commission Act 1976*.

Remaining areas of minor amendments

The Bill includes a small number of other minor amendments that are necessary to improve the functioning of the Act, and to clarify the intent of certain provisions. These amendments include:

- a minor amendment to the wording of section 29(1)(b) of the Act, to clarify that a body under the Act does not need to be providing services and facilities specifically to an incorporated hospital for the undertaking of that body (or part thereof) to be transferred to the incorporated hospital. That is, the body that will be transferred may not have been providing anything to an incorporated hospital, but it can still have its assets, liabilities and undertakings transferred to an incorporated hospital under this section.

- a new provision to be inserted into Part 5 of the Act to allow the Governor, on application from the Minister, to make proclamations to transfer functions, assets, rights and liabilities from one incorporated hospital to another, without the incorporated hospital to which these first belonged being dissolved. At present the Act only allows for these transfers to be made in the event that an incorporated hospital is dissolved. The proposed new provision is expected to provide greater flexibility in the establishment and management of incorporated hospitals over time.

- removing section 49(5) of the Act which allows the Minister to determine a constitution for the South Australian Ambulance Service (SAAS). This section is not required given that the functions and powers of SAAS are clearly set out in the Act. A constitution has not been determined for SAAS since the Act came into operation, and is not required for the effective functioning of SAAS.

- two minor amendments will be made to section 93(3) of the Act. The first amendment is to indicate more precisely when disclosure of information can be made legally, that is, disclosures can be made when 'required or authorised by or under law'. The current wording which reads 'required by law' does not adequately reflect the situation where disclosure of information can be authorised in some circumstances by or under law. The second amendment is to add the term 'substitute decision-maker' to the list of persons who may request, or provide consent, for information about a person to be released, so that it aligns with the provisions of the *Advance Care Directives Act 2013*, which came into operation on 1 July 2014.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Health Care Act 2008*

4—Amendment of section 29—Incorporation

This clause amends section 29 of the principal Act by substituting subsection (1)(b) to allow all or part of the undertaking of a specified person or body to be transferred to an incorporated hospital.

5—Insertion of Part 5 Division 1A

This clause inserts new Division 1A into Part 5 of the principal Act. That new Division consists of section 32A, which enables the Governor to transfer functions, assets, rights and liabilities of one incorporated hospital to another and to make other related provisions.

6—Amendment of section 49—Continuation of SAAS

This clause deletes subsection (5) from section 49 of the principal Act.

7—Amendment of section 59—Fees

This clause substitutes section 59(1) of the principal Act, allowing the Minister to set fees for the provision of incidental services provided by SAAS and defines what such incidental services are.

8—Insertion of section 89

This clause inserts a new section 89 into the principal Act. The new section enables the employing authority to appoint certain skilled or experienced people to assist the CE or the Department in the performance of their respective functions. The new section also makes provision regarding the nature of such employment arrangements.

9—Amendment of section 92—Conflict of interest

This clause makes an amendment to section 92 of the principal Act that is consequent upon the insertion of new section 89.

10—Amendment of section 93—Confidentiality

This clause amends section 93 of the principal Act to clarify when confidential information may be disclosed, and who can consent to its disclosure.

Schedule 1—Transitional provisions

1—Employment

This clause makes transitional provisions that allow the CE to determine that certain employees of the Department will be taken to be employed under new section 89 as inserted by this measure.

2—Cancellation of incorporation etc of certain associations

This clause makes transitional provisions in respect of 3 incorporated associations. The functions of the associations were previously taken over under the *South Australian Health Commission Act 1976,* but the incorporation of the associations was not cancelled at the time and certain assets not transferred. The clause allows the Governor to correct the anomaly in each case.

Debate adjourned on motion of Hon. T.J. Stephens.

INTERVENTION ORDERS (PREVENTION OF ABUSE) (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:46): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Intervention Orders (Prevention of Abuse) Act 2009* ('the Act') came into operation on 9 December 2011. The Act reformed the system of domestic and personal violence restraining orders by creating a new type of order, called an intervention order, and broadening the range of people that could be protected by those orders.

An intervention order can be made to protect people from violence, threatening and controlling behaviour. The Act acknowledges not only physical forms of violence, but also, emotional or psychological harm and an unreasonable and non-consensual denial of financial, social or personal autonomy.

This Bill contains a number of amendments that will assist in the continued effective operation of the legislation as well as implement an election promise and address concerns raised by the decision of Justice Peek in Police v Siaosi [2014] SASC 131 ('Siaosi').

Many of the amendments are administrative in nature and have come about as a result of comments from the Chief Magistrate, the Commissioner of Police and government agencies. The Bill will also facilitate the electronic transfer of information between South Australia Police ('SAPOL'), the Courts and relevant public sector agencies by allowing the provision of the 'prescribed details' of an order rather than a copy of the order itself. This will reduce inefficiencies associated with manual paper-based processes and duplicative data entry across the criminal justice sector.

Section 31 of the Act is also amended to implement the Government's election promise to give courts a sentencing power to require perpetrators of domestic violence to bear the financial burden of an intervention program.

Currently intervention programs are only available in metropolitan Adelaide and are fully funded by the Government. The amendment to the Act gives the Court a discretionary power to order that a defendant, upon conviction of a breach of an intervention order involving physical violence or a threat of physical violence, to make a payment of not more than the prescribed amount toward the cost of any treatment program ordered as a term of their intervention order. This cost recovery service will allow perpetrator programs to be expanded to regional areas.

The risk of having to pay for treatment could also act as a deterrent for breaching an intervention order. The amendment has therefore been drafted to include a requirement that the Court inform a defendant that there is a possibility that the Court can order them to pay for their court mandated treatment if they breach the intervention order by an act, or a threat of, physical violence.

Under section 18 of the Act a police officer may issue an interim intervention order against a defendant if it appears to the police officer that there are grounds for issuing the order and the defendant is present before the police officer or in custody. If the defendant is not present or in custody then the police officer would need to make an application to the Court for an interim intervention order under section 21 of the Act.

At the behest of the Chief Magistrate, section 21 has been amended so that, in court proceedings for the making of an interim intervention order where the applicant is a police officer, the Court is not bound by the rules of evidence, but may inform itself as it thinks fit. In doing so, the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

There is precedent for this approach. In South Australia, when determining whether to make a problem gambling family protection order under the *Problem Gambling Family Protection Orders Act 2004* the Independent Gambling Authority is not bound by the rules of evidence.

Section 18(7) of the Act also requires a person against whom a police interim intervention order is issued to notify the Commissioner of Police in writing of an address for service. However, as it is not currently an offence to fail to provide this notification, SAPOL is unable to enforce this requirement. To assist police in the service of intervention orders, the Bill makes it an offence to fail to notify the Commissioner of Police of an address for service or to provide a false address. The maximum penalty for this offence will be a fine of $750 or an expiation fee of $105.

Another change that will assist police with serving intervention orders is the amendment to section 34 of the Act. Section 34 provides powers for police to facilitate service of unserved intervention orders. Currently, a police officer may require a person to remain at a particular place for so long as may be necessary for an intervention order to be served.

However, in some circumstances, such a requirement may be operationally impractical, particularly in small, rural and remote areas. To provide greater protection for victims, the Act amends section 34 so that a police officer may also require a person to accompany them to the nearest police station for the purpose of service of an intervention order. If this occurs, police have an obligation to ensure that the person is returned to the place at which the request was made or taken to a place that is near to that place, unless to do so would be against the person's wishes or there is good reason for not doing so.

The Bill also amends section 26 of the Act so that the Commissioner of Police is notified of all applications for variation or revocation of an intervention order. As the primary enforcer of all intervention orders, it is important that police are aware of any variation or revocation applications so that they can intervene and provide assistance to the

victim if necessary. This will provide additional protection for a victim of domestic violence who may have been pressured to file an application to vary or revoke an intervention order.

The amendments to section 12 and Schedule 1 of the Act address issues raised by the decision of Justice Peek in Siaosi.

Siaosi was a Magistrate's Court appeal against the conviction of a charge of contravening a term of an intervention order and sentence. The term of the intervention order in question was that the person was prohibited from entering or remaining 'in the vicinity of' specified premises. Justice Peek held that the term 'in the vicinity of' was not within the powers conferred by section 12(1) of the Act.

As a result of this decision, SAPOL and the Chief Magistrate have requested amendments to the Act to enable police and the Courts to issue orders that contain the term 'in the vicinity of'. The requested amendments do two things. Firstly, section 12 of the Act is amended to allow an intervention order to prohibit a person from being on, or in the vicinity of certain premises or localities. Secondly, a transitional provision is inserted into Schedule 1 of the Act to validate any existing intervention orders that include a term that purports to prohibit the defendant from being within the vicinity of premises at which the protected person works or resides or within the vicinity of specified premises frequented by a protected person.

The amendments to section 23 of the Act require the Court, when determining whether to confirm, vary or revoke an interim intervention order, to make inquiries about the existence of any relevant *Family Law Act 1975* (Cth) orders or *Children's Protection Act 1993* orders and consider how the final intervention order and that existing order would interact. The Court is also required to take such steps as it considers necessary to avoid inconsistency between the orders.

In cases where a parenting order made under the *Family Law Act 1975* (Cth), to the extent that it provides for a child to spend time with a person, or requires or authorises a person to spend time with the child, will be inconsistent with the terms of the intervention order, South Australian Magistrates have the power, under section 68R of the *Family Law Act 1975* (Cth), to revive, vary, discharge or suspend the parenting order to remove any inconsistencies related to contact with children. If there are no concurrent proceedings on foot in the Family Court, the exercise of this power by a Magistrate would remove the need for the applicant to commence new proceedings in the Family Court to vary the parenting orders.

Finally, the Bill makes consequential amendments to the *Bail Act 1985*, the *Criminal Law (Sentencing) Act 1988* and the *Evidence Act 1929* in areas that also impact on victims of domestic violence.

Section 21B of the *Bail Act 1985* is being amended to give the Court the power to order attendance at a treatment program as a condition of bail. At present, the Court may only make attendance at a treatment program a condition of bail if the defendant consents. The amendment aligns the *Bail Act 1985* with the position in the Act so that where a defendant is the subject of an intervention order applications as well as on criminal charges, the Court can order that the defendant attend a treatment program even if the application for an intervention order does not proceed. As the requirement for consent is being removed, there is an additional obligation on the Court to consider the view of the defendant before ordering them to attend a treatment program as part of their bail conditions.

Section 13B of the *Evidence Act 1929*, which deals with the cross-examination of certain witnesses, is being amended to include an aggravated assault where the form of the aggravation is as set out in section 5AA(1)(g) of the *Criminal Law Consolidation Act 1935*. That is, that the offender committed the offence knowing that the victim of the offence was:

- a spouse or former spouse of the offender; or
- a domestic partner or former domestic partner of the offender; or
- a child of whom the offender, or a spouse or domestic partner or former spouse or domestic partner of the offender, has custody as a parent or guardian; or
- a child who normally or regularly resides with the offender, or a spouse or domestic partner or former spouse or domestic partner of the offender.

The amendment offers greater protection to victims in domestic violence situations.

The amendment to section 10 of the *Criminal Law (Sentencing) Act 1988*, which was requested by the Chief Magistrate, reinstates a provision that was deleted in 2013 to make it clear that a court may treat a defendant's participation and achievements in an intervention order program as relevant to sentence. Although there is nothing to prevent a court from taking this into account currently, the Government is happy to reinsert the provision as requested to make it clear to a court, as well as to a defendant, that successful participation in an intervention program is a relevant consideration in determining sentence.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

4—Amendment of section 3—Interpretation

This clause proposes the insertion of a number of new definitions into section 3. Definitions of a final intervention order and an interim intervention order will clarify the distinction between the two types of intervention order. A definition of intervention order (being an interim intervention order or a final intervention order, as the case requires) is also inserted. Other amendments are consequential on the insertion of the various definitions.

5—Amendment of section 5—Objects of Act

This proposed amendment will delete an otiose phrase from the current section.

6—Amendment of section 12—Terms of intervention order—general

The proposed amendments to section 12 will allow for an intervention order to prohibit a defendant from being on, or in the vicinity of, certain premises or a locality.

7—Amendment of section 13—Terms of intervention order—intervention programs

The proposed amendments to section 13 require a court, on making an intervention order the terms of which may require the defendant to undertake an intervention program, to endeavour to ensure that the defendant understands his or her obligations under the order and the consequences of a failure to comply with any such requirement.

8—Amendment of section 14—Terms of intervention order—firearms

The first 2 proposed amendments to this section will enable the firearms terms of an intervention order to relate to any firearm, ammunition or part of a firearm to reflect the current law in this State. The final proposed amendment is consequential on the insertion of the definition of a final intervention order in section 3.

9—Amendment of section 15—Terms of intervention order—date after which defendant may apply for variation or revocation

These proposed amendments are consequential.

10—Amendment of section 18—Interim intervention order issued by police

Currently, this section requires the Commissioner of Police to give a copy of any interim intervention order issued by a police officer to the Principal Registrar and each person protected by the order. The proposed amendment will still require the Commissioner to give a copy of any such order to each protected person but, instead of being required also to provide the Principal Registrar with a copy of the order, the Commissioner may notify the Principal Registrar in writing of the prescribed details of the order or provide the Registrar with a copy of the order.

11—Amendment of section 19—Revocation of interim intervention order by Commissioner of Police

This proposed amendment is similar to the previous amendment proposed to section 18. The Commissioner will be required to give a copy of the notice of revocation of any interim intervention order issued by a police officer to each person protected by the order and to notify the Principal Registrar in writing of the prescribed details of the order.

12—Amendment of section 21—Preliminary hearing and issue of interim intervention order

It is proposed to insert a subsection that provides that, in proceedings relating to an interim intervention order where the applicant is a police officer—

- the Court is not bound by the rules of evidence but may inform itself as it thinks fit; and
- the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Further proposed amendments to section 21 provide that the Principal Registrar must notify the Commissioner of Police in writing of the prescribed details of an interim intervention order, or give the Commissioner a copy of the order, and give each protected person and (if the applicant is not a police officer) the applicant a copy of the order. Other amendments proposed to this section are related or provide clarification.

13—Amendment of section 23—Determination of application for final intervention order

The proposed amendments to this section clarify when the section is making provision in relation to a final intervention order and when it is dealing with an interim intervention order or a final intervention order. On the hearing of an application for a final intervention order, the Court may—

- confirm the interim intervention order issued against the defendant as a final intervention order; or
- issue a final intervention order in substitution for an interim intervention order issued against the defendant; or
- dismiss the application and revoke the interim intervention order issued against the defendant.

If a final intervention order is to be made and the defendant or a person protected by the order is a child or the parent of a child, the Court must make inquiries about whether there is any relevant Family Law Act order or Children's Protection Act order and look at how the final intervention order and that other order would interact. The Court must take such steps as it considers necessary to avoid inconsistency between the intervention order and any Family Law Act order or Children's Protection Act order.

Other amendments provide for notification of the prescribed details of a final intervention order and the provision of copies of the order in similar terms as in previous provisions.

14—Amendment of section 24—Problem gambling order

The proposed amendments provide that the Principal Registrar must notify the persons listed below in writing of the prescribed details of a problem gambling order made in conjunction with a final intervention order, or give each of them a copy of the order:

- the Independent Gambling Authority;
- the Commissioner of Police;
- the proprietor or licensee of any premises specified in the order; and

give a copy of the order to each protected person and (if the applicant for the order is not a police officer or a protected person) the applicant.

15—Amendment of section 25—Tenancy order

These proposed amendments are consequential.

16—Amendment of section 26—Intervention orders

This clause deals with court procedures relating to both interim intervention orders and final intervention orders, as the case requires. A number of amendments proposed to this section are consequential. Another requires the Court to allow the police a reasonable opportunity to be heard on an application to vary or revoke an interim intervention order before the Court determines the application. The amendment also sets out the requirements of the Principal Registrar relating to notification and the provision of copies of orders or notices of revocation of an order.

17—Amendment of section 30—Registration of foreign intervention orders

The first proposed amendment makes it clear that a foreign intervention order registered in the Court is deemed to be a final intervention order issued under the principal Act. The other amendment relates to notification of the registration of the order and the prescribed details of the order.

18—Amendment of section 31—Contravention of intervention order

It is proposed to insert a new subsection (2a) into section 31. The proposed subsection will provide that if a person is found guilty of an offence under subsection (1) or (2) where the act or omission alleged to constitute the offence involved physical violence or a threat of physical violence, the Court may, in addition to imposing a penalty for the offence—

- order the convicted person to make a payment of not more than the prescribed amount toward the cost of any intervention program the person is required to undertake in accordance with the intervention order; and
- make any other order that the Court thinks fit.

Another amendment updates a cross-reference.

19—Amendment of section 34—Powers facilitating service of intervention order

The amendments proposed to section 34 clarify the powers and obligations of a police officer in relation to the service of an intervention order on a person subject to the order.

20—Amendment of section 36—Power to arrest and detain for contravention of intervention order

It is proposed to amend this section by deleting subsections (2) and (3). Those subsections are unnecessary as the provisions of the *Bail Act 1985* apply to a person arrested and detained for contravention of an intervention order.

21—Amendment of section 40—Dealing with items surrendered under intervention order

This amendment is consequential.

22—Amendment of Schedule 1—Transitional provisions

It is proposed to insert a clause in Schedule 1 that will validate any intervention order in force immediately before the commencement of section 6 of this measure that includes a term that purports to—

- prohibit the person the subject of the order from being within the vicinity of premises at which a protected person resides or works; or
- prohibit the defendant from being within the vicinity of specified premises frequented by a protected person.

Schedule 1—Related amendments

Part 1—Amendment of the *Bail Act 1985*

1—Amendment of section 21B—Intervention programs

This amendment would allow a bail authority to set as a condition of a bail agreement that the person undertake an intervention program without requiring the person to consent to the imposition of such a condition. The substituted subsection (2) does require the court to satisfy itself, before imposing any such condition, that—

- the person is eligible for the services to be included on the program in accordance with applicable eligibility criteria (if any); and
- those services are available for the person at a suitable time and place,

and to give consideration to any representations made by the person in relation to the program.

Part 2—Amendment of *Criminal Law (Sentencing) Act 1988*

2—Amendment of section 10—Sentencing considerations

This amendment would make it clear that a court may treat a defendant's participation and achievements in an intervention program as relevant to sentence.

3—Amendment of section 19A—Intervention orders may be issued on finding of guilt or sentencing

This amendment is consequential.

Part 3—Amendment of *Evidence Act 1929*

4—Amendment of section 13B—Cross-examination of certain witnesses

This clause amends the list of offences to which section 13B of the *Evidence Act 1929* applies by the addition of certain aggravated offences under section 20 of the Criminal Law Consolidation Act 1935. The section applies to an aggravated offence under section 20 if the aggravating circumstances are those referred to in section 5AA(1)(g) of that Act.

Debate adjourned on motion of Hon. T.J. Stephens.

STATUTES AMENDMENT (VULNERABLE WITNESSES) BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:47): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Statutes Amendment (Vulnerable Witnesses) Bill 2015

Introduction

The Statutes Amendment (Vulnerable Witnesses) Bill 2015 is an important measure to improve the position of vulnerable parties, namely children and persons with disability, within the criminal justice system, both in and out of court. The Bill extends to victims, witnesses, suspects and defendants.

The Bill preserves an accused person's right to a fair trial, whilst recognising that the South Australian criminal justice system needs to be more accessible and responsive to the needs and interests of victims and witnesses who are children and persons with disability.

The Bill builds on previous legislative reforms and the wider Disability Justice Plan.

The implementation of the Disability Justice Plan and the present Bill was a key policy commitment of this Government. It was subsequently announced that the Government would provide $3.246 million over four years to make the Disability Justice Plan a reality. To support the implementation of the Bill, the Government will be inviting tenders later this year under the Disability Justice Plan for both the specialist training for investigative interviewing of young children and people with disability and the new communication partner model for people with complex communication needs.

The Disability Justice Plan and the present Bill have been formulated in close consultation with the disability sector. The Government is grateful for the keen interest and active involvement of the Hon Kelly Vincent MLC in the formulation and progression of these important reforms, and for the bipartisan support we have received to date.

Bill in Detail

The Bill includes:

(a) To provide for the admission of audio visual records of interviews as the evidence of victims or witnesses who are children aged of or under 14 years or have a disability that adversely affects their capacity to give evidence in cases involving a sexual or violence offence, and to regulate how those interviews are conducted;

The Bill inserts Part 17 Division 3 into the *Summary Offences Act 1953* that provides that a statement of a witness who is a young child aged of or under 14 years of age, or has a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions, is to be taken by way of investigative interview and for an audio visual record of that interview to be made. This applies to witnesses of that class in sexual or violence offences. The interview must be conducted by a prescribed interviewer and made and conducted in accordance with the Regulations to be made under the Bill. The detailed operation of the regime for the audio visual recording of an interview with a vulnerable witness will be dealt with in these Regulations.

The Bill provides in s 13BA of the *Evidence Act 1929* that the audio visual record of an investigative interview, along with audio visual records of pre-trial special hearings made pursuant to s 12AB that is inserted into the *Evidence Act 1929* by the Bill, can be admitted as the evidence of the witness in a trial. The Bill provides that the audio visual record of the investigative interview can be admitted into evidence on application of either party to the proceeding. A pre-condition to the admissibility of this evidence is the availability of the witness during trial, if required, for further examination, cross-examination or re-examination—however any further questioning of a witness can only occur with the leave of the court. This will prevent a vulnerable witness being exposed to irrelevant, unnecessary or inappropriate questioning. A court has a discretion to rule as inadmissible either part or whole of a recording—or before admitting a recording, may order that it be edited so as to exclude evidence that is inadmissible for any reason

The taking of a statement by way of investigative interview, or the convening by a court of a pre-trial special hearing, are provisions available only for witnesses who are young children or have a disability that affects their capacity to give evidence. However, the power to admit the evidence pursuant to s 13AB of the *Evidence Act 1929* is available to a court regardless of the age of the person or their capacity at the time a court is considering the admission of the evidence—there is no provision in s 13AB limiting the admission of the evidence to where the witness is a young child or has the requisite disability at the time a court is considering its admission.

The Bill does not seek to preclude the use of examination-in-chief by counsel at trial as there will invariably be scenarios where issues or points will need to clarified, explained or developed beyond the account provided on the video interview. However, it is not contemplated that such questioning should simply allow the witness to repeat the account as provided in the audio visual interview. It is anticipated that the investigative interview will provide a complete and accurate account at the outset of the investigation into the matter. Skilled examination-in-chief may be the only effective way to present the entire prosecution case if an account in an audio visual interview is flawed or plainly inadequate. It may also be that a confident witness, despite their young age or cognitive impairment, does not wish to use special arrangements to testify and may wish to give evidence 'live' as opposed through any pre-recorded interview.

Specific legislative provision is overdue in South Australia to regulate and provide for the use at trial of the pre-recorded interviews with a vulnerable witness. Any preference for 'live' evidence and blanket opposition to any use of pre-recorded evidence as a substitute for live testimony is outdated and does not have regard to research that has been undertaken in the field. Research does not support any view claimed of higher acquittals.

This part of the Bill will be supported by enhanced specialist training for investigative interviewers in most appropriately and effectively dealing with and questioning children and persons with disability. Such enhanced training should also ideally extend to other parties within the criminal justice system such as prosecutors, defence lawyers and judicial officers (although not necessarily to the same extent as the specialist training for investigative interviewers).

(b) To provide for special hearings for the pre-trial taking of evidence (both evidence-in-chief and cross-examination, and re-examination), in informal surroundings, from children of or under 14 years of age or persons with a disability who are victims or witnesses in trials involving sexual or violence offences

The Bill introduces, by insertion of s 12AB into the *Evidence Act 1929*, the availability of a pre-trial special hearing in cases involving a sexual or violence offence of witnesses who are young children aged of or under 14 years of age, or persons with a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions. Either party in proceedings will be able to use such a hearing. Such a hearing can conduct any supplementary examination-in-chief of the witness beyond that contained in any investigative audio visual interview as well as the cross-examination or re-examination of such a witness.

This part of the Bill aims to improve the quality of the testimony of this class of witness by taking their evidence as near in time as possible to the laying of charges so as to assist memory and alleviate the painful reliving of experiences many months or even years after the event. The Bill anticipates the use of special arrangements for a witness during a pre-trial special hearing and intends that the hearing will take place in informal surroundings that do not, as would a formal trial courtroom, stress or intimidate the vulnerable witness and inhibit communication.

(c) To extend the priority of sexual assault trials where the complainant is a child to those where the complainant has a disability

The Bill makes amendments to s 126A of the *Supreme Court Act 1935*, s 50B of the *District Court Act 1991* and s 48B of the *Magistrates Court Act 1991* to extend the priority for hearing of sexual assault trials where the alleged victim is a child to those where the alleged victim has a disability that adversely affects their capacity to give a coherent account of their experiences or to respond rationally to questions.

(d) Clarifying the definition of 'vulnerable witness' under the *Evidence Act 1929*

The Bill clarifies the definition of 'vulnerable witness' under the *Evidence Act 1929* to include 'cognitive impairment'.

The Bill also extends the age of a 'young child' from a child 'of or under the age of 12 years', to a child 'of or under the age of 14 years' in the *Evidence Act 1929* (with consequential amendments in the *Summary Offences Act 1953* and *Summary Procedures Act 1921*). This amendment is in response to concerns raised that the present age of 12 years in the *Evidence Act 1929* is too young and does not recognise the trauma and stress faced by children in their early teenage years who are confronted by the rigours of a police investigation or the procedures of a criminal trial.

(e) Amending the *Evidence Act 1929* to give people with complex communication needs a general entitlement to have a communication assistant present for contact within the criminal justice system to facilitate the obtaining of an accurate and coherent account

The Bill recognises the role performed by communication assistants to facilitate effective communication with persons with complex communication needs and enable them to provide an accurate and coherent account of their experiences. The Bill includes explicit powers allowing the use of communication assistants to support persons with complex communication needs, whether witnesses, victims, suspects, or defendants both in and out of court. The Bill provides that a person with a complex communication need may use a communication device or a communication assistant for both in and out of court statements. The Bill includes provision for Regulations to be made to prescribe who can provide communication assistance, both in court and during an interview with a vulnerable victim, witness, suspect or defendant outside of court. The Bill includes the caveat that it be provided where available. There may be logistical reasons that preclude such assistance.

The communication assistant model in the Bill draws on the familiar and long recognised role of a language interpreter and will be similar to that role. However for people with complex communication needs, communication is broader than spoken language. It is only right that persons, be it witnesses, victims, suspects, or defendants, with complex communication needs have the same entitlement of support to communicate effectively and/or understand the relevant proceedings as someone who is unable to speak or understand English. There are augmented and alternative means of communication that can be legitimately used (such as speak-and-spell communication devices or picture book aids), especially with the contribution of a communication assistant, to facilitate and enable effective communication. There are a broad range of disabilities and complex communication needs and the term 'complex communication needs' is not confined to intellectual disability. The precise nature and extent of the role of the communication assistant will depend upon the particular complex communication needs in any case.

The Bill provides for two classes of persons who are eligible to provide communication assistance in court. First, the Bill introduces a role called a 'communication partner'. This is a person, or a person of a class, approved by the Minister for the purposes of providing assistance in proceedings to a witness with complex communication needs. It is contemplated that a communication partner will be a volunteer as part of a specialist scheme who will be trained to facilitate effective communication between members of the criminal justice system and the person with complex

communication needs. Secondly, the Bill allows any other suitable person to be appointed by a court to act as a communication assistant in court. The Bill makes it explicit that a person can still play the role of providing communication assistance and be a witness in their own right at a trial of the alleged offending. This scenario may well arise given a communication assistant may be a person who is closely associated with a victim and as a result may be required to give evidence at trial of facts in issue. As with existing language interpreters, any communication assistant will have to swear or affirm in court the impartiality and accuracy of their role.

(f) Amending the *Evidence Act 1929* to clarify and increase access to appropriate support persons to provide emotional support for vulnerable witnesses, both in and out of court

The Bill amends the *Evidence Act 1929* to clarify and increase access to appropriate support persons to provide emotional support for vulnerable witnesses, both in and out of court. The Bill includes provision for Regulations to be made to prescribe the class of person who can provide emotional support or any other assistance during an interview with a vulnerable victim, witness, suspect or defendant. The role of a support person is quite distinct from the communication assistant.

(g) Amending the *Evidence Act 1929* to broaden the special arrangements available to vulnerable witnesses (including defendants) when giving evidence, both at a special hearing or at trial

Section 13A of the *Evidence Act 1929* already contains a number of specific powers available to assist vulnerable witnesses in providing evidence. These are often used in practice. The Bill contains further specific powers to support vulnerable witnesses in giving evidence, whether at a pre-trial special hearing or at trial. The specific powers listed in the Bill or already in the *Evidence Act 1929* are not exhaustive of the special arrangements that can be made to support or assist a vulnerable witness to testify in the most suitable manner. The courts should not be reluctant to make special arrangements beyond those specifically listed in the Bill or already in s 13A of the *Evidence Act 1929* to assist a vulnerable witness who is giving evidence at either a pre-trial special hearing or at trial. A court could, for example, regulate the manner, topics and timing of the questioning of a vulnerable witness.

(h) Clarifying the definition of an inappropriate question under s 25 of the *Evidence Act 1929* to include questions that are too complicated for a witness to understand

The Bill clarifies a court's duty under s 25 of the Evidence Act 1929 to control inappropriate questioning. The Bill rephrases an 'improper' question as an 'inappropriate' question. The Bill clarifies the definition of an inappropriate question to include questions that are expressed in language that is too complicated for the witness to understand.

(i) Amending the *Evidence Act 1929* to repeal s 34CA and to insert a new provision, s 34LA, to provide for the admissibility as a limited exception to the hearsay rule of out of statements of a young child or a witness with disability in sexual cases where the witness is unavailable to be called to testify about the events in question owing to young age and/or disability.

The Bill deletes s 34CA of the *Evidence Act 1929* and replaces it with a new s 34LA. Section 34CA has a long and complex history.

The present s 34CA was inserted in 2008 by the *Statutes Amendment (Evidence & Procedure) Act 2008*. It replaced the original version of s 34CA that was inserted into the *Evidence Act 1929* in 1988 by the Evidence Act Amendment Bill 1988 in response to the 1986 South Australian Government Task Force on Child Sexual Abuse. The present s 34CA has been the subject of varied interpretation by the courts since its commencement and regular judicial calls for legislative reform.

Section 34CA has proved difficult in its application since 2008. The Bill addresses some of the difficulties that have arisen in its application by providing a new regime dedicated to the admission of pre-recorded investigative interviews of certain vulnerable witnesses, as well as provisions to admit recorded evidence of that class of witness taken during a pre-trial special hearing. In light of the inclusion of these schemes in the Bill, and the difficulties in application of the section that have been raised by the Court of Criminal Appeal on several occasions, the Government has reconsidered the previous approach to s 34CA of the Act.

The genesis and true purpose of the original s 34CA that emerged from the 1986 Task Force was to admit an out of court statement as an exception to the hearsay rule in relation to child sexual abuse victims when the time, content and circumstances of the statement provide sufficient safeguards of reliability and trustworthiness. The new s 34LA achieves this purpose. Unlike the previous incarnations of s 34CA, it does not require that the maker of the out of court statement be available for cross-examination.

Section 34LA will apply only where the maker of the statement is not to be called as a witness. It provides that a statement that was made out of court by an alleged victim of a sexual offence who, at the time the statement was made, was a young child of or under the age of 14 years or a person with a disability that adversely affects their capacity to give a coherent account of their experiences or to respond rationally to questions, is admissible to prove the truth of the facts asserted in the statement. The section will operate to make statements admissible regardless of the age of the person or the person's capacity to give evidence at the time a court is considering the admission of the statement. This is to take into account the scenario where, for example, a young child makes an contemporaneous complaint of sexual interference, and for whatever reason, there is a delay in the matter proceeding to trial. At the time of trial, the young child no longer falls within that definition, however due to the passage of time or for other reasons, he or she may have no memory or ability to recall or repeat the relevant statement.

The effect of the new section is that a complaint, allegation or account of sexual abuse that is given by this class of witness can be presented to a court by the person to whom the statement is made, or a person who was present when it was made. The vulnerable witness is not required to give evidence about the alleged offending or to be available for cross-examination. The section is a very limited exception to the hearsay rule. If the vulnerable witness is to be called as a witness, s 34LA has no application—however the statement may be admissible as an initial complaint pursuant to s 34M of the Evidence Act 1929. The section does not operate to make admissible a formal investigative interview of a vulnerable witness with a police officer or psychologist. There are other provisions in the Bill to deal with those investigative interviews.

The section is intended to apply in a very rare class of case, where the young child whose cognitive development is not such that they could give evidence, or the person with a disability who similarly does not have the capacity to give evidence, says something out of court that amounts to an allegation of sexual offending. The timing, content and circumstances in which the statement is made bespeaks its reliability. The making of the statement may, for example, be accompanied by sexualised conduct by the vulnerable witness. There may be accompanying evidence that supports the content of the statement—such as eye-witness, medical or forensic evidence like DNA evidence. In this rare class of case, the timing, content and circumstances in which the statement is made can be adequately tested by examining the person to whom the statement was made or the person who witnessed the statement being made. Issues of competence of the maker of the statement under s 9 of the *Evidence Act 1929* do not arise—it being assumed in s 34LA(1)(a) that the oral evidence given in the proceedings by the person who made the out of court statement would be admissible as evidence of the matter.

(j) Clarifying the criteria for determining the competence of a witness under s 9 of the *Evidence Act 1929* to give sworn or unsworn testimony in court

Where a child is called to testify in court, s 9 of the *Evidence Act 1929* applies to determine whether that child can give sworn or unsworn evidence (this will include evidence given at a pre-trial special hearing held pursuant to s 12AB of the Bill). The Bill amends s 9 to provide that it has no application to statements made out of court that may be admitted as evidence in proceedings as an exception to the hearsay rule. Section 9 will still apply to an audio visual record of an investigative interview or pre-trial special hearing admitted pursuant to s 13BA of the Bill as the witness's evidence. In that scenario, it is entirely up to the court how it will determine the witness's competence.

(k) Clarifying the operation of s 21 of the *Evidence 1929*

The proposed amendment to s 21 of the *Evidence Act 1929* simplifies the law governing the grant of an exemption to a close relative of an accused from a lawful obligation to give evidence against the accused.

The Bill in summary includes the following changes to s 21.

First, to define or clarify 'obligation' in 21. The 'obligation' to be caught by s 21 is only a 'legal' and not a 'moral' obligation. This particular amendment adopts the view of Stanley J in the recent case of R v G, AP (2014) 119 SASR 125.

Secondly, to provide that a court need not be satisfied itself that a prospective witness who is legally obliged to testify, is either aware of his or her right to apply for an exemption under s 21 or is incapable, by reason of age or cognitive impairment, of understanding his or her right to apply for an exemption under the section. This should be an issue for a judge's discretion.

Thirdly, to clarify that the court's power under the existing s 21(3a) does not require a court to consider exercising the power to exempt a prospective witness who is a young child or is cognitively impaired, regardless of whether an application for an exemption has been made. The power should be only discretionary.

Fourthly, in line with the preferred terminology to use a more appropriate term for 'mentally impaired', namely 'cognitive impairment'.

Finally, to stipulate that a failure to discharge whatever duty or procedure is prescribed by s 21 provides no ground for a convicted person to appeal their conviction.

(l) Clarifying s 34M of the *Evidence Act 1929* in relation to initial complaint

The Bill amends s 34M of the *Evidence Act 1929* to make it plain that an initial complaint of sexual conduct by an alleged victim, no matter how delayed, can demonstrate a consistency of conduct—though the degree of consistency of conduct will vary from case to case. The amendment adopts the view of Kourakis J (as he then was) in R v H, T (2010) 108 SASR 86, 105]-[106].

The amendment to s 34M clarifies that initial complaint evidence can be used to demonstrate consistency of conduct in any case, even where the complaint is made many years later. The degree of consistency of conduct that is demonstrated in a particular case and the weight to be given to the evidence of initial complaint will be a matter for a properly directed tribunal of fact to determine.

(m) To tighten the restrictions on access to audio visual records and transcripts of interview, involving vulnerable witnesses, especially to legally unrepresented accused

The Bill expands the meaning of 'sensitive material' in s 67H of the *Evidence Act 1929* to include the audio visual records of investigative interviews and pre-trial special hearings, along with the transcript of those records, of

witnesses in trials of sexual offences or violence offences who are young children or persons with a disability that adversely affects their capacity to give evidence. It provides that access can be given to such material by a court order, but only for proper and approved purposes.

The Bill also amends s 69 of the *Evidence Act 1929* to provide that a court must be cleared when an audio visual record of an investigative interview or pre-trial special hearing of this class of witness is being played.

(n) Providing a procedure by which recorded investigative interviews with vulnerable witnesses can be reviewed, assessed or checked for training purposes

The Bill allows Regulations to be made to provide a procedure by which recorded investigative interviews with vulnerable witnesses can be reviewed, assessed or checked for training purposes, including by external specialists, for quality assurance purposes, subject to strict confidentiality and privacy requirements.

(o) Amendment of the Declaration of Principles in s 6 of the *Victims of Crime Act 2001* to include specific reference to both physical and intellectual disability

The Bill amends the Declaration of Principles in s 6 of the *Victims of Crime Act 2001* to include specific reference to both physical and intellectual disability. The Bill amends s 6 of that Act to provide that the considerations required to be given to a victim include the needs of the victim that arise because of the victim's physical or intellectual ability.

Conclusion

The Disability Justice Plan and the present Bill reflect the Government's commitment to provide a modern and fair criminal justice system that is more responsive to the interests of people with disability, whether as victims, witnesses, suspects or defendants, and to ensure they are better served by the justice system.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal

Part 2—Amendment of *District Court Act 1991*

4—Amendment of section 50B—Certain trials of sexual offences to be given priority

This clause amends section 50B of the *District Court Act 1991* to broaden the category of victims that are captured by the provision.

Part 3—Amendment of *Evidence Act 1929*

5—Amendment of section 4—Interpretation

This clause replaces the definition of mental disability with that of cognitive impairment and inserts a definition of communication partner for the purposes of the principal Act. It also alters the definition of young child by increasing the age of a young child from 12 years to 14 years and makes other amendments of a consequential nature.

6—Amendment of section 9—Unsworn evidence

This clause amends section 9 to provide that, subject to the principal Act, section 9 does not apply to a statement made outside of a court admitted as evidence in any proceedings under an exception to the rule against hearsay at common law or under the principal Act.

7—Insertion of section 12AB

This clause inserts section 12AB which requires a court to convene a special hearing as a proceeding preliminary to a trial (a pre-trial special hearing) when—

- the evidence of a witness to whom new section 12AB applies is necessary for the purposes of the trial of a charge of an offence to which the section applies; and
- the facilities necessary to take the evidence of the witness are readily available to the court and it is otherwise practicable to make arrangements for a pre-trial special hearing; and
- the arrangements can be made without prejudice to any party to the proceedings.

12AB—Pre-trial special hearings

The clause sets out the various arrangements that must be made by the court for a pre-trial special hearing, including—

- that a hearing be convened as a proceeding preliminary to the trial of the charge of the offence for the purpose of taking the evidence of the witness in any setting that the court thinks fit in the circumstances (including an informal setting);
- if the witness has a physical disability or cognitive impairment—that the evidence be taken in a particular way (to be specified by the court) that will, in the court's opinion, facilitate the taking of evidence from the witness or minimise the witness's embarrassment or distress (including, if the witness has complex communication needs, with such communication assistance as may be specified by the court);
- that an audio visual record of the evidence be made;
- that the taking of evidence at the hearing be transmitted to the defendant by means of closed circuit television;
- if the defendant attends the hearing in person—that appropriate measures be taken to prevent the witness and the defendant from directly seeing or hearing each other before, during or after the hearing; and
- may make provision for the witness to be accompanied at the hearing by a relative, friend or other person for the purpose of providing emotional support; and
- may specify that the hearing is convened for any (or all) of the following purposes:
  - (i) examination of the witness;
  - (ii) cross-examination of the witness;
  - (iii) re-examination of the witness; and
- may make provision for any other matter that the court thinks fit.

However, the new section seeks to ensure that an order for a pre-trial special hearing must not be made if the effect of the order would be—

- to relieve a witness from the obligation to give evidence; or
- to relieve a witness from the obligation to submit to cross-examination; or
- to prevent the judge or defendant from observing the witness's demeanour in giving evidence (but the observation may be direct or by live transmission of the witness's voice and image); or
- to prevent the defendant from instructing counsel while the witness is giving evidence.

The section sets out special rules that apply in the event that the witness is accompanied by a person for the purpose of providing emotional support or communication assistance and sets out the manner in which an application for a pre-trial special hearing order must be made. The defendant is able to object to any such application on the ground that the witness does not fall into the category of witness who may apply for such special hearing. The section also provides that, subject to proposed section 13BA, an audio visual record of the evidence of a witness made at a pre-trial special hearing is admissible as evidence of the witness in the trial of a charge of an offence to which this new section applies.

The following definitions are included for the purposes of this new section:

trial of a charge of an offence to which this section applies means—

(a) the trial of a charge of a serious offence against the person; or

(b) the trial of a charge of an offence of contravening or failing to comply with an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*; or

(c) the trial of a charge of an offence of contravening or failing to comply with a restraining order under the *Summary Procedure Act 1921;*

witness to whom this section applies means—

(a) a young child; or

(b) a person with a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions.

8—Amendment of section 13—Special arrangements for protecting witnesses from embarrassment, distress etc when giving evidence

This clause proposes changes to section 13 to substitute a reference to mental disability with a reference to cognitive impairment.

9—Amendment of section 13A—Special arrangements for protecting vulnerable witnesses when giving evidence in criminal proceedings

This clause amends section 13A to make the language consistent with proposed section 12AB and to enable communication assistance to be provided to a vulnerable witness if required, also consistent with that proposed section.

10—Insertion of section 13BA

This clause inserts new section 13BA.

13BA—Admissibility of recorded evidence by certain witnesses in certain criminal proceedings

Proposed section 13BA gives the court power, in the trial of a charge of an offence, on application by a party to the proceedings, to order that the evidence of certain witnesses be admitted in the form of an audio visual record that has been made pursuant to proposed section 12AB or Part 17 Division 3 of the *Summary Offences Act 1953*.

The proposed section sets out the circumstances in which an audio visual record may be admitted into evidence and makes it clear that the court's discretion to exclude the evidence is preserved and sets out the range of circumstances in which a witness cannot be further examined, cross-examined or re-examined on the evidence admitted in the trial.

The new section also sets out the explanation that a judge must give a jury when admitting evidence in audio visual form and the nature of the warning that must be given in relation to the admission of that evidence.

11—Amendment of section 13C—Court's power to make audio visual record of evidence of vulnerable witnesses in criminal proceedings

This clause proposes amendments to section 13C of a consequential nature.

12—Insertion of section 14A

This clause inserts new section 14A.

14A—Entitlement of witness to be given communication assistance in certain circumstances

Proposed section 14A establishes a scheme to enable the court to order that the evidence given by witnesses with complex communication needs may be given with assistance designed to facilitate the taking of evidence from the witness.

In the event that the assistance ordered by the court is to take the form of a communication partner, the partner must be approved by the court and must take an oath or affirmation that the partner will communicate accurately with both the witness and the court.

13—Substitution of section 21

This clause deletes the current section and substitutes a new section.

21—Competence and compellability of witnesses

The substituted section makes certain changes to the process by which a close relative of the accused who is required by law (whether by subpoena or other process) to give evidence against the accused may apply to the court for an exemption from that requirement.

The changes to the new section include an ability for the court to grant an exemption either on an application or on its own initiative in certain circumstances. However, the court will not be required to make any inquiry about whether a prospective witness is aware of his or her right to apply for an exemption or is incapable (whether by reason of age or some reason) of understanding his or her right to apply for an exemption.

14—Amendment of section 25—Disallowance of inappropriate questions

This clause proposes to amend section 25 by substituting references to an improper question with references to an inappropriate question and adding a question that is expressed in language that is unnecessarily complicated to the categories of inappropriate questions that are included in subsection (1).

15—Repeal of section 34CA

This clause deletes section 34CA

16—Insertion of section 34LA

This clause inserts new section 34LA.

34LA—Admissibility of evidence of out of court statements by certain alleged victims of sexual offences

Proposed section 34LA is concerned with the admissibility of out of court statements made by certain victims of sexual offences. The provision imposes various conditions on the admission of the out of court statement.

The conditions are as follows:

(a) the person who made the out of court statement is the alleged victim of the sexual offence;

(b) the person will not be called as a witness in the proceedings because the judge is satisfied that, at the time the person made the out of court statement, the person was—

(i) a young child; or

(ii) a person with a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions;

(c) the out of court statement was not made by the person to an investigating or other authority as part of a formal interview process conducted in relation to the alleged offence;

(d) after considering the out of court statement, the circumstances in which it was made and any other relevant factor, the judge is of the opinion that the evidence has sufficient probative value to justify its admission.

Subsection (2)(b) applies regardless of the age of the person or the person's capacity at the time the judge is considering whether to admit the evidence of the out of court statement in the proceedings.

Evidence of the out of court statement may be used to prove the truth of the facts asserted in the statement and the admission of the evidence must be accompanied by a warning to the jury to treat the evidence with particular care because it has not been tested by way of examination or cross-examination of the alleged victim.

17—Amendment of section 34M—Evidence relating to complaint in sexual cases

This clause proposes to amend section 34M of the Act to refine the direction required to be given to the jury when evidence referred to in the section is admitted in a trial.

18—Amendment of section 67H—Meaning of sensitive material

This clause proposes to amend section 67H and the meaning of sensitive material for the purposes of Part 7 Division 10 of the principal Act. The amendments accommodate the audio visual record of pre-trial special hearings ordered pursuant to proposed section 12AB and the recording of interviews with certain vulnerable witnesses pursuant to proposed Part 17 Division 3 of the *Summary Offences Act 1953*.

19—Insertion of section 67HA

This clause proposes to insert a new section after section 67H.

67HA—Court may give access to certain sensitive material in certain circumstances

New section 67HA provides that a court may, if of the opinion that giving access to sensitive material of a kind referred to in section 67H(1)(a) that has been or may be admitted as evidence in proceedings before the court would assist a medical practitioner or psychologist to prepare an expert report for the court or provide treatment or therapy to the witness, make the sensitive material available to the medical practitioner or psychologist (as the case may be) subject to such conditions as the court thinks fit.

20—Amendment of section 69—Order for clearing court

This clause amends section 69 of the Act to ensure that the court's power to clear the court extends to occasions where evidence from an alleged victim of a sexual offence is a child and the evidence is admitted in the form of an audio visual record.

Part 4—Amendment of *Magistrates Court Act 1991*

21—Amendment of section 48B—Certain trials of sexual offences to be given priority

This clause amends section 48B of the *Magistrates Court Act 1991* to broaden the category of victims that are captured by the provision.

Part 5—Amendment of *Summary Offences Act 1953*

22—Insertion of heading to Part 17 Division 1

This clause inserts a new division heading.

23—Insertion of heading to Part 17 Division 2

This clause inserts a new division heading.

24—Amendment of section 74D—Obligation to record interviews with suspects

This clause amends section 74D of the principal Act to update and substitute references to videotape recording and audiotape recording to audio visual record and audio record respectively.

25—Amendment of section 74E—Admissibility of evidence of interview

This clause amends section 74E of the principal Act as a consequence of the separation of Part 17 into Divisions.

26—Insertion of Part 17 Division 3

This clause inserts Division 3 into Part 17 of the principal Act

Division 3—Recording interviews with certain vulnerable witnesses

74EA—Application and interpretation

This clause sets out the category of vulnerable witnesses and the type of offences that the scheme for the recording of interviews applies to in proposed Division 3.

74EB—Obligation to record interviews with certain vulnerable witnesses

This clause sets out the way in which an interview under proposed Division 3 must be conducted.

74EC—Admissibility of evidence of interview

This clause sets out the requirements that must exist in relation to evidence of an interview conducted under proposed Division 3 to prevent the evidence being inadmissible and preserves the discretion of the court to rule evidence inadmissible in its entirety or in part, whether or not those conditions have been met.

27—Insertion of heading to Part 17 Division 4

This clause inserts a new division heading.

28—Amendment of section 74F—Prohibition on playing recordings of interviews

This clause amends section 74F of the principal Act to update and substitute references to videotape and audiotape to audio visual record and audio record respectively

29—Insertion of section 74H

This clause inserts a new clause

74H—Regulations

Proposed section 74H inserts a power to make regulations for the purposes of Part 17.

Part 6—Amendment of *Summary Procedure Act 1921*

30—Amendment of section 104—Preliminary examination of charges of indictable offences

This clause amends section 104 of the Summary Procedure Act 1921 to update and substitute references to videotape and audiotape to audio visual record and audio record respectively.

The clause also makes amendments to alter the categories of victims that are captured by the provision.

31—Amendment of section 106—Taking evidence at preliminary examination

This clause amends section 106 of the principal Act to increase to 14 years of age the threshold below which certain considerations need to be made before granting permission to call a witness for oral examination at a preliminary examination.

Part 7—Amendment of *Supreme Court Act 1935*

32—Amendment of section 126A—Certain trials of sexual offences to be given priority

This clause amends section 126A of the *Supreme Court Act 1935* to broaden the category of victims that are captured by the provision.

Part 8—Amendment of *Victims of Crime Act 2001*

33—Amendment of section 6—Fair and dignified treatment

This clause amends section 6 of the principal Act to provide that the considerations required by the section to be given to a victim incorporate the needs of the victim that arise because of the victim's physical or intellectual ability.

Schedule 1—Transitional provision

1—Transitional provision

This clause makes an amendment of a transitional nature relating to the effect of the amendments by Part 3 of this measure to the *Evidence Act 1929*.

Debate adjourned on motion of Hon. T.J. Stephens.

Resolutions

JOINT COMMITTEE ON THE OPERATION OF THE TRANSPLANTATION AND ANATOMY ACT 1983

The House of Assembly agreed to the Legislative Council's resolution.

Bills

NATURAL GAS AUTHORITY (NOTICE OF WORKS) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

CHILDREN'S PROTECTION (IMPLEMENTATION OF CORONER'S RECOMMENDATIONS) AMENDMENT BILL

Second Reading

Second reading.

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (16:50): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and explanation of clauses inserted into *Hansard* without me having to read it.

Leave granted.

The Bill I present to the House today seeks to meet the Government's stated intention to work expediently to enact the legislative amendments to the *Children's Protection Act 1993* recommended by the State Coroner, Mr Mark Johns in his findings of the Inquest into the Death of Chloe Lee Valentine.

You would be aware that Mr Johns' findings, which were handed down on 9 April 2015, detailed 21 recommendations for change.

On 13 April 2015 the Government resolved to support 19 of those recommendations.

The status of the two recommendations which are not being progressed immediately is as follows:

- Recommendation 22.13 which relates to adoption as an alternative placement option, was supported in principle and will be given consideration in light of the outcome of the review of the *Adoption Act 1988* and the Royal Commission into Child Protection Systems; and
- Recommendation 22.9, which relates to prohibition of the transport of a child under 12 year of age in a chauffeured car unless in the custody of an employee of Families SA, is currently subject to further work prior to consideration by the Government's Working Group which is overseeing implementation of the Coroner's Recommendations.

The Children's Protection (Implementation of Coroner's Recommendations) Amendment Bill 2015 seeks to amend the *Children's Protection Act 1993* to implement three of the Coroner's recommendations; recommendations 22.2, 22.11 and 22.12.

Recommendation 22.12

The Bill amends the objects of the Act to make it plain that the paramount consideration in the administration of the Act is to keep children safe from harm and that maintaining a child in her or his family must give way to the child's safety.

Government amendments passed in the House of Assembly add a further object, which sets out that a decision maker must have regard to a child's views in making decisions under the Act. This was included in response to feedback provided from the Guardian for Children and Young People and others, which was provided following the introduction of the Bill.

The Bill also removes the fundamental principles set out in section 4. This amendment ensures that the objects of the Act are clear, and are not complicated by a further section setting out other matters to be considered when implementing those objects.

Recommendation 22.11

The Bill amends section 6 of the Act to include a definition of cumulative harm, which is to be considered as a relevant factor in making decisions about the care of a child. The Bill provides that in assessing whether there is a significant risk that a child will suffer serious harm or a child has been abused or neglected, relevant officers will take into account not only the current circumstances of the child but also the history of the child's care and the likely cumulative effect of that history.

This amendment provides for proper consideration of the effect of the kind of chronic neglect that was present in the life of Chloe Valentine by ensuring notifications and episodes of neglect and abuse are not considered by decision makers in isolation.

Recommendation 22.2

The Bill will amend the Act to include convictions for particular offences within a new definition; qualifying offence. This will capture any person who has a conviction in respect of a child previously born to them, or for whom they were guardian, for criminal neglect, endangering life, causing or creating risk of serious harm, manslaughter or murder. This definition also captures convictions for an attempt to commit the preceding offences, offences to which the finding of a Court under Part 8A of the *Criminal Law Consolidation Act 1935* applies, as well as corresponding offences in other jurisdictions.

The range of qualifying offences is broader than the Coroner's recommendation of murder and manslaughter. This includes offences of criminal neglect, causing serious harm, acts endangering life or creating risk of serious harm, together with the attempted forms of these offences. The attempted forms of these offences are also captured.

Under the Bill, the Chief Executive must, if he or she becomes aware that a child is residing with a parent who has been found guilty of a qualifying offence, issue an instrument of guardianship in respect of the child. The child specified in the instrument will, for all purposes, be under the guardianship of the Minister for a period of 60 days.

Government amendments passed in the House of Assembly have clarified that the 60 day guardianship period commences from either the service of the instrument of guardianship, or its lodgement at court, whichever is earlier. This updated the earlier provision of the Bill which set out that this period was triggered solely by the lodgement of the instrument with the court. This will address situations where a child may be born on a weekend and the instrument of guardianship served at that time, however its lodgement at court may not be possible until the following week.

The Bill requires that as soon as practicable within the guardianship or restraining notice period, the Minister must apply to the Youth Court for a care and protection order under Division 2 of the Act. If additional time is required to investigate the child's circumstances, the Bill makes provision for the Court to grant an extension of time on application of the Minister.

Under the Bill, a newborn child who has not yet been discharged from hospital will be taken to be residing with a person if the child is likely to reside with the person, for example the biological mother, on being discharged.

While the Coroner's recommendation focussed on the actions of the biological parents of a child, it is noted that a person that has committed a qualifying offence may reside or intend to reside in a household with a child that is not their own and this may pose a significant risk to the safety of the child. For this reason, the Bill further provides that if the Chief Executive becomes aware that a child is residing with a person (other than the parent of the child) who has been found guilty of a qualifying offence, the Chief Executive must issue a restraining notice to the offender unless the Chief Executive is of the opinion that it is inappropriate to do so in the circumstances.

Under the Bill a restraining notice may prohibit the offender from:

- Residing in the same premises as the child;
- Coming within a specified distance of the child's residence;
- Having any contact with the child except under supervision;

- Having any contact at all with the child.

Consistent with the instrument of guardianship, a restraining notice will apply for a period of 60 days and the Minister must, as soon as practicable, apply to the Youth Court for a care and protection order. As is the case for instruments of guardianship, the Minister can apply to the Court for an extension of time.

Amendments moved by the Government in the House of Assembly establish that following the issuing of an instrument of guardianship or a restraining notice, the following actions are permissible:

- assessment of, or investigation into, the circumstances of the child subject to the instrument or notice under section 19;
- application for an investigation and assessment order in accordance with section 20;
- taking a child for medical and other professional assessments for examination, tests or assessments under section 26.

Additionally the Government amendment to section 27 of the Act obviates the requirement for a family care meeting prior to application for a care and protection order where an instrument of guardianship or restraining notice has been issued.

To support identification of those guilty of qualifying offences, the Bill requires a Court that finds a person guilty of such an offence to provide information relating to that finding of guilt to the Chief Executive as soon as practical after the person is found guilty.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Children's Protection Act 1993*

4—Substitution of section 3

This clause substitutes section 3 of the principal Act, clarifying the objects of the Act so that keeping children safe from harm is the primary object, or the paramount consideration. Further objects are set out in new subsection (2), but they are secondary to the need to keep children safe from harm. The new section also requires decision makers to have regard to the views of the child.

5—Repeal of section 4

This clause repeals section 4 of the principal Act.

6—Amendment of section 5—Provisions relating to dealing with Aboriginal or Torres Strait Islander children

This clause inserts a new subsection (a1) into section 5 of the principal Act. This is a relocation of current section 4(5) and is consequent upon the repeal of that section.

7—Amendment of section 6—Interpretation

This clause inserts a new subsection (4) into section 6 of the principal Act. The new subsection makes it clear that, in assessing the risk of harm to a child for the purposes of the Act, or the fact of whether a child has been abused or neglected, the accumulated effect of any harm across the course of the child's history must be considered, and not just the circumstances existing in relation to the child at the point in time of the assessment.

8—Amendment of section 19—Investigations

This amendment is consequential to clause 14. It requires the Chief Executive to cause an assessment of, or investigation into, the circumstances of a child to be carried out where an instrument of guardianship or a restraining notice has been issued under the new provisions.

9—Amendment of section 20—Application for order

This amendment is consequential to clause 14. It allows the Chief Executive to apply to the Youth Court for an investigation and assessment order where an instrument of guardianship or a restraining notice has been issued under the new provisions.

10—Amendment of section 26—Examination and assessment of children

This amendment is consequential to clause 14. It allows an employee of the Department to take a child to a person or place for the purpose of having the child professionally examined, tested or assessed where an instrument of guardianship or a restraining notice has been issued under the new provisions.

11—Amendment of section 27—Family care meetings to be convened by Minister

This amendment is consequential to clause 14. It disapplies the family care meeting requirements where an instrument of guardianship or a restraining notice has been, or is to be, issued under the new provisions.

12—Amendment of section 37—Application for care and protection order

This clause inserts new subsection (3) into section 37 of the principal Act. The new subsection (consequential upon the insertion of new Part 5 Division 3) requires the Minister to apply to the Youth Court for a care and protection order under Part 5 Division 2 as soon as is practicable after he or she issues an instrument of guardianship or a restraining notice under new Part 5 Division 3. The new subsection also sets out the grounds for such an application, namely that the initial instrument or notice was properly issued.

13—Amendment of section 38—Court's power to make orders

This clause inserts new paragraph (ea) into section 38(1) of the principal Act. The new paragraph allows the Youth Court to revoke an instrument of guardianship or restraining notice where an application contemplated by section 37(3) has been made.

14—Insertion of Part 5 Division 3

This clause inserts new Part 5 Division 3 into the principal Act, as follows:

Division 3—Chief Executive to take action in relation to persons with qualifying offences

44A—Interpretation

New section 44A sets out key terms used in the new Division 3.

Of particular note is the definition of qualifying offence, those being the offences that enliven the requirements of the new Division. Those offences are murder, manslaughter, criminal neglect, an act to endanger life or causing serious harm, or an attempt to commit such an offence, where the victim is a child and the offender a parent or guardian of the child. It does not matter whether the offence was committed before or after the commencement of the new Division.

44B—Application of Division

New section 44B provides that new Division 3 only applies to children born in the State after the commencement of the new section who are not the subject of a guardianship order under another Act, for example the *Guardianship and Administration Act 1993*.

44C—Temporary guardianship instruments and restraining notices

New section 44C(1) requires the Chief Executive to assume guardianship of a child if the Chief Executive becomes aware that the child is residing with a parent who has been convicted of a qualifying offence, being the offences defined in new section 44A. Those offences include interstate offences. This is achieved by Chief Executive issuing an instrument of guardianship.

New section 44C(3) requires the Chief Executive, if he or she becomes aware that a child is residing with a person who is not their parent but who has been convicted of a qualifying offence, to issue a restraining notice to the person, prohibiting the person from doing the things specified in the notice, such as residing in the same premises as the child.

The new section also makes provision in relation to procedural requirements for instruments of guardianship and restraining notices, and creates an offence for a person to contravene a restraining notice. The new section also provides that a newborn baby will be taken to reside with a person if the baby is likely to reside with the person when the baby comes out of hospital.

As soon as practicable after the Chief Executive issues an instrument of guardianship or a restraining notice, the Minister must make the application referred to in the amended section 37 of the principal Act.

44D—Court may grant an extension of time

New section 44D allows the Youth Court to extend the guardianship period or restraining notice period (that is, the period of time an instrument or notice is in effect) if the court thinks it appropriate to do so.

44E—Evidentiary

New section 44E provides an evidentiary presumption in respect of instruments of guardianship and restraining notices.

44F—Information to be provided to Chief Executive

New section 44F requires a court that finds a person guilty of a qualifying offence to provide to the Chief Executive prescribed information relating to the finding of guilt.

Debate adjourned on motion of Hon. Mr Stephens.

At 16:52 the council adjourned until Tuesday 16 June 2015 at 14:15.