LEGISLATIVE COUNCIL

Tuesday, 17 November 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:17 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia and their connection to the land and community. We pay our respects to them, their cultures and the elders both past and present.

Bills

LOCAL GOVERNMENT (ACCOUNTABILITY AND GOVERNANCE) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

LIQUOR LICENSING (PROHIBITION OF CERTAIN LIQUOR) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (TERRORISM) BILL

Assent

His Excellency the Governor assented to the bill.

JUDICIAL CONDUCT COMMISSIONER BILL

Assent

His Excellency the Governor assented to the bill.

LONG SERVICE LEAVE (CALCULATION OF AVERAGE WEEKLY EARNINGS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (INDUSTRIAL RELATIONS CONSULTATIVE COUNCIL) BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

ANSWERS TABLED

The PRESIDENT: I direct that the written answers to questions be distributed and printed in *Hansard*.

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2014-15—
- Berri Barmera Council
- Campbelltown City Council
- District Council of Cleve
- Port Augusta City Council
- District Council of Robe
- City of West Torrens

District Council of Wudinna
Erratum to the Report of the Auditor-General, 2014-2015, concerning Part A: Executive Summary and Part B: Agency Audit Reports

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

Reports, 2014-15—
Administration of the Development Act 1993
Freedom of Information Act 1991
Mining and Quarrying Occupational Health and Safety Committee
Operations of the Independent Commissioner Against Corruption and Office for Public Integrity—Errata
Privacy Committee of South Australia
SafeWork SA Advisory Council
Section 52C of the Controlled Substances (Drug Detection Powers) Act 2008
Report dated October 2015 of the Review of the Criminal Law (Sentencing) (Guilty Pleas) Amendment Act 2012 and Criminal Law (Sentencing) (Supergrass) Amendment Act 2012
Regulations under the following Acts—
Criminal Law (High Risk Offenders Act 2015—General
Security and Investigation Industry Act 1995—Miscellaneous
Superannuation Funds Management Corporation of South Australia Act 1995—Prescribed Public Authorities
TAFE SA Act 2012—Retrenchment
Rules of Court—
Supreme Court—Supreme Court Act 1935—
Civil—Amendment No. 30
Civil—Supplementary—Amendment No. 4
Fast Track Adoption—Amendment No. 2
Fast Track Adoption—Supplementary—Amendment No. 2
Special Applications—Supplementary—Amendment No. 2

By the Minister for Business Services and Consumers (Hon. G.E. Gago)—

Consumer and Business Services—Report, 2014-15
Club One (SA) Ltd. Financial Report, 2014-15
Regulations under the following Acts—
Building Work Contractors Act 1995—Miscellaneous
Conveyances Act 1994—Miscellaneous
Land Agents Act 1994—Miscellaneous
Plumbers, Gas Fitters and Electricians Act 1995—Miscellaneous

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

Reports, 2014-15—
Adelaide Convention Centre
Department of Environment, Water and Natural Resources
Maralinga Lands Unnamed Conservation Park Co-Management Board
South Australian Motor Sport
South Australian Tourism Commission
Wilderness Protection
Regulations under the following Acts—
Fisheries Management Act 2007—Individual Rock Lobster Catch Quota System
Major Events Act 2013—Credit Union Christmas Pageant
Marine Parks Act 2007—Statutory Authorisation Compensation
Natural Resources Management Ac 2004—Miscellaneous
Plant Health Act 2009—Fees

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Reports, 2014-15—
Stormwater Management Authority
South Australian Water Corporation

By the Minister for Climate Change (Hon. I.K. Hunter)—

Premier's Climate Change Council—Report, 2014-15

By the Minister for Manufacturing and Innovation (Hon. K.J. Maher)—

Surveyors Board of South Australia—Report, 2014-15
Regulations under the following Act—
Local Government Act 1999—Local Government Sector Employers
District Council By-laws—Elliston—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Caravans and Camping
No. 7—Foreshore

Parliamentary Committees

NATURAL RESOURCES COMMITTEE

The Hon. J.S.L. DAWKINS (14:25): I bring up the interim report of the committee on its Inquiry into Unconventional Gas (Fracking).

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. J.A. DARLEY (14:26): I bring up the report of the committee 2014-15.

Ministerial Statement

PARIS TERRORIST ATTACKS

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) (14:26): I table a copy of a ministerial statement made earlier today in another place by my colleague the Premier, the Hon. Jay Weatherill, relating to the Paris terrorist attacks.

GREENWOOD, DR J.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:26): I table a copy of a ministerial statement relating to South Australia's Australian of the Year made earlier today in another place by the Minister for Health.

LEIGH CREEK

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:26): I seek leave to make a ministerial statement on Leigh Creek.

Leave granted.

The Hon. K.J. MAHER: Today is the final day of operation for the Leigh Creek coal mine. This area has had a very proud history. For thousands of years it has been home to the Adnyamathanha people, but more recently, in 1888, coal mining began and in 1943 coal was mined

on a commercial scale. Leigh Creek has had an important role in South Australia's history, and that role should not be forgotten or diminished.

The state government's priority is the 440 workers at Port Augusta and Leigh Creek who will lose their jobs as a result of the closure of Alinta's operations, and particularly the workers at Leigh Creek as mining finishes up today. After Alinta's announcement to cease their operations, the South Australian government announced an initial support package of $1 million in job creation and support initiatives for the Upper Spencer Gulf and Outback region. On 12 November the Minister for Regional Development announced a further $7 million in support for the Upper Spencer Gulf and Outback region. This includes $5 million from round 3 of the Regional Development Fund to specifically support projects in this region.

The Regional Development Fund has a proven track record of creating jobs and generating investment in South Australia's regional economies. The last two rounds of the Regional Development Fund grants have together created over 1,100 jobs and more than half a billion dollars in new investment in our regions. With a third of this round of the fund being set aside for the Upper Spencer Gulf and Outback we will see significant job creation investment in this region.

A further $2 million has been announced to fund small projects exclusively for the region. These projects will be funded on a dollar for dollar basis between $50,000 and $200,000. The grant program, which will be called the Upper Spencer Gulf and Outback Futures Program, will provide a funding source for local companies and businesses, as well as for councils and other bodies, to realise their ideas to create jobs.

Like Holden, Alinta has committed to provide transitional support services to their workers, and also like Holden the state government is providing similar services to the Alinta supply chain. There is also the government's $60 million Our Jobs plan that is supporting South Australians impacted by the changing nature of industry across the whole state.

The government will continue to provide the services in Leigh Creek that we currently provide, such as the school, health services and police, until at least July 2018. Alinta also has an obligation to continue to provide the services they currently do, such as electricity and water, up to that date. The future of the township beyond that date will be determined in close consultation with the Leigh Creek community and the Outback Communities Authority. We are committed to ensuring that Leigh Creek has an optimistic future. Since the announcement by Alinta that they will close, we have received a number of suggestions about new directions that Leigh Creek can take.

Some of these ideas have come from current residents, others from outside the town. However, it is clear that there are many people who can see a strong future for Leigh Creek, and the state government is committed to ensuring that these options are fairly considered. I have been fortunate to spend a great deal of time in Leigh Creek and surrounds over the last few months and have appreciated the generosity of residents in spending time to share their views on the future of Leigh Creek and inviting me into their homes.

The state government has today released a report summarising the feedback from the community regarding Leigh Creek. This report summarises community thoughts and concerns across a whole range of sectors from education and health services to the rehabilitation of the mine, to housing and the future of local business. This community feedback has been important in guiding the government's response so far and it will continue to guide our actions into the future.

To ensure that new ideas for Leigh Creek and surrounding areas are appropriately considered, the government has appointed Dr Lomax-Smith to oversee a Request for Information process, inviting industries and businesses to formally put their ideas forward to government to be considered, and Dr Lomax-Smith will report back to government early next year. Dr Lomax-Smith's experience in the education and tourism portfolios makes her a natural fit for this important role.

Many of the workers who have been made redundant are entitled to return to state government work provisions as a result of the privatisation of the power station and the mine. The state government has fulfilled and will continue to fulfil its obligations to these workers. The South Australian government will continue to strongly support workers in both Leigh Creek and Port Augusta who have or will shortly receive their notices of redundancy from Alinta Energy.

Question Time

APY LANDS, CHILD PROTECTION

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking questions of the Minister for Aboriginal Affairs and Reconciliation in relation to child protection on the APY lands.

Leave granted.

The Hon. S.G. WADE: Two weeks ago, on 29 October, I asked the minister questions in relation to the APY Lands Steering Committee, specifically concerning its responsibility since late 2013 to monitor the ongoing implementation of the 46 recommendations of the 2008 Mullighan inquiry into the sexual abuse of children on the APY lands.

In his response, the minister indicated that matters of child protection and responses to the Mullighan inquiry were the responsibility of the Minister for Education and Child Development and that he would refer my questions to her and bring back a reply.

Four days later, however, on 2 November, InDaily journalist Tom Richardson reported that a spokesperson for the Minister for Education and Child Development had informed that publication that 'the APY Lands Steering Committee was the responsibility of Aboriginal Affairs Minister Kyam Maher'. My questions to the minister are:

1. Can the minister advise which minister of this government is responsible for the APY Lands Steering Committee?

2. Did the minister mislead the council on 29 October when he stated that ministerial oversight of the committee was the responsibility of the Minister for Education and Child Development?

3. If the minister did mislead the council, can he explain how he could be unaware of this important responsibility more than seven months after becoming the minister?

4. If the minister did not mislead the council, will he ask the Minister for Education and Child Development to immediately correct the public record?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:33): I thank the honourable member for his question. The APY Lands Steering Committee is co-chaired by the Aboriginal Affairs and Reconciliation department in the state government and the Department of the Prime Minister and Cabinet. I note that they are scheduled to meet next on 26 November. That steering committee covers a whole range of various issues. In relation to child protection, the responsibility for child protection in the APY lands and across the state is that of the child protection minister.

FIRE MANAGEMENT PLANS

The Hon. R.I. LUCAS (14:34): I seek leave to make a brief explanation prior to directing a question to the Minister for the Environment on the subject of fire management.

Leave granted.

The Hon. R.I. LUCAS: On 20 October 2014, Mr John Schutz from the environment department told the Budget and Finance Committee, in response to some questions on fire management:

> The government has adopted a target of 5 per cent of all high-risk public lands to be treated every year, and our aim is to work towards having all of those high-risk parts to the reserves to have fire management plans in place by the end of next year…

My question to the minister is: given that it is now the end of next year (2015), has that commitment been met by the government?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:35): I thank the

honourable member for his most important question. The Department of Environment, Water and Natural Resources is responsible for fire management activities on public land under my care and control to help mitigate the impact of bushfires. As I have said in this place previously, these lands cover about 23 per cent of the state. DEWNR plays a major role in supporting the South Australian Country Fire Service in response to bushfire emergencies across the state.

The key component of DEWNR's fire management activities is the delivery of an annual rolling program of prescribed burning. This prescribed burning is, in fact, a five-year rolling program. This prescribed burning program aims to reduce fuels in strategic locations on public lands in an attempt to reduce the impact of bushfires on life, property and the environment. The importance of prescribed burns has been reinforced many times but most recently in January 2015 during the Sampson Flat bushfire. I am advised that analysis and fire intensity mapping on both the 2014 Bangor and 2015 Sampson Flat bushfires has demonstrated that prescribed burns play a pivotal role in modifying bushfire behaviour and their spread.

These fuel-reduced areas provide buffers for firefighters, who are then able to gain tactical advantages during the bushfire events, whilst also providing refuge for wildlife during and in the period of recovery after a bushfire. As I have mentioned previously, we are the largest brigade of the CFS, with 558 brigade members, including 363 firefighters who can be called upon at any time to attend bushfire incidents both on and off public land, as well as delivering prescribed burning programs. They are also on call if we are needed to assist interstate or indeed, as has been the case in recent times, overseas, most particularly in the United States and Canada.

The DEWNR program has always been set in terms, as I have said, of a five-year rolling program of prescribed burning, and we do that based on solid science from people analysing past burning programs, whether they be prescribed burns or burns that have been caused by either accidents or otherwise. We then plan a rolling plan for five years to readdress those fuel loads.

As I have said many time in recent weeks, we only burn when it is safe to do so. It is very important that people understand that, whilst we have a plan for burning in the state-owned lands, which includes forestry lands as well as SA Water land, we over-plan, because we know that the weather conditions in any particular season will never be absolutely ideal for burning, so we have extra locations in our plan for burning and, if the weather conditions are not ideal, we can shift a planned burn for example, say, from Eyre Peninsula to somewhere in the Mount Lofty Ranges or perhaps in the South-East.

Of course, when we are doing that, we may have a planned burn for 300 or 3,000 hectares in the Far West, and, if we shift that burn because of weather conditions to the Mount Lofty Ranges, we may be burning only three hectares, or slightly more than that, so flexibility is the key in these matters for us.

In terms of fire management plans, DEWNR has developed comprehensive fire management plans for public lands. These plans are risk-based and provide the strategic direction to mitigate the risk that bushfire poses to life, property and the environment. Fifteen fire management plans and one fire management strategy have been released across the state, I am advised, covering approximately 52 per cent of parks and reserves managed by DEWNR, and I am told that is 186 parks and reserves.

The South Para Fire Management Plan, developed by the three land management agencies of DEWNR, ForestrySA and SA Water, together with the CFS, was scheduled to be released in February 2015. However, during the 2015 Sampson Flat bushfire, much of the planning area was impacted and, as a result, the release of the plan has been delayed and a review of the plan will be undertaken before a decision on how to proceed is reached.

A further two fire management plans are currently being developed, I am advised. These plans will cover the Northern Flinders Ranges and the Dudley Peninsula on Kangaroo Island. It is worthwhile reminding the chamber that our fire management programs and, indeed, the resourcing of them have changed markedly over the last decade or so.

DEWNR's fire management operating budget for 2015-16 is $10.304 million, compared, I understand, to approximately $390,000 in 2002-03 when we came to government. Increased funding provided by this government has enabled the department to recruit and train staff in specialist fire-

management skills and to purchase and develop equipment, which includes the use of aircraft for undertaking prescribed burning and fuel reduction programs in higher risk areas.

Since 2003, there has been a consistent increase and commitment by this government towards reducing the risk that bushfires pose to the lives and property of the people of this state. The number of brigade members in the DEWNR brigade have increased year by year, every year, from 300 in 2003-04 to more than 560 in 2015.

The numbers of firefighting appliances and support vehicles, such as large fire trucks, small fire units, bulk water carriers, command vehicles, logistics vehicles and others used for different fire ground roles have increased to 150 in 2015, and DEWNR's budget for the training of firefighters has more than doubled from $92,000 in 2003-04 to $241,000 in 2015-16. DEWNR's budget for conducting prescribed burning has more than quadrupled, increasing from $127,000 in 2003-04 to over $683,000 in 2015-16. This government is committed to putting in place the best possible protections for this state in terms of preparing for fire.

FIRE MANAGEMENT PLANS

The Hon. R.I. LUCAS (14:40): A supplementary question arising out of the minister's answer: given the government's aim, evidently, was to have all fire management plans for high risk parts to reserves completed by the end of this year, can the minister now indicate when the government believes it will have completed all fire management plans for high risk parts to reserves?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:41): I thank the honourable member for his most important supplementary. I have no further information at this point to give him on that matter.

FIRE MANAGEMENT PLANS

The Hon. J.S.L. DAWKINS (14:41): Supplementary: given that the answer that the minister gave is almost identical to the one he gave me in relation to my question about the Warren Conservation Park fire some weeks ago, does the minister have more information about the facts that he was going to check in relation to the Warren fire?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:41): Not at this stage, Mr President.

MANUFACTURING WORKS

The Hon. A.L. McLACHLAN (14:41): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a question regarding the government's Manufacturing Works program.

Leave granted.

The Hon. A.L. McLACHLAN: In May this year, Frost & Sullivan released its assessment report of the government's Manufacturing Works program. A section of the report detailed some of the issues or challenges that participants have raised in respect of their participation in the program. Smaller companies, in particular, expressed difficulty in justifying some of the up-front costs required to participate in the program. These companies expressed an interest in possible payback schemes that would allow them to distribute the associated costs over a longer period of time. My question to the minister is: is the government considering or exploring implementing a payback scheme for smaller businesses in order to encourage more small manufacturing businesses to participate in the program?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:43): I thank the honourable member for his question and for bringing up the Frost & Sullivan report that looked at and talked about the great benefits that this program has provided to South Australian manufacturers. In relation to specific recommendations made in that report, we are always open to

changing what we do to make sure it best meets the needs of South Australian companies and manufacturers.

I might note that one of the Hon. Andrew McLachlan's favourite topics to ask questions about that he knows well of is the micro-finance fund. That could be seen as quite a good response to this, that is, small grants for start-up ideas for companies that are finding it difficult to access funds or grants elsewhere. So, if there's a specific company the Hon. Andrew McLachlan has in mind that is having trouble accessing, I am more than happy to speak to that company and to go through some of the other possible grants that are available to support manufacturing in this state.

STEM SKILLS

The Hon. T.T. NGO (14:44): I seek leave to make a brief explanation before asking the Minister for Science and Information Economy a question about how we are providing our school students with the skills they will need to participate in workforces of the future.

Leave granted.

The Hon. T.T. NGO: The Australian Bureau of Statistics has reported that STEM skills jobs grew at about 1.5 times the rate of other jobs in recent years: by roughly 14 per cent compared to 9 per cent between 2006 and 2011. My question to the minister is: can the minister tell the chamber about the program Concept2Creation and how it is providing our school students with invaluable STEM knowledge and skills?

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. I often come into this chamber and talk about the challenges that are facing this state, and the need for us to transition our economy. Knowing this, it is incredibly important that we provide our workforce of the future—our students—with the right skills and knowledge, and we know that STEM will be fundamental to this.

The Concept2Creation C2C program provides STEM-based education programs which are developed and delivered in conjunction with industry to support school students with problem-based learning in STEM. These education programs were developed by the Northern Advanced Manufacturing Industry Group (NAMIG). NAMIG was established in 2007 by a group of northern Adelaide manufacturing-based employers. They recognised that there was a need to create a program aimed at high school students which would build relationships between schools and industry and which would result in more young people choosing to enter advanced manufacturing and careers in science, technology, engineering and mathematics.

The C2C suite of programs allows students to apply science, maths and technology theory through a problem-based learning approach. Industry and students work collaboratively to solve problems that require the creation of a product or a service. The industry partners work with the students to take the product from concept to research and development, production and then to final creation and marketing.

During my visit to the expo, I saw a raft of different projects, including different teams who had developed a remote control vehicle that was required to navigate a mining-inspired obstacle course. They had to be able to drill into and collect rock samples. There were also teams who developed a remote control device that would float on water and collect specific volumes of water and then analyse. There were probes attached to the craft and the probes would analyse these samples.

It was really incredibly impressive to observe, and it was truly wonderful to be able to talk with the students about their projects and about their aspirations. The annual C2C Expo then provides an opportunity for participating schools and students to display their projects to parents, industry, sponsors and government officials. Prizes for participating and winning schools are also presented at the Expo.

C2C is a great example of government and industry working together to co-sponsor a program that provides invaluable hands-on experience to students from year 9 to year 12 across the

state. The Department of State Development and DECS are co-sponsors of the program, providing $700,000 over three years, and this year approximately 30 schools participated.

Industry sponsors include BAE systems, SA Power Networks, GM Holden, Defence Force Recruiting and the RAAF. These industry sponsors not only contribute financially but also provide valuable in-kind support in the form of staff time and donation of materials and resources. I would just like to take this opportunity to congratulate all of the students who participated in this year's C2C programs and to thank their teachers for all their support and assistance and also industry sponsors for their time and support.

Ministerial Statement

BUSHFIRE PREPAREDNESS

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): While I am on my feet, I wish to table a ministerial statement made by the Hon. Tony Piccolo on bushfire preparation and Operation Nomad.

Question Time

CENTRE FOR DISABILITY HEALTH

The Hon. K.L. VINCENT (14:49): I seek leave to make a brief explanation prior to asking questions of the minister representing the Minister for Disability regarding the Centre for Disability Health at the Modbury Hospital.

Leave granted.

The Hon. K.L. VINCENT: About a fortnight ago, my office learned that the Centre for Disability Health at Modbury Hospital is facing imminent closure following contact from clients, family carers and the staff at the centre. Recent clients at the centre (only those who have used it in the previous 22 months) have been contacted to ask for their opinion about the possible closure of the centre and given only three weeks to provide feedback.

Meanwhile, health professionals working at the centre, I understand, have been told not to take on additional patients and informed that they should prepare their current clients for transition. The centre is the only one of its kind in Australia, I understand, and provides training and teaching placements for health and other disability service providers and hosts placements for students, registered nurses, GP trainees, psychiatric registrars and paediatric registrars.

The centre is accredited by Australian General Practice Accreditation Limited and it is my understanding that this accreditation will not be reapplied when it expires. The minister claims that the centre is not confirmed for shutdown, yet all the evidence points otherwise. My questions to the minister are:

1. Does the minister understand that the specialist training and services provided at the CDH are not provided anywhere else in South Australia through either mainstream health nor disability services?

2. Does the minister understand that many of the patients accessing the centre can often use only behaviour to demonstrate their health concerns?

3. Where does the minister propose health professionals refer these patients for transition?

4. Is the minister aware of the additional cost to the taxpayer and the reduced quality of care to patients that could result as a consequence of the centre's closure?

5. Does the minister propose that the National Disability Insurance Scheme will solve the closure when the NDIS does not specifically fund and provide health care?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:51): I thank the

honourable member for her most important questions. On her behalf, I will undertake to take those questions to the Minister for Disabilities in another place and seek a response.

SKILL SHORTAGES

The Hon. J.S. LEE (14:51): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills questions about skill shortages.

Leave granted.

The Hon. J.S. LEE: Reported by the Australian Tourism Labour Force Report, it was noted that job opportunities abound in the South Australian tourism sector but its growth is being hampered by the most poorly skilled workforce in the nation. The report found that 75 per cent of South Australian businesses identified skill deficiencies among their employees, a higher proportion than any other state or territory. The biggest shortcoming was a mismatch of skills with job requirements, followed by lack of experience.

Restaurant and Catering Australia deputy chief executive, Sally Neville, said South Australia had a dire shortage of chefs, cooks and restaurant managers. In addition to this information, it was confirmed that job vacancies within the sector are about 9 per cent in South Australia, above the national average and amounting to more than 2,700 positions. My questions to the minister are:

1. With 75 per cent of South Australian businesses identifying skill deficiencies among their employees, why has the government not addressed this problem earlier?

2. What recent consultation has the minister undertaken with industry regarding training policies that will meet the expectations of the tourism sector?

3. What measures will the minister put in place to address the 9 per cent unemployment rate in the tourism 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) (14:53): I thank the honourable member for her most important questions. Indeed, Deloitte Access Economics was recently commissioned by Austrade to produce the Australian Tourism Labour Force Report for 2015 to 2020, which provides a picture of the current state of the tourism labour force and future skills demand and shortages. The report discusses a number of positives for the South Australian tourism sector.

I note that the Hon. Jing Lee did not refer to any of the positives that were in the report, only the negatives. That is how the Liberal opposition operates. All they do is talk the state down, always putting the state down. They talk down the state, they talk down South Australians, they talk down jobs.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: They talk down jobs, because talking down our state means that consumers and businesses—

Members interjecting:

The PRESIDENT: The minister will sit down. The honourable minister was asked a question; no-one spoke while the question was being asked so at least allow the minister to answer that question in silence. Minister.

The Hon. G.E. GAGO: Thank you, Mr President. We know that talking down the state affects not only consumer confidence but also business confidence, and that is why the Liberal opposition's continual talking down of this state is so damaging. Before I go on to talk about—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: While I have this opportunity I will mention, given that the Hon. Jee Ling failed to mention any of the positives, the fact that—

Members interjecting:

The Hon. G.E. GAGO: What did I say? Sorry, the Hon. Jing Lee. We are the second lowest in the nation for retention difficulties, the third lowest in the nation for recruitment difficulties, our turnover rate is below the national average, and we are in the third strongest position in the nation to meet future demand for skilled workers. They are all positives in relation to the South Australian tourism sector and, as I said, it is incredibly disappointing that the Hon. Jing Lee failed to make reference to any of those positives. What she has done is latch on to the negative.

An honourable member: Shame!

The Hon. G.E. GAGO: Yes, shame. The report indicates that South Australia was ranked the highest in the nation for skill deficiencies, with 75 per cent of businesses reporting skill deficiencies in their workers. To ensure appropriate targeting of government investment in training, the Training and Skills Commission has been consulting with industry to identify their key qualifications, and the information gathered through this process will inform the streamlining of the subsidised training list and be the focus of government investing under WorkReady.

According to the ABS census, almost half of the workers in the tourism sector did not have post-school qualifications, and this indicates that formal VET qualifications may not necessarily be a barrier to workers entering the sector or performing their duties. As I said, this is the important information that TASC is doing at the moment, working with key stakeholders and key industry representatives to work through those issues.

The state government, through its Jobs First approach, supports employment-specific projects that provide unemployed and underemployed people with the skills needed to gain work. Jobs First connects training directly to jobs, and submissions can be made to the department to support training for labour market needs.

We believe that WorkReady is a far more flexible training model that allows for the Jobs First employment programs which, as I said, can provide accredited or non-accredited training or a bit of both. It is a training model that allows industry to specifically identify its needs and ensure that the training is actually able to deliver the outcomes it needs to run successful businesses. We believe the WorkReady model is a far more flexible and suitable model to ensure that these things do not happen again.

For those who do require formal VET qualifications, in 2015-16 around 2,600 new training places relating to the tourism sector are being supported, in addition to continuing students. Based on Training and Skills Commission projections, this level of investment will more than adequately support the skill needs of the tourism sector in the coming years.

NATIONAL PARKS

The Hon. J.M. GAZZOLA (14:59): My question is to the Minister for Sustainability, Environment and Conservation. Could the minister inform the chamber about the outcome of the codesign process to determine how parks around the Adelaide metropolitan area will be improved to attract greater numbers of visitors?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:59): I thank the honourable member for his most important question. There is no doubt about him, he comes up with these blitzes, does he not? On Sunday 8 November I joined hundreds of park lovers at Morialta Conservation Park for the Picnic in the Park event. It was one of the final events to celebrate the centenary of Morialta Conservation Park and it really is a wonderful and much-loved asset for our city and our communities.

It was fitting that I took that occasion to announce the results of one of the largest co-design initiatives ever undertaken by my department. One of the election commitments of ours was to invest $10.4 million on projects to increase the number of people visiting Adelaide's metropolitan national parks. This includes turning the Adelaide and Mount Lofty Ranges into an international mountain

biking destination, and improving the infrastructure and facilities in parks located in the northern and southern suburbs of Adelaide.

With so many wonderful and diverse parks surrounding the city, the state government wants to encourage more people to use and enjoy them. The state government's role is not only to look after and conserve these parks but also to make sure that they have the facilities and amenities that visitors want. We made the important decision early on in this project to go out and ask the community what they wanted in their local parks. The South Australian government recognises the importance of giving South Australians more opportunities to be involved in decisions that impact their lives and this was the basis of the Premier's Reforming Democracy agenda, after all.

I am very proud to say that the Department of Environment, Water and Natural Resources has a strong track record of bringing the community's voice into government decision making, notably through regional natural resources management planning, water allocation planning and the co-management of national parks. We feel involving people in decisions that interest or affect them will result in better solutions, and involving the community gives us access to new and innovative ideas.

We know that spending time in nature is excellent for our physical and mental health and wellbeing, and we also know that the best way we can conserve our open spaces is to ensure that the community feels a sense of ownership and pride towards them and will want to protect them into the future. We wanted to make sure that this investment and the improvements we ultimately undertake truly reflect what the community wants and needs.

The co-design process involved community round tables and stakeholder workshops, an online survey and national park discovery days. We even encouraged primary school students to describe their perfect park for us through a competition using the computer game *Minecraft* where their task was to design their ideal park. Over 11,000 people, I am advised, were involved in this process and they provided us with a huge number of suggestions that were then considered by the two co-design teams made up of northern and southern community members.

I am very pleased to announce that we will be funding nearly 40 infrastructure, education and maintenance projects across seven metropolitan Adelaide parks from Para Wirra Recreation Park (up until a few months' time) in the north to Onkaparinga River National and Recreation Parks in the south. With the support and endorsement of both houses of parliament, Para Wirra Recreation Park will become Para Wirra Conservation Park.

These include upgrades to picnic areas and campsites, as well as a number of improvements to walking trails, outlooks and bike trails for all ages. We will also be investing in a number of nature play areas for children and improved educational information facilities. To complement these upgrades, we are also creating ongoing roles for five rangers and eight seasonal staff to carry out trail maintenance.

Planning and design for these projects is already underway, with on-ground works due to begin from the middle of next year, creating an estimated 20 jobs in local design and construction businesses. Importantly, they accurately reflect what the community told us they needed. The co-design process will not only provide people with the facilities they want in parks, but also create a new generation of park lovers and protectors, we hope.

I would like to take this opportunity to thank everyone who responded to our online survey and took part in the park's open days, round tables or one of the community co-design teams which did such fantastic work. I would also like to thank sincerely DEWNR staff for their outstanding effort and enthusiasm for the co-design process that certainly has ensured it was such a resounding success.

WATER LEVIES

The Hon. R.L. BROKENSHIRE (15:03): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about water levies in the South-East.

Leave granted.

The Hon. R.L. BROKENSHIRE: Recently, *The Border Watch* newspaper reported that South-East-based ratepayers are set to see an increase of 300 per cent in their NRM water levy which would raise an extra $5 million to help fund the activities of the South East NRM Board for this financial year and also replace the $100,000 that the minister ripped out of that to have a so-called citizens' jury look at the South-East drainage scheme whose recommendations he then just dismissed.

This tax grab will not only affect farmers but it will also affect forestry businesses, commercial industries and residential property owners. Everyday mums and dads could be paying up to $120 more in taxes because of this hike, and already struggling farmers will have to find another $2,000 or more when their notices begin arriving in the mail. I also remind my colleagues that this levy increase is in addition to the already very hefty hike to the ESL which was thrust upon the public this year. My questions are:

1. Is this report true and is this government planning to raise the water levy component of the NRM levies in the South-East by 300 per cent? If not, what is the exact figure the government plans to increase the levy by?

2. How much money has the government cut from the budget of the South East NRM Board over this year and next year to take into DEWNR's general revenue?

3. Could the minister explain what type of activities the board is currently undertaking that could possibly justify a tax hike of this magnitude?

4. This is a very important question. Is this a smoke and mirrors way of the government ripping more money from farmers to maintain the South-East drainage scheme annual maintenance?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:05): I thank the honourable member for his most important questions most sincerely, because it gives me an opportunity to put on the record the facts around this issue. I would just say to the honourable member that in his preamble and his explanation before he asked the questions, in fact the entire basis of his questions, is wrong and false. I will take him through the information, and it is very important that he has that, so I am very grateful that he does rise to ask it.

As I have said in this place before, the government's position in terms of cost recovery comes directly from the National Water Initiative. It is a national initiative, obviously, which states and territories and the commonwealth government have all agreed to. The 2010-11 state budget established significant cost recovery targets for water planning and management activities from 2011-12 onwards.

I reminded the chamber, I think last sitting week, when the Hon. Mr Ridgway exclaimed on this topic because he heard about it in the paper, that of course he was only five years late, because again it was set in the 2010-11 state budget. Since 2011, the Department of Environment, Water and Natural Resources has negotiated temporary budget relief against the cost recovery target, as I said, set down by the National Water Initiative in terms of beneficiary pays, and has negotiated that temporary budget relief, but from 2015-16 this relief will no longer be provided.

The honourable member's questions and explanations talking about hikes and cuts, etc. are all false. They are all wrong. What we have actually been doing is shielding people down in the South-East—and elsewhere, of course—from this National Water Initiative beneficiary pays budget recovery, and doing that for five years, with the knowledge that this would no longer be in place from 2015-16.

The state government currently pays $40 million for water planning and management activities across the agency. Only a small portion of the overall amount is to be recovered from natural resources management boards. In 2015-16, a total of $3.5 million is to be recovered from NRM boards, with $6.8 million to be recovered in 2016-17, indexed ongoing thereafter.

Abiding by user pays principles—or beneficiary pays—is seen as the fairest way to recover the costs of these activities. I will come to what those activities are in a moment. Even with these principles, we are only still recovering a very small portion of these costs from users. I will also come

back to a point I made at another stage, to compare what we recover in relation to other states to show the honourable member that in fact other states have not been shielded to the extent that South Australians have.

In South Australia, these costs include supporting the water management requirements of the Natural Resources Management Act 2004, which includes water licensing; compliance activities; science to support the development and management of water resources; the development, review and amendment of water allocation plans; and, of course, debt recovery activities. These activities are central to sustainable water resource management and support our priority for South Australia to be recognised for its premium food and wine produced in our clean environment and exported to the world and sustained into the future.

I have some examples of specific programs which may help the honourable member. We have a water monitoring network of 1,500 observation wells and 240 surface gauging stations, which are measured at least quarterly to provide an annual report on the state and condition of the water resources in the South-East. Our levy funding will also support 10 monitoring sites across the Adelaide Mount Lofty Ranges. These will collect ecological, water quality and hydrological data.

The information gathered provides a basis for validating the science in existing water allocation plans. This data is collected manually or through automated telemetered stations, depending on the site. The initiative involves a number of stakeholders, including the South Australian Research and Development Institute, the Environment Protection Authority, Hydro Tasmania and community landholders.

There is another water science project in the AMLR region that is supported by levy funds, which is interesting to note. This project provides hydro-ecological studies to better understand the distribution of environmental assets in the region and their responses to changes in water flows. These investigations provide a strong understanding of the distribution of environmental assets and risks, the current level of service water use and demand, and the connections between surface water and ground water. I could go on with dozens and dozens of more very important examples of why this science and this monitoring are so vital to the sustainable use of the resource into the future.

Let me turn now to how we compare with other jurisdictions. The NRM boards have considered the options, which is their role, on the fair and equitable apportionment of water planning and management cost recovery. The costs have been included in the regional NRM business plan revision process, and most NRM boards are commencing community consultation on their individual regional NRM plans in the next two to three months. If the NRM boards determine that the costs will be entirely passed on to water users, I believe we need to put our current water levy rates in perspective, especially when compared with other states.

The current water levy rate in the South-East in 2015-16 is $2.67 per megalitre. An obvious comparison point is groundwater charges in New South Wales, I am advised. The majority of these New South Wales charges range from $5.92 per megalitre to $6.95 per megalitre. We should remind ourselves that the South-East charge for 2015-16 is $2.67, compared with $5.92 or $6.95 per megalitre in New South Wales. Moreover, water levies in the South-East will remain well below these New South Wales levels, I am advised, even if proposed increases in cost recovery—even if proposed increases in cost recovery—from the South East NRM Board are passed on in full to water users. That is a decision for the board.

Similarly, the current water levy of $5.63 per megalitre for the SAMDB NRM region is well below the equivalent charges in New South Wales and Victoria. In the New South Wales Murray the equivalent charge is around $10.51 per megalitre, assuming full use of entitlements, and for the Victorian Murray the lowest equivalent charge is around $11.05 per megalitre. In South Australia in the SAMDB it is $5.63.

Water levies in the South Australian MDB region will also remain below those of interstate levels, I am advised, even if proposed increases in cost recovery from the SAMDB NRM are passed on in full to water users. Recognising that NRM boards have a limited ability to meet the additional costs from existing revenue sources in 2015-16, given that 2015-16 business planning processes have been finalised, for 2015-16 only DEWNR has negotiated a range of once-off measures to

reduce the amount to be recovered from the NRM water levy revenue, which Treasury has accepted in lieu of direct cost recovery.

In 2015-16 this means a total of $3.5 million to be recovered from NRM boards, with $6.8 million to be recovered in 2016-17, indexed thereon. This amounts to only a partial recovery of the full cost borne by the government in relation to water planning and management activities. In 2016-17, $0.6 million of costs will be recovered by extending the NRM water levy to the extraction of co-produced water by the gas and petroleum industry in the Far North Prescribed Wells Area in the South Australian Arid Lands NRM region.

These changes, we understand, will have significant impacts on NRM board programs, particularly in 2015-16, hence the one-off measure that I announced earlier that Treasury has accepted again to shield the boards from those increases. I have said previously that I am open to the NRM boards resubmitting their 2015-16 business plans for my consideration once the spending profile has been adjusted, and the timing and communication of these decisions will enable NRM boards to begin consulting on their 2016-17 business plans as per previous years, as boards are now fully informed of the impacts of allocating those costs going forward.

In terms of the transparency and fairness, I remain committed to these values, which is why the government has followed the National Water Initiative and the principles in making the water planning and management cost recovery budget decision. This is also why I sought and accepted the advice of the NRM board presiding members on a way to fairly apportion these costs across the state.

I have agreed with NRM board presiding members that water planning and management costs be apportioned for both 2015-16 and 2016-17 and beyond in accordance with National Water Initiative principles, whilst also considering where the water planning and management costs are incurred and where the beneficiaries to sustainable water management reside, using the proportion of the state's population in each NRM region as an indicator.

Under this apportionment of water planning and management costs, the South-East, South Australian Murray-Darling Basin and Adelaide and Mount Lofty Ranges will recover up to one-third of the water planning and management costs each, with the remainder spread across five other NRM boards.

It is important that the honourable member understands these issues. I encourage him to cogitate on what I have just said. The values in terms of the levies are incredibly less than what would be faced by similar water catchment areas in other states, and we intend that to be the situation into the future. The honourable member comes in here and grandstands about how everything should be free.

The Hon. R.L. Brokenshire interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: That goes directly against the National Water Initiative principles and directly against beneficiary pays principles and will not support sustainable water use across this state and into the future. It will in fact do just the opposite and mean that we would be back to square one within a very short period of time, if the honourable member got his way.

WATER LEVIES

The Hon. R.L. BROKENSHIRE (15:16): Supplementary, Mr President: will the minister table the water initiative so that the parliament can actually study it? Secondly, how is the minister going to address a hike of up to 300 per cent for the South-East when the act says, unless they have special reasons, they can only go up at CPI? Does he expect the NRC of the parliament to rubber-stamp this draconian, outrageous proposition?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:16): The National Water Initiative is a public document. I am sure if the member rifles through his office, he has probably got a copy on his shelf, although these days he will probably download it from some source or other.

In terms of the NRC, I am sure they will make decisions, as they always do, on the basis of common-sense approaches.

SOUTH-EAST WATER ALLOCATION PLAN

The Hon. T.J. STEPHENS (15:17): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions about the South-East water allocation plan.

Leave granted.

The Hon. T.J. STEPHENS: The excellent and hardworking member for MacKillop has brought to my attention that a number of irrigators in his electorate were unaware that they were required to make an application for licence delivery components, notwithstanding that the additional allocation is a right under the WAP.

As a result, these irrigators are concerned about their ability to irrigate legally and still produce, especially considering that the South-East is currently in drought and Mount Gambier recorded its driest October ever following a dry winter, as a result of which irrigation has begun early and many are expected to exceed their allocations. My questions to the minister are:

1. Can the minister update the council as to the latest developments with regard to those water licence holders in the South-East who have missed out on delivery components?

2. Is legislative amendment required to fix this issue and meet the needs of the affected irrigators; if so, what plans does the minister have?

3. In the meantime, can the minister alleviate the anxiety of the concerned irrigators by assuring them that he (1) understands their dilemma; (2) is committed to fixing the problem to ensure that no irrigator is disadvantaged; and (3) will not take action against such affected irrigators who use more water than their licences currently entitle them to during this water year, so long as their usage does not exceed that which would be allowed with a delivery component?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:18): I thank the honourable member for his very important and timely question. On 30 April, the South East Natural Resources Management Board wrote to me recommending that the Lower Limestone Coast Water Allocation Plan be amended to allow irrigators who missed the application period to apply for delivery supplements or specialised production requirements.

I have just recently received advice from the agency about the suggested amendments to the Lower Limestone Coast Water Allocation Plan. I consider it appropriate that the Lower Limestone Coast Water Allocation Plan be amended to extend the application date for delivery supplements and specialised delivery requirement allocations.

It is intended that a new closing date for applications be set for 5pm on Thursday 24 December 2015. This will enable the agency to assess these applications in a timely manner as initial reductions to allocations in the Lower Limestone Coast Prescribed Wells Area will be implemented from 1 July 2016.

The recommended amendments to the Lower Limestone Coast Water Allocation Plan will address concerns raised by licensees in the South East NRM Board that some licensees may be significantly disadvantaged if they do not receive the delivery supplement or specialised production requirement allocation.

I am required to consult with the South East NRM Board prior to approving these amendments. I have written to Mr Frank Brennan, presiding member of the South East NRM Board, and I think the date was 10 November. On receipt of a response from the South East NRM Board, I will be able to finalise my consideration of this amendment, based on that advice.

The South-East of South Australia, as we all know, is of great ecological importance to the state. The value is underpinned by water resources of the Lower Limestone Coast. Inextricably, they are linked, and we need to provide certainty for water users to ensure water resources are sustained into the longer term to protect water-dependent ecosystems. The South East NRM Board has

collaborated well with the community, industry and government to develop the Lower Limestone Coast Water Allocation Plan.

Community and industry input to the Lower Limestone Coast Water Allocation Plan was sought and received over an extended period, and it has assisted in the production of the final policies. As the Minister for Sustainability, Environment and Conservation, I adopted the Lower Limestone Coast Water Allocation Water Plan on 26 November 2013.

The Lower Limestone Coast Water Allocation Plan converts existing area-based water allocations to volumes. In what is believed to be a world first, it provides for commercial plantation forests to have a water allocation for recharge interception and direct groundwater extraction. The introduction of these forest water licences has been well supported, I am advised.

A risk assessment also identified eight groundwater management areas where the current level of allocations presented a high or very high risk to the sustainability of that resource. Reductions to allocations are scheduled to occur over the next eight years, ranging from 3 per cent up to 57 per cent, as a result of those risk assessment results.

Further adjustments to the Lower Limestone Coast Water Allocation Plan were recommended by the South East NRM Board and approved by me. The South East NRM Board proposed some changes to fix small errors and omissions in the plan on 27 February 2014. I made those changes in December 2014 to reflect the legal requirements to obtain a forest water licence. The plan has been updated on the Natural Resources South East website, I am advised, where both the amended plan and a table of the changes are available.

I also advise that a number of people missed out on their applications, as I alluded to before in my explanation. Based on those concerns, I asked the South East NRM Board to consider those and provide to me some advice on whether it was appropriate for me to vary those plans. That advice has come back to me in the affirmative. I have sought some crown advice in that regard as well, which reassured me that I do have that power and ability to make those changes. Pending the advice from the South East NRM Board, which I am obliged to consult, I will make those determinations.

SOUTH-EAST WATER ALLOCATION PLAN

The Hon. T.J. STEPHENS (15:22): I thank the minister for his answer. I have a supplementary question. With regard to legislative change, when would you anticipate bringing something to the parliament and how quickly would we be able to do something?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:22): As I said, I sought advice from the South East NRM Board and also crown, and that advice is that I do not need legislative change: I have the power to do so, but I am obliged to consult with the South East NRM Board before I make a determination on that. I have written to the South East NRM Board, as I indicated in my original answer, and I am awaiting a response.

WOMEN IN INNOVATION AWARDS

The Hon. T.T. NGO (15:23): My question is to the Minister for Manufacturing and Innovation. Can the minister tell the council about the inspiring women recognised at the annual Women in Innovation Awards?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (15:23): I thank the honourable member for his question and for his strong ongoing interest in women who innovate. On 10 November, I had the opportunity to attend and open the second annual Women in Innovation (or Winnovation) award ceremony recognising some of the outstanding South Australian women who are making their mark on industry and research locally and nationally—and globally, for that matter.

The Women in Innovation Awards honour the state's best female innovators as well as those businesses that support innovative women in South Australia. The awards are run by Women in Innovation SA, a dedicated group of volunteers passionate about innovation and technology. The group is well led by the passionate Lisa Kennewell, an ardent supporter and advocate for women in innovation.

I congratulate Lisa and her team for creating such a successful award and the high profile they have developed for the organisation, the awards, and the broader cause. Young women in particular deserve to be aware of the industry and research opportunities that exist in South Australia, and they deserve to be supported to pursue those opportunities and recognised for their achievements. The Winnovation Awards do exactly that.

The awards comprise a diverse group of categories which represent areas of enterprise and innovation that are important to both a resilient economy and a thriving community. That is why the government is committed to supporting opportunities for innovative businesses in the state. It should also be recognised that innovation is not a single event; it is a continuous process. More importantly, innovative thinking is a habit of mind that South Australian enterprises continue to cultivate and maintain.

As I said on the night, it is an exciting time to be involved in innovation in South Australia. The city is thriving, and we know there is a strong connection between a city's vibrancy and its innovative success. Indeed, vibrancy feeds innovation, and it is no coincidence that we are seeing the emergence of new laneway precincts, small bars and growth in the festival and live music scene. It should come as no surprise that as our city's thirst for innovation grows, the nominations for the Winnovation Awards this year were up on last year—and the event continues to gain in prestige.

All the women nominated for the awards are doing work that is driving the transformation of the state's economy through their big thinking and bold action. It is an exciting time for innovators in our state, and the award recipients should be very proud of their outstanding achievements. The seven individual award categories, and one business category, went to:

- Nicole Pratt for science. She was recognised for her work developing a detection tool in the field of medicine testing. The rapid signal-detection tool developed can be used across multiple data sets in multiple countries, potentially helping millions of people avoid serious side-effects of some medication.
- Emily Rich won for the technology section. Emily developed computer-vision technologies that allow anyone to train cameras to recognise, detect and identify objects, with one current application being the conservation of the orangutan in Borneo.
- Karen Nelson-Field was recognised for her pursuits in engineering. Karen has assisted advertisers around the world to better navigate the social web and understand the power of emotionally engaging content built for sharing, assisting advertisers accurately predict the shareability of a video before it is launched.
- Simone Kain developed the educational character, George the Farmer, which has been adopted by the Australian Curriculum to teach children about farming practices and food production. She was a deserving recipient of the arts award.
- Sam Moyle was recognised for her leading work in maths. Sam created Project Igloo—a STEM-based learning task using apps for secondary students. Students learn the importance of mathematical calculations as part of the design, planning and costing processes and the steps required to build an initial idea into a final igloo.
- Amber Cordeaux was the award winner in the open category for her dedication to transforming the struggling community television station, Channel 44, through undertaking significant and innovative restructuring of the station, introducing a live streaming mode and new content which has resulted in increased viewership.
- Nayana Parange devised a training model and ultrasound service to help upskill midwives and GPs caring for Aboriginal women in remote locations and was awarded the Regional Rural and Remote Award.
- Finally, Karen Brown was recognised with the Innovative Women's Initiative in Business Award for her work developing the successful Women Influencing Agribusiness and Regions strategy. This is an Australian first which aims to raise the profile of agribusiness and the important contributions being made by women.

Again, I congratulate all the nominees and the successful award winners. These women are leading the way in innovation in their respective fields, and I look forward to following their continued success of not only the winners this year, but the winners in years to come.

TOXIC WASTE

The Hon. M.C. PARNELL (15:29): I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation about the interstate transportation of toxic waste.

Leave granted.

The Hon. M.C. PARNELL: Last Thursday, the ABC reported on a disturbing case where a Victorian based company, HydroMet Pty Ltd, was fined $22,000 by the Victorian EPA for transporting 900 tonnes of hazardous waste into South Australia without a permit. The waste concerned was 900 tonnes of lead slag, apparently the result of car battery recycling. Its ultimate destination was a landfill facility in South Australia, although the precise location is not publicly known. When approached by the ABC, the South Australian EPA, through a representative, said that they were aware of, and had approved, the movement of waste from Victoria, but the appropriate paperwork was not completed and that this was under investigation. My questions of the minister are:

1. Where was this toxic material taken? Was it the ResourceCo dump at the corner of South Road and Tatachilla Road, McLaren Vale?

2. How much lead contaminated waste is transported to South Australia from interstate each year?

3. What remediation processes are in place to deal with this lead contaminated waste?

4. Does the EPA regularly measure the lead content of groundwater and soil in the area around relevant toxic waste dumps?

5. What is the South Australian waste levy for lead contaminated waste?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:30): I thank the honourable member for his most important questions because again it allows me to put on the record some of the facts in this matter which have been somewhat omitted from the media's consideration. The movement of waste between jurisdictions in Australia is commonplace and is driven by the national market for waste and the specialisation of the treatment and disposal of certain hazardous waste within certain jurisdictions. Some of these specialised treatment facilities are quite expensive and capital intensive to set up, and so different jurisdictions have different specialities in these areas.

The National Environment Protection (Movement of Controlled Waste between States and Territories) Measure (NEPM) tracks the movement of hazardous and other waste across state borders and aims to minimise the potential for harm to human health and the environment associated with its transport. As outlined in some recent media reports and the honourable member's question, approximately 900 tonnes in total, I am advised, of lead slag generated by a metal reclaiming facility in Victoria, HydroMet Corporation Pty Ltd, was transported to a South Australian landfill between 5 January and 25 April 2015.

I am assured that the EPA has been aware of the matter to which the honourable member refers. I understand there has been some confusion in the media reports but concerns that the EPA was unaware of this waste being transported to South Australia are unfounded. I am advised that the person who was contacted by the media was in fact a media adviser, and who, of course, would not be expected to be familiar with all the internal documentation that the EPA is across at a senior level.

I am advised that the treatment project management plan was submitted to the EPA by the landfill operator in November 2014 and that the plan was deemed suitable by the EPA. I am informed that the lead waste slag has been treated, tested and safely disposed of to landfill. On 1 July 2015, a discrepancy in the consignment process was discovered, I am advised. The Victorian EPA notified the South Australian EPA that it would commence an investigation for potential breaches of the

Victorian Environment Protection Industrial Waste Resource Regulations 2009, as no approval for the transport of the material had been issued.

The Victorian EPA has fined the producer of the waste, HydroMet, as I understand it, $22,000, for breach of the transporting prescribed industrial waste provisions of the Victorian Environment Protection Industrial Waste Resource Regulations 2009. Accepting the lead slag waste without the appropriate paperwork is also a breach of the landfill licensing conditions here in South Australia. I am advised that the South Australian EPA is continuing to investigate this matter, including investigating consignment authorisation permissions, waste transport certificates, waste depot licence approvals and waste transporter licence approvals.

The action taken by the South Australian and Victorian authorities will help to ensure that the interstate movement of this type of waste is tracked and recorded as required, and ensures that movement and disposal are undertaken in a legal, safe and environmentally responsible manner. This includes having the correct administration processes in place.

I would like to make it clear to honourable colleagues that I am informed that the lead waste slag has been treated, tested and safely disposed of to landfill, as I said. I am informed—again, just to make it absolutely clear—that between 5 January and 25 April 2015, lead slag generated by a metal reclaiming facility in Victoria was transported across the border into a South Australian landfill. On 19 November 2014, the South Australian EPA received a copy of the operator's treatment project management plan from the EPA licensed landfill, seeking approval that the proposed plan for the treatment of that lead slag had met EPA requirements. The treatment plan was deemed suitable by the EPA as being appropriate for the treatment and disposal of the waste in an acceptable and safe manner.

Following receipt of the lead slag, the landfill treated the waste and, on 11 June 2015 and 1 July 2015, the South Australian EPA received the landfill's application to dispose of the treated lead slag into the landfill. These included post-treatment validation reports which confirmed that the treated lead slag met the South Australian EPA low-level contaminated waste disposal criteria.

Also on 1 July 2015, the Victorian EPA and the South Australian EPA noticed a discrepancy in the consignment process, I am advised. The Victorian EPA notified the South Australian EPA that it would commence an investigation for potential breaches of the Victorian Environment Protection (Industrial Waste Resource) Regulations 2009 and that no approval for the transport of the material had been issued.

On 3 July 2015, the South Australian EPA sought confirmation from the landfill operator. They responded on 8 July 2015, confirming that no consignment authorisation for the lead waste transport from Victoria had been obtained, and this was subsequently confirmed, I am advised. The Victorian EPA subsequently fined the producer of the waste, as I have mentioned.

The South Australian EPA supports the Victorian EPA in taking action in relation to this matter. This will help to ensure that the interstate movement of this type of waste is tracked and recorded. I am informed that the lead waste slag has been treated, as I have said. The landfill is licensed to operate a waste or recycling depot and to receive, treat and dispose of lead slag waste. However, accepting the lead slag waste without the appropriate paperwork is a breach of the landfill's licensing condition.

I am advised that the South Australian EPA is continuing to investigate this matter. This includes investigating consignment authorisation permissions, etc., as I outlined previously. For that reason, I decline the honourable member's invitation to name the landfill site because, as he would understand, it might cause us difficulties if we do go down the track of prosecution.

Auditor General's Report

AUDITOR-GENERAL'S REPORT

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) (15:36): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General for the year ended 30 June 2015 to be referred to a committee of the whole and for ministers to be examined on matters contained in the report for a period of one hour.

Motion carried.

In committee.

The Hon. A.L. McLACHLAN: My questions are directed to the Minister for Employment, Higher Education and Skills. I refer the minister to the Department of State Development, Part B, page 502. There is a reference at the bottom of page 502, which states:

The absence of documented approval for the subsidy rates paid to registered training providers increases the risk that inaccurate payments are made to training providers.

Why is this the case and are you aware of any incorrect payments occurring because of this? If so, how many and what is the value?

The Hon. G.E. GAGO: I have been advised that we undertake an annual data reconciliation on all the payments we make, thus ensuring the accuracy of our data. The Auditor-General has made an unqualified opinion in relation to these matters, thereby indicating that our data is accurate.

The Hon. A.L. McLACHLAN: What measures have been taken to mitigate the risk that has been identified in the approval of the subsidy base rates?

The Hon. G.E. GAGO: I have been advised that, generally, we have systems and controls in place. We also have policies and procedures which assist officers to guide the process and ensure consistency, thus mitigating the possibility of inaccuracies.

The Hon. J.S. LEE: I refer to Part B, page 503, the Department of State Development, and changes in training activity data. The Auditor found that DSD did not have a documented policy or procedure about the production and review of the claims payments and reconciliation reports. As a result, there is a risk that invalid payments may not be detected in a timely manner. My questions to the minister are:

1. If invalid payments still occur under DSD, as it was with DFEEST, how often does it happen?

2. Has this been audited by the department; if so, when did the audit occur?

3. Has the department sought to recover funds incorrectly claimed; if so, when did this take place?

The Hon. G.E. GAGO: The answer is similar to that I gave previously to the Hon. Andrew McLachlan in relation to the auditing. We have an annual data reconciliation on all payments we make, thus ensuring the accuracy of the data. In addition the Auditor-General gave an unqualified opinion, which indicates that the data for this period is correct. I am further advised that as part of the procedures and policies we have in place, where we do find that an invalid payment may have been made we inform the provider and negotiate repayment at that time.

The Hon. R.I. LUCAS: Supplementary: the minister has responded twice by referring to the fact that the Auditor-General has provided an unqualified opinion. Can the minister indicate that when the Auditor-General provides an unqualified opinion that does not necessarily mean there have not been examples of overpayments, underpayments or mispayments? It just basically says, in the end, that there is an unqualified opinion in terms of the overall accounts.

Can I just clarify that, if the minister is going to respond generally to the issue that there is an unqualified audit report—we can acknowledge that—is the minister claiming that, as a result, therefore it means there is no example and the Auditor has not established any example of either overpayments or mispayments in relation to these particular issues?

The Hon. G.E. GAGO: I thank the honourable member for his question. I refer to the Auditor-General's unqualified opinion simply to indicate that the financials are materially correct and can be relied upon to be accurate and that what we have reported is correct. That is all it means. It does not

mean that there are not individual instances of overpayments or underpayments and I have already indicated the process we undertake to rectify that when those are found.

The Hon. R.I. LUCAS: Supplementary: having established that—and that is, indeed, an accurate summation of the information—when questions are asked about the level of incorrect payments, abuse of purchase cards or things like that, we can understand that there will be an overall unqualified report from the Auditor-General. What the opposition is seeking are the details of the mistakes that are made along the way, whilst acknowledging that there might be an overall unqualified report. There are a series of questions in relation to what the Auditor has raised about purchase cards and a variety of other things that will come along. We are seeking the details of those, not just a recitation of the fact that there is an unqualified report.

The Hon. G.E. Gago: You are wasting our time.

The CHAIR: Order!

The Hon. J.S. LEE: Supplementary: on the changes in training activity data, when the Auditor found that the former DFEEST did not have a documented policy or procedure—

The Hon. G.E. GAGO: Can you refer to—

The Hon. J.S. LEE: Page 503, on the same page, changes in training activity data.

The Hon. G.E. GAGO: Yes, thank you.

The Hon. J.S. LEE: It was stated there that the former DFEEST did not have a documented policy or procedure in place. The third paragraph also stated that DSD did not have a documented policy or procedure in place. Can the minister confirm that this is the case and that there are no documented procedures at all?

The Hon. G.E. GAGO: I thank the Hon. Jing Lee for her question. I am advised that at the time, the period that the Hon. Jing Lee is referring to, there were work procedures in place. There was documentation in place, but it was not a formal policy and procedure. So it was not of the rigour that is required to the standard of the Auditor-General. I am advised that since then a formal policy procedure has in fact been put in place.

The Hon. J.S. LEE: I refer to part B, page 504, Training Agreements. It was noted that a number of private training providers had not submitted student agreements to DSD. In each instance, DSD had, however, made a payment to the training provider for the training delivered to that student. What audit has been done in these instances? How many cases were reported when invalid payments happened?

The Hon. G.E. GAGO: The audit has requested that DSD ensure private training providers submit student agreements in compliance with the minister's contractual terms. DSD investigates ways to ensure that all TAFE SA students have also fulfilled those requirements. The failure of a training provider to provide a student agreement for a particular student does not equate to failure of the training provider to deliver training to the student. Compliance monitoring always reviews whether student agreements have been provided as required under the contract.

Future system capability targeting to completion in June 2016 will require training providers to load a student agreement to a student profile and/or subsequent training account, the intention being that failure to provide the participant agreement will not allow the training provider to make a valid claim. In the interim, when student agreements are not provided, the training provider is required to take steps to obtain the student agreement if possible and provide to Skills SA evidence of the student's existence and evidence of the delivery of training to the students. We do not have the numbers; I do not have that level of detail.

The Hon. J.S. LEE: I refer to part B, page 506 on purchase cards. It was found that DSD policies for purchase card use are not followed. There is an increased risk of inappropriate purchase card expenditure. Can the minister indicate how many occurrences of noncompliance have been made to how many different cardholders, what amount of expenses has been recorded, and how many DSD staff hold such purchase cards? What are the consequences for staff when they inappropriately use a purchase card, and how many staff have had recovery of funds sought from them if they misuse the purchase card?

The Hon. G.E. GAGO: The Auditor-General's report did raise a number of control findings relating to payroll expenditure on purchase cards. These were largely due to the machinery of government changes that were made during that time and represent transitional issues. The issues, I am advised, were extremely minor in nature and do not have an impact on the accuracy of the financial reports. This is supported by the unmodified audit opinion provided over the department's financial statements. All issues that were identified are being addressed and the department will continue to review and harmonise policies and procedures during the course of the year. I do not have the actual numbers; I do not have that level of detail.

The Hon. S.G. WADE: I refer to the Department of State Development, part B, page 509. The Auditor notes the grants to TAFE SA of $68 million. What is covered by these grants, and in particular how do these grants relate to subsidised training funding?

The Hon. G.E. GAGO: I have been advised that the DSD provides several types of grants or subsidies to TAFE SA. There is the vocational education training funding relating primarily to Skills for All subsidies. TAFE SA delivered 12.4 million payment hours in 2013-14, including 0.7 million hours delivered above TAFE's funding cap, and 10.7 million payment hours in 2014-15. There is also the structural adjustment funding that provides TAFE with once-off or time-limited funding to assist with its transition towards a more competitive environment, so it is able to compete in a more open market.

Community services funding is another grant that supports TAFE SA to provide services to the community, including VET in schools, auspicing Aboriginal access centres and support to APY lands. There is also capital funding that provides funding for agreed capital projects, primarily plant and equipment and information system projects, and other funding, which relates to employment programs. There is other funding for some minor programs, and that is it.

The Hon. S.G. WADE: I thank the minister for the detail. You mentioned that elements reflected in the table are components of the $68 million mentioned in paragraph 2. Do I take it that all of the structural adjustment funding for 2015 of $44 million, all of the community service obligation funding of $16 million, and the capital funding is all to TAFE correlate?

The Hon. G.E. GAGO: The answer is yes.

The Hon. S.G. WADE: Can the minister explain what the $2 million of 'other' is at the bottom of the table?

The Hon. G.E. GAGO: That is what I referred to as the employment programs and other minor programs, mainly targeted at the unemployed.

The Hon. S.G. WADE: I thank the minister for the detail. On behalf of the Hon. Jing Lee, could I also seek an undertaking for the detail in relation to her series of questions in due course?

The Hon. G.E. GAGO: I am advised that that information can be made available.

The Hon. S.G. WADE: Thank you, minister. Again on the table on page 509, it shows that VET funding from 2014 to 2015 has decreased in the order of $32 million. Could the minister explain the context for this? Is this less funding for courses or less business attracted by TAFE compared to private RTOs or the like?

The Hon. G.E. GAGO: I am advised that the decrease of $32 million to VET funding was predominantly due to the implementation of budget containment measures, including the reduction in subsidy prices, capping courses and restricting eligibility for new students. That was in line with our policy strategy to better target training to real employment outcomes and to better employment outcomes to improve employability outcomes.

It also put a greater focus on that training that was identified as a priority by industry and looked at what employment requirements were in terms of employment entry qualifications. Rather than subsidising 10 cert. IIs, none of which particularly related to a job outcome, this was relating with focused attention on those training outcomes that are needed by industry for people to actually enter employment and gain employment entry qualifications.

The Hon. J.S. LEE: I refer to DSD, Part B, page 510 and the first dot point under Revenues, which reads 'infrastructure recharges from TAFE SA of $24 million, paid to reflect TAFE SA's use of the Department's assets to deliver training'. My questions to the minister are: what particular assets does this amount relate to in terms of the use of the department's assets; and what does it cost to administer this $24 million?

The Hon. G.E. GAGO: I thank the member for her question. The government owns, or I own, the infrastructure assets that TAFE occupies. TAFE SA is not the owner of that capital infrastructure: I own it. That $24 million represents the rental charge that the government charges TAFE to use our buildings. I do not know the admin costs; I do not have that detail.

The Hon. J.S. LEE: Supplementary, Chair: is the training infrastructure referred to equipment or buildings? Are private RTOs given the same opportunity to use the department's assets? Is TAFE charged at a market rate for using the department's assets or a special rate that is different from private RTOs?

The Hon. G.E. GAGO: I am advised that, in relation to the assets, it is fundamentally buildings that I own and that we lease to TAFE SA. I am advised that TAFE SA does sublet some of those buildings to other organisations, for instance, councils, and some of those are also private RTOs. I am advised that the rate at which they sublet varies in that some of it is at market rate, some of it is not. I am also advised that those sublets are short-term leases only, except if they are approved by me.

The Hon. A.L. McLACHLAN: I refer to page 511, Part B, Skills for All and WorkReady. The last paragraph states:

> The state government has allocated approximately 90 per cent of new subsidised training places for 2015-16 to TAFE SA.

Can the minister advise the committee the date when the allocation was completed or decided?

The Hon. G.E. GAGO: Are you asking for the date that the government made a policy decision to allocate the 90 per cent share?

The Hon. A.L. McLACHLAN: Yes. When was the allocation completed or decided?

The Hon. G.E. GAGO: The allocation has not been completed. When it is completed, it will be allocated over the year. Are you asking the—

The Hon. A.L. McLACHLAN: No. Let's start with the policy decision.

The Hon. G.E. GAGO: I thank the member for his question. I am advised that I do not have the exact date, but that policy decision was made just prior to the announcement of our WorkReady policy. It was reached at a point in time when we were aware of all of the parameters impacting on this year's training such as the figures for the number of continuing students—we call it the pipeline effect.

When those figures came in, I can recall how surprised I was that our training system was still very much impacted on by the additional funding that we had from students in year 12 or 13 when additional funds were put in to meet our 100,000 additional training positions. Obviously, people moved into that space and the participation rate increased significantly and enrolments increased significantly. Of course, even though the funding had been spent and we were contracting back to pre Skills for All funding allocations nevertheless the whole VET system was still very much full of students who had enrolled with the additional money and, obviously, we were going to honour their continuing training. Once we had all of those pipeline figures and other budget parameters in place, we then realised that we needed to set for this financial year only the new subsidised training funding at 90 per cent for TAFE.

The Hon. A.L. McLACHLAN: I would ask the minister to take on notice and subsequently provide an answer to the committee on when that date was, that decision point, and advise the chamber. Minister, I assume that this decision is going to be on an annual basis on the number of subsidised training places, is that correct?

The Hon. G.E. GAGO: Yes, I am advised that we will be setting those parameters every 12 months. We set them for a six-month period at a time and then have a second round about halfway through the year, and work is continuing by TASC which I have reported on in this place before—the work undertaken by TASC to continue to refine the subsidised training list in line with industry needs and priorities.

The Hon. A.L. McLACHLAN: Given the ongoing six-monthly setting of subsidised training places, what is the expectation of the government that it will ultimately achieve a competitive training market as indicated in that paragraph on page 511?

The Hon. G.E. GAGO: I have reported at length on this in this place, but I am happy to do so again. As indicated previously, I talked about the impact of the additional training funding on enrolments—the pipeline effect, if you like. We had large numbers of students in the system employed when there was additional funds and we are, obviously, going to honour their training contracts to completion.

Given the changes in our budget parameters over the forward estimates, and given that I had said to them that the increased subsidies that we paid out to TAFE for some of their training was at a much more costly rate—in some cases, not all, but in some cases—than other private providers, I indicated to TAFE that that differential was not going to continue after the end of the financial year 2018-19.

I had said to them that they had to get their house in order so that they could operate, in terms of the commercial training component of their activity, on par with private training providers so that that additional subsidy—that differential—would no longer be paid to them after that point in time. They went away and did a plan in terms of how they could achieve that. They brought the implications of that plan to me and indicated to me the level of training that they were going to need to be able to work their way through to create a more sustainable training environment.

They have since released the reforms that they have announced, and I will not go into length here, but I have talked about it at considerable length in this place before. So, fundamentally, they are on notice that it has to be a level playing field in relation to commercial training activities by 2018-19 and, therefore, vie with other training providers in an open market.

The Hon. K.L. VINCENT: A question regarding the Change@SouthAustralia 90 day projects to improve the number of people with disabilities employed in the public sector. Is it reasonable for the project—

The Hon. G.E. GAGO: Hon. Kelly Vincent, can you please refer to what section of the report you are referring to?

The Hon. K.L. VINCENT: I was about to do that. This is page 32 of the Executive Summary, Part A, Change@SouthAustralia 90 day projects.

The Hon. G.E. GAGO: That is DSD, sorry, minister Close.

The Hon. S.G. WADE: Perhaps you can refer the question.

The Hon. G.E. GAGO: No, minister Close is—

The Hon. S.G. WADE: Yes, but you represent her.

The Hon. G.E. GAGO: Okay, I am happy to refer it to her.

The Hon. K.L. VINCENT: How is it reasonable for the projects to be labelled as '…assessed as a success in line with project aims' in light of the fact that the 90 day projects resulted in only eight additional positions in the public sector for people with disability; and was a target set for the number of employment positions this project should open up?

The Hon. G.E. GAGO: I will refer that to minister Close.

The Hon. K.L. VINCENT: I have one more. Just to clarify, before I ask, this is about the courts renewal procurement. Are you happy to take that one, Gail?

The Hon. G.E. GAGO: Yes I will refer it.

The Hon. K.L. VINCENT: This is from Part A of the Executive Summary, page 27. What is the final cost of the discontinued procurement process for the new courts precinct; and what plans does the government now have to replace the existing courts infrastructure?

The Hon. G.E. GAGO: I will refer that to the Attorney-General in another place.

The Hon. J.S.L. DAWKINS: I refer to Part B, Environment Water and Natural Resources, page 134, Purchase cards. Firstly can the minister provide any detail on the number or nature of transactions made on purchase cards which were found to have not complied with the department's purchase card policy? He may wish to also apply himself to the value of the transactions made for entertainment expenses for which a lack of supporting documentation was observed, and the actual notes for these transactions.

The Hon. I.K. HUNTER: My advice is that there were nine transactions on purchase cards that were not in accordance with the instructions that relate to that. Of those, five were technical in nature. My advice is that the sort of problem with those was, for example, that they had an attached invoice or they had not applied for an increase in their credit limit. Three instances were determined to not be misuse and, by my calculation, that leaves one. I am advised that with the further one, which takes us up to nine, the Auditor-General, on further examination, agreed that it was not an example of misuse.

The Hon. J.S.L. DAWKINS: Just as a supplementary, I am not sure that there was a value; did you give us an overall value of those transactions?

The Hon. I.K. HUNTER: I do not seem to have that information at hand, so I will take that on notice for the honourable member.

The Hon. J.S.L. DAWKINS: Also in Part B, page 134, Revenue—Tenancies and Billing System, can the minister confirm the number of properties owned and leased out by DEWNR and can he provide a list of these properties? That may need to be done on notice. This may also need to be on notice: what is the total value of the lease income earned from those properties?

The Hon. I.K. HUNTER: I thank the honourable member for his questions. That is a difficult question for us. I might invite the honourable member to come back with a bit more detail in terms of what he is actually seeking. We have, of course, in DEWNR, crown ownership, pastoral leases, crown land, allotted and unallotted. Is the honourable member thinking just of buildings that are leased out to organisations?

The Hon. J.S.L. DAWKINS: It is certainly not the intention to go into pastoral leases, and I apologise for the lack of clarification. Certainly it is about properties and buildings, rather than anything that is on leasehold or crown land.

The Hon. I.K. HUNTER: On that clarification, I am happy to seek a response for the honourable member and bring it back.

The Hon. J.S.L. DAWKINS: In Part B, page 137, under the natural resources management regional integration section, in relation to the machinery of government changes described and the transition of administrative arrangements, will the minister confirm whether the NRM boards are being charged a fee for corporate services by DEWNR and, if so, the value of these fees and the means by which they are calculated?

The Hon. I.K. HUNTER: My advice is that we are still finalising the corporate services delivery model and we are still finalising the costs that will be apportioned to each board. However, to give the honourable member and the chamber some understanding of the services that are provided and that will be charged to the board, they comprise normal business services such as IT, finance, human resources and fleet.

The Hon. J.S.L. DAWKINS: I thank the minister for that. In relation to Part B, page 141, Natural Resources Management Boards and the Natural Resources Management Fund, can the minister outline the budgeted value of water levies to be collected in 2015-16?

The Hon. I.K. HUNTER: Again, I need to seek some clarification from the honourable member. Is he asking what is the amount to be recovered by the department from the NRM boards

in terms of water planning and management or is he after the total cost of the water levies apportioned across all NRM boards?

The Hon. J.S.L. DAWKINS: Those to be collected from the NRM boards that are covered by that element of it.

The Hon. I.K. HUNTER: I am advised that the department currently collects water levies on behalf of six of the eight NRM management boards. The two exclusions are the AW and KI boards; they have no prescribed water resources. Under the Natural Resources Management Act 2004 the payment of water levies to the NRM boards must be processed by the NRM fund. The payments are made via the NRM fund only when the NRM water levy invoices have been paid and the cash received by DEWNR.

For the 2014-15 financial year the total amount of water levies collected and paid out to the NRM boards, excluding penalties, was $12.947 million. I can give the honourable member a breakdown of that, as well: for the Adelaide and Mount Lofty Ranges NRM Board it was $1,567,365; for Eyre Peninsula it was $435,418; for Northern and Yorke it was $86,126; for SA Arid Lands it was $898,006; for SA Murray Darling Basin it was $6,996,627; and for the South-East it was $2,963,150. Hopefully, that all adds up to $12.947 million.

The Hon. J.S.L. DAWKINS: A couple of very quick questions before I handball over to my colleague, the Hon. Mr Stephens, to take over. On page 139 of Part B, under expenses there is a reference to 172 staff accepting targeted voluntary separation package payments in the prior year, of which a material number were management positions. Can the minister inform the house how many of those were management positions? In other words, what is the material number?

The Hon. I.K. HUNTER: I am advised that this is also a complicated question which I will take on notice, but to give the chamber a little flavour of the issue, it is not necessarily that the highest paid of the TVSPs will be management positions. Of course, if someone is working in a lower position but for 20 years, their payout could be substantially more than a manager who was working for, say, two or three years and took a TVSP. However, we will undertake to try our best to get that information for the honourable member.

The Hon. T.J. STEPHENS: In reference to the Appendix to the Annual Report, Volume 5, page 217, grants and subsidies, in the 2014-2015 budget, the government's Our Jobs plan had a budget of $6.1 million in 2013-14 and $15.9 million in 2014-15 to revitalise and rebuild the state economy following the decision by GM Holden to close their vehicle manufacturing operations. Can the minister advise how much of the $22 million allocated to revitalise and rebuild the state economy was spent in the first two years of this plan?

The Hon. K.J. MAHER: I thank the honourable member for his question and advise that we will take it on notice and get back to you. We do not have the exact details.

The Hon. T.J. STEPHENS: Just following on from that, if you have not spent the allocated amount, will you please explain why the department failed to spend the allocated amount given the jobs crisis we have at the moment? My next question refers to the Appendix to the Annual Report, Volume 5, page 217, grants and subsidies. Was the budget of $1.3 million for the Automotive Supplier Diversification Program and $1.2 million for the Retooling for Diversification Program exhausted in 2014-15 as per the original allocation?

The Hon. K.J. MAHER: No, in the supplier diversification program the total funds were not expended in that year. We have made changes to a number of the programs that assist the automotive industry. Originally, most of the programs had a requirement of a 40 per cent exposure to the automotive industry. We have lowered that recently to 20 per cent to allow more companies to be included and apply for many of the automotive programs.

In addition, we are finding that there are a lot of companies that our automotive team visit that are just now starting to consider their future. We are seeing a lot more turn their mind to making a transition and we are seeing a lot more applications, but in that particular program they were not expended. I can get the exact details, as with the last question, of the exact amount that was underspent and bring that back.

The Hon. T.J. STEPHENS: Just following on from that, can you provide the house with a guarantee that all of the $60 million funding for the government's jobs plan will be spent as promised?

The Hon. K.J. MAHER: I can assure the honourable member that we will spend money we have in the best possible way that we can to ensure that jobs, in particular manufacturing jobs, in South Australia have the best possible chance.

The Hon. T.J. STEPHENS: I refer to the Appendix to the Annual Report, Volume 5, page 238, TVSPs and Early Terminations. Why did the two most senior public officials in the Department of State Development for automotive transformation, Mr Len Piro, who was the chief executive of the Automotive Transformation Task Force, and Phil Tyler, the director of automotive transformation, resign on the same day?

The Hon. K.J. MAHER: There were changes within the department, changes to better align the task force with the challenges ahead. I am advised that the two individuals you mentioned had decided that that time would be a time for them to seek different opportunities or retire.

The Hon. T.J. STEPHENS: Are you concerned that the two very senior officials for automotive transformation, with vast responsibilities and experience, resigned, or were offered in fact TVSPs, in the midst of a major restructure in this particular sector?

The Hon. K.J. MAHER: I would be concerned if we were not doing everything we can to meet the challenges that we face. I am very grateful for the advice that the chair, Greg Combet, is providing and how we are travelling with meeting the very significant challenges and also some of the opportunities as we transition out of the manufacturing that we have done for over half a century, with the closure of Holden towards the end of 2017. I am pleased that the department is adapting, that programs are adapting to meet the challenges that we face.

The Hon. T.J. STEPHENS: Can you let us know if both of those gentlemen received termination payments?

The Hon. K.J. MAHER: I am not the lead minister for DSD and do not have responsibility for employment matters, but I can seek some information and bring that back.

The Hon. T.J. STEPHENS: I appreciate that. I would like to know if they received TVSPs and the actual dollar amount. How has the government replaced the duties of Mr Piro and Mr Tyler since their resignations in September?

The Hon. K.J. MAHER: What page are you referring to?

The Hon. T.J. STEPHENS: Volume 5, page 238, TVSPs and Early Terminations.

The Hon. K.J. MAHER: I don't understand your question.

The Hon. T.J. STEPHENS: My question is: has the government replaced the duties of Mr Piro and Mr Tyler since their resignations in September? Again, I refer to—

The Hon. G.E. GAGO: They are out of order. These questions do not pertain to the Auditor's report; they are out of order.

The CHAIR: You don't think they relate to the Auditor's report?

The Hon. G.E. GAGO: No.

The Hon. T.J. STEPHENS: In my view, Chair, they do.

The Hon. G.E. GAGO: They are not referred to in the report, sir. They are—

The Hon. R.I. Lucas: TVSPs are.

The Hon. G.E. GAGO: Yes, but his question was not whether he got a TVSP or not. That was not the question. The Hon. Terry Stephens' question goes way beyond that and it is outside of the report.

The CHAIR: Do you want to move on to another question, the Hon. Mr Stephens?

The Hon. T.J. STEPHENS: According to the feedback received by the PSA, DSD members have expressed concern about the future and about overwork due to TVSPs—

The CHAIR: What reference?

The Hon. T.J. STEPHENS: So do you want me to go back to: Vol. 5, page 238, TVSPs and Early Terminations. They have expressed concern about the future and about overwork due to TVSPs being approved and that morale is generally low. Is this the feedback the minister is receiving, and what is the minister doing to address these particular concerns?

The Hon. K.J. MAHER: Again, I am not sure of the relevance to the Auditor-General's Report, but I am happy to entertain the questions. I indicate again that I am not the lead minister for DSD, but I can see whether there is an answer to those questions and, if there is, bring back a reply.

The CHAIR: I conclude the examination of the Auditor-General's Report.

Bills

STATUTES AMENDMENT AND REPEAL (BUDGET 2015) BILL

Committee Stage

In committee.

Clause 1.

The Hon. R.I. LUCAS: Whilst I suspect that the opposition and government might have an opposition in terms of procedure on the next agenda item, which is CTP, I would like to propose a course of action in relation to the budget bill, which hopefully would see it passed by Thursday, which I am sure is the government's intention.

At the outset, can I make some brief comments. First, I thank the minister and, in particular, the officers from Revenue SA, who went to considerable effort in the minister's mammoth reply to the second reading, where they responded to a series of concerns and questions raised by a prominent tax lawyer in South Australia in relation to the proposed drafting of the tax provisions of this bill.

As a result of that I am pleased to acknowledge that the government, I am sure on the advice of Revenue SA officers, has tabled a series of 15 amendments to pick up many of the points raised by this particular tax lawyer. There remain some significant ongoing differences of opinion. I acknowledge those, and will make some comments about some of those in the specific sections of the clauses when we get through the committee stage.

I note that the government has tabled (which I only became aware of this morning) a further series of amendments as of yesterday, I think—a file date of the 16th. I suspect they all relate to the one issue, which is the local government extractive issue that was raised. It might assist the committee if the minister, in clause 1, could outline the nature of the amendments and the purpose of the amendments and what the government's compromise position is, and then I am going to suggest that after clause 1 we report progress.

I also note that the Hon. Mr Hood has filed amendments, dated yesterday as well, and certainly it would be useful if the Hon. Mr Hood could briefly outline the purpose and nature of the amendments he has moved. I suspect they all relate to the single issue, and that would be useful as well. I also propose to put some further questions to the minister and the minister's advisers at clause 1 in relation to potential further amendments.

If we can go through this process at clause 1 today, certainly it would be my intention to consult quickly over the next 24 hours and proceed and conclude debate, at least from our viewpoint. If the opposition and government are happy, that would be enough to get it through the chamber by close of business on Thursday. I thank the minister for the detailed response and, as I said, the first series of 15 amendments which she has tabled and which we will address during the committee stage of the debate.

I do want to briefly refer to one section which was a detailed debate about some stamp duty provisions for which I am indebted to my colleague the member for MacKillop who raised the matter

on behalf of his constituent. It dated back to amendments to the Stamp Duties Act dating back to 1990 and issues that former shadow treasurer Stephen Baker had raised.

I will not trace the long history here as it is now on the record, but I do want to acknowledge that the government has acknowledged that, given the minimal impact to the state's revenue and the representations made by the government in 1990, the government will consider amending section 67 of the Stamp Duties Act in a similar way to that proposed by Mr Baker in 1990 as part of next year's budget.

I thank the government. I guess it is not a firm commitment: the government says it will consider amending section 67 of the Stamp Duties Act, but I think the government is acknowledging there that commitments were given by the former government in 1990 about how this provision would be interpreted. For a variety of reasons that the government has outlined, that has not eventuated.

The member for MacKillop has raised the issue and the government has acknowledged that it will have a look at amending this section in next year's budget. I am sure the member for MacKillop and his constituent would have preferred that it might have been part of this particular package of amendments, but I am sure he will be grateful for the acknowledgement that the government is considering amending it in next year's budget.

As a result of consultation with now two prominent tax lawyers in South Australia—and there seems to be a growing band—I want to place on record some further recommendations for change that they have made. I want to place on the record that I will be seeking the government's or, in particular, RevenueSA's response to these particular proposals to see whether or not the government, as it has done with the first 15 amendments that it has tabled, is minded to agree with the particular issues of law that these now two prominent tax lawyers have collaborated on drafting as potential amendments.

I want to place on the record now that advice for consideration by the government. It would assist the opposition, obviously, if we could get that response by late tomorrow so that we can form a view by Thursday morning to, hopefully, conclude the debate late on Thursday. The first issue is in relation to trust interests under clause 26. The recommendation is to add a new subsection (4) to read as follows:

Subsection (2) has no application to an instrument the value of which is to be determined in accordance with section 104B(3).

The second recommendation is in relation to clause 38. It is suggested that amendments along the following lines be adopted:

2.1 The proposed section 104B(2) be modified to read:

(2) In connection with subsection (1) but subject to subsection (3), this Division does not affect the operation of:

(a) any other provision of this Act that is relevant to the determination, calculation or imposition of duty in relation to land or prescribed goods;

(b) Part 4 of this Act;

(c) sections 71(3)(a) and 71AA of this Act

2.2 A new section 104B(3) reads as follows:

The value of the property conveyed by an instrument for the purposes of this Act:

2.2.1 to which paragraphs (i) and (ii) of section 71(3) applies is limited to the value of the land or any prescribed goods the subject of the transfer; or

2.2.2 to which any of the following provisions of this Act applies:

(a) paragraphs (iii) to (vi) of section 71(3);

(b) section 71AA;

is limited to the amount computed in accordance with the formula in subsection (4):

2.3 A new subsection (4) read as follows:

Amount for Computation of Duty = (A – B – ((C-B) x (A/D)))

Where:

A is the unencumbered value of the land and prescribed goods;

B is the amount secured over the land (if the amount is secured on the land, prescribed goods and other property then the amount secured is to be prorated between the unencumbered value of that land and the prescribed goods and the unencumbered value of the other property and for the purposes of this provision other property includes land outside the State);

C is the amount of any liabilities of the trustee (whether secured or not) that the trustee is entitled to be indemnified out of the property of the trust; and

D is the unencumbered value for property the subject of the trust.

2.4 A new subsection 104B(5) read as follows:

Subsections (2) expires on 1 July 2018.

2.5 The proposed section 104B(4) be renumbered as section 104B(6) and amended to remove the words 'the term includes goods' from the second line of the definition of prescribed goods.

3. The purpose of the foregoing suggested amendments is to deal with the difficulties created by the nature of an interest in property the subject of a trust or to be subjected to a trust. As currently drawn, the proposed sections 14(2) and 104B(2) do not adequately recognise that a trust interest is a species of property in its own right and different from the underlying property of the trust or that the obligations of the trustee are to be met from such property. The proposed amendments currently appearing in the Bill appear to suggest you look through the trust without adequately describing how that is to occur.

4. The foregoing is an attempt to address that issue. It does not adequately address partnership interests but that has been a problem area for many years and the Commissioner has artificial rules for dealing with such interests.

Mixed Use Property

5. Clause 50

Add a new section 71DC(9):

Notwithstanding the foregoing provisions where land is used or to be used for more than one purpose one of which renders it qualifying land and another or other that do not the Commissioner must make a fair and reasonable determination of the proportion of the land that is used or is to be used for a purpose that renders it qualifying land and the proportion of the land that is used or is to be used for a purpose that does not render it qualifying land

6. Clause 53

Add a new section 105A(7)

Notwithstanding the foregoing provisions where land is used or to be used for more than one purpose one of which renders it qualifying land and another or other that do not the Commissioner must make a fair and reasonable determination of the proportion of the land that is used or is to be used for a purpose that renders it qualifying land and the proportion of the land that is used or is to be used for a purpose that does not render it qualifying land

Add a new section 105A(8):

From and after 1 July 2018 delete section 92(2) and replace it with the following:

A local land asset is a land asset consisting of an interest in qualifying land (as defined in section 105A) in South Australia.

7. The proposed abolition of duty on commercial property does not provide any adequate mechanism to deal with mixed uses or proposed mixed uses. It simply looks to its current predominant use. Is an apartment hotel a residential use or a commercial use? Is a property with a shop below and an apartment above predominantly used for commercial or residential use? Is it based on floor area or amount of rent or some other basis?

8. If a developer purchases property in the CBD to develop a combination of commercial premises on the lower floors and apartments in the upper floors, then the developer should be entitled to obtain relief if the property is not currently used for commercial purposes but for residential purposes.

9. The second proposed amendment ensure that after 1 July 2018 the landholder provisions of Part 4 only apply to non commercial land.

Those amendments in those two broad areas, as I said, are the combined views of a couple of prominent tax lawyers. The opposition is not subscribing to the detail of those proposition but is, on the basis of their considerable expertise, asking the government to respond as to whether or not it sees merit in any or any part of or all of those propositions in terms of possible amendment to the budget bill.

I conclude my contribution to clause 1 in the second reading on that basis to indicate that, in relation to the two new sets of amendments that have been proposed by, firstly, the government, we are engaged in active consultation as we speak, given that, as I said, I only became aware of them this morning; they were filed yesterday. As best as we understand them, this is the government's compromise that has been worked out with the local government sector. If that is the case, then it is more than likely that we are prepared to support them.

In relation to the Hon. Mr Hood's amendments, I had a brief discussion with the Hon. Mr Hood and it is probably more than likely that even if we were to agree or not in principle with what he has indicated, the principal position we have adopted with the budget bill is that even where there have been elements that we have disagreed with we have highlighted those disagreements, but we have not sought to defeat the substance of the government's budget package and it is therefore likely that that would be our response to the Hon. Mr Hood's amendments.

We will hear his argument during the committee stages, and I suspect that in part the issues he raises—not completely—have been prompted by the concerns which the tax lawyer raised and which I placed on the public record about retrospectivity, and the government's response is on the public record in relation to the concerns that we raised during the second reading stage. With that, I indicate our wish, hopefully having heard from the minister and the Hon. Mr Hood, to at this stage report progress and with the intention of consulting over the next day and, from our viewpoint, concluding the debate on Thursday.

The Hon. D.G.E. HOOD: I have been asked by the leader of the government to give a brief outline of my amendment to the chamber. I am happy to do so here at clause 1 and, obviously, I will argue the case in a little more detail when we get further into the committee stage. First of all, I apologise to the chamber that this amendment was only filed yesterday morning. I had understood that it was to be filed Friday which would have given the opposition time to consider it at their regular Monday meeting. Anyway, it is what it is and the chamber will have an opportunity to consider it once this matter is adjourned today at the conclusion of clause 1.

In very simple terms, my amendment deals with the matter of when stamp duty is actually charged or the calculation is made, if you like, on a property conveyance. There has been some sort of long-running dispute, as I understand, about when that should be. I understand RevenueSA has held the view in recent times, at least, without formalising it, that the amount of conveyance—the amount of stamp duty, basically—should be calculated upon settlement of the property. It has always been the industry's view, if you like, or the view of the other side of the debate, including The Tax Institute, I should point out, that stamp duty should be calculated at the point where the contract is signed.

I can give you a little example of that where it may not sound much different; for example, if you were to buy property with a 30-day settlement, the difference is probably next to nothing. But if you were to buy property off the plan—an apartment building in the city, for example—then you could buy it before the building has even commenced. It may not be completed for 18 months, or possibly even two years in some cases, and in that case the market value of the property can change substantially. Although the agreed price will not change, if the stamp duty is calculated on the higher value of the property—that is the settlement day some 18 months to two years later—then, obviously, the amount of stamp duty could be substantially more.

Theoretically, you could have an apartment that sold for $500,000 off the plan, let us say, having a market value of $550,000 or even possibly $600,000 a couple of years later, depending on market conditions, and then the stamp duty calculated on that higher amount would be substantially more. That is an issue which I think my amendments will address. I should point out as well that all of my five amendments deal with this one single issue. Four of them are consequential on that first amendment to clause 27, and, just as a point of clarity, my amendment really just opposes those

clauses. It does not seek to make any other changes, simply to oppose those clauses. That means that those clauses would not appear in the bill.

If I can just take a few moments to read from the Housing Industry Association's submission on this issue. They have written to the Treasurer on this issue, and I am not sure if other members have had access to this; I think it is important that it is made available for members to at least be aware of through my reading it onto *Hansard*. It is only a fairly short letter and then I think that will conclude my contribution. But, before doing so, I point out that it is not only the HIA that has raised this issue; it has also been raised by The Tax Institute which appears to be arguing along similar lines. This letter from the HIA is addressed to the Treasurer, the Hon. Tom Koutsantonis, and it says:

Dear Treasurer

Statutes Amendment and Repeal (Budget) Bill 2015

I write to you to raise the Housing Industry Association's objection to Part 9 of the Statutes Amendment and Repeal (Budget) Bill 2015 currently before Parliament.

Part 9 of the bill purports to amend certain provisions of the Stamp Duty Act 1923, including section 60A of the Act.

HIA is concerned not only with the intent of the proposed amendments, but also with their retrospective effect—

which is significant, and I note that the Hon. Mr Lucas raised this in his contribution—

from 18 June 2015—the date of the 2015-16 Budget announcements.

The amendments to section 60A of the Act are likely to negatively impact on purchase and development of 'off-the-plan' transactions and development where settlement occurs at a time after contract negotiation occurs and the contract of sale is signed.

HIA understands that the amendment purports to give effect to the views of RevenueSA that the 'date of sale' of a property is the date of conveyance of the property to the purchaser rather than the date of the contract of sale and purchase of the subject property.

Under this interpretation, RevenueSA looks at the date that settlement of the contract occurs and the purchaser is in possession of an executed transfer.

This is important:

In HIA's submission, this practice is an incorrect interpretation of the law.

There is nothing in the text of the current legislation to suggest that the date of the sale is anything but the date of contract.

RevenueSA's incorrect interpretation (and application where it has occurred) is also poor public policy as it deprives contracting parties of certainty. It is manifestly uncommercial to expect arm's length contracting parties, whether that be farmers, developers, builders, or the ultimate home owners to commit to a transaction without knowing what their prospective legal liabilities, including taxation and stamp duty liabilities, will be.

Large scale land development arrangements often involve conditional contracts to purchase land, with subsequent regulatory approvals being obtained during the settlement period. The proposed amendment is likely to significantly increase the amount of Stamp Duty payable by developers and also potentially indirectly impact land owners. It will be an additional impost on home buyers and on economic development in South Australia more broadly.

In addition, noting the general principle that retrospective legislation is inherently contrary to the rule of law, there is no cogent reason, urgency or justification for the amendment to have retrospective effect.

The retrospective application of this provision provides an unfair, unreasonable and unjustified revenue collection trigger for RevenueSA to apply against South Australians, and a strong inhibitor against commercial transactions and corresponding productive endeavours across the state.

Yours sincerely

(signed)

Brenton Gardner

Acting Executive Director, Housing Industry Association Limited, South Australia.

I will leave it there. I think I have explained my amendment so that members will have a chance to consider it before we vote on this, which I expect will be Thursday, and I will be arguing the case during the committee stage then of why my amendment should be accepted.

Progress reported; committee to sit again.

The Hon. S.G. WADE: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

COMPULSORY THIRD PARTY INSURANCE REGULATION BILL

Committee Stage

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: I rise on clause 1 to speak briefly to this bill. I just want to say that we should not even really be discussing clause 1, the reason being that we have a situation where we now have a government that promised it would not privatise anything at all actually privatising by stealth the Motor Accident Commission. As a result of that, within four years we will start to see massive increases in CTP. The evidence is clearly there when we look at what happened in states such as New South Wales. Why a traditional Labor government would ever want to privatise something like the MAC is beyond me.

The reality is, according to the government, that they are going ahead and privatising the MAC, irrespective of whether or not people agree with it, because they know best and they know more than the parliament. They did not have the intestinal fortitude to actually bring a bill in or bring any debate forward so that the parliament could actually debate the benefits of CTP being privatised or being held in the hands of government, as has been the case throughout successive Liberal and Labor governments.

Of course, we know that the money from the privatisation of the Motor Accident Commission is not even going to go towards paying off the massive debt that this state has. The truth of the matter is that it is going into recurrent—they say it is going to go into roads, but what they are doing is taking the money from DPTI that it had allocated through Treasury from general revenue for roads and they are going to use the MAC money for that.

The parliament and my colleagues know that I moved for one of our standing committees to investigate the issues around the privatisation of the MAC. That work is now occurring, and I thank those colleagues who are doing that on behalf of the Legislative Council.

The Treasurer said to me that he would need to have a regulator. In fact, he asked me whether or not I would commit to a regulator. In summary, I said to him that Family First would support a regulator. The reason for that is that we have a situation where, because of this privatisation by stealth, there will need to be some sort of regulation: an independent regulator put in at some point in the future to ensure that we do not end up with an absolute disaster and an absolute mess on our hands. However, there are stepped processes before we would need to get to that, and I know that one of our colleagues, the Hon. Rob Lucas, has moved that a committee have a warts and all look at what is really proposed, what the policies, procedures, regulations and legislation would really need to involve to set up a proper independent regulator, if that were the way an absolute majority of members of the upper and lower houses decided.

At this point in time I do not see that there is any urgency about this legislation. I see some very good sense in what the Hon. Rob Lucas has put forward, the reason being that we have been kept in the dark, the MAC board were kept in the dark, and some of the MAC executive were actually forced to sign a commercial in-confidence agreement so that there could be sneaky deals done between Treasury and government on what occurred with the privatisation of MAC.

On behalf of the people of this state we need to ensure, at least, that the parliament is now robust and vigorous when it comes to assessing the overall issues regarding a regulator. With that, at this point in time we actually support what the Hon. Rob Lucas is saying, and that is to get a committee to have a look at this before proceeding further with this legislation.

The Hon. R.I. LUCAS: For reasons I outlined when I last spoke on this bill, I move:

That progress be reported.

Progress reported; committee to sit again.

SUMMARY OFFENCES (BIOMETRIC IDENTIFICATION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 October 2015.)

The Hon. J.A. DARLEY (17:12): I rise to speak briefly on the Summary Offences (Biometric Identification) Amendment Bill. As outlined by other honourable members, the bill amends the Summary Offences Act to enable the use of mobile fingerprint scanners by police. More specifically, the proposed changes will enable a police officer to require a person to submit to a biometric identification procedure, a requirement which will exist in addition to the current power to require a person to provide their personal details.

The requirement to submit to such a procedure will apply in instances where a police officer has reasonable cause to suspect that a person has committed, is committing, or was about to commit an offence or that a person may be able to assist in an investigation of an offence or a suspected offence. In terms of safeguards, the bill makes it an offence to inappropriately retain or store biometric data for longer than is reasonably required for the purposes of carrying out the biometric procedure.

The Hon. Andrew McLachlan and the Hon. Mark Parnell have summed up well the concerns that these changes pose. Perhaps most concerning is the breadth of the proposed changes in terms of their application to those persons who may be able to assist in an investigation of an offence or a suspected offence, and also the lack of clarity around what 'no longer than is reasonably required' means in the context of retaining or storing biometric data.

My colleagues have placed on the record a number of pertinent questions, in particular in relation to these two aspects of the bill. For the record, I indicate that I too will support the second reading of the bill but will reserve my final position until answers to those questions are provided by the government for members' consideration. I note also that the Hon. Andrew McLachlan has recently filed amendments dealing with these very issues. I intend to consider those very closely before the committee stage of the debate.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (17:14): I thank honourable members who have contributed to the debate so far. The purpose of this bill is to provide police officers with wider powers to assist with on-the-spot identification of a person whilst the police officer is remaining in the field. This bill will enable police to use mobile fingerprint scanners to assist in the verification of a person's identity to ameliorate the problem of people providing false personal details. In answer to the questions raised during debate, I can provide the following information.

In relation to the question about police procedures when handling the device, the proposed legislation is essentially an extension of the existing authority to ask a person their name and address as per section 74A of the Summary Offences Act. The training and instruction will be similar to the instruction given relative to police exercising their authority to request a person's name and address as per the Summary Offences Act. An officer opens the fingerprint scan application, scans images of up to four digits for a person and sends the scanned images to the National Fingerprint Identification System for comparison against the fingerprints already stored within the National Fingerprint Identification System.

If there is not a match between the fingerprints stored on the NAFIS system and the scanned images, then a no hit result will be returned. If there is a match between the scanned image and fingerprints stored on the NAFIS, then a hit result will be returned with information relative to that person. Neither the scanned images nor the personal details provided from a hit result (name, age and date of birth) are retained.

In relation to the question about whether there was any chance of inadvertent storage of fingerprints, I am advised that the portable fingerprint scan device has been designed not to store any of the images or the personal detail in the returned results.

In relation to the question about how someone's fingerprints may be cleansed or deleted from the device, I can provide further advice from SAPOL and clarify how this process works. The technical system is designed so that the scanned fingerprint images are bundled and transmitted to NAFIS and are then overwritten when the hit or no hit result is returned. Therefore, the scanned fingerprint images are automatically deleted and are not stored on the device. Additionally, the scanned fingerprint images are automatically deleted by the system if there is an interruption in power supply or a transmission fault.

In relation to the question about whether there is going to be an audit of these devices or some sort of audit of the practices on an ongoing basis, I can advise that the system has an inbuilt audit capacity in relation to usage. There is capacity to establish which individual officer conducted the scan and when. The technological design of the system precludes storing the scanned images or personal details (name, age or date of birth) of the returned results. If the legislation is passed, the legislative authority for police to require a person to undertake the scan will be the same as existed for many years in relation to asking a person to provide their name and address.

In relation to the question about the new offence prohibiting a person from storing data and who would most likely be charged, the system is designed not to retain the fingerprint beyond the scan or, if there is a match, the personal details. The authority to require a person to undertake the scan would be exercised by the officer in line with the legislation. Apart from that legislation giving the authority, the existing SAPOL conduct and disciplinary processes would apply. The external police ombudsman process would also be available should a member of the public believe that police had acted outside of the legislative authority.

In relation to the question about how many occasions members of the community have been asked to voluntarily provide their fingerprints and how many have refused, I can advise that the mobile fingerprint scanners have been in use since early 2014, initially on a trial basis. They are currently used in high public use areas by Hindley Street patrols, the Public Safety Transport Branch officers, patrols in some large shopping centres, and some Neighbourhood Policing teams.

As there has not been a legislative authority to require a person to be scanned, all use has been voluntary. Between 1 July 2014 and 28 October 2015, there have been, I am advised, 724 voluntary fingerprint scans undertaken resulting in 341 hits and 383 no hits. As the entire framework has been voluntary, the number of people who have not wanted to have their fingerprints scanned voluntarily has not been recorded and is unknown.

In relation to the question about how many occasions police have needed this system or some other system where they needed to provide identification in addition to laws already in place, I am advised that SAPOL has not captured this specific information. Anecdotally, persons of interest who are actively trying to avoid police typically do not carry any form of identification and tend to give false names. For the last five years, until 30 September 2015, SAPOL have reported or apprehended 4,313 people for providing a false name or refusing to provide their name and address as per section 74A of the Summary Offences Act 1953.

In relation to the question, 'How many prosecutions have been made under the Criminal Law (Forensic Procedures) Act for offences of unauthorised storage of a DNA profile?' I am advised that there have not been any prosecutions of this kind in the last five years.

In relation to the question, 'How many apprehensions or arrests or warrants has South Australia Police made in the last five years due to an inability to confirm identification?' SAPOL has provided the following figures based on apprehension reports submitted: in 2009, 664; in 2010, 674; in 2011, 651; in 2012, 710; in 2013, 634; in 2014, 581; and in 2015 (until 30 September only), 399.

In relation to the questions, 'What will police officers be required to explain to suspects before they can exercise the power? For example, will they be required to explain the reasons for the prints being taken and the power under which they are being taken and that their fingerprints may be subject to a speculative search against other fingerprints?' SAPOL has advised that, when challenged, officers will explain the use of their authority to request name and address under section 74A of the Summary Offences Act. The same application will apply when exercising their authority to use the portable fingerprint scan.

In relation to the question, 'Are police officers going to be required to delete the image once the procedure has been conducted, or do they wait until they conduct the next identification procedure and wipe out the older one?' SAPOL has advised that officers can exit from the search, which wipes out the images and detail to perform another search, or officers can exit from the application, which wipes out the captured images and detail of the previous search. Once the images are submitted for matching, they are deleted from the device automatically. If the officer wanted to resubmit the images, they would need to rescan them.

In relation to the question, 'How instantaneous is the response from the national database?' SAPOL has advised that responses typically are returned within 60 to 90 seconds. In relation to the question, 'When the fingerprint image is deleted from the mobile unit, does the device retain the deleted data in a backup drive?' and I use the example of photocopiers, which often retain images for long periods of time, SAPOL has advised that the deleted data is not backed up.

In relation to the question, 'What happens when a new device is being used by the police? How will parliament know that this new device has the comfort of sufficient operation that fingerprints will not be retained inadvertently into the future?' we received some assurances in the other place, but this is in relation to existing equipment that is being used. I am advised that the solution design for the portable fingerprint scan prevents this from occurring.

The use of the device is for frontline officers to establish the identification of a person of interest so that the officer can make informed decisions as to how to progress the interaction with that person of interest. The taking and storing of fingerprints on the NAFIS is appropriately catered for in other legislation. Any new devices would have to comply with the limits contained in this legislation.

I am aware that amendments have been filed by the Hon. Andrew McLachlan in relation to this bill. The government will consider these amendments and be in a position to respond to them at the committee stage in the next sitting week. I commend the bill to the council and look forward to the second reading. I understand we will then go to clause 1 to enable honourable members to put any other questions they might have on the record to be answered at a later date.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: I move:

Amendment No 1 [McLachlan–1]—

Page 2, after line 25—After line 25 insert:

(2a) Section 74A—after subsection (2) insert:

(2a) Despite subsection (1), a police officer may only require a person to submit to a biometric identification procedure under subsection (1)(d) if—

(a) the person has refused or failed to comply with a requirement under subsection (1)(c) to state all or any of the person's personal details; or

(b) after requiring the production of evidence by the person under subsection (2), the officer is not reasonably satisfied as to the identity of the person.

(2b) Before a biometric identification procedure is carried out in respect of a person, a police officer must inform the person of the following matters:

(a) that the police officer is exercising a power under this section;

(b) the grounds on which the person is required to submit to the biometric identification procedure;

(c) the manner in which the procedure will be conducted and what directions may be given to the person for the purposes of the procedure;

(d) that any biometric data obtained from the person may only be retained for the purposes of conducting the procedure;

(e) the right of the person under this section to request confirmation from the Commissioner relating to the non-retention of the biometric data under subsection (4c).

Amendment No 2 [McLachlan–1]—

Page 3, after line 10 [clause 4(5)]—After inserted subsection (4a) insert:

(4b) The Commissioner must—

(a) establish guidelines for the conduct of biometric identification procedures under this section including the operation of prescribed devices and the handling of biometric data derived from biometric identification procedures; and

(b) ensure that a prescribed device used for the purposes of a biometric identification procedure under this section is properly maintained and operated in accordance with the manufacturer's operating instructions and any guidelines issued under paragraph (a).

(4c) The Commissioner must, on application in a manner and form approved by the Commissioner made by a person who submitted to a biometric identification procedure, confirm in writing that the biometric data relating to the person derived from the biometric identification procedure has been deleted within the time required.

(4d) The Commissioner must, as soon as practicable after each 30 June, cause a report to be prepared about the operation of this section in respect of biometric identification procedures during the year ended on that 30 June.

(4e) Without limiting subsection (4d), a report relating to a year must include the following matters occurring under this section in that year:

(a) the number of biometric identification procedures undertaken;

(b) the number of positive identifications made using biometric identification procedures;

(c) the number of false identifications (if any) made using biometric identification procedures;

(d) details of prescribed devices used for the purposes of conducting biometric identification procedures (including operating procedures and the manner in which, and for how long, the devices retain biometric information obtained under this section);

(e) the number of arrests resulting from the identification of a person as a result of a biometric identification procedure;

(f) the number of prosecutions commenced for offences against—

(i) subsection (3)(a) involving a refusal or failure to comply with a requirement to submit to a biometric identification procedure under subsection (1); and

(ii) subsection (4a).

(4f) The Commissioner must submit the report to the Minister who must, as soon as reasonably practicable after receiving the report, cause copies of the report to be laid before each House of the Parliament.

Amendment No 3 [McLachlan–1]—

Page 3, line 16 [clause 4(6), inserted definition of *biometric identification procedure*]—Delete 'by means of photograph or scan' insert 'using a prescribed device'

Amendment No 4 [McLachlan–1]—

Page 3, after line 18—After line 18 insert:

(7) Section 74A(5)—after the definition of *personal details* insert:

prescribed device means a device, or a device of a kind, prescribed by the regulations for the purposes of this section.

I thought I might at clause 1 just set out some background to the amendments that I have filed. I would like to start off by thanking the honourable minister for setting out the government's responses, and the staff of the Attorney-General for taking the time to respond so promptly.

This bill aims to provide authority for SAPOL to confirm a person's identity in certain circumstances by using a fingerprint scanner. To achieve this end, the bill amends the current section 74A(1) of the Summary Offences Act 1953 to allow a police officer to require a person to submit to a biometric identification procedure in addition to the current power to require that they state all or any of their personal details. Whilst the bill deals specifically with fingerprint identification, the definition of biometric data in the bill includes:

> …fingerprint data or any other prescribed data or data of a prescribed kind that describes the physical characteristics of a person or part of a person that may be used to identify the person.

This means or has the effect that other methods of conducting identification checks, such as perhaps an iris scan or facial recognition scan, could be implemented in the future.

The amendments I have filed have been drafted with the intent to provide additional operational safeguards and appropriate levels of accountability from SAPOL. They have not been designed to inhibit the operational effectiveness of SAPOL.

The first amendment would require SAPOL to seek traditional forms of identification first, as is currently required under the Summary Offences Act. A biometric fingerprint scan can only then be undertaken if a person refuses or fails to comply with the request for identification, or after requiring the production of identification the officer is still not reasonably satisfied about the person's identity.

The amendment also requires that police officers explain to the persons who are required to undergo a biometric identification procedure certain basic information. This includes, for example, the grounds on which the procedure is being conducted, the manner in which the procedure will be conducted, and the person's right to subsequently request certain information from the commissioner.

The second amendment requires that the police commissioner establish guidelines regarding the use of the prescribed devices and handling of the data obtained from the scans. The commissioner must ensure that prescribed devices are properly maintained and operated in accordance with both the manufacturer's instructions and the established guidelines, and must provide written confirmation that the biometric data has been deleted within the required time frame to those persons who make an application to the commissioner for the same.

The amendment also provides for an annual report to be tabled in both houses of parliament. The annual report must include information pertaining to the number of biometric identification procedures undertaken that year, the number of positive and false identifications made, details of the prescribed devices used, the number of arrests resulting from biometric identifications, and the number of prosecutions for offences of refusing or failing to comply with a biometric identification procedure.

The third amendment amends the definition of 'biometric identification procedure' from being one in which biometric data is obtained by a photograph or scan to one which is obtained using a prescribed device. This will ensure that the implementation of any future devices or scanners, such as an iris scanner, would need to be prescribed by regulation.

The fourth amendment consequently inserts a definition of a prescribed device in similar terms to the definition currently used for breath testing devices. This approach permits devices to be identified by model number, and therefore does not require each and every device to be prescribed by serial number.

That sets out the background to the amendments, and I would suggest that we report progress.

The Hon. I.K. HUNTER: I thank the honourable member for the description of the intent of his amendments. I offer the opportunity to other members who want to make comment at this stage or put questions on notice for the government to come back to, or indeed ask direct questions now, before we report progress.

The CHAIR: Does anyone else wish to make comment on clause 1? If not, we will report progress.

Progress reported; committee to sit again.

LIQUOR LICENSING (ENTERTAINMENT ON LICENSED PREMISES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 15 October 2015.)

The Hon. R.I. LUCAS (17:29): I rise on behalf of Liberal members to support the second reading of the Liquor Licensing (Entertainment on Licensed Premises) Amendment Bill. Section 105(1) of the Liquor Licensing Act requires a licensee to apply to the licensing authority for consent to provide entertainment on the licensed premises or any area adjacent to the licensed premises.

A number of groups, including the Music Industry Council and others, have argued that this provision is onerous and is the biggest barrier to the live music sector in South Australia. They argue that this restriction does not exist in any other state and does not apply to other forms of entertainment, such as recorded music.

The government's stated aim of this bill is to cut red tape and make it easier for licensed premises to host live music. It seeks to amend the act so that venues no longer have to apply for a separate licence to have live music between 11am and midnight. For example, restaurants could have a guitarist playing in the background without having to seek the consent of the licensing authority.

Venues that want to have live music after midnight will still be required to make an application. Licensees will also be required to obtain the consent of the licensing authority if the entertainment is prescribed entertainment as defined in the bill. The government's argument is that this bill strikes an appropriate balance between reducing red tape and maintaining regulation of entertainment during the hours that noise from licensed premises is most likely to impact upon residents.

The bill obviously has the support of the Music Industry Council. It has also been supported by the Australian Hotels Association, which has made a number of public statements highlighting that, in its view, hotels are the lifeblood of the live music industry in South Australia. The clubs association has recently contacted our office and indicated that it too supports the bill.

Liberal members in the Assembly and the Legislative Council support the broad policy goal of encouraging live music in South Australia in clubs and hotels in particular. It has been interesting to note the various contributions of members in the House of Assembly. I am sure the Hon. Mr Gazzola and the Hon. Ms Franks will speak during the second reading debate of this bill.

As an observer over a number of years, it has been interesting to see the trend in debate in terms of live music. I acknowledge the work of my former ministerial colleague Di Laidlaw almost 20 years ago now, I think. Her contribution to live music development has been acknowledged by members in this chamber previously—for example, taking on board John Schumann's advice.

I remember during those particular years discussions with people like Pete Steedman and others who were at the forefront of trying to promote live music, not only through entertainment venues but in particular through music in schools. As a former shadow minister for education and minister for education, I saw a number of programs promoted during that particular period, some of which continued and some of which died off in the last 20 years or so.

I think generally the community is more accepting of live music through our hotels. It has been interesting to note the changing nature of live music in some of our venues and the very interesting coming together of the provision of live music and pop-up food vans. For example, at the Wheatsheaf Hotel only last week, there was a wonderful wafting smell of hot chips through the open live music area. It made for a compelling evening; it was very difficult to resist the hot chips as well as drinking and enjoying the live music at that particular venue.

We are seeing through that combination, as the Hon. Mr Gazzola and the Hon. Ms Franks have mentioned in previous contributions, an increasing variety of live music and entertainment options. As I said, with maybe slightly greater numbers at some of these venues, now there are people seeing the opportunity that it might justify having a pop-up food van outside, whereas perhaps in the past, live music in some venues might have only been attracting the nearest family and friends of the particular performers in the live music venue at the time.

There was one issue that was raised in our party room debate by one of my country colleagues or colleagues who represent a regional area. I did look to see whether it was raised in the House of Assembly debate—it may well have been—but I know that I raised it at some stage because I had a letter from the Deputy Premier responding to the question, so it might have been raised in the debate as well as separately. It is an issue in relation to a definition of 'licensed premises' as it might impact on some country communities. I want to place on the record the response I got from the minister, who says:

> I write in response to your inquiry in relation to the application of the Liquor Licensing Bill upon areas adjacent to licensed premises. The bill amends section 105 of the defined licensed premises as for purposes of this section a reference to licensed premises will be taken to include a reference to any area adjacent to the licensed premises that is under the control of a licensee for the licensed premises.

The question that was being raised by this member representing a regional area was that beer gardens and open areas that are adjacent to the four walls of a licensed premises, on his thinking, would be included and therefore the removal of restrictions in terms of entertainment would not just be within the four walls of the licensed premises: it would be in an open beer garden area. Clearly, issues in terms of management of noise are significantly different if you are an open area for neighbouring residents, maybe a few hundred metres down the street, as opposed to being within the four walls of a hotel.

This member was raising the question: it is fine to reduce the red tape within the premises because you can manage the noise within the premises, but if you are in an open beer garden outside, how are you going to manage those issues? This was the question that was put to the minister, and this is his reply:

> I note that section 105 of the Act in its current form also deals with areas adjacent to licensed premises. Under the bill, a licensee may use any part of the licensed premise, which includes any area adjacent to the licensed premises that is under the control of the licensee for the licensed premise for the purpose of providing entertainment between the hours of 11am and midnight without the consent of the licensing authority.
>
> The use of adjacent areas to the licensed premises for the purpose of providing entertainment would also depend on any approvals or conditions under the Development Act 1993 and whether it is regarded as a change in the use of land. Any change in the use of land would require approval under that Act.
>
> It is also important to note that the process under section 106 of the Liquor Licensing Act 1997 relating to noise complaints will remain unchanged under this bill. Section 106 allows for a complaint to be made to the Liquor and Gambling Commissioner regarding noise from licensed premises.

The letter was signed by John Rau, Deputy Premier, and it is dated 23 September 2015. I put that on the public record. At this stage, we are not seeking to amend the bill, but we are putting on the record the concern that a member representing a regional area has raised. I think that it is a valid point of concern. I think that the import of the Premier's response is that, if there is a noisy entertainment option in an open beer area which impacts on residents in a country community, there can be complaints under the existing provisions lodged with the Liquor and Gambling Commissioner.

I guess that this is an area that, sensibly, we just monitor and if ultimately there proves to be a problem, the issue can be raised in the parliament with the government in terms of how those particular issues might be monitored. I certainly acknowledge, on behalf of my country colleague—and I guess the same issues could be raised in some metropolitan venues as well—that managing potential noise issues within the four walls of a hotel or club, for example, are clearly easier than if you are in an open beer garden area outside.

As I said, we are not seeking to amend the bill or defeat any provision of the bill at the moment, but we put on the record the issue that has been raised and the Premier's response to it. It is an issue that clearly in our view should be monitored over the coming period and, if it is a problem, then we can look at potential solutions. With that, on behalf of Liberal members, we indicate our

support for the bill and our wish that it might further encourage the development of the live music industry in South Australia.

The Hon. T.A. FRANKS (17:40): I rise on behalf of the Greens to support the Liquor Licensing (Entertainment on Licensed Premises) Amendment Bill 2015 put forward by the government, some three years after I put forward a similar bill to remove the entertainment consents from liquor licensing—what I call 'the culture cops' from policing whether or not one can have a beer while watching jazz or perhaps not grunge or to come in and say to the Dublin Hotel, 'I'm sorry, you are only licensed to play folk music,' and in fact take them to court because they had a DJ on one day.

That sort of overly restrictive, bureaucratic policing of culture in this state in our licensed venues is why we have this legislation here before us, but also why we should have passed it three years' ago when I first brought a private member's bill to this place. The government bill is restricted to fewer hours than the Greens bill would have been, and that is certainly something that I support. I am happy to see the government take the lead on this and ensure that it is properly implemented.

Section 106 will remain and noise will of course not be affected in terms of this particular bill. This bill will simply deal with liquor licensing enforcement, enforcing genres of entertainment—types of entertainment—not the nuisance of an entertainment. Nuisance will continue to be addressed by the provisions that will remain in the act in terms of noise and other amenity provisions and protections for residents and neighbours of licensed premises.

It is a very welcome debate that I hope will be a short one today. Certainly it has been a long-fought campaign, not just of the Greens, but of people from the Music Industry Council most recently, but of course MusicSA, the Musician's Union, the Australian Hotels Association, and Save Live Australian Music (SLAM) have all been active players in this, and so many, many more.

One I want to pay particular tribute to is Ianto Ware, who would be known to those who do care about a vibrant Adelaide, and also the Live Music Office and John Wardle of that office. Those two men in particular actually sat down in a small Sydney bar and drafted the original bill with me some three and a bit years ago, and I am sure that they will welcome this day as well. It will be the day that we see the end of the Belgian Beer Café on Ebenezer Place only being able to have the string instrumentation of harps or perhaps a didgeridoo.

I'm not sure why Higher Ground was only approved to have the music of Andean, Ancient Greek, Christian country, Indian/Asian, Latin freestyle, Gregorian chant, mediaeval, opera, polka, blue grass (and that is two words for blue grass, Hansard; it is very important and we will get to it in a minute) genres which of course must be particularly troubling, as Walter Marsh of *Rip it Up* wrote, for banjo players who adhere to the conventionally single word spelling of bluegrass music.

I am sure the Seven Stars Hotel will be happy to be allowed to have five people on their stage or even six rather than the currently prescribed four. I am also sure that those venues which are prohibited from currently playing grunge will breathe a sigh of relief when they are not sure whether or not the band that they have booked for their Friday night performance has traversed from rock into grunge and perhaps back again.

Liquor licensing should never have been involved in policing culture. It is a waste of public resources, it is a waste of time, and it loses the point of liquor licensing, which is to ensure the safe and responsible provision of alcohol in publicly licensed venues. I look forward to this being just one of many steps to support the live music industry. It is big business across the globe and it can be big business for South Australia.

We have many fine live acts. We have people who step onto the local stages and then go on to become world leaders: Sia Furler, I Killed the Prom Queen, and so many more. Everyone, of course, will point to Cold Chisel, who indeed got their start in Adelaide pubs. Let's get more live music in those Adelaide pubs and see more Cold Chisels in the future. With those words, I commend the bill.

The Hon. J.M. GAZZOLA (17:45): I rise to support the bill. I admit that it has been a long time coming so I will not delay the second reading for too long. I wish to acknowledge the support

and contributions made by parliamentary colleagues in this and the other place, but there are many who have played an important role in getting the bill to this stage.

Firstly, I would like to acknowledge Dini Soulio, the Commissioner for Consumer Affairs, Liquor and Gambling, and his staff; Ian Horne and Wendy Bevan from the Hotels Association—and we all know that the predominant users and supporters of live music are the hotels in South Australia; the Music Industry Council; Becc Bates and Karen Marsh from the Music Development Office; the Hon. Tammy Franks and the Hon. Kelly Vincent for their perseverance and support and, indeed, you could add patience; the Premier and the Deputy Premier, especially Kim Eldridge from the Deputy Premier's office and the Minister for the Arts, for their leadership; and finally, as the Hon. Ms Franks said, Mr John Wardle, Policy Director for the Live Music Office, who also happens to be a fine guitarist. Hopefully, once local government gets on board, we will see the hospitality and entertainment industry grow, generating jobs and further economic activity for the state.

The Hon. J.A. DARLEY (17:46): I would just like to indicate for the record that I will be supporting the bill.

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) (17:46): I believe all second reading contributions have occurred and I thank all honourable members who have made a contribution and all who have indicated support for this bill, which fundamentally looks at cutting red tape, reducing costs to business as well as obviously encouraging the live music industry to thrive.

We believe that the bill does strike a balance between reducing red tape but still maintaining adequate regulation in the entertainment sector. With those few words, I look forward to the matter being dealt with expeditiously through the committee stage.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third 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) (17:48): I move:

That this bill be now read a third time.

Bill read a third time and passed.

EVIDENCE (RECORDS AND DOCUMENTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 27 October 2015.)

The Hon. A.L. McLACHLAN (17:49): I rise to speak to the Evidence (Records and Documents) Amendment Bill 2015 and advise that the opposition will be supporting the second reading. The current Evidence Act that operates in South Australia has not been amended in recent years to reflect the significant advances that have been made in the modern electronic age and the consequential changes to the way we communicate in everyday life.

As a consequence of this, the provisions contained within the Evidence Act that deal with the admission and proof of computer-generated evidence are not often utilised in practice. The government advised, during the second reading contribution, that courts and litigants improvise and work around the current law in order to deal with the admission of computer-generated evidence, and that there are no specific provisions contained in the current act to cater for electronic communications.

In 2012 the South Australian Law Reform Institute reviewed the South Australian evidence laws and the way they deal with modern technologies. Its report, entitled 'Modernisation of South Australia evidence law to deal with new technologies', recommended a number of amendments be made to the South Australian Evidence Act 1929. In particular, the institute recommended that the Evidence Act be amended to provide for the proof and admission of information that is generated, stored, reproduced or communicated by a technological process or device that reflects modern technologies and can accommodate future as yet unknown technologies.

The bill before the chamber makes a number of amendments to the Evidence Act in order to implement these recommendations. The amendments have been drafted with the aim of keeping South Australia's law in this area consistent with the Uniform Evidence Act models. The bill redefines the term 'document' to reflect the definition in the Acts Interpretation Act 1915, which includes all records made by any process whereby information is stored and can be retrieved. The aim of this is to encapsulate sophisticated methods of storing electronic and digital information and communications. The bill incorporates a wide definition of a document by defining a business record to include any document prepared or used in the ordinary course of a business for the purpose of recording any matter relating to the business.

The bill repeals part 6 and part 6A which currently deal with the admission of lettergrams and telegrams, as the government advises that these are rarely used because the requirements are too burdensome and they can be used only as an aid to proof. Furthermore, part 6A cannot currently be used to facilitate the admission of evidence or information produced or communicated by the internet and modern electronic devices.

To address these inadequacies the bill introduces a new provision to facilitate proof of evidence that is produced by processes, machines or other devices that is intended to enable the admission of computer-generated evidence. The bill also introduces a new clause 55 to simplify the rules surrounding evidence of telegraphic messages by creating a rebuttable presumption of receipt by the addressee within 24 hours of the delivery of the communication to a post office or transmission as a lettergram or telegram.

The bill also inserts a new section creating a rebuttable presumption of accuracy of evidence produced by computers consistent with section 146 of the Uniform Evidence Act models. This means that the parties producing evidence of such documents will no longer have to prove the authenticity and reliability of the process or the device, unless there is evidence displacing the presumption. For example, a party would not have to prove the reliability or accuracy of a computer from which an email had been produced as a precondition to the admission of that email into evidence. It is important to note that this section only permits the document generated to be admitted as a presumptive aid to proof, but not as to the truth of its content.

The bill provides for the admissibility of documents that have been reproduced by instantaneous processes, such as photocopying or scanning, where the content has been recorded and stored in a storage device and reproduced; for example, on a hard drive. This amendment pays regard to the modern technologies that have emerged and are frequently used to store and produce data; for example, images or words that are reproduced from electronically stored data, such as that from social media sites, into hard copy format would be admissible. Again, this is confined to a form of admissible evidence and does not extend to make admissible the contents of a document to prove the truth of the representation it contains.

The bill introduces a new provision to provide for the admissibility and proof of evidence of electronic communication, for example text messages, emails and social media posts. The bill defines electronic communications in the same terms as the Commonwealth Electronic Transactions Act 2000 which is not device-specific or method-specific and therefore broad enough to embrace all modern and even future technologies.

In particular, the section provides for a presumptive aid to proof for all electronic communications as to the accuracy of its sending and making, the identity of the sender or maker, when and where it was made or sent from, and where and when it was received, and the admissibility of an electronic communication to prove the truth of what is contained in the electronic communication as to the identity of the person who sent the communication and the person to whom

it was addressed, the date and time at which it was sent, and the destination of the communication. If its reliability is contested, the court has the power to exclude it.

I advise the chamber that the opposition has not received any submissions from relevant organisations indicating any opposition to the clauses in this bill. It is clear that the prolific growth in the use of modern forms of technology, in particular text messages and social media, has also led to an increased use of this as evidence in civil and criminal court proceedings. It is clear that South Australian evidence law is in need of modernisation to accommodate these advances.

The opposition is hopeful that the existing powers vested in the judiciary to refuse to admit evidence where it would be unfair or prejudicial will provide the appropriate safeguards when the bill is passed. We will watch the application of these provisions with interest. With those words, I commend the bill to the chamber.

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

SURVEILLANCE DEVICES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 27 October 2015.)

The Hon. A.L. McLACHLAN (17:57): I rise to set out the Liberal Party's position in respect of this bill. When reading this bill for the first time, I recalled the quote of Edward V. Long which is as follows:

> Modern Americans are so exposed, peered at, inquired about, and spied upon as to be increasingly without privacy—members of a naked society and denizens of a goldfish bowl.

This bill seeks to set out some parameters around the privacy of the individual in certain circumstances. Privacy is an important public interest, but it is not the only public interest. Indeed, there are other competing public interests, in particular the freedom of expression and the broader public interest. This bill seeks to balance those competing interests and seeks to find an accommodation between all three.

The bill has a number of components. One key component is advancing various powers of our law enforcement agencies in relation to surveillance. The Liberal Party does not seek any amendment at this stage to those provisions and has in the previous iterations expressed its support for those provisions in that form.

Where the many different versions of this bill which have come before this chamber and the other place have attracted controversy has been in respect of the prohibition in relation to the use or maintenance of an optical surveillance device and the particular anxiety in the community for those who have a particular interest in animal cruelty to be able to expose the maltreatment or mistreatment of animals. At the time of the debate in the other place, the Liberal Party had not received the submissions of the RSPCA and Free TV. I will touch upon those submissions a bit later.

As I indicated, the Liberal Party is in general agreement with the provisions in relation to the law enforcement. The first of those is cross-border recognition of surveillance device warrants. The second is to allow urgent warrant applications, for example where there is an imminent risk of violence to a person or substantial damage to property, to be granted by a senior police officer instead of a judge. The third is to provide for remote applications to allow for instances where the physical remoteness makes it impractical to make a warrant application. The fourth is the provision of a specified person warrant, which allows for warrants for surveillance on specific people instead of warrants on a particular place. As I said, we do not seek to challenge those provisions.

The bill also goes on to prohibit the installation, use or maintenance of a listening device to overhear, record, monitor or listen to a private conversation, except where all principal parties to the conversation provide their consent. There are exemptions, where such a listening device is authorised for law enforcement authorities and for security and investigation agents. A further exemption exists where the use of the device is reasonably necessary for the protection of the lawful

interests of that person, or where the installation, use or maintenance of a listening device is in the public interest.

The installation, use or maintenance of an optical surveillance device is subject to similar restrictions and exemptions. The bill prohibits the installation, use or maintenance of an optical surveillance device on or in premises to record visually or observe the carrying on of a private activity without the express or implied consent of each party to the activity. The bill also prohibits trespass onto premises or interference with premises to install, use or maintain an optical surveillance device to capture private activity.

Like listening devices, there are exceptions for law enforcement authorities for security and investigation agents. A further exemption exists where the use of the device is reasonably necessary for the protection of the lawful interests of that person, or where the installation, use or maintenance of an optical surveillance device is in the public interest.

The bill goes on to prohibit the use, communication or publication of information or material derived from the use of a listening or optical surveillance device. It creates an offence for the use, communication or publication of information or material derived from the use of a listening device or an optical surveillance device in circumstances where the device was used to protect the lawful interests of a person. There are exceptions to this prohibition, which include for investigative or court-related purposes, by a media organisation (defined as an organisation that is licensed or authorised under a law of the commonwealth to engage in broadcasting or datacasting), or in accordance with the order of a judge.

The bill provides an important further exemption to the general rule that there must be a court order for a media organisation, information or material that is used, communicated or published to such a media organisation, the Royal Society for the Protection of Animals (the RSPCA), where issues of animal welfare are concerned and information or material that relates to issues of animal welfare that is used, communicated or published to the RSPCA.

It is the public interest test in relation to the media on which there has been a submission from Free TV. Free TV wrote to the Hon. John Rau, Deputy Premier, on 16 October 2015. The letter was signed, 'Yours sincerely' by Julie Flynn, the CEO. I will not read into *Hansard* the terms of that letter, but I seek from the government in its summing up of the second reading debate a response to the concerns raised in that letter. I also refer to a letter addressed to the Hon. John Rau, Deputy Premier and Attorney-General, dated 22 October 2015 and signed 'Kindest regards, Tim Vasudeva', the CEO of RSPCA.

I also seek from the government at the summing up of the second reading debate a response to the concerns raised by the RSPCA. In particular the RSPCA has expressed concerns that it has been named in the bill, and it has concerns that it will not have the resources to cope with being supplied with what it anticipates will be large amounts of new media in relation to the cruelty of animals, and finds that the test in the bill may be difficult for them to make appropriate assessments whether to publish or utilise the material.

Both submissions are significant from the perspective that the government was thought to accommodate both these parties with this drafting of the bill, and this is why I ask the government to pay care and attention to the responses in summing up the bill. With those comments I will conclude my remarks on the second reading.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

CONTROLLED SUBSTANCES (SIMPLE POSSESSION OFFENCES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 October 2015.)

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) (18:08): I believe that all second reading contributions have

been completed. I thank honourable members for those contributions and look forward to the committee stage being dealt with expeditiously.

In committee.

Clause 1.

The Hon. G.E. GAGO: I rise to respond to a question that the Hon. Andrew McLachlan asked during his second reading contribution. The bill amends the Controlled Substances Act 1984 to preclude a person who is charged with a serious drug offence, as defined in the bill, from being diverted under the police drug diversion initiative scheme for a simple possession offence arising out of the same circumstances.

The Hon. Andrew McLachlan asked during the debate what the situation would be under the amendments if an individual is alleged to have committed a simple possession offence and is also charged with a serious drug offence, but is subsequently acquitted of the serious offence or the charges are withdrawn. He questioned whether the person is then diverted under the drug diversion initiative for the alleged simple possession.

I am advised that the act as amended would provide that, if a person is charged with a serious drug offence, then the diversion scheme provisions do not apply. Therefore, if there is a subsequent acquittal or withdrawal of a serious drug offence charge, then the provisions no longer apply and the person would not be diverted under the scheme.

It is possible that the person could go on to be convicted of the simple possession offence, if that was also charged. However, the DPP has previously advised that he would not tend to charge the simple possession offence on the same information as a major indictable serious drug offence; rather, he would lead evidence of simple possession, if relevant, as part of the proceedings for the serious drug offence.

Accordingly, the most likely outcome is that the person, having been acquitted or the serious drug offence charge having been withdrawn, is neither diverted nor prosecuted for the alleged simple possession. I hope that answers the Hon. Andrew McLachlan's question.

The Hon. A.L. McLACHLAN: I thank the minister for her response. It was a comprehensive response and I thank the minister and the Attorney-General's staff who would have put that together. The opposition will not be seeking any amendments to this bill at this committee stage.

Clause passed.

Remaining clauses (2 to 4), schedule and title passed.

Bill reported without amendment.

Third 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) (18:13): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (FIREARMS OFFENCES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 October 2015.)

The Hon. K.L. VINCENT (18:14): I take this opportunity to speak on behalf of Dignity for Disability at the second reading of the Statutes Amendment (Firearms Offences) Bill 2015. Can I first say how much Dignity for Disability loathes violence, particularly violence as gruesome as involving firearms. I would hope that our record in this place, our work on the domestic violence disability justice plan and other projects would clearly illustrate our absolute intolerance for any form of

violence. For that reason, I very much look forward to debating the Firearms Bill when it comes to this place next week to take a holistic look at how we can better protect against the improper use of firearms in this state. Having said that, though, I do indicate that at this stage we will oppose this bill.

Honourable members would be aware that the bill seeks to address serious firearms crimes, such as the Humbles case, in which the defendant gives the principal offender a gun and the principal offender later commits a murder with that gun. The bill proposes two measures:

1. amending the Criminal Law Consolidation Act 1935 and the Criminal Law (Sentencing) Act 1988 in order to designate trafficking offences in section 14 and 10C of the Firearms Act 1977 as serious firearm offences; and

2. adding a new statutory complicity offence to ensure that those offenders who commit serious firearms offences are held fully responsible for the consequences of their offending.

The Statutes Amendment (Serious Firearms Offences) Bill in 2012 created a series of interlocking measures which imposed a severe approach to the sentencing of serious firearms offenders. It amended the Criminal Law (Sentencing) Act to include those who commit a firearms offence involving the use or carriage of a firearm that involves in any way a firearm that is illegal under all circumstances, a fully automatic firearm and a handgun that is unregistered and the person is unlicensed. It is presumed that a sentence of immediate imprisonment will be imposed on such offenders unless exceptional circumstances apply.

On 16 July 2014, the government announced that it would change the law so that an offence of trafficking a firearm would qualify as a serious firearms offence which must attract a sentence of imprisonment. The liability of a person who is complicit in criminal offences committed by another is governed by the law of complicity, partly statutory and partly common law. Section 267 of the Criminal Law Consolidation Act 1935 states:

> A person who aids, abets, counsels or procures the commission of an offence is liable to be prosecuted and punished as a principal offender.

At common law, a person may be found guilty of a crime committed by another if under a common purpose, sometimes called a joint enterprise. As firearms are uniquely and directly dangerous to life and limb, the government proposes that the law should be changed so that, if a person commits a firearms trafficking or supply offence which results in a firearm coming into the possession of an unlicensed person, the first person is liable for any offence committed by the second person with that firearm. The extended liability provision will apply, I understand, to juveniles also. I would like to turn to the Law Society's position on this bill. In summary, I understand that the Law Society opposes the bill because:

1. Derivative liability has no place in criminal law, as the Law Society puts it. The bill makes a criminal offence event based on these principles.

2. The proposed offence is not a criminal offence in character and is not capable of being defended.

3. The proposed offence has neither mental nor physical elements, therefore it cannot constitute criminal liability for a serious offence.

4. The proposed offence is unfair and unjust as the essence of the offence is in the prescribed offence already prosecuted, so the weapon supplier could be in jeopardy the second time.

5. There is no need for the proposed offence because the present offence of supply already attracts serious penalties.

In expanding on these points the Law Society submits it is inherently dangerous to enact a law in direct response to one incident such as the Humbles case, and to do so to fulfil a promise given to a select group. It could not reasonably be suggested that the sentences imposed on the murderer, Humbles—life with a non-parole of 17 years on appeal; and the gun supplier, Cullen, eight years, non-parole, three years and nine months, are inadequate.

The Law Society also says the bill, and specifically the derivative liability provision in section 267AA, is unnecessary. The law relating to derivative liability in section A is settled and effective. A

person will be held criminally liable for the act of another where they have aided, abetted or procured the commission of the act or taken part in a joint criminal enterprise to that end. A person's liability for the act of another is partly related to their state of mind, i.e. whether the person knew of the other's intention to commit the subsequent act.

The bill does not create a new offence capable of being prosecuted in a court. Rather it establishes an administrative process whereby a person, based on two conditions precedent, becomes liable to be sentenced for an act for which, in most cases, the person had already been sentenced. The bill is unprecedented in any jurisdiction in Australia. On the issue of causation the Law Society submits:

> The bill's extension of criminal liability is contrary to the common law principle of causation, i.e. that it is enough that the applicant's conduct contributed significantly to the death of the victim.

The bill provides for an automatic assumption that the unlawful supply of a firearm is causative of any offence committed by any person who may then possess and use that firearm later. That cannot be correct says the Law Society. The law has recognised that a chain of causation cannot be broken. The Law Society also asks whether the bill addresses a deficiency in the criminal justice system, and says:

> The report does not make it clear whether there has been any analysis of the nature of sentences imposed by section A, imposed by courts for offences against section 10C (10) and (14) of the Firearms Act 1977. The maximum penalty for these offences is 15 years' and 20 years' imprisonment respectively. Legislative intervention to address a perceived shortfall in the judicial system should only be made after careful consideration of its necessity.

There are simpler ways than the bill to address a purported failure by sentencing judges to consider the danger to the public caused by the supply of unregistered firearms to unlicensed persons, for example, the considerations in section 10C of the Criminal Law (Sentencing) Act 1988. The Law Society then turns to concerns as to how the bill gives effect to its purpose and says:

> In addition to the above concerns, the new section 267AA offence creates a potentially unlimited category of offenders. The bill does not limit the degree of separation between an accused and the principal offender.

The Law Society argues that the bill also creates uncertainty for convicted offenders, which arguably could amount to cruel and unusual punishment. The bill does not place a time limit to the period between the original supply offence and the subsequent offence, that is, the offence of supplying the firearm and the offence of using that firearm to murder someone. Therefore, says the Law Society, someone could serve their entire sentence for the original sentence before being punished again for the same act.

The Law Society goes on to say that the bill could also create an offence that in most circumstances would be impossible to defend. It is an offence without the traditional elements required to be proved beyond reasonable doubt. The offence is not one based on certain mental and physical elements but on two separate findings of fact not linked by causation. The Law Society also argues that the bill creates uncertainty as to its retrospectivity. The bill does not contain any transitional provisions. This is unsatisfactory when the bill purports to govern events and findings of fact that may have occurred before the bill is assented to.

The Law Society also submits that the bill, in their opinion, may in fact be unconstitutional. They state that it is arguable that the effect of the bill is to deny a person a fair trial according to law and that it is questionable whether the prosecution of an offence proposed in section 267AA could be described as in accordance with the judicial process. It appears to be no more than a rubber stamp exercise, the Law Society argues. In that way, the bill arguably infringes on judicial independence, which is of course a requirement of the constitution. The Law Society does not believe that a successful prosecution pursuant to the proposed section 267AA has been decided independently of the executive government.

Considering the number of arguments against this bill in the Law Society's submission and the expressions of concern and doubt in some of the opposition members' statement of support in this bill, there would appear to be some risk that this legislation may be vulnerable to legal challenge. The opposition appears to be supporting this bill because it quite understandably, as I am sure we all do, empathises with the McPherson family and agrees that something should be done about illegal firearms. On that idea, you certainly do not get any opposition from Dignity for Disability, but at the

same time it acknowledges the apparent legal shortcomings of the bill and 'hopes' that it will be judged valid by the courts and be effective.

I, too, want to extend my sympathy to the McPherson family and all families and individuals impacted by the use of firearms, particularly those that have been used illegally. However, I respectfully submit that hope is not a sound basis for making and modifying the laws of this state. We need evidence-based law making and, given the concerns that the Law Society has with this bill and the concerns that were raised even by the Liberal opposition as they supported this bill, I am not convinced that we have sufficient evidence to support this bill at this time.

The law is likely to be highly uneven, and therefore Dignity for Disability cannot support the passage of this particular bill. However, as I say we look forward to a debate on the Firearms Bill next sitting week so that we can holistically look at how to responsibly deal with the issue of firearms in this state.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

JUDICIAL CONDUCT COMMISSIONER BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

COMMUNITY BASED SENTENCES (INTERSTATE TRANSFER) BILL

Introduction and First Reading

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

Second Reading

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (18:31): 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.

Introduction

The *Community Based Sentences (Interstate Transfer) Bill 2015* provides for South Australia's participation in a scheme for the formal transfer and enforcement of community based sentences between Australian jurisdictions. Community based sentences are sentences that are served within the community, and can be supervised and administered in the local jurisdiction.

There are many reasons why offenders may wish to transfer to a new jurisdiction. Notable reasons may be proximity to improved family and community support, to escape domestic violence, or the prospect of increased choice of employment or study opportunities. Allowing a transfer to a new area in which the offender has good support increases the probability of the offender fulfilling the order, being positively re-integrated back into the community, and desisting from further offending.

A community based sentence is a sentence that is handed down by the Court that is a penalty other than imprisonment. Community based sentences include, but are not limited to, a South Australian Bond with Supervision handed down under the *Criminal Law (Sentencing) Act 1988*, or a South Australian Bond With Supervision (Suspended Sentence).

All community based sentences, such as Suspended Sentences and Bonds with Supervision issued in this State have a mandatory condition that the offender not leave the State of South Australia during the period of the Order.

There is currently national model legislation in place in all jurisdictions to enable the interstate transfer of prisoners, which in South Australia is the *Prisoners (Interstate Transfer) Act 1982* (SA). There is also National model legislation in place in all jurisdictions to enable the interstate transfer of Parole Orders, which in South Australia is the *Parole Orders (Transfer) Act 1983* (SA), both of these schemes operate extremely well.

National model legislation to enable the interstate transfer of other community based sentences such as Supervised Bonds has been discussed nationally for many years and is a regular item on the agenda of the Corrective Services Administrators' Council.

The model legislation was consulted and subsequently endorsed by the Corrective Services Administrators' Council and the Corrective Services Ministers' Conference. The Corrective Services Ministers' Conference at that time, resolved to submit the model legislation to the Standing Committee of Attorneys-General, now known as the Council on Law, Crime and Community Safety. The legislation was subsequently endorsed by all Ministers in 2010 and Attorneys-General in 2011.

The overall aim is to have national legislation in place in all States and Territories to enable the transfer of community based sentences (other than parole) in and out of Australian jurisdictions.

Bill in Detail

I move now to the detail of the Bill. The provisions in the Bill will apply only to community based sentences imposed on adults. Under the formal arrangements created by the Bill, an offender with a community-based sentence in South Australia will be able to transfer the supervision and administration of the sentence to a new jurisdiction on a voluntary basis, provided certain requirements are satisfied. The offender will then be managed in the new jurisdiction as though a court of the new jurisdiction had imposed the sentence, except for the purposes of appeal or review, which will remain the responsibility of the originating jurisdiction.

The formal arrangements will operate in much the same way as those established by the *Prisoners (Interstate Transfer) Act 1982 (SA)* and related interstate legislation.

It is acknowledged that community based sentences vary markedly across jurisdictions. In this regard, it has been agreed that some orders will simply not correspond, or 'substantially correspond', to that in a receiving jurisdiction. It is likely that in these cases, transfer simply may not be possible. It is anticipated that decisions about correspondence will be made via direct liaison between Corrective Services Departments in each jurisdiction.

The legislation also has provisions for Orders having multiple components (as is often the case in South Australia) providing that some components will need to be completed in the sending jurisdiction prior to any transfer taking place such as reparation to the community against which they offended (community service components) and fines.

Interstate authorities that administer corresponding legislation will have a designated local authority for that jurisdiction. Having one local authority for each jurisdiction will ensure that there is a single communication point between an offender and the supervising authority, establishing clear communication procedures and practices. The Bill provides that the local authority for South Australia is to be the Chief Executive of the Department for Correctional Services. Details of the transferred sentences will be recorded and maintained on a register.

The local authority will make decisions on the basis of information sent by the relevant interstate authority regarding the offender and sentence, provided specific criteria are satisfied. The criteria that the local authority will apply when deciding whether to accept a request for transfer are that the offender has consented to the order and has not withdrawn that consent; there is a sentence in South Australia that corresponds to the sentence imposed in the interstate jurisdiction; the offender can comply with the sentence in South Australia; and the sentence can be safely, efficiently, and effectively administered in South Australia. The local authority will be able to refuse a request for transfer if the criteria are not met, or otherwise at the local authority's discretion. This will be particularly relevant in a case when the local authority becomes aware of concerns expressed by an individual for his or her safety if the offender were to reside in South Australia. Discretion may also be exercised in a case when an offender poses an unacceptable administrative burden to South Australia because the offender has a history of not complying with directions issued by a supervising officer.

If deciding to accept a request for transfer, the local authority may choose to register the sentence, decline to register the sentence or require the offender to meet certain preconditions before registering the sentence. Imposing preconditions provides a means for the local authority to confirm the offender's ability and willingness to comply with the sentence in South Australia before registration and formal transfer occurs. A precondition may include the offender satisfying the local authority before a stated time that the offender is living in South Australia, or that the offender is reporting to a stated person in South Australia at a stated time and place. If the local authority decides to accept the request for transfer and registers the sentence, the offender will be supervised and administered by the Department for Correctional Services, as though the sentence had been imposed in South Australia.

The administration of a sentence includes managing a breach of the sentence. Therefore, if the offender does not comply with the conditions of a transfer order, he or she may be re-sentenced by a South Australian court according to the laws of this state, in which the offence was committed. The South Australian court may, however, refer to the penalty range and type that would have been applicable in the original jurisdiction, so as to ensure that the transfer does not serve to avoid the sentencing intentions of the original jurisdiction.

Registration of the sentence does not affect an offender's right to seek an appeal or review of the conviction or finding of guilt, or the imposition of a sentence, in the original jurisdiction. As a matter of practicality, if the offender seeks an appeal or amendment of the conviction or sentence, or the sentence relating to the conviction, the appeal will be made in the original jurisdiction and not to a South Australian court, even though South Australia is the

jurisdiction supervising and administering the transferred sentence. In the case that an appeal or request for amendment of sentence is successful, the amended sentence will be administered and supervised in South Australia as though a South Australian court had upheld the appeal or made the amendment. It would be contrary to natural justice to prevent an offender from seeking an appeal or review of their conviction or sentence by virtue of registration in a jurisdiction other than the original jurisdiction.

Conclusion

The involvement of South Australia in the scheme highlights the contribution this State is making to the corrective services framework nationally by the framing of a cohesive national approach to corrective services provision and enforcement.

Allowing an offender to transfer to a new area in which the offender has good support or opportunities increases the probability of the offender fulfilling the order, being positively reintegrated back into the community, and being diverted from returning to the prison system.

The Government encourages the early passage of the Bill to ensure the prompt and efficient implementation of the formal arrangements in South Australia.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides the short title as the *Community Based Sentences (Interstate Transfer) Act 2015*.

2—Commencement

Commencement will be on a day fixed by proclamation.

3—Interpretation

This clause provides definitions for the purposes of the measure. Importantly, a *community based sentence* to which the measure applies is defined as meaning—

(a) a sentence of community service imposed under the *Criminal Law (Sentencing) Act 1988*; or

(b) a sentence of imprisonment suspended on condition that the defendant enter into a bond under section 38 of the *Criminal Law (Sentencing) Act 1988*; or

(c) a bond to be of good behaviour imposed under section 39 of the *Criminal Law (Sentencing) Act 1988;* or

(d) in relation to an interstate jurisdiction—a sentence that is a community based sentence under the corresponding law of the jurisdiction; or

(e) a prescribed sentence.

For the purposes of determining which States and Territories are included in the scheme, a *participating jurisdiction* means South Australia or a State or Territory of the Commonwealth prescribed by the regulations to be a participating jurisdiction.

4—Application of Act

This clause provides that the measure does not apply to the following:

(a) a sentence imposed by a court in this State, another State or a Territory, on a person who was not an adult at the time he or she committed the offence in relation to which the sentence was imposed; or

(b) a sentence in relation to which a prisoner has been released from prison to serve a period of home detention under Part 4 Division 6A of the *Correctional Services Act 1982*; or

(c) a parole order within the meaning of the *Parole Orders (Transfer) Act 1983*; or

(d) a sentence of a kind prescribed by regulation for the purposes of this section.

Part 2—Administration

5—Local authority

This clause provides that the *local authority* for this jurisdiction is the Chief Executive of the Department (being the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the measure).

6—Delegation

This clause provides for the delegation by the local authority of a function or power of the local authority provided under the measure.

7—Local register

This clause requires the local authority to establish and maintain a register (the *local register*) of interstate sentences registered under the measure.

Part 3—Registration of interstate sentences in this jurisdiction

8—Request for transfer of interstate sentence

This clause provides that the local authority may, in accordance with Part 3, register an interstate sentence in this jurisdiction at the request of the interstate authority for the interstate jurisdiction in which the sentence is in force.

9—Form of request for registration

This clause provides requirements as to the content and form of a request of an interstate authority under clause 8 including specific information and documentation which must accompany a request as follows:

(a) a copy of the interstate sentence certified by the interstate authority;

(b) a copy of the offender's consent for the registration of the sentence in this jurisdiction;

(c) a copy of any relevant pre-sentence report about the offender held by the interstate jurisdiction in relation to any offence committed by the offender for which the offender is subject to a sentence;

(d) a copy of any relevant psychological or other assessment of the offender held by the interstate authority;

(e) details of—

(i) the offender's criminal record (whether in or outside Australia); and

(ii) the offender's compliance with the interstate sentence and any other relevant non-custodial sentence;

(f) a statement by the interstate authority explaining what part of the sentence has been served in the interstate jurisdiction or any other interstate jurisdiction before the making of the request;

(g) a statement by the interstate authority that the authority has explained to the offender, in language likely to be readily understood by the offender, that, if the sentence is registered in this jurisdiction—

(i) the offender will be bound by the requirements of the law of this jurisdiction in relation to the sentence; and

(ii) a breach of the sentence may result in the offender being re-sentenced in this jurisdiction for the offence; and

(iii) the other consequences for a breach of the sentence in this jurisdiction may be different from the consequences for a breach of the sentence in the interstate jurisdiction, and that, in particular, the penalties for breach of the sentence may be different;

(h) a statement by the interstate authority that sets out the reasons given by the offender for requesting to register the interstate sentence in this jurisdiction;

(i) any other document reasonably required by the local authority.

10—Request for additional information

This clause provides that the local authority may request additional information from an interstate authority about an interstate sentence or an offender the subject of a request under clause 8.

11—Withdrawal of offender's consent

This clause provides that an offender who has consented to the registration of an interstate sentence in this jurisdiction may withdraw his or her consent at any time before (but not after) the registration of the sentence by giving written notice to the local authority.

12—Registration criteria

This clause provides the *registration criteria* for the purposes of determining a request for registration. The *registration criteria* are as follows:

(a) the offender has consented to the interstate sentence being registered in this jurisdiction and has not withdrawn that consent; and

(b) there is a corresponding community based sentence under the law of this jurisdiction; and

(c) the offender is capable of complying with the sentence in this jurisdiction; and

(d) the sentence is capable of being safely, efficiently and effectively administered in this jurisdiction.

13—Decision on request

This clause provides for a decision to be made on request under clause 8 such that the local authority may register the interstate sentence in this jurisdiction (with or without preconditions under clause 14) or may decline to register the sentence. In deciding whether to register an interstate sentence, the local authority must have regard to the registration criteria and may have regard to any matter prescribed by the regulations or any other relevant matter. The local authority may decline to register an interstate sentence even if satisfied the registration criteria are met and must not register an interstate sentence unless satisfied that the registration criteria are met.

14—Preconditions for registration

This clause provides that the local authority may impose preconditions for the registration of an interstate sentence that the offender must meet to show that the offender is capable of complying, and is willing to comply, with the sentence in this jurisdiction. Such preconditions may be that the offender must satisfy the local authority, before a specified time, that the offender is living in this jurisdiction or that the offender must report to a specified person in this jurisdiction at a specified time and place. The local authority must give written notice of the decision and the precondition to the offender and the interstate authority.

15—How interstate sentence is registered

If the local authority decides to register an interstate sentence in this jurisdiction for the registration of the sentence, the local authority must register the sentence by entering the required details in the local register. If preconditions have been imposed then the details must not be entered into the register unless the authority is satisfied that the precondition has been met. Required details are the details of the offender and the interstate sentence prescribed by the regulations.

16—Notice of registration

This clause provides that the local authority must give written notice of the registration of a sentence in this jurisdiction to the offender and the interstate authority which must include the date the sentence was registered.

17—Effect of registration generally

This clause provides that, if an interstate sentence is registered in this jurisdiction, the following provisions apply:

(a) the sentence becomes a community based sentence in force in this jurisdiction, and ceases to be a community based sentence in force in the interstate jurisdiction;

(b) the sentence is taken to have been validly imposed by the appropriate court of this jurisdiction;

(c) the sentence continues to apply to the offender in accordance with its terms despite anything to the contrary under the law of this jurisdiction;

(d) the offence for which the sentence was imposed on the offender (the *relevant offence*) is taken to be an offence against the law of this jurisdiction, and not an offence against the law of the originating jurisdiction;

(e) the penalty for the relevant offence is taken to be the relevant penalty for the offence under the law of the originating jurisdiction, and not the penalty for an offence of that kind (if any) under the law of this jurisdiction;

(f) any part of the sentence served in an interstate jurisdiction before its registration is taken to have been served in this jurisdiction;

(g) the offender may be dealt with in this jurisdiction for a breach of the sentence, whether the breach happened before, or happens after, the registration of the sentence;

(h) the law of this jurisdiction applies to the sentence and any breach of it with the changes (if any) prescribed by the regulations.

This clause does not affect any right, in the originating jurisdiction, of appeal or review (however described) in relation to the conviction or finding of guilt on which the interstate sentence was based or the imposition of the interstate sentence.

This clause does not apply to an interstate sentence to the extent to which—

(a) it imposes a fine or other financial penalty (however described); or

(b) it requires the making of reparation (however described).

Part 4—Registration of local sentences in interstate jurisdictions

18—Request for transfer of local sentence

This clause provides that the local authority may request the interstate authority for an interstate jurisdiction to register a local sentence in the interstate jurisdiction.

19—Response to request for additional information

This clause provides that the local authority may, at the request of an interstate authority or on its own initiative, give the interstate authority any additional relevant information about a local sentence or offender in relation to whom a request has been made under clause 18.

20—Effect of interstate registration

This clause provides that if a local sentence is registered in an interstate jurisdiction, the following provisions have effect:

(a) the sentence becomes a community based sentence in force in the interstate jurisdiction, and ceases to be a community based sentence in force in this jurisdiction;

(b) the offender may be dealt with in the interstate jurisdiction for a breach of the sentence, whether the breach happened before, or happens after, the registration of the sentence;

(c) if the sentence is registered in the local register—the sentence ceases to be so registered;

(d) proceedings against the offender may not be commenced or continued under the law of this jurisdiction in relation to any breach of the conditions attached to the sentence that occurred before it was registered in the interstate jurisdiction.

If this jurisdiction is the originating jurisdiction for a local sentence registered in an interstate jurisdiction, this clause does not affect any right of appeal or review (however described) within this jurisdiction in relation to the conviction or finding of guilt on which the sentence was based or the imposition of the sentence.

If this jurisdiction is the originating jurisdiction for the local sentence registered in an interstate jurisdiction, this clause does not affect the sentence to the extent to which it imposes a fine or other financial penalty (however described) or it requires the making of reparation (however described) and, to that extent, the sentence remains a sentence in force in this jurisdiction and may be enforced accordingly.

Part 5—Miscellaneous

21—Inaccurate information about local sentence registered interstate

This clause provides for an obligation on the local authority, where the local authority is aware that information about a sentence or an offender recorded in the register kept under the corresponding law of the interstate jurisdiction is not, or is no longer, accurate, to advise the interstate authority of that inaccuracy and how the information in the interstate register needs to be changed to be accurate.

22—Dispute about accuracy of information in interstate register

This clause provides that an offender who is registered in an interstate register after transfer from this jurisdiction may claim inaccuracy in information recorded about the sentence or the offender in the interstate register. If an offender makes a claim under this clause the interstate authority may send the local authority a copy of the claim and an extract from the *interstate register* containing the information that the offender claims is inaccurate. On receipt of a claim and extract under this clause, the local authority must check whether the information in the extract is accurate, having regard to the offender's claims and must inform the interstate authority if the information is accurate and, if it is not, must provide to the interstate authority the correct information.

23—Evidence of registration and registered particulars

This clause provides that a certificate that appears to be signed by or on behalf of the local authority or the interstate authority for an interstate jurisdiction, and states any of the following matters, is evidence of the matter:

(a) matter that appears in or can be ascertained from the register kept under the measure or a corresponding law;

(b) details of a community based sentence or the offender in relation to a community based sentence;

(c) details of any part of a community based sentence that has or has not been served;

(d) any matter prescribed by the regulations.

A court must accept a certificate mentioned in this clause as proof of the matters stated in it if there is no evidence to the contrary.

24—Regulations

This clause provides that the Governor may make regulations, not inconsistent with the measure, for or with respect to any matter that by this measure is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the measure.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

TOBACCO PRODUCTS REGULATION (ARTISTIC PERFORMANCES) AMENDMENT BILL

Introduction and First Reading

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

At 18:33 the council adjourned until Wednesday 18 November 2015 at 14:15.

Answers to Questions

PUBLIC SERVICE EMPLOYEES

30 The Hon. R.I. LUCAS (3 December 2014). (First Session) Since 1 January 2014, will the minister list—

1. Job title and total employment cost of each position with a total estimated cost of $100,000, or more, which has been abolished; and

2. Each new position with a total cost of $100,000, or more, which has been created?

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): I am advised—

Since 1 January 2014 until 3 December 2014 a total of four positions, with a total estimated cost of $100,000 or more, were abolished.

The job titles of the positions abolished are:

- Manager, Skills Recognition Service
- Principal Program Officer (2 roles)
- Manager, Policy and Intergovernment Relations.

Since 1 January 2014 until 3 December 2014 one new position, with a total cost of $100,000 or more, was created. The job title of this position is:

- Principal Project Officer.

ABORIGINAL AFFAIRS AND RECONCILIATION AGENCY

In reply to **the Hon. S.G. WADE** (25 February 2015).

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

1. The 2014 APY Lands Progress Report has been published and is available at http://www.statedevelopment.sa.gov.au/aboriginal-affairs.

2. Aboriginal Affairs and Reconciliation is the lead agency for reporting purposes in relation to Aboriginal wellbeing, established under Target 6 of South Australia's Strategic Plan (SASP T6).

The Department of the Premier and Cabinet is now responsible for the overall SASP target information and reporting.

AUTOMOTIVE TRANSFORMATION SCHEME

In reply to **the Hon. R.I. LUCAS** (16 June 2015).

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

1. Key Performance Indicators (KPIs) are prepared for all grants and some may include job targets and clawback provisions.