



Legislative Assembly of Alberta

The 31st Legislature
First Session

Select Special
Conflicts of Interest Act
Review Committee

Friday, March 1, 2024
9 a.m.

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Select Special Conflicts of Interest Act Review Committee

Getson, Shane C., Lac Ste. Anne-Parkland (UC), Chair
Long, Martin M., West Yellowhead (UC), Deputy Chair

Arcand-Paul, Brooks, Edmonton-West Henday (NDP)
Ellingson, Court, Calgary-Foothills (NDP)
Ganley, Kathleen T., Calgary-Mountain View (NDP)
Hunter, Grant R., Taber-Warner (UC)
Ip, Nathan, Edmonton-South West (NDP)
Lovely, Jacqueline, Camrose (UC)
Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UC)
Wright, Justin, Cypress-Medicine Hat (UC)

Also in Attendance

Sabir, Irfan, Calgary-Bhullar-McCall (NDP)

Office of the Ethics Commissioner Participants

Marguerite Trussler Ethics Commissioner

Support Staff

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Teri Cherkewich	Law Clerk
Trafton Koenig	Senior Parliamentary Counsel
Philip Massolin	Clerk Assistant and Director of House Services
Nancy Robert	Clerk of <i>Journals</i> and Committees
Abdul Bhurgri	Research Officer
Christina Williamson	Research Officer
Warren Huffman	Committee Clerk
Jody Rempel	Committee Clerk
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Standing Committee on Conflicts of Interest Act Review

Participant

Ministry of Justice

Mark Ammann, Barrister and Solicitor, Justice and Public Safety and Emergency Services Legal Team

9 a.m.

Friday, March 1, 2024

[Mr. Getson in the chair]

The Chair: Hi, folks. It is officially 9 o'clock according to the clock here in front of me. I'd like to call the meeting to order, the Select Special Conflicts of Interest Act Review Committee meeting. Welcome to everyone who's in attendance in the audience and online who's dialing in.

I'm the MLA for Lac Ste. Anne-Parkland, Shane Getson, and also the chair of the committee. I'd like to ask the members that are joining us in the room at the table to introduce themselves, and we'll start that, going to my right.

Mr. Long: Good morning, folks. I am Martin Long, the MLA for West Yellowhead.

Mr. Wright: Morning, everyone. My name is Justin Wright. I am the MLA for the charming constituency of Cypress-Medicine Hat.

Mr. Rowswell: I am MLA Garth Rowswell, Vermilion-Lloydminster-Wainwright.

Ms Lovely: Jackie Lovely, Camrose constituency.

Mr. Ellingson: Going around the table? Hi. I'm Court Ellingson. I am the MLA for Calgary-Foothills. Nothing to do with the county of Foothills or Foothills hospital.

Mr. Koenig: Good morning. I'm Trafton Koenig with the Parliamentary Counsel office.

Ms Steenbergen: Good morning. I'm Christina Steenbergen from LAO communications.

Dr. Williamson: Good morning. I'm Christina Williamson, research officer.

Ms Robert: Good morning. Nancy Robert, clerk of *Journals* and committees.

Mr. Roth: Good morning. Aaron Roth, committee clerk.

The Chair: Perfect. We'll go online for those joining us. I feel like "Mirror, mirror on the wall" now.

Mr. Hunter: Good morning, Mr. Chair. Grant Hunter, MLA for Taber-Warner.

Member Arcand-Paul: Good morning, Mr. Chair. Brooks Arcand-Paul, MLA for Edmonton-West Henday.

The Chair: Perfect. We have audio and video working. This is a beautiful thing this morning. We're off to the races, folks. Anyone else online? I don't see anyone else.

Perfect. I don't have any substitutions for today unless – well, actually, not to embarrass a member, because I recently came in sideways myself due to traffic, but we have one more member at the table. We'll allow our gentleman to get settled and then introduce himself. Go ahead, MLA Ip.

Mr. Ip: Hello, everyone. Sorry for being slightly late. Nathan Ip, MLA, Edmonton-South West.

The Chair: Perfect. All aboard who's coming aboard at this point. We're ready to go.

A few housekeeping items to address before we turn to the business at hand. *Hansard* is actually taking care of us today in a

very kind way. They're managing our microphones for us. Committee proceedings are live streamed on the Internet and broadcast on Assembly TV. The audio- and videostream and the transcripts of the meeting can be accessed via the Legislative Assembly website. Those participating by videoconference are encouraged to please turn your camera on while speaking and mute your microphone while not speaking. Members participating virtually who wish to be placed on the speakers list are asked to e-mail or message the committee clerk, and members in the room are asked to please signal the chair. The chair needs to see a signal. I am not a mind reader. There are a lot of things I am, and that's not one of them. Please set your cellphones and other devices to silent during the meeting.

We just had another member join us. MLA Sabir, can you just introduce yourself for the record please, sir?

Mr. Sabir: Yeah. Thank you, Chair. Irfan Sabir, MLA, Calgary-Bhullar-McCall.

The Chair: Perfect. Thank you, sir.

At this point we're at the lovely time where we can approve the agenda. Are there any changes or additions that are required for the agenda? If not, would someone like to make that first motion of the day to approve the agenda? MLA Rowswell. Perfect. Away we go. So moved. Any discussion? All in favour, please say aye. Any opposed? Online, all in favour? Motion carried.

Approval of minutes. Next we have the draft minutes of our January 15, 2024, meeting. Are there any errors or omissions to note? If not, would a member like to make a motion to approve those meeting minutes? MLA Lovely. Any discussion? All in favour? Opposed? Online, all in favour? Perfect. Motion carried.

We're just ripping right along here, guys. This is great.

The review of the Conflicts of Interest Act, technical briefings. Hon. members, at our last meeting, on January 15, the committee invited the Ministry of Justice and the office the Ethics Commissioner to provide a technical briefing on the Conflicts of Interest Act. Again, folks, there are stakeholders. Here is where it gets a little bit goofy sometimes: the officers that are here today are also stakeholders in some of these. But today it's a technical briefing, and they're here in that capacity, so our conversations will be germane to that.

The Ministry of Justice. At this time I'd like to turn the floor over to Mr. Mark Ammann from the Ministry of Justice. You have up to 20 minutes for your technical briefing and to introduce yourself. The gentleman to my left has a new timer here; he's just itching to start and try it out. So if there are any technical issues along the line, sir, we might have to intervene. But this is like a kid before Christmas today.

With that, gentlemen, start your engines. Thank you. It's over to you, sir.

Mr. Ammann: Understood. I should have brought my stopwatch along. Good morning, everyone. Oh, it's right in front of me. That's perfect. Good morning, everyone. As mentioned, my name is Mark Ammann, and I'm here on behalf of the Department of Justice. Thank you for the opportunity to provide a technical briefing on the Conflicts of Interest Act. I plan to provide an outline of the act, and the Ethics Commissioner will also be presenting. I understand there'll be an opportunity for technical questions after that. The act was most recently amended last fall, so I'll certainly pay attention to those amendments when I reach them.

Broadly speaking, the act applies to four groups: Members of the Legislative Assembly, the Executive Council, the Premier's and ministers' staff, as well as select staff at public agencies. I'll discuss

each group in turn, though I'll note that some of the restrictions are applicable to more than one group, and perhaps in the interest of time I'll kind of identify that.

Part 2 – this is sections 2 to 10 – sets out the member obligations of MLAs. Broadly speaking, members cannot take part in a decision if it would further the private interest of the member themselves, their minor or adult child, or a person directly associated with the member. Now, the meaning of “directly associated” is in the interpretation section itself. It includes a spouse or adult interdependent partner, a for-profit corporation, a private corporation in which the member owns shares, a partnership where either the member or the corporation directly associated with the member is a partner, and a person or group of persons acting with the express or implied consent of the member.

Where they're involved in a matter in which the member has a private interest, the expectation is that the member will declare that interest and withdraw without voting or participating. Members also breach the act if they attempt to further their own private interest by using the powers of their office to influence the decision of the Crown or communicating using insider information not available to the public in the course of the member's duty.

Section 6 prohibits members from being concurrently employed by the Crown right of Alberta, including provincial agencies; the Crown right of Canada; and other offices set out in a schedule, which would include, for example, university boards of governors. I would note, however, that a member does not breach the section if they receive no remuneration aside from reasonable travel and living expenses associated with that role.

Section 7 establishes that members, their spouse, partner, minor or adult child can't receive a fee, gift, or other benefit that's connected directly or indirectly with the member's office from someone other than the Crown. Now, there are exceptions to this general rule. First, the prohibition doesn't apply to nonmonetary gifts or benefits accepted by the member, a spouse, partner, minor, child, et cetera if the gift is from the member's political party, a constituency association, a charitable organization, or a Canadian government, whether that be federal, provincial, territorial, or municipal.

The prohibition against accepting gifts also does not apply where gifts are accepted as an incident of protocol or the social obligations of the member's office. And of note here: last fall section 7 was amended to enact some different rules. Under this part members can accept tangible gifts, fees, nonmonetary benefits, nonmonetary gifts if the monetary value does not exceed the prescribed amount in the regulation. Pursuant to the members' gifts and benefits regulation the prescribed amount there is \$500 right now. Under the act it treats tickets and invitations to events differently, so where the benefit is tickets or an invitation to an event or fee waiver associated with a conference, for example, or perhaps reasonable travel costs, a member may accept the invitation provided they follow the rules set out in the members' gifts and benefits regulation.

Now, under section 2 of that regulation those rules are as follows. You can accept and attend an event attendance valued at \$250 or less with no further reporting. Where the value is more than \$250 but equal to or less than \$1,000, the member would need to record key details associated with that event. Now, in terms of the key details, those are listed in section 2(5) of that regulation. They include, for example, the description of the event, the name of the person who provided the benefit, and the circumstances in which the ticket or invitation was given or accepted. These benefits, as discussed later, will need to be reported in an annual report subject to section 12. Now, where the value is over \$1,000, the MLA would also need to provide these prescribed key details to the Ethics Commissioner within 60 days of accepting the invitation to the

event. In addition to this advanced notice, of course, these benefits would still need to be reported pursuant to section 12.

When calculating these values, the MLA would need to aggregate all benefits given from the same source in respect of the same event. They would, however, consider benefits accepted on their own behalf separately from benefits accepted on behalf of other individuals.

I'd note as well that if the other provisions in section 7 don't apply, section 7(3) of the act does allow the member to apply to the commissioner in order to request approval to accept and retain a benefit that would not otherwise be allowed. So in those situations, the commissioner would ultimately decide that and would be able to add conditions to the approval or would be able to identify steps to be taken if the approval was not allowed.

9:10

Section 7.1 deals with noncommercial flights. As a general rule members are prohibited from taking noncommercial aircraft, but, as with gifts, the section is subject to exceptions such as where the travel is required for the performance of the member's duty, where exceptional circumstances warrant the travel, or the commissioner has provided advanced approval in respect of the travel. Now, even if the noncommercial travel is permitted, it would still need to be reported to the commissioner within 30 days of accepting the travel offer.

Under sections 8 and 9 members, spouses, direct associates cannot accept various specified contracts to receive money from the Crown – just by way of example, borrowing money from the ATB, selling lands to the Crown, or constructing public works – but a member does not breach the act where the commissioner is of the view that the contracts do not constitute a conflict between the contracting party and the public interest or would find that the contract itself is trivial in nature. That covers off part 2.

Moving into part 3, this is sections 11 and 19. This is dealing with financial information the members need to file with the Ethics Commissioner, including anything specified in the act. The commissioner is going to discuss this part in greater detail. I'll move through this, but before moving on, I wanted to note that there was a change last fall here as well. Section 12 was amended to establish that members must report annual benefits over a prescribed threshold in the regulation. The threshold was previously in the act and, again, pursuant to the members' gifts and benefits regulation the threshold is currently set at \$250.

Now, moving on to part 4, just by way of structure part 4 is actually made up of several parts, 4 to 4.3, and just for clarification parts 4.1 and 4.2 were previously 6 and 6.1 respectively. These were moved up following a reorganization, and that's why, just if you look at the table of contents, the act moves from part 5 directly to part 7. There's nothing missing per se; it's just reorganized to keep similar provisions together.

So part 4 itself, 4 prime, as I'll call it, contains restrictions on members of Executive Council, including the Premier and the Leader of the Opposition. Section 20 establishes that ministers would breach the act if they own beneficial interests in publicly traded securities or engage in employment beyond the act's time limit on that. So by default the time limit by which securities need to be divested or employment needs to be ended is 60 days after their appointment although this time period could be extended by the Ethics Commissioner.

In terms of securities there are several ways in which securities could also be retained instead of being divested. First, the commissioner could approve retention of the securities if they're of the view that the interests are publicly traded and that a corporation in which the minister owns securities would be unlikely to be

affected by decisions of the Alberta government or if the minister would sustain a financial loss if the securities were disposed of and the public interest, essentially, doesn't require that they be disposed. Additionally, securities could be placed in a blind trust, and just by way of what that is, a blind trust is where the minister is the settlor of the trust, gives the trustee sole power over investment decisions in respect of the portfolio, and agrees not to have any decision-making or knowledge of the trust in terms of what decision is being made. The trustee selected would need to have no relationship with the minister that would affect or appear to affect the trustee's discharge of their duties. Third, the commissioner can approve an arrangement similar to a blind trust to allow securities to be retained.

Section 21 also contains employment restrictions on current ministers, and that includes, for example, carrying out a business or engaging in the practice of a profession while one is a minister. Now, the commissioner may, again, allow concurrent employment if, prior to the expiration of the 60-day time limit, they would find that the activity would not create any conflict of interest.

Moving on to part 4.1, which is section 23.1, this deals with restrictions on former ministers after their time has ended in Executive Council. There are five in total; the first two take effect from the last day of appointment. So a former minister can't, within 12 months of their appointment ending, lobby any public office holder or act on a commercial basis on an ongoing matter in which the minister was directly involved while they were in office.

The third and fourth restrictions take effect from the last day the minister had a direct and significant official dealing with a department or provincial agency. So for 12 months from that period of time former ministers are prohibited from making representations on a contract with a department or agency or soliciting or accepting a contract from that department or agency.

And, fifth, a former minister who's had direct and significant official dealings with an organization or a board must wait 12 months from the date of the last dealings before accepting an offer of employment or appointment to that board.

Now, in all those cases former ministers are able to apply to the Ethics Commissioner and request that these periods of time are either reduced or waived. I want to note at this point as well that section 23.13 also establishes that ministers breach this part of the act if they knowingly award or approve a contract or give a benefit to a former minister, former staff of a minister's office, or former designated office holder under the Public Service Act.

Now, part 4.2 is moving in to the political staff. This deals with requirements for the Premier's and the ministers' staff. They do not include administrative support, though, in this definition. As with MLAs, staff covered by this part are prohibited from participating in decisions using their influence or communicating insider information to further their private interest. In this regard these restrictions are similar to the ones that had just previously been discussed.

These staff also have similar postemployment restrictions to former ministers. The one thing to note here is that section 23.7(6) makes clear that these staff are able to accept employment in a department of the public service or in a provincial agency in accordance with part 1 of the Public Service Act.

Additionally, the Premier's chief of staff in particular is subject to restrictions on securities, and those restrictions on securities are similar to those discussed in respect of ministers. Similarly, one could, you know, use a blind trust, for example, to retain holdings.

As a final note, these staff also are subject to a code of conduct, and this is established by the Lieutenant Governor in Council. Section 23.41(3) of the act makes clear that the contraventions of the code of conduct are also a breach of the act, and those have the

potential to result in disciplinary action for the offending staff member.

Part 4.3, getting to the end of the part 4s, applies to public agencies and subsidiaries of public agencies under the Alberta Public Agencies Governance Act, or APAGA, as people are probably familiar with, regional health authorities as well as any other bodies identified by the Lieutenant Governor in Council as public agencies for the purposes of this part. I want to note that the Lieutenant Governor in Council may also exempt public agencies as well as class of positions in public agencies from this part and specific obligations under these sections.

Broadly speaking, part 4.3 imposes several obligations on these agencies. First off, the agencies need to establish a code of conduct for staff and submit that to the commissioner for approval and, once approved, need to publish and implement that code of conduct. The act itself also sets out the key elements that need to be included in each code of conduct. These include, for example, prohibitions on using influence to further private interests, disclosure of real or apparent conflicts of interest where they're found, restrictions on the acceptance of gifts, as well as a process for receiving and investigating complaints.

Second, the act sets requirements for senior officials. These would be, for example, the chair of a public agency or the CEO of a public agency or another position designated as such by the regulation made by the Lieutenant Governor in Council. Senior officials have similar restrictions as members in respect of not furthering their private interests and not engaging in concurrent employment.

There's another class as well, the designated senior official, DSO for short, that are subject to additional restrictions. Those would include postemployment restrictions similar to former ministers or the Premier's and ministers' staff as well as restrictions on holdings that are similar to, again, ministers' and Premier's staff. In terms of where this is all found, the designation order regulation is what actually identifies designated officers and designated senior officials.

I note as well that the act is clear that designated senior officials are not prohibited from being appointed to a board of directors or a governing body of another public agency. Similar to former ministers' office and Premier's office, they're also permitted to accept employment with the department or a public agency following their time as a designated senior official.

Before turning things over to the commissioner, I wanted to note one final amendment that was made last fall, and this is section 25.1. Pursuant to 25.1 the commissioner must suspend investigations during general elections, and this suspension period begins when a writ is executed in respect of a general election, and it ends once election results have been finalized and a candidate has been declared successful in accordance to the Election Act.

Now, under section 25.1(5) the commissioner may continue an investigation that's been suspended if the person who requested the investigation asks them to do so or if the subject of the investigation asks that they do so. Now, in either case it would need to be within 30 days of the suspension end date. That's the period of time in which someone could request that an investigation continue.

Now, in the event that the commissioner self-initiated the investigation that was ultimately suspended, then it would ultimately be the commissioner who's deciding whether or not to continue the suspended investigation, but again it would be within 30 days of the suspension end period for that decision to happen.

That concludes sort of my run-through of the act. At this point I would propose turning the floor over to the commissioner to discuss their office, the disclosure provisions, and the investigations in part 5 as well as the administrative monetary penalty system. I know

that there are technical questions afterwards. Certainly, I'd be happy to stay around, and perhaps the commissioner and I could answer those together if that would come up.

The Chair: That would be absolutely wonderful if you'd do that, and thank you so much for having such a succinct presentation. I know the clerk is extremely happy because his timer worked. With that, we'll turn it over to the commissioner. Thank you, sir.

Whenever you're ready, his finger is ready to set this thing off. Go ahead, please. Thank you.

9:20

Ms Trussler: Thank you, Mr. Chair. I intend to limit my remarks today to a brief review of the more important sections of the act and the occasional mention of problem areas and what areas are working. I will not deal with any of the recommendations in our 59-page submission; that will be presented later in the process.

The main purpose of the act is to make sure legislators, political staff, deputy ministers, and chief executive officers of agencies, boards, and commissions do not . . .

The Chair: I hesitate to interrupt. I apologize. I've been advised that we need to make sure you introduce yourself. We all know who you are, but we have to get you to introduce yourself and the gentleman to your left as well, please, for the record.

Ms Trussler: Right. I'm Marguerite Trussler. I'm the Ethics Commissioner, and I have my general counsel, Josh de Groot, with me today.

Thank you.

The Chair: Perfect. Thank you, ma'am. Now we're good to go.

Ms Trussler: All right. I won't start right at the beginning. The main purpose of the act is to make sure that legislators, political staff, deputy ministers, the chief executive officers of agencies, boards, and commissions do not financially or otherwise benefit from their positions beyond government remuneration that they are paid.

I'm first going to deal with the furthering of interest sections, of which there are two, and some definitions. One is private interest. It's a definition, and it's problematic because it's defined in the negative. You have to start with any interest whatsoever and then exclude interests that are of a broad class, general application concerns, the salaries and benefits received by a member as a member, an interest that's trivial, and interest in a blind trust. The interpretation of these exclusions can be somewhat subjective. A private interest is usually a financial interest, but there is nothing to preclude other types of interest.

The next definition section is that of direct associates, which you've heard is a spouse, a spouse equivalent, a for-profit corporation where the member is a director or senior officer, a for-profit corporation where the member owns shares, a partnership, and someone acting with the consent of the member. Now, this section is quite straightforward. The only issue that we do have is sometimes those involving corporations.

In terms of the decision-making sections, the private-interest ones, it's section 2, and that section doesn't allow members to vote on matters that would further their, their direct associates', or a child's private interests. The section is very narrow, and it doesn't cover a considerable number of possible areas where there could be improper conduct.

Section 3 prohibits a member using the member's influence with respect to a government decision which would further a private interest of the member, a direct associate, or a member's minor

child. It also prohibits influencing a decision "to improperly further another person's private interest." An example of that could be a former business partner. Again, this section is so narrow that it's actually practically useless. Alberta is the only jurisdiction in Canada to limit this section to only government decisions. All other jurisdictions prohibit using the member's officer power to influence a decision of any other person.

I'll now move on to contracts and payments from the Crown, section 8. These provisions are quite complex, but basically we forbid contracts with the Crown subject to some exceptions. Issues arise with the provision prohibiting the borrowing of money from the Alberta Treasury Branches and the Agriculture Financial Services Corporation because many people, when they're elected, already have obligations to those two institutions. We've managed to work around it, but it is something that needs to be flagged.

And then section 9 forbids payments from the Crown. However, it excludes remuneration expenses as a member of the Assembly or if it's the type of payment anyone can receive, and that's sort of the payment of way back when Ralph Klein was Premier, there were Ralph bucks; everyone was entitled to get them. So that would be sort of an across-the-board payment that everybody in Alberta would get or even a very broad class.

Part 3 deals with disclosure. It requires a listing of all assets of a member no matter what their quality, so it also could include a contingent interest. It also applies to direct associates, as defined in the act. As you know, we have forms to do it because it provides consistency and then you don't forget things. Close to 300 people each year have to provide disclosure, and as a result, we group them into MLAs; political staff to the Premier and ministers; designated office holders, who are for the most part deputy ministers; and designated senior officials, who are the CEOs of the major boards, agencies, and commissions.

The provisions of the act for the various groups are scattered throughout the acts. For deputy ministers they're actually found in the Public Service Act. Each group files disclosure at different times of the year to spread out the workload and to ensure up-to-date information. Aside from those required sometimes being late or being a bit sloppy filling out the forms, the provisions actually work quite well.

Public disclosure statements are prepared for members only. They are housed at the office of the Legislative Assembly and also on our website. There's only a limited amount of information that's provided in the public disclosures. It's really bare minimum. However, all publicly traded securities over \$10,000 are listed, and real property is listed but not indicating where that property is. No addresses are provided.

There are special provisions for Executive Council. The first ones are in part 4. Members of cabinet cannot be involved in a business unless they meet certain professional occupational standards – for example, doctors have to keep up a certain number of hours per year – and they can't hold publicly traded securities. Businesses must be sold, or they can be placed in management trusts, and publicly traded securities have to be put into blind trust. The trustee has to be at arm's length from the minister. We vet both the trustee and the agreement, and we have to approve them.

Now, there are some issues that arise, and that's with residential rental property, because of the expense of having a trustee, and also with farming businesses. We've managed to work around those, but it's taken a bit of stretch of the act to do that.

The other section with respect to Executive Council is 4.1, and that's the postemployment restrictions. They last for a year. The provisions are insufficient, convoluted, and almost impossible to interpret. They prevent lobbying or anything that looks like lobbying even if it does not meet the definition of the Lobbyists

Act. The reason they're put in is that you don't want somebody in a position of power as an MLA at one particular point in time, and then a month later, when they're no longer an MLA, they're walking the halls lobbying for someone and have an unfair advantage because they know everybody.

It also prevents receiving government contracts in a limited way, and that's something that comes out of the Klein era, where many people were let go and then they got fairly nice consulting contracts afterwards. And it prevents taking a position from someone with whom the minister had a direct and significant dealing within the last year, and that prevents, say, a minister on purpose or inadvertently giving a benefit to somebody and then taking a job with them.

For political staff, that's political staff to ministers and to the Premier. Political staff to caucus and the opposition are not covered by this section, and in some cases this creates an unlevel playing field. Political staff also have to do disclosure and submit direct associates reports, and they're subject to the postemployment restrictions of one year. That could be eased a little bit because it has caused some problems, which we managed to get around, but even so.

Public agencies is 4.3, and the majority of the public agencies are required to have codes of conduct. A designated senior official is the most senior official of an agency and usually the CEO. Designated senior officials have to provide yearly disclosure, have blind trusts for their publicly traded securities unless they have an exemption, and are subject to one-year postemployment provisions. Not all public agencies have designated senior officials. There are only 36 of them, and they are the most prominent of the public agencies. These actually are useful standardizing provisions giving agencies needed oversight, and they work quite well.

9:30

Deputy ministers are covered by the Public Service Act, part 2. They have to do yearly financial disclosure, they have blind trusts for publicly traded securities unless exempted, and there are also the same postemployment provisions as found in the Conflicts of Interest Act. Again, the provision for postemployment is somewhat convoluted, and there are some exceptions that need to be made.

Investigations, part 5. There are also provisions in sections 23.8 and 23.94. The powers of the commissioner in obtaining information on investigation and compelling witnesses are extensive and are necessary. They're also very clear.

The general public must make a request in writing, and the person making the request must sign it and be identified. Generally requests come by e-mail, and as long as the person's name appears on the e-mail, the request is considered. But I have to tell you that most of the requests from the public do not pertain to matters within the office's jurisdiction, and we inform them of that.

The Legislative Assembly by resolution may request an investigation, as may the Executive Council. That's never happened. The Ethics Commissioner may also investigate if there's a reasonable belief that someone subject to the act has acted contrary to the direction or advice given. Everyone being investigated must be given notice of the investigation. Now, the Speaker is usually informed; not necessarily, but that's usually to stop questions in the Legislature and also in committee. If a law enforcement agency is investigating, the Ethics Commissioner suspends any investigation until after the law enforcement agency has completed theirs. The Ethics Commissioner can refuse to investigate if the matter is not within jurisdiction, which probably 90 per cent, 95 per cent is frivolous, vexatious, or not made in good faith – and that does happen, too – or there are no grounds for an investigation, and we do see that as well.

Investigations made under part 5. The reports are filed with the Assembly, with the Speaker, and the Speaker tables them in the Assembly. As a matter of practice reports are provided to the person being investigated shortly prior to being sent to the Speaker unless the allegations are found to be substantiated, and then the person is given time to respond prior to the report. Usually at that point they have legal counsel involved, and we give legal counsel time to make a response.

Now, investigation reports with respect to political staff only go to the staff member's minister. They're not made public. Likewise, investigations into conduct of designated senior officials are only sent to the minister and the chair of the agency's board. The situation is similar for designated office holders, where the report goes to the Deputy Minister of Executive Council or, if it is the deputy minister, then the Premier. In some instances the person making the request receives a copy of the report, and in other cases they don't, so there's quite a bit of inconsistency. All investigations are done with as much confidentiality as possible, which on occasion causes issues and lack of transparency. I'm of the view that all reports should be made public.

Administrative penalties are found in section 30.1 of the act. The commissioner can impose penalties for late disclosure to a maximum of \$500 per occurrence. The practice is a penalty of \$50 a day after a short grace period until the filing is complete or the \$500 is reached. A repeat offender might start with a penalty of \$100 a day. But there's only a very small group of MLAs that are late filers; most MLAs are very diligent in getting their disclosure filed.

That's all I have to say on the matter, but I certainly would be willing to entertain any questions.

The Chair: Perfect. Well, really appreciate that, Commissioner.

With that, I'll turn it back to the members. We have about 40 minutes for that. Whoever wants to start asking questions, please catch my attention, and that goes for both of our presenters here today.

Mr. Long: Thank you, folks, for taking the time to be here today. I really appreciate not only a bit of an explanation into some of the things in the act but also some opinions as well. Inevitably, I assume the people today are quite a bit more familiar with the act than I am, so I appreciate your expertise. I know that we've had numbers of discussions where, Ms Trussler, you've always been willing to give guidance on how to view the act, so I appreciate that.

Now, obviously, the act itself is quite broad ranging in scope, and I know the act was expanded in 2017 to include not only ministers, members, and senior staff but also employees of agencies, boards, and commissions. I believe that the number is over 300 folks on that list in total now. I was hoping that, either from the ministry or from the Ethics Commissioner, you'd be willing to speak to what might have been the rationale behind the expansion and also speak to whether the mechanisms set out within the act are efficiently able to manage such a large range of individuals and positions.

Ms Trussler: I can answer that. Actually, the political staff were added in the fall of 2014, when Jim Prentice became Premier. I think it was his Ottawa experience, and also his chief of staff believed that political staff were very close to the sources of power and that there should be some restrictions on them. So that's when they put in the code of conduct and they also put the provisions in the act.

The agencies, boards, and commissions were placed under the act – I think you're correct – in 2017. I think it's because there was a bit of a Wild West show with the agencies, boards, and commissions

going various directions on various things. There were instances where conflicts arose, where a CEO of an agency, board, or commission was sitting on an outside board, and then there was a conflict with respect to that outside board at the CEO's place of business. You will remember that shortly thereafter we did the investigation into the CEO of a major board, which was the Alberta Energy Regulator, and it was found that there were some pretty scurrilous conduct going on.

So I think it was put in for those sorts of reasons, that there were instances, there was uneasiness that then proved to be true, that there needed to be some oversight of those agencies, boards, and commissions, what their outside activities were and also what they were up to in terms of other businesses while they were holding this important government role.

The Chair: Do you have a follow-up?

Mr. Long: Yeah.

The Chair: Okay. Sure. Go ahead.

Then I have MLA Sabir, followed by MLA Wright, on the speaking list.

Mr. Long: I'm also aware that designated office holders, mainly deputy ministers, have provisions under the Public Service Act that are in some ways analogous to those in the Conflicts of Interest Act. I was wondering if you could provide an overview of the similarities and differences between the regulations placed on designated office holders through the Public Service Act and the regulations within the Conflicts of Interest Act.

Mr. Ammann: In terms of the deputy ministers the most significant overlap: they have similar restrictions on holdings and similar restrictions on postemployment restrictions as ministers do. They are located in two different acts, but they are broadly mirroring each other right now. Along with that, they sort of have the same general restrictions in respect of not furthering their own private interests and so forth. In terms of, you know, if there was a question about how those might evolve in the future, the Public Service Act could certainly be amended separately if there was a desire to have some of them different for ministers. There would also be the possibility, like, of keeping them mirrored as well.

The Chair: We have MLA Sabir here next. MLA Sabir, go ahead.

9:40

Mr. Sabir: Thank you, Chair. I have some questions, and I will start with the Justice department. Thank you, Mark, for a nice overview of the act. I'm just wondering if the department will be making any recommendations in any areas that you think need to be changed.

Mr. Ammann: I believe if we're invited to make a submission, we – oh, I'm sorry.

The Chair: I'll just interject here. Again, I kind of said it at the start of the meeting, MLA Sabir, so as a reminder, right now the individuals are here in the capacity of technical advisers, not as stakeholders. They'll have a chance later on with the committee to engage as stakeholders. Just to caution you on that and however you want to answer that question.

Mr. Ammann: You know, I think I was probably going to say sort of a similar thing. I wouldn't be able to sort of bind the Department of Justice and myself in that respect though I know that, if

requested, Justice has made submissions to similar committees in the past.

The one observation I would have, though, is that in terms of the actual administration Justice, you know, amends the act, but the Ethics Commissioner administers it, so certainly she would probably have more recommendations on that side than we would.

The Chair: MLA Sabir, do you have a follow-up question?

Mr. Sabir: Yeah. Sure. That's fine.

Now, from Justice I will move to the Ethics Commissioner, and thank you, Commissioner, for being here. You also indicated that you will be making a submission, so I look forward to that.

I do want to talk a little bit about section 2. You said that it's fairly narrow in its scope and it only impacts ministers if they are using their office while making a decision as part of the Executive Council or some government decision but not if they pick up the phone and call somebody to further their private interest. Is that correct?

Ms Trussler: I believe that's section 3.

Mr. Sabir: Section 2.

Ms Trussler: In section 2 it does say "takes part in a decision" knowing that it might further a person's private interest. The words speak for themselves. That's what it says, that if you take part in a decision, vote on a decision, and it's going to line your pockets or that of someone very close to you, then it's forbidden by the act.

Mr. Sabir: And other provisions . . .

The Chair: MLA Sabir, the way I'm going to run it here today is one question and follow-up, because there are a lot of folks throwing their hands up, if that works. If you want to go back on the list, I can throw you back on again. Right now I have MLAs Rowswell and Ip, and if you want to go on again, Irfan, I can throw you on again if you want right now.

Mr. Sabir: Yeah.

The Chair: Okay. Thank you.

Mr. Wright: Thank you both for taking a question here, Mr. Chair. When I was reviewing the act, I was really trying to grasp as much as I could to be as informed as possible to ask, I think, some very meaningful questions to better understand from the government side of things. My background comes from business. We've dealt with various different levels of conflict of interest acts over my time in business.

In the act I see that there are a number of references pertaining to legal proceedings within the act, particularly in context to legal expenditures that may be incurred as a result of an investigation. However, I don't see the ability or right of any individual to seek legal representation specifically stated anywhere in the act. From that, that started raising a number of questions for me because within our system of democracy usually if there are questions of legal proceedings, there should be some form of representation present. I found it kind of fitting that you had brought your general counsel with you here today. Is there a specific clause in the act that speaks to the ability or perhaps the right for an individual who is subject to an investigation by the Ethics Commissioner to seek legal representation and/or counsel with regard to the investigation?

Ms Trussler: There is not, and there is an argument that because it's just an investigation, a report, and the Legislative Assembly

makes the final decisions, they're not at risk. I don't follow that view. If anyone wishes to have legal counsel, we deal with legal counsel, and we allow legal counsel to be present, and in our letter to them we do say that legal counsel is permissible. It's just that because there is a jeopardy, even though I'm not the final decision-maker, I think it's only fair as a matter of natural justice that someone would be able to have representation.

Mr. Wright: Perfect. Thank you.

I do have one follow-up, sir. More broadly, in situations where the act does not specify a requirement, how are operational decisions made to ensure proper functioning of the act in these types of situations?

Ms Trussler: I'm not sure I understand your question.

Mr. Wright: I think it's more like in broad situations where, let's say, the MLA's yearly review gets done and submitted. In situations where it does not specify a requirement for counsel, would there be openings for that MLA to bring counsel to even that meeting, let's say?

Ms Trussler: It's happened.

Mr. Wright: Okay.

Ms Trussler: I guess it's my background, but I would never deny anyone the right to counsel. The exception is that sometimes witnesses on an investigation, people I just want to question and talk to, want to bring counsel. They're not entitled to counsel, but anyone who's going to be directly affected is always welcome to bring counsel.

Mr. Wright: Perfect. Thank you.

The Chair: MLA Rowswell, you're next.

Mr. Rowswell: Okay. I think I'll go to this question. In section 20 of the act the minister may not have beneficial interest in publicly traded securities without the Ethics Commissioner's approval unless it's held in a blind trust. I just have a few questions relative to that. Relative to mutual funds – like, there are individual securities within there – are they allowed to have that, because they're not influenced that way?

Ms Trussler: Mutual funds and exchange-traded funds, that we consider like mutual funds, do not have to be in a blind trust.

Mr. Rowswell: Then section 20(3) provides some criterion to which the Ethics Commissioner may approve the holdings of – and it was mentioned in the presentation where they could hold it, where it might require that if they sold it, it would be a loss.

Ms Trussler: I usually require them to go into a blind trust, and it's mainly for perception purposes. It protects them to have it in a blind trust if they, a minister, have publicly traded shares. It doesn't, then, appear on their financial disclosure. It also means that – it's funny. I think people had too much time during COVID, but there's always somebody looking to pick at people, so it sort of gets rid of that sort of nitpicking, irrelevant type of harassment. It's really in their best interests to put it into a blind trust, and the ministers' departments actually pay their legal fees or their trustee fees when it's in a blind trust. It's sent to our office. We approve them. Sometimes we question them if the legal fees are really high, but for the most part we just approve them. Then the minister does not have any costs related to having their publicly traded securities in a blind trust.

The Chair: I have MLAs Ip, Sabir, and Long.

Rowswell, if you want back on the list, I can throw you back on if you have more questions. Okay. And MLA Lovely.

MLA Ip, it's all yours.

Mr. Ip: Thank you, Mr. Chair, and thank you, Mme Trussler, to you and your team, for being here today. You had mentioned that some of the provisions pertaining to postemployment restrictions were convoluted and difficult to enforce. I just wanted to perhaps gain a better understanding of what some of the reasons might be. You did mention that, certainly, in your testimony, but I'm wondering if you could elaborate or enumerate on some of the difficulties. Is the language, for example, in the act perhaps too narrow or not sufficiently clear? I just wanted perhaps some additional context.

9:50

Ms Trussler: Well, I don't think I want to go into detail today because this is just a technical briefing. I didn't say that they were difficult to enforce; they're difficult to understand. People who are in that position: they always phone us and they say, "What can I do?" or "What can't I do?" just because it's not very straightforward language. There is one section: it took me five years before I finally figured out what they were trying to get at, and then it made some sense, but it just doesn't read that way. I think that the language could be simplified so it's easier for people who are subject to those provisions, so that in advance they can understand those provisions.

Mr. Ip: Thank you very much.

The Chair: Did you have a follow-up as well? Okay.

We're over to MLA Sabir, followed by Long, Rowswell, Lovely, Wright. You guys are full of questions today.

Mr. Sabir: Thank you. I don't know if my question will be beyond the scope of this technical briefing, but I was going to ask about section 2. It's mostly a follow-up to the previous question I had. Commissioner, my understanding of this section is that it applies to the participation of a minister in a decision of the government, but are there any examples from other jurisdictions where they are doing things differently? For instance, if the minister does something using his office to further his private interest, are there provisions anywhere else that deal directly with that and not in the course of decision-making as part of government?

Ms Trussler: I haven't done a crossjurisdictional survey. I do know that some other provinces have different wording in their acts, but I couldn't tell you across Canada what they are.

Mr. Sabir: Thanks.

The Chair: And do you have a follow-up to that, MLA?

Mr. Sabir: I think the question will be kind of similar. With the other question, you were saying that you identified issues with residential property and farm property, dealing with farm property. I was going to ask if other jurisdictions are doing it differently, and do you have any recommendations about that?

Ms Trussler: Again, I haven't done a crossjurisdictional study on that issue. We have looked at some of them, which will show up in our recommendations, but I just mentioned those because of the impracticality. If you have one rental property and you're a minister, it's a business, so you're supposed to put it in a management trust, and it doesn't seem to make a lot of sense.

During the last review of the act I had suggested that perhaps that should be an exception.

The Chair: Thanks for that.

Mr. Sabir: Thank you.

The Chair: MLA Long, you're next.

Mr. Long: Thank you for that. You know, I've only been around for five years in the position, but I actually appreciated your comment earlier that maybe people had a little too much time and they were trying to nitpick during certain times over the past five years. With that in mind, I'd like to speak about the process in the act regarding investigations being carried out by the Ethics Commissioner. I've noted a number of times after the fact that in a response you have cautioned folks and even urged people to remember the scope of the act and the purpose of your office prior to bringing forward complaints and that sort of thing. I'm just curious: when the Ethics Commissioner receives a complaint or request to initiate an investigation, what matters fall under the jurisdiction of the Ethics Commissioner, and what are the process and criteria under which the commissioner determines whether the request is valid and whether to begin an investigation? I'll just start there, and then I'll have a follow-up.

Ms Trussler: It's really a matter of statutory interpretation. The request is brought into my office, and sometimes it's just so far out of jurisdiction that you know immediately. Sometimes it's obvious; it sounds valid, but you know it's not within the jurisdiction. They have a legitimate complaint, but it's not our office. They have trouble understanding that because they think everything is a matter of ethics. They don't realize that what we deal with are conflicts of interest. Sometimes I think that the office is misnamed. It should be the conflicts of interest commissioner and the conflicts of interest office. Not that I think that would do a lot, but we do have that issue with people.

Sometimes we don't know because we haven't got enough information, so we sometimes will ask them for further information, and when they get back to us the second time, we will say, "Yes; there is something here," or we'll say, "No; there isn't."

Sometimes we'll do a preliminary sort of look at it to see if we should do an investigation, but we're very careful to make sure that they give us sufficient facts before we start doing an investigation, because, quite frankly, we just don't want to take a shotgun approach to things. We don't want to go on any witch hunts. We want to make sure that there are enough facts that it would substantiate that there may be an issue. Once we decide that there's probably an issue, we write a letter to the person that's being investigated to say that they're being investigated, and we give them time to provide us with documents, and then they usually have counsel contact our office.

Mr. Long: Thank you for that.

A follow-up, please. Actually, I appreciate, you know, possibly the clarity around the office title being conflicts of interest commissioner or whatever. I think that might be a little more helpful, so thanks for that.

I'm curious, and again I rely on the expertise at the table for this. Is there a penalty set out in the act or otherwise for an individual who makes a frivolous request? With that in mind, like, again, I've heard some of the things being brought forward to the office, and at times, personally, my perspective is that it's evident that people are seeking headlines as opposed to bringing legitimate requests. With

this in mind, if there is or isn't a penalty, should there be or shouldn't there be? I guess that would be my attachment to that.

The Chair: Yeah. MLA, I hesitate to interrupt, but again in the capacity of technical advisers versus stakeholders . . .

Mr. Long: Stakeholders. I know. Okay.
So just the first one would be fine.

The Chair: Thank you.

Ms Trussler: Sorry. So what are you asking?

Mr. Long: Is there a penalty in the act for frivolous complaints?

Ms Trussler: No. We just say, "No; we're not going to do it," and that's the end of it. Well, that's often not the end of it. Often we get an abusive e-mail back, but, you know, if it's not within the act, it's not within the act. Many people disagree with us, but if we've made that decision, that's our decision, and we're not going to investigate. We're not going to chase squirrels up every tree.

Mr. Long: Thank you so much.

The Chair: Excellent.

MLA Rowswell, followed by Lovely and Wright. If anyone else wants on the speaking list, please let me know.

Mr. Rowswell: It seems to me, referring specifically to sections 24 and 25 of the Conflicts of Interest Act, there may be some concern around the role of the Ethics Commissioner being tasked with investigating potential breaches as well as ruling on them. I was just wondering. It kind of might be the common phrase of being prosecutor and judge, you know, which, of course, leads to questions of fairness and process. I'd like to ask the commissioner: if that's her impression, are there other mechanisms to ensure investigations stay as objective as possible?

Ms Trussler: Well, we don't have both roles. We do an investigation. We write a report with our findings. The body that makes the decision is the Legislative Assembly. That's pretty clear in the case law, that we are not making a decision. We are just giving an opinion as to whether we think the act has been breached or not. It's up to the Legislative Assembly. If we say that it's breached and if we recommend a penalty or even if we don't recommend a penalty, it's up to the Legislative Assembly to make that decision.

Mr. Rowswell: All right. Good.

The Chair: Do you have a follow-up, MLA?

Mr. Rowswell: No. That's good. She answered both.

The Chair: Okay. MLA Lovely.

Ms Lovely: Thank you, Commissioner. You do many, many interviews, and you had spoken earlier in our meeting today about a blind trust. I'm wondering: if holdings are kept in a blind trust, does the commissioner list each investment in detail for public disclosure? Is there the ability for people to appeal a decision made by the Ethics Commissioner after an investigation and report are finalized, including both when a penalty or no penalty has been set? Is there a specific process or requirements in the act? Could the commissioner please outline the process an individual would have to follow in order to have an appeal?

10:00

Ms Trussler: Well, because I don't impose the penalty or make the decision – it's the Legislature that does that – then there's no appeal because the Legislative Assembly cannot be judicially reviewed.

Ms Lovely: Just to go back to my first question, do you list in a blind trust each investment for public disclosure?

Ms Trussler: If it's in a blind trust, then it doesn't appear on the public disclosure.

Ms Lovely: Okay. Fantastic. Thank you. That's all my questions.

The Chair: Thank you.

MLA Wright and MLA Long on the list again.

Mr. Wright: Thank you, Mr. Chair. Ms Trussler, earlier you had mentioned that when folks have a farming business, there are often workarounds that need to be done in order for things to stay above board, we'll say. What do some of those examples that you've used in the past look like as to, I guess, keeping things above board?

Ms Trussler: I have to be careful about examples because I might reveal confidential information, but we have been known to tell farmers that what they do on the weekend is not our concern. We have been known to allow spouses to be the trustee in some businesses or a family member to be the trustee or the accountant for the operation to be one of the trustees. So it has not been quite as arm's length as the act might suggest, but there's no other way you can do it because of the way that farms operate.

The Chair: A follow-up?

Mr. Wright: No. She answered even my follow-up question, so thank you very much.

Mr. Long: Just to confirm something. One of the areas you touched on earlier was about members not allowed to vote on things that directly impact them financially or otherwise, I believe. This context, I just wanted to confirm, goes beyond the Assembly into committee as well, does it not?

Ms Trussler: Yes.

Mr. Long: Okay. Thank you.

The Chair: Are there any other questions? We didn't have a single question for Mr. Ammann. Oh, we do. Excellent.

MLA Brooks Arcand-Paul.

Member Arcand-Paul: Thank you, Mr. Chair. Once again I'd like to make a question about the rules on gifts and when they'll be published. I just wanted to see what the details will be on that and where we are moving as members just so that we are very aware of our responsibility with the new changes to the gift rules.

Ms Trussler: I think they've already been published, and we have already changed all our forms online and put an explanation online. So it's really up to the members, I think, to educate themselves on the new rules.

Mr. Ammann: And just sort of a reference. The members' gifts and benefits reg would be sort of the piece that's adjacent to the act and subservient to the act that would have some of those rules in them, so the regulation would be recommended to be reviewed as well.

Member Arcand-Paul: Thank you so much.

Pardon, Chair; I'm not sure of the rules around asking my follow-up question. I'm just clarifying, right?

The Chair: Yeah. You can clarify if you wish. I don't see anyone else on the list, so I'll give you a little bit of latitude as well. I'm not sure if you heard the full answer from Mr. Mark Ammann as well, so if you need clarity on that, we'll allow that question to be asked again just so you can catch that, Brooks.

Member Arcand-Paul: Okay. I could catch that, so I appreciate the response.

I am curious – and this is for the commissioner – about the use of blind trusts. In my work as a lawyer I know that blind trusts are often used for various purposes, and in this case I'm just wondering: does the commissioner have the latitude to do investigations into these blind trusts? My concern is the level of latitude that is given when a member or a minister or the Premier might have something established that is in a blind trust, that sometimes the connections that might be in these investments or in other types of interests: I worry that there might be some level of ethics concerns. I was wondering if the commissioner does investigate those instances of blind trusts or if you leave it at that with respect to the legislation and with respect to the rights that you have as the commissioner.

Ms Trussler: Well, I don't have the right to initiate an investigation although I suppose I could do it on the basis that they haven't followed my advice in terms of a blind trust, but a situation has never arisen. People put their publicly traded shares into blind trusts. The trustees are told that they send the statements directly to us each year for private disclosure. They don't send them through the minister. I've just never seen where there's been an instance of any sort of difficulty.

The Chair: Are there any other questions from committee members? Going once; twice; closed.

Thank you very much.

Mr. Sabir: Maybe.

The Chair: Oh.

Mr. Sabir: Chair, I was trying to unmute.

The Chair: We'll take that as a bit of a delay, a voice delay on the telecom. Over to you, MLA Sabir.

Mr. Sabir: It's just a clarifying procedural question, that when we submit the disclosure, it takes a fair bit of time to get them posted publicly, so there is lag per se. Are there any specific reasons for that? If the ministry wants to answer.

Ms Trussler: Actually, there's not that much of a lag time. When I first started, we saw all the MLAs in May and June, some of them having to drive many hours because the Legislature wasn't sitting, and then in November you received your public disclosure statement and you had to remember what you'd done in May and June and review it and let us know, and then they were all filed with the Clerk of the Legislative Assembly.

That was changed so that we actually had to publish on our website the public disclosure, and we changed it so that you do your disclosure when you come in for your meeting, which might be a month afterwards. It might be a bit longer, but it's within six weeks. When you come in for your meeting, the public disclosure is done already, and then as soon as your meeting is finished, it's updated online. So instead of being a six-month lag, now it's no more than a two-month lag between the time that you file your disclosure and

we do the public disclosure. And, honestly, people have changes in that time. They're very good about telling us that they've had to change within that time.

Mr. Sabir: Thank you.

The Chair: Do you have a follow-up, MLA Sabir?

Mr. Sabir: No. Thank you.

The Chair: Okay. And if I call it again, you're going to get in under the wire.

Mr. Sabir: I'll keep it unmuted.

The Chair: MLA Rowswell, you're up next.

Mr. Rowswell: Part of it is just, again, relative to the blind trusts and, you know, giving money and your decisions over to someone else, and you can't communicate with them. That's quite a thing. I was just wondering. Maybe the ministry can explain why that was seen as reasonable recourse when the act was drafted and how it serves the purpose. Now, I know the commissioner said that it kind of protects us from public conflict of interest accusations or that type of thing, but I just kind of want to understand how that got going and how it prevents conflicts to be caused.

Mr. Ammann: So the blind trust provisions, I think, are – like, they've been in there for quite a while now. Ultimately, I think the main focus with these sections is that if one has a financial interest in a decision, one isn't sort of making a decision with clear motivation in respect of financial interests rather than, you know, the public interest, for example. And if things are set in a blind trust, then you don't have that type of direct knowledge, where it could be clouding one's decision-making. That's kind of the rationale for that, and that's why it's sort of perceived as an alternative in respect of if there was an interest that the government of Alberta's decisions couldn't possibly affect. Likewise, a blind trust there wouldn't necessarily be the recourse. Because there's no real possibility of conflict, then they would sort of complement each other in that respect.

Ms Trussler: All jurisdictions have this provision. They've been there since the beginning of legislation because it was felt that it was necessary. I certainly wasn't part of that decision-making, so I don't know what went into it.

10:10

But I think part of it is that you never know when something might come up that might affect a shareholding that you have, so if it's all in the blind trust – now, I tell the trustees that if somebody has a portfolio, at the end of the year they can tell the minister the bottom line; not what each of them did going up and down, but they can tell them their bottom line so they have a comparison from year to year. Also, ministers have to have T5 slips and T3 slips for the purposes of doing their income tax. Again, if the trustee sells something, although I don't think that happens very often, then there may be a capital gain or capital loss, and the minister would have to know that for the purposes of complying with the Income Tax Act.

The Chair: Do you have a follow-up, MLA Rowswell?

Mr. Rowswell: No. That's good.

The Chair: Okay.

MLA Arcand-Paul, I see you. You're up next, sir.

Member Arcand-Paul: Thank you so much, Mr. Chair. Sorry, Commissioner. Now that I'm having more fulsome discussion on this, I see maybe a potential avenue for all members to consider entering into a blind trust if that is the case. Is that something that would be recommended that we do as members in potential circumstances where there might be alleged conflicts?

The Chair: I hate to interrupt, MLA Arcand-Paul. A technical question is what we're asking in this capacity. As I mentioned earlier, we're going to have a chance to have these same folks back as stakeholders, give recommendations, et cetera. But if it's a technical question on the act, that's well within the course of what they're doing today. So you might want to consider rephrasing the question.

Member Arcand-Paul: I'll retract it until they return as actual stakeholders. Thank you.

The Chair: Okay. Perfect. Thanks, folks, for doing that.

Any other questions? Sabir? Give you a chance for the trigger finger.

Mr. Sabir: No. Thank you, Chair.

The Chair: Okay.

Really appreciate everybody today for your presentations and taking and answering our questions. You're more than happy to stay around and enjoy the tomfoolery that's taking place this morning on a Friday, but if you have other places to be, we definitely wouldn't hold you back from that. Thank you again.

All right. For the rest of us we're on to some decision items here. We have a stakeholder list. What our last meeting of the committee directed: the Legislative Assembly Office to provide a draft stakeholder list related to our review of the Conflicts of Interest Act. This was posted on the committee's internal website. Members had an opportunity to review it. At this time I would like to ask Dr. Christina Williamson with LAO research to provide us an overview of that document.

Dr. Williamson: Good morning. I'll be brief. Basically, this list is of people affected by the legislation, of course, stakeholders as well as other experts. The list includes Ethics Commissioners from across Canada, interested advocacy groups and professional associations, some research institutes, and other ethics experts. Additionally, as I mentioned before, the stakeholder list includes individuals subject to COIA, and this includes Members of the Legislative Assembly except those who are sitting on this committee, staff in the Premier's office or the minister's office who are not providing basic administrative support – and we've talked a lot about those political staff today – designated office holders, which includes deputy ministers and a few others, as well as public agency chairs, CEOs, and other senior officials. So that's the list. Yeah. Thank you very much.

The Chair: Perfect. Thank you for that. Any questions, comments, concerns from members? Online?

Hearing none and seeing none, thank you so much again for joining us and bringing us up to speed on that.

Having reviewed the stakeholders list prepared by research, do any committee members have any comments or motions that they may like to make? MLA Rowswell.

Mr. Rowswell: Yeah. I'd like to add a person to the list, and that wasn't done prior to the deadline, so I'd like to make a motion. I'll just read it out here. Moved that

the Select Special Conflicts of Interest Act Review Committee permit any motion to be moved without prior notice having been given pursuant to Standing Order 52.041.

The Chair: Just a moment of clarity here, MLA, so that I understand. You're following the procedure right. We had another committee where we had to go through this a couple of times. Just to clarify: you're asking for the one to be added, not a bunch?

Mr. Rowswell: No. Actually, what I'm asking is for the right to introduce a motion here today as opposed to – and then I'll follow that up.

The Chair: Yeah. Understood. That's for one motion subsequent to the one you're asking now?

Mr. Rowswell: Yes.

The Chair: Okay. Perfect.
Go ahead, Nancy.

Ms Robert: Thank you, Mr. Chair. So just to clarify: you are seeking the committee's approval to move a motion that would add a stakeholder to the stakeholder list?

Mr. Rowswell: I'm asking to move a motion to allow me to make an amendment.

Ms Robert: To the stakeholder list; yeah. We need to clarify what the purpose of the permission is.

Mr. Rowswell: Yeah. Okay. Fair enough.

Ms Robert: Thank you.

The Chair: Okay. We'll let our folks here at the table just quickly draft that up.

If anyone has an opportunity to grab a beverage, this might be a good time. The chair would give us two minutes, let's say, because we haven't had a bio break either, two minutes, a quick break, and we'll get it on – holy crow. You guys are fast. I was trying to buy you some time. Take two minutes.

[The committee adjourned from 10:16 a.m. to 10:22 a.m.]

The Chair: I appreciate everyone coming back and your patience. MLA Rowswell, we have what we believe is the intent and a methodology to move forward with this, so if you could just take a look at that on the board and then read that back into the record here for us.

Mr. Rowswell: I would like to move that the Select Special Conflicts of Interest Act Review Committee permit the following motion to be moved without prior notice having been given pursuant to Standing Order 52.041: that the Select Special Conflicts of Interest Act Review Committee amend the draft stakeholders list by adding Dr. Randall Morck, professor, Alberta School of Business University of Alberta.

The Chair: Okay. Having heard the motion, is there any discussion?

Mr. Ip: Just a question. It's pretty self-explanatory to me, anyways, but I just want to clarify that the motion pertains only to specifically adding Dr. Morck to the stakeholder list. It does not, then, allow in the future to add stakeholders without any other motion, right? Is that accurate?

The Chair: Yeah. That's correct. We had a bit of deliberation at the table to make it as seamless as possible, and you're one hundred per cent spot on. This is for adding an individual with a motion to allow it to come from the floor to amend it. It's not to add subsequent other ones; we would have another motion to do that.

Mr. Ip: Okay. Thank you very much.

The Chair: MLA Lovely had her hand up, and then MLA Arcand-Paul following.

Ms Lovely: That was my question. So thank you.

The Chair: Oh, perfect.
MLA Arcand-Paul.

Member Arcand-Paul: Yeah. Thank you, Mr. Chair. Just to the member: I am curious as to relevance of this potential stakeholder. If I could just get some more clarity on the relevance of the doctor, Randall Morck, to this stakeholder and the addition, I would appreciate that.

The Chair: Sure. Just to clarify, this one is to allow it to come from the floor, and then the subsequent motion from that is where we can ask those questions if you're comfortable with that, MLA Arcand-Paul.

Member Arcand-Paul: Well, I'd like to have that understanding before I agree to moving this potential point.

The Chair: Yeah. Correct. I'm being advised by the table here that the initial pass is to accept it to come from the floor. Then we can go to the actual list, and then we can have that conversation, that deliberation for the intent and the rationale for the person and have a very fulsome debate as required.

Mr. Sabir: Chair, if I may.

The Chair: Sure. Go ahead, MLA Sabir.

Mr. Sabir: Just a clarifying question: does this motion need the majority of the committee or a unanimous decision?

The Chair: Majority is required for this motion. Any other further discussion or clarity? Okay. I am prepared to call the question. All those in favour of the motion, please say aye. Any opposed? Going to those online, please say aye. Any opposed?
The motion is carried.

Now you can go ahead and move your subsequent motion. Go ahead.

Mr. Rowswell: Okay. The next one is going to be relative to this individual.

Ms Robert: So this individual, this is the one that you want now.

Mr. Rowswell: Now this is the amended stakeholders list, right?

Ms Robert: Move the motion to add . . .

Mr. Rowswell: Okay. I'll do that. I'd like to move that the Select Special Conflicts of Interest Act Review Committee amend the draft stakeholders list by adding Dr. Randall Morck, professor, Alberta School of Business University of Alberta.

The Chair: Here we go. Now, having heard the motion, any discussion? I see MLA Arcand-Paul.

Member Arcand-Paul: Thank you, Mr. Chair. Just clarifying the relevance of this potential stakeholder. I ask the member that moved this just for clarification on the addition and the substance of the conversation that we will be having with this stakeholder.

Mr. Rowswell: Dr. Randall Morck holds the Stephen A. Jarislowsky distinguished chair in finance and has a distinguished university professorship at the University of Alberta's School of Business. Professor Morck holds a BSc summa cum laude in applied mathematics, economics from Yale and a PhD in economics from Harvard. The Social Science Research Network ranks him 56th most highly cited business author in the world. He has advised the governments of Canada, Chile, Israel, and the United States as well as the IMF and the World Bank. Professor Morck studies corporate governance and the functions of financial markets and institutions and world financial history. As an expert in economic legal matters, Professor Morck can provide valuable and unique insight to the committee, particularly on holdings and other financial restrictions in the act.

The Chair: Perfect.
Any follow-ups, MLA Arcand?

Member Arcand-Paul: Yeah. I'm just wondering what the relevance to the review of the Conflicts of Interest Act would be. I think I heard it in the tail end, but could the member expand on that?

Mr. Rowswell: Well, I guess his history will enable us to understand what restrictions might be placed on individuals within the Conflicts of Interest Act.

The Chair: MLA Ellingson also has a question.

Mr. Ellingson: Yeah. I guess my question is around timing. We did receive the draft stakeholder list quite some time ago and did have ample opportunity to review and put forward suggestions. I'm just curious why today, why not in any time in the last, say, month?

The Chair: Maybe I can kind of jump in there. Parliamentary procedure is no different than having amendments in the House. As the committee, you know, we request to have these things with advance notice, obviously, so we don't have to type up a bunch of these at the front of the desk. But as far as being parlance and those things, it's completely up to the members how they want to manage that. Just understanding that it's well within the bounds if they happen to move an amendment or something that may or may not have been in advance; it's just course of business. I'll allow anybody who wants to respond to that, but as the chair, that's kind of how this stuff works.

MLA Wright, you had a . . .

Mr. Wright: Yeah. I think, you know, as we're kind of processing what was brought forward today by Justice and by the Ethics Commissioner and knowing that, you know, many MLAs have holdings both financial, like the conversation of mutual funds that were brought up earlier, as well as the individual ownership of business, I think somebody with this magnitude of expertise from the financial and business side would be a valuable asset, bringing an expertise that can better guide, ultimately, the protection of the public and the members of the Legislature by giving very distinct recommendations and feedback that keep everything above board.

10:30

It would be kind of my interpretation as I'm just kind of reading through some of these pieces and seeing the motion. I think that there are a number of questions that have been raised over my short

time in my first term, specifically around mutual funds and the burdens that could possibly come to the members and the public in regard to trust. I think there is definitely some pertinent experience that could be utilized from this individual.

The Chair: I have MLA Sabir. You've got my attention as well. You're up next, sir.

Mr. Sabir: Thank you, Chair. Perhaps a similar question to what my colleague was getting at, MLA Arcand-Paul. Like, this professor has an impressive resumé and work history, everything, but again through this review what we are trying to get at is to improve the Conflicts of Interest Act, not getting, per se, business advice. I still don't see the direct relevance of that work to this review. If MLA Rowswell wants to kind of expand on it a little bit more, please, that will help us make the decision.

The Chair: Okay. I've got MLA Long next, and then I see Rowswell after that.

Mr. Long: Thank you, Chair. Actually, I appreciate this motion and this stakeholder being brought forward especially. I know earlier we were sort of jumping the gun from a few folks as far as, you know, having the Ethics Commissioner here and some of the questions being posed to her. I believe it was MLA Arcand-Paul who had suggested the possibility that MLAs should be required to put their assets into a blind trust, and I think that this person in particular might be able to give us some guidance around the mutual funds and assets and investments that we might have and why, largely, some of those things are already protected enough that we don't have insight and that as provincial politicians we really don't influence investment portfolios to the extent that – you know, maybe we're already okay. I don't know. I'm assuming that with this person's knowledge on those mutual funds and how they interact, it might answer some of those questions around whether there's a necessity to see MLAs required to put their assets into a blind trust.

With that said, I strongly support having this stakeholder present so that I can ask some of those questions for clarity.

The Chair: Sorry. *Hansard* keeps touching the button before I do, so good job, guys.

MLA Rowswell, do you want to respond back to your colleagues?

Mr. Rowswell: No. I think they've expressed it quite well, that we should accept as much expert advice as we can get to make sure we've got this right.

The Chair: Okay. With that and having deliberation of the debate going back and forth, I am prepared to call the question. All in favour of the motion, please say aye. Any opposed? Online, those in favour? Opposed? Hearing none,
motion carried.

Any other possible – MLA Rowswell.

Mr. Rowswell: I'd like to move that
the Select Special Conflicts of Interest Act Review Committee
approve the draft stakeholders list as amended.

The Chair: And that was on notice, so no typical changes to our regularly scheduled programs. Any discussion for that?

Seeing none, I am prepared to call the question. All those in favour, please say aye. Any opposed? Online, all those in favour? Opposed? Hearing none,
motion carried.

Hon. members, we have now agreed to the list for the committees that we wish to engage.

In similar reviews committees have also invited written submissions from the public. I would like to open the floor to a discussion on whether the committee wishes to invite written submissions from the public as part of this review. Any comments, questions, motions, suggestions? MLA Rowswell.

Mr. Rowswell: I'd like to move that the Select Special Conflicts of Interest Act Review Committee invite written submissions from identified stakeholders and the public as part of the committee's review of the Conflicts of Interest Act, with submission deadlines by 4:30 p.m. on April 8, 2024.

The Chair: Any discussion on the item? I'm seeing it on the board. You guys are fast.

Seeing none or hearing none for discussion, I am prepared to call the question. All those in favour of the motion, please say aye. Opposed? Online, all those in favour, please say aye. Opposed? Hearing none, on the famous line from Mr. Speaker, I believe the ayes have it.

That motion is carried and passed.

The committee wishes to seek public submissions, so it's a common practice to engage the services of the Legislative Assembly's corporate communications in developing a communications plan to encourage responses from the public. I'd like to call upon Ms Christina Steenbergen – if I messed that up, I apologize in advance, ma'am – from LAO communications to advance the advertising options available.

Thank you.

Ms Steenbergen: Thank you, Mr. Chair.

The Chair: And please say your name right so that I get it right the next time.

Ms Steenbergen: Sure. It's Steenbergen.

The Chair: Steenbergen. Awesome. Got it.

Ms Steenbergen: Yes. Thank you, Mr. Chair. We do have several options for promoting the invitation for written submissions. We would obviously recommend the no-cost option first, which would include driving people to the website to put in their submissions. On top of that, we would leverage our social media accounts, so that would be LinkedIn, Facebook, Twitter, X, and Instagram, again just driving people to the website. We could do a media release, which will help get the word out and, again, just get people to submit their submissions.

The other options that we do have available are e-cards that we can give the members to send out to their constituencies. In addition, if there are newsletters in your constituencies that you would like to advertise in – well, not advertise in but put in some wording – we can help with that as well. Those are the no-cost options, that will be no cost, obviously, to the committee. We do have other options if the committee so desires.

The Chair: Sure. Our clerk would like to add a comment as well.

Mr. Roth: Thank you, Chair. I'd just also advise that normal practice for something like this is to establish a web form or place a web form on the committee's website for ease of making written submissions.

Thank you.

The Chair: Perfect. Having heard that, thank you, Ms Steenbergen – Steenbergen. He bugged me; he said that I was going to mess it up. I had it. I had it nailed in my mind, and then I heard him heckling again. Ms Steenbergen and also Mr. Roth, thank you for that.

Any questions, comments? There we go. Mr. Ellingson. I got that one right, I hope.

Mr. Ellingson: That's awesome. No "t." You got it.

My question. Obviously, all members, including the members of this committee, can promote through our own social media, our own e-newsletters coming from our constituency offices to drive to the website, as you were saying, the no-cost option.

Ms Steenbergen: Yes. If I may, Mr. Chair.

The Chair: Yes. Please continue.

Ms Steenbergen: Absolutely, we will prepare some formal graphics from the LAO that you can either repost or submit however you wish. If there is something specific that we don't have, we can create it for you, absolutely.

Mr. Ellingson: Thank you.

The Chair: Any other questions? Excellent.

Thank you very much, Ms Steenbergen.

A possible motion to create the communications plan? MLA Rowswell. You're a frequent flyer today.

Mr. Rowswell: Yeah. I'd like to move that as part of the committee's review of the Conflicts of Interest Act the Select Special Conflicts of Interest Act Review Committee (a) direct the Legislative Assembly to prepare a draft no-cost communication plan and news release to invite submissions and (b) authorize the chair to approve the plan after it has been distributed to the committee members for their review.

The Chair: That was for the public submissions, just to clarify. Just take a look at the wording on the board. I think I may have missed that. I have one bad ear, and the other one doesn't work so well.

10:40

Mr. Rowswell: I can see it there.

The Chair: I think it's item (a).

Mr. Rowswell: Direct the Legislative Assembly to prepare a draft no-cost communication plan and news release to invite public submissions. Yeah.

The Chair: Okay. Perfect.

Having heard that, any discussion with the motion?

Mr. Ellingson: Just going on the assumption that stakeholders who are on the list will receive direct communication, do we want to provide a timeline here? If all submissions are due April 8, do we want to say that this draft communication plan would be drafted by a certain date to ensure that we still have time to get those public submissions?

The Chair: I would open that up for discussion. If there are any other items, a possible amendment could come forward on that or open it up for a conversation.

Christina, I'm being whispered in my left ear that you may want to comment on that, so over to you.

Ms Steenbergen: Yes. Thank you, Mr. Chair. If the deadline for the submissions is April 8, I would recommend having all of these

options ready and available by minimum March 8 so that there would be a month, if the committee is okay with that. We would also send out the media release on the 8th, just providing as much notice as possible.

The Chair: I would put it back for discussion here. If the member wants to amend his motion, that would be amiable, or if somebody from the floor would like to amend the motion, then we can go through that process as well for clarity if required, MLA.

Mr. Ellingson: Sure. I'm comfortable with March 8 as the date that that communication goes out. We could amend part (a) "direct the Legislative Assembly" with "for approval and distribution no later than March 8" after "prepare a draft no-cost communication plan and news release to invite [public] submissions."

The Chair: Just give us a moment here. Okay. Well, thanks for your patience on this, folks, while we get it at the table here.
MLA Ellingson, if you want to read that into the record for us.

Mr. Ellingson: I move that
the motion be amended in paragraph (a) by adding "by March 8, 2024," after "invite [public] submissions."

The Chair: Now we can go for discussion. Any discussion on the matter? Okay.

I'll call the question on the amendment to the motion to be added. All those in favour, please say aye. Any opposed? Online? Hearing none,

motion carried.

Okay. Now we're back to the main motion, which has been amended. Any further discussion on the amended motion? We'll just throw it up on the screen for everybody to make sure we've got the amendment to the motion that was carried in there.

I'm curious to ask how MLA Hunter's lunch is going. I'm getting a little peckish myself right now, quite honestly. One of the advantages of working online.

Seeing the motion as amended, MLA Rowswell, do you want to have a look at that and see if that makes sense? Ellingson, you're good, too? All right.

Any further discussion? No.

I am prepared to call the question. All those in favour, please say aye. Any opposed? Online, please say aye. Any opposed? Hearing none,

motion carried.

Awesome. I'm just looking at my notes to make sure we're at which one here. Committee members now proceed to direct the receipt of written submissions. Common practice is to direct the Legislative Assembly Office to prepare a summary of the submissions received.

I would like to open the floor for comments, questions, concerns on this matter if anyone has any motions.

Mr. Rowswell: I'd like to move that
the Select Special Conflicts of Interest Act Review Committee
direct the Legislative Assembly Office to prepare a summary of

the written submissions received by the committee in relation to its review of the Conflicts of Interest Act.

The Chair: Excellent. Having heard you read it and seeing it on the board, any discussion to this motion?

Member Arcand-Paul: Sorry. Just a clarifying question. We will get full copies of the written submissions, correct? Not just the summaries?

The Chair: Yeah. That's correct.

Member Arcand-Paul: Thank you.

The Chair: And they'll be posted on the internal website.

Any other items for discussion, questions?

I am prepared to call the question. All those in favour of this motion, please say aye. Any opposed? Online, please say aye. Opposed? Hearing none,

this motion as well is approved.

Next steps in the review. Hon. members, in the coming weeks it's anticipated that the '24-25 budget will be considered by the Assembly and the legislative policy committees. In accordance with Standing Order 59.01(11) the committee will be unable to meet from this period, starting with the consideration of the main estimates by the legislative policy committees until the final vote on the main estimates and the written submissions are in the House for the Committee of Supply.

The committee will continue to receive written submissions from stakeholders and the public through this period until April 8, 2024. The next steps in our review after receiving the written submissions will be to review those submissions and determine whether the committee wishes to seek additional information on the act by hearing oral presentations from stakeholders or members of the public.

Are there any questions or comments and concerns regarding the review?

Hearing none, we'll move on to the next item of business, other business. Are there any other issues for discussion at today's meeting?

Seeing none, the next item is item 6. The next meeting will be at the discretion of the chair, and obviously it will be after we get through all the other committee meetings we're going to be involved with reviewing estimates.

If there are no other items, I am prepared to ask if someone was committed to adjourn this fun meeting we've had today. We've got a number of hands going up. I'll take MLA Long.

Mr. Long: Motion to adjourn.

The Chair: MLA Long has read quite loudly a motion to adjourn the meeting. Any discussion? All in favour? Opposed? Excellent.

Thank you so much for everyone's participation and your humour getting through this today as well, and we'll see you at the next one. Thanks. Take care.

[The committee adjourned at 10:48 a.m.]

