



**REPORT ON THE SUBJECT-MATTER OF PARTS 1, 2 AND DIVISIONS 1, 3,
4, 5, 6, 7, 8, 9, 11, 12, 13, 18 and 20 OF PART 3 OF BILL C-59, AN ACT TO
IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN
PARLIAMENT ON APRIL 21, 2015 AND OTHER MEASURES**

Standing Senate Committee on National Finance

TWENTY-SECOND REPORT

Chair

Honourable Joseph A. Day

Deputy Chair

Honourable Larry Smith

JUNE 2015

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1 INTRODUCTION

Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures (short title: Economic Action Plan 2015 Act, No. 1), was introduced and read for the first time in the House of Commons on 7 May 2015.

As its full and short titles indicate, the purpose of Bill C-59 is to implement the government's overall budget policy, introduced in the House of Commons on 21 April 2015. Bill C-59 is the first implementation bill of the April 2015 budget. Established legislative practice would have this bill followed by a second budget implementation bill. However, given that a federal election is scheduled to take place in October 2015, it is possible that there will be only one bill implementing the April 2015 budget.

Bill C-59 is divided into three parts: Part 1 would implement income tax measures (clauses 2 to 28); Part 2 would implement various measures for families (clauses 29 to 40); and Part 3 would implement various measures by enacting and amending several Acts (clauses 41 to 273).

On 14 May 2015, the subject matter of Bill C-59 was referred to the Standing Senate Committee on National Finance for in-depth pre-study. To assist the Committee with its study, five other standing Senate committees were authorized to examine the subject matter of certain divisions of Bill C-59 in advance of its coming before the Senate:

- (a) the Standing Senate Committee on Aboriginal Peoples: Division 16 of Part 3;
- (b) the Standing Senate Committee on Banking, Trade and Commerce: Divisions 14 and 19 of Part 3;
- (c) the Standing Senate Committee on Social Affairs, Science and Technology: Division 15 of Part 3;
- (d) the Senate Standing Committee on National Security and Defence: Divisions 2 and 17 of Part 3; and
- (e) the Standing Committee on Internal Economy, Budgets and Administration: Division 10 of Part 3.

Therefore, Parts 1 and 2 and Divisions 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 18 and 20 of Part 3 of Bill C-59 were examined by the Standing Senate Committee on National Finance (the Committee). However, the Committee is responsible for conducting the clause by clause study of the entire bill.

As part of its pre-study on Bill C-59, which took place from 26 May 2015 to 3 June 2015, the Committee held a total of six meetings. Over the course of these meetings, the Committee heard from 47 witnesses from ten federal departments and agencies, as well as representatives from five organizations outside the federal government.

The full list of witnesses is found in Appendix A. Appendix B lists the submissions received by the Committee.

2 PART 1 – IMPLEMENTING INCOME TAX MEASURES AND RELATED MEASURES PROPOSED IN BUDGET 2015

During the Committee's study of Part 1, officials from the Department of Finance Canada explained the 12 measures contained in Part 1 and answered questions from Committee members.

2.1 Reduce the Required Minimum Amount that must be Withdrawn Annually from a Registered Retirement Income Fund, a Defined Contribution Registered Pension Plan or a Pooled Registered Pension Plan (clauses 2, 15, 17, 23 and 24)

Part 1 would amend the *Income Tax Act* and the *Income Tax Regulations* to reduce the required minimum annual withdrawal factors. Under the current legislation and regulations, the factors used for calculating the minimum annual withdrawal amount are determined assuming a nominal rate of return of 7% and an index rate of 1% per year. Under the bill, given current conditions, the assumption should be a nominal rate of return of 5% and an index rate of 2% per year. This means that, for a 71 year old, the minimum annual withdrawal would drop from 7.38% to 5.28%. The minimum annual withdrawal would reach the maximum of 20% at age 95 rather than age 94.

The new factors to be used in calculating the minimum annual withdrawal amount would also be used for determining the minimum amount to be withdrawn each year from a defined contribution registered pension plan or a pooled registered pension plan.

The proposed amendments would be applicable as of 2015.

The Committee learned from Department of Finance Canada officials that this measure would reduce federal government revenues by \$670 million between 2015–2016 and 2019–2020.

2.2 Income Tax Exemption for New Benefits for Veterans (clause 3)

Part 1 would amend the *Income Tax Act* by adding two new benefits to the list of those excluded from the calculation of a taxpayer's income, starting in the 2015 taxation year. These two benefits would be a "critical injury benefit" in the form of a single lump-sum payment of \$70,000 and a "family caregiver relief benefit," which would consist of an annual grant of \$7,238. These benefits would be established in clauses 214 and 217 respectively (Part 3, Division 17), which would amend the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (also known as the "New Veterans Charter").

2.3 Decrease in the Small Business Income Tax Rate (clauses 4, 10, 11 and 14)

Part 1 would amend the *Income Tax Act* by gradually decreasing the small business tax rate from 11% to 9%, starting in January 2016. The small business tax rate would therefore be reduced by 0.5 of a percentage point per year for four years. The gross-up factor and tax credit for non-eligible dividends would also be reduced proportionally over the same period.

The Department of Finance Canada officials explained that the dividend tax credit would also be gradually decreased to reflect the fact that businesses benefiting from this measure would be paying less tax. They said this would ensure the principle of tax integration would be respected. According to this principle, individuals should pay the same total amount of tax, whether they earned income through a corporation or whether they earned income directly (not through a corporation).

The Committee learned that there is no single definition for the term "small business" in the *Income Tax Act*. For the purposes of the decrease in the small business income tax rate, it relies on a measure of its assets, applying to businesses whose taxable capital in Canada is less than or equal to \$10 million. Corporations that meet these criteria can take full advantage of the decrease in the small business tax rate on up to \$500,000 in revenue. This amount is gradually reduced for corporations making more than

\$10 million, to the point where corporations making \$15 million or more in taxable capital would no longer benefit from this measure.

2.4 Lifetime Capital Gains Exemption for Qualified Farm and Fishing Properties (clauses 5 and 7)

Part 1 would amend the *Income Tax Act* to increase from \$813,600 to \$1,000,000 the lifetime tax exemption for capital gains on the sale of qualified farm and fishing properties. This amendment would apply to the disposition of qualified farm or fishing properties occurring after 20 April 2015.

The Committee learned from the Department of Finance Canada officials that the land, buildings, equipment, quotas and leases, as well as shares of corporations that hold qualified farm and fishing property, are all assets that would be included in the lifetime capital gains exemption.

2.5 Home Accessibility Tax Credit (clauses 6, 8 and 9)

Part 1 would amend the *Income Tax Act* to introduce – as of the 2016 taxation year – a new, non-refundable home accessibility tax credit so that seniors and disabled persons can make their homes safer and more accessible.

The proposed credit would provide tax relief of 15% on up to \$10,000 worth of eligible expenditures per calendar year, per qualifying individual and per eligible dwelling. The \$10,000 limit would apply to each eligible dwelling even if more than one person eligible for the proposed tax credit resides there. Eligible expenses would include renovations, repairs and maintenance, as well as the purchase or rental of equipment and certain devices.

The tax credit would apply to disabled persons who are eligible for the federal Disability Tax Credit and to persons who are 65 or older in the particular taxation year.

The Department of Finance Canada officials indicated that a taxpayer could claim the non-refundable home accessibility tax credit for a qualifying relative who lives with the taxpayer. If the relative of the taxpayer lives in their own house, the taxpayer must claim the relative as a dependent or claim the caregiver credit for that relative in order to claim the home accessibility tax credit.

2.6 Extension of the Mineral Exploration Tax Credit (clause 12)

The Mineral Exploration Tax Credit is a mechanism that allows a company to incur qualifying Canadian mineral exploration expenses and renounce these expenses to their flow-through share investors. In so doing, the company does not need to deduct the expenses from its income; rather, it passes its expenses on to its flow-through share investors, who can deduct those expenses against their own taxable income. In addition, the Mineral Exploration Tax Credit provides a further benefit to flow-through share investors, in the form of an additional 15% non-refundable tax credit for eligible Canadian mineral exploration expenses that are passed on to flow-through share investors. The purpose of this mechanism is to ensure that mining companies can raise capital more effectively.

Part 1 would amend the *Income Tax Act* to extend the eligibility period of the Mineral Exploration Tax Credit. With this change, the Mineral Exploration Tax Credit would be available for eligible mineral

exploration expenses incurred by a corporation after March 2015 and before 2017 under a flow-through share agreement entered into after March 2015 and before April 2016.¹

The Mineral Exploration Tax Credit was first announced in the Economic Statement and Budget Update of 18 October 2000. It has since been extended several times, most recently in the 2014 federal budget.²

The Committee learned from the Department of Finance Canada officials that the Mineral Exploration Tax Credit is available to all companies engaged in mineral exploration activities. According to officials, in practice, it is junior mining companies that issue flow-through shares. They explained that larger companies, when they are profitable, undertake the exploration expenses themselves and use the deductions to reduce their own tax payable.

According to the Department of Finance Canada officials, in 2013, over 250 companies issued flow-through shares and 19,000 individual investors claimed the tax credit. They explained that the Mineral Exploration Tax Credit has helped junior mining companies raise more than \$5.5 billion in equity since 2006.

2.7 Tax Deferral on Patronage Dividends Paid in Shares to Members of an Eligible Agricultural Cooperative (clause 13)

Part 1 would amend the *Income Tax Act* to extend, by five years, the measure to allow a tax deferral on patronage dividends paid in shares to members of an eligible agricultural cooperative. Under the current legislation, a share must have been issued after 2005 and before 2016 to be eligible for this tax deferral. The bill proposes to extend this measure by making it applicable to eligible shares issued before 2021.

2.8 Registered Disability Savings Plan (clause 16)

Part 1 would amend the *Income Tax Act* to extend, to 2019, a temporary provision that would allow a qualifying family member to become the plan holder of a registered disability savings plan for an adult who may not have the legal capacity to enter into a contract.

The temporary provision was enacted in 2012 to give the provinces and territories time to amend their legislative frameworks regarding legal capacity in the context of establishing a registered disability savings plan.

According to the Department of Finance Canada officials, this measure is intended to give the provinces sufficient time to amend their provincial laws. They said that a number of provinces already have laws that reflect the intent of the federal measure, which aims to help individuals in situations where it is difficult to have the person legally certified as lacking the capacity to enter into a contract.

The Department of Finance Canada officials added that 14,000 new Registered Disability Savings Plans are opened every year. They said that there are now a total of 101,000 people with Registered Disability Savings Plans, for a total amount invested of \$2 billion.³

¹ Department of Finance Canada, [Explanatory Notes Relating to the Income Tax Act and Related Legislation](#), May 2015.

² Department of Finance Canada, [The Road to Balance: Creating Jobs and Opportunities](#), 11 February 2014, p. 137.

³ The total amount invested includes the Canada Disability Savings Bond, the Canada Disability Savings Grant and private contributions.

2.9 Registration of Certain Foreign Charitable Foundations as Qualified Donees (clause 18)

Part 1 would amend the *Income Tax Act* to allow, in certain circumstances, the Minister of National Revenue to register foreign charitable organizations as qualified donees for a 24-month period. To be eligible, these foreign charitable organizations would have to receive a gift from the federal government and would have either to carry on relief activities in response to a disaster, to provide urgent humanitarian aid, or to carry on activities in the national interest of Canada. This measure would apply on the date that the bill receives Royal Assent.

The Committee learned from the Department of Finance Canada officials that the decision to approve a foreign charitable organization will be made by the Canada Revenue Agency in consultation with the Minister of Finance. According to officials, this measure will give the government greater flexibility without additional associated costs.

2.10 Increase of the Annual Tax-Free Savings Account Dollar Limit (clause 19)

Part 1 would increase the annual contribution limit for tax-free savings accounts from \$5,500 to \$10,000 beginning in the 2015 calendar year. This amount would not be indexed and would remain at that level for subsequent years.

The Department of Finance Canada officials indicated that, since this measure was announced in the 2015 federal budget, the Canada Revenue Agency is accepting contributions from individuals to their tax-free savings accounts up to the new limit of \$10,000. They informed the Committee that this approach is in line with how the Canada Revenue Agency operates when new taxation measures are introduced, that is, from the moment the budget is introduced in the House of Commons, it administers the new measures even though the supporting act has not yet been approved by Parliament.

2.11 Reduction of the Remittance Frequency for New Employers (clauses 20, 27 and 28)

Currently, new employers must make monthly source deduction remittances (individual income tax and the employee portions of Canada Pension Plan contributions and employment insurance premiums) to the Receiver General for a 12-month period. Afterward, they may begin making quarterly remittances to the Receiver General if their average monthly remittance was under \$3,000 and if, during the preceding 12 months, they submitted all of their Goods and Services Tax returns on time and complied with the remittance and payment conditions stipulated in the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* and Part IX of the *Excise Tax Act*.

The bill would amend the *Income Tax Regulations*, the *Canada Pension Plan Regulations* and the *Insurable Earnings and Collection of Premiums Regulations* to provide, beginning in 2016, new employers whose monthly source deduction remittances are under \$1,000 with the option of making remittances to the Receiver General on a quarterly, rather than a monthly, basis without having to wait 12 months. However, this option would not be available if one of the above conditions was no longer met.

The Department of Finance Canada estimates that the \$1,000 monthly source deduction remittances correspond to the deductions related to one employee at an annual salary of up to \$43,500, depending on the province, and that, each year, 80,000 new employers could benefit from this measure.

2.12 Accelerated Capital Cost Allowance for Manufacturing and Processing Equipment (clauses 21, 22, 25 and 26)

Part 1 would amend the *Income Tax Regulations* to introduce an accelerated capital cost allowance rate of 50% on a declining balance basis for qualifying manufacturing and processing equipment⁴ acquired by a taxpayer after 2015 and before 2026 primarily for use in Canada for the manufacturing and processing of goods for sale or lease.

The Department of Finance Canada officials explained that a temporary measure was introduced in 2007 that provided a 50% straight-line depreciation rate for qualifying manufacturing and processing equipment.

According to officials, while the declining balance method slows the full depreciation of the cost of the asset compared with the straight-line depreciation method, the fact that the proposed measure will be in place for a 10-year period will give companies in the manufacturing and processing industry the ability to better plan their investments. They said that the proposed measure responds to industry requests in that area, as companies wanted more stability so they could plan their capital investments in manufacturing and processing equipment over a longer period of time.

3 PART 2 – IMPLEMENTING VARIOUS MEASURES FOR FAMILIES

The Committee welcomed officials from the Department of Finance Canada and Employment and Social Development Canada as part of its study of Part 2. They spoke about the proposed measures and answered the questions from Committee members. In addition, the Committee heard the testimony of representatives from the Canadian Taxpayers Federation.

3.1 Division 1: Amendments to the *Income Tax Act*

3.1.1 Child Care Expense Deduction (clause 29)

The current *Income Tax Act* allows taxpayers to deduct from their taxable income an amount paid to a third party for child care. The existing maximum deductible amount is \$10,000 for a child with disabilities, \$7,000 for children under 7 years of age at the end of the year, and \$4,000 for children between the ages of 7 and 16 at the end of the year. The maximum amount that can be deducted is two thirds of the taxpayer's income for the tax year. When the child's parents are together, the spouse or common-law partner with the lower income must claim the deduction; the claim amount is capped at two thirds of the lower-income taxpayer's earned income.⁵

Part 2 would amend the *Income Tax Act* to increase the deductible amounts. The increased amounts would be \$11,000 for children with disabilities, \$8,000 for children under 7 years of age at the end of the year, and \$5,000 for children between the ages of 7 and 16 at the end of the year. These amounts would apply to the 2015 taxation year and subsequent years.

⁴ The assets considered to be qualified manufacturing and processing equipment will be listed in class 53 of subsection 1100(1) of the *Income Tax Regulations*.

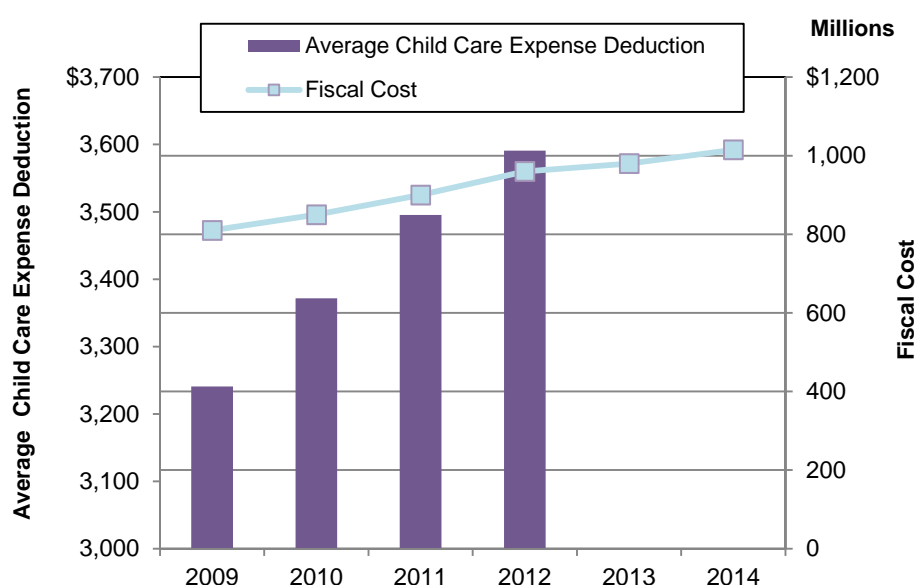
⁵ In some situations, the parent with the higher income may claim the deduction, such as when the parent with the lower income is pursuing post-secondary studies at a designated educational institution.

According to Department of Finance Canada officials, the cost of this measure would be \$15 million in 2014–2015, \$65 million in 2015–2016 and \$395 million total between 2014–2015 and 2020–2021.

Appearing on behalf of the Canadian Taxpayers Federation,⁶ Aaron Wudrick, Federal Director, indicated that the organization he represents is strongly in favour of this measure. He added that the federal government should consider amending the legislation to provide the same deduction for one parent paying their stay-at-home spouse to look after their children at home.

Figure 1 shows, over the 2009 to 2014 taxation years, the federal fiscal cost of the child care expense deduction and the average child care expense deduction claimed by individuals on their personal income tax returns. The average child care expense deduction claimed by individuals ranged between \$3,200 and \$3,600 over the 2009 to 2012 period.

Figure 1 – Federal Fiscal Cost for the Child Care Expense Deduction and the Average Child Care Expense Deduction Claimed, 2009–2014 Taxation Years



Notes: The federal fiscal costs for 2009 to 2012 are estimates; the costs for 2013 and 2014 are projections. Data for the average child care expense deduction claimed by individuals for the 2013 and 2014 taxation years are not available.

Sources: Figure prepared using data obtained from Canada Revenue Agency, [Preliminary Statistics](#), various years, and Department of Finance Canada, [Tax Expenditures and Evaluations 2014](#).

⁶ The Canadian Taxpayers Federation is a federally incorporated, not-for-profit citizen's group dedicated to lower taxes, less waste and accountable government. The Canadian Taxpayers Federation was founded in Saskatchewan in 1990 when the Association of Saskatchewan Taxpayers and the Resolution One Association of Alberta joined forces to create a national taxpayers organization. Today, the Canadian Taxpayers Federation has 84,000 supporters nation-wide.

3.1.2 Child Tax Credit (clause 30)

The *Income Tax Act* provides a non-refundable tax credit to the parent of a child under the age of 18 at the end of the taxation year who normally resides in that parent's household together with another parent.⁷ In other cases, the child tax credit may be claimed by the parent who is eligible for the equivalent-to-spouse tax credit in respect of the child.

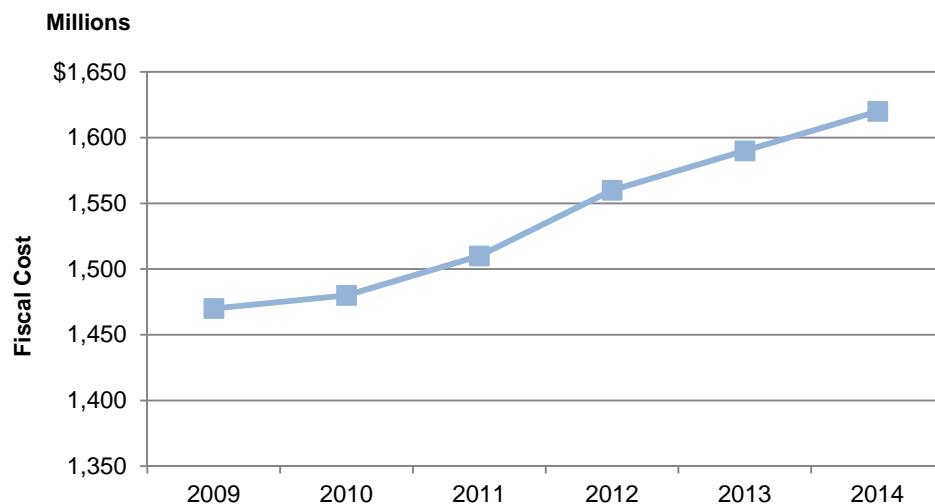
Part 2 would amend the *Income Tax Act* to repeal this tax credit as of the 2015 tax year, with certain exceptions. For example, individuals with a child under the age of 18 at the end of the taxation year who is dependent on them for support due to mental or physical infirmity can still claim this tax credit for that child.

According to the Department of Finance Canada officials, the Child Tax Credit represents \$338 (\$2,255 * 15%) annually per eligible child. They added that, since the Child Tax Credit is a non-refundable credit, the parent of the eligible child must pay at least \$338 in federal tax to fully benefit from this credit.

The Committee learned from the Department of Finance Canada officials that eliminating the Child Tax Credit would save the federal government \$435 million in 2014–2015 and \$1.75 billion in 2015–2016.

Figure 2 shows the federal fiscal cost of the child tax credit over the 2009 to 2014 taxation years.

Figure 2 – Federal Fiscal Cost of the Child Tax Credit, 2009–2014 Taxation Years



Note: The federal fiscal costs for 2009 to 2012 are estimates; the costs for 2013 and 2014 are projections.

Source: Figure prepared using data obtained from Department of Finance Canada, [Tax Expenditures and Evaluations 2014](#).

⁷ If the child resides with both parents, either parent may claim the credit.

3.1.3 Family Tax Cut Credit (clauses 31 to 34)

Part 2 would amend the *Income Tax Act* to introduce a family tax cut credit with a maximum value of \$2,000.

The proposed tax credit could be claimed by a parent with a child under the age of 18 at the end of the year who resides with that parent and their spouse or common-law partner. Only one parent would be able to claim the credit for a taxation year, and both parents would be required to file an income tax return for that tax year.

While the calculation for the tax credit for the family tax cut credit could in some cases be subject to a number of technical points, it essentially comes down to the difference between the following:

- 1) The combined amount of tax both spouses should usually pay; and
- 2) The combined amount of tax both spouses should pay if the higher-income-earning spouse were able to notionally transfer half of the difference between the income (up to \$50,000) of both spouses to the lower-income-earning spouse.

This difference would correspond to the amount (up to a maximum of \$2,000) of the family tax cut credit that one of the spouses could claim. The Department of Finance Canada officials indicated that the parents could not claim the family tax cut credit in a tax year during which one of the parents declared bankruptcy or chose to split their pension income, pursuant to the *Income Tax Act*.

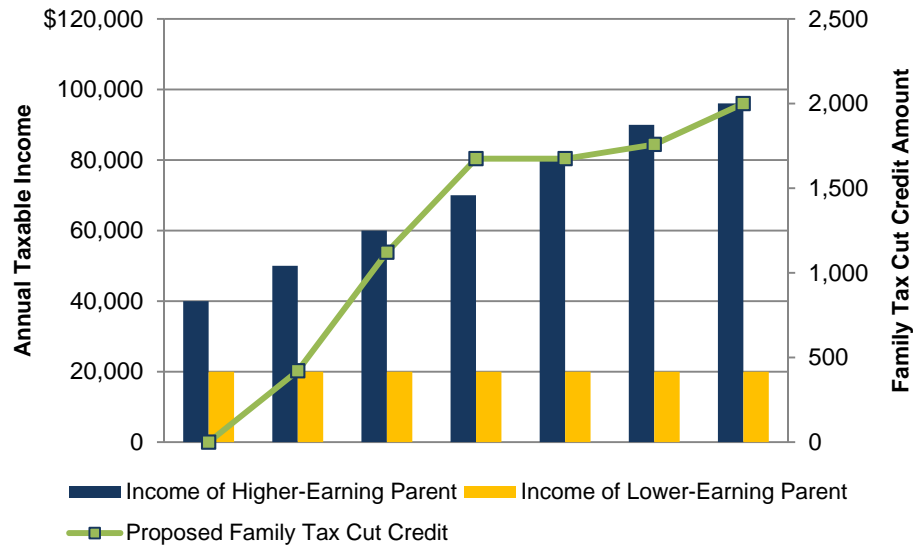
In addition, the child is deemed to have lived with a parent for the entire tax year in the following cases: the child is adopted, the parent marries or becomes a common-law partner, the child dies or the parent becomes a Canadian resident.

Appearing on behalf of the Canadian Taxpayers Federation, Aaron Wudrick indicated that the Canadian Taxpayers Federation agreed with the underlying principles of this measure. Its primary criticism about the family tax cut credit was that it provides no relief for single-parent families. According to the Canadian Taxpayers Federation, it would be reasonable to consider situations where a single parent could split their income with certain eligible dependants in order to ensure they could also benefit from this tax relief measure.

The proposed family tax cut credit would apply to the 2014 taxation year and subsequent years.

Figure 3 presents the amount of the proposed family tax cut credit for couples with a child under the age of 18 for various levels of primary income and a secondary income amount of \$20,000. According to Figure 3, for the 2014 taxation year, the \$2,000 maximum amount of the proposed family tax cut credit occurs when the annual income of the primary earner is greater than \$96,000, and no credit is received when the annual income of the primary earner is \$40,000 or less.

Figure 3 – Amounts in Relation to the Proposed Family Tax Cut Credit for Two-Earner Couples, Various Income Levels for the Higher-Earning Spouse and an Income of \$20,000 for the Lower-Earning Spouse, 2014 Taxation Year

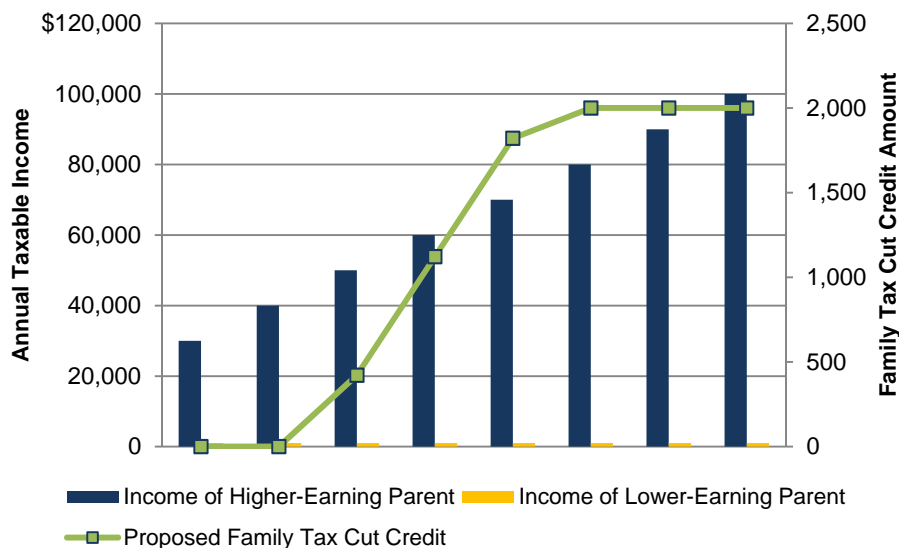


Notes: It is assumed that no tax deductions are claimed, both parents are under the age of 65, and the parents have one child under the age of 18. It is also assumed that the following non-refundable tax credits are claimed: spouse or common-law partner status, child tax credit (by the higher-income parent), the Canada employment amount and the proposed family tax cut credit.

Source: Calculations using formulas contained in Bill C-59 and sections 117 and 118 of the *Income Tax Act*.

Figure 4 presents the proposed family tax cut credit amount for single-earner couples with various levels of primary income and with one child under the age of 18. According to Figure 4, for the 2014 taxation year, an annual taxable income that exceeds \$80,000 results in the \$2,000 maximum amount of the proposed family tax cut credit, while an eligible single-earner couple with an annual taxable income of \$40,000 or less receives no credit.

Figure 4 – Amounts in Relation to the Proposed Family Tax Cut Credit for Single-Earner Couples, Various Income Levels, 2014 Taxation Year



Notes: It is assumed that no tax deductions are claimed, both parents are under the age of 65, and the parents have one child under the age of 18. It is also assumed that the following non-refundable tax credits are claimed: spouse or common-law partner status, child tax credit (by higher-income parent), the Canada employment amount and the proposed family tax cut credit.

Source: Calculations from formulas contained in Bill C-59 and sections 117 and 118 of the Income Tax Act.

3.2 Division 2: Amendments to the *Universal Child Care Benefit Act* and the *Children's Special Allowances Act*

3.2.1 *Universal Child Care Benefit Act* (clauses 35, 36, 37 and 40)

Part 2 would amend the *Universal Child Care Benefit Act*⁸ to increase the age of a qualified dependent from 6 years of age and under to 18 years of age and under.

Part 2 would increase the maximum yearly benefit payable to an eligible parent for each child under the age of 6 from \$1,200 to \$1,920; and to create a new maximum yearly benefit of \$720 for an eligible parent for each child who is 6 years of age or older but under 18 years of age.⁹

Part 2 would increase the monthly benefit paid to a parent for each child in shared-custody that is under the age of 6 from \$50 to \$80; and, in all other cases, to increase the monthly benefit paid to a parent for

⁸ The Universal Child Care Benefit provides a maximum benefit of \$1,200 per year to a parent for each child who is under the age of 6. Section 56(6) of the *Income Tax Act* requires the parent to include the amount in his/her taxable income.

⁹ An eligible parent is described in the definition of "eligible individual" in section 122.6 of the *Income Tax Act*. The term includes an individual who resides in the same household as the eligible dependent, and is the parent who is primarily responsible for the care and upbringing of the dependent.

each child under the age of 6 from \$100 to \$160. The increased benefits would commence on 1 January 2015.

As well, Part 2 would create two benefits: a monthly benefit of \$30 payable to a parent for each child in shared-custody who is 6 years of age or older but under 18 years of age; and, in all other cases, a new monthly benefit of \$60 payable to a parent for each child who is 6 years of age or older but under 18 years of age. The new benefits would commence on 1 January 2015.

Employment and Social Development Canada officials added that eligible parents should receive a payment by cheque or direct deposit from the federal government at the end of the month of July 2015. This payment would include the amounts from January to July 2015.

Appearing on behalf of the Canadian Taxpayers Federation, Aaron Wudrick, Federal Director, indicated that the Canadian Taxpayers Federation was in favour of this measure. He added that, as regards the Universal Child Care Benefit, the Canadian Taxpayers Federation would prefer tax relief measures to entitlement programs.

3.2.2 *Children's Special Allowances Act* (clauses 38 to 40)

Part 2 would amend the *Children's Special Allowances Act*¹⁰ to increase, from \$100 to \$160, the monthly special allowance supplement paid to a person, department, agency or institution responsible for the care and maintenance of a child who, at the beginning of the month for which the allowance is payable, is under the age of 6. The increased benefits would commence on 1 January 2015.

As well, Part 2 would create a monthly special allowance supplement of \$60 payable to a person, department, agency or institution responsible for the care and maintenance of a child who, at the beginning of the month for which the allowance is payable, is 6 years of age or older but under 18 years of age. The new benefit would commence on 1 January 2015.

The Committee learned that eligible beneficiaries would receive a payment by cheque or direct deposit from the federal government at the end of the month of July 2015. This payment would include the amounts from January to July 2015.

4 PART 3 – IMPLEMENTING VARIOUS MEASURES

4.1 Division 1: Enactment of the Federal Balanced Budget Act (clause 41)

Officials from the Department of Finance Canada and representatives from the Canadian Taxpayers Federation appeared before the Committee to discuss Division 1 of Part 3 and answer Committee members' questions about the proposed measure. Witnesses spoke about provisions related to a projected deficit, provisions related to a recorded deficit that was not projected, and key definitions. They also answered questions regarding the contingency fund.

¹⁰ The special allowance under the *Children's Special Allowances Act* is based on the Canada Child Tax Benefit. It is a tax-free monthly payment to agencies and foster parents who are licensed by a provincial or federal government to provide for the care and education of children under the age of 18 who reside in Canada and are not in the care of their parents.

4.1.1 Proposed Measure

Division 1 would enact the Federal Balanced Budget Act. Starting in 2015–2016, the Act would impose a number of obligations on the Minister of Finance in relation to a deficit that is projected in a federal budget, or a deficit that was not projected in a budget but is recorded in the Public Accounts of Canada.

In particular, the Act would require any surplus recorded in the Public Accounts of Canada in respect of a fiscal year to be applied to reduce the “federal debt,” which is defined in section 2 as the accumulated deficit as stated in the Public Accounts of Canada.

The Minister of Finance explained to the Committee that deficits that take place outside recessions or extraordinary situations, such as a war or a natural disaster, with a cost of at least \$3 billion would be deemed imprudent¹¹.

4.1.1.1 Provisions Related to a Projected Deficit

Officials explained that section 6 of the Federal Balanced Budget Act would require the Minister of Finance to appear before the House of Commons Standing Committee on Finance within 30 sitting days after he or she tables a budget in the House of Commons that projects an “initial deficit” in an “open fiscal year” or in the following fiscal year. An “initial deficit” would be a deficit projected in the fiscal year following a fiscal year in which a balanced budget was projected or recorded. An “open fiscal year” would be the first fiscal year covered by budget projections for which no financial statements have been reported in the Public Accounts of Canada. The Minister would need to explain the reasons for the projected deficit and present a plan for returning to balanced budgets. The plan would need to indicate the period within which a balanced budget is to be achieved and would include the measures described below.

If the projected deficit is due to a recession or extraordinary situation that, at the time that the budget is tabled, either has occurred, is occurring or is forecast to occur, section 7(1) would require the plan to prohibit an increase in the operating budget of any government entity to fund annual wage increases and to impose a “pay freeze” for the Prime Minister, ministers, ministers of State and deputy ministers. Under section 7(2), the operating budget and pay freezes would take effect on the first day of the fiscal year following the end of the recession or extraordinary situation, and remain in effect until a balanced budget is recorded in the Public Accounts of Canada. As discussed below, the terms “recession” and “extraordinary situation” would be defined in the Federal Balanced Budget Act.

If the projected deficit is for other reasons, section 8 would require the plan to include an operating budget freeze and a 5% pay reduction for the Prime Minister, ministers, ministers of State and deputy ministers. These measures would take effect on 1 April of the year that the budget is tabled, and remain in effect until a balanced budget is recorded in the Public Accounts of Canada.

As well, until a balanced budget is recorded in the Public Accounts of Canada in a year covered by the Minister’s plan for returning to balanced budgets, section 6(2) would require the Minister to make annual appearances before the House of Commons Standing Committee on Finance to present an updated plan.

¹¹ The term “imprudent” does not appear in the proposed Federal Balanced Budget Act.

4.1.1.2 Provisions Related to a Recorded Deficit that was Not Projected

Like section 6(1), section 9 would require the Minister of Finance to appear before the House of Commons Standing Committee on Finance within 30 sitting days following the tabling of the Public Accounts of Canada if a deficit that was not projected in a budget is recorded in those Public Accounts in respect of a fiscal year. The Minister would need to explain the reasons for the deficit and present a plan for returning to balanced budgets. The plan would need to indicate the period within which a balanced budget will be achieved and include an operating budget freeze and either a pay freeze or a pay reduction, depending on the reasons for the deficit.

If the recorded deficit is due to a recession or an extraordinary situation that, at the time that the Public Accounts of Canada are tabled, either has occurred or is occurring, section 10(1) would require operating budget and pay freezes to take effect on the first day of the fiscal year following the end of the recession or extraordinary situation, and to remain in effect until a balanced budget is recorded in the Public Accounts of Canada.

If the recorded deficit is for other reasons, section 11 would require an operating budget freeze and a 5% pay reduction to take effect on 1 April of the following year, and to remain in effect until a balanced budget is recorded in the Public Accounts of Canada.

4.1.1.3 Key Definitions and Other

Under the Federal Balanced Budget Act, a “balanced budget” would be defined as a budget in which total expenses for a fiscal year do not exceed total revenues for that year. Revenues would be calculated before the subtraction of any amounts to be set aside for contingencies. A “recession” would be defined as a period of at least two consecutive quarters of negative growth in Canadian real gross domestic product, as reported by Statistics Canada. Finally, an “extraordinary situation” would be defined as a situation that results in an aggregate direct federal cost exceeding \$3 billion that is caused by:

- a natural disaster or other unanticipated emergency of national significance; or
- an act of force or violence, war or threat of war, or other armed conflict.

Under sections 7(3) and 10(2), for the purposes of the Act, a recession would end in the fiscal year in which Statistics Canada reports a second consecutive quarter of positive Canadian real gross domestic product growth. In the case of a recorded deficit, section 10(2) would specify that an extraordinary situation ends in the fiscal year in which the Public Accounts of Canada recording a deficit due to that situation are tabled; the Act would not specify when an extraordinary situation ends in the case of a projected deficit.

Under section 12, if a budget projects a deficit due to a recession that, at the time that the budget is tabled, either has occurred, is occurring or is forecast, any measures required by the Act that are already in effect would cease to be in effect, and those that were to take effect because of another projected or recorded deficit would not take effect; they would be replaced by the measures required by the Act in relation to the most recent budget that projects a deficit due to a recession. Officials explained that the goal of this section is to avoid pro-cyclical fiscal policies that reduce spending during a recession.

Finally, the Schedule to the Federal Balanced Budget Act would list the persons who are considered to be deputy ministers for the purposes of the Act. Under section 13, the Schedule could be amended by order of the Governor in Council.

4.1.2 Contingency Fund

The Committee questioned officials with regards to the contingency fund included in federal budgets. Officials indicated that for the purpose of the Act, the budgetary balance would only be the revenues minus the expenses for a given fiscal year without taking into account the contingency fund as it is indicated in the definition of a “balanced budget.”

4.1.3 Canadian Taxpayers Federation

Representatives from the Canadian Taxpayers Federation said that they welcome the fact that the federal government proposed balanced budget legislation and will support balanced budgets whether the proposed measure is adopted or not.

4.2 Division 3: Intellectual Property (clauses 44 to 72)

Officials from Industry Canada and representatives from the Intellectual Property Institute of Canada appeared before the Committee to explain Division 3 Part 3 and answer Committee members’ questions about the proposed measure. During their testimony, witnesses spoke about the extension of time limits, the correction of errors and communication between patent and trade-mark agents and their clients. They also discussed the coming into force of the proposed measure.

The Committee also received written submissions from the Federation of Law Societies of Canada, the Law Society of British Columbia and La Chambre des notaires du Québec regarding the proposed measure.

4.2.1 Proposed Measure

Division 3 would amend the *Industrial Design Act*, the *Patent Act* and the *Trade-marks Act*. The amendments would provide greater flexibility in administering these Acts by extending the time limits applicable in unforeseen circumstances and providing the government with the authority to make regulations for obvious errors.

Division 3 would also amend the *Patent Act* and the *Trade-marks Act* to ensure that communications between patent or trade-mark agents and their clients are privileged the same way as a communication that is subject to solicitor-client privilege or, in civil law, to professional secrecy of advocates and notaries.

Officials from Industry Canada told the Committee that the proposed amendments aim at further modernizing the administration of intellectual property in Canada in order to make Canada a more attractive place to invest and to protect intellectual property. They added that the proposed amendments would make the Canadian intellectual property system easier to use by companies and would provide greater flexibility and certainty in that system.

4.2.1.1 Extension of Time Limits

In response to a question from a Committee member, officials stated that the unforeseen circumstances provisions have been a long-standing request of the Intellectual Property Institute of Canada. They

explained that situations such as the ice storm that took place in Ottawa or the floods in Calgary created situations where employees were unable to go to their places of business. However, according to the current provisions, deadlines do not get extended as long as the Industry Canada office located in Gatineau is open for business.

Representatives from the Intellectual Property Institute of Canada confirmed that they have been advocating for this proposed amendment for several years as it would help avoid unintentional loss of intellectual property rights in cases of force majeure events. They added that this proposed improvement would not lead to any costs to the federal government.

4.2.1.2 Correction of Errors

Officials mentioned that the current provisions deal with clerical errors, which have been narrowly construed by the courts and thus limit Industry Canada's abilities to correct certain errors. The expansion of this ability would allow agents representing their clients to deal with errors that arise, such as the names of inventors or applicants.

The Committee was told that out of the approximately 500 requests for correction of errors that Industry Canada receives each year, 30% are rejected because they do not fall within the scope that the courts have defined as what constitutes a clerical error.

4.2.1.3 Communication between Patent and Trade-mark Agents and their Clients

According to officials, this amendment would allow patent or trade-mark agents to have open and frank discussions with their clients, which would result in higher intellectual property quality advice.

In response to a question from a Committee member, officials said that many patent or trade-mark agents are also lawyers. Since the courts currently make a distinction between their two titles, if they act as patent or trade-mark agents versus lawyers, their communication as patent or trade-mark agents is not protected and could therefore be divulged in courts. They added that often the type of discussion held between patent or trade-mark agents and their clients is about their business strategies in order to identify the best way to protect their inventions and would then be considered privileged and not be disclosed in legal proceedings.

Representatives from the Intellectual Property Institute of Canada told the Committee that communications between patent or trade-mark agents and their clients is considered confidential in other jurisdictions, such as the United Kingdom, Australia and New Zealand as opposed to Canada. They added that this difference places Canadian innovators at a disadvantage in asserting their intellectual property rights in litigation in Canada or in other jurisdictions. They therefore support the proposed amendment and said that it would allow Canadian businesses to be more competitive in Canada and overseas as they would be able to speak openly with their intellectual property advisers in order to obtain advice in protecting their inventions and trademarks.

4.2.2 Coming into Force

Division 3 also contains coordinating amendments and coming into force provisions related to the coming into force of certain provisions of previous budget implementation bills. *Economic Action Plan 2014 Act, No. 1* amended the *Trade-marks Act*, while *Economic Action Plan 2014 Act, No. 2* amended the *Industrial Design Act* and the *Patent Act*, although not all of their provisions have come into force yet.

The coordinating amendments and coming into force provisions of Division 3 provide that they would be the provisions applicable to the coming into force of the provisions of these various bills.

4.2.3 Law Societies

In their written submissions to the Committee, the Federation of Law Societies of Canada, the Law Society of British Columbia and La Chambre des notaires du Québec indicated that Industry Canada did not complete the consultation it undertook last year on the proposal to protect communications between patent and trade-mark agents and their clients. They recommended the Committee remove the proposed measure amending the *Patent Act* and the *Trade-marks Act* from Bill C-59 as they believe it is inappropriate to proceed with this proposed measure until a full consultation on the proposed amendments has been undertaken and the implications have been studied.

4.3 Division 4: Compassionate Care Leave and Benefits (clauses 73 to 80)

Officials from Employment and Social Development Canada and representatives from the Canadian Home Care Association appeared before the Committee to explain Division 4 of Part 3 and answer Committee members' questions about the proposed measure. During their testimony, officials also spoke about current compassionate care benefits, the reinstatement of employees, the funding and benefit amount, as well as the coming into force of the proposed measure.

4.3.1 Current Compassionate Care Benefits

Officials indicated that currently, Employment Insurance provides six weeks of compassionate care benefits for employees and self-employed Canadians that have opted into the Employment Insurance program. Once a doctor signs a medical certificate attesting to the fact that a person is seriously ill with a significant risk of death within 26 weeks, a family member who is eligible for the Employment Insurance program could take six weeks of compassionate care benefits.

Under the *Canada Labour Code*, which applies to federally regulated enterprises, an employee could take a total of eight weeks of leave to provide care and support to a family member who has a serious illness with a significant risk of death within 26 weeks.

4.3.2 Proposed Measure

Division 4 would extend the maximum duration of compassionate care leave, under the *Employment Insurance Act*, from 6 to 26 weeks and under the *Canada Labour Code*, from 8 to 28 weeks. According to officials, the amendment to the *Canada Labour Code* would cover the 26 weeks of Employment Insurance benefits plus the two-week waiting period for a claimant to avail him or herself of those benefits.

Division 4 would also extend both the period during which employees are entitled to the leave of absence and the period during which benefits are payable from 26 to 52 weeks following either: (1) the issuance of the medical certificate, or (2) the week when leave was taken if it was before the issuance of the certificate. This proposed change would allow for the possibility of taking leave and receiving benefits after the 26-week period of significant risk of death mentioned in the medical certificate. An additional medical certificate would not be necessary in such cases as the initial certificate would still be considered valid in order to avoid adding unnecessary burden to families and medical professionals. According to officials, if the family member facing death is still alive after 52 weeks, employees and self-

employed Canadians would have the possibility of qualifying again for another compassionate care benefit.

As the compassionate care leave can be shared amongst any number of family members who are providing care, employees caring for the same family member would share the 28 weeks.

According to officials, the proposed changes are to give families more flexibility: a larger benefit, an additional number of weeks, as well as more flexibility in determining how to draw down the compassionate care benefits.

Officials clarified that the eligibility requirements for the compassionate care leave, the necessity of obtaining a medical certificate and the notice requirement to the employer would all remain the same. Furthermore, all reinstatement provisions currently under the *Canada Labour Code* would continue to apply to compassionate care leave.

The Minister of Finance told the Committee that this proposed measure would benefit approximately 6,900 claimants each year.

4.3.3 Reinstatement of Employees

In response to a question from a Committee member, officials indicated that the *Canada Labour Code* provides that the employer must reinstate the employee in the same job at the end of the leave. However, if there are valid reasons not to do so – for example, the job no longer exists – then the employee must be reinstated in a comparable position with the same wages and benefits. In instances where there would have been changes in wages or benefits during the employee's absence, he or she would be entitled to the same treatment as those he or she would have been entitled to had he or she been in the workplace.

The Committee was told that once the 28 weeks are used, there would be no additional job protection under the *Canada Labour Code*. However, employers could offer additional leave and negotiate with unions for longer compassionate care benefits in collective agreements.

4.3.4 Funding and Benefit Amount

Officials stated that the Employment Insurance program would pay for the proposed additional Compassionate Care Benefits. However, employers would have to continue to pay employees' benefits.

They explained that the current maximum weekly benefit is about \$520 per person, which is calculated by evaluating their earnings over the previous 52 weeks, up to the maximum insurable earnings – \$49,500 in 2015. The maximum that a person could receive in 2015 is approximately \$3,120, and it would increase to about \$13,520 with the proposed measure.

4.3.5 Coming into Force

The proposed amendments to the *Canada Labour Code* and the *Employment Insurance Act* would come into force concurrently on 3 January 2016.

4.3.6 Canadian Home Care Association

Representatives from the Canadian Home Care Association told the Committee that they support the proposed extension of the compassionate care benefit. However, they recommended that the requirement of a medical certificate attesting to the fact that a family member is seriously ill with a significant risk of death within 26 weeks be eliminated and replaced by the need to present a medical certificate stating that the family member is seriously ill and therefore requires palliative care. They added that the World Health Organization defines palliative care as being applicable for patients with life-threatening illnesses.

4.4 Division 5: Amendments to the *Copyright Act* (clauses 81 and 82)

Officials from Canadian Heritage appeared before the Committee to explain Division 5 of Part 3 and answer Committee members' questions about this proposed measure. They also discussed the term of protection and foreign performers.

4.4.1 Proposed Measure

Division 5 would amend the *Copyright Act* to extend the term of copyright protection for a published sound recording or a performer's performance fixed in a published sound recording from 50 to 70 years after publication. The proposed change would provide producers and performers with 20 additional years to control and/or make money on their recordings. Moreover, if the sound recording is published within this period of 50 years, the rights would be protected for 50 years from the time it is published. However, the current total amount of time that a sound recording or a performer's performance, as the case may be, fixed in a sound recording can be protected would be preserved at 100 years. Therefore, all sound recordings or performers' performances fixed in a sound recording that is still under copyright protection today would benefit from an additional 20 years of protection, as would all future sound recordings and performers' performances fixed in a sound recording.

Division 5 states that this extension of the term of copyright protection in a published sound recording or performer's performance fixed in a published sound recording would not have the effect of reviving a copyright that had expired on the coming into force of that Division.

Officials indicated that one of the intentions of the proposed measure was to ensure that performers would continue to benefit from copyright protection throughout their lifetime. They gave the example of Gilles Vigneault's song entitled "Mon pays," whose sound recording would no longer be protected by copyright as it was recorded in 1965. Therefore, that song would be in the public domain, which means that Mr. Vigneault would no longer be able to control the use or obtain financial compensation for that song unless the proposed measure is adopted.

4.4.2 Term of Protection

The Committee heard that the *Copyright Act* protects producers' rights – production companies and artist-performers – for a determined period called term of protection. During that term, producers and artist-performers can control the use or get financial compensation for their sound recordings, pieces of music or albums. According to officials, the financial compensation defined in the *Copyright Act* is a major source of revenues for creators.

4.4.3 Foreign Performers

In response to a question from a Committee member, officials indicated that the proposed measure would also benefit foreign performers and record labels as they would obtain the same degree of protection as Canadians due to the treaties to which Canada is a party. Similarly, Canadian performers and record labels already have 70 years of protection in some of Canada's major trading partners, such as in Europe and in the United States.

4.5 Division 6: Amendments to the *Export Development Act* (clauses 83 to 86)

Officials from Foreign Affairs, Trade and Development Canada and the Department of Finance Canada appeared before the Committee to explain Division 6 of Part 3 and answer Committee members' questions about the proposed measure. They also discussed Export Development Canada's official development assistance budget and the next steps that would be taken should this proposed measure be adopted.

4.5.1 Proposed Measure

Division 6 would amend the *Export Development Act* to expand Export Development Canada's mandate in order to enable it to provide international development support. In particular, Export Development Canada could directly or indirectly provide development financing and other forms of development support that are consistent with Canada's international development priorities.

Division 6 would also require the Minister for International Trade to consult the Minister for International Development on matters relating to Export Development Canada's role in directly or indirectly providing development financing and other forms of development support.

The proposed changes would come into force on a day to be fixed by order of the Governor in Council.

Officials explained that Division 6 would amend the *Export Development Act* in order to add a development finance initiative to the Export Development Canada's current trade mandate, which would enable the organization to provide development finance and other types of development support in accordance with Canada's international development priorities. They added that the proposed measure would allow the organization to provide financing to projects in high-impact sectors in developing countries that normally face challenges securing financing. According to officials, it would also enable more effective partnerships and partnering with the private sector in developing countries on projects that support development results.

In response to a question from a Committee member, officials stated that Canada is the only G7 country that does not have such an instrument.

4.5.2 Official Development Assistance Budget

In response to a question from a Committee member, officials said that Export Development Canada's official development assistance budget would keep the same activities and orientation and would continue to focus on alleviating poverty and pursuing development priorities. They added that the organization's main mechanism to achieve those objectives would remain the issuing of grants to private enterprises. However, with the proposed measure, Export Development Canada would be able to use other mechanisms such as loans, guarantees and equity stakes to work with any private-sector entity pursuing a business venture with a viable development outcome.

The Committee heard that the 2015 federal budget allocated a capitalization target of \$300 million to this proposed development finance initiative over five years, which would be in addition to Export Development Canada's official development assistance budget. It was also informed that this capitalization would not have a fiscal impact since Export and Development Canada is an enterprise consolidated into the books of the federal government. Moreover, the intention of the initiative would be to become self-financing as its operating expenses would be covered by revenues generated from its activities.

4.5.3 Next Steps

The Committee was told that if the proposed measure is adopted, Export Development Canada would have to establish in its five-year corporate plan a robust decision-making framework, composed of policies to guide its actions in terms of investment decisions and the sectors in which it operates, a budget, as well as the size and the scope of its work. It would also have to ensure that its decision-making framework does not crowd out potential sources of funds from private enterprises.

4.6 Division 7: Amendments to the *Canada Labour Code* related to Interns (clauses 87 to 93)

Officials from Employment and Social Development Canada appeared before the Committee to explain Division 7 of Part 3 and answer Committee members' questions about the proposed measure. During their testimony, they also spoke about the coming into force of the proposed measure.

4.6.1 Proposed Measure

Division 7 includes a series of amendments to the *Canada Labour Code* that would extend certain work-related protections under the Code to interns¹² in most federal workplaces.

Officials indicated that the *Canada Labour Code* has no specific provisions related to interns. The proposed measure intends to ensure that all interns working in the federal jurisdiction receive full occupational health and safety protections, including the right to refuse dangerous work, under Part II of the *Canada Labour Code*, and appropriate standard protections under Part III of the *Canada Labour Code*.

Division 7 would extend protections under Part II of the *Canada Labour Code* (Occupational Health and Safety) to any person who is "not an employee but who performs for an employer ... activities whose primary purpose is to enable the person to acquire knowledge or experience."

In addition, Division 7 would extend protections under Part III of the *Canada Labour Code* (Standard Hours, Wages, Vacations and Holidays) to individuals who meet the description, unless their internship fulfils the requirements of a prescribed educational program offered by a recognized secondary, post-secondary or vocational school, or if their internship meets a set of six criteria. Internships would be excluded from the operation of Part III of the Code if:

- the activities involved are not performed for more than four consecutive months or the equivalent in a one-year period;
- the benefits of the activities accrue mostly to the individual;

¹² Although Bill C-59 does not use the term "intern" or "internship," the terms were used in the 2015 Budget Speech.

- the employer supervises the activities;
- the activities are neither a prerequisite for, nor a promise of, future employment;
- the individual does not replace any employee; and
- the individual is advised in writing that they will not be remunerated.

The proposed measure would permit regulations to be made to apply and adapt Part III of the *Canada Labour Code* to interns who could be unpaid because their internships meet one of the two exceptions described above. However, officials said that it is expected that labour standard protections related to maximum hours of work and sexual harassment, at a minimum, would be provided to unpaid interns.

Employers would be obliged to keep records on the work performed in these unpaid internships. The existing offence under the *Canada Labour Code* of failing to keep required records would be extended to records kept with respect to interns.

Finally, Division 7 would enable the Governor in Council to make regulations dealing with the specific requirements for internships, including the following: defining terms, setting out information to be provided, and specifying circumstances under which the internships may be performed. For example, the Governor in Council could, by regulation, prohibit individuals from engaging in consecutive unpaid internships with a single employer within a defined period.

4.6.2 Coming into Force

The Committee heard that the proposed measure would be put in place after consultations with stakeholders and as part of the normal regulatory process. Officials indicated that it is possible that proposed changes to Part II could come into force before proposed changes to Part III.

4.7 Division 8: Amendments to the *Members of Parliament Retiring Allowances Act* (clauses 94 to 96)

Officials from Treasury Board of Canada Secretariat appeared before the Committee to explain Division 8 of Part 3 and answer Committee members' questions about the proposed measure. They also spoke about the current parliamentarians' pension plan.

4.7.1 Proposed Measure

The *Members of Parliament Retiring Allowances Act* governs pension arrangements for parliamentarians, specifically members of the Senate and the House of Commons and the Prime Minister. The plan established under the *Members of Parliament Retiring Allowances Act* provides an employment earnings-related lifetime retirement pension to eligible plan members. Its current service costs are borne jointly by parliamentarians and the federal government, with parliamentarians contributing in accordance with rates set by legislation and the federal government covering the balance.

An amendment to the *Members of Parliament Retiring Allowances Act* made in November 2012 provided that, starting on 1 January 2016, the contribution rates will be set by the Chief Actuary of Canada, who must ensure that, by 1 January 2017, the contributions made by parliamentarians to their pension plan will equal 50% of its service cost.

Division 8 would amend the *Members of Parliament Retiring Allowances Act* to provide that when the Chief Actuary of Canada establishes contribution rates for the purpose of any provision in the *Members*

of *Parliament Retiring Allowances Act*, these rates must be the same for senators and members of the House of Commons.

4.7.2 Current Pension Plan

In response to a question from a Committee member, officials indicated that a member of Parliament, whether from the House of Commons or the Senate, must serve for at least six years to have an entitlement to a pension and that this would not change with the proposed measure. They added that the accrual rate would remain the same at 3% per year for all parliamentarians.

4.8 Division 9: Amendment to the *National Energy Board Act* (clause 97)

Officials from Natural Resources Canada appeared before the Committee to explain Division 9 of Part 3 and answer Committee members' questions about the proposed measure. During their testimony, they also spoke about the length of a licence and Canada's natural gas production.

4.8.1 Proposed Measure

Division 9 would amend the *National Energy Board Act* to extend the maximum duration of natural gas export licences that may be issued by the National Energy Board to up to 40 years. Currently, all oil and gas import and export licences are limited to a maximum term of 25 years.

The Committee was informed that the proposed measure would provide greater certainty to investors that natural gas supplies would be available in the long-term, which would help facilitate investment decisions going forward.

4.8.2 Length of a Licence

In response to a question from a Committee member, officials indicated that there are, currently, approximately 23 projects in Canada that have proposed extending the duration of their natural gas export licences, but none of these projects has reached a final investment decision yet. They added that the National Energy Board would consider the length of a licence on a case-by-case basis and that 40 years would be the maximum term-length. They specified that a licence usually includes a phasing out provision in order to terminate the licence if it is inactive for a period of time, which is typically 10 years.

Officials mentioned that the 40-year extension was chosen because the two liquefied natural gas facilities located in Montreal and Vancouver have both been in use for about 40 years, which gave them a point of reference for the projected lifespan of a facility. They said that Canada is in direct competition with other jurisdictions, including Australia, where there are no limits on export licences, and the United States, where export authorizations are usually no longer than 20 years.

According to officials, companies must demonstrate that natural gas supplies are surplus to current and forecast domestic needs when they apply for an export licence.

4.8.3 Canada's Natural Gas Production

The Committee heard that over half of Canada's natural gas production is exported to the United States, but the United States Energy Information Administration has indicated that the United States natural gas

imports are at their lowest level since 1987 and predicts that starting in 2017 the country will become a net exporter of natural gas.

4.9 Division 11: Amendments to the *Employment Insurance Act* (clauses 153 to 160)

Officials from Employment and Social Development Canada appeared before the Committee to explain Division 11 of Part 3 and answer Committee members' questions about the proposed measure.

4.9.1 Proposed Measure

Officials explained that Division 11 would amend Part II of the *Employment Insurance Act*, which deals with active employment measures and training supports funded through the Employment Insurance Operating Account, in order to broaden the definition of "insured participant." They specified that an "insured participant" is an individual who is eligible for training supports funded through the Labour Market Development Agreements out of the Employment Insurance Operating Account.

The responsibility regarding training and the associated funding will be devolved to provincial and territorial governments through Labour Market Development Agreements that are currently being negotiated. The proposed measure would broaden the pool of eligible Employment Insurance premium payers that provinces and territories can select for their Labour Market Development Agreement funded programs. Provinces and territories can currently serve people in receipt of Employment Insurance passive income benefits or those that have been in receipt of Employment Insurance in the past three years. The proposed measure would extend that limit to five years, which means that all unemployed premium payers who were in receipt of Employment Insurance benefits in the past five years would be eligible for training under the Labour Market Development Agreements. It would also allow training for premium payers who have lost their employment and do not qualify for Employment Insurance benefits due to insufficient hours of insurable employment if they meet the Variable Entrance Requirement¹³ for their region.

Division 11 provides a transitional measure in order to ensure that the proposed measure would not be retroactive. It would apply only in relation to claims made on or after the day on which this proposed measure comes into force.

4.10 Division 12: Amendments to the *Canada Small Business Financing Act* (clauses 161 to 163)

Officials from Industry Canada appeared before the Committee to explain Division 12 of Part 3 and answer Committee members' questions about the proposed measure. During their testimony, they also spoke about the loan portfolio.

4.10.1 Proposed Measure

Currently, the *Canada Small Business Financing Act* increases the availability of financing for the establishment, expansion, modernization and improvement of small businesses carried on in Canada.

¹³ The Variable Entrance Requirement refers to the number of insured hours required to qualify for regular Employment Insurance benefits and is based on the unemployment rate in the economic region where an individual resides. For further information, see: Employment and Social Development Canada, [Assisting Canadians during Unemployment: EI Regular Benefits](#).

The Committee heard that the proposed measure would make two relatively minor changes to the *Canada Small Business Financing Program*, which has been in place since 1961 in various forms. It is a loan loss sharing program under which banks lend money and the federal government share any losses with them. Officials indicated that 85% of the risk is assumed by the federal government.

The proposed measure would increase the size of the firm that would be eligible for the program from \$5 million to \$10 million in gross annual revenue. The Committee was informed that the size of the firms eligible for the program have remained the same since 1993.

The proposed measure would also increase the size of the eligible loans for real property land or buildings from \$500,000 to \$1,000,000. Officials stated that, through a series of round tables in 2014, stakeholders recommended increasing the eligible loan amount for real property.

4.10.2 Loan Portfolio

In response to a question from a Committee member, officials mentioned that approximately \$850 million were granted in loans in 2013-2014 and that they expect this number to increase to \$950 million with the proposed measure. They added that although this would allow an additional 100 to 150 companies to benefit from a loan, they do not anticipate any increase in the federal government's losses with the proposed measure.

4.11 Division 13: Amendments to the *Personal Information Protection and Electronic Documents Act* (clauses 164 to 166)

Officials from Industry Canada appeared before the Committee to explain Division 13 of Part 3 and answer Committee members' questions about the proposed measure.

4.11.1 Proposed Measure

Division 13 would amend the *Personal Information Protection and Electronic Documents Act* (PIPEDA), the federal private-sector privacy law. PIPEDA applies primarily to the collection, use or disclosure of personal information by federal works, undertakings and businesses. It also applies to the commercial activities of private-sector organizations, regulating all such activity at both the federal and provincial levels, unless a province has passed its own legislation requiring the private sector to provide comparable protection (referred to as "substantially similar legislation.") To date, Quebec, British Columbia, Alberta and, in matters relating to health care, Ontario, New Brunswick, and Newfoundland and Labrador have passed legislation deemed substantially similar to PIPEDA.¹⁴

The Committee heard that the World Anti-Doping Agency¹⁵ approached the federal government and asked that their body and their use of information be added to the list of activities covered by PIPEDA. The World Anti-Doping Agency made that request because the European Union's directive on privacy stipulates that information can only be shared with jurisdictions that have an adequacy finding within the

¹⁴ Office of the Privacy Commissioner of Canada, "[Privacy Legislation in Canada](#)," *Fact Sheets*, updated in May 2014.

¹⁵ The World Anti-Doping Agency was established in 1999 as an international independent agency funded equally by world governments and the sport movement to facilitate and monitor government and sport anti-doping efforts in compliance with the [World Anti-Doping Code](#), which was created in 2004 to consolidate anti-doping policies, rules and regulations worldwide. For further information, see: World Anti-Doping Agency, [What we do](#).

European Union's privacy rules. While Canada has such an adequacy finding, the province of Quebec does not have one, but is in the process of trying to obtain one with the European Union.

Division 13 would also expand the application of PIPEDA by amending section 4 of the Act to create a new Schedule 4 to the Act. Organizations added to the Schedule would then be subject to PIPEDA in respect of the personal information specified therein. Additions to Schedule 4 could be made by order of the Governor in Council. Finally, Division 13 would add one organization to Schedule 4: the World Anti-Doping Agency, with respect to "personal information that the organization collects, uses or discloses in the course of its interprovincial or international activities." Thus the proposed amendments to PIPEDA would expand the potential application of the law beyond federal works, undertakings and businesses and the commercial activities of private-sector organizations to include any organization that is added to Schedule 4 with respect to the personal information set out in that Schedule.

4.12 Division 18: Amendments to the Ending the Long-gun Registry Act (clauses 230 and 231)

Officials from Public Safety Canada appeared before the Committee in order to explain Division 18 of Part 3 and answer Committee members' questions. In addition, the Committee heard the testimony of officials from the Office of the Information Commissioner of Canada and the Royal Canadian Mounted Police and received a written submission from the Privacy Commissioner of Canada.

4.12.1 Proposed Measure

Division 18 would amend the *Ending the Long-gun Registry Act*. This Act, which was assented to and came into force in April 2012, amended the *Criminal Code* and the *Firearms Act* to remove the requirement to register firearms that are neither prohibited nor restricted. The Act also mandated the destruction of existing records relating to the registration of such firearms. In March 2015, the Supreme Court of Canada ruled, in a 5-4 decision,¹⁶ that section 29 of the *Ending the Long-gun Registry Act*, which requires the destruction of all records contained in the registries related to the registration of long guns, is a lawful exercise of Parliament's criminal law legislative power under the Constitution, and that Quebec, which has signalled its intent to create its own registry,¹⁷ had no legal right to the data.

Officials from Public Safety Canada indicated that Division 18 intends to comprehensively address the destruction of the long-gun registry data by ensuring that no other act of Parliament, including the *Access to Information Act*, undermines that objective. Officials indicated that the *Access to Information Act* currently provides a means by which an individual could access the long-gun registry data.

Division 18 would also add a proposed subsection, which would specify that the *Access to Information Act*¹⁸ would not apply to the destruction of all records contained in the registries related to the registration of long guns. The application of this section would be retroactive to 25 October 2011, when the *Ending the Long-gun Registry Act* was introduced as Bill C-19 and received First Reading in the House of

¹⁶ [*Quebec \(Attorney General\) v. Canada \(Attorney General\)*](#), 2015 SCC 14.

¹⁷ See Louise Elliott and Tracey Lindeman, "[Quebec vows to create its own long-gun registry despite Supreme Court ruling](#)," 27 March 2015, *CBC News* online.

¹⁸ [*Access to Information Act*](#), R.S.C., 1985, c. A-1. In particular, the proposed subsection specify that the following sections of the *Access to Information Act* would not apply: s. 4 (right of access); s. 30 (complaints); s. 36 (powers of the Information Commissioner in carrying out investigations); s. 37 (findings and recommendations of the Information Commissioner); ss. 41, 42 and 46 (review by the Federal Court); s. 67 (offence of obstruction); and s. 67.1 (obstructing a right of access under the Act).

Commons. In response to a question from a Committee member, officials from Public Safety Canada said that they had to ensure that Parliament's intent to destroy the long-gun registry data could not be frustrated through notice prior to the actual enactment of the *Ending the Long-gun Registry Act*, which received royal assent on 5 April 2012.

In response to a question from a Committee member, officials from the Royal Canadian Mounted Police stated that they were neither consulted nor involved in the development of the proposed measure.

4.12.2 Information Commissioner of Canada

On 14 May 2015, the Information Commissioner of Canada tabled a special report in Parliament pertaining to an investigation into a complaint against the Royal Canadian Mounted Police for records in the long-gun registry.¹⁹ The request at the basis of the complaint, for access to the firearms registry database, was made in March 2012, before the *Ending the Long-gun Registry Act* came into force. Having concluded that the Royal Canadian Mounted Police had destroyed records related to the request “with the knowledge that these records were subject to the right of access guaranteed by subsection 4(1) of the Act”, on 26 March 2015, the Commissioner referred the matter to the Attorney General of Canada for possible obstruction of the right of access under the *Access to Information Act*.²⁰

The Information Commissioner of Canada recommended the Committee remove Division 18 from Bill C-59 since this Division would make the *Access to Information Act* non-applicable, retroactive to 25 October 2011 and would shield from the application of that Act a broader scope of records than the *Ending the Long-gun Registry Act* ever did.

4.12.3 Privacy Commissioner of Canada

In its written submission, the Privacy Commissioner of Canada recommended that Parliament consider allowing existing complaints and proceedings to remain open until these are exhausted. He also recommended conserving the approach in the *Ending the Long-gun Registry Act*, which retained general protection for personal information while allowing deletion to proceed.

4.13 Division 20: Sick Leave and Disability Programs (clauses 253 to 273)

Officials from the Treasury Board of Canada Secretariat appeared before the Committee to explain Division 20 of Part 3 and answer Committee members' questions about the proposed measure including projected savings. During its study, the Committee also heard from representatives of the Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada and received a written submission from the Canadian Association of Professional Employees.

4.13.1 Proposed Measure

Officials explained that the federal government is working towards reaching agreement with bargaining agents within a reasonable time frame on necessary reforms to disability and sick leave management. They added that a new round of collective bargaining began in 2014 and that the federal government's

¹⁹ Information Commissioner of Canada, “[Investigation into an access to information request for the Long-gun Registry Investigation Report – 3212-01427](#)” Special Report to Parliament, May 2015.

²⁰ Office of the Information Commissioner of Canada, “[Bill C-59 sets a perilous precedent against Canadians' quasi-constitutional right to know](#)” 14 May 2015, Gatineau, QC.

priority is to provide a modern, comprehensive and responsive disability and sick leave management system. In response to a question from a Committee member, officials indicated that the federal government is 40 to 60 years behind what large companies have implemented in terms of sick leave.

According to officials, the outdated existing system of bankable sick days is failing employees as well as taxpayers. While over 60% of public service employees do not have enough banked sick leave to cover a full period of short-term disability, long-tenured public service employees have far more banked sick days than they will reasonably need. However, representatives from the Professional Institute of the Public Service of Canada said that only 15% of all public service employees do not have enough banked sick leave to cover for short-term disability.

The Committee heard from officials that a new disability and sick leave management system would seamlessly connect the sick leave days with disability benefits and supports, while focusing on early and active case management, such as rehabilitation and return-to-work supports. The objective is to help employees return to work healthy and sooner.

Officials said that the federal government is prepared to consider reasonable improvements to its tabled proposals in the negotiations with bargaining agents. However, if agreement cannot be reached, it will implement a modernized disability and sick leave management system since the Treasury Board of Canada may, under the *Financial Administration Act*, establish terms and conditions of employment for public service employees, such as sick leave, and create or modify group insurance or other benefit programs for employees.

4.13.1.1 Sick Leave

Division 20 would authorize the Treasury Board of Canada to establish terms and conditions of employment related to sick leave, despite the *Public Service Labour Relations Act*. Such terms and conditions could include:

- the number of hours of sick leave in a year;
- the number of hours an employee can carry over from one year to the next; and
- the disposition of hours that are unused immediately before the effective date fixed by order of the Treasury Board of Canada.

Terms of employment established or modified under Division 20 would be deemed to be incorporated into any collective agreement or arbitral award that is in force, despite any provision to the contrary in the agreement or award. These terms of employment would also replace any inconsistent terms and conditions that are continued in force after a notice to bargain collectively is given. Moreover, any provisions in an arbitral award made in the application period (the four-year period following the date on which the short-term disability program becomes effective) or retroactive to this period, that are inconsistent with the sick leave terms and conditions would be of no force and effect.

In response to a question from a Committee member, officials informed the Committee that public service employees can currently accumulate over one and a quarter day per month, or 15 days per year, under their collective agreements. There are currently 27 collective agreements that would be affected by this proposed measure in the core public administration.

4.13.1.2 Short-term and Long-term Disability Programs

Officials said that the federal government would specify the date by which the Treasury Board of Canada could create a new short-term disability program and that the Treasury Board of Canada would be allowed, within the four-year application period, to modify the short-term disability program. The modifications would be based on joint recommendations made by a bargaining agent and an employer representatives committee, which would be established by the Treasury Board of Canada. The role of the committee would be to look at the programs and evaluate their operations and administration as well as identify whether they need improvements.

The Committee learned from officials that the federal government is currently negotiating the possibility of including a waiting period in the short-term disability program and that the bargaining agents are not in favour of that inclusion.

4.13.2 Projected Savings

In response to a question from a Committee member, officials said that in 2015-16, \$900 million in savings have been identified in contingent liability associated with banked sick days should those sick days be eliminated. Representatives from the Professional Institute of the Public Service of Canada stated that the elimination of banked sick days would not represent real savings since sick public service employees are most often not replaced.

4.13.3 Public Service Unions

Representatives from the Public Service Alliance of Canada and the Canadian Association of Professional Employees, in its written submission, recommended that Division 20 be removed from Bill C-59 because it contravenes the right to free collective bargaining in s. 2(d) of the *Canadian Charter of Rights and Freedoms*. Representatives from the Professional Institute of the Public Service of Canada also recommended the removal of Division 20 due to the same reason and due to the fact that it also violates the right to strike in s. 2(d) of the *Canadian Charter of Rights and Freedoms*.

APPENDIX A: WITNESSES

Tuesday, 26 May 2015 (1416)

Department of Finance Canada:

James Greene, Director, Business Income Tax Division, Tax Policy Branch;

Miodrag Jovanovic, Director, Personal Income Tax, Tax Policy Branch;

Alexandra MacLean, Director, Tax Legislation, Tax Policy Branch;

Trevor McGowan, Senior Legislative Chief, Tax Legislation Division, Tax Policy Branch;

Geoff Trueman, General Director (Analysis), Tax Policy Branch.

Wednesday, 27 May 2015 (1348)

Department of Finance Canada:

Miodrag Jovanovic, Director, Personal Income Tax, Tax Policy Branch;

Daniel MacDonald, Chief, Canada Health Transfer/Canada Social Transfer and Northern Policy, Federal-Provincial Relations Division;

Brad Recker, Senior Chief, Fiscal Policy Division, Economic and Fiscal Policy Branch;

Geoff Trueman, General Director (Analysis), Tax Policy Branch.

Employment and Social Development Canada:

Andrew Brown, Director, Self-Employed, Special Benefits and Horizontal Policy;

David Charter, Senior Advisor, Strategic Policy;

Siobhan Harty, Director General, Social Policy;

Margaret Hill, Senior Director, Strategic Policy and Legislative Reform;

Stuart Pearce, Senior Policy Strategist, Self-Employed, Special Benefits and Horizontal Policy;

Charles Philippe Rochon, Assistant Director, Labour Law Analysis;

Annette Ryan, Director General, Employment Insurance Policy.

Industry Canada:

Denis Martel, Director, Patent Policy Directorate;

Scott Vasudev, Chief, Patent Administrative Policy Classification and International Affairs Division.

Canadian Heritage:

Thomas Owen Ripley, Manager, Legislative & Parliamentary Issues, Copyright and International Trade Policy Branch;

Nathalie Théberge, Director General, Copyright & International Trade Policy Branch.

Thursday, 28 May 2015 (1347)

Department of Finance Canada:

Steven Kuhn, Chief, International Finance, International Trade and Finance Branch.

Foreign Affairs, Trade and Development Canada:

Marc-Yves Bertin, Director General, International Assistance Envelope Management, Strategic Policy.

Employment and Social Development Canada:

Monika Bertrand, Executive Director, Employment Insurance Part II, Benefits and Measures.

Treasury Board of Canada Secretariat:

Jennifer Champagne, Counsel;

Kim Gowing, Senior Director, Pension Policy and Stakeholder Relations;

Bayla Kolk, Assistant Deputy Minister, Pensions and Benefits Sector;

Carl Trottier, Associate Assistant Deputy Minister, Compensation and Labour Relations Sector.

Public Safety Canada:

Caroline Fobes, Deputy Executive Director and General Counsel, Legal Services;

Mark Potter, Director General, Policing Policy.

Industry Canada:

Derek Gowan, Manager, Canada Small Business Financing Program Policy;

Chris Padfield, Director General, Small Business Branch.

Natural Resources Canada:

Terence Hubbard, Director General, Petroleum Resources Branch, Energy Sector;

Jean-François Roman, Legal Counsel.

Tuesday, 2 June 2015 (1347)

Department of Finance Canada:

The Honourable Joe Oliver, PC, MP, Minister of Finance;

Nicholas Leswick, General Director, Economic and Fiscal Policy Branch;

Andrew Marsland, Senior Assistant Deputy Minister, Tax Policy Branch;

Paul Rochon, Deputy Minister.

Canadian Taxpayers Federation:

Aaron Wudrick, Federal Director.

Wednesday, 3 June 2015 (1345)

Intellectual Property Institute of Canada:

Jeffrey Astle, Immediate Past President;

Steven B. Garland, Past President.

Canadian Home Care Association:

Nadine Henningsen, Executive Director.

Public Service Alliance of Canada:

Chris Aylward, National Executive Vice-President;

Liam McCarthy, Negotiations Coordinator.

Professional Institute of the Public Service of Canada:

Debi Daviau, President;

Isabelle Roy, General Counsel.

Wednesday, 3 June 2015 (1845)

Office of the Information Commissioner of Canada:

Nancy Bélanger, General Counsel, Director of Legal Services;

Suzanne Legault, Information Commissioner of Canada.

Royal Canadian Mounted Police:

Peter Henschel, Deputy Commissioner, Specialized Policing Services;

Rennie Marcoux, Chief Strategic Policy and Planning Officer.

APPENDIX B: BRIEFS

- Canadian Bar Association
- Privacy Commissioner of Canada
- Canadian Association of Professional Employees
- Federation of Law Societies of Canada
- Law Society of British Columbia
- Chambre des notaires du Québec