



Legislative Assembly of Alberta

The 30th Legislature
Third Session

Standing Committee
on
Alberta's Economic Future

Lobbyists Act Review

Wednesday, February 23, 2022
9 a.m.

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The 30th Legislature
Third Session**

Standing Committee on Alberta's Economic Future

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* substitution for Janis Irwin

Also in Attendance

Aheer, Leela Sharon, Chestermere-Strathmore (UC)

Office of the Ethics Commissioner Participants

Marguerite Trussler, QC	Ethics Commissioner
Lara Draper	General Counsel and Lobbyist Registrar

Support Staff

Shannon Dean, QC	Clerk
Teri Cherkewich	Law Clerk
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Standing Committee on Alberta's Economic Future

Participants

Calgary Chamber of Voluntary Organizations and Edmonton Chamber of Voluntary Organizations.....EF-432
 Karen Ball, President and Chief Executive Officer, Calgary Chamber of Voluntary Organizations
 Gemma Dunn, Executive Director, Edmonton Chamber of Voluntary Organizations

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 Geoff Braun, Director of Policy
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9 a.m. Wednesday, February 23, 2022

[Mr. Neudorf in the chair]

The Chair: Good morning, everyone. I'd like to call this meeting to order. Welcome to members and staff in attendance at this meeting of the Standing Committee on Alberta's Economic Future.

My name is Nathan Neudorf, and I'm the MLA for Lethbridge-East and chair of this committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, starting to my right with the deputy chair.

Ms Goehring: Good morning. I'm Nicole Goehring, the MLA for Edmonton-Castle Downs. Welcome to all of our presenters.

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

Mr. Walker: Good morning. Jordan Walker, MLA, Sherwood Park.

Mr. van Dijken: Glenn van Dijken, MLA, Athabasca-Barrhead-Westlock.

Ms Rosin: Miranda Rosin, MLA for Banff-Kananaskis.

Mr. Barnes: Good morning. Drew Barnes, MLA, Cypress-Medicine Hat.

Mr. Bilous: Good morning. Deron Bilous, MLA, Edmonton-Beverly-Clareview.

Mr. Nielsen: Good morning, everyone. Chris Nielsen, MLA for Edmonton-Decore.

Ms Sweet: Good morning. Heather Sweet, MLA, Edmonton-Manning.

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

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

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

The Chair: I will go online. Ms Armstrong-Homeniuk.

Ms Armstrong-Homeniuk: Good morning. MLA for Fort Saskatchewan-Vegreville, Jackie Armstrong-Homeniuk.

The Chair: Thank you.

Mrs. Frey: Michaela Frey, MLA, Brooks-Medicine Hat. Apologies for my terrible connection today, committee.

The Chair: No problem. Thank you very much.

I would like to note for the record the following substitution: Mr. Nielsen for Member Irwin.

A few housekeeping items to address before we turn to the business at hand. I would note for members and the guests in the gallery that masks should be worn in the committee room except when you are speaking, and members and guests are also encouraged to leave an appropriate amount of physical distance around the table. Please note that the microphones are operated by the *Hansard* staff. Committee proceedings are live streamed on the Internet and broadcast on Alberta Assembly TV. The audio- and videostream and transcripts of meetings can be accessed via the Legislative Assembly website.

Those participating by videoconference are encouraged to please turn on your camera while speaking and to mute your microphone when not speaking. Members participating virtually who wish to be placed on the speakers list are asked to e-mail or send a message in the group chat to the committee clerk, and members in the room are asked to please signal the chair. Please set your cellphones and other devices to silent for the duration of the meeting.

We now need to move to approval of the agenda. If someone would be willing to move so. Thank you, Ms Goehring. Moved by Ms Goehring that the agenda for the February 23, 2022, meeting of the Standing Committee on Alberta's Economic Future be adopted as distributed. All those in favour in the room, please say aye. Anyone opposed in the room, please say no. Thank you. Online, all those in favour, please say aye. Anyone online opposed, please say no. Thank you. That motion is carried.

Approval of the minutes from the December 9, 2021, meeting. We have these minutes from the December 9, 2021, meeting of the committee. Are there any errors or omissions to note?

Seeing none, would a member move that the minutes be accepted? Thank you, Ms Goehring. Moved by Ms Goehring that the minutes of the December 9, 2021, meeting of the Standing Committee on Alberta's Economic Future be adopted as circulated. All in favour in the room, please say aye. Anyone in the room opposed, please say no. Thank you. Online, all those in favour, please say aye. Anyone online opposed, please say no. Hearing none, that motion is carried.

We will now move to the Lobbyists Act review status update. I'd like to just take a few moments to refresh the memories of the committee. Hon. members, before we proceed with hearing oral presentations today, I would like to provide the committee with a recap of where we are at in our review of the Lobbyists Act. The committee has heard technical briefings from both the Ethics Commissioner and the lobbyist registrar and from the Ministry of Justice and Solicitor General. The committee has requested research from the Legislative Assembly Office research services, which we'll hear more about later today, particularly on their jurisdictional scan results. The committee has also invited written submissions from stakeholders and the public. Most of these written submissions have been posted to the committee's internal website.

At this stage of the review we are about to start hearing oral presentations and receive a briefing on the research completed by research services. A few further notes that I'd like to provide are that with the written submissions online, other than those that did not pertain to the topic or contained inappropriate language or content, they're all there. You can access through the committee portal.

We had invited at our last meeting eight oral presentations. Two have declined, so we will be hearing six. I believe there are three today and three on March 2, which is our next meeting. I do apologize for that landing on the constituency break. We planned that before I had that calendar fully, but in the future I hope to avoid constituency breaks as best we're able to.

For this committee, we have to complete this review and submit our recommendations by September 13 of this year, so we have a lot of time for that. This Lobbyists Act is reviewed every five years. I'm hopeful that we can have a chat later today. During this meeting we will, with unanimous consent, go to an in camera session, where we can have some conversation about how we'd like to proceed through the rest of this session and up until we have to complete our review by September 13. I will also, hopefully, allow for a short break approximately at 10:30, likely between some presentations, so that any members needing a break are able to do so.

Are there any questions or comments at this stage in our review?

Seeing none, I will acknowledge that Mrs. Aheer has joined us online. Mrs. Aheer, would you like to introduce yourself, please.

Mrs. Aheer: Sorry. Mute problems. Good morning, everyone. Leela Aheer, Chestermere-Strathmore.

The Chair: Thank you very much.

With no further questions, I appreciate that review. There will be opportunity to discuss that a little bit further on in the meeting. At any time please signal the chair if you have some questions or would like clarity provided by the clerk or anyone else.

We'll now move to oral presentations in relation to the Lobbyists Act review. Hon. members, our first presentation today will be from the hon. Marguerite Trussler, Ethics Commissioner, and Ms Lara Draper, general counsel and lobbyist registrar. Ms Trussler, Ms Draper, if you wouldn't mind coming to the table and the microphones. You have 15 minutes to make your presentation. Once you're settled, we will start the clock and hand the floor over to you. And for the committee, Ms Draper is online, so I will invite her to share her camera and unmute herself at the appropriate time.

Ms Trussler, over to you.

Office of the Ethics Commissioner

Ms Trussler: Good morning. Thank you for inviting us to present today. I will deal very briefly with several of our recommendations, and then Ms Draper, who is attending virtually, will cover the remaining ones. It will be easier for you to follow our presentation, because we're skipping around quite quickly, if you have our submission in front of you.

I just want to start with a brief introduction. The theme of our presentation is that it is time for a change. Change is in the wind in all jurisdictions across Canada. One recent example is British Columbia, which has implemented extensive reforms to its lobbyist legislation. The reason we need to make substantial change is transparency. The citizens of this province deserve full disclosure and transparency. If you read the submissions from individuals, you'll have seen how lobbyists, many of whom are reliable, honest professionals, are viewed by the general public. The reason for this is that people do not know what they do, and proper transparency is not in place in Alberta.

First of all, I'd like to turn to recommendation 1, which is the communications registry. This recommendation is our most important recommendation, and all the others flow from it, because the best way to have deserved transparency is to have a communications registry. Both Ottawa and British Columbia have them, and other provinces are moving in that direction. I know it's top on the wish list of almost every other lobbyist registrar in Canada. Having a lobbyist registry by itself does not indicate the lobbyist's true lobbying activity. It's only by having a record of meetings and communications that you have true transparency. Not having one gives rise to people asking: what do you have to hide?

Now, implementing a registry is a simple process with no budgetary implication and no responsibility for busy MLAs. It also will not in any way affect your day-to-day transactions with your constituents. As I've already stated, this recommendation is our priority recommendation, and many of our recommendations simplifying and making matters less complex for lobbyists will not work without this recommendation's adoption.

9:10

Now I'd like to jump to recommendation 4, on gifts, and then say a few things about recommendation 5. The provisions of section 6.2 are too complex. They require lobbyists to know the gift provisions in all the various codes of conduct of the ABCs, of which there are over a hundred, as well as the Conflicts of Interest Act, the Public Service Act, and the political staff code of conduct. There should

be one amount for allowable gifts set out clearly in the Lobbyists Act, like B.C. does. We would suggest \$200. There are also loopholes in this section that we have explained that need fixing.

With respect to recommendation 5, given the time limitations, I'm not going to spend any time on this recommendation as it is self-explanatory. It is a further loophole that can be and is exploited, and we very much doubt that it was intended.

Now I want to move on to recommendation 6. There is a discrepancy between the initial time for filing requirements for organizational lobbyists and consultant lobbyists. The time limit for organizational lobbyists is ludicrously long, and it does create transparency issues because of things that might happen during that time period. It could be easily shortened without burdening the organizational lobbyists.

Now, finally, trying to bear in mind time, I'm going to just make a few comments about section B and section C. Section B of our brief has 12 recommendations. This section is our red tape reduction section. Registration itself is not red tape, and it's necessary, but there are parts of the act that are onerous without furthering the intent of the act. These recommendations in section B involving process will clarify and simplify matters for us and for lobbyists. Many of them have been requested by lobbyists – we've heard their complaints over the years – and three examples are sections 3, 4, and 5. Again, because of time restraints, I'm not going to go through them in any detail.

With respect to section C, all of the recommendations in section C are technical in nature, and we would ask that you refer all of them to Justice for consideration. We expect – in fact, we know – that Justice has a few of its own that they'd also like to discuss and to implement.

Thank you for your time. Ms Draper is now going to touch on the remaining recommendations.

Ms Draper: Thanks, Commissioner. Good morning, everyone. A critical amendment that would address a significant gap in public transparency and accountability would be to replace the current broad exemption for nonprofit organizations with one that is more targeted. This is amendment A.7 in our written submission.

Now, committee members may have noted that some of the written submissions in this review that support maintaining the current nonprofit exemption refer to it as an exemption for public benefit nonprofits. However, that description does not reflect how wide-reaching the exemption actually is. Basically, other than the in-house personnel of nonprofits like unions and professional associations or business or industry organizations, the in-house personnel of all other nonprofit organizations currently are exempt from the Lobbyists Act. This is a very broad exemption that ends up not only exempting nonprofits that the public commonly would consider to be public benefit in nature like charities or others that focus on providing support services to the community; it also ends up allowing many other nonprofits to avoid public transparency and accountability about their lobbying altogether.

This can include organizations that have a mandate to carry out a significant amount of lobbying, that have a lot of policy influence, that receive a lot of public funding from government, or that receive funding from other individuals and organizations to back their advocacy efforts behind the scenes.

For example, think of special-interest organizations that have a mandate of influencing policy on particular social, economic, and political issues in the interests of their members and supporters and think tanks or policy institutes, on all sides of the political spectrum, that have a primary purpose of performing research and advocacy on various social, economic, and political matters. Remember that whether an individual agrees or disagrees with the policy stances of

these various nonprofits does not matter. Those organizations can continue to lobby about their chosen policy goals. It is simply time that the public – and that includes registered lobbyists who feel that those exempt organizations' lobbying efforts conflict with their own – finally has transparency about those lobbying efforts.

So we recommend that the current nonprofit exemption be replaced with a more targeted one that still exempts nonprofits that most commonly would be considered to be of public benefit in nature, like most charities and other community service organizations, without letting so many other nonprofits hide behind it as well. Specifically, we have proposed an alternative exemption for nonprofits that are established for the purpose of providing tangible community support services directly to the public in subject matter areas like education, animals, arts, children, community sports or recreation, culture, disability, health, relief of poverty, seniors, social, or financial assistance.

The committee also should note that most Canadian jurisdictions do not have any specific exemptions for nonprofit organizations, and that includes Ontario, British Columbia, Canada at the federal level, Yukon, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, New Brunswick, and the city of Ottawa. In Saskatchewan a nonprofit organization only is exempt if it has a charitable purpose and fewer than five employees and the organization's collective lobbying time is less than 30 hours annually. We urge the committee to take action now to catch up with most of the rest of Canada by addressing this serious gap in public transparency and accountability resulting from the current overly broad exemption for nonprofits. Alberta shouldn't wait another five years to remedy this issue.

Now, another important amendment to improve public transparency and accountability about in-house lobbying would be to reduce the organization lobbyist threshold from 50 hours annually, including both the time spent lobbying and preparing to lobby, to 20 hours annually. That, again, includes both the time spent lobbying and preparing to lobby. This is amendment A.3 in our written submission.

The current 50-hour threshold allows a substantial amount of influence on and access to public office holders by in-house lobbyists to avoid public transparency and accountability altogether. This is because a significant level of influence and access can be achieved in much less than 50 hours of lobbying, communication, and prep time. Plus, as we discussed in our submission and in our previous presentation, there is a loophole in the act whereby an organization can outsource preparation time to avoid meeting the time threshold that triggers registration.

Alberta needs to be forward-thinking about providing much-needed public transparency and accountability about lobbying activities by establishing a threshold for registration of organization lobbyists that doesn't allow so much in-house lobbying to fly under the radar. For example, the committee should take note of other Canadian jurisdictions with recently amended or enacted legislation that have thresholds that make it harder for organization lobbyists to avoid registration.

In British Columbia the threshold is 50 hours; however, the organization also must have fewer than six employees and must not have a primary purpose of promoting or opposing issues or representing the interests of their members. Otherwise, the organization would still need to register even if it does not meet 50 hours of time. In Saskatchewan the threshold is 30 hours, including communication time, preparation time, and travel time as well, which we do not include. In Yukon the threshold is 20 hours. Finally – I'm mindful of the clock ticking here – together with the establishment of the communications registry, noted by Commissioner Trussler earlier in the presentation, we also recommend that the requirement

for organization lobbyists to file semiannual renewal returns be removed from the act. For reference, this is amendment A.2 in our written submission.

9:20

The act already requires organization lobbyists to keep their active registrations up to date within a 30-day period by filing a notice of change. As a result, the requirement to also file a semiannual renewal return every six months is an unnecessary administrative burden for many organization lobbyists as many of them already regularly update their active registrations by filing notices of change in between their semiannual renewal return deadlines. It also creates confusion among other organization lobbyists that discourages them from promptly updating their registrations as many of them mistakenly think that the only time that they do need to update their active registration is when their semiannual renewal return is due.

As an example in practice of our recommended approach, British Columbia has the same ongoing filing requirements for both consultant and organization lobbyists, which consist of a requirement to file a report as needed each month for any lobbying communication with a senior public office holder that happened within the previous month – that would be the communications registry that Commissioner Trussler referenced earlier – and a requirement to update the organization's registration as needed each month to reflect any changes to the content that arose since the previous month. Canada, at the federal level, also takes a similar approach to that.

However, just before we wrap up, for this recommendation to work in practice, the Alberta legislation also must provide the lobbyist registrar with a broad power to audit lobbyists' compliance with their ongoing obligation to file a notice of change in order to incentivize and enforce them to keep their registrations consistently updated absent a regularly scheduled renewal requirement. This is because although many lobbyists are professional and proactive about complying with their obligation to file a notice of change, there inevitably will be lobbyists who are not. So there must be a clear means for this office to promote and enforce compliance with the ongoing filing obligations in order for the removal of the semiannual renewal return requirement to actually work.

I think that's it for our presentation time, but we would welcome any questions at this point.

The Chair: Thank you both, Ms Trussler and Ms Draper, for your presentation.

I have tentatively set the question time for about 15 minutes, but there is some flexibility with that at this time. Please either signal the clerk or myself, and we will start the questions. Mr. Rowswell.

Mr. Rowswell: Yeah. I'm just wondering about A.1 and A.2. If A.1 didn't get approved or adopted, which, I guess, is the right word – I was just looking at A.2, and I'm just thinking from a red tape opportunity: is it necessary to have a semiannual if you're doing notice of a change every 30 days? Like, I'm just wondering about the logic of having that semiannual component in there.

Ms Trussler: The semiannual is quite a burden, and we thought that it would be much less of a burden. Because a lot of people register and don't do a lot of lobbying, we thought that the communications registry would be less of a burden than the semiannual return. Because they're already required to update it, we thought this was a pretty fair exchange, but it would provide so much more transparency.

Mr. Rowswell: Even if A.1 wasn't adopted?

Ms Trussler: Well, no, because then that starts to cause problems.

Mr. Rowswell: Does it? Okay. All right.

The Chair: Mr. Walker.

Mr. Walker: Thank you, Chair, and thank you, Commissioner, for being here and for all the great work you and your staff do. This has been very informative thus far.

My question will focus, similar to MLA Rowswell's, on red tape. As you know, our government has been very focused on reducing red tape and has achieved great success. I guess, Commissioner, through the chair: in drafting your recommendations, how did you balance the need to reduce red tape and the complexity with increasing transparency? To the less familiar eye, the layperson perhaps, including myself as the humble representative for Sherwood Park, it would appear that you are recommending more filing requirements and reducing red tape at the same time. I just wonder how you would approach that question.

Thank you.

Ms Trussler: Well, as I said, I think that it's a trade-off between A.1 and A.2 and that most lobbyists would find that they have a little bit less work to do than doing the semiannual. I know they find the semiannual fairly burdensome. That's why we put in section B of our report, because there are many things that the lobbyists have brought to our attention; for example, B.3. We now have to have, as a designated filer, the most senior officer of the company. That senior officer might be in Dallas or might be in London or Antwerp or wherever, and they know very little about what's going on in Alberta. It's a big burden for them to be the designated filer.

The other one that's a problem is that they have to disclose all government funding that they get anywhere in the world. And that's a big burden on them, too, so that's why we suggested that it be cut back to just Alberta. The final thing, or at least an example, that they've asked for is that when you've got a parent corporation and a subsidiary, you should be able to file just once for both of them, because usually the same organizational lobbyists look after it. So those are the sorts of things we look at in terms of making things easier for them and making things easier for us. Some of these things will make things easier for us – or clarifying things so that they don't have to worry or phone us and take some time to figure out what the section really means.

We have looked very carefully at reducing the burden, but the communications registry is the answer; that's the transparency. So we've tried to take away a lot of other issues so that we can have that. We don't think we should have a communications registry like they have in Ottawa, which is very, very onerous; like, you have to file every month. What we're suggesting is whether you've lobbied or not. We're suggesting that you only have to file when you have a communication. We don't think that we need to go as far. We have limited the number of people that this applies to in terms of senior public office holders. Ottawa is much more broad.

We've looked at: what would work for Alberta? Give the transparency that the public should have but not create too big a burden on the lobbyists. It's been a balancing act. We've talked about it a lot in the office – how's the best way to do this? – and this is what we've come up with.

Mr. Walker: Thank you.

The Chair: Thank you.

Ms Sweet.

Ms Sweet: Thank you, Mr. Chair, and thank you, Commissioner Trussler, for your presentation, and, of course, to Ms Draper as well. I'd like to focus on A.7, narrowing the exemption of in-house

personnel of nonprofit organizations. Could I get some more information just in regard to how we would see this recommendation being put into practice? Something along the lines of looking at, I guess: what would the definition of your think tank can be? Would it be any individual, I guess, who is looking at – how would you define between a private citizen and then an organization, first? Let's start there, and then I'll process it after that.

Ms Trussler: I'm going to let Ms Draper answer this question, but I'm not sure I understand. If it's just a private citizen talking to an MLA, that's not lobbying. You've got to be paid before you're a lobbyist. So are you asking us: who would we include, and who we did exclude?

Ms Sweet: I guess I'm looking at – as we see movements across the country developing and there may be financial pieces attached to that, how would we determine individuals who are engaging in lobbying of governments, meeting with government officials, meeting with government MLAs, who may or may not be getting financial assistance through new organizations as they're being developed, that may not be typically considered under the Lobbyists Act?

Ms Trussler: I'm not sure – well, I'm having some trouble hearing you, but I'm also not quite sure that I understand the question, because that one is for narrowing the exemption for in-house personnel.

Ms Sweet: When I look at the definition of, like, a think tank, we now want that consideration to be put in place under the changes.

Ms Trussler: Yes. We would want to include all the think tanks as having to register.

Ms Sweet: And, then, what outside of that? I mean, a think tank could be broad. There could be many organizations that could fall under the definition of a think tank, depending on what they're coming as and what topic they're discussing. So how would we create those definitions and ensure that individuals are being registered when they need to be registered?

9:30

Ms Trussler: Well, I think that if you're just a think tank, you would not have an exemption. What we're looking at exempting are the true charities, the groups that provide services to the public.

Ms Draper, maybe you'd like to add something.

Ms Draper: Yeah. I have to be honest; I'm not totally clear exactly on the question either, but just picking up on Member Sweet's last comment about how we distinguish based on the nature of the communication with the government if it's a think tank or not, it would be – to determine if something is a think tank, the nature of the organization, we'd be looking at, like, the nature of the organization itself, what it was established to do. Maybe we look at their bylaws or other constating documents. It wouldn't be about the nature of the communication because it would all be – the nature of the communication we're concerned about is lobbying, which is defined in the act.

To determine whether something would fall within the exemption or not, we're going to be looking at the nature of the organization. That includes, in our proposed exemption, looking at what they're established to do and how much of their budget they're spending on actually providing service, tangible support services directly to the government in certain subject matter areas. That would be the focus of determining whether an organization is exempt or not. It wouldn't necessarily be focused on the nature of their communication.

Does that help?

Ms Sweet: Yeah. Thank you.

The Chair: Do you have a further supplemental, Ms Sweet?

Ms Sweet: No. I'm good. Thank you.

The Chair: Ms Rosin.

Ms Rosin: Okay. Thank you. I have a question about recommendation A.3, which would be to reduce the threshold from 50 to 20 hours, which includes, I believe, time preparing to lobby as well as lobbying. There have been a number of small organizations who have asked for the previous change down from 100 to 50 to be reversed back up to 100 rather than decreased further. They noted that they already have limited resources, and it is a burden on them if this were to go forward and decrease that allowance even further. I'm wondering if you have any recommendations of how we could potentially create an allowance for smaller organizations or if not, if you are confident that the benefit of lowering that threshold would outweigh the concerns from the smaller organizations who are already worried that the allowance is too strict for them.

Ms Trussler: Well, I have to say to you that 50 hours of lobbying is a lot. I actually did a little bit of lobbying when I was practising law in the '70s and '80s, and quite frankly if it takes you 50 hours to get your message across, you're not very good. Fifty hours is really a lot of time. All the other jurisdictions are moving to delete that threshold because a really good lobbyist can do a lot of effective lobbying in way less time than even 20 hours.

You know, it's not that big a burden, particularly if we just have the communications registry and they don't have to register every six months. But these organizations, many organizations: they have to file with CRA every year. They have to file with corporate registry every year, and I can tell you, having done both of those and having been the guinea pig when we put in place the new registry, that filling out the forms for our registry are way less onerous than any of those others. I dislike forms intensely, so that's why I went through and did the form first when we put the new registry in place. I actually got through it without any grumbling.

Ms Draper: May I add to that, please? Is that okay?

The Chair: Please go ahead.

Ms Draper: A threshold based on hours spent lobbying, although it's not perfect, is an objective measure of determining the registration requirement that at least is directly related to the lobbying itself. On the other hand, if we introduce an element of the number of employees into the threshold, I think there should be consideration as to whether that measure is even less directly linked to lobby activities and to the level of influence and access. For example, if we think of an organization that maybe only has two employees but they're very well connected and they lobby a lot, they have a lot of policy influence, but if we introduce a small organization element or number of employees element into the threshold, they wouldn't have to register. I would consider that that kind of element gets a little bit further removed from the effect of the lobbying activities.

The Chair: Thank you.

Do you have a further supplemental, Ms Rosin?

Ms Rosin: No. I think I'm okay for now.

The Chair: Thank you.

Any other members wishing to ask questions at this time?

Ms Armstrong-Homeniuk: Chair, this is MLA Armstrong-Homeniuk.

The Chair: Yeah. We will put you on the list.

We will go to the opposition, Mr. Bilous, first. Thank you.

Mr. Bilous: Thank you very much. Just a quick question around – I'm just looking at it. I think it's 6.2, your recommendation. It's just talking about how it's pretty complex. I believe this is about benefits, "prohibited gifts' provision." That might change my question. Sorry. I was just looking at this as – I appreciate the fact that you're trying to simplify it. It's a two-step process that's fairly complex depending on who the lobbyist is trying to lobby or meet with or communicate with. I appreciate that end of it. My question is just around – so B.C. has a limit of \$100 total annual. I appreciate that you folks believe that that's a little too restrictive. You're proposing a \$200 cumulative annual limit in Alberta.

Ms Trussler: Yes.

Mr. Bilous: Can you give some examples of that? I guess I can move quickly through this in that I'm just thinking of any type of live events that may be offered or used as the opportunity for the lobbyist to engage with whomever. That would obviously be applied through this \$200?

Ms Trussler: No; \$200 is just a suggestion, particularly for tangible gifts, because that's in the Conflicts of Interest Act already. You might want to – and this is all open for debate – put \$400 in for an invitation. The general public doesn't look too fondly on you getting these invitations for \$400, but you do have to get out in the community, some events, and sometimes a lobbyist will take you to an event where you should be seen. I can understand that, but I would certainly not go above \$400. I personally believe that the \$100 is too restrictive. Gifts themselves should not be above \$200, but it would really be up to you to decide what that range should be.

I know one of the problems – and it's raised in some of the submissions – is conferences, where you get invited to conferences and people want to schmooze with you. Well, I can tell you from my experience as chair of AGLC that I got invited to a lot of conferences. There was a lot of schmoozing, and we had our registration paid and everything to do with it paid. After I went there for one year – I saw a lot of cabinet ministers there, too – I felt uncomfortable. I felt that it was too big a gift, too big an opportunity even though it was sort of for us to go and give an update session for an hour. Afterwards we actually paid our own hotel to the event. I have seen what these conferences are like. In most cases, unless you're a keynote speaker, there has got to be some limits on them, because I found them very uncomfortable. That's why I wouldn't go above the \$400.

Mr. Bilous: Okay. Thank you.

The Chair: Do you have a further supplemental, Mr. Bilous? Thank you.

We will go to Ms Armstrong-Homeniuk for the last question as we've hit that time threshold, unless there is a burning desire for further questions. Go ahead.

Ms Armstrong-Homeniuk: Thank you, and good morning, everyone. Alberta's current 50-hour threshold is already consistent with or lower than hour-based thresholds in other Canadian provincial jurisdictions, notably Ontario, B.C., and Manitoba. Why do you feel the need to lower this threshold if it's currently on par with several other provinces?

Ms Trussler: I'll ask Ms Draper to respond to that question.

Ms Draper: Just, first, one correction. Ours is not lower than B.C.'s. They do currently have a 50-hour threshold. However, it's not just a straight time threshold, as I mentioned earlier. It's 50 hours, but the organization also has to have fewer than six employees and cannot have a primary purpose of promoting or opposing issues or representing the interests of their members. Otherwise, if they have more than six employees or if they have a primary purpose that falls within that category, they have to register even if they don't meet 50 hours, even if it's five hours, so it's actually not harder to meet that threshold than it is to meet ours currently.

9:40

As we kind of mentioned in the presentation there, if you look at examples of recently amended or enacted legislation in other jurisdictions, so in jurisdictions that have updated their legislation more recently or have enacted more recently in the past few years, it is a trend of lowering that threshold. In Saskatchewan it's now 30 hours, which includes communication time, prep time as well as travel time – and we don't include travel time currently – and in Yukon the threshold is actually 20 hours. We would submit that the trend is to be forward-thinking and move towards more transparency and accountability in Canada for in-house lobbying. If you want to compare it to older standards, that's one thing, but if you're looking forward-thinking, it's a trend towards lowering it to provide that much-needed transparency and accountability.

The Chair: Thank you very much for that clarification.

At this time I do not see an overall emphasis on further questions, and we have taken a roughly 15- to 20-minute time period, so I would like to thank Ms Trussler and Ms Draper for your presentation, for your willingness to answer questions, and your time today. I'm sure that if there are any further clarifications needed, this committee will reach out to you for those. Thank you very much. I appreciate your time.

At this time we will move to the volunteer and philanthropic organizations. I would like to now welcome Ms Karen Ball, executive director, and Ms Alexa Briggs, director of policy and research, from the Calgary Chamber of Voluntary Organizations as well as Ms Gemma Dunn, executive director at the Edmonton Chamber of Voluntary Organizations, to make their presentation. I'm not sure who will begin, but you have 15 minutes for your presentation, followed by approximately 15 minutes of questions. Please begin.

Thank you.

Ms Ball: Thank you, Chair Neudorf. I would also suggest that we could offer to take all questions after Dr. Wyatt's presentation if the chair should so wish.

The Chair: Thank you. We'll make that determination at that time. Thank you.

Ms Ball: Thank you.

Calgary Chamber of Voluntary Organizations Edmonton Chamber of Voluntary Organizations

Ms Ball: Thank you for the opportunity to address the committee today as part of this mandatory review of the Lobbyists Act. I am Karen Ball, the president and CEO of the Calgary Chamber of Voluntary Organizations, CCVO, a registered charity whose mandate is to provide leadership on policy issues that affect the sector as a whole. I'm joined today by my colleague Gemma Dunn,

executive director of the Edmonton Chamber of Voluntary Organizations.

In speaking to this legislation, we remain responsible to the 26,000 Alberta nonprofits whose voices we represent. Our combined research and extensive engagement with organizations in the charitable and voluntary sector gives us a deep understanding of the contributions made and challenges faced by these nonprofits across Alberta. Under the Lobbyists Act an organization is considered to be nonprofit if it is organized and operated exclusively for any other purpose except profit. This test is appropriate for the exemption as there is a fundamental and identifiable difference between acting for personal gain and acting for public benefit.

Ms Draper referred to public benefit and other types of nonprofits. The opposite of public benefit is private benefit or private gain, and no nonprofits exist within this structure. When nonprofit organizations speak to government, it is through the voice of individuals, families, and communities that they serve for the benefit of the public, which is at the core of what it means to be nonprofit. What the Lobbyists Act addresses that most concerns Albertans is the potential for individuals to receive private benefit as a result of influencing government officials. Although nonprofits may attempt to influence government for benefit, there is a fundamental difference between lobbying government for a policy change that is aimed at a public benefit such as reducing teen suicide rates and lobbying for a commercial interest that delivers profits as a private benefit. If we accept the principle underpinning this distinction, then it is not necessary to remove the exemption for public benefit nonprofits. It serves as a simple, effective, and indeed elegant policy solution. We remain committed to this position, as we were in previous reviews of this legislation in 2007, 2012, and 2016.

Removing or altering the exemption will see significant impact in three main ways: one, increased red tape for government, and this being red tape awareness week, we really feel that this is an important thing to talk about today; two, increased administrative burden, red tape for nonprofits; and, three, a fundamental altering of the relationship between government and nonprofits that will not allow the government of Alberta and its leadership to fully benefit from the valuable and considered input of nonprofits when serving Albertans. This government has made a strong commitment to removing red tape across all ministries. Removing the exemption would increase the government's red tape count in the tens of thousands. Altering the exemption would also create thousands of red tapes as organizations and their volunteers attempt to understand what rules apply to them, how to interpret and apply the act, and how to alter their practices and procedures as a result.

The CCVO has worked for years to promote understanding of the rules for registered charities and nonprofits, complex rules such as those imposed by the CRA for charities, and we know first-hand how challenging this is and how cautious organizations are about proceeding within the rules so as not to harm their federal registration or provincial registration statuses. Judging by the vast number of FAQs on the office of the Ethics Commissioner's website related to lobbying, we can see it's currently difficult for many organizations to understand the act and how it applies. This is for private companies that have paid staff dedicated to support lobbyist administration.

Aside from the complexities of the act itself, the changes proposed by the Ethics Commissioner for nonprofits are difficult to understand in practical application, even for me, and will cause no small amount of confusion across the sector, confusion that will be aimed at the office of the Ethics Commissioner, thereby significantly increasing red tape burden on government. Past reviews of this legislation tell us that proposed change will result in a strong public

response from many organizations and volunteers all across Alberta, a response directed at ministers, MLAs, and ministries, adding red tape across government and taking time and resources that could be better spent addressing community needs, particularly at this critical time.

Along with the potential for the creation of red tape for government, changes to the legislation will increase administrative burden on nonprofits, who will utilize their resources towards delivering crucial services to Albertans every single day. Given the strong public sentiment that organizations should focus as much as possible on serving their mission, even if their mission is to provide policy advice to government, changes that layer more nonessential work on nonprofit organizations must be taken seriously, particularly at this time when these organizations are stretched thin owing to additional burdens of decreased funding and increased service demand during the pandemic. Many organizations remain underresourced and have had to cancel essential programs and services that support Albertans in their time of need. They simply lack the capacity to take on the rising community need, much less greater administrative burden related to tracking and reporting.

I will pass it to my colleague Gemma Dunn to address our final issue more fully. Gemma.

Ms Dunn: Thank you, Karen. Like CCVO, ECVO, the Edmonton Chamber of Voluntary Organizations, is a registered charity with a mandate to give voice to issues that impact the nonprofit sector. If we fundamentally alter the relationship between government and nonprofits, this will prevent the government from fully benefiting from the valuable and considerable input of nonprofits to address issues of joint concern. Nonprofits have a long history of supporting local, provincial, and federal governments to make sound policy decisions. If the exemption were to be removed, this would diminish communication between government officials and nonprofit organizational leaders, when in reality what is needed is an environment that stimulates engagement, dialogue, and collaboration between the nonprofit and public sectors.

As Karen has said, introducing legislation that defines certain interactions to be lobbying and others as not lobbying will create confusion and uncertainty as organizations struggle to discern which side of the line they are on. This will undoubtedly create a chilling effect, one in which nonprofit boards and staff will begin to err on the side of caution and limit their engagement with government officials entirely as to not risk going offside.

9:50

What marks the line between lobbying and advocacy? Of the tens of thousands of active nonprofits in Alberta you will find that a considerable portion, if not the majority, consider advocacy to be essential to their missions. Governments at all levels have benefited from sector advocacy, from the sector's eagerness to maintain strong communication with institutions and policy-makers, all of whom are collectively working to better our society.

Currently the relationship that exists between nonprofit organizations and the government of Alberta is one of joint benefit. Sector leaders working to advance their missions for public benefit ensure that their work is founded on solid evidence, research, and data. They share this research and data with the government to support and advance essential work in our communities.

There was a wealth of data collected during the pandemic. This data was shared freely with government administration and was utilized within a number of ministries to make timely program and policy decisions that improved the lives of many Albertans who were suffering from job losses, mental health challenges, and extreme uncertainty about the future.

Currently sector leaders are asked by administration for their insights. The loss of the current exemption would cost the government dearly. As my colleague shared earlier, it would create additional red tape and the loss of essential intelligence, community-based research and data, and insight into the issues affecting Albertans.

The COVID-19 pandemic has only highlighted the need for stronger and clearer lines of communication between government and the nonprofit sector. Over the past two years the government of Alberta and the province's nonprofits have worked together like never before under the most severe pressure to support Albertans struggling from the effects of the pandemic. By changing the nature of the Lobbyists Act, these lines would diminish once again.

Again, we urge you to consider the impacts of such a change not only to the nonprofit sector but also on the government of Alberta itself, which would surely suffer from less engagement, dialogue, and collaboration with the sector. Once you change the nature of the relationship between the sector leaders and government leaders, it is irrevocably changed. Building back this trust and willingness to engage would take years. Albertans simply cannot afford such a loss.

Removing the exemption could well create a situation that is confusing, burdensome, and alters the working relationship with government. It could contribute towards an advocacy chill, where a board of directors concerned about violating the rules will choose not to support advocacy efforts. This will deprive public policy-makers of their expertise and the ground-level perspective that resides with nonprofits and charities.

Removing this exemption for public benefit nonprofits is a solution to a problem that does not exist. We are unaware of any evidence to suggest that Albertans believe a problem exists. In the absence of a strong rationale for lifting the exemption, we urge the government of Alberta not to make changes to the Lobbyists Act that would create both unnecessary red tape for the government of Alberta and unnecessary work for the Alberta nonprofits working in public interest and for public benefit.

Maintaining the exemption for nonprofits would come with a benefit, the ability for the organizations we serve to continue to put their time into advancing their mandates and missions and solving social problems, building a better society. The benefits that come from this work are for all Albertans and for public interest.

Thank you.

The Chair: Thank you very much for that presentation.

After a brief consultation with the vice-chair I think, because of the nature of your presentation, we would like to offer you a full 15 to 20 minutes of questions directly to you, and then Dr. Wyatt we would do separate. You're welcome to stay online, and he could defer questions to you potentially if that was his desire. That way we would be able to specifically address questions raised in your presentation without maybe causing confusion for the committee.

At this time I will begin taking the list for questions. I will begin to my right with the vice-chair, Ms Goehring.

Ms Goehring: Thank you so much. I really want to express my deepest appreciation for the work that you do supporting Albertans, especially considering what's been going on with COVID. Your advocacy and support for Albertan families is so much appreciated, and thank you for your presentation.

When you guys submitted your written presentation, there were so many signatories that were included in that. I'm hoping that you can speak to the level of agreement and support on your positions within the nonprofit sector and kind of highlight some of the discussions that you've been having with your members about this issue.

The Chair: Ms Dunn.

Ms Dunn: Thank you. We have had many discussions around the Alberta Nonprofit Network table. That is a group of leaders who come together. We're a network of networks, where we have a number of nonprofit organizations who are signed up as subscribers to that network. We have a government relations committee that Karen and I co-chair, and this issue comes up over and over again around how the nonprofit sector engages with the government of Alberta on issues of public interest.

What I can say from my conversations is that many members of ECVO and indeed the Alberta Nonprofit Network are fully in support of the exemption remaining in its current state. The work that it would take for these nonprofit organizations to have this additional administrative burden to register when they're already not seeing administrative rises in any kind of grants or fundraising – in fact, they're seeing a tightening of resources – would create a complete strain on them administratively.

I'll turn it over to Karen. She can talk from CCVO's perspective about what they have been speaking to.

Ms Ball: Thank you, Gemma, through the chair, and thank you, MLA Goehring, for the question. I agree with Gemma. One of the fundamental things that we're seeing at this point in time is that many public benefit organizations are actually having to pull back on essential programs and services offered to Albertans and their families. We do not think it's appropriate to make the distinction and the exemption between public benefit and private benefit organizations removed from the act. We also really recognize that at this time what we're hearing from our members and from the 26,000 Alberta nonprofits that serve our communities is that there just is no additional time for anything else. In fact, those essential services are not being delivered because of the lack of capacity within these organizations.

It is a very real and pressing concern, and we are hearing it from both larger institutional organizations like the YMCA network that signed the letter as well as smaller organizations like ourselves. We are only six employees, and we would be considered a small organization that potentially is being recommended to lose exemption under the act. It would be a huge stress at this time for both small and large organizations.

The Chair: Thank you.

Do you have a supplemental?

Ms Goehring: I do. Thank you so much. I really appreciate you talking about the level of increased bureaucracy and specifically the red tape that this would create. I think that that speaks volumes to the concerns.

You had mentioned in your presentation the previous reviews of this legislation, and I'm curious if you've heard concerns from the public since the last time the legislation was reviewed about the exemption. Has the issue of lobbying in the nonprofit sector been brought forward often?

Ms Ball: Thank you. Through the chair, we hear mostly from those working within the nonprofit sector in our particular role and from our perspective. We did of course send a survey for response that informed our submission to you today, and it did have a strong response from nonprofits. As we did in previous iterations of coming before this committee or for review, we've had hundreds of organizations speak to this issue to us over the past years that we have been working on the lobbyist registration and review.

We do not hear from the public at large that there is a trust issue with nonprofits and how nonprofits work with government. That's

never been anything that has come up to me, from my perspective, around trust of nonprofits. Nonprofits deal in trust. They do it for a variety of reasons. They do it because this is how they raise income and funds from donors and sponsors. They need to be in a position of trust. They're responsible to their members, the general public, and they're guided by volunteer boards of directors. All of that relies upon public trust and truly reflecting the needs of the people that they serve according to their mandate. We do not see that trust eroding in any particular way on nonprofits at this time across the province.

10:00

Ms Dunn: I agree with my colleague. The only thing that I would add further to Karen's comments is the fact that the community is expecting the nonprofit sector to step up. They're expecting the community to engage with government officials. They're expecting a level of communication to happen at that level to ensure that the needs of our communities are being met. As I mentioned in my presentation, the removal of this exemption is responding to a problem that does not exist.

The Chair: Thank you very much.

Do I see another question? Mr. van Dijken.

Mr. van Dijken: Okay. Thank you, Chair. Thank you both for your presentation this morning, not only for the work you're doing this morning but for the work that your association and members are doing to improve civil society as we know it. It's very much appreciated and very much recognized as an important part of society's well-being, the work that you're accomplishing.

I'm looking at recommendation 7 from the Ethics Commissioner and the lobbyist registrar, and I think I'm pretty clear on your position on the recommendation that's come forward from their office about narrowing the exemption for in-house personnel of nonprofit organizations. The stated issue is that

the current exemption in the Act for in-house personnel of nonprofit organizations is overly broad, which creates a serious gap in public transparency and accountability about in-house lobbying and unwarranted inequality among non-profit organizations.

If you could maybe speak to if you see that there's – I think your overall stand is that there is no issue. But with regard to “unwarranted inequality among non-profit organizations” do you see that as an issue? Also, with regard to the current exemption is there any room for revisiting that aspect of that exemption?

Ms Ball: Thank you. Through the chair, thank you for your question, and thank you for your support in the work that we do every day. It's deeply appreciated.

Look, you know, there is no perfect system here. The choice that is presented is whether the public benefit gained by open communication between government and nonprofits is a worthwhile trade-off for a heightened level of public transparency around when meetings with government are taking place, which would almost certainly lead to less interaction between government and nonprofits.

If I could, one of the issues in the recommendation from Commissioner Trussler is related to inequity or creating equality. I just want to point out a couple of examples of why I think that perhaps in this recommendation we're not really getting to a place of equity. For example, you could have, under the recommendation from Commissioner Trussler, a religious organization, which would not be exempt according to the recommendation, that provides shelter services and is a nonprofit. You could have another exact same nonprofit that has a mandate to relieve poverty, not a religious organization, that provides shelter services that would be exempt. So two organizations providing a very similar service: one, being a

religious organization would make it nonexempt, and the other, providing the tangible benefit of relief of poverty would make it exempt.

There are other kinds of examples. Let me give you an alternate example. You could have a large organization that provides child care but whose main mandate is community recreation. They would be exempt. But they might be very actively lobbying for affordable child care. They may actually be lobbying against private interest on that issue, but they would be exempt. They would not be registered under the recommendation from Commissioner Trussler. No perfect system.

I would argue – and we're taking this stance now – that the most equitable system is to say: "If your lobbying activity has, as an end result, the possibility for private gain, then you should have to register and provide that transparency. If you have no possibility for private gain, if you're in the public benefit, then you're working with the government. You do not need to register."

I will also say that nonprofits provide a very high level of transparency; most will provide their policy agenda online. Indeed, when we, which could be considered, I suppose, a think tank although that's undefined, provide things like feedback to this committee or any correspondence to government, we make that publicly available. There's no lack of transparency in the interaction between government and the public benefit or nonprofit sector. In fact, these recommendations could create further inequities. They're very difficult to understand. We think that the solution that you have reduces red tape. It is elegant, and it works. We do not see the need to fix it at this time.

The Chair: Thank you very much for that.

No supplemental? Thank you, Mr. van Dijken.

Any further questions at this time? Mr. Walker.

Mr. Walker: Sure. Thanks so much for your presentation and for all the work you do. I've always been of the opinion that community organizations especially are the lifeblood of civil society. I've really enjoyed the back and forth here in the dialogue.

Now, from your submission to the committee it is clear that your organizations do not want to see any changes to the current exemption because you know how significant the services offered by your member organizations are, and I've clearly heard that in your presentation. I'm certainly very grateful for the presence of the public benefit nonprofits in our communities, and I am wondering if you could share some of the metrics that you might use to measure the value your member organizations provide to the community. I'd be very curious on that, so please go ahead.

Ms Ball: We're both waiting for one another, I think, to answer this question. Through the chair, thank you very much for that question. I mean, I think that, you know, if you've seen the depth and breadth of what is encompassed in the nonprofit sector, you can understand how it might be difficult for us to give you generally what kind of metrics would be used as measurement.

But I can say in a general sense that every nonprofit would operate under a mandate, and that mandate would very clearly identify what the impact the nonprofit is intending to do with their work and their services to the public. That can be measured depending on what the intent of the nonprofit is specifically, but the types of measurements might be – you know, if it's to relieve poverty, for instance, then it might be an indicator of how many Albertans are above or below the poverty line in terms of their work and their effort. It could be very specific. It could be the number of students or youth involved in an activity or a program that is after school care related. It could

be an arts and culture metric of bums in seats. It's kind of a massive group of metrics.

When we think at the 30,000-foot level about what it is that we're trying to do with our work, we think about it in the terms of community prosperity. We think about: how prosperous are our communities? How prosperous are Albertans able to be within their communities?

Ms Dunn: I would only add to Karen's very elegant explanation that there is no single measurement. Organizations have a variety of different outcomes that they're reporting on based on their mandate, as Karen explained. However, I would argue that nonprofit organizations and charities in Alberta touch every single Albertan in a given year, whether it's through sport, arts, heritage, child care, the relief of poverty. When we talk about civil society, we're talking about all of those things. So I would argue that not one Albertan is not touched by a charity or a nonprofit at some point during a single calendar year.

Thank you.

10:10

The Chair: Thank you very much.

As you heard, that is the end of the 15-minute time block, but that's not absolute. I don't have any other questions or hands raised that I can see at this time.

Seeing none, I would like to thank Ms Ball, Ms Briggs, and Ms Dunn for your time today and your obvious passion and care for not just this topic but our communities all across Alberta. Thank you for the work that you do and your time with us today. You're welcome to stay online, but we will now be moving to the next presenter. Thank you very much.

I would now like to welcome Dr. Bob Wyatt, executive director for the Muttart Foundation, and Mr. Geoff Braun, director of policy, to make their presentation. Dr. Wyatt, you have 15 minutes for your presentation, and as you've been online, you will see that there will be approximately 15 minutes for questions following that. We will start your time now.

Muttart Foundation

Dr. Wyatt: Mr. Chairman and members of the committee, thanks so much for the invitation to be with you today as you consider your recommendations to the Assembly. I'd like to begin with an anecdote that's told by Ken Boessenkool. Some of you will know him, and more of you will know of him. He's held a variety of political staffer positions, operated his own government relations firm, and is currently teaching. Mr. Boessenkool tells of acting on behalf of a client. The government was considering certain changes that would affect that client and others in the same industry. Mr. Boessenkool kept the theme for his client very simple. The client was told to deliver this message over and over again: if it ain't broke, don't fix it. It ain't broke; don't fix it. If you fix it, you will break it. If you break it, you will need to fix it.

I'm here today to tell you that the Lobbyists Act, at least as it relates to charities and public benefit nonprofits, ain't broke. If you try to fix it, as successive commissioners have unsuccessfully recommended at every review, you're going to break something important. You will cause harm, and I don't think any of you want to do that.

Let me pause for a moment to introduce the Muttart Foundation. I have the distinct honour of representing one of western Canada's oldest private foundations. Founded in 1953, we exist to support charities. We do this through grants, through technical support, through research, and through advocacy on behalf of charities of all

types, whether we fund them or not. We do know fundraising. Our grants and our operating costs come from income that we earn on the endowment that Gladys and Merrill Muttart left to the foundation after their successful business careers.

For much of the last quarter century we've paid particular attention to the regulation of charities. As one of our directors is fond of saying, it should not be hard to do good. We advocate on behalf of reasonable regulation reasonably applied. We work with governments at all levels to help identify issues and their solutions. We believe that people of goodwill, when fully informed, can develop solutions that allow charities to do what they're meant to do, provide benefit to Canadians and to those we serve outside of the country. It is in this spirit that we come to you today to talk about the Lobbyists Act.

When the act was first introduced, it was drafted very broadly. Throughout the province charities and nonprofits met with individual MLAs and explained the administrative burden they would face if they were covered by the act. They explained how their organizations interact with government all the time on any number of issues. Sometimes the issue related only to their organization, but as often as not they were meeting with elected members and officials to discuss systemic changes that would make life better for Albertans. When the matter came before the government caucus of the day, members asked all sorts of questions as a result of the meetings they'd had with nonprofits in their constituencies.

Then something extraordinary happened. The then Premier said that it was never his intention that the act should include charities, so the amendment, the current section 3(1)(i), was introduced. It exempted all charities, and it exempted other nonprofits that exist for a public benefit and not for the benefit of private interests.

Before I go on, let me clarify some terminology, because I find it's something that often gets in the way. All charities are nonprofits, but not all nonprofits are charities. Nonprofits are, as the name suggests, established for any purpose other than profit. Within that limitation there can and do exist all types of organizations, from a book club to a service club to the Canadian Medical Association and the Alberta Motor Association. But one subset of this group, charities, must by law exist for a public benefit as established by law, so charities fall automatically within the exemption contained in section 3(1)(i) of the act because they cannot by law provide any undue private benefit. They are subject to significant regulation by the Canada Revenue Agency and are required to file annual returns, the only entities in Canada whose full tax returns are posted online.

When the exemption was being drafted, the question arose about what to do about certain other groups – some community leagues, sports teams, and so on – that exist for a public benefit but are not charities, so the government of the day adopted the exemption, using language from the Quebec legislation. It was considered at the time to be an elegant solution. It recognized that the act was meant to capture those people and organizations that were seeking some sort of private benefit from government. The amendment recognized that when governments are dealing with charities and vice versa, there is a different dynamic. The nonprofit is not trying to get some personal gain. Rather, it is working with government in the public interest and for a public benefit. The nonprofits therefore are akin to some of the other entities that are exempted under section 3(1).

The message that I want to leave with you today is that the system works, and it's worked ever since the legislation was enacted. The two reviews that have taken place found that the current system works, and there was no reason to make any changes. Our position is that there is still no reason. In other words, if it ain't broke, don't fix it.

Although there are some suggestions of the commissioner's submission that I want to address, my main point is that none of the

arguments that are made are new. They were made in 2012, and they were made in 2016-17, and your predecessor saw no reason to recommend any change. We believe you should come to the same conclusion. It's our view that no good reason has been shown to remove the exemption. No good reason exists to divert time and attention from the important work charities and nonprofits are doing in your constituencies and elsewhere.

It's not a good enough reason to say that they should register and report so they can say that they're working for the betterment of the community. You already know that. You tell them that when you show up at their fundraisers. You reinforce it when you send gifts for them to sell at their silent auctions, and, like me, you probably have spent more money than you should have on buying some of the things at those silent auctions. You sing their praises in letters to them, that they attach to their bids for grants, or the notes you send when one of the volunteers is recognized for outstanding service. You also know that almost all of them are working with way fewer staff than they would like to have. You know they all want to do more and better and make more lives better, whether that's through the arts, social services, or sports and recreation. You know the challenges they've faced over the last two years. You know that some of them are in incredibly precarious positions. And I suspect you know how much poorer your community would be if they didn't exist.

Back in 2007 we encouraged these organizations to meet individually with their MLAs to explain what would happen if the exemption were not granted. If that would be helpful, we could encourage them to do that again. You'll certainly have a much greater appreciation, I suggest, of the strain under which most charities are now working, yet they are working. Indeed, it would have been a very sad state if charities and nonprofits hadn't been there to serve their communities over the last two years.

10:20

It's ironic, I suggest, that we're talking about changing the law to require charities to register under the Lobbyists Act at the same time as government is consulting about removing the burden of registering under the Charitable Fund-raising Act. Some would say and have said that it's even more ironic that we're having this conversation during Red Tape Reduction Awareness Week.

How much more good, I wonder, could be accomplished if, instead, we spent our time thinking about how charities and government can work together even more closely? Many government programs are delivered by charities and nonprofits. Other programs are delivered to the same people that are served by charities and nonprofits. Just think for a moment how wonderful it would be if government and these organizations co-created policies and programs, combining government priorities and data with the broad experience of those closest to the ground.

I do want to comment on one aspect of the commissioner's submission, one I believe is very dangerous. At page 18 of the commissioner's brief she suggested a new definition of what organizations should benefit from the exemption in section 3(1)(i). It's bad enough, in my view, that we already have so many differing definitions of what constitutes a charity or a charitable purpose for provincial purposes. Creating another one is unnecessary, unwise, and entirely inconsistent with the stated desire to reduce red tape. But even more than that, adoption of the commissioner's recommendation would create a situation in which some charities and nonprofits are considered more worthy than others. That may be a decision that is appropriate when talking about the awarding of grants; it is not appropriate when talking about who should be regulated.

First, I would note that adoption of the recommendation would likely remove the exemption for all places of worship. Few of them

spend at least 75 per cent of their annual budget on the types of services of which the commissioner seems to approve. Second and more distressing, the commissioner specifically would remove the exemption for research and policy institutions but without any explanation of why or how that would apply to such institutes at universities. And, without even mentioning them, the commissioner's recommendation would remove the exemption for environmental organizations.

I would remind the committee that the Allan inquiry found that the charities and nonprofits it examined broke no laws, federal or provincial. This is not a place to punish them for something they've been found not to have done. But, turning from the practical to the philosophical, I want to raise the question of whether we're going to impose or remove regulatory burden depending on the extent to which the government of the day agrees with positions taken by individual organizations. As we suggested in our submission to the Allan inquiry, that comes dangerously close to regulating expression. Imposing a regulatory burden by failing to specifically mention one kind of charity seems, with respect, to be a road we should not be going down in a free and democratic society.

The courts, up to and including the Supreme Court of Canada, have clearly set out what is charitable in law. The charitable sector should not be divided, with some cherry-picked for extra regulation based on what those charities do. That recommendation should, we suggest, be clearly and quickly refused.

Mr. Chairman and members of the committee, I return to where I started. The existing system works and has worked for 15 years. There is no need to fix it, at least as it relates to the exemption for public benefit nonprofits. We urge the committee to let charities do what they do best, serve our communities and those around the world, without an unnecessary and imprudent regulatory change.

Thank you, Mr. Chairman.

The Chair: Thank you very much, Dr. Wyatt.

I neglected to let members of the committee know that after the question portion of this segment is concluded, we will have a short break. Just in case anybody was wondering when that was going to happen. I apologize for that.

Now I will open the floor for questions. I have one on the list. Mrs. Frey, you have your question.

Mrs. Frey: Hi. I hope you can hear me all right. Thank you so much for your presentation. As you were speaking, I was struck by your comment: if it ain't broke, don't fix it. That's something that legislators should learn to live by, I think. I was struck by your comments around nonprofits and the harmful impacts that changes could have on them. I know that there are probably many MLAs in the room who are thinking of organizations in their own community and just how difficult we could make it for them by making too many changes. The Ethics Commissioner's expressed purpose for putting forth that recommendation was about public trust. I guess my question is for you. Did you see that there's an issue with public trust in the not-for-profit sector? And do you think that this change would accomplish that, or do you think that it would make it worse?

Dr. Wyatt: Well, as my colleagues from the chambers of voluntary organizations suggested, we certainly haven't seen any evidence of overwhelming public demand for transparency, because people can go to the CRA website and see the returns of any charity. They can look to their websites, as Commissioner Allan, in fact, did during his inquiry, to find out what charities have been doing. As some of you will know, Muttart ran a research study for about 15 years called Talking about Charities, where we did interviews across the country to look at public trust in charities. The public trust in

charities was always ranking around 80 per cent or more. I won't tell you where politicians fell on that list; I'm sure you hear that often enough as it is. I would suggest to you that through those statements, through that research, and through the donations that Canadians make to charities, public trust in charities is not an issue, and it will not be enhanced by the sort of changes that the commissioner has requested.

I'd invite Mr. Braun to add any comments he wants to that.

Mr. Braun: I think you've covered it, Dr. Wyatt. I suppose the only thing that I would add is that, you know, as Ms Dunn said, in the absence of a problem to which lifting the exemption would be a solution, I think it's important to consider the timing of this conversation, of this discussion. Nonprofits and charities have arguably played a critical role in supporting our communities through the pandemic. They will continue to fulfill a critical role going forward into pandemic recovery. I simply cannot think of a worse time to increase the administrative burden on Alberta's public benefit nonprofits.

Dr. Wyatt: Mr. Chairman, if I could just make one more comment?

The Chair: Please do.

Dr. Wyatt: Let's bear in mind that the definition of lobbying encompasses basically any communication that relates to everything from legislation down to a directive and is addressed to anyone from a cabinet minister down to any employee of a department. So when you're in your constituency trying to go about your business, grocery shopping, and someone from a nonprofit in your constituency comes up to you and says, "Can we talk at some point about how we might address the issue of X in our community?" that's lobbying. Is there really a need to capture that? To what end? They are looking at trying to work with you to benefit the community, not to put money in anyone's pockets, not to get money for shareholders. Those are important things for sure, and they're covered under the act. But if one looks at who else is exempted under section 3(1) of the act, I'd suggest that the public benefit nonprofits are closer to them than they are to the for-profits that are covered by the act.

10:30

The Chair: Mrs. Frey, do you have a supplemental?

Mrs. Frey: I don't, Mr. Chair, but thank you for the response.

The Chair: Thank you.

Mr. Bilous.

Mr. Bilous: Thank you very much, Mr. Chair, and thank you, folks, for presenting your perspective and recognizing how many not-for-profits that you all represent and work with and deal with. I have a brief comment and then a question. I do think it's important that you folks raised the fact that any changes for the not-for-profits would be an additional administrative burden. We hear, and I'm sure every MLA in this room and online hears all the time, of the challenges that not-for-profits have in securing funding and that most have a dedicated grant writer. I could see changes to this forcing upon not-for-profits to now have a lobbyist compliance officer trying to log and track what are valuable conversations with decision-makers. I mean, I think everybody in this room recognizes the value and role that not-for-profits play in our society. For me, you know, your point about the smaller, especially, not-for-profits: having a chilling effect on them, being scared to engage in conversations – does that fall within lobbying or not? – sounds like

confusion, and quite frankly it does sound like a boatload of red tape. I appreciate your comments on that.

My question, really, is – you folks have discussed removing the exemption as addressing a problem that doesn't exist, and I'm hoping that you can expand a little bit on this. In your work have your members or anyone come forward with concerns of the exemption or anything related to the Lobbyists Act?

Dr. Wyatt: Mr. Chair and Mr. Bilous, first of all, if I can, just dealing with the preamble, it would be only the largest organizations in the province that have dedicated grant writers. I mean, the reality is that most nonprofits, certainly most charities for whom we've got detailed information in Alberta, are very small, a significant number that are run solely by volunteers, many more that have one or two staff. The larger nonprofits are the exception rather than the rule.

Just to add to the confusion of trying to figure out what was lobbying and what wasn't, bear in mind that all of those charities and nonprofits have volunteer boards of directors, and the discussions that those volunteers have with the provincial government do not constitute lobbying. So not only do you have to decide whether a particular communication is lobbying or not within the definition of lobbying, but then you have to figure out who had the conversation and whether it's now exempted because it was a volunteer that had it and wasn't someone who was paid.

I think that the only thing, frankly, that I hear about the Lobbyists Act between the statutory reviews is that some nonprofits which are currently not exempted under the act say they, too, would like to be exempted. You've again had some submissions at this review that organizations like chambers of commerce should be exempted. When the act was passed in 2007, there was a very clear rationale for where the line was drawn. I suggest that was drawn in a good place, in a place that can be justified logically, economically, and in a spirit of legislative restraint. I don't see that there has been any demand, public or otherwise, for a change in the exemption. I mean, the only time anyone talks about the Lobbyists Act is at the statutory review, right? Those who are required to register and file register and file. Those who are exempted don't worry about it until every five years, when a committee is established to look at it again.

The Chair: Thank you for that.

Mr. Bilous, do you have a supplemental? No?

Any others? Mr. Rowswell.

Mr. Rowswell: Yeah. Thank you. You know, in the short time I've been an MLA, I've seen organizations that provide really good public benefit and they're nonprofits and they're financed by not government, and I take it that that's what your organization – like, you don't get anything from government, is what I thought I heard.

Dr. Wyatt: We do not.

Mr. Rowswell: Okay. What's happened to a few in my constituency is that the flow of money from their sources dried up, and they said: look at the good service that we're providing; we need money from the government. Then we become part of their annual requirement of cash flow in order to operate their business, and somehow we have to measure the public benefit and that type of thing. What metrics do you use in your organization to see what your public benefit was, or the impact that you had?

Dr. Wyatt: Well, in our case our support is generally in the form of grants to organizations, so we're another funder, much like government is. In each of the government grant programs or contracts, and over the past two decades, we've moved from looking at an organization and saying, "Are they doing good work or not?" and we – I mean

generally, funders governmental and nongovernmental – moved to a more competitive grant-making environment, where an RFP is put out and everybody submits and the decision-makers, whether within the foundation or within government, decide amongst that pile of applications which ones to support. We see that all the time in the community facility enhancement program and grant programs through Children's Services and every ministry that deals with the sector.

We can have, and I would welcome, a discussion at some point about the problems we may have created by moving to a competitive grant-making system, but the reality is that while donations are not increasing as much as the sector would like, individual donations, receipted donations to Canadian charities, continue to grow year over year, but the need also continues to grow, and I think that's what government is seeing and we as nongovernmental funders are seeing. There are constantly more demands, and those demands are more complex. Whereas one might at one time have said, "We need to fund this recreation program because outdoor play is a good thing," we now have an issue where we need to look at that question of outdoor play involving as well issues around people who are differently abled, around issues on liability, around issues of those suffering from mental illnesses and how we incorporate that. We're starting to recognize that society is becoming more complex – and I need not tell any member of the Assembly that – so our funding has to become more sophisticated to deal with those increasing complexities.

The metrics are: what do the people in your constituency need in order to have the best life possible, and are they getting it? Whether that's from government or this sector – more and more government is delivering its programs through voluntary organizations – how do we make that even better? That's why I talk about the co-creation. If government says, "We need to do something around this," and we can bring the nonprofits to the table and say, "Well, the people we're dealing with respond best to this sort of thing," think of how much time and energy we could save in developing a program that's going to work better on the ground.

The Chair: Thank you very much.

Any further questions? Oh. Mr. Nielsen, I see your name on the list.

Mr. Nielsen: Thanks, Mr. Chair. Looking at the time, I know we're wrapping up here. Thanks, Dr. Wyatt, for your presentation and, frankly, to all our presenters today. It's been interesting listening to the discussion of red tape. I think I've heard more today in this meeting than I have probably over the last six months. Very excited about that. To avoid, you know, whether any proposed red tape reduction is right or wrong, let me just simply ask, because I'm getting a sense here: are we looking at possible unintended consequences to the sector that would be faced by you guys?

10:40

Dr. Wyatt: Mr. Chair, Mr. Nielsen, yes. You're going to take time away from staff who should be working on other things. Short answer.

The Chair: Thank you very much.

Mr. Nielsen, do you have a supplemental?

Mr. Nielsen: No.

The Chair: All right. Thank you very much, Dr. Wyatt and Mr. Braun. We appreciate your time.

We will now as a committee be taking a 10-minute break, so at 10 to 11 we will be reconvening. Sorry for the inconvenience to

those of you who are online. Feel free to take that break if you're in the room.

Thank you very much.

[The committee adjourned from 10:41 a.m. to 10:50 a.m.]

The Chair: Hon. members, at the committee's September 13, 2021, meeting two research requests were made of the Legislative Assembly research services. The first is a crossjurisdictional comparison of all legislation regulating lobbying and lobbyists in Canada. The second is a crossjurisdictional review of relevant lobbyist legislation in the United States and the United Kingdom. I would like to call upon Dr. Sarah Amato from the Legislative Assembly Office research services to provide an overview of the work completed up to this point. Dr. Amato.

Dr. Amato: Good morning. I hope you can both hear me and see me.

The Chair: We can. Thank you.

Dr. Amato: I also hope you have a copy of the rather lengthy crossjurisdictional scan. As was just stated, the request that came to the committee was to provide an overview of lobbyist legislation in jurisdictions across Canada, in the United States, and in the United Kingdom. Therefore, I hope you will indulge me in issuing an apology to the committee that somehow we or I missed the request to include information on the United Kingdom. I have completed that research, and I will issue a revised document as soon as I can, either today or tomorrow, and I sincerely apologize to the committee for that oversight.

If you will permit me, I'll just provide a brief overview of the document that you have, and I will say one or two things about the United Kingdom should there be any questions about that. With respect to the document that you have, it provides – I'll start with the Canadian content; that's the main substantive section of the document – an overview of lobbyist legislation in 12 jurisdictions across Canada, those that contain lobbyists acts. It's divided into a discussion of seven issues, each of which is briefly summarized in the executive summary, which you might want to turn to on page 1. I'll briefly go through each of the seven topics.

The first topic is definitions of lobbying. The legislation in each jurisdiction defines the matters about which a person can lobby and also defines what is not considered to be lobbying in each jurisdiction.

The second major topic is the requirement to register. I know, as you've heard a lot about, each statute distinguishes between what are called consultant lobbyists and in-house or organization lobbyists. With respect to in-house or organization lobbyists an organization is only required to register in lobbying activities if its employees meet a certain threshold, and the threshold differs from jurisdiction to jurisdiction across Canada.

Each jurisdiction in Canada also sets out certain filing requirements that both consultant lobbyists and in-house or organization lobbyists must meet. First, they must be registered in the lobbyist registry, which is available online and searchable free of charge. British Columbia's act is of particular note among the provinces because it has been recently amended and includes the requirement for lobbyists to file monthly returns. The federal act also requires monthly returns, but British Columbia's legislation is different amongst provinces, as I said, with respect to this requirement.

The third topic is fees. There are fees associated with the filing of returns, and they vary from nothing to \$174. In general across all provinces there are no fees required at all for filing online, but there are some fees associated in some provinces with filing manual returns.

The next topic is codes of conduct. Only three jurisdictions across Canada have a lobbyist code of conduct. These are Quebec, Newfoundland and Labrador, and the federal jurisdiction. It may also be noted that both British Columbia and Ontario statutes provide the registrar with the authority to issue a code of conduct, but none currently exist.

The next topic is restrictions on lobbying. Five restrictions on lobbying are considered in the comparison, and none of these are common to all statutes. These are, for example, prohibitions on lobbying if a lobbyist provides paid advice to government or restrictions on lobbying by former public office holders, amongst the other three.

The document then turns to offences and penalties. The offences common to all 12 jurisdictions are failing to file returns and providing false or misleading information to the registrar or commissioner.

With respect to information provided on the United States – you'll find that in appendix A, and there I've attempted to provide a general overview of lobbyist legislation – I've noted for you that the differences between the American and the Canadian regulatory regimes make direct comparisons quite difficult. I've also noted that there are not a lot of commonalities within the United States between states.

What I've attempted to do is to provide information on four topics. These topics are definitions of lobbying and lobbyists, lobbyist reporting requirements, lobbyist registration, and use of public funds to lobby. Information is provided for the jurisdictions of Arizona, California, New York, North Dakota, and Texas. Most of this information, in fact all of it, is taken from the national council of state legislatures, which provides information on all 50 states. If the committee is interested in information relating to particular American jurisdictions, I would invite you to follow the website links that are provided in my comparison, and you'll find very, very useful charts on those states on that website.

Finally, appendix B is forthcoming – again I apologize; it is not included in the original document – and it deals with lobbyist legislation in the United Kingdom. The United Kingdom enacted lobbyist legislation in 2014, and that legislation regulates consultant lobbyists, establishes a register for consultant lobbyists, and establishes a consultant lobbyist registrar.

I'm happy to answer any questions, and thank you for listening.

The Chair: Thank you very much, Dr. Amato. No need to apologize. I think you've done a tremendous amount of work, as always, and incredibly thorough, far beyond what I've expected. I deeply appreciate the work that you put in, so thank you for that. We do look forward to the additional information on the United Kingdom.

At this time I will start a list for questions. Are there any questions? Sorry. Mr. Nielsen, did you put up your hand?

Mr. Nielsen: Yes.

The Chair: Yeah. Please go ahead.

Mr. Nielsen: Great. I'll lead us off. Awesome. Thanks, Dr. Amato, for the submission. Unfortunately, being a substitute on the committee, I haven't had a chance to completely go through the document just yet. I guess I'm just wondering in terms of legislation that's reviewed in other jurisdictions like ours – obviously, we do it every five years here in Alberta. Is that the case in other jurisdictions? What kinds of differences are there?

Dr. Amato: You ask the one question I do not know the answer to. I will take a quick look. We did not write about it, either of us. If

you would like, I'm very happy – I'm going to be updating the document anyway. I will get back to you with that information.

Mr. Nielsen: Fantastic.

The Chair: Mr. Nielsen seems to have a knack for those kinds of questions.

Do you have a supplemental?

11:00

Mr. Nielsen: Maybe with a follow-up I can go 2 for 2 here.

I'll just assume that you had the opportunity to listen in on the presentations. Particularly, I want to draw your attention around the volunteer organizations that presented today. Of course, the issue around the exemption: that seemed to be a bit of a hot topic for them. I was wondering if you might be able to speak to, you know, what exemptions might have been provided in other jurisdictions. Are there any similarities, I guess, to what may be getting proposed for here in Alberta?

Dr. Amato: I think, by way of an answer, I would draw your attention to the discussion in the document on, I guess, who is not a lobbyist and then also both the thresholds, which differ across the country, for organizations or in-house lobbyists and who must lobby there. I mean, I also don't have a direct answer for this. I would simply, you know, draw your attention to those two sections of the document.

Mr. Nielsen: Thank you.

The Chair: Excellent questions, Mr. Nielsen. As always, excellent questions.

Any other questions? Online? I want to make sure. Please feel free to raise your hand or signal the clerk in any way if you do have a question. Final call for questions in the room.

Seeing none, Dr. Amato, I'd like to thank you again for your incredible work. I have found it, as always, to be incredibly thorough even with the understanding that Mr. Nielsen seems to find the one or two things that haven't been written about. I do appreciate your work and thank you for your time and efforts today. I'm sure that if the committee requires further clarifications, we will find time to have you come back to the committee and provide further information.

With that, I will go to the agenda's other business. Is there any other business that members wish to discuss? Online?

Seeing and hearing none, what I would like to now propose is that we go in camera. This requires unanimous consent. I would like to have a short discussion, which I will limit to 10 or 15 minutes. Being that it is unanimous consent rather than taking a motion, I will ask one question and one question only – or do I need a motion? I'll back that up. If someone would be willing to put forward a motion that we go in camera, we can second that, move that, and then I would have to take the vote in terms of unanimous consent. Mr. Rowswell has provided the motion that we go in camera. All those – sorry. The seconder is Mr. Walker. Now I will ask the one question, or do I have to take a vote? Okay. What I will do, then, is just ask the question for unanimous consent. If there's anyone in the room opposed to going in camera, please say so now. Thank you. Anyone online opposed to going in camera, please say so now.

Hearing none, we will briefly go in camera. I would ask all those not part of the elected committee, both online and in the room, to please exit the room as we have this discussion.

[The committee met in camera from 11:04 a.m. to 11:17 a.m.]

The Chair: Thank you to staff for allowing us to have that brief conversation.

Date of the next meeting. The committee will meet on March 2, 2022, at 9 a.m. to hear additional oral presentations. Again, much of that content is on the online committee portal.

If there's nothing else for the committee's consideration, I would like to call a motion to adjourn. Just before we have that motion, there is lunch provided for members of the committee in the room back here. If you'd like to avail yourself of those services, please feel free to do so.

Mr. Barnes with a motion to adjourn. Moved that the February 23, 2022, meeting of the Standing Committee on Alberta's Economic Future be adjourned. Those in the room, all in favour, please say aye. Any opposed, please so no. Online, all those in favour, please say aye. Anyone online opposed, please say no. That motion is carried. This meeting is adjourned.

Thank you, all. I appreciate your time and efforts today.

[The committee adjourned at 11:18 a.m.]

