



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

15/12/2016

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from the Remainder of the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Mike Hedges <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Steffan Lewis <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru The Party of Wales
Eluned Morgan <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Nick Ramsay <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Ceidwadwyr Cymreig Welsh Conservatives
Mark Reckless <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	UKIP Cymru UKIP Wales
David Rees <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Simon Thomas <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

**Eraill yn bresennol**  
**Others in attendance**

Emma Cordingley	Cyfreithiwr, Tîm Trysorlys Cymru, Llywodraeth Cymru Lawyer, Welsh Treasury Team, Welsh Government
Mark Drakeford <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Aelod Cynulliad, Llafur (Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol) Assembly Member, Labour (The Cabinet Secretary for Finance and Local Government)
Sarah Tully	Rheolwr Prosiect Polisi Treth Ddatganoledig (Treth Gwarediadau Tirlenwi), Llywodraeth Cymru Devolved Taxes Policy Project Manager (Landfill Disposals Tax), Welsh Government

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol  
National Assembly for Wales officials in attendance**

Bethan Davies	Clerc Clerk
Helen Jones	Y Gwasanaeth Ymchwil The Research Service
Georgina Owen	Dirprwy Glerc Deputy Clerk
Katie Wyatt	Cynghorydd Cyfreithiol Legal Adviser

*Dechreuodd y cyfarfod am 10:02.  
The meeting began at 10:02.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau  
Introductions, Apologies, Substitutions and Declarations of Interest**

[1] **Simon Thomas:** Bore da. **Simon Thomas:** Good morning. I call Galwaf y cyfarfod i drefn. Dyma this meeting to order. This is a gyfarfod o'r Pwyllgor Cyllid; yr un meeting of the Finance Committee; it olaf cyn toriad y Nadolig. Felly, dyma is the final meeting before the fanteisio ar y cyfle i ddymuno Christmas recess. So, I wish you all a Nadolig llawen a blwyddyn newydd very merry Christmas and a happy dda i bawb, gan gynnwys y tystion a'r new year, including our witnesses. pwyllgor.

[2] Mae'r cyfieithu, wrth gwrs, fel We have translation, as usual, on arfer, ar sianel 1, a'r sain ar sianel 0. channel 1, and amplification is on A gaf i ofyn ichi dawelu unrhyw channel 0. Can I ask you to put any ddyfeisiau electronig, jest er mwyn electronic devices on silent, in order hwylustod y pwyllgor? to facilitate the committee's work?

10:03

**Papurau i'w Nodi**  
**Papers to Note**

[3] **Simon Thomas:** Yn gyntaf, cyn inni droi at y tystion, fe wna i ofyn i aelodau'r pwyllgor jest nodi'r ohebiaeth sydd gyda ni: llythyr gan Gadeirydd y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau parthed cwynion iechyd gan yr ombwdsmon gwasanaethau cyhoeddus; llythyr gan Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol ynglŷn â datganiad yr hydref, yn amlinellu'r deilliannau Barnett o gyhoeddiad yr hydref; llythyr hefyd gan Ysgrifennydd y Cabinet ynglŷn â chynnig y gyllideb flynyddol yn cadarnhau'r amserlen; a chofnodion y cyfarfod a gynhaliwyd ar 7 Rhagfyr. A yw pawb yn hapus i'w nodi?

**Simon Thomas:** First of all, before we turn to the witnesses, I ask members of the committee please to note the correspondence we have: a letter from the Chair of the Equality, Local Government and Communities Committee with regard to health complaints from the public services ombudsman; a letter from the Cabinet Secretary for Finance and Local Government concerning the autumn statement, outlining the Barnett consequentials from the autumn statement; a letter also from the Cabinet Secretary concerning the annual budget motion confirming the timetable; and the minutes of the meeting held on 7 December. Is everybody happy to note those?

[4] **Mike Hedges:** Hapus. **Mike Hedges:** Happy.

[5] **Simon Thomas:** Diolch yn fawr iawn i chi. **Simon Thomas:** Thank you very much.

10:03

**Y Bil Treth Gwarediadau Tirlenwi (Cymru): Sesiwn Dystiolaeth 1**  
**Landfill Disposals Tax (Wales) Bill: Evidence Session 1**

[6] **Simon Thomas:** A gaf i droi, felly, at yr Ysgrifennydd Cabinet, gan ei groesawu fe eto i'r pwyllgor? Rŷm ni yma heddiw i drafod y Bil Treth Gwarediadau Tirlenwi (Cymru), a dyma ein sesiwn dystiolaeth gyntaf ni gyda'r Ysgrifennydd Cabinet. A

**Simon Thomas:** Can I turn, therefore, to the Cabinet Secretary? I'd like to welcome you to the committee once again. We're here today to discuss the Landfill Disposals Tax (Wales) Bill, and this is our first evidence session with the Cabinet Secretary. Could you

wnewch chi, felly, gyflwyno'ch tîm, os gwelwch yn dda?

please introduce your team?

[7] **Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol (Mark Drakeford):** Diolch yn fawr, Gadeirydd. Gyda fi y bore yma mae Sarah Tully, sy'n rheolwr prosiect polisi treth datganoledig, ac Emma Cordingley, cyfreithwraig yn nhîm y trysorlys.

**The Cabinet Secretary for Finance and Local Government (Mark Drakeford):** Thank you very much, Chair. This morning, I have with me Sarah Tully, who is the devolved tax policy project manager, and Emma Cordingley, a lawyer in the treasury team.

[8] **Simon Thomas:** Diolch yn fawr. Cyn inni droi at eich holi chi ar y Bil ei hunan, bob tro yr ŷch chi wedi dod i mewn gyda'r Bil, rŷm ni wedi dechrau gyda chwestiwn ar y fframwaith cyllidol, achos mae'n amlwg, er mwyn ystyried effaith y Bil, mae'n rhaid inni ddeall y cyd-destun cyllidol sydd ynddo. Y tro diwethaf y daethoch chi gerbron y pwyllgor, rwy'n meddwl ichi sôn am gyfarfod â Mr Gauke, byddwn i'n tybio cyn y Nadolig, ac yn gobeithio cael terfyn ar y trafodaethau erbyn diwedd y flwyddyn. Ai dyma'r sefyllfa o hyd, ac a oes yna unrhyw beth y medrwch chi ei ddweud wrth y pwyllgor ynglŷn â'r trafodion hynny?

**Simon Thomas:** Thank you very much. Before we begin questioning you on the Bill itself, every time you have come to speak to us in relation to a Bill, we have begun with questions on the fiscal framework, because, of course, in order to consider the Bill's effects and impacts, we have to understand the fiscal context. The last time you appeared before the committee, I think you were talking about a meeting with Mr Gauke, I assume before Christmas, and you were hoping to conclude those discussions by the end of the year. Is that still the situation, and can you tell the committee anything about those discussions?

[9] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. Rŷm ni yn bwrw ymlaen gyda'r trafodaethau â'r Trysorlys. Cefais gyfarfod yma yng Nghaerdydd gyda Mr Gauke ar 1 Rhagfyr. Mae galwad ffôn gen i gydag e heno neu ddiwedd y prynhawn yma. Os ydym yn gallu cytuno ar rai pethau—rydym ar y lap olaf,

**Mark Drakeford:** Thank you very much, Chair. We are continuing with the discussions with the Treasury. I had a meeting here in Cardiff with Mr Gauke on 1 December. I have a phone call with him tonight or at the end of the afternoon. If we can agree on some things—we're on the final lap, I hope, of the discussions—but if

gobeithio, nawr, o'r trafodaethau—os gallaf gytuno gyda fe ar y pethau sydd ar ôl heddiw, rwy'n edrych i fynd i Lundain cyn y Nadolig a dod â phopeth at ei gilydd a dod â phopeth i ben. Ond nid ydym cweit yn y sefyllfa yna bore yma, achos mae rhai pethau gennym sy'n dal i fod ar y bwrdd i'w trafod. Ond mae pethau wedi bod yn bwrpasol, ac rwyf ychydig bach yn optimistig y bydd hi'n bosibl i wneud popeth cyn y Nadolig nawr.

we can agree on some of the things that are remaining today, I'm looking to go to London before Christmas and bring everything together and bring everything to a close. But we're not quite in that situation this morning, because we still have some issues that are on the table to be discussed. But things have been very purposeful, and I am quite optimistic that it will be possible to do everything before Christmas now.

[10] **Simon Thomas:** Os oes yna gytundeb cyn y Nadolig, sut y byddwch yn bwriadu cyflwyno hynny i'r Cynulliad?

**Simon Thomas:** If you do have agreement before Christmas, how do you intend to present that to the Assembly?

[11] **Mark Drakeford:** Wel, wrth gwrs, rydym tu fas i amser y Cynulliad nawr. Os ydym yn gallu cytuno yn ffurfiol wythnos nesaf, bydd y cytundeb yn cael ei gyhoeddi rhyngom ni a'r Trysorlys. Rwy'n meddwl fy mod i wedi gweld rhai pethau yn mynd lan a lawr rhwng swyddogion y pwyllgor a fy swyddfa i dreial ffeindio amser i mi ddod o flaen y pwyllgor yn gynnar ym mis Ionawr. Y bwriad sydd gen i yw gwneud datganiad llafar ar lawr y Cynulliad cyn i'r Cynulliad bleidleisio ar yr LCM o dan y Bil.

**Mark Drakeford:** Well, of course, we're outside Assembly business time now. But if we can agree formally next week, the agreement will be announced between us and the Treasury. I think I've seen some things going back and forth between the committee's officials and my office to try to find a time for me to appear before the committee early in January. My intention is to make an oral statement on the floor of the Assembly before the Assembly votes on the LCM under the Bill.

[12] **Simon Thomas:** Diolch am gadarnhau hynny; bydd y pwyllgor yn sicr yn dymuno cael cyfle i drafod hyn gyda chi cyn bod y Cynulliad yn penderfynu ar yr LCM, fel ein bod ni'n gallu hefyd helpu'r Cynulliad

**Simon Thomas:** Thank you for confirming that; the committee would certainly like to have an opportunity to discuss this with you before the Assembly makes any decision on the LCM, so that we also

tuag at y penderfyniad hwnnw. can help the Assembly on the way to that decision.

[13] **Mark Drakeford:** Wrth gwrs. **Mark Drakeford:** Of course.

[14] **Simon Thomas:** Gan droi felly at y Bil—diolch yn fawr am hynny—. Sori, Mike. Mr Hedges. **Simon Thomas:** I turn therefore to the Bill—and thank you for those comments—. Sorry, Mike. Mr Hedges.

[15] **Mike Hedges:** You said that we'd like to see the Bill. If we see the Bill, will we be making a recommendation on it?

[16] **Simon Thomas:** Will this committee be?

[17] **Mike Hedges:** Yes.

[18] **Simon Thomas:** Well, that would be for the committee to decide. On the LCM?

[19] **Mike Hedges:** Yes. Will we have an opportunity to do so?

[20] **Simon Thomas:** We will have an opportunity, because we will have a session, hopefully, with the Minister on that.

[21] **Mike Hedges:** Fine, okay.

[22] **Simon Thomas:** That is certainly pencilled in, depending on your discussions and agreements.

[23] **Mark Drakeford:** Of course.

[24] **Mike Hedges:** That may well help everybody.

[25] **Simon Thomas:** Diolch. A oes unrhyw un arall, neu a ydy pawb yn hapus i droi at y Bil nawr? Ocê. Diolch yn fawr. Felly, a gaf i ofyn i ddechrau, Ysgrifennydd Cabinet, jest yn syml iawn, i chi amlinellu i'r pwyllgor pam bod angen y Bil, a beth fyddai'n digwydd pe na baem ni'n pasio'r Bil a **Simon Thomas:** Thank you. Is there anyone else, or are we happy to turn to the Bill now? Okay. Thank you very much. Can I ask, then, firstly, Cabinet Secretary—very simply could you perhaps explain to the committee why we need this Bill, and what would happen if we didn't pass this



chyflwyno'r dreth yma i Gymru?

Bill and introduced this tax for Wales?

[26] **Mark Drakeford:** Wel, Gadeirydd, mae dau bwrpas sylfaenol y tu ôl i'r Bil. Mae'n rhaid i ni gael Bil i sicrhau y refeniw sy'n dod i Gymru nawr o dan y trefniadau presennol. Os na fyddai Bil ar gael, ym mis Ebrill 2018 ni fyddai'r refeniw sy'n dod ar hyn o bryd i Gymru yn dod yn y dyfodol. Dyna'r pwrpas cyntaf: sicrhau y refeniw. Yr ail bwrpas, wrth gwrs, yw tanlinellu neu gryfhau ein hamcanion yn y maes amgylcheddol. Dyna pam rydym wedi dod ymlaen gyda'r Bil: i sicrhau y ddau beth sydd gennym ar hyn o bryd, ac i'n helpu ni yng Nghymru i fwrw ymlaen gyda nhw yn y dyfodol.

**Mark Drakeford:** Well, Chair, there are two fundamental purposes behind the Bill. We have to have the Bill to ensure the revenue that comes to Wales at present under the current arrangements. If we didn't have a Bill, in April 2018 the revenue that comes at present to Wales wouldn't come in the future. So, that's the first purpose: namely to ensure the revenue. The second purpose, of course, is to underline or bolster our objectives in the environmental sphere. So, that's why we've brought forward this Bill: to ensure those two things that we have at present, and to help us press ahead with those in the future.

[27] **Simon Thomas:** A ydych chi wedi cael cyfle wrth lunio'r Bil yma i gydgrynhoi neu dod â deddfwriaeth at ei gilydd yn y maes i'w wneud yn fwy syml neu yn fwy rhwydd i bobl ddeall y ddau brif bwrpas, fel rydych chi newydd amlinellu?

**Simon Thomas:** Have you had an opportunity in drawing up this Bill to consolidate or bring together the legislation in this area to make it simpler or easier for people to understand the two main purposes, as you've just outlined?

[28] **Mark Drakeford:** Ie, siŵr. Rwy'n mynd i droi i'r Saesneg, Gadeirydd, os gallaf.

**Mark Drakeford:** Yes, sure. I'm going to turn to English now, if I may, Chair.

[29] I think I just need to be clear—I was thinking of this following the statement on the floor of the Assembly by the Counsel General on Tuesday—that this is not a consolidation Bill in the sense that he was talking about consolidation legislation on Tuesday. But it is a Bill that, as you say, takes the opportunity to draw together in one place, and as a piece of specific Welsh legislation, a pattern that, since the original Bill was passed in 1996, has grown up, as legislation tends to, in all sorts of disparate ways. So, if you are operating in this field under present legislation, you are relying on primary

legislation, secondary legislation, Schedules, directions, notices, guidance, and it's scattered in many different places. So we have definitely taken the opportunity here to draw it all together, to clarify and to improve, we believe, the state of the law in this area, and certainly to make it more accessible and workable, as far as users of this legislation will be concerned.

[30] **Simon Thomas:** Diolch am hynny. Pwrpas arall, wrth gwrs, oedd y refeniw yr oeddech chi'n sôn amdano, ac mae'n ymddangos i fi fod y refeniw yn dipyn bach o darged symudol, gan ein bod ni'n gwybod mai'r pwrpas y tu ôl i'r Bil, neu'r pwrpas y tu ôl i'r ddeddfwriaeth yn gyffredinol, yw i ostwng faint o wastraff sy'n mynd i dirlenwi, felly mae'r incwm wastad yn mynd i ostwng, os yw'r Bil yn llwyddiannus, os yw'r polisi yn llwyddiannus. Mae hefyd yn wir i ddweud, o'r ffigurau rydym ni wedi eu gweld fel pwyllgor, bod yr incwm wedi gostwng yn eithaf sylweddol yn eithaf diweddar hefyd—mae hynny wedi digwydd. Felly, sut ydych chi'n gallu bod yn siŵr bod yr hyn rydych chi'n paratoi ar ei gyfer o ran incwm a refeniw yn rhywbeth y mae'r Bil yn gallu ei ddarparu i chi?

[31] **Mark Drakeford:** Wel, wrth gwrs, ar yr un ochr, Gadeirydd, fel roeddech chi'n ei ddweud, mae'r gyfraith wedi llwyddo yn y maes yma, achos mae faint o bethau sy'n mynd i dirlenwi wedi mynd i lawr, felly mae'r arian yn mynd i lawr ar yr un amser, ond dyna oedd pwrpas y Ddeddf wreiddiol. Nawr, mae'r ffigurau wedi symud yn ddiweddar, achos yr OBR. Yn ôl ym mis Mawrth, roedden nhw'n disgwyl inni gael rhyw £40 miliwn i

**Simon Thomas:** Thank you for that. Another purpose, of course, was the revenue that you've mentioned, and it seems to me that the revenue is a bit of a moving target here, because we know that the purpose behind the Bill, and behind the legislation in general, of course, is to bring down the amount of waste going to landfill, so the income is always going to reduce also, if the policy and Bill are to be successful. So, it's also true to say, from the figures that we've seen, that the income has come down rather significantly recently also. So how can you be sure that what you are preparing for now in relation to revenue income is something that the Bill can provide for you?

**Mark Drakeford:** Well, of course, on one side, Chair, as you said, the law has succeeded in this area, because the amount of things that go to landfill has been reduced and so the money reduces at the same time. That was the purpose of the original Act. And the figures have moved recently, because of the OBR. Back in March, they expected us to have about £40 million in the first year after devolution, and now that figure

mewn yn y flwyddyn gyntaf ar ôl datganoli, a nawr mae'r ffigwr yna wedi mynd i lawr i £27 miliwn.

has declined to £27 million.

[32] **Simon Thomas:** Sydd yn wahaniaeth eithaf sylweddol.

**Simon Thomas:** Which, of course, is a very significant difference.

[33] **Mark Drakeford:** Mae yna wahaniaeth. Nawr, mae nifer o resymau y tu ôl i'r ffaith fod y ffigurau wedi symud, ac mae'n bosibl, os ydych chi eisiau mwy o fanylion, y bydd Sarah yn gallu eu rhoi nhw. Ond, yn gyffredinol, yn fy marn i, beth sydd wedi digwydd yw: o dan y system sydd gennym ni ar hyn o bryd, a dweud y gwir, nid yw'n gwneud lot o wahaniaeth os yw'r OBR yn dweud, 'Wel mae £40 miliwn yn cael ei godi yng Nghymru, ac mae ffigwr arall yn cael ei godi yn Lloegr', achos i mewn i'r un pot, ar ddiwedd y dydd, y mae'r arian i gyd yn mynd. Yn y dyfodol, maen nhw'n gwybod bod yn rhaid iddyn nhw edrych yn fwy manwl ar y sefyllfa, ac mae fy swyddogion i wedi gweithio gyda'r OBR ac wedi ffeindio, rwy'n meddwl, yn achos rhai o'r pethau yn y gorffennol roedden nhw wedi dweud eu bod nhw wedi eu codi yng Nghymru, bod yr arian yna ar ochr arall y ffin, a dyna pam mae'r ffigurau wedi symud dros y chwe mis diwethaf. Mae rhai pethau mwy manwl y tu ôl i'r ffigurau hefyd, ond yn gyffredinol, jest achos rydym ni'n pwysleisio'r pwnc yma nawr, mae'r ffigurau wedi newid yn y ffordd yna.

**Mark Drakeford:** Yes, there is a difference, and there are a number of reasons behind the fact that the figures have moved, and if you want more details, Sarah can provide them for you. But, generally, in my opinion, what's happened is that, in the system we have at present, to tell you the truth, it doesn't really make much difference whether the OBR says, 'Well, £40 million will be available in Wales and there will be another figure in England' because it goes into the same pot at the end of the day. In the future, they know that they have to look in more detail at the situation, and my officials have worked with the OBR and have found, I think, some things where, in the past, they said they had been raised in Wales but the money was actually on the other side of the border, and that's why the figures have moved over the last six months. There are more detailed factors behind the figures as well, but generally, I'd like to emphasise now, on this subject, that the figures have moved in that way.

[34] **Simon Thomas:** Beth sydd o

**Simon Thomas:** What's of interest to

ddiddordeb i ni, rwy'n meddwl, fel pwyllgor, yw nid cymaint y manylion am sut y mae cyrraedd y ffigwr, ond a oes gennych chi hygrdedd yn y ffigwr sydd gennym ni nawr o £27 miliwn.

[35] **Mark Drakeford:** Ar ôl y gwaith sydd wedi cymryd lle dros y misoedd diwethaf, rydym ni'n meddwl nawr ein bod ni mewn sefyllfa well nag yr oeddem ni ynddo.

[36] **Simon Thomas:** Ac wrth drafod y Bil, ac yn enwedig o gofio bod yr incwm yn debygol o ostwng oherwydd llwyddiant y polisi, a ydych chi'n hapus i yrru neges allan o'r Cynulliad, wrth i ni drafod y Bil, nad pwrpas y Llywodraeth yw defnyddio'r Bil yma i godi incwm i'r Llywodraeth?

[37] **Mark Drakeford:** Ie, wrth gwrs. Rydym ni eisiau sicrhau'r refeniw, achos bod hynny'n bwysig i wasanaethau cyhoeddus yng Nghymru, ond nid pwrpas hwn yw codi refeniw; y pwrpas yw i wneud pethau yn wahanol yn y maes tirlenwi.

[38] **Simon Thomas:** Océ. Diolch yn fawr. Mike Hedges.

[39] **Mike Hedges:** Can I just raise a point regarding local government? At one stage, over 80 per cent of landfill tax was paid by local authorities; I don't know what the figure is now, but the net effect on local authorities if their landfill tax goes down is that they actually have more money for other services, don't they? So, actually, although the amount of taxation coming in centrally may well be going down, if local government is still running at the

us, of course, as a committee, is not so much the detail of what's happened exactly, but what the figure would be and whether you have confidence in that figure of £27 million.

**Mark Drakeford:** Well, after the work that has taken place over the last few months, we think now that we're in a better situation than we were in.

**Simon Thomas:** And in discussing the Bill, and of course in remembering that the income is likely to reduce because of the success of the policy, are you happy to send a message out from the Assembly as we discuss the Bill that it is not the Government's intention to use this Bill to raise income for the Government?

**Mark Drakeford:** Of course. We want to ensure the revenue, of course, because it's important for public services in Wales, but the purpose is not to raise revenue; the purpose is to do things differently in the landfill sphere.

**Simon Thomas:** Okay. Thank you very much. Mike Hedges.

80 per cent figure, then 80 per cent of it is actually going into local government for use in services. Is the 80 per cent figure still correct, and does my argument make any sense to anybody apart from me?

10:15

[40] **Mark Drakeford:** Sarah will know the figure.

[41] **Ms Tully:** My understanding is that the figure has gone down because, obviously, local authorities are behaving in the way the tax has intended and diverting their waste from landfill, so many of them are investing in other means and, obviously, increasing recycling as well. Obviously, incinerators are coming online in Wales now and a lot of waste is taken to those as well.

[42] **Mike Hedges:** Do we know what the figure is?

[43] **Ms Tully:** I can get back to you on that.

[44] **Mike Hedges:** I think, at least for me, it would be incredibly helpful, because we sometimes look at tax and net spend as if they're separate, but if you're not taking money off local authorities, the amount of money they have left to spend increases.

[45] **Mark Drakeford:** We can provide that figure, I'm sure, Chair.

[46] **Simon Thomas:** Lovely. Diolch. Nick Ramsay.

[47] **Nick Ramsay:** Cabinet Secretary, the explanatory memorandum includes an additional cost to Welsh Government of £1 million to switch off stamp duty land tax and landfill tax in Wales. How has this amount been estimated, and have the stamp duty land tax and landfill tax elements been estimated separately?

[48] **Mark Drakeford:** Thank you, Nick. Chair, just to say, as I think I said last time I was in front of the committee on LTTA, the figures are illustrative. I think we specifically say that in the explanatory memorandum. We have used the figures that were used in Scotland simply to alert the committee to the fact that HMRC intend to charge us for switching off the systems that will no longer be used in Wales. In Scotland, that figure was £1 million. We don't expect it to be as much as that for Wales, but there will be a charge. Equally, we then get a recharge over the years ahead for the work that they are no

longer doing for us. The figure, again, that we use is the figure that was identified in Scotland. We are expecting, through a joint devolved Welsh taxes transition project board that we have established with HMRC, to have the detail of the switch-off costs in the new year.

[49] **Simon Thomas:** That includes all devolved taxes. It's looking at both taxes, is it?

[50] **Mark Drakeford:** Well, actually, looking at it in more detail, I think the figure that HMRC charged was for the equivalent of SDLT. Everything HMRC does in relation to landfill tax is done on paper, and they decided that the costs of switching off the paper were nugatory and, therefore, they didn't include any charge for this tax. But the figure that was charged covered both, in that sense.

[51] **Simon Thomas:** Nick Ramsay—sorry.

[52] **Nick Ramsay:** That's fine. It was a good question. Have the costs been updated during the course of the Bill and can this be provided to inform scrutiny of it?

[53] **Mark Drakeford:** Well, the costs in the explanatory memorandum, Chair, provide global costs for the establishment of the WRA and the discharge of its responsibilities. From memory, we provide a range of £4.8 million to £6 million or so for the transitional costs and £2.8 million to £4 million for the running costs. We continue to refine them. We believe, at the moment, they remain within that range. I undertook, in front of this committee, to provide an updated explanatory memorandum during the passage of LTTA. We're still committed to doing that, so those updated costs will be available to this committee during the passage of this Bill, but that will happen in the new year. So far, we've just been focusing on the range, and we think the range is holding up to examination.

[54] **Nick Ramsay:** Which is in line with your previous comments to committee.

[55] **Mark Drakeford:** It is, yes.

[56] **Nick Ramsay:** Okay. The introduction of landfill disposal tax will obviously mean changes for landfill site operators. How do you see the Welsh Revenue Authority making sure that the sector's aware of the transition?

[57] **Mark Drakeford:** Chair, I think it's very important to draw a distinction between this Bill and the LTTA Bill that the committee is considering. You asked a series of, I thought, very pertinent questions about how, in LTTA, we are going to be able to make sure that that very large number of people who are involved in land transactions and conveyancing and so on will know about the change of the law. Here, there are 20 landfill site operators in Wales, so it's a very different business in making sure that they understand, because we know who they all are, we are in regular contact with almost every one of them and HMRC has an established relationship with each one of them.

[58] That group that I mentioned earlier—the devolved Welsh taxes transition project—part of its remit is to make sure that we continue to feed information to the landfill site operators about how this Bill is developing. So, we are obviously alert to the point that Mr Ramsay made, but the way of going about it for this Bill is very different to what you need to do in LTTA, when there's such a larger number of people and we don't always know who our audience is.

[59] **Nick Ramsay:** So, you don't have the issue, as you did with stamp duty, of the conveyancers being in England and not familiar with this system, because they're based here.

[60] **Mark Drakeford:** No. As you said last time, it was dealing with a workforce where conveyancing may be a very occasional part of what a firm does, so it's not their mainstream business. Here, you're dealing with 20 operators, and this is what they do.

[61] **Nick Ramsay:** It's not something that people are dabbling with on the side. *[Laughter.]*

[62] **Mark Drakeford:** No, it's not. No, you don't do a little bit of landfill.

[63] **Simon Thomas:** They call that fly-tipping, I think.

[64] **Nick Ramsay:** I'll give up on my idea of a little landfill enterprise, then, on a Sunday morning. In terms of understanding the role of Natural Resources Wales, could you explain the rationale for making NRW responsible for enforcement and compliance?

[65] **Mark Drakeford:** Well, thank you, Chair. I think we came to the early conclusion that Natural Resources Wales would be the right body to make responsible for enforcement and compliance because of the skills and expertise they already have in this field. They are also—and this was an important point that the stakeholders, the landfill operators, made during consultation—they were very keen to have enforcement in the hands of an organisation that has an on-the-ground presence, an organisation that is actually out there, in and out of landfill sites. ‘Boots on the ground’, I think they called it, themselves, in the consultation period. NRW does exactly that. It also, obviously, has existing enforcement and compliance responsibilities in relation to environmental permitting. For all those reasons, it seemed a very natural fit.

[66] **Nick Ramsay:** Will they need any extra resource or are the costs such that that wouldn't be necessary?

[67] **Mark Drakeford:** Well, Chair, maybe it's just important to be clear about the relationship here, because the responsibilities for collection, management and enforcement all, in law, belong to the WRA, and they will discharge their enforcement and compliance responsibilities via NRW, and I will have to bring regulations in front of the Assembly in the next nine to 12 months to set out the extent of that delegation of responsibilities. So, the finance will flow with the function. The money goes to the WRA and it's then for the WRA to make sure that it provides funding to NRW to discharge those responsibilities on its behalf. The figures I gave you earlier—the running costs that we believe will be necessary for the WRA—include the resource they will need to pass to NRW for those responsibilities. We are, at the moment, funding a post in NRW to consider how the compliance and enforcement functions will be carried out in practice. So, we're putting some extra money in upfront to prepare for this, but the funding route in future will be Government to WRA, WRA to NRW.

[68] **Nick Ramsay:** It's going to be important that there's access to local authority information, to ensure compliance. Are you making any arrangements to allow information sharing between the WRA, NRW and local authorities?

[69] **Mark Drakeford:** Well, Chair, I completely agree that that information flow will be very important. Section 59 of the Bill provides authority to local authorities and NRW to share information with the WRA. I imagine that those powers will be relied upon mostly in relation to unauthorised disposals.



Where a local authority comes across waste that has been dumped illegally, then this Bill will give them the power to share that information with the WRA.

[70] There are very limited powers in the Tax Collection and Management (Wales) Act 2016 that allow the WRA to share information about taxpayers with other authorities, but they are very, very narrowly described and, essentially, are only likely to be used in circumstances where the WRA believes that a criminal offence or criminal activity has been discovered. So, information flows in both directions—primarily to the WRA but also, in narrowly-defined circumstances, in the opposite direction.

[71] **Simon Thomas:** Just while we're on that issue of fly-tipping, in effect, and the relationship with local authorities, in the last few days new figures have come out on fly-tipping, which are quite frightening. And while I know you're not the Minister for the environment, in that sense, it's of concern to the Government as a whole, I'm sure. One of the things that has been set out, when you made your statement around this Bill, is the possibility that you could, in effect, tax people for having dumped—for having fly-tipped—because it's not just a financial penalty, it's a cost to the country as a whole for that to have happened. So, with the information sharing, is that designed to allow that to happen as well? Also, is it your policy proposal to use any money that might be raised that way in order to either recompense or pay for the enforcement action that local authorities may be carrying out?

[72] **Mark Drakeford:** I'll deal with the second point in a moment, Chair, if I could. I'll ask Emma just to address the first point as to whether the information-sharing arrangements that the Bill or the TCMA have set up allow for information to flow in relation to illegal disposals of waste of the sort that the Chair has referred to.

[73] **Ms Cordingley:** The power in section 59 is to allow information for the purposes of WRA collecting and managing landfill disposals tax, and that applies both in an authorised and unauthorised context. Fly-tipping would be unauthorised.

[74] **Simon Thomas:** So, it would be applicable?

[75] **Ms Cordingley:** Yes.

[76] **Simon Thomas:** Okay. Thank you.

[77] **Mark Drakeford:** Chair, on the broader point about incentivising local authorities and the WRA to take action in these cases, what I said on the floor of the Assembly remains my position, which is that if, by taking action, greater tax is recouped from those who have dumped waste, then it seems fair that those enforcement authorities should have a share of the additional revenue that has been raised, because that will give them a reason for wanting to do more of it in the future.

[78] **Simon Thomas:** David Rees, then, please.

[79] **David Rees:** Diolch, Gadeirydd. Since we're looking at the tax, can I talk a bit about the exemptions and the reliefs in the Bill? You've identified two exemptions, I think, which is the pet cemeteries and the multiple waste disposals. I suppose I can understand the argument for the pet cemeteries, in the sense that it keeps us in line with the UK. Can you talk a little bit about, particularly, the multiple waste? Because the example I saw given was that some perhaps temporary road surfaces were placed into a landfill site and that will be refilled. Now, what happens if the temporary road surfaces are actually sold somewhere else afterwards and not used as landfill? How does it all work? What safeguards are in there, and why is that actually in there as an exemption?

[80] **Mark Drakeford:** Well, Chair, I'll give the headline answer. Sarah will know the detail of it. There are only two exemptions in the Bill, and four reliefs. The pet cemetery exemption is as you've described it. The other exemption is simply to cater for the fact that waste that comes onto a landfill site can be moved around on that site. If we didn't have an exemption then, every time a load of waste was moved, it would be taxed a second time.

[81] **Simon Thomas:** This is waste transfer, therefore.

[82] **Mark Drakeford:** This is waste transfer within the site itself. If waste is taken offsite to another landfill site, it is definitely taxed a second time on arrival at the next site. But if you are moving material around on the site itself—. Because you can, as you just said—you may make a temporary use of it because you're laying a temporary road on the site, then when the need for that road is over, you remove the waste and you put it into landfill. It did not seem fair to us that—. We thought it would be a rather perverse disincentive, actually, to do sensible things if you had to pay tax twice within the curtilage of the original landfill site. But Sarah will probably give you more details than

me.

10:30

[83] **Ms Tully:** The multiple disposals—whilst new, in the sense that it's on the face of the Bill—if you like, is another example of where we've tried to provide clarity and put detail on the face of the Bill. So, it's new in that sense, but, actually, it's an approach taken in UK and Scotland as well—it's just that we've put it on the face of the Bill. It works just as the Minister said, really, in terms of there are activities that take place on the landfill site, a temporary road is literally made up of waste that comes in—it's the road that leads from your main road across, almost, the cell, and into the cell then. They will, naturally, become part of the cell in many cases. So, we felt that it was only fair that you only pay the charge to tax once on that, and we are very clear that you only pay once on that material.

[84] **David Rees:** I can understand that argument. My concern would be that hard core was mentioned and hard core doesn't necessarily mean waste; it's actually an infrastructure material on major infrastructure projects. You could basically put hard core in as your temporary and not intend to use it elsewhere, and you sell it on. So, could someone get exemption as a consequence from what they're bringing in, but then move it on?

[85] **Ms Cordingley:** This exemption will apply only when something has already been subject to tax on the landfill site. So, if the material has already become a taxable disposal and the tax has been charged, then the tax can't be charged again, but it's not to stop something being charged the tax the first time. So, it'll be a question, then, of looking at the test in the Bill as to whether or not a taxable disposal has taken place. There's a series of conditions that normally need to be met for a taxable disposal to have taken place, but then at Section 8 there's also a list of other activities that, if they take place, will be treated as taxable. Creating a temporary road, or a temporary hard standing is one of those activities, so if that happens on a landfill site, that is treated as taxable and you pay your tax on that. If you then take the stuff out of your temporary road and put it in the landfill void on the same landfill site, we won't charge you tax on that material again.

[86] **David Rees:** Okay, I understand that. In relation to reliefs, can you just perhaps give us an example of some of the thinking behind the reliefs?

[87] **Mark Drakeford:** Yes, I'll do it briefly, Chair. If you want more detail,

certainly Sarah will be able to give you those. So, there are four reliefs set up in the Bill, and I think it's important to be clear that this is an example of where we have rolled forward into this Bill the system that exists already, and as you will know, in the consultation on the Bill, that was, again, a very clear message from the sector that they wanted our system to be recognisably the system that they use now. One of the things that I anticipate will happen will be, however, that we will in future have much better data about some of these reliefs. We don't have much sense, to be honest, of how these reliefs are used at the moment, and whether they are reliefs that we would think of as serving a direct public purpose. But because from now on it'll be in our hands, we will be able to collect the data and a future Assembly will be able to decide whether or not these are the right reliefs.

[88] But the reliefs that are here, the first one is to do with dredging, and it does seem a sensible relief to have. You want to be able to promote the safe use of waterways, you don't want to make landfill tax an impediment to carrying out something sensible, and rivers cross our border all the time, so if there's a relief on one side of the border, you sensibly need a parallel relief here, too. There is a relief for materials resulting from mining and quarrying; that is material that is a necessary by-product of extracting natural minerals from the ground that are simply being returned to the ground without having been used or processed in any way. There is a relief for site restoration; it is a sensible objective of policy that you plan from early on for what will happen when the landfill site is no longer needed for landfill purposes, and how you can restore that site to a decent condition. This is one where we will want to look carefully at the use of the relief. The Scottish experience suggests that there may be a tendency for operators to claim to need more material for restoration purposes than is actually required. So, of course, they get a relief on everything they use. So, if you needed 2 tonnes but you used 22 tonnes, you get a relief on 22 rather than two. So, it's a sensible purpose but it is open to—well, it deserves careful monitoring, and we will be able to do that. The final one is for refilling former quarries—again, it's the same restoration purpose that lies behind that relief.

[89] **David Rees:** In relation to the latter point, I had queried the question, when we had a technical briefing, of why just former quarries because, obviously—. I understand quarries and other areas, but opencast mining is applicable in Wales, and we have restoration plans that will fill in those. Will they be looked at in the future?

[90] **Mark Drakeford:** Thank you for that point. I know that Mr Rees raised

it during the technical briefing. As a result, officials have been in contact with Her Majesty's Revenue and Customs and the Coal Authority, for example, to seek further clarity on the extent to which the Bill reaches into opencast mining. Some of those discussions are not yet concluded, but I'm very happy to write to the Member once we have an answer to the points that he's raised today and previously.

[91] **David Rees:** And just a final point on reliefs: you've already identified, for example that rivers would be on both sides—are there any reliefs that are in the UK legislation as it stands today that we haven't included, and are there any that we have included that aren't in the UK legislation?

[92] **Mark Drakeford:** No. Chair, we have simply replicated in this Bill the existing set of reliefs. However, there is a regulation-making power in the Bill, which would allow Welsh Ministers to come forward either to amend existing reliefs and exemptions or to create new ones in the future. Those regulations would be subject to the affirmative procedure, so the Assembly itself would get an opportunity to debate them.

[93] **Simon Thomas:** Okay, thank you. Mike Hedges.

[94] **Mike Hedges:** Can I just carry on from what David Rees was raising there? On refilling quarries, and that's not an opportunity to turn quarries into cheap waste-disposal sites, you say 'qualifying materials'—have I missed the list of qualifying materials or will you be producing one? If you produce one, will we see it?

[95] **Ms Tully:** The list of qualifying materials will be set out in secondary legislation, and that will be brought forward under the affirmative procedure, so you will be able to have a look at it then. The existing list you can already see—it's the Landfill Tax (Qualifying Material) Order 2011—and we'll be looking at that list in terms of setting our own list.

[96] **Mike Hedges:** Okay, thanks. I live fairly close to a quarry—so I declare an interest—which has in the past been used for landfill, including materials that were imported from Switzerland and other parts of Europe. My constituents—and I include myself, because I live about a mile away from it—are concerned about anything that allows people to use that in terms of restoration, so the qualifying materials is going to be incredibly important. I don't think people have much of a concern about dumping bricks and stone et cetera, but I think that we will need to see that list, and we may have a

view on it.

[97] **Mark Drakeford:** Chair, I'd be very happy to write to the committee, setting out the existing—

[98] **Simon Thomas:** The current—

[99] **Mark Drakeford:** Yes. I think it would give some comfort to Mike Hedges, because it is essentially naturally occurring materials. But, as you heard, we will have to bring forward a list of qualifying materials that will apply under this Bill and the affirmative procedure will allow anybody to take a view on whether the list is the right list.

[100] **Mike Hedges:** Okay. Moving on to penalties—

[101] **Ms Tully:** Would you like me to give you some examples of what is on the qualifying list currently?

[102] **Simon Thomas:** I think, if you write with that, that will be sufficient.

[103] **Mark Drakeford:** We'll write and provide you with the full list. Thank you, Sarah.

[104] **Mike Hedges:** If I can move on to penalties, there are penalties for failing to comply with weight, failing to register with the WRA and failing to comply with notices. Can you outline the rationale for including the penalties and how the monetary values of each were decided?

[105] **Mark Drakeford:** Chair, most taxes are paid voluntarily and on time and without the need for any additional action from a tax authority. But when that is not the case, then, in order to discourage non-compliance with the legislation and to protect the revenue, a penalty regime is necessary. In the examples that Mike read out—it's exactly to discourage people from failing to register with the authority or from failing to comply with the requirements of the Bill that we set up a penalty regime. How did we decide on the level of penalty? Well, essentially, it was by contact with HMRC and Revenue Scotland to see what they believe the appropriate level of penalty would be. We looked at the TCMA, to make sure the penalties set up through this Bill were consistent with the TCMA. But, once again, we've underpinned this in the Bill with a regulation-making power that will allow Welsh Ministers to come to the Assembly to amend the penalty regime, including the level of the penalty,

if we felt that it needed updating or that it wasn't being effective in helping to eliminate the sort of behaviour that we're seeking to address here.

[106] **Mike Hedges:** Okay.

[107] **Simon Thomas:** Happy?

[108] **Mike Hedges:** Yes.

[109] **Simon Thomas:** Steffan Lewis.

[110] **Steffan Lewis:** Diolch, Gadeirydd. Moving to unauthorised waste disposals, a couple of weeks ago in Plenary, you addressed concerns over compliance and enforcement in this regard. I wonder if you could elaborate further on what will constitute unauthorised disposal. You noted, I think, in Plenary that there is no legal definition of fly-tipping, but I wonder if you could elaborate on what will constitute unauthorised disposal and how you will enforce regulations around such unauthorised disposals.

[111] **Mark Drakeford:** Thank you, Chair. Well, the Bill extends the application of landfill tax in Wales to disposals of waste made outside a landfill site where an environmental permit ought to have been in force but was not. So, that's the definition of it, really, that it is waste disposed of in an area where no environmental permit is in place and where such a permit ought to have been there.

[112] I just want to make what I think is a relatively important point first, which is that the underlying purpose of extending the reach of landfill tax to unauthorised disposals is to change people's behaviour, so that they take waste to authorised disposals. It's not to try and raise a lot of money from unauthorised disposals. We're trying to bear down on unauthorised disposals. At the moment, one of the great incentives, or disincentives, is that if you take it and dump it illegally, you don't have to pay tax. Well, we want to rebalance the risks here, so that people understand that that isn't the case, and we hope that, as a result of that and the way we will enforce it, more people will take their waste to authorised landfill sites where they will pay the tax in the normal way.

[113] How will it be enforced, however? Well, we take a series of measures in the Bill to help to bear down on illegal waste disposal and, therefore, to enforce action against it. We give the responsibility to the NRW, as we said

earlier.<sup>1</sup> We will expect them to go about enforcement in a way that is proportionate, because there is quite a wide variety of scale of illegal landfilling, even within the 60 sites that we identified, let alone fly-tipping at the other end. We expect they'll do it in a way that is cost-effective and is aligned with the wider enforcement work that they will already be carrying out. So, this is not something entirely new or different; it'll be just, you know, part of the way that they do everything else.

[114] We strengthen the law, though, in two very important ways to assist them in doing that. This Bill sets out the categories of person who can be held responsible for unauthorised landfill disposals, and it is clear that: the person who dumps the waste can be held responsible; the person who controls the actions of that person, who puts them up to it, can be held responsible; or the landowner where the waste is disposed of can be held responsible. And if it comes to having to recoup money from those individuals, then they are jointly and severally liable for that—for paying that money—in this Bill. So, it won't be good enough for me to say, 'Well, I didn't know anything about it, he'll have to pay.' If I'm involved, I'm jointly and severally liable.

10:45

[115] We then, in the Bill, take a separate set of powers to introduce the concept of rebuttable presumption in this part of the Bill. So, if you are driving a lorry to an illegal waste site or you are the owner of the land on which that waste is illegally disposed, the assumption will be that you knew that what you were doing was wrong. Now, it's a rebuttable presumption, and we set out in the explanatory memorandum a series of arguments that a landowner, particularly, could use, because I am aware that we are wanting to be fair in the Bill as well, in that there are landowners who find stuff dumped on their land, which is a terrific difficulty for them, and they're not in any way implicated in it. So, a landowner would be able to rebut the presumption by showing, for example, the actions that they've taken to protect the boundaries of their land, that they reported the dumping of the waste immediately, that they co-operated with the authorities in having it removed, or that it was on a part of their land that they very seldom would visit and couldn't reasonably be expected to know it was there, or that they

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<sup>1</sup> Eglurhad/Clarification: The responsibility rests with WRA. It is envisaged that they will delegate functions around the compliance and enforcement of LDT to NRW. This will not mean that WRA is no longer responsible for what is done, though.



themselves were ill or indisposed or away in some other way.

[116] So, I think we're trying to be as helpful as we can in providing people with a list of the things that they might be able to demonstrate, but the starting point will be, 'You are responsible', and that is another way in which the enforcement of these powers will be strengthened from the NRW perspective.

[117] **Steffan Lewis:** In terms of the landowners being potentially culpable, presumably that involves public bodies as well, because there will be sites owned by local authorities that are used for, certainly, fly-tipping. So, in the rebuttals, are public bodies exempted or would they have to demonstrate in the same way as any other landowner that they were aware, or that they took all reasonable measures to prevent unauthorised dumping in the first place?

[118] **Mark Drakeford:** I think, from the fact that Sarah is nodding, the answer must be that they are covered in the same way; they would have to demonstrate the same or a parallel set of actions that they are taking in order to rebut the presumption.

[119] **Ms Cordingley:** I think the point to bear in mind is that the WRA has to show that that person knowingly permitted that disposal to take place on their land, so while the rebuttable presumptions can help them with that task, it's quite hard to conceive of a situation where a local authority will be found on the facts of having knowingly permitted. So, it's a conscious decision to have permitted that disposal to have taken place. There needs to be a degree of collusion in order for that test to be met.

[120] **Steffan Lewis:** So, in order to establish joint enterprise, there has to be a demonstration or there has to be a provable joint enterprise in the first place, rather than—. Because the impression sometimes you can get is that if it's on your land and you didn't do anything about it, or you can't demonstrate that you took reasonable steps to prevent it, then you're part of that joint enterprise. But that isn't quite right.

[121] **Ms Cordingley:** These presumptions are the second steps. If you're a person who made the disposal, knowingly caused it or knowingly permitted it, then they are three categories of people that are liable. And then the rebuttable presumptions go on to say that if you're a landowner, then you'll be taken to have knowingly permitted it unless you can show otherwise. Obviously, in the case of a local authority, you would hope and expect that

they would be able to show otherwise.

[122] **Steffan Lewis:** Yes, one would hope. So, then, if there is a repeat occurrence, a landowner, whether that's a public body or not, would find it harder to demonstrate that they took reasonable action, and therefore would presumably then be under the 'knowingly permitted' category.

[123] **Ms Cordingley:** That's right, but WRA would still have to prove on the balance of probabilities, if the matter went to a tribunal, that that authority knowingly permitted that disposal to take place on their land.

[124] **Steffan Lewis:** Okay, thank you for that. Finally on this point, the explanatory memorandum notes—you mentioned it as well, Cabinet Secretary—the 60 illegal waste sites. There was an estimate that if the standard rate had been applied to the unauthorised disposals there, that would represent £2.1 million in evaded tax. I wondered if you'd done any work on estimating how much you expect or would expect WRA to be able to collect, and whether there's been a consideration given in terms of the costs in trying to collect that evaded tax. Presumably, that would be harder to get and therefore more expensive to recoup.

[125] **Mark Drakeford:** It's important to say, Chair, that as far as the £2.1 million is concerned, none of that could be recouped, because the WRA will only be able to charge tax on unauthorised disposals that occur after 1 April 2018. So, this isn't retrospective in that way; it's only what happens after that. Of course, NRW has existing powers to deal with these things in the meantime, and it will be important for NRW to have a strong mapping sense of what is there now, because you're going to have to be able to demonstrate that this was stuff added to it after April 2018.

[126] A point we haven't made yet is that the level of tax that will be charged on unauthorised disposals could be set at a higher rate than the current standard or lower rate, and the case for doing that will be threefold. First of all, you want to make sure that you have at least recouped the amount of tax that would have been paid had that waste gone to a legitimate landfill site. Secondly, legitimate landfill operators incur costs in operating in a legal way—registration, accounting for things, record keeping, and so on. And thirdly, and this is the point that Steffan was making, there will be additional costs involved for NRW and local authorities in pursuing illegal

waste sites that wouldn't be there otherwise.<sup>2</sup> So, setting the tax at a level that reflects some of those additional burdens will be part of the way in which we will be able to make this part of the Act pay for itself.

[127] **Steffan Lewis:** Thank you.

[128] **Simon Thomas:** David Rees first.

[129] **David Rees:** Just a small point on unauthorised waste dumping: you identify three categories, which are the landowner, the lorry driver, effectively, and the individual or company that controls it, and of course, those last two can be the same—one company. Would there be the ability to strengthen the case if you also identified, perhaps, a fourth person, or fourth category? I'll give you an example: a developer takes a site, the site is covered in knotweed, so it gives a developer a contract, so subcontracts to someone to clear the site. The original developer should be responsible for where that goes and be able to see it, and not be exempt from it. So if you put, perhaps, the person who is contracting the disposal in the first instance as an extra person, you might get more, perhaps, what I would consider respect for the consideration and reduction of unauthorised acts as a consequence to that.

[130] **Ms Cordingley:** The three categories of person in the Bill at the moment are someone who made the disposal, someone who knowingly caused the disposal, and someone who knowingly permitted it. So they may well be caught as a person who knowingly caused or permitted the disposal, if they were the controlling mind behind it. So, in the right factual circumstances, they may well be caught. Those specific examples of lorry drivers and owners are examples given in this rebuttable presumption of people who will be assumed to have knowingly caused or knowingly permitted the disposal, unless proved otherwise. But there are three very broad categories of person at the moment: the person who made, the person who knowingly caused, and the person who knowingly permitted. So, in your example, they may well have knowingly caused or knowingly permitted.

[131] **David Rees:** Would you say, therefore, if I own land and I get somebody in to clear it for me—I know it's got knotweed and I know the cost

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<sup>2</sup> Eglurhad/Clarification: The new costs associated with the collection and management of unauthorised LDT are ultimately costs to WRA, not to NRW or local authorities.

of knotweed disposal—and I don't worry about where that goes, that I am liable? Because I contracted somebody else to take on that job for me. Are you therefore going to say that I'm going to be, actually, one of those individuals liable, or am I going to be allowed to get off, because I technically contracted somebody else to do it?

[132] **Ms Cordingley:** I think that's going to be a question of fact for WRA on every case and whether they've got the evidence to show that that person falls within the category and, ultimately, if they issue a charge—

[133] **David Rees:** So, there's a possible grey area there.

[134] **Mark Drakeford:** Yes.

[135] **Ms Tully:** Well, everyone disposing of waste, as well, is responsible for their waste and where it goes, and if you were contracting someone to take your waste away, you have a responsibility to know exactly what they're doing with that waste and where they are taking it. And that is currently the situation under environmental law.

[136] **David Rees:** That is under environmental law; okay.

[137] **Simon Thomas:** I do like the concept of a controlling mind. There's something very 'action comic' about it, with a white cat deciding where all this rubbish goes. [*Laughter.*] There we are; that's quite a nice concept for this morning.

[138] **Mark Drakeford:** Chair, sorry, it is worth just mentioning that the issue of Japanese knotweed came up during the consultation process, as to which rate should be charged for its disposal. You may not want to be detained by the arguments today, but they will come back to the floor of the Assembly when we bring forward regulations that show what sort of materials qualify for the standard and the lower rate, and, particularly, how the seven tests that the Bill sets out for mixed loads of waste—waste that contains material that could be charged at the higher or lower rate—are to be navigated. Japanese knotweed was specifically raised in consultation in that context.

[139] **David Rees:** May I ask a question?

[140] **Simon Thomas:** Yes, David, come back.

[141] **David Rees:** Just on the point that you raise, obviously, Japanese knotweed is something that is invasive. I'm assuming, therefore, irrespective of the rate that will be charged, there will still be specified sites at which you can actually dispose of knotweed, and not any site, effectively.

[142] **Ms Tully:** The treatment of knotweed, as I'm sure you know, is quite difficult. It's quite a stubborn plant, if you like. So, it'll often require chemical treatment, and, in doing that, that often will make it a hazardous material and, obviously, hazardous waste has to be treated appropriately and go to the appropriate site.

[143] **Ms Cordingley:** A point to make here is we're not making any changes to the environmental regime at all. This is just about taxing disposals that have gone to a landfill site.

[144] **David Rees:** I appreciate that, but it is about which site.

[145] **Ms Cordingley:** Yes, but, again, this Bill won't change the situation in terms of which site. It's just saying what the tax position will be.

[146] **Simon Thomas:** Mike Hedges.

[147] **Mike Hedges:** Can I turn to unauthorised disposal? There are some areas where, for reasons I don't fully understand, locks undergo catastrophic failure at fairly regular intervals, and lots of refuse and rubbish is dumped on somebody's land over which they have no control. There are also people who market their land for disposal of waste and allow fairly substantial amounts to be dumped there. Am I right in saying that that second group are the people that this Act is aimed at—those who are saying, 'You can dump here cheaper than you can dump anywhere else, because you don't have to pay any tax'? There are a number of sites—I don't know whether your 60 illegal waste sites include all of those—but there are sites that are marketed: 'You can bring anything you like here, and you won't have to pay any tax on it.' Can I urge you to give very serious consideration to a higher rate? I think that one of the things, not just in terms of tax, but in terms of environmental policy, that are really important is to stop sites being set up in places that are totally unsuited and would never get planning permission if they applied for it, but are being used by people to dump waste and that has a serious effect on the community around them.

[148] **Mark Drakeford:** Clearly, Chair, if people are allowing waste to be

dumped without an environmental permit where a permit ought to be in place, then they will be captured by these new tax powers.

[149] **Simon Thomas:** Diolch am hynny. Jest ar y pwynt yna, achos rwy'n credu bod diddordeb gan y pwyllgor oherwydd dyma'r elfen newydd yn y Bil sy'n wahanol i'r system sydd gennym ni nawr. Reit ar gychwyn y drafodaeth yma, roeddech chi'n ddigon clir nad pwrpas o gynyddu incwm neu godi incwm o'r tipio anghyfreithlon oedd gan hwn, achos byddai hynny'n *perverse*, oni fyddai fe, i geisio gwneud hynny. Ond mae'n wir i ddweud bod gennym ni system eisoes lle mae Cyfoeth Naturiol Cymru yn nabod rhai o'r safleoedd yma. Mae Cyfoeth Naturiol Cymru yn gallu mynd â phobl i'r llys ac maen nhw'n gallu wynebu cosbau llys eithaf hallt am ganiatáu i hyn ddigwydd neu, yn wir, ei wneud e eu hunain. Beth sy'n gwneud i chi deimlo bod treth, a hyd yn oed treth ar lefel uwch, yn mynd i fod yn arf defnyddiol yn hyn o beth pan nad yw'r system bresennol yn gweithio bob tro a phan rydym ni wedi gweld tipio anghyfreithlon, a dweud y gwir, hyd yn oed o dan y system bresennol, yn cynyddu, lle byddech chi'n disgwyl, pe bai cosbau ariannol yn gweithio, y byddai fe'n gostwng yn hytrach na chynyddu?

[150] **Mark Drakeford:** Wel, un peth arall yw'r pethau yn y Bil yma—un peth arall i drïo ail-greu'r lefel o risg rhwng gwneud pethau mewn un ffordd ac nid ffordd arall. Nid yw'r Bil

**Simon Thomas:** Thanks for that. Just on that point, because I think the committee has an interest because this is the new element in the Bill that is different to the system that we have at present. At the outset of the discussion, you were quite clear that the purpose of the Bill is not to raise income from fly-tipping, because that would be perverse, wouldn't it, to try and do that. But it is true to say that we have a system already where NRW does know about some of these sites, and NRW can take people to court, and they can face quite severe penalties in court for allowing this to happen or for doing it themselves. What makes you feel that a tax, and even a higher level tax, is going to be a useful weapon in this sense when the current system doesn't work every time and when we've seen this fly-tipping, even under the current system, increasing when you'd expect, if financial penalties worked, it would reduce rather than increase?

**Mark Drakeford:** Well, this Bill is just one other thing try to recreate the level of risk between doing things one way or in a different way. This Bill is not going to change things

yma'n mynd i newid y pethau i gyd, ond gyda'r pethau eraill mae NRW yn gallu eu gwneud—y pwerau sydd ganddyn nhw ar hyn o bryd—mae e jest yn un help arall i drïo mynd ar ôl pobl sy'n gwneud pethau fel hyn. fundamentally, but with the other things that NRW can do with the powers they currently have, it's just something else to help them to try and go after people who are doing this type of thing.

[151] Mae profiadau gennym ni yn Iwerddon, ble maen nhw wedi gwneud hyn yn barod. Yn yr Alban, maen nhw wedi gwneud yr un peth, ond nid ydyn nhw wedi defnyddio'r pwerau yma eto achos maent yn newydd yn yr Alban hefyd. Ond jest i fynd ar ôl y ddadl y maen nhw wedi ei chael yn Iwerddon a'r Alban, rydym ni'n meddwl bod y pwerau yn y Bil yma jest yn mynd i helpu newid y sefyllfa lle mae pobl yn meddwl, 'Os ydym ni'n mynd â'r gwastraff yna, nid oes treth o gwbl.' So, jest treial newid y meddylfryd y tu ôl i beth mae pobl yn ei wneud. We do have some experience from what's happened in Ireland; they've done this already. In Scotland, they've done the same thing, but they haven't used those powers yet because they're new powers in Scotland, too. But just looking at the debate that they've had in Ireland and in Scotland, we think that the powers in this Bill are going to help change the situation where people think, 'If we take waste here, there'll be no tax at all to pay.' But, really, we're just having to change people's mindset behind what they're doing.

11:00

[152] **Simon Thomas:** Ocê, diolch yn fawr. David Rees. **Simon Thomas:** Okay, thank you very much. David Rees.

[153] **David Rees:** Cabinet Secretary, you've obviously published the details of your landfill disposals tax community scheme this week, and I just want to clarify a couple of points, if that's okay. Could you perhaps describe your thinking as to how you will approach this, and how it differs from the current schemes? I admit that some of my communities have benefitted from the current scheme, so can you just go into the differences you're proposing and how it will work?

[154] **Mark Drakeford:** Thank you very much, David. So, Chair, there are a series of general reasons why we feel that providing assistance to those communities who live near landfill sites is best pursued through this method rather than replicating the method that is currently used in England and

Wales. And then there are some very specific changes. So, the general background to this is that the income from this tax is falling, and therefore the amount of money available for community use is falling as well. So, we wanted to try and design a scheme that was as simple and direct as possible and that minimised administration costs—the costs of administering the current scheme are that just over 10 per cent of the income it gets goes into administration. We think we can reduce that significantly, and that will squeeze more money out of a declining pot into community use. We think that doing it in this way will make it more flexible to deal with falling revenue streams, and that it will be a more stable arrangement than the current one, which relied on voluntary contributions from operators. Obviously, as their incomes fall, so either their ability or willingness to make voluntary contributions gets squeezed as well.

[155] So, those are the general reasons why we think a grant-based scheme using the 2006 Act [correction: the Government of Wales Act 2006] powers is preferable as a way of taking this forward, and we believe that stakeholders in Wales agree with us on that. We will take the opportunity to amend the scheme. In this document you see the results of the discussions that have happened so far. Mike Hedges has raised a number of times with me, and on the floor of the Assembly, the current 10-mile radius rule, and you will see that what we propose here is that the scheme in Wales would change in two ways. We would reduce the radius to 5 miles, but we would make that 5-mile radius available to waste transfer stations that are dealing with a minimum of 200,000 tonnes {correction: 2,000 tonnes} of waste annually. At the moment, waste transfer stations are not covered by the scheme at all. Living near a waste transfer station creates traffic, noise, smell—all the environmental impacts that a full landfill site can create. They get no help from the current scheme. They will from our scheme, provided they are within that 5-mile radius.

[156] **David Rees:** Thank you for that. I appreciate the 5-mile radius is there. I think it's critical because when you put 10 miles onto it, it's surprising how wide that is, actually. It's 10 miles as the crow flies, not 10 miles on the road, of course.

[157] **Mark Drakeford:** Yes, and we provide a series of maps with the document that show where those stations are, and what the difference would be.

[158] **David Rees:** I didn't see whether the waste transfer stations were



there, though.

[159] **Ms Tully:** Page 11.

[160] **Mark Drakeford:** There we are.

[161] **David Rees:** Thank you very much. You said it's the intention to simplify it. But will it simplify it? Because I understand you're just going to go out to a procurement exercise to get a distributing body, as such. I'm assuming therefore that the distributing body will cover the whole of Wales.

[162] **Mark Drakeford:** Yes.

[163] **David Rees:** Will it simplify it, because, obviously, then you can have different parts of Wales applying to a single body that may actually have no linkage to particular communities?

[164] **Mark Drakeford:** Well, the reason for wanting a single body, Chair, is that there will be a simple, one-step relationship here—the current system is a lot more complicated than that—where, if you are a community group and you have a scheme that meets one of the three main purposes that we set out for the drive behind the use of the money in the scheme, then you will go straight to that awarding body and they will make the decision. There'll be no intermediaries between you and it. We think there are a number of awarding bodies that already offer it on a Wales-wide basis, and which have very good coverage in all parts of Wales. We think it's possible to bring those two things together in a way that is both effective and simpler, particularly simpler for the small groups that very often get awarded grants from this fund.

[165] **Ms Tully:** Do you want me to add to that as well?

[166] **Mark Drakeford:** Of course.

[167] **Ms Tully:** One of the things as well, when we've been doing the stakeholder engagement, is that it's been very much around the voice of the community, and also the voice of the operators as well in having a say in what's funded. That's something we're thinking about very carefully in the relationship that the distributive body will have with communities, and will have with operators as well. So, that's something we're looking at as well.

[168] **David Rees:** Can I assume that that the distributive body will actually look at the actual areas and the funding from each site, and therefore that will be the allocation for those communities? Or will it be distributed for the whole of Wales?

[169] **Ms Tully:** I think we need to look at how it can be distributed in a fair and proportionate way, really. It's about good projects coming forward as well that meet the principles of the scheme, and the aims of the scheme as well.

[170] **Mark Drakeford:** But there will be a single fund, Chair, and it will not be dependent on the amount of contribution made by specific landfill sites. It will be a top-sliced fund from the revenue that this tax will generate in Wales. So, in a way, I think that provides a different level of fairness than being dependent upon the voluntary contribution of the particular landfill operator that you happen to live nearby. We will have a single sum of money top-sliced, and then there will be a set of rules that will be fair and obvious to everybody who hopes to benefit.

[171] **Simon Thomas:** Nid yw'n rhan o'r Bil, wrth gwrs—y broses yma—ond mae'n siŵr eich bod yn derbyn ei bod yn mynd law yn llaw â'r Bil. **Simon Thomas:** It's not part of the Bill, of course—this process—but I'm sure you'll accept that it does go hand in hand with the Bill.

[172] **Mark Drakeford:** Wrth gwrs. **Mark Drakeford:** Of course.

[173] **Simon Thomas:** Oherwydd dyna'r ffordd y mae pobl yn arfer delio â'r treth tirlenwi. **Simon Thomas:** Because that's how people are used to dealing with landfill tax.

[174] **Mark Drakeford:** Wrth gwrs. **Mark Drakeford:** Of course.

[175] **Simon Thomas:** Jest er mwyn eglurder, unwaith y mae'r *top-slice* wedi digwydd ac mae yna gronfa ac mae yna gorff allanol sydd yn gyfrifol am ddsbarthu'r gronfa, pwy o fewn y Llywodraeth a fydd yn gyfrifol, fel Gweinidog, am oruchwylio hynny? Ai gyda chi fel y Gweinidog cyllid a llywodraeth leol, neu a fydd yn cael ei **Simon Thomas:** Just for clarity, then, once the top-slice has happened and there is a fund available, and an external body is responsible for distributing that fund, who, as Minister within the Government, will be responsible for overseeing that? Will it be your responsibility as Minister for finance and local

drosglwyddo yn fwy at yr government, or will it be with the Ysgrifennydd Cabinet dros newid climate change Cabinet Secretary? hinsawdd, ynni ac ati? Oherwydd mae Because there's a bit of duality here, yna ddeuliaeth yn fan hyn, onid oes? isn't there? The purpose, of course, is Mae pwrpas y dreth yn un an environmental one, but, of course, amgylcheddol ond, wrth gwrs, o ran in relation to tax it's your cyfundrefn drethiannol mae'n responsibility. perthyn i chi.

[176] **Mark Drakeford:** Nid wyf yn **Mark Drakeford:** I don't think I'm meddwl fy mod i'n gyfrifol am y responsible for the current fund. I gronfa bresennol. Nid wyf wedi dim haven't seen anything about that. byd.

[177] **Simon Thomas:** Na, nid **Simon Thomas:** No, I didn't think so. oeddwn yn meddwl eich bod chi. [*Laughter.*] [*Chwerthin.*]

[178] **Mark Drakeford:** So, siŵr o **Mark Drakeford:** So, probably, Lesley fod, bydd Lesley Griffiths yn gyfrifol Griffiths will be responsible for the am y cynllun, ond bydd Sarah yn scheme, but Sarah will know. gwybod.

[179] **Ms Tully:** Yes, that's something that we're still looking at in terms of the governance. The governance of the scheme will be the responsibility of the Welsh Government, and it will work with the distributive body. It will be, I imagine, a close collaboration between our waste colleagues and, obviously, the Treasury as well, because, obviously, it's the revenue that's coming from landfill disposals tax.

[180] **Simon Thomas:** So, would you be producing a scheme or a publication, in some sense, for the Assembly, but also the public, to understand how the governance arrangements will be working within Government?

[181] **Mark Drakeford:** We will, Chair. I mean, the document that we published earlier this week was part of what you said earlier about the way that these two things will run hand in hand as far as people who are interested in this are concerned. When the details are then finalised, we will publish a more definitive document so that people understand the purposes that they're able to apply for, how that application process will work, and

where responsibility at the Welsh Government will rest for it.

[182] **Simon Thomas:** Okay. Diolch yn fawr.

[183] **Ms Tully:** Can I add to that as well? Just to say that we would expect an annual report to be produced as well.

[184] **Simon Thomas:** Yes. Nick Ramsay.

[185] **Nick Ramsay:** That funding that comes from the overall amount collected that then goes to the community schemes, is that going to be a set proportion of that overall funding? I'm just thinking that over time, hopefully, as the landfill tax works and landfill reduces—does that mean that the funding available for the community schemes would also reduce, or would you take a bigger proportion of the overall revenue to keep it more stable?

[186] **Mark Drakeford:** Well, Chair, I imagine that would be a choice for a future Government. The message I have had to give to those organisations that have benefitted from the scheme so far is that the amount available will decline alongside the tax. That's part of the reason why we're trying to design it in this more proportionate and, sort of, modest way, so that more of the money does get directly to the benefitting organisations, and that there's more flexibility for how we can manage that in future. But they do know—these are organisations that are all firmly in favour of the policy. Their raison d'être is to help us on the environmental side, and they understand that one of the consequences of that is that as they and we succeed, there will be less money for them.

[187] **Nick Ramsay:** I'm just anticipating a future situation where—once organisations have had money to start with, they're very pleased to receive the money, but then as time goes on, they kind of get used to it, don't they? And if that gives, then something else is going to—.

[188] **Mark Drakeford:** You're right, there is a dilemma.

[189] **Simon Thomas:** Diolch. Mae **Simon Thomas:** Thank you. There's yna un maes o hyd nad ydym wedi one area, of course, that we haven't trafod, wrth gwrs, sef yr un hynny o discussed yet, which is the one of le mae trosglwyddo gwastraff dros y looking at transfers of waste across ffin. Pob tro rydym yn edrych ar the border. Every time we look at ddatganoli trethi, rydym ni'n gorfod devolving taxes, we always have to

ystyried sut mae'n effeithio, o ran cael cyfraddau gwahanol yng Nghymru a Lloegr yn benodol. Nid wyf yn gwybod os ydych chi wedi gweld y map mae'r pwyllgor wedi'i weld heddiw, sef y map sy'n amlinellu lle mae'r gwahanol safleoedd tirlenwi o fewn rhyw 25 milltir i'w gilydd, ac mae'n amlwg bod yna rai sydd yn cystadlu, os mai dyna'r gair iawn. Ac yn sicr, yng ngogledd-ddwyrain Cymru—sir Fflint a swydd Gaer ac ati—mae yna glwstwr o safleoedd. Beth yw eich teimlad bellach, felly, ynglŷn â sut mae delio â hynny, yn enwedig os bydd yna ymgais i amrywio trethi yng Nghymru?

[190] **Mark Drakeford:** Wel, y ffordd gyntaf, rydw i'n meddwl, Gadeirydd, yw jest i fod yn ymwybodol am y broblem. Rydw i wedi ei weld—mae'r map gyda fi yn fan hyn sy'n dangos lle mae'r safleoedd. So, i fod yn ymwybodol i ddechrau, a jest i gytuno â chi—nid ydym ni eisiau gweld safleoedd yn cystadlu â'i gilydd i drio tynnu mwy neu lai o wastraff. Rydym ni'n gwybod—. Rydym ni wedi gweld y ffigurau sy'n dangos, o dynnu'r dreth i lawr—mae tua £10 i bob tunnell yn cael effaith ar le mae'r gwastraff yn mynd.

look at how it affects Wales and England if you have different rates in both countries. I don't know if you've seen the map that the committee has seen today, which is a map that outlines where the different landfill sites are within some 25 miles of each other; clearly, there are some that are competing with each other, if that's the right word. And certainly, in north-east Wales—Flintshire and Cheshire, for example—around there, there is a cluster of sites. What are your feelings now, therefore, about how we should deal with that, especially if there is an attempt to vary taxes in Wales?

**Mark Drakeford:** Well, the first way, I think, Chair, is to be aware of the problem. I have seen the map—I have the map here that shows where the sites are. So, it's to be aware of the outset, and just to agree with you—we don't want to see sites competing with each other to try to attract more or less waste. We know—. We've seen the figures that show that, by reducing the tax—about £10 for every tonne will have an effect on where the waste goes.

[191] I will set the rates in the autumn of next year, and I'll do that in the circumstances that we are in at the time. But I do note, as I've noted with you before, that Scotland, which has a much less porous pattern than we do here, was aware of this issue as well, and in the first year, certainly, set identical rates to those that are there in England. So, when I come to make that decision, the need to avoid waste being carried additional distances, with all

the environmental consequences of that, to get a marginal tax advantage will certainly be an important strand in coming to that decision.

[192] **Simon Thomas:** Pa **Simon Thomas:** What discussions will drafodaethau a fydd gyda chi gyda'r you be having with the Westminster Llywodraeth yn San Steffan o gwmpas Government around setting the rates pennu'r graddfeydd yng Nghymru, i in Wales, to understand, for example, ddeall, er enghraifft, nad oes bwriad that they have no intention to raise ganddyn nhw i godi cyfraddau yn rates very quickly? Everybody's sydyn iawn? Mae pawb yn trafod taw discussing that Wales is making Cymru sydd yn newid, ond yn aml changes, but very often the decisions iawn, penderfyniad yn San Steffan in Westminster drive things. sy'n gyrru'r broses yma.

[193] **Mark Drakeford:** Wrth gwrs. **Mark Drakeford:** Of course. Well, Wel, fe wnaeth y Canghellor, nôl yn back in 2014, the Chancellor did 2014, gadarnhau y bydd cyfnod o confirm that there will be a four-year bedair blynedd lle bydd y dreth yn period where the tax will rise just codi jest gyda'r RPI, felly rydym ni'n with the RPI, so we know what they're gwybod beth maen nhw'n gwneud ar doing at present. hyn o bryd.

[194] One of the reasons why we take the provisional affirmative procedure in this Bill, though, is to allow Welsh Ministers to move quickly should a decision on the other side of our border have an impact on the flow of landfill, or material to landfill, either in Wales or in England. So, we've got the mechanisms in the Bill to be able to respond to the issue, should it arise. Our discussions, or colleagues' discussions, really, with those who work in this area in England suggest that they are at least as aware as we are of not acting in a way that would have unintended perverse consequences.

11:15

[195] **Simon Thomas:** Diolch. Rydych **Simon Thomas:** Thank you. You've newydd grybwyll y weithdrefn just mentioned the provisional gadarnhaol dros dro, fel mae'n cael affirmative procedure, as it's called, ei alw, ac mae'n amlwg fod hwn yn and it's obvious that that's being cael ei gyflwyno yn y Bil yma. Mae presented in this Bill. It's also in the hefyd yn y Bil arall, y Bil treth stamp, other Bill, of course, the stamp duty fel mae'n cael ei alw. A ydy hwn Bill, as we call it. Is this now a tax bellach, felly, yn arf trethu y mae'r tool that the Government is choosing

Llywodraeth yn dewis ei ddefnyddio? to use? As we, possibly, look at  
 Wrth i ni o bosibl edrych ar further tax devolution, as some of us  
 ddatganoli trethi pellach, fel y byddai would like to see, have you  
 rhai ohonom ni'n gobeithio ei weld, a acknowledged that this is the way  
 ydych chi wedi cydnabod hwn nawr you would like to deal with rates  
 fel y ffordd y byddech chi am ddelio â within a system of devolved taxes?  
 chyfraddau tu fewn i'r system trethi  
 datganoledig?

[196] **Mark Drakeford:** Chair, we lack two devices that the way the system operates in Westminster allows to Ministers there. They have an annual finance Bill that they can use for these purposes and they have powers under an Act of 1968—sorry, the title of it has just—

[197] **Ms Cordingley:** The Provisional Collection of Taxes Act 1968.

[198] **Mark Drakeford:** —the Provisional Collection of Taxes Act, which allows them to do exactly what the—

[199] **Simon Thomas:** On the day, basically.

[200] **Mark Drakeford:** On the day—they can make a decision and it comes into force on the day. We don't have access to either of those means. The provisional affirmative procedure is the way that Scotland have squared that circle. I don't think we would necessarily want to draw long-term conclusions from the practical way in which we have resolved that issue in these two relatively small taxes in future. There may be a need for a different and more system-wide way of thinking, but for now we think that this will be an effective way of responding to some of the circumstances you outlined earlier, and we're comforted by the fact that colleagues in Scotland came to the same conclusion. They're operating their ability to make decisions that can take effect immediately, but can then be reviewed by the Parliament. They think that's a sensible course of action as well.

[201] **Simon Thomas:** It could be used for income tax, of course, but we won't get ahead of the Wales Bill.

[202] **Mark Drakeford:** We're not there yet.

[203] **Simon Thomas:** Diolch yn fawr.

[204] **David Rees:** Just one final question. Obviously, we've only just finished the report on Stage 1 of the land transaction tax, in which we had GAARs and TAARs, in the sense of the anti-avoidance rules. You haven't mentioned much on that, but you've got reliefs, you've got exemptions and you've got penalties. Are you indicating that the generic anti-avoidance rules will be applicable here and you don't need anything more specific or targeted?

[205] **Mark Drakeford:** Thank you, Chair. That's an important question, I think. You will remember that the LTTA amends the TCMA—the tax collection and management Act—as far as the GAAR is concerned, and the GAAR is then applicable to this tax as it is to the equivalent of stamp duty land tax. We don't take a general or specific set of TAARs in this Bill, but the way that the penalties—

[206] **Ms Cordingley:** We've been aware of the potential for avoidance in drawing up the provisions. Although there are no TAARs, we would point to two examples in the Bill where we've had the potential for abuse and avoidance in mind. So, on the water discounting provisions, we've said that people should only be allowed to mix water up to the point that is necessary—so kind of trying to close the potential for abuse there. And in the mixed loads requirements, when we're talking about a mixture of standard and lower rate materials, we've said that they can't mix those loads if the primary or main purpose behind that is tax avoidance. So, we've kind of made those links and applied the GAAR through LTTA, but there's no TAARs in the way that you see in the stamp duty.

[207] **Mark Drakeford:** But those are TAAR-like.

[208] **Simon Thomas:** Well, certainly the latter one is, if it's the primary or main purpose—that is like the avoidance tool that we've seen in the other Bill.

[209] **Mark Drakeford:** Yes.

[210] **Simon Thomas:** A oes unrhyw gwestiynau pellach? Pawb yn hapus, felly. Os felly, a gaf i ddiolch i'r Ysgrifennydd Cabinet a'r swyddogion eto, dymunwn Nadolig llawen iddyn nhw, gan edrych ymlaen yn y  
**Simon Thomas:** Are there any further questions? Everyone is content, therefore. Therefore, could I thank the Cabinet Secretary and the officials for coming in this morning? Once again, we wish them a merry Christmas and we look forward, in



flwyddyn newydd, gobeithio, i edrych the new year, to look at the fiscal  
ar y fframwaith gyllido gyda chi. framework with you.

[211] **Mark Drakeford:** Diolch.

11:19

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o  
Weddill y Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public  
from the Remainder of the Meeting**

*Cynnig:*

*Motion:*

*bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi).*

*that the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.*

*Motion moved.*

[212] **Simon Thomas:** A ydy'r pwyllgor yn hapus i fynd mewn i gyfnod preifat o dan Reol Sefydlog 17.42? Pawb yn hapus, felly. Os felly, fe awn ni i mewn i gyfarfod preifat. Diolch yn fawr iawn.

**Simon Thomas:** Is the committee content to go into a private session under Standing Order 17.42? Everyone content, therefore. If so, we'll go into private session. Thank you very much.

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11:20.*

*The public part of the meeting ended at 11:20.*