Grain and General Services Union (ILWU Canada)

Submission to the Ministry of Labour Relations and Workplace Safety
Review of the Labour Relations Provisions of The Saskatchewan Employment Act

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Introduction

The Grain and General Services Union (GSU) represents approximately 1,400 workers, of whom roughly 415 are provincially regulated, employed in sectors such as agriculture, ag-input operations, cattle auctions, and fish farming.

This submission outlines proposed amendments to *The Saskatchewan Employment Act* (SEA) to strengthen workers' rights, ensure fair collective bargaining, and modernize labour standards in line with other Canadian jurisdictions.

1. Automatic/Card-Check Certification

This submission recommends amendments to *The Saskatchewan Employment Act (SEA)*, specifically Part VI (Certification and Bargaining Rights), to establish Automatic/Card-Check Certification. Under this model, a union would be certified when a simple majority of employees in a proposed bargaining unit (50% + 1) sign union membership cards. Implementing this amendment is critical to ensuring a fair, transparent, and timely certification process, which is a foundational requirement for meaningful collective bargaining.

Under Saskatchewan's current standard, a mandatory secret ballot vote is required for union certification, even when a significant majority of employees have already indicated their support by signing union membership cards. This requirement introduces a substantial delay between the demonstration of majority support and the final certification decision.

This delay provides a critical window for employers to conduct intensive anti-union campaigns, which may include mandatory captive-audience meetings, the dissemination of misleading information, and, in some instances, intimidation of known union supporters. Although the secret ballot is meant to protect workers' choice, in our experience it is often weakened by the pressures and tactics used by employers during the campaign period. Workers who initially signed membership cards may ultimately vote against the union out of fear of reprisal or as a result of sustained anti-union

messaging. Consequently, the act of signing a card can be rendered effectively meaningless, suppressing the genuine collective will of the majority.

Employers can communicate with their employees every day, and mandatory voting provides them with additional time to counter employee support in ways that further tip the balance of fairness in their favour. Mandatory voting makes the union certification process unnecessarily difficult and contentious, substantially hindering workers' right to freedom of association.

We therefore urge the provincial government to amend The Saskatchewan Employment Act to implement Automatic/Card-Check Certification for unions that demonstrate the support of a simple majority (50% + 1) of employees in the proposed bargaining unit.

2. Ban on Replacement Workers during Strikes/Lockouts

This submission advocates amending *The Saskatchewan Employment Act* (SEA), specifically Part VII (Strikes and Lockouts), to prohibit the use of replacement workers during a legal strike or lockout. Adopting this "anti-scab" legislation is essential to restore balance in the collective bargaining system, ensure that the fundamental right to strike is meaningful, align Saskatchewan with recent legislative trends across Canada, and reduce the length and disruption of future labour disputes.

Currently, Saskatchewan permits employers to hire replacement workers or reassign personnel to perform the work of striking or locked-out employees. This ability effectively removes the economic pressure that the withdrawal of labour is intended to create.

This practice fundamentally undermines the power and effectiveness of a strike or lockout, which the Supreme Court of Canada recognized as an "indispensable" component of the constitutional right to meaningful collective bargaining (Saskatchewan Federation of Labour v. Saskatchewan, 2015 SCC 4). If an employer can continue operations with minimal disruption, there is little incentive to bargain in good faith toward a settlement.

We recommend amending the SEA to adopt a standard similar to that recently enacted in Manitoba and under the Federal Jurisdiction (Bill C-58), which includes the following provisions:

- Employers must be prohibited from hiring or engaging any person—including contractors, temporary workers, or employees from another workplace—to perform the work of a bargaining unit employee who is on strike or locked out.

- Employers must be prohibited from transferring employees who are outside the bargaining unit (e.g., managers or administrative staff) to perform the work normally done by striking or locked-out employees. This prohibition should also extend to employees within the bargaining unit who may choose not to strike, where the strike involves a cessation of work by all employees.

- Legislation should permit the limited use of personnel only for services required to address situations that present an imminent threat to the life, health, or safety of any person.

Recent legislative action across Canada strongly supports the argument that a ban on replacement workers is a necessary step to achieve a better balance in collective bargaining. In jurisdictions with anti-scab legislation, such as Quebec and British Columbia, while the incidence of strikes may increase slightly, their average duration is significantly reduced. The economic pressure to negotiate, rather than continue operations, encourages earlier resolution.

Collective bargaining requires that both parties possess genuine leverage. For workers, the only leverage they have is the right to withhold their labour, as protected by our courts. Allowing replacement workers skews the balance of power dramatically in favour of the employer, effectively reducing a strike to a symbolic act rather than an economic tool. Banning replacement workers restores the mutual incentive to negotiate a fair contract.

We urge the provincial government to amend Part VII of *The Saskatchewan Employment Act* to implement a comprehensive ban on replacement workers during a legal strike or

lockout, with narrowly defined exceptions only for matters involving life, health, or safety.

3. Minimum Paid Sick Leave

This submission advocates for the immediate amendment of *The Saskatchewan Employment Act* to establish a minimum standard of 10 days of paid medical leave per year for all provincial employees, mirroring the provisions recently introduced in the federal jurisdiction.

The Saskatchewan Employment Act (SEA) currently contains no mandatory provisions for paid sick leave. While the Act provides job-protected, unpaid leave for illness or injury, as well as protection for Workers' Compensation claims, this framework forces workers to choose between protecting their health by staying home and losing essential income, or protecting their income by going to work while ill—risking their own well-being and the health of their colleagues and the public.

This "choice" disproportionately affects low-wage workers and those in precarious employment, who are the least likely to have employer-provided benefits, thereby perpetuating both health and economic inequality.

The federal government recently amended the Canada Labour Code (Part III, Division XIII) to establish a clear national benchmark for paid sick leave. We urge the Saskatchewan government to incorporate the following provisions into the SEA.

- 10 days of medical leave with pay per calendar year.
- Employees earn 3 days after 30 days of continuous employment, then 1 additional day per month up to 10 days.
- Unused paid leave days carry forward to the next year to offset the following year's accrual).
- Paid at the employee's regular rate of wages for their normal hours of work.
- Employer may require a medical certificate after 5 consecutive days of leave, preventing unnecessary strain on the healthcare system for short-term illness.

Mandatory paid sick leave is not merely a worker benefit; it is an essential public health and economic stabilization measure. The primary public health benefit is preventing "presenteeism"—when sick employees attend work. This measure significantly reduces the spread of infectious diseases, including influenza and COVID-19, etc.), thereby protecting customers, colleagues, and the wider community.

By supporting workers to recover at home, the demand for non-essential medical appointments and emergency room visits for routine illnesses is reduced. The “after 5 days” documentation requirement also lessens the burden on physicians of issuing unnecessary sick notes.

Economic analysis suggests that the cost of providing 10 paid sick days is often overstated. The net impact on overall business expenses is typically minimal, particularly when accounting for cost savings from reduced employee turnover and improved morale.

Under the current system, employers who cut costs by denying sick leave gain a financial advantage, putting responsible employers who provide paid sick leave at a disadvantage. A universal minimum standard levels the playing field for all businesses. Access to paid sick leave is highly unequal, with the lowest-paid, most precarious, and most frontline workers being the least likely to have it. Implementing this provision ensures that workers who are most likely to interact with the public are not penalized for taking measures that protect public health.

The Province of Saskatchewan has an opportunity to modernize its labour standards and align them with current social norms established following the global COVID-19 pandemic. We urge the provincial government to amend *The Saskatchewan Employment Act* immediately to legislate a minimum of 10 days of paid medical leave per year for all employees, consistent with the provisions of the *Canada Labour Code*.

4. Change the Definition of Essential Services

In the 2015 Supreme Court of Canada decision, *Saskatchewan Federation of Labour v. Saskatchewan*, the Court recognized that the right to strike is a constitutionally protected

aspect of freedom of association under section 2(d) of the *Canadian Charter of Rights and Freedoms*. While this right is not absolute and may be limited to maintain essential services, any such limitation must be minimally impairing and must not substantially interfere with the overall collective bargaining process.

The current Saskatchewan definition of "essential services" often extends beyond the stricter, widely accepted definition used by the International Labour Organization (ILO), directly undermining the constitutional right to strike. The inclusion—or attempted inclusion—of criteria such as the "destruction or serious deterioration of machinery, equipment, or premises" and "serious environmental damage" makes the legislation overly broad and detrimental to collective bargaining.

The overly broad definitions of essential services used in Saskatchewan result in substantial interference with the right to strike and with collective bargaining in several ways. By allowing the continuation of services that are not strictly essential to human safety, employers are relieved of the most significant economic pressure a strike is intended to create. This effectively tilts the balance in favour of the employer, significantly reducing the impact of a strike or lockout and potentially prolonging labour disputes. As a result, collective bargaining becomes far less meaningful for the union and its members.

The International Labour Organization, through its Committee on Freedom of Association, defines essential services in a narrower sense. This definition serves to protect public interest and safety while still allowing workers to exercise their right to strike. To ensure that Saskatchewan legislation respects the constitutional rights of workers while safeguarding the public, the government should amend the definition of "essential services" to explicitly and solely include:

- Services necessary to prevent danger to the life, personal safety, or health of the whole or part of the population.

This amendment would bring Saskatchewan's legislation in line with the ILO principle that any limitation on the right to strike should be confined to what is strictly necessary to maintain essential services in their truest sense. By narrowly defining "essential

services" to focus on the protection of people, the government can uphold the fundamental right to strike as an indispensable component of meaningful collective bargaining, as guaranteed by the Charter.

Conclusion

The labour market has evolved, and the laws governing it must evolve accordingly. The proposed amendments are not radical; they are simply requests to adopt best practices that have already been successfully implemented in other Canadian jurisdictions.

These changes are intended to ensure that the right to strike remains a meaningful and indispensable component of collective bargaining, rather than a symbolic gesture; that workers are not forced to compromise their own health or the health of the public for a day's pay, and can access the protection of paid sick leave; and that the process of unionization is timely and free from coercion through the reintroduction of card-check certification.

We believe these measures are essential to building a stable, respectful, and productive labour environment in Saskatchewan that benefits all workers and employers. We look forward to the opportunity to discuss these urgent matters further and thank you for your attention to this submission.

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