

**Title: Thursday, October 18, 2007 Government Services Committee**

Date: 07/10/18

Time: 10:04 a.m.

[Mr. Cenaiko in the chair]

**The Chair:** Good morning, ladies and gentlemen. We'll call the meeting to order. We'll begin by asking everyone at the table, including our guests from Justice and the office of the Ethics Commissioner – and we have a representative this morning from HR to assist us with Bill 2.

I'm Harvey Cenaiko, MLA for Calgary-Buffalo and chair of the Standing Committee on Government Services.

**Ms Rempel:** Jody Rempel, committee clerk, Legislative Assembly Office.

**Dr. Brown:** Good morning. I'm Neil Brown from Calgary-Nose Hill.

**Ms DeLong:** Good morning. Alana DeLong, Calgary-Bow.

**Mr. Coutts:** Good morning. Dave Coutts, Livingstone-Macleod.

**Dr. Pannu:** I'm Raj Pannu, MLA for Edmonton-Strathcona.

**Mr. Pagano:** Peter Pagano, Legislative Counsel office, Justice department.

**Ms Neatby:** Joan Neatby, Alberta Justice.

**Ms Barnsley:** Alice Barnsley, Alberta Justice.

**Ms Dafoe:** Good morning. I'm Sarah Dafoe with Alberta Justice.

**Ms Neudorf:** Good morning. I'm Lenore Neudorf from corporate human resources.

**Ms South:** Karen South, office of the Ethics Commissioner.

**Mrs. Kamuchik:** Louise Kamuchik, Clerk Assistant, director of House services.

**Ms Close:** Heather Close, committee research librarian, LAO.

**Dr. Massolin:** Good morning. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

**Mr. Reynolds:** Good morning. To round out the chorus of officials here, I'm Rob Reynolds, Senior Parliamentary Counsel. Thanks.

**Mr. VanderBurg:** Good morning. George VanderBurg, Whitecourt-Ste. Anne.

**Mr. Marz:** Richard Marz, Olds-Didsbury-Three Hills.

**Ms Pastoor:** Good morning. Bridget Pastoor, Lethbridge-East.

**The Chair:** Thank you very much.

Before we proceed, I'd like to make mention of a few things. First of all, Dr. Pannu has joined us once again today as a substitute for Mr. Mason under temporary Standing Order 56(2.1) to (2.3). Welcome, Dr. Pannu.

Second, as announced earlier this week by Speaker Ken Kowalski, I'd like to remind everyone that in response to the increased level of

activity by the Legislative Assembly committees and the heightened interest in committee proceedings from the public an audio broadcast of committee proceedings will now be carried live on the Legislative Assembly website. Just to let everyone know at the table.

We'll move to agenda item 2, Approval of Agenda. I'd like to ask someone to make a motion to approve today's agenda. Dr. Pannu. All in favour? Any objections? Carried.

Number 3 on our agenda for this morning is approval of the October 3 and October 9, 2007, meeting minutes. We have two sets of minutes before us today. Does anyone have any corrections to the October 3 minutes? If not, could I ask for a motion to approve?

**Ms Pastoor:** So moved.

**The Chair:** Bridget Pastoor. Thank you very much.

Are there any corrections to the October 9 minutes? Then I ask for a motion to approve.

**Ms Pastoor:** So moved again.

**The Chair:** Bridget Pastoor. Thank you very much. All in favour? Opposed? Carried.

Okay. Now we'll get to work. Agenda item 4. Last week the committee had its second round of discussions on Bill 1, the Lobbyists Act. Having reviewed the priority items identified through the written submissions and public hearings on the bill, the committee directed its legal support staff in co-operation with staff from the Department of Justice and Legislative Counsel to prepare draft amendments to Bill 1 for consideration. As the amendments reflect some suggestions by the department as well as what the committee had directed, it would be appropriate to move in camera to receive a full briefing from officials on the background to the amendments. Discussion of the amendments themselves would not have to be in camera.

I remind members that the policy field committees are very new additions to the legislative process, and we have enjoyed tremendous co-operation from the department. I think that extending them the courtesy of going in camera to receive their briefing would be appropriate, so I would look for someone to move the following motion: that the Standing Committee on Government Services now meet in camera and that designated committee support staff, staff from the Department of Justice, staff from the office of the Ethics Commissioner be invited to remain in attendance.

**Mr. VanderBurg:** I support your comments. In order to have the free and open discussion and make it much easier for support staff and department staff, I support your suggestion and move that we now meet in camera.

**The Chair:** Okay. Any questions on the motion? All in favour? Unanimous. So we'll move in camera.

[The committee met in camera from 10:09 a.m. to 11:30 a.m.]

[The committee adjourned from 11:30 a.m. to 11:52 a.m.]

**The Chair:** There are 16 that you see before you. Any concerns?

**Mr. VanderBurg:** I'm okay with a blanket motion except for row 14 and item 20(e) respecting the determination of what constitutes time spent lobbying for the purpose of the act. I would just prefer to repeal it. I think we've dealt with it. As it says, "Section 20(e) is repealed and the following is substituted." I would just say: section 20 is repealed.

**Dr. Pannu:** Or deleted.

**Mr. VanderBurg:** Pardon me? Repealed.

**Dr. Pannu:** Or deleted, I guess. Yeah.

**Dr. Brown:** Wait a minute. You mean you're doing away with all of the regulation-making powers?

**Mr. VanderBurg:** No. I think we've dealt with it in other portions.

**The Chair:** I think, Neil, what George is saying is that row 2 provides us with the time spent, which is recommended in row 2, the 12 days, 100 hours. Are we deleting it or just repealing row 14, section 20(e)?

**Dr. Brown:** Mr. Chairman, I would like to hear Mr. Pagano's comments regarding the impact of deleting section 20(e).

**The Chair:** Okay.

**Mr. Pagano:** Well, the earlier discussion was also dealing with a change to (e) to deal with what communicating means. If that's another issue, if you still want it for that, I guess we can come back to it. In terms of the way this was drafted right now, which was specific more to the 12 days or hundred hours, as I indicated earlier, you may not need that particular reg power for the purposes of the 12 days or the hundred hours. You might need a reg power if we're going to deal with the issue of what communicate means, though.

**Mr. VanderBurg:** So I would ask: what would be the downside of just repealing the section as I've described? Wouldn't that make the bill a little bit clearer? We've stated clearly our objectives.

**Mr. Pagano:** Yeah. For the issue of the 12 days of lobbying or whatever, yes, you could delete this. You may want to choose to substitute something else for Dr. Brown's other issue, but that's a separate matter.

**Mr. VanderBurg:** I felt that was a separate issue.

**The Chair:** George, is that a motion, then, a motion to accept everything and delete row 14?

**Mr. VanderBurg:** Yes. My issue would be to accept rows 1 to 16 with the exception that row 14 would state: section 20(e) is repealed.

**Mr. Elsalhy:** You cannot repeal the section, because you're taking that regulation-making power from the Ethics Commissioner.

**Mr. Pagano:** I'm assuming that this motion wouldn't preclude a subsequent motion or an amendment that would allow for Dr. Brown's wording of that.

**Mr. VanderBurg:** I don't have Dr. Brown's wording in front of me.

**Dr. Brown:** I'm prepared to vote on Mr. VanderBurg's motion at this time and would propose a subsequent amendment with respect to the definition of lobbying.

**Mr. Reynolds:** Just as a point of clarification on Mr. VanderBurg's motion. Are you saying, Mr. VanderBurg, that you want what is in

the bill right now as 20(e) to remain, and then what you're voting against would be the proposed amendment to section 20(e)? My understanding is that you want to defeat the amendment or vote against the amendment that's proposed to that section. So does that mean you want to leave what is 20(e) in the bill right now?

**Mr. Pagano:** I think what you want to do is delete both the existing and proposed 20(e).

**Mr. VanderBurg:** That's right. Peter talked about that earlier, that in our new wording we have that covered.

**Mr. Pagano:** Yeah. When we deal with Dr. Brown's subamendment.

**Mr. VanderBurg:** If we had Dr. Brown's subamendment in row 16, I'd include it. Or 17. Sorry.

**The Chair:** Bridget.

**Ms. Pastoor:** Yes. Just very quickly. I wanted to make sure. This discussion may come up. I know that we've had it before but to get it out there. The prep time for the lobbying under this one – what constitutes time spent lobbying – is not considered lobbying time. But that may come up under Dr. Brown's because it will go under what is communication. Okay. Thank you.

**12:00**

**Mr. Marz:** Very similar to the last speaker. By leaving (e) in, it would give the Lieutenant Governor in Council the regulation power to determine that prep time, as an example, to include in there, and that probably wouldn't be a bad thing. It would be able to test the act out as it is, and if there were some adjustments required, they could be done by regulation subsequently. So I think I'd prefer to leave it in there.

**Mr. VanderBurg:** Okay. I mean, that's a valid point.

**Dr. Pannu:** Mr. Chairman, I'm just about ready to vote on the motion, but I have a few things that I just want to put on record.

With respect to the contracting prohibitions, which are in row 7 on page 6, there is a rationale for the proposed change: that the Ethics Commissioner may provide an exemption from prohibition only if the Ethics Commissioner is satisfied that the exemption is in the public interest. I think that's a good point. The only clarification that I seek and change that I would hope we'll make is to have the Ethics Commissioner, then, have some brief explanation why it is in the public interest to exempt from prohibition. I think that's the provision that I would seek.

We had this case just a month ago, you know, with the Department of Justice with respect to some sort of an attempt on the part of the *Edmonton Journal* to seek some information. On the grounds that it would not be in the public interest, that information in the first instance was refused. Later on the department did change its position. Keeping that in mind, I think it would be useful if the Ethics Commissioner had some guidance in the legislation with respect to an obligation to briefly explain why it would be in the public interest to exempt.

**The Chair:** Peter, should that be included in the act, or could that, in fact, be included in our regulations?

**Mr. Pagano:** You might want to require that in his report that he

does, he could indicate any time he has given an exemption – that’s one way of dealing with it – or we can require him to provide reasons for it. I assume that you don’t want to draft it right now, so I think I can take it away and decide on the best way to accomplish it.

**Dr. Pannu:** If the committee is of the view that that’s a good change to make, then I will proceed to the next point. Are we agreed on this? I think it will be useful for the commissioner to have this guidance, you know, within the legislation.

**The Chair:** Okay. I think it would be easier to go through each one and vote on each one.

**Dr. Brown:** Exempt 14 and 7, then.

**Dr. Pannu:** I’m open to your guidance, Mr. Chairman.

**Mr. VanderBurg:** I can withdraw my motion, and we can deal one at a time.

**The Chair:** Dr. Pannu still has the floor.

**Dr. Pannu:** I’m open to your guidance on it. You had some concern about it. You said that maybe we should go through it one by one.

**The Chair:** Well, no. Do you have other concerns regarding that or just row 7?

**Dr. Pannu:** One other concern that I expressed, and that’s a minor one: it’s a 90-day provision to stop contravening, you know, to cease contravening. Peter said that that seems to be the general provision.

**Mr. Pagano:** Well, it’s not used that often, but you could reduce it. I wanted to give enough time for someone to maybe get out of a contract.

**Dr. Pannu:** The only thing was that 90 days seems a bit too long if someone is really contravening. Sixty days or something like this would be good.

**The Chair:** But you might penalize an individual. If they’ve entered into a legal contract, it might take you 90 days to get out of it.

**Mr. Pagano:** I could look at it to see whether – I hadn’t drafted it with that in mind – maybe the Ethics Commissioner could give an exemption with respect to that.

**Dr. Pannu:** Okay. These are the only two points anyway, you know, that I wanted to raise.

**The Chair:** George, you have a motion on the floor.

**Mr. VanderBurg:** You know, if it’s easier to withdraw it and deal one at a time, I have no issue with that. I’m just trying to get this thing moving a bit.

**Dr. Brown:** Well, Mr. Chairman, I would move that we adopt the recommendations for amendments as proposed in rows 1 to 16 with the exception of rows 7 and 14.

**The Chair:** Okay. What’s the recommendation regarding rows 7 and 14?

**Dr. Brown:** We’ll come back. We have to deal with that.

**The Chair:** Okay. The motion is on the floor. All those in favour? It’s unanimous. Thank you, Dr. Brown.

Let’s deal with section 7. Regarding section 7, Dr. Pannu, would you like to make a motion, then, regarding . . .

**Dr. Pannu:** The public interest reference.

**The Chair:** . . . and ensuring that the Ethics Commissioner reports it.

**Mr. Pagano:** Reports it in some way or gives redress.

**The Chair:** That’s right. Okay. All those in favour of the motion?

**Mr. Marz:** What would the reading be?

**The Chair:** A draft amendment would add that the Ethics Commissioner may impose an exemption but will also report it.

**Dr. Pannu:** And give reasons.

**The Chair:** The reasons for the exemption, yeah.

**Mr. Pagano:** I’ll draft a provision that accomplishes what’s been recommended.

**The Chair:** It really is to ensure that the Ethics Commissioner doesn’t just say, “Okay, I’m exempting this individual,” and nobody knows why. Is everybody agreed with Dr. Pannu’s motion? Opposed? Unanimous.  
Row 14.

**Dr. Brown:** Wait a minute. Dr. Pannu had another point to make regarding the 90 days.

**The Chair:** Did you want to make a motion on that?

**Dr. Pannu:** I would like to make a motion, Mr. Chairman, that the 90-day period provided for ceasing to contravene be reduced to 60 days.

**The Chair:** Okay. Discussion on the motion.

**Mr. Marz:** The reason being?

**Dr. Pannu:** It’s too long a period. If someone is contravening, you would want to expect them to act quickly, you know, to stop contravening because a contravention is a serious enough instance, I think.

**Mr. Marz:** Mr. Chairman, if I recall, I thought that was a reasonable time as explained because of contracts that you might be entered into.

**Mr. Pagano:** Well, I mean, I’d want to give enough time for the contract to be gotten out of, but it’s hard to know whether 60 days or 90 days. Every contract is going to be a little bit different. I could look to see whether, assuming there isn’t sufficient time, maybe the Ethics Commissioner’s power might be sufficient to get the person out of not being applicable, I guess. I’m just trying to give enough flexibility for the person who has a bona fide contract. But, to be honest, probably 60 days might be sufficient.

**Dr. Brown:** Well, I don't have a particular objection to Dr. Pannu's suggestion. I think 60 days would be appropriate, particularly given the fact that people are going to have some advance warning of the fact that this is going to come into force. So the 90 days is really added on top of it, and whether it's done by a date of proclamation or, you know, just passage through the House, I think people will have adequate notice.

**Mr. Pagano:** You're right that people will have adequate notice, so they won't get themselves in that kind of pickle.

12:10

**The Chair:** Any other questions? Mo.

**Mr. Elsalhy:** Yes. I think we're assuming that people are going to come out of that contract or, you know, sever the contract or terminate it, but what if people choose to continue the contract and stop lobbying?

**Mr. Pagano:** And stop lobbying? That's fine too. Either way, as long as they're not doing both.

**Mr. Elsalhy:** Yes. So within the 60 days they have to make a decision: which one do I want to do? Okay. Good.

**The Chair:** Any further discussion on the motion?

Dr. Pannu your motion is to

change the 90 days to 60 days under row 7, section 7.

All those in favour? Opposed? Carried.

Okay. Now we go to row 14.

**Mr. VanderBurg:** Well, I think Dr. Brown had some suggestions.

**The Chair:** Do you have an amendment, Dr. Brown?

**Dr. Brown:** Well, have we dealt with Mr. VanderBurg's?

**Mr. VanderBurg:** I withdrew.

**Dr. Brown:** Okay. Do you still wish to have 20(e) withdrawn as part of the motion?

**Mr. VanderBurg:** Unless you can convince me otherwise.

**Dr. Brown:** Well, my suggestion, Mr. Chairman, is that we recommend as a committee that section 20(e) be modified by adding some words to the effect that the Lieutenant Governor in Council may make regulations respecting the determination of what constitutes "to communicate" under section 1(1)(e) of the bill. And if I could just explain the reasoning there.

I think that in the original drafting of the bill we had defined the word "lobby" as "to communicate," and I think that given the fact that we have now imposed a threshold of 12 days, this renders the original definition somewhat obsolete because we may now be casting the net too wide with respect to the exemption. There are many instances in which individuals who may be involved in a concerted effort of lobbying would not be caught by the definition of lobbying because of the fact that they weren't directly communicating with legislators or policy-makers. I believe that we need to allow some flexibility, and I think that the allowance of making regulations as to what we mean by the words "to communicate" under section 1(1)(e) would be a way to resolve it.

**Mr. Pagano:** Earlier I think you were also suggesting keeping the proposed (e), the one that says "what constitutes time spent." I

thought I heard earlier that you were considering maybe even keeping that also as a just in case. I thought I heard that earlier.

**Dr. Brown:** That's my motion. My motion is that we add to what's there, and that's why I asked Mr. VanderBurg if he wanted to include it.

**Mr. Pagano:** Okay. As opposed to substituting. I wasn't clear. I thought you were substituting.

**Mr. Marz:** I don't see that we have taken the definition of lobby out of the bill in anything we've done previously.

**Dr. Brown:** Richard, 1(1)(e) is where the definition of lobby is.

**Mr. Marz:** It's still in the bill – is it not? – that lobby means to communicate. I don't see that we need to put it in again once it's in the definitions. Once it's in the definitions, we all know that lobbying means to communicate. So I don't think we have to change this in any way, actually. I think it's quite self-explanatory the way that it is.

**Mr. Elsalhy:** The communication might not be direct. It might not be one-on-one.

**Dr. Brown:** With respect, I disagree in the fact that the words "to communicate" right now would be left somewhat ambiguous in that the fact that you could compose letters or e-mails or advertising brochures or whatever with the concerted purpose of influencing policy-makers would not be included as a communication. I mean, "to communicate," to me, involves a two-way – I think that if you look in the dictionary, it talks about a two-way involvement, two persons interacting. I think that if we allow some flexibility and let the regulation speak to the issue of what "to communicate" means, we can get around it.

Otherwise, I mean, we could sit here and talk about, like, preparation time, which is included in many other jurisdictions. Is preparation time included in lobbying? I would suggest that the way it's worded right now, restricted to "communicate," it's not. You may have somebody, an in-house lobbyist, an organizational lobbyist, whose full-time endeavour is to influence the government on a particular policy, but if they don't spend 100 hours or 12 days in actual contact with those policy-makers, then they're not going to be deemed to be lobbyists. I think that's a shortcoming of the definition. I think that the flexibility is there to allow the regulation-making power to change it from time to time if it needs tweaking. So that's why my suggestion is to put it into regulation.

**Ms DeLong:** I guess we're coming back to this 12 days versus 20 per cent. My understanding is that if it's 12 days in other jurisdictions, that 12 days means, essentially, direct communications between two people, whereas when people talk about 20 per cent of their time in a lobbying effort, then, you know, that includes all the prep time. So I'm just wondering. I mean, we're sort of really getting down to the basis of how we came up with the decision of 12 days, you know, so I'm a little confused.

**The Chair:** Well, it's 12 days or a hundred hours, not 20 per cent. We've decided that. That's gone forward. It's 12 days or a hundred hours. I think Dr. Brown wants to ensure that included in that time is time spent preparing.

**Dr. Brown:** It's lobbying in a broader sense.

**The Chair:** Okay. It's lobbying in a broader sense.

There's a motion on the floor. Any other questions on the motion?

**Ms DeLong:** I'm just concerned that we're going to end up with a lot of nonprofits included in a broader definition of communication. You know, if we're looking at all of the preparation of brochures and all the discussion that they have around how they're going to be talking, how they're going to essentially handle their public communications, I'm just concerned that we're going to be catching an awful lot more people than we mean to unless we put some sort of bounds around this communication side.

**Mr. Marz:** Well, a hundred hours is an awful lot of time in direct communication with anybody, whether you're a nonprofit or not. If you're lobbying successfully for, usually, money for that amount of time, then maybe the public should be aware of it.

**Ms Pastoor:** I just wanted to go back to what Alana is talking about. If it's 12 days or whatever the percentage is, I thought I heard her say that it would include prep time; if it's "to communicate," that's only face-to-face time. Anyway, I'd like that clarified because I think the water has got sort of muddled on "to communicate" meaning any form of communication as opposed to face to face. So if it is any form of communication, then how does the prep time fit in?

12:20

**Dr. Brown:** Well, a very good point. If you send electronic communications, is it for one millisecond that you're communicating? I mean, to make the absurd extension of the argument. You don't have to communicate nowadays by being face to face with somebody. You can send them an e-mail, or you can send them a letter. If you're writing a letter, does it include the time, the eight hours you spent drafting the letter and putting the charts and stuff in it, or does it include the fact that you walk up to the postbox and drop it in the mailbox? I mean, that's what I'm trying to get at.

**Ms Pastoor:** Exactly. I think that's the question.

**Dr. Brown:** The word "communicate" needs to be elaborated upon because of the fact that we've got the threshold in there now. If we didn't have the threshold, it wouldn't be a problem. As soon as you communicated, under the original draft bill you were caught. But we heard from a lot of organizations: we don't want to be caught. In your organization if you're just a volunteer, you have a casual contact, or maybe on a particular issue you want to call your MLA – we don't want to catch those people. We're trying to exempt them.

By the same token, we don't want to have somebody who is a professional lobbyist who's lobbying on behalf of the pharmaceutical industry, the oil and gas industry, or any other industry who comes and maybe spends the whole of their endeavour – their whole job description is government relations with the government of Alberta, but they may not be caught under the present definition.

The reason I'm advocating it is that I don't think that we have adequately accommodated the fact that we've now put a threshold in the definition.

**Dr. Pannu:** I just want to speak in favour of the motion, Mr. Chairman. I was persuaded by Dr. Brown's argument earlier on, an observation that if we don't address the term "to communicate" or "communication" appropriately, we'll be in effect leaving a big

loophole, which will allow some very powerful players to circumvent the very objectives and purposes that the legislation was trying to address.

**The Chair:** We're going to try to read back Dr. Brown's original motion, unless you have it written down, Neil, just to make sure that everybody is aware of what your motion was.

**Ms Rempel:** To summarize, that section 20(e) be modified to include that the Lieutenant Governor in Council would have the power to determine what constitutes "to communicate" under section 1(1)(e).

**The Chair:** Is that correct?

**Dr. Brown:** That's right.

**Mr. Pagano:** The proposed (1)(e), not the existing (1)(e).

**The Chair:** Sorry. Just for clarification, the three-column document, row 14.

**Dr. Brown:** It would add to what's there.

**The Chair:** It would add to it. That's the section we're dealing with right now: the proposed.

**Mr. Pagano:** Yes.

**The Chair:** Peter, any concerns legally regarding determining what constitutes "to communicate"?

**Mr. Pagano:** No. I think that's a good idea. It gives you that flexibility that if it becomes an issue, you can deal with it.

**The Chair:** Under regulation.

**Mr. Pagano:** Under regulation, yeah.

Just for my benefit, again, the proposal that I have is that (e) would stay, and it would be modified to include dealing also with what constitutes communicating.

**The Chair:** That's correct.

Okay. The motion is on the floor. All those in favour of the motion? Opposed? It's carried. Okay. Thank you very much.

Peter.

**Mr. Pagano:** Yeah. I just want to confirm something from earlier. It goes back to row 2. There are two things in row 2. One, now, I put in "12 days (100 hours)." We should choose one or the other, whether you want to go with days or hours although with the reg power we have a little bit more flexibility if you leave it at days. A regulation can kind of decide what a day is. There's that issue.

The other: from a bit of what I've heard about volunteers and stuff, as to the other proposal of adding "or volunteer" in the definition of organizational lobbyist, whether you still want that in there.

**The Chair:** I think we decided that.

**Dr. Pannu:** I just want, Mr. Chairman, to address at least part of the comments that Peter just made. I think I would move that 100 hours is the one that we should stick to, not 12 days, for the threshold. It's

more quantifiable, clearly understood. That's the advantage of using 100 hours rather than 12 days. That's my motion, that we substitute 12 days with 100 hours.

**The Chair:** Questions on the motion? Mo.

**Mr. Elsalhy:** Yes. I would second that, actually. You know, people might interpret it as: 12 days times 24 hours a day; that's 288 hours. I think 100 hours makes more sense. It's like 12 business days, and typically a business day is eight hours or eight and a quarter or eight and a half. I would second that, and I would support it.

**The Chair:** Any other questions on the motion?

**Mr. Marz:** Well, being the original perpetrator of this, I would consider that a friendly change.

**The Chair:** Thank you very much, Mr. Marz.

All those in favour, then, of Dr. Pannu's motion, changing it from 12 days to 100 hours? It's unanimous.

The next section that Peter raised was regarding volunteers.

**Mr. Pagano:** I just wanted to remind you that that was one of the proposals that was under discussion. It's section 2, the third line of clause (g).

**Mr. Reynolds:** Row 2, and it comes up again in row 5.

**The Chair:** Can you just take us through?

**Mr. Pagano:** The reason it was there is that we got our definition of payment, which is basically anything except expenses. This definition of organizational lobbyist includes an employee, officer, director of an organization who receives a payment. What it doesn't cover is a volunteer. It sounds like a little bit of an oxymoron: a volunteer who gets a payment, an honorarium or whatever. Because of the way payment is defined, an honorarium would be covered as a payment. The thing is: do you want that type of volunteer covered or not? Right now a volunteer who's not an employee – and obviously that wouldn't happen – and who's not an officer or a director but is involved somehow in the lobbying but receives some kind of payment is not caught by the legislation. That may be what you want. If you do leave this in there, they will be caught. If you didn't want them to be caught, then you should probably take this out.

**The Chair:** So a volunteer for a not-for-profit organization that gets \$1,200 a year, for example.

**Mr. Pagano:** That's probably caught by this.

**The Chair:** So they would be deemed an organizational lobbyist and would have to register.

**Mr. Pagano:** Assuming the 100 hours and all of that, yes. That would also go into the mix of your accumulated 100 hours, that person who does that. Now, if you had a whole bunch of volunteers who each did an hour or two and got an honorarium, you may not want to cover them. Like I mentioned earlier, it is something in the mix. I leave it up to you to decide. I just want to remind you about this provision because I thought it was an important one.

**The Chair:** I'll ask the committee members for any questions or

concerns because we've actually already approved this recommendation as it is.

**Dr. Pannu:** A question of Peter. The inclusion of the reference to the word "volunteer," retaining it in here: how will it impact nonprofit, public-interest organizations?

12:30

**Mr. Pagano:** If they were paying these people – and because of our definition of pay it's anything – then, yeah, there probably could be an impact depending on how much time they spent. Of course, a lot goes to what communicating means, et cetera. They may not be the ones doing the actual communicating, but if we get into prep time, they could be involved on the prep time side, so it could have some implications. You know, we sort of had looked at this because it is still all part of what lobbying is all about. Volunteer seems to mean someone who isn't paid.

**Dr. Brown:** Mr. Pagano, I'm wondering about page 2, the row at the top there, about the second part, subsection (ii) of (g), 1(1)(g)(ii). I don't have a problem with the first part of it in terms of the definition of organization lobbyist including a volunteer that was paid. However, when you look at (ii), we put the alternative in there of the hundred hours, and then we also put in: whose lobbying or duty to lobby collectively in the organization equals 100 hours. I do have a little bit of a problem with that one because, I mean, you're putting an onus on someone, I suppose, to look around the organization and say: how many hours have you guys lobbied?

**Mr. Pagano:** That was the committee recommendation.

**Dr. Brown:** Well, I'm not sure that that's what the committee intended, though. We were looking at instances where the duty might be passed around from one person to another in an organization, but I'm not sure that you want to include everybody in an organization no matter how insignificant their lobbying efforts might be, if it's casual or very occasional, just because of the fact that his cohorts might be lobbying in excess of a hundred hours. I just don't think that was what the intention of the committee was.

**Mr. Pagano:** Well, that's what certainly last week I understood as the intention. Newfoundland uses this as their system for determining who a lobbyist is. Now, they're the only ones who have that dual system of determining when lobbying takes place.

**The Chair:** Dr. Brown, are you saying that an organization could have one individual who lobbies for 99 hours and then they have another individual lobby for 99 hours so that they never reach the hundred hours but they continue to lobby?

**Dr. Brown:** No. I'm not saying that. Let's say that you were an organization like the Red Cross, for example, and you had a professional government relations person who was obviously required to register as an organization lobbyist because they did it over a hundred hours. If you had someone else in that organization, it would mean that they would have to also register even though they might have only casual contact with their MLA or the minister or whatever. I don't think that's the intention. I mean, what we heard from the volunteer sector was that we don't want to unduly burden people who have occasional efforts as a lobbyist, if you want to put it that way, with government policy-makers. I don't think we want to catch them just because of the fact that there are other people in their organization who exceed that threshold.

**Mr. Marz:** Well, my understanding was that if you're part of an organization, it doesn't matter if you lobby a minute or your colleagues lobby 99 hours; it all counts towards that organization. So it's up to the organization to get their lobbying act together to see who they lobby, how they lobby, and what they lobby for as a group. I think it's just fine the way it is, and I'd be reluctant to change it.

**Mr. Pagano:** I have something I wanted to correct. I thought it was only Newfoundland, but I think Ontario and the federal government also have this cumulative aspect to it.

**Mr. Marz:** As I stated before, Mr. Chair, a hundred hours is a lot of time lobbying. They always have the option of registering as a consultant lobbyist, I guess. That's the other option that they have. Once you pass that threshold, that's what you are, and that's your option.

**The Chair:** Mo.

**Mr. Elsalhy:** Yeah. I don't typically disagree with Dr. Brown, but this time I am going to. I think it's best to be left the way it is, so I'd be voting against that motion, if it's in fact a motion.

My question to Peter. I need to get this right. If you're a volunteer that doesn't get paid, you don't have to register. Okay? If you're a volunteer that receives only expenses, you don't have to register. If you're a volunteer that gets an honorarium, if you lobby less than the 100 hours, then you don't have to register.

**Mr. Pagano:** That's right, but they might get caught in the example of Dr. Brown: if they're one of a group of people that adds up to a hundred hours.

**Mr. Elsalhy:** Yeah, but if collectively that group does not add up to 100, then they don't either.

**Mr. Pagano:** That's right.

**Mr. Elsalhy:** Okay. So, really, I don't think we're as restrictive. If it's just, you know, some small organization like the Terra centre for pregnant teens or the food bank or whatever, if they don't add up to 100, then we're not overburdening them.

**Mr. Pagano:** That's right. Obviously, if the reference to volunteer is not in there, then those people who are getting an honorarium as volunteers wouldn't be captured.

**Ms DeLong:** Now, this has to do with reporting as a lobbyist. We, in terms of our regulations, are saying that organizations do not have to register so long as they're not spending a hundred hours lobbying. They don't have to register; in other words, there is no paperwork between them and the government. But what this does is it puts the onus on organizations to have everyone within their organization report to them in terms of any lobbying activity or planned lobbying activity. So, you know, even though we are minimizing the government administration, we are not minimizing the organizational administration.

**Dr. Brown:** Well, I would agree with Alana if we were directed towards the organization registering as a lobbyist. However, the way that section 1(1)(g) is worded here, it talks about organization lobbyist meaning only the employees, officers, directors, or volunteers of an organization who receive payment and then who lobby or whose duty is to lobby on behalf of an organization at least

100 hours, it is now, annually or whose lobbying or duty to lobby on behalf of the organization, just to paraphrase, collectively with the other people in the organization exceeds 100 hours. So anybody who is an employee who lobbies, if that organization's other people collectively have a hundred hours, is caught, and I don't think that's what we intended, with respect. It's fine to register the organization, as Alana has suggested – I don't have a problem with that – but what we're talking about here is employees who are now going to get caught and have to register as a lobbyist, if I'm reading this correctly, Mr. Pagano, if their cohorts in that organization are collectively exceeding the 100-hour threshold. Is that what we want as a committee?

**Mr. Elsalhy:** I don't have as much of an issue with it as you do because it could be as simple as keeping a log, which addresses Alana's concern. Just keep a log of who is doing what when internally on a piece of paper or, you know, in some database that you can program. But, then, also for Dr. Brown's argument maybe the management of that organization would say: well, dear employees, we only have one person or we have a department that does the lobbying, and these are the people we expect to conduct the activity, and that's it.

12:40

**The Chair:** An organization should know who's doing lobbying within their organization.

**Ms DeLong:** What this means, for example, is that the Red Cross, everybody within that organization would have to – I mean, the individual could be charged \$25,000 if he takes an opportunity and talks to somebody if it turns out that everybody else in his organization is essentially doing the same thing and they haven't set up some sort of a database within the organization to make sure that this doesn't happen. Essentially what we're doing is we're putting the onus on these organizations that either says: okay; nobody in this company is allowed or nobody in this organization is allowed to talk to any government official . . .

**The Chair:** Or they register.

**Ms DeLong:** . . . unless they register with their own organization. So we are setting up an enormous amount of administration in this.

**The Chair:** No. I think, Alana, the question would be for the Red Cross: do they lobby more than a hundred hours or not?

**Ms DeLong:** How do they know unless they actually keep track of what everybody in their organization does?

**The Chair:** The question would be: do they know how many hours they lobbied last year?

**Ms DeLong:** No. They don't know.

**The Chair:** I would imagine the senior officials in that organization would know.

**Ms DeLong:** No. I know several people from the Red Cross who talked to me about the Red Cross. They're not constituents, and it's not in my constituency.

**Dr. Brown:** Well, Mr. Chairman, in order to get rid of some of the problem, I'm going to suggest that in section 1(1)(g) we delete the

words “or volunteer.” Mr. Elsalhy’s point that there should be some collective responsibility for accounting for the lobbying and whatnot would be retained, but if you’re a volunteer affiliated with an organization, you would not be caught by the fact that other people in that organization are exceeding the 100 hours.

**The Chair:** We’ve got 20 minutes here, folks.

**Mr. Marz:** A point of order, Mr. Chair. I thought we had already approved all of these sections.

**The Chair:** Well, that’s part of the concern that I have. We’ve already approved this, and we’ve brought it back because Mr. Pagano wanted to discuss “volunteer” in that section.

**Dr. Brown:** I know. I’m suggesting we revisit it.

**The Chair:** Mo, go ahead. This has been approved already, so go ahead.

**Mr. Elsalhy:** Thank you, Mr. Chair. Very briefly. I can live with that suggestion from Dr. Brown regardless of the fact that we’ve already approved these proposed amendments. I think that what this also alerts us to is the fact that we need some sort of an education campaign that would go along with bills 1 and 2 to not only inform the public but also to train them as to how to comply. We shouldn’t just throw this at them and say, “You know what? You’re going to be fined and you’re going to be put behind bars because you’re in contravention of the law” without educating them and training them as to how to behave and how to comply with the law and the requirements of this act. I think this is something that we have to highlight to the Legislature once this bill is passed. People have to be educated.

**Ms DeLong:** The people that I was referring to in the Red Cross who have talked to me about the Red Cross are not volunteers. These are people that work for the Red Cross. What we’re saying is that they have to set up a separate administration that counts all of the contacts and all of the preparations with the contacts with government. Every organization has to do that now; otherwise, they can get caught and get charged \$25,000. In fact, every person who even contacts them can get – we’re just adding an enormous layer of administration to all of Alberta.

**Mr. Elsalhy:** They are ones who get paid. These people get paid, as you mentioned. Dr. Brown is saying that if they’re just a volunteer who happens to be associated with the Red Cross organization . . .

**The Chair:** If you’re paid to lobby, Alana, you’re going to have to register.

**Ms DeLong:** No, no. These are not paid lobbyists that are talking to me. These are employees, paid employees.

**The Chair:** These are paid employees that are lobbying.

**Ms DeLong:** They happen to be lobbying.

**The Chair:** That’s what the Lobbyists Act is about. If you’re a paid employee, in this case of an organization, you’re going to have to register. What we’re concerned about is if you’re a volunteer with an organization.

**Dr. Brown:** And they’re caught now.

**The Chair:** That’s the issue that we’re dealing with.

We have already made the recommendation regarding recommendation 2.

**Dr. Brown:** Well, I’d like to make a motion to reconsider that, Mr. Chairman, with great respect, because I think the fact that we are including volunteers in there is going to catch volunteers who are caught in an organization now where there’s a collective total of more than a hundred hours. I don’t think we want to do that.

**Mr. Elsalhy:** Maybe it’s the management’s responsibility to keep track of all their paid employees. It’ll be very hard for them to keep track of what the volunteers are doing on their off time.

**The Chair:** Is this something that can be dealt with in the regulations, then, or just remove the word “volunteer”?

Okay. Is there a motion on the floor to remove the term “volunteer” from row 2?

**Mr. VanderBurg:** I would make a motion that we remove the word “volunteer” in row 2.

I know, Dr. Brown, that you had earlier moved that we include it, but I’m sure, as your conversation has been in the past 10 or 15 minutes, that you would approve this.

**Dr. Brown:** I’m entirely supportive of the motion made by Mr. VanderBurg.

**Mr. Marz:** Does volunteer in this sense mean paid volunteer or unpaid volunteer?

**Mr. Pagano:** We’re just going to drop the word “volunteer.”

**The Chair:** Just drop the word “volunteer,” so a volunteer isn’t even recognized in that section.

**Mr. Pagano:** If you’re an unpaid volunteer, it doesn’t matter anyway.

**Mr. Marz:** It could be that we’re dropping paid volunteers.

**Mr. Pagano:** Yeah. I think, though, that volunteer normally means someone who’s unpaid, but they’re caught because of the definition of payment being so broad. It’s almost technically being caught.

**Mr. Reynolds:** I mean, what they’re trying to capture here is that someone can be captured if, let’s say, after a year you get a \$40 gift certificate to the Olive Garden or something. That would be considered a paid volunteer for the purposes of this act if you leave it in.

**The Chair:** Okay. So the motion by George VanderBurg is to drop the word “volunteer” from row 2, section 1(1)(g). All those in favour? Opposed? Carried.

Peter, you don’t want to bring anything else up, then?

**Mr. Pagano:** No.

**The Chair:** Okay. We’re done with Bill 1.

At our next meeting, then, which is next Thursday, Rob, from the LAO’s point of view will we see the beginning of a draft report?



**Mr. Reynolds:** I'd have to talk to Phil, but that would be the intention. The draft report would contain a little verbiage. There's not going to be a lot of verbiage in this. It would contain the draft amendments that we'll work on with Peter's office again. So we hope to have to you as final a product on Bill 1 as possible next meeting.

**The Chair:** Okay. Bridget and then Richard.

**Ms Pastoor:** Yes. I wanted to bring something forward at this time, and I would make a motion to this effect. We briefly talked about it last time, the review being five years, and I really believe that it should be two years. I think this is a fairly complex piece of legislation that's going forward. I think that in two years people would know where all of the glitches are, and I don't think that we should wait five years to correct glitches. So I would like to make the motion that

the review time frame be moved from five years to two years.

**Dr. Brown:** Can I just ask for a clarification there? Are you suggesting that because it's new legislation, the initial review would be like that?

**Ms Pastoor:** Yes.

**Dr. Brown:** Or would it be every two years?

**Ms Pastoor:** No. The initial review is two years.

**Dr. Brown:** And then five years thereafter?

**Ms Pastoor:** Yes.

**Dr. Pannu:** So two years after proclamation.

**The Chair:** Any concerns with that?  
So two years and then five years, Peter.

**Ms Pastoor:** Well, upon proclamation.

**The Chair:** After proclamation.

**Mr. Marz:** Reviewed by whom? This committee?

**Ms Pastoor:** I'm worried about the time frame, not the who, necessarily.

12:50

**The Chair:** Question on the motion by Bridget Pastoor. All those in favour of the motion? Opposed? I think it's carried.

**Mr. Marz:** Are we going to be discussing the Conflicts of Interest Act at the next meeting?

**The Chair:** No. We're going to keep going here if we can. I know we're going to be missing you. I believe you have to go and, I believe, Dr. Pannu. I'm going to ask the committee members if they can stay for another 45 minutes or so until approximately 1:30 if they can, just so that we can have something brought back to us next week on Bill 2 as we have to move forward on that.

**Mr. Marz:** Yeah. It is Bill 2 that I'm talking about. Are we going to have any input on that today?

**The Chair:** Right now.

**Mr. Marz:** Okay.

**The Chair:** Bill 1: we're all done. Bridget, that was your motion there.

I think we're now ready to move on to a discussion on Bill 2. There's a document as well that you've received regarding priority topics for Bill 2. It was included with the briefing materials for this meeting.

I'd like to turn the meeting over to Phil, but, Richard Marz, go ahead because I know you have to leave.

**Mr. Marz:** Yeah, because I have to leave, Mr. Chair. Thanks very much. Before we get into the housekeeping amendments brought forward by Alberta Justice, the proposed amendments that the committee is talking about, in the particular section on page 5 on airline travel it says in column 3, "Does the Committee support the intended purpose in principle and does the provision accomplish the intended purpose?" This is dealing with noncommercial, chartered, or private aircraft for any purpose. Then it says, "The Committee may wish to consider at what stage a Member should be required to inform the Ethics Commissioner of such travel." I would propose that this be changed and brought back for the committee's consideration, that any out-of-province travel would have to be reportable, that anything within the province wouldn't have to be.

In a province such as ours, that's as diverse as ours geographically, airline travel – or aircraft travel; I'm not saying airline travel – private aircraft travel is as common in some parts of this province as a vehicle is. To single it out, I think, is archaic at this juncture in the growth of our province. I think that if you're taking a flight with someone outside the province, that's one thing, but inside the province you're usually doing something as an MLA related to your duties. I haven't seen an MLA that has the time, quite frankly, to be flying around with anybody for any other purposes or having the free time to do anything like that unless it is work related. I don't see any difference between doing that or accepting a ride in somebody's boat on a lake or somebody's pickup truck or their limousine. Why are we singling out aircraft travel? To me, for the record, I think it's ridiculous.

**Mr. VanderBurg:** Well, you know, I never gave it any thought until you talked about the point on out of province. You know, in my constituency, 12,500 square kilometres, many times weather conditions require me to hop in a helicopter and make a 20-minute flight to a logging operation, or a private farmer wants to take you up in his aircraft to show you some of the issues he has with grazing leases and oil companies. I mean, you know, those are normal things that MLAs do in rural areas. We have MLAs that have areas a lot bigger than mine. Like I say, there are weather issues; there are issues of time. I know that November 11 is a typical example: for eight Legions 400 kilometres from me. I'm there at all eight Legions. Sometimes I get to travel by my own car or other means. You want to get there and get the work done. I think that it has some merit.

**The Chair:** Mo.

**Mr. Elsalhy:** Yes. George, most of the time these things you can forecast in advance; you know, if you're going to those community leagues or Legions or those groups, even to the person who has the grazing leases and has issues. You know that it's coming. You know next Monday. You can inform the Ethics Commissioner via

e-mail or fax. If it's something that's an emergency, you can still inform the Ethics Commissioner after a week.

**Mr. VanderBurg:** After the fact.

**Mr. Elsalhy:** Yeah, after the fact, which is allowed.

**Mr. VanderBurg:** I'm just using examples.

**Mr. Elsalhy:** Yes, but do you have any concern having to report to the Ethics Commissioner that you actually did in fact hop on a helicopter and you had to travel to a remote area of your constituency?

**Mr. VanderBurg:** I don't have those concerns. I'm saying that if we have the point of out of province, it makes a lot of this work that's not meaningful. We get to cut down on the paperwork and someone filing. I think we're creating some meaningless work.

**Mr. Elsalhy:** How many such instances would you have to go through in a year, for example? How many times are you on an airplane within your constituency on a noncommercial air flight?

**Mr. VanderBurg:** Not a lot.

**Mr. Marz:** The point I'm trying to make is that an MLA for Slave Lake could get on someone's boat and go across the lake for whatever reason, including a pleasurable fishing trip, and not have to report it, but if you got on a plane and flew across the lake to see something or other, then that's reportable. To me it's silly.

**Dr. Brown:** Well, I don't see any problem with the provision as it now exists. I know that the Ethics Commissioner made a very strong point of this when he appeared before our committee. That was why the recommendation was put in there. I would just suggest that there might be instances in which it would be inappropriate, that there would be instances, as Mr. Marz has pointed out, where it would be highly appropriate to accept travel. I don't think that negates the requirement that there should be some transparency and openness there, that there should be disclosure.

I don't see it as unduly burdensome. There may be instances where somebody who happened to be an acquaintance that was high up in a commercial corporation could offer you a ride on a Twin Otter to go up fishing on Slave Lake from southern Alberta. It may be inappropriate, but the point is that it should be transparent. I see it as a very small obligation to make in the direction for the purpose of showing some public transparency to the thing. I don't see a problem with it, quite frankly.

**The Chair:** We'll let Richard speak because Richard has to go, and then Alana.

**Mr. Marz:** On that point, I've been offered a ride to go fishing in northern Saskatchewan by car. What's the difference?

**Dr. Brown:** It's a big difference. I mean, it takes you 12 hours to get there by car.

**Mr. Marz:** It's a free ride.

**The Chair:** Alana.

**Ms DeLong:** Yeah. I find it strange that it's air travel that's targeted

here. Especially when I look at the future of Alberta, I see the direction that we need to go in, and that is to really encourage air travel and to make air travel much more common and to do what we can to make it sort of a general, acceptable way of getting around Alberta. It really doesn't make sense to me. I mean, if I was going to receive something that, you know, to me would be quite valuable, it would be going horseback riding. To me that would be really valuable, and it's catching a ride on a horse. To me it seems strange that we are taking this. Not only in legislation does it say that we have to report upon it but also that the Ethics Commissioner has to include it in his reports. I would really like to see us move to a more air-friendly Alberta.

1:00

**Mr. Amery:** Since the Ethics Commissioner expressed concerns about this the last time that he appeared before this committee, you know, the same question still exists: what is the difference between taking a ride in a car or on a horse or an airplane if you are going to perform a duty? As George said, his constituency is 12,500 square kilometres. If he has to go from one end of that constituency to the other, what difference does it make if he takes an airplane or a car if the ride is free and if the ride is within the scope of what George does as an MLA?

**The Chair:** Karen, maybe you can provide us with some clarification.

**Ms South:** The reason that we recommended an amendment to section 7 is because most of the travel requests that we got would technically be in breach of section 7(1), which says that a member cannot accept a fee, gift, or other benefit that is connected directly or indirectly with the performance of their public responsibilities. We recognize that there are some occasions when taking air travel within the province assists the member in fulfilling their responsibilities, such as touring a disaster area or a forestry operation or a mining operation, so there actually is a logical reason for it to occur.

There is an issue with noncommercial aircraft because we have been given to understand that Transport Canada will not allow the government or the Legislature to reimburse the noncommercial carrier because that would make them a commercial carrier. You cannot reimburse for those flights, so you still have the issue of a fee, gift, or other benefit that arises.

With respect to any other kind of travel, it is still a fee, gift, or other benefit that you would have to report. We wanted a specific issue to deal with the air travel that we think is justifiable in terms of helping you perform your duty.

**Mr. Amery:** So if you take a five-hour car ride or bus ride, you still have to report that?

**Ms South:** Assuming that it is over the proposed amended value of \$400.

**Mr. Amery:** Okay.

**Mr. VanderBurg:** Again, I wonder if there is a middle ground, you know, that could state that when a member is working on behalf of his or her constituency within, to, or from the constituency, air travel would be allowed, without being reported, I'm talking about.

**Dr. Brown:** Mr. Chairman, air travel is allowed. It's allowed on a commercial aircraft. It's allowed on a government aircraft. It's allowed on a government chartered aircraft. The only thing is that

you can't accept it from a noncommercial aircraft owned by somebody else.

In response to Ms DeLong's statement, I mean, there's nothing in here that's not making us aircraft friendly. It simply says that when you accept a ride on somebody else's aircraft and it's not a commercial aircraft where you're paying for it, you should report it to the Ethics Commissioner. What on earth is wrong with that? I mean, to me it's a very insignificant burden.

**The Chair:** Bridget.

**Ms Pastoor:** I'm okay.

**The Chair:** Mo.

**Mr. Elsalhy:** Yes. I'll just briefly reassure members of this committee that this was actually studied to death in the earlier committee. It was an all-party committee, and all these concerns were actually aired. Neil, myself, Alana, and, I think, Moe even sat on it. So this issue is not new, and I don't think we need, really, to reinvent the wheel here. It was felt that it was necessary. We had those discussions, and they were animated and heated, just like this one, but then at the end the committee decided to go forward.

**Mr. VanderBurg:** I'll accept your recommendation.

**Dr. Brown:** It's Mr. Marz's. I think that he had a motion on the floor.

**The Chair:** No. His discussion wanted to exclude travel within the province of Alberta but to include it on out-of-province travel and make that reportable. There was no motion on the floor.

At this point in time, because we skipped right to 2.3, air travel, because Richard and Dr. Pannu had to leave, do we want a motion, then, to accept this recommendation? Mo. All those in favour? Unanimous.

**Ms DeLong:** Which one are we on?

**The Chair:** We were on 2.3, air travel. You're opposed to it, then?

**Ms DeLong:** No, no. My concern is the end part of it. "Any travel under this section is to be included in the Member's public disclosure statement." Okay. Do we want to include that?

**Mr. Elsalhy:** Yes. We have nothing to hide.

**The Chair:** Okay. We'll move to the first one, 2.1, the cooling-off period, which is page 3. We do have Lenore from human resources.

Phil, do you want to provide us with – we'll move on here. We're dealing with two different documents. It's a little confusing.

**Dr. Massolin:** Yeah. Can I just explain sort of what the process is, if that's all right?

**The Chair:** We've got 20 minutes to try to get through this.

**Dr. Massolin:** Yeah. I'll go very quickly. The idea here is that this focus issue document is simply a reflection of what the committee decided is important for them to discuss at this meeting. Then in addition to that, the department officials have got proposed amendments of their own to Bill 2.

My proposal is to go through the remainder of these focus issues and then have discussion there, and then we can move on to the

government amendments. That's, I suppose, when the committee members will take their votes on the proposed amendments. Does that sound reasonable?

**The Chair:** Okay.

**Dr. Massolin:** Okay. We've already dealt with noncommercial travel. The remaining issue basically has to do with the cooling-off period, 2.1. That's page 3 of that focus issues document. First of all, there are two considerations here. Firstly, Bill 2 proposes the extension of the cooling-off period from six months to one year for members. That's the first consideration for committee members here: whether or not they're okay with that extension of the cooling-off period.

Secondly, if we turn to page 4 and item 2.2, Political Staff, Bill 2 proposes to extend the application of post-employment restrictions [of the act] to former political staff members and, pursuant to the Public Service Act, to former Deputy Ministers and any other position set out in the regulations.

The other consideration here is to accept that Bill 2 proposal in terms of other political staff and also to consider the cooling-off period of six months that's recommended for those individuals.

**1:10**

The other consideration. As well, as you can see in the third column there, in Nova Scotia, New Brunswick, Manitoba, and so forth they have slightly different definitions of political staff. You can see that Nova Scotia considers public employees, New Brunswick and Manitoba heads of Crown agencies, and so on. So you may want to ask the department officials the rationale to define those political staff in the way that they did do.

Those are sort of the considerations in terms of this cooling-off period and the political staff issue.

I guess I'll turn the floor back to you, Mr. Chair.

**The Chair:** Okay. Are there any questions from the members? Maybe we'll have the HR staff provide us with a very brief explanation regarding any concerns or issues.

**Ms Dafoe:** I think Phil has done a pretty good job of summarizing the way it is right now. You'll see in his information that a 12-month cooling-off period is fairly standard across the country for former ministers, and there is a real mishmash in terms of what the other jurisdictions do with people who aren't former ministers. There's a mishmash, as he's noted in his materials, that some jurisdictions have legislated cooling-off periods for other kinds of people, like deputy ministers, like heads of Crown agencies, that sort of thing.

For the most part, as he's noted, in other jurisdictions the duration of the cooling-off period is the same for everybody. If you've got a cooling-off period in your jurisdiction, it's generally the same whether you're a minister or whether you're a deputy minister, for example. An exception to that is in the federal government, and Bill 2 also has a different duration for former ministers than it has for deputy ministers and for former political staff members.

**The Chair:** Is there remuneration in other provinces for those?

**Ms Dafoe:** That's not something that's addressed in legislation.

**The Chair:** No. The question is: is there remuneration in other provinces for deputy ministers or ADMs?

**Ms Dafoe:** I don't think we have that information. That's not something that's in the legislation.

**The Chair:** That's the question that's going to come, right? If you're going to restrict employment for an individual once they leave government, is government responsible, then, for remuneration of some type during that period of a year that they can't find employment?

**Ms Dafoe:** That's an issue that the government will be looking at once Bill 2 is implemented, if it's implemented.

**The Chair:** So there's nothing across Canada regarding that?

**Ms Dafoe:** There's nothing in legislation. They may have a policy about what the compensation would be if there is any, but there's nothing in legislation.

**The Chair:** Okay. Can we try to find out if there is policy in other provinces as well? Maybe the researchers can take a look at that. Obviously, I think it's something that will be debated/discussed in the Assembly in November, so we should be made aware of it anyway. As well, when we talk about the various levels of staff and what constitutes a senior official, I would imagine that an ADM would be included in that list.

**Ms Dafoe:** It really depends on each jurisdiction. As I mentioned earlier, it's quite a mishmash from one jurisdiction as to how far they drill down in terms of who has cooling-off periods.

**The Chair:** Exactly.  
Mo.

**Mr. Elsalhy:** Thank you, Mr. Chair. That was also discussed in the earlier committee. We're not preventing them from seeking employment. The cooling-off period is to prevent that revolving-door approach, where basically they leave their post as a minister or deputy minister and they come back and lobby government. So they cannot engage in that activity for 12 months, but there is nothing to prevent them from working for the private sector or working for a different government in a different province and so on and so forth. I don't think that research is even necessary. I don't think we should be looking at compensation for them because: oh, sorry, you cannot work as a lobbyist; here's a hundred grand.

**The Chair:** For clarification, it doesn't say that in here.

**Mr. Elsalhy:** No, but that's the definition of the cooling-off period, to prevent that Rod Love example.

**The Chair:** Okay. Well, I'll have to look at the legislation because I didn't see it in the legislation as being defined that way.

**Ms Dafoe:** If I may, the restrictions that are in place for the cooling-off periods are found in existing section 31, and that's amended somewhat by Bill 2. Bill 2 also puts in pretty much the same restrictions for former political staff members in the new (2)(1). What those restrictions are relate to lobbying the government, accepting employment with a department of the public service or a provincial agency if you've had significant official dealings with that department or agency in the last year of service, accepting employment or a board appointment, again, if you've had significant official dealings during your last year of service.

It doesn't mean you're not employable. It means you're restricted in your interactions with your former employer. The idea is to prevent, say, improper use of inside information that wasn't publicly available, to ensure that there's no perception that someone is using

improperly the influence that they gained when they were in government to benefit themselves or another private citizen or private organization. The idea is to shut the door on their life as a government person and let them lead a life as a private citizen without using information or influence improperly.

**The Chair:** Okay. I think that clarifies it. Do we want to move forward with this one and accept the proposed cooling-off period, then?

**Mr. Elsalhy:** Yeah. I so move: the extension of the cooling-off period to 12 months.

**The Chair:** Twelve months for a minister, six months for political staff.

**Ms Dafoe:** That's what it is now, so you're saying that you want to maintain what Bill 2 says. Is that right?

**Mr. Elsalhy:** No. We were going to extend it to 12 months regardless, right? Across the board, 12 months.

**The Chair:** No. I think your motion was just 12 months and six months.

**Mr. Elsalhy:** Oh, no. That's what I meant, actually: 12 months for both. Basically, I move that where it says 12 months for former MLAs and former ministers, that stays, and then political staff and deputy ministers and all those senior policy officials, as defined, will be 12 months as well.

**Mr. Coutts:** Mr. Chairman, could I get a clarification of the statement that was just made by the vice-chairman about former MLAs as well?

**Mr. Elsalhy:** Former ministers. Yes. Let me rephrase it again. I move that  
former ministers would be at 12 months, the cooling-off period, and then deputy ministers and senior policy officials and senior staff would be at 12 months as well.

**Dr. Brown:** There's no cooling-off period for former ministers who are beyond the period of their cooling-off period or for MLAs at any time.

**The Chair:** No.  
Discussion on the motion, then? Question on the motion?

**Ms Pastoor:** I'm sorry. Somebody who is a minister and ceases to be a minister two months before the end of their term would then all of a sudden become an MLA.

**Mr. Elsalhy:** Yes, but he's also a former minister.

**Ms Pastoor:** He's a former minister, so where's the cut-off period? A year? Okay. I'm sorry. Thank you.

**The Chair:** Okay. Question. All those in favour of the motion? Opposed? Carried.

**Mr. VanderBurg:** Mr. Chairman, I just wanted to clarify that I voted against the motion because I didn't believe that the extension put on staff was fair. I think it's hard enough to attract good people today at the Legislature, and I think it'll end up costing taxpayers more money in the long run with more restrictions on what staff can

do after they cease work with the minister. I just want to get on record that that's the reason why I voted against it but do accept the motion as is.

1:20

**The Chair:** Okay. Thank you.

Okay. Number 2.2 in the LAO document that we received: political staff. Philip, do you want to . . .

**Dr. Massolin:** I think we've already . . .

**The Chair:** Did we deal with this one then? Is this part of the 12 months and 12 months?

**Dr. Massolin:** Right. I think we've dealt with this, the cooling-off period.

**The Chair:** Okay. That was the issue regarding the areas of concern that we wanted the research of the LAO to bring back to us. We have the housekeeping amendments from Alberta Justice. I take it, again, that these are housekeeping amendments that we can go through quickly. Perfect.

**Ms Dafoe:** In my view they're pretty straightforward. Hopefully, you'll think so too. There are six pages to this document. Does everyone have it in front of them? The first row is simply a clarification. This provision requires all members to notify or to disclose to the Ethics Commissioner in their annual disclosure statement legal proceedings that have been brought against them. That's what Bill 2 says now. This proposed House amendment would be: only those legal proceedings of which they're aware. As you may know, someone may file a legal lawsuit in the courthouse but may not actually serve the person that the lawsuit is against for a couple of years. So you may have something out there that you don't know about. We don't think it's fair that you should have to disclose that to the Ethics Commissioner if you don't know about it.

**The Chair:** Okay. Any questions, committee members, regarding that?

**Some Hon. Members:** Agreed.

**The Chair:** Okay. Section 21(1).

**Ms Dafoe:** This is also very simple although it's got lots of words to explain it. There is basically an extra word in the Bill 2 provision. The extra word is "activity." You'll see it in column 2. It's just a word that doesn't modify anything. It's kind of useless. It might be misleading. We'd like to take it out.

**The Chair:** Questions or concerns? All those in favour?

**Some Hon. Members:** Agreed.

**Ms Dafoe:** Page 3. It's the same word. It's basically the same provision in a different context.

**The Chair:** Okay. Any concerns? Everyone agreed?

**Some Hon. Members:** Agreed.

**Ms Dafoe:** Now, the remaining three House amendments are all on the same issue. They address the restitutionary provisions that are contained in Bill 2. What these proposed House amendments do is

clarify that restitution can be sought against any person who makes a financial gain as a result of the contravention of the act. There are three of them because there are three different restitutionary provisions in the act: one for former ministers who contravene the act, one for members who contravene the act, one for former political staff members who contravene the act. That's why you have three pages.

Basically, this is simply a clarification that's necessary. There are two recommendations in the all-party committee's report. They were worded slightly differently. In our bill we went with a more modest approach, but we think that, really, it's more in line with what the all-party committee would intend to make these modifications. Instead of there only being restitution against the person who breached the act, it means it could be restitution against any person who makes a financial gain. For example, if you use your influence to get a lucrative government contract awarded to your son, the son gets a financial benefit, not you as a member. This will make sure that if there's a conviction for a breach of the act, the financial benefit could be disgorged from the son.

Oh. I'm getting blank looks. Did I go too far?

**Mr. Amery:** By "members" are you meaning MLAs?

**Ms Dafoe:** Yes. That's right. For there to be a restitutionary claim . . .

**Mr. Elsalhy:** The act does apply. When you become a former MLA, you have a cooling-off period as well.

**The Chair:** Not an MLA.

**Ms Dafoe:** No.

**Mr. Elsalhy:** No, but if you breach the act as a former MLA.

**Mr. Amery:** If you breach the act as an MLA, you're subject to this restitution clause.

**Mr. Pagano:** If there's been a financial gain.

**Mr. Amery:** That's right.

**Ms Dafoe:** And if the Leg. Assembly has agreed that you have breached the act. The Ethics Commissioner would have had to have done a review and made his recommendation to the Legislative Assembly. The Leg. Assembly would have said: "Okay. Yes, we agree. This person has breached the act." Then and only then could someone say: "Okay. I think the son has made a financial benefit, and I think we've suffered, so he should have to pay that back."

**The Chair:** Any concerns with that? Agreed? Okay.  
I guess the next section is section 22.

**Ms Dafoe:** This one relates to former ministers who have breached the act. It's with respect to that same restitution scenario. Row 6 is about former political staff members who have breached their cooling-off rules. Again, it's the restitutionary provision being corrected.

**The Chair:** Any concerns with that? Then we're all agreed on that? Okay.

I think a very constructive day, a very long day, that's for sure. For the next meeting, then, which is next Thursday, will we be able to see a draft of what we've decided on?

**Mr. Pagano:** Yes. No problem.

**The Chair:** Then, obviously, we may want to get together on the 2nd briefly, for those that can, regarding seeing the actual report that will be submitted to the Legislature, I take it. The committee will have to approve the report.

**Mr. Reynolds:** Mr. Chair, at the risk of incurring Heather's wrath here, we may be able to have a form of draft report next meeting. Essentially, there's not going to be a lot to report, in our view, apart from the amendments except for perhaps a list of those who presented or made submissions and a statement that the committee made some other recommendations concerning advice to the minister for orders in council, that would be included in the report under other matters. It was Ms DeLong's motion, I believe. That would in essence be the report.

**Dr. Brown:** Well, Mr. Chairman, I'm just wondering, in terms of the content, what the report would be. Sort of a distillation of what some of the discussions were in some instances might be advisable. I'm thinking particularly on Bill 1, the Lobbyists Act, where we talked about the fact that the amendment whereby we were putting in some thresholds for defining lobbyist activity has necessitated our looking again at the words "to communicate" and whatnot. I mean, the fact that we put it in there to say that there's a regulation-making ability doesn't convey the fact that we had a concern about the fact that we are not going to include, perhaps, lobbyists that should be included. I think that the report ought to reflect some of the concerns that were raised in the committee so that there's some guidance as to why we're allowing them to make regulations.

Well, Mr. Reynolds, you're shaking your head. You maybe disagree.

**Mr. Reynolds:** No. Of course, it's the committee's wish as to what they want to be saying. The problem is that it's in some ways practical. I mean, this report is something that goes back to the Assembly and then to the Committee of the Whole. There isn't a lot of room to debate anything in the report except with respect to the amendments.

There is a provision in the Standing Orders that says, "The report may contain a written statement of the committee's conclusions if the Bill was the subject of a public hearing." Certainly, the bills were both products of public hearings, so of course there is room to contain some statements if you wish. I'm just not sure how you would get that done in the next week.

1:30

**The Chair:** I think that there'll be an opportunity during Committee of the Whole for members and members of this committee as well – obviously, there was debate in our deliberations here, some very close votes, for example just minutes ago regarding 12 months and six months. Obviously, there may be committee members that will get up and speak against that amendment, and that could be from all four parties. Again, I don't know if we can address those issues in our report. Obviously, I think we can add that it wasn't unanimous on every amendment, and we look forward to the debate in the Assembly and in Committee of the Whole.

**Mr. Elsalhy:** Was Dr. Brown mainly interested in having a backgrounder to be attached to the report, like a two-page backgrounder?

**Dr. Brown:** No, no. I'm just suggesting that maybe a sentence or two in there as to the rationale why we made the change or sug-

gested the change would be appropriate. I'm not suggesting that we go into some distillation of what was said or anything.

**Mr. Elsalhy:** Would it be appropriate, then, for the report to include a three-column document wherein each amendment is explained?

**The Chair:** I don't think so. I think the report will be there, and it will be inclusive.

**Mr. Elsalhy:** The report, for example, is going to tell the Assembly that we've extended the cooling-off period from six months to 12 months for the following entities or people. That's it? Just a one-liner as to what we decided and that's it?

**The Chair:** We don't know what the report is going to look like. Obviously, we'll find out next week.

**Mr. Reynolds:** The report will contain amendments. For instance, you just talked about extending six months to 12 months. That would be an amendment to Bill 2 which would be included in the report.

**Mr. Elsalhy:** That takes one line, so the report is going to be seven lines long because we're introducing seven amendments, each explained in one line.

**The Chair:** On Bill 2.

**Mr. Elsalhy:** Or whatever. What I'm saying is that maybe we can add a bit more meat to it. You know, we can explain more so that members of the Committee of the Whole don't unduly suspect that maybe we didn't do our work.

**Mr. Reynolds:** Considering that you have a system right now where there is no explanation of amendments when they come in, that's the purpose of debate. You know, yes, we can spend time, as much time as you want before November 2, trying to distill what you wish to put in the report. I mean, we will try and come up with something.

**The Chair:** I don't think we have to. I think everything is recorded in *Hansard*. If other members of the Assembly want to look at the discussion that took place here, they can read it. The decision that was made here was to recommend draft amendments to Bill 1 and Bill 2, and then they'll be debated in the Assembly. Any of the background document information has been recorded in *Hansard*.

You know what? We'll have the discussion when we see the report and/or any concerns that we have regarding the report.

Any other questions, committee members?

Then I'll just remind the members that our next meeting is scheduled for 10 a.m. on October 25, which I believe is next Thursday, and it will be three hours in length if not shorter. I don't think we'll have to go as long as we have today.

I want to thank the staff from Justice as well as the Ethics Commissioner's office and human resources for being with us this morning and this afternoon and the *Hansard* staff and our research staff from LAO and Jody, our wonderful assistant here. Thank you very much. We'll see you next week.

I need a motion to adjourn.

**Dr. Brown:** So moved.

**The Chair:** Dr. Brown. Thank you very much.

[The committee adjourned at 1:35 p.m.]