Legislative Assembly of Alberta

The 27th Legislature
Fourth Session

Standing Committee
on
Legislative Offices

Lobbyists Act Review

Tuesday, October 18, 2011
11:02 a.m.

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Standing Committee on Legislative Offices

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11:02 a.m. Tuesday, October 18, 2011

[Mr. Mitzel in the chair]

The Chair: Okay. I'd like to call the meeting to order. Welcome, everyone, to this meeting of the Standing Committee on Legislative Offices for the review of the Lobbyists Act.

I'd like to ask that members and those joining the committee at the table introduce themselves for the record. My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm the chair of the committee.

Mr. Rogers: George Rogers, MLA, Leduc-Beaumont-Devon.

Mr. Lindsay: Fred Lindsay, MLA, Stony Plain.

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

Mr. Odsen: Good morning. Brad Odsen, Alberta's lobbyist registrar.

Ms Neatby: Good morning. Joan Neatby, Alberta Justice.

Mr. Hinman: Good morning. Paul Hinman, MLA, Calgary-Glenmore.

Mr. MacDonald: Hugh MacDonald, Edmonton-Gold Bar. Good morning.

Mr. Quest: Good morning. Dave Quest, Strathcona.

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

The Chair: Thank you. A couple others have indicated that they'll be here shortly as well.

That takes us to the agenda. Would someone please move the agenda for the October 18 meeting? Moved by Mr. Lindsay that the October 18, 2011, agenda of the Standing Committee on Leg. Offices be adopted as circulated. Any additions? Hearing none, all in favour? That's carried.

Adoption of minutes. Would someone please move the adoption of the minutes of the last meeting? Moved by Mr. MacDonald that the minutes of the October 13, 2011, meeting of the Standing Committee on Leg. Offices be approved as circulated. Are there any amendments? Seeing none, all in favour? That's carried.

We're here today to review the Lobbyists Act. Since commencing our review of the Lobbyists Act in May, this committee has received several research documents prepared by our support staff and has benefited from the briefing documents and expertise of the office of the Ethics Commissioner and Alberta Justice. We've received written submissions from 18 interested individuals and organizations, and just last week we heard three oral presentations on the subject.

I know some committee members have indicated that they have some issues to bring forward for debate, so I'll begin a speakers list and open the floor for discussion. Ms Blakeman said that she would be here very shortly, and she does have four points she wishes to bring forward.

Mr. Odsen, do you have any comments before we get started with the debate, as people are looking through their notes?

Mr. Odsen: I suppose the only initial introductory comment that I might make is a reiteration of what I have said in my documents and in the presentations that I've made and, indeed, as one presenter at the last meeting pointed out. On the whole, this is a very good act, and it is achieving the purpose for which it was intended. From my perspective, I would suggest that in terms of deliberations with respect to things that might be looked at or considered it would be fine tuning, I think, at this point, is maybe a way to put it, if there are going to be any changes that might be considered.

Thank you.

The Chair: Okay.

Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. I, too, would follow along Mr. Odsen's points. I think the experience that we've had so far suggests that this act is meeting the intent for which it was constituted. I think that for the most part the presentations that we had at our last meeting tend to support that. I mean, I seem to recall one presentation that I thought was a little away from the norm, and I'm going to be very careful with my choice of language.

Nonetheless, that one particular presentation, the direction that that individual was suggesting – unless there are others or a majority of members around the table that would want to follow that course of action, I would suggest that we limit our go-forward work to any necessary fine tuning, as Mr. Odsen has referred to it, that has become apparent since we started this process. Beyond that, I really don't find the need for a lot of deliberation going forward. I think we've got a pretty good thing here. Let's tweak it a little if there are a few points that were raised and get on with business.

Thank you.

The Chair: I think that, yeah, the presentations that we had last week were varied for sure, went from "Let's leave it the way it is because it's the best" to the other one, to expand on it. So those are probably points for discussion here, I suppose.

Mr. MacDonald.

Mr. MacDonald: Yes. Are we going to go through the discussion of the list that was presented – definitions, exemptions and exceptions, conflicts of interest, information detail, enforcement – that was suggested earlier? Are we going to walk through these?

The Chair: Yeah. Dr. Massolin provided those. Is that correct?

Mr. MacDonald: Yes. Those are the recommendations.

The Chair: So if there are any points on there that you wish to raise, absolutely.

Mr. MacDonald: Okay. What is the plan with these issues? Are they going to go forward as amendments? I don't understand.

The Chair: Dr. Massolin.

Dr. Massolin: I can address that. Thank you, Mr. Chair.

If you're referring to the discussion paper, Mr. MacDonald, the issues that were set out there are simply issues, not a comprehensive list, of course, that were set out for the committee's consideration potentially to understand a bit of the background with respect to those issues and also to point out what other jurisdictions do in similar situations. Of course, as ever, it's up to the committee to decide on take-up, whether those issues are truly viable in the context of the review of the Lobbyists Act right now.

Thank you.

Ms Notley: Which document are you talking about?

Dr. Massolin: The discussion paper. And then there's the other issues identification document that I believe Mr. Odsen prepared for the committee.

The Chair: Yeah. I think we're printing off some more copies for anyone who didn't bring theirs here today.

Mr. MacDonald: So are we going to go through these one by one here regarding the designated filer or the 100 hours for organization lobbyists?

11:10

The Chair: Well, those were brought up as potential issues. If you wish, we can do the ones that you want to do. Does anyone feel that all of those are specific issues that we should address?

Mr. MacDonald: No.

The Chair: Okay.

Ms Notley: Some of them are.

Mr. MacDonald: Some of them are, yeah.

The Chair: If you have any specific ones from that list, then by all means let's talk about them.

Mr. MacDonald: May I ask a question, Mr. Chair?

The Chair: Yes.

Mr. MacDonald: I guess it would be directed to Mr. Odsen, and it's with the issue around the designated filer. Has your office received a complaint or a comment from CEOs regarding this act and whether it should be the government relations officer or the VP that is listed and not themselves as the designated filer? Have you got any feedback?

Mr. Odsen: Thank you, Mr. MacDonald. I haven't had any feedback directly from CEOs, but I have had from a few government relations people, who are the ones that I'm actually dealing with, saying that the feedback they're getting from their CEO is that they don't really feel that it's appropriate that they should be the ones who are named since they're not really the ones who are looking after government relations. They have a government relations department to do that and somebody who looks after that. Indeed, one of the written submissions, I believe from TD, whether it was TD Bank or TD Insurance, was addressing that very issue. It hasn't been overwhelming. As I say, there have been a few that have commented on that.

The other side of that is that this is virtually the same in all the other jurisdictions in Canada, that the designated filer for organizations is the CEO of the organization, so it's not something with which they're unfamiliar or that is very different from what everybody else is doing. It's simply something that some have raised, saying, you know: is it appropriate that the president or CEO of whatever organization is the person who ought to be named as the designated filer as opposed to the person who is actually in charge of the lobbying and the lobbying efforts for the organization?

Mr. MacDonald: Okay.

Mr. Odsen: The other place, if I may, where it sometimes comes up is that we do have registered as organization lobbyists business corporations which are international in scope and don't have a CEO in Canada. The only CEO that they have is in the United States or in Switzerland or in Germany or someplace like that. Under the legislation as it presently stands, that's the person that has to be named. Those people in many cases may only set foot in Canada once or twice a year, and the likelihood that they're going to be engaged in any kind of lobbying activities in Alberta is exceedingly remote, yet they're named as the lobbyist for the organization under our legislation. But again, as I say, that's in keeping with what every other jurisdiction in Canada has, so we're not, you know, way out in left field in terms of what we're doing there.

The Chair: An interesting thing could happen if, in fact, that was changed in that perhaps somebody that was a government relations person, as you mentioned, for a company that has a CEO in the United States or whatever may register as lobbying, and it may not quickly or readily filter back to head office. So the CEO, depending on what happens or what the lobby is about and whether there are repercussions, may not be in the loop on this thing if, in fact, there is more than one person who is registered or could be the designated filer. So I think I can understand why you have one person, one point of contact, for a company that is the designated filer. Whether he actually did the filing, at least he should know about it.

Mr. Rogers: I'd like to speak on this point, Mr. Chairman.

The Chair: Mr. Rogers.

Mr. Rogers: Thank you very much. Just to follow up on this point, folks, I think it's imperative that as we try to apply the provisions of this act, I believe it's vital that an officer of the company be the responsible party. Government relations officers – and I see a lot of government relations officers in my travels – you know, they come and they go. They work for one company a couple of years, and they move on to another company.

If we're going to through this legislation hold someone accountable and maybe even sanction them if the need arises at some point because of their actions or lack thereof – you can't hold someone from a corporation accountable who's not an officer of that corporation. I think the provision that we have is sufficient and meets that need because it requires that someone, some individual who can be held accountable on behalf of that corporation is the designated filer.

I would not support us changing it so that some underling, for lack of a better term, in the middle of the organization who may come and may go or, certainly, can't be held accountable on behalf of the company – it would not be a smart move if we're trying to uphold the provisions in this act at any given time. So I wouldn't support if the language is changed so that it refers to some officer. Unless it's someone with a position of responsibility in that company who could subsequently be held accountable for their actions or lack thereof, I wouldn't support any change.

The Chair: For the record Mr. Campbell and Ms Notley have joined us.

Mr. Hinman.

Mr. Hinman: Thank you. I guess I'd just like to comment that I think part of the problem is that the Lobbyists Act, for me, is so people can see what's going on and who's doing it. It seems to me that, yes, the CEO is the one accountable, yet it should be obvious, when someone looks it up under the Lobbyists Act, who's work-

ing for ABC Corporation, that here is the lobbyist that they've hired.

If we're going to look at anything different, we should actually know who the CEO is and who the lobbyist is that they've hired or engaged or put in that position to lobby so that someone can go home after they've come from a meeting or a function and realize: oh, all four of those people are lobbyists that have been hired by these different companies. There's that absence there, where people don't really know who's lobbying.

The Chair: I think that Mr. Odsen can explain that one, but I think when you click through electronically, it actually will show a list of all of the people that are under that.

Mr. Odsen?

Mr. Odsen: Yes, that's correct, Mr. Chair. There is a requirement for organization lobbyists that they must list the names of the people within the organization who are paid employees of the organization and are lobbying on behalf of the organization.

The difference is: say you were to call up a subject matter, who's lobbying with respect to energy, for example, as a search. You would get the list of the names of the designated filers who are the CEOs of the various organizations who might be lobbying with respect to energy. You're not going to get a list of all the people who work for each of those organizations who are lobbying on behalf of energy. You have to go in and take a look at each individual registration in order to do that. So you have to drill down one level, as they say. This was the thing that Ms Blakeman was talking about as well at the last meeting. Just how do you find that? It may be that there is a systemic fix that we could introduce that might address that issue, but I'll leave that to you.

The Chair: Mr. Campbell, and then Mr. Hinman.

Mr. Hinman: I just want to follow up.

The Chair: Oh. Okay.

Mr. Hinman: I guess maybe that's the way I need to word it as such, that there isn't an actual link that makes it easy and obvious, to my understanding, to find those other individuals. It's a link. My understanding is that you just literally follow through as opposed to having to go back and look under different areas, but perhaps I need to go through the process once myself.

The Chair: I'm sorry. I meant Mr. MacDonald.

Mr. MacDonald: Yeah. That's okay. Thank you, Mr. Chairman. Now, if I'm helping out a designated filer, am I exempted for the first 100 hours of my time? I could be an employee or a member of the organization as well as the designated filer here. That means that I don't have to be on this website, do I? I don't have to be listed there for the first 100 hours.

Mr. Odsen: It's not the first 100 hours of each individual staff member; it's the total time of all staff who are involved. If you have five staff who do 20 hours of lobbying in a year, that's the 100-hour threshold that's been met, and then all five have to be listed.

11:20

Mr. MacDonald: Okay.

Mr. Odsen: Even if the designated filer only does two hours of lobbying in a year, if lobbying done by the government relations department exceeds 100 hours a year and all the other people within the organization who may be engaged in lobbying activities from time to time exceed 100 hours a year, then everybody who does any lobbying has to be listed.

The Chair: We've jumped to another consideration, but is there anything else with regard to the designated filer? Does anything have to be done with that, or is everyone comfortable with that?

Okay. We'll move on to grassroots communication. Any issues with regard to grassroots communication? I think the effect of exemptions for volunteers was a point that was being made here.

Mr. Odsen: To a certain extent. Perhaps it's premature, but one of the things I wanted to highlight was that we don't really know what the full impact of social networks is or is going to be. I think that down the road, perhaps at the five-year review or maybe even the 10-year review, that's going to be something that I think the committee is going to need to give some consideration to.

I wanted to identify it up front so that maybe people start to think about it now. The impact of social networks, as we've seen in what's happened in the Middle East and in other kinds of jurisdictions, can have a pretty significant effect on government. Is it a grassroots campaign, or just what is it? Is it something that needs to be captured under lobbyist legislation, and if so, how do you do that? Those are all issues that I'm simply throwing out and saying: that's something that I think is going to need some serious consideration down the road in all likelihood. I don't think that this is the time to deal with it. We don't have enough information.

The Chair: Thanks for the heads-up on that, then.

We'll move on to the next one. Lobby is a universal word. Is there anyone who thinks that should be changed, the definition of the word "lobbying"? Okay.

Provincial entity. Any change needed there?

Public office holder? Fine.

Person associated with a person or entity?

Anyone see any difficulty with any of that stuff?

Mr. Odsen: I'm sorry, Mr. Chair. As it stands now with respect to a person associated with, it's a business associate that it refers to and only a business associate.

The Chair: Okay.

This takes us to a point that Mr. MacDonald was talking about regarding the 100 hours. Did we clear that up fine?

Mr. Hinman: For me this is, I guess, probably my biggest area of concern under the act. A hundred hours for a small organization or something else is an awful lot of time, and I guess an efficient lobbyist, whether he only needs 10 hours to get his job done – this is the area, I guess, where I wonder the most. I mean, is the 100 hours too far out there? Someone has got a specific thing that they want changed. They come in. They work hard on lobbying. They get it done in 60 hours, and there's never any need to register. It's a one-time deal.

I'll use the example: when the government in the budget this year took out the fuel rebate, there was a lot of lobbying by small firms that went on in a very short period after the budget came out. Did any of them register? How did the lobbying go on? It just seems like when something changes like that, should there be something that addresses small lobbyists that come in on a very specific item? I don't think any of them spent more than 100 hours to try and do their lobbying.

The Chair: Mr. Odsen, a comment on that?

Mr. Odsen: Well, I think that's probably accurate that when you have sort of one particular area of interest and only that one area of interest, it may come up from time to time or not. If it does come up, there may be an intensive lobbying effort with respect to that, and it may well not meet the 100-hour threshold. So I think that's a valid observation.

The other side of that, again – and this is more from a comparison purpose than anything else – is that the 100-hour threshold that Alberta was the first to adopt is substantially lower than the threshold federally or in Ontario or in Quebec, where they talk about a significant portion of the duty of the individuals who are involved in lobbying. The various commissioners and registrars have come out and said, "Well, if 20 per cent of the person's time is spent on lobbying, then you've met the threshold," so that's a day a week. One hundred hours is less than two hours a week, so it's a much lower threshold than in those other jurisdictions. It has subsequently been adopted by British Columbia. When they amended their act, they moved from the significant duties to the 100-hour threshold. Manitoba has adopted it as well. It's a trade-off.

Ms Notley: Yeah, I have a real concern about this. First of all, B.C. defines its 100 hours in a different way than we do, so they're not the same. B.C. includes preparation time, so it's actually a much lower threshold than the threshold that we have in Alberta. I think it's important for people to understand that.

I think that what we need to do – and I'm going to make a motion that we make a recommendation that that 100-hour threshold be reduced. We can reduce it in one of two ways, either by reducing the number of hours or by changing what's considered of that 100 hours in terms of preparation time as opposed to meeting time.

There are huge gaps right now in terms of things that are not reported. For example, I did a bit of research between the last meeting and this one with the merit contractors coalition or whatever the heck it was that they called themselves, who met with the minister of labour and created a whole submission. That's not reflected anywhere in the lobbyist registry, and labour advocates only became aware of it once the completed document was circulated to them for comment.

That's a gross transgression, that there wouldn't have been some way for the public to have known that that conversation was taking place. I suspect it's because that coalition, a newly created little body, probably was under the 100 hours in terms of meeting time. We can't claim to have a lobbyist registry if that kind of conversation flies under the radar, so I think it's very important that we either drop the number or change what goes into that number, what's covered, you know, meeting time to prep time.

The Chair: Okay. This is for our note. Ms Blakeman has joined us. Welcome.

Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. I was quite interested to hear Mr. Odsen's comments that this 100-hour threshold is very common across the country. My thought was initially whether this is too low. When I think of some issues – for example, in recent times we've dealt with something like the softwood lumber nook, that whole problem of trying to ship, the trade with the U.S. and the tariffs and all that had to do with that. Here's an issue that not only affected large forestry companies but would affect unions, unionized workers, and quite a number of stakeholders. You know, I'd be very hesitant to reduce this, particularly in light of the fact that most of the rest of the country, including the federal government, recognizes this as a reasonable threshold.

I don't know, Mr. Odsen, if you would have any comments relative to how this threshold is applied in other places.

11:30

Mr. Odsen: Yes. Thank you, Mr. Rogers.

Mr. Chair, actually, for the federal government it's not defined in terms of hours, nor is Ontario or Quebec or any of the Atlantic provinces that have lobbyist legislation. They refer to significant duties and have set themselves with the exception of Quebec, which has an interesting little twist – it's discussed in the discussion paper – roughly 20 per cent of the total amount of time of staff who are engaged in lobbying in the organization. As I said, that's about a day a week as opposed to in our case less than two hours. But Ms Notley's point is a good one. Pretty well every other jurisdiction does include preparation time in their definition of the calculation of time spent whereas our regulation specifically excludes preparation time.

From the perspective, then, of trying to track time spent, that starts to become problematic both for them and for me. How much time do you count, for example, for a written submission? If you don't count the time that it took to prepare it, then the only way you can count time, I guess, is how long it takes somebody to read it. I assume that's probably going to vary somewhat from individual to individual whereas if you count preparation time, then it becomes far more straightforward for both the lobbyists and for me in terms of my oversight role and how long it took to prepare it. That's the time you count, so that's the other consideration with respect to that.

Mr. Marz: Just a question on that preparation time. Who keeps track of that? How do we know it's accurate? Is it based on actual billing to a company by the lobbyist, how much time they're billing for? If it's submitted by the lobbyist, how do we know the accuracy of that time?

Mr. Odsen: Mr. Marz, the 100-hour threshold does not apply to consultant lobbyists. If they engage in lobbying activities, even if it's only setting up one meeting, they have to register. Organizations are what it refers to. The organizations themselves, if they are going to rely on the 100-hour threshold exemption, are responsible for tracking their time and keeping that recorded so that in the event that I am requested to do an investigation of an organization that isn't registered and I contact them to say, "Why are you not registered?" and they say, "Well, because we're not spending a hundred hours," my response is, "I'll be in with an auditor, and we're going to go through and take a look at your records and confirm that."

Mr. Marz: But in Alberta we don't consider preparation time.

Mr. Odsen: That's correct.

Mr. Marz: How do other jurisdictions keep track of that preparation time?

Mr. Odsen: Well, again, it's up to the lobbyists to keep track of the time spent in all jurisdictions. The onus is on the lobbyists to do that, and if they're going to be relying on the exemption, in the event that the appropriate person – the registrar, commissioner, whoever – comes to them and says, "Okay; how come you're not registered? We know you're lobbying" and they say, "Well, it's because we haven't met the threshold for the lobbying," the registrar or commissioner then says: "All right. Prove that to me."

You'd better have the documentation to prove it, and if you don't, then you're in breach of the act, and I will so find you.

Mr. Marz: Okay. Thanks.

Ms Blakeman: Mr. Marz asked the obvious question, which is, "How do the other provinces that indeed do this and do count it as part of the 100 hours track it?" and Mr. Odsen has answered that.

The Chair: Mr. Rogers.

Mr. Rogers: No. I'm good. Thanks.

The Chair: Mr. Hinman.

Mr. Hinman: Yes. It goes back to beg my question, though. Does it matter how many hours a corporation or organization lobbies or matter on the impact that they have? I mean, if you have an individual who's very good and has got the right connections and he forms an organization and they go and lobby the government for a week, it's the impact. I think that's what the Lobbyists Act is about. You know, who's contacting the government, and what are they changing, and is it significant? Yet the 100 hours: I don't see how that correlates necessarily. That's all we're worried about, if someone has actually lobbied for 100 hours or that they have people employed there as opposed to who's actually lobbying the government and on what subject?

Ms Blakeman: Sorry. If I can butt in.

The Chair: Go ahead, Ms Blakeman.

Ms Blakeman: That's not how they judge it in the act. There's nothing in the act that says that this is how we, you know, determine success in lobbying. There's nothing in there about that. This is a legitimate activity. Now, how do we track it and report it? They don't talk about success, so we'd need a whole other act.

Mr. Hinman: Well, no. I think, if I might interject, that it's the question. To me, there needs to be a conversation on this because the question is: what's the purpose of the Lobbyists Act? That's to register lobbyists so that we know what communication and lobbying is going on. To say, "Well, okay, but we're only going to do it if they lobby for more than 100 hours" seems to me a huge loophole that allows an organization to set up a new organization for different things and only spend 50 hours lobbying. Then they dissolve, and then they start a new organization. I just have concerns that if the Lobbyists Act is to track lobbyists, 100 hours seems like a large loophole to me for individuals or organizations to lobby the government and not ever register.

The Chair: Dr. Massolin.

Dr. Massolin: Thank you, Mr. Chair. If I could just raise a point of information here for the committee just in terms of what happens in other jurisdictions, we've heard that British Columbia and Alberta employ the 100-hour threshold with different, of course, qualifications for British Columbia compared to Alberta, as we've heard. Most other jurisdictions that have lobbying legislation use that significant-part-of-duties definition, which is the so-called 20 per cent rule, 20 per cent of duties.

Quebec is a special case, however. They employ a two-part test. The first part of that test is qualitative, and the second part is quantitative. Now, let me go into that because it's kind of nuanced and fairly complicated. The first test, this qualitative test, measures the qualitative significance of lobbying. It specifies that the threshold for filing by the senior officer is automatically met if a lobbying activity is engaged in by a member of the board of directors or a manager of the enterprise or organization. The qualitative test may also be met if the lobbying activity engaged in has a significant impact for the enterprise or the organization or its members. So that's the qualitative test.

The second test measures the quantitative significance of lobbying. It specifies that the senior officer must file when in a fiscal year lobbying of institutions constitutes 12 or more days of work more or less.

Thank you.

The Chair: Do we want to do anything with this point? Ms Notley.

Ms Notley: Yes. Well, I'm just in the process of getting some stuff typed out and printed off for the purposes of distribution because I'm running a bit behind. I am going to make a motion on this. I'd be interested. I don't know what the collective mood of the committee is, but I would be quite happy to refine my motion, whether there was any possibility of agreement, depending on whether we look at reducing the number of hours versus redefining what's covered under it. If there was a sense that there might be willingness to consider just redefining what's covered under the 100 hours to match other jurisdictions that use the 100 hours, then I would make my motion that way. I guess I'm kind of interested if there's any interest in that, on either of those, before we go any further.

The Chair: Okay.

Ms Blakeman, you had a comment on this?

Ms Blakeman: Well, I think that one. I'm more interested in your latter proposal because there is some precedent for us to watch; in other words, that it is available in other jurisdictions, that it seems to work in other jurisdictions. There's a test there. I'm more interested in that than in sort of striking out on our own at this point. I would prefer to see that motion brought forward because I think it's helpful to what we're trying to do, which is to make it clearer for the lobbyists and more transparent for the public, that are trying to see who is lobbying government.

11:40

Mr. Marz: A question on process, Mr. Chair. Are we going to be entertaining motions as we go through this on a point-by-point basis? There could be something coming up on other issues that may affect that. As we're going down, I see that a 100-hour exemption for lobbyists is raised again later on. Or are we going to consider motions after we go through the whole process?

The Chair: Well, I think that what we're doing is getting a discussion here on some of the issues to perhaps consider. Going to that point, I know that Ms Notley has a motion that she wishes to have discussed before she puts it through formally, and I know that Ms Blakeman has three or four motions as well. I don't know whether Ms Blakeman's are related to these issues or if they're something separate.

If you wanted further discussion – as you mentioned, Mr. Marz, there's a little bit more with regard to hours and things where it might change how it goes – we can continue on through this but make sure that we have the motion. Everyone has it now, and we can come back to it after we come through this and any other issues that anybody else might have.

Mr. Marz: If I may, I'm just concerned, you know, that a motion is dropped on the floor. It has three points to it. I don't know how

I would consider that in light of the whole thing without going through it all, whether I'd be prepared to vote on it at this particular time. It may be a good motion, yet again half an hour from now I may consider something different.

The Chair: Okay. I think Ms Notley has said that she has passed it out, but she hasn't moved it, so we'll continue on with that, then. All right?

Any other comments on the 100 hours for the moment?

If not, we'll go on to the next point, charitable organizations. Anyone have a concern with that?

Ms Blakeman: Sorry?

The Chair: Charitable organizations, the next point down on the page there, under the issues. I think that probably at least one of the organizations that spoke last week was quite emphatic with their concerns, hoping that what was there would stay.

Ms Blakeman.

Ms Blakeman: Yes. I can speak for them. They gave us several written submissions and, again, a couple of oral submissions as well saying that this was working for them and that to change it just creates an enormous burden beyond what they are capable of coping with given the strains that are on the not-for-profit sector and the volunteer sector. I have watched carefully because this, of course, was a change, an amendment to the legislation that I was very interested in and spoke very much in favour of. I've watched to see whether it created any particular hardship in the community or with government or if it resulted in any lack of transparency, and I would say very strongly that it didn't. Therefore, I would leave it as is.

The onus on this one is that even if you do have a lobbyist who is bringing forward a particular point of view of a voluntary sector, as a lobbyist they are registering, but we're not requiring that of the not-for-profits. Thus far I think it's working very well, and I would urge my colleagues on the committee to honour the requests of the various submissions and volunteer-based organizations to leave it as is.

The Chair: Seeing no one adding to the comments, we'll move on.

This takes us right to the same thing – it's very similar; close anyway – the volunteers. "How should volunteer lobbyists with industry and business organizations be treated?" I think Mr. MacDonald kind of alluded to that point earlier on about someone volunteering his time: should he be registered? You mentioned that earlier, when we were talking about the designated filer idea.

Mr. MacDonald: Yes, on working to get information together to make a presentation as a volunteer.

The Chair: Correct.

Any comments on that one?

Ms Blakeman: Well, I think we've got to be very careful. This would have to be written in a way – and I would look to those with more legislative writing experience than I have – that indicates that it's a volunteer that's representing a corporation. In other words, it could be someone from their board of directors. We had some examples of that, although they're not springing to mind, of someone who was lobbying on behalf of a business but, in fact, were on the board of directors of the company and considered their time to be volunteered for the purpose of lobbying. That creates a strange situation for us because we don't want, in writing that, to cast the net too wide and pick up the voluntary-based organizations and agencies.

The Chair: Mr. Odsen.

Mr. Odsen: Thank you, Mr. Chair and Ms Blakeman. The way that the legislation reads is that directors, if they receive payment, must be registered if they're lobbying on behalf of the organization. There are other provisions with respect to that as long as it's not a trivial amount. We haven't really had in my experience to date any issues arise with this with respect to directors. Directors for large corporations are typically rewarded fairly handsomely for being directors, and they are registered as lobbyists if, in fact, they engage in any lobbying activities for the organization.

However, there's a different circumstance, where you have, like, an umbrella organization that has members that are themselves organizations and you have the umbrella organization lobbying on behalf of, say, an industry or a profession or those kinds of things. Many of the lobbying activities that take place have both paid staff who are lobbying and who must be identified on their registration, but they will have volunteers from their member organizations who also engage in lobbying but who are not paid by that organization. They're not paid; therefore, they're volunteers. They're not to be shown on that registration.

I have taken the position with respect to those – and to the best of my knowledge it's been adhered to by everybody that I've spoken to about it when the issue comes up – that those individuals who are volunteers for the umbrella organization must be registered on their employer organization registration. The lobbying that they're doing on behalf of the umbrella organization directly is, nonetheless, indirect lobbying on behalf of their employing organization. So they must be registered there, which is the only way I could conceive of meeting the requirements under the act.

Ms Notley: I had one question, and then that raises a second question. What about if that organization under the umbrella organization doesn't meet the 100-hour threshold because they do not perceive themselves as an organization lobbying because they perceive that the umbrella organization is the organization through which they lobby?

Mr. Odsen: They would have to include the time spent by their employees lobbying on behalf of the umbrella organization, and if it still doesn't exceed the 100 hours, then yes, you're correct. They would not be required to register.

Now, I should point out that with one or two exceptions any time I've talked to any organization with questions about the 100-hour threshold and whether or not it applies or that kind of thing, I say to them: "Look, if you want to rely on that exemption, you're now going to have to devote resources to recording the time spent lobbying by everybody in your organization. And you'd better be right because if I come in and have a different view on what the time spent lobbying is, I'm going to find you in breach of the act, and there are going to be sanctions."

Alternatively, if you register because you know you're going to be lobbying, you don't have to do that. All you have to say is: "This is who we are. This is who is lobbying. This is what they're lobbying in relation to. This is how they're doing it, and this is, broadly within government, whom they're lobbying." That's all you have to do. You don't have to track anything after that point. Ninety-nine per cent of the time, once I explain it to them that way, they say: "Well, heck, we'll register. It just makes sense."

Ms Notley: You mentioned that, yeah, generally speaking, directors will be paid a fair amount and blah, blah, blah, but one person's honorarium for pin money is another person's salary, depending on, you know, whether they're part of the 99 per cent or not. How do you define that?

11:50

Mr. Odsen: There is no definition of trivial in the act itself. As you will appreciate, Ms Notley, when you search "trivial" in CanLII, for example, or one of those kinds of things, you get judicial comments that are all over the place. The position that I have taken is that it's going to be factual in every case, that if it comes up, I will make a determination. In essence, what I do is say to people: "Okay. If they get paid, say, an honorarium of $500 a day and meet three times a year, that's probably trivial. If they get paid compensation of $500 a day and meet once a month, maybe you're moving into an area that's not so trivial. If they get paid $10,000 a day, however frequently or infrequently they meet, that's not trivial."

The smaller types of honorariums, obviously less than a thousand dollars a day, you know, we take a look at. What I would then want to take a look at is how frequently they meet. How often are they getting something like that? If it's over a thousand dollars or perhaps even $500, then I'm saying: "You're getting compensated. You need to be registered."

I hope that helps. It hasn't really come up as an issue other than a question, and anybody that's raised the question has been somebody where it's been well over the thousand dollars a day, so they're not relying on that.

The Chair: Thank you.

Ms Blakeman.

Ms Blakeman: Okay. In my reading of the act we look under Restrictions on Application of Act, 3(1)(i):

> Directors, officers or employees of an organization referred to in section 1(1)(g)(iv),

which is describing the not-for-profits, actually,

> not constituted to serve management, union or professional interests nor having a majority of members that are profit-seeking enterprises or representatives of profit-seeking enterprises.

Strictly speaking, then, for a director of CAPP, who actually is probably paid a salary by one of the oil companies and sits on CAPP as an overall umbrella organization even though they may not be paid a salary as a volunteer director on CAPP, CAPP itself is considered a group that has a professional interest or is profit seeking, so they should be covered under that. Correct?

Mr. Odsen: They are. Yeah, CAPP is registered.

Ms Blakeman: Okay. Then part of my question is that one of the issues I raised at the very beginning of this was: how did we end up with the minister raising the minimum wage – I'm sorry if I'm not going to get the name correct here; forgive me – and the restaurant and bar association in Alberta cheerfully taking credit for lobbying the minister in the media, yet they don't show up as having directly lobbied that minister on that subject? I don't know. Oh, maybe we've got information.

Mr. Campbell: The reason that the bar association is taking credit is that they attended the public meetings that the policy field committee on the economy held and had people come to them to give presentations on whether the minimum wage should be raised or stay the same. So that's how they were involved in the process.

Ms Notley: No, no, no. I'm sorry. I sat on those meetings, and the committee rejected the recommendations of that particular presenter at those public meetings. The committee made recommendations to not move forward with what that group was asking for. So to suggest that that was where they somehow got their interests served when the committee before whom they appeared actually made recommendations against what they were asking for doesn't fly.

The Chair: Well, perhaps they took credit for it, and they didn't really deserve it.

Ms Notley: I think there's a bit more to it.

Ms Blakeman: Well, we've all been misquoted or misunderstood in the media – fair enough – and I'm not sticking religiously to what I read in the media about this, but it did appear as though they were cheerfully taking credit for having spent a great deal of time with the minister and having influenced him. I'm still curious about how that could have happened and have it not show up.

Fingers are blazing across BlackBerrys. I'm sure I'll have an answer.

Mr. Hinman: Just a comment on that, I guess. You know, if they're individual organizations and a hundred restaurant owners invited the minister to a hundred different places, that's only one hour each, so they wouldn't have reached that 100-hour threshold.

Ms Blakeman: Well, then, that's a good argument for why we should be changing that. We should consider Ms Notley's motions later in the day.

The Chair: Okay. Thank you, folks.

It's noon. We're going to break for lunch. Lunch is provided in area C.

Ms Blakeman: Before we do that, I also have a submission. Could I just have it handed out so that people do have it before lunch? Even though I don't expect them to memorize it, at least they've got it if they want to review it over lunch.

The Chair: Okay. Good. You bet.

Ms Blakeman: Thank you very much.

The Chair: We'll break for lunch. How long do you want? Half an hour? Okay. Back here at 12:30.

[The committee adjourned from 11:55 a.m. to 12:34 p.m.]

The Chair: Okay. We'll call the meeting back to order, folks. We'll continue on here and try to go through the rest of the points that we had in front of us.

We finished talking about volunteers, so we'll go on to submissions made in response to requests from a public office holder: should this be continued? I think that might have a little bit to do with one of your motions, Ms Blakeman, right?

Ms Blakeman: Yes, but let me say as a lesson to you all: do not write things in the middle of the night and phone them in to people. What you have as my motions: I should have just written out the idea that I had rather than try to give you specifics, so please ignore the specifics, and I will tell you what I intended.

Yes. Basically, it's motion 1 that I have. What I would like to see is removing the exemption that currently is given to public office holders that a lobbyist doesn't have to report a meeting with

them if the initiative comes from the public office holder. I think that exemption needs to be removed so that no matter who calls the meeting, the lobbyist or the public office holder, it would be reported. Currently if the public officer initiates, it doesn't have to show up anywhere.

The Chair: That begs the question: who would then report it? The lobbyists themselves?

Ms Blakeman: Yes.

The Chair: The lobbyists would report that. Okay.
Comments? Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. I really struggle with that. You know, as public office holders, we consult. We bounce things off people. I don't know. Just because an individual happens to be a lobbyist – what if I'm not talking about anything related to what he or she normally practises in the course of their day? I'm going to be required to report a meeting with Mr. XYZ just because he happens to be a registered lobbyist? Maybe you could explain a little bit more, Ms Blakeman, through you, Mr. Chairman. How would this apply to someone who's never been registered as a lobbyist? Are we talking about something along the lines of what the mayor of Calgary is doing, as was proposed by one of our presenters last week? I'm a little at a loss here, Mr. Chairman. I'm wondering if, through you, I could get a little clarification from Ms Blakeman.

The Chair: Ms Blakeman.

Ms Blakeman: Yeah. Thank you very much for that opportunity. The situation that we have in this act is that the onus is always on the lobbyist. I want it to stay on the lobbyist to be keeping record of who they're talking to. But we do have an exemption that appears in I think it's 3(2)(c). Again, I don't want to get too specific here because I'm going to leave it to the drafters of the legislation to actually do a better job than I have done. But there is an exemption that is listed. Let me give you a page number in case you're tracking it here.

> (2) This Act does not apply in respect of a submission made in any manner as follows:
>
> (c) to a public office holder by an individual on behalf of a person or organization in response to a request initiated by a public office holder for advice or comment on any matter referred to in section . . .

I think the exemption needs to be made, but we need to be clear that we're talking about government office holders; in other words, those who really are in a position to be lobbied and make a change. I have no intention that this would apply to every single MLA or municipal councillor to report on every meeting they've ever had with anybody. One, it's up to the lobbyist to be tracking that. Two, this exemption applies. If the government public office holder says – what were the two examples we had? CAPP, come on in and have a little chat with me. What's the other one that just happened? Merit contractors, come on in and have a little chat with the employment minister over the summer and consult with him about changes in the labour code. Because the minister initiated that, it didn't have to get reported, and I think it should be.

Now, if you want me to narrow it to, say, only cabinet, any meeting with a cabinet minister, I'm happy to do that because I don't wish to create a whole bunch of work for Mr. Rogers or anyone else here. But the onus is on the lobbyist to track it and record it.

12:40

The prime examples I've shown of where there are loopholes in this legislation are around times that the ministers requested the group to meet with them, and as a result we weren't aware that there was a meeting because they didn't have to register it. That, to me, is a huge loophole that needs to be addressed. It's specific, in my mind, to ministers, but I think that exemption should be eliminated for the ministers.

Is that clear, Mr. Rogers?

Mr. Rogers: Thank you.

The Chair: One of the things that would come up, though, is if a minister – I'm just throwing this out – was looking just to make something clear in his mind. If he's thinking that there's a certain direction he may want to consider going with his department on a specific point, he may be just looking for some background information, ask someone to come and meet with him just to get some background information. Would you consider that lobbying as well?

Ms Blakeman: I think it should be reported, absolutely. Why not? What's wrong with that?

I mean, I think part of what we're trying to do here is make it clearer to the public as to how we arrive at decisions, and it's why I've been so insistent that, for example, submissions get posted to the websites, no exceptions. The public should be able to tell how we arrived at the decision. Government has all kinds of other exemptions and exclusions to be able to formulate their ideas in private without being challenged before they present them, but after the fact these lobbying records are available.

I think it's perfectly appropriate that if you were considering – let's look at something recent – putting in a two-tiered minimum wage, and you wanted to double-check whether that was really going to affect people that worked in the service industry, and you brought someone in to double-check background, absolutely that should show up. Why not? It's not going to impair the cabinet's ability to actually arrive at their decision. It's a reporting that's available after the fact.

The Chair: Any comments? Ms Notley.

Ms Notley: Yeah. Well, I also had identified this in the list of changes that I want to see. I do see it as a glaring exception, and it results in conversations being had that don't need to be registered. You know, one person's request for information is another person's lobbying. I mean, it really is very, very hard to distinguish between the two. The very fact that we don't have a record, for instance, of the meetings that were occurring between the minister of labour and the merit contractors association or whatever the temporary coalition that they created for the purposes of those meetings puts into question the value of this legislation. It's exactly that kind of thing that Albertans want to know about.

It becomes very easy for ministers to keep meetings off record simply by having their office request the meetings, and that's not what Albertans expected when they were told they were going to get lobbyist legislation that was going to increase transparency and the accountability of government to Albertans in terms of who they're meeting with in the course of developing their policies. So I absolutely think that it's something that needs to be addressed.

The Chair: Just one comment as well, then. You mentioned that you'd be willing to move that just strictly to cabinet ministers. Why would that be? Why not have it to all MLAs, whether they're

government MLAs or whether they're opposition MLAs or whatever?

Ms Blakeman: Yeah. Fair enough. I'm happy to have that. But I was trying to address Mr. Rogers's concern that any old meeting he happened to have would end up being recorded by somebody. I'm specific to people who are in a position to actually initiate action, and that generally – I think I could say almost exclusively – resides with government members and, particularly, cabinet members. I recognize that in the particular set-up that this government has, they have other key players like chairs of cabinet policy committees – am I using the right words? – who may also be of interest. But a different government may choose a different set-up, and I think that if we get too specific with the legislation, we write ourselves into a corner.

Mr. Hinman: Mr. Chair, you made a comment: why not all MLAs? I'd just like to lay out a few examples of why not all MLAs. There's somewhat, whether perceived or real, of a perception of the government's attitude that if people approach the opposition parties, there is some intimidation that often goes on. Our new Finance minister has been quite adept at making statements publicly. I think there's a difference with a party in power versus a group that's concerned and going and talking to MLAs about something versus to the minister or government members. They could have a minority government, but a majority government can move on there. There's just a difference on the intimidation factor and people who want to meet, I guess, anonymously to bring forward their concerns that you can carry forward.

The Chair: Well, the reason I brought it up is because I thought – and I used the words "public office holder" as that was in the motion – why should there be two different sets of rules? That's why I mentioned it that way, just to make the point that you're making here. But is that a different set of rules than everybody else plays with? Is that correct?

Mr. Hinman: That's why I'm bringing it up for discussion here because I think that it's just the reality of the world, certainly the reality here in Alberta, that the government is in a different position than opposition MLAs. You can shake your head and laugh about it, but it's just . . .

The Chair: When it comes to lobbying . . .

Mr. Hinman: But that's the question: what is lobbying? If every person that I meet with, if they come in, whether they're the power producers or whether it's an egg producer or, you know, whatever it might be – there's a problem. It's the same with political donations. I mean, at $375 it becomes public, and many people will say: "I won't do that because of the repercussions that I'll receive if I go public. I do business with the government, and I can't have my name on there."

The Chair: That's why I mentioned that, because what we're talking about is the definition of a lobbyist.

Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. You know, this particular member: I'm really tired of these accusations that he keeps raising on the record in these meetings. You know what? If we're talking about some provisions and changes to this act, if they were to move forward, they should refer to all elected individuals because at some point we all have the ability to influence in some way, maybe in varying degrees. But, you know, to constantly go on and bring these kinds of accusations here: I'm sorry, hon. member, but if you have something specific, would you please bring it forward? You've raised this many times, and frankly I'm getting annoyed. I'm tired of this. You've raised this on the record many times, and I'm really getting tired of it.

Thank you.

Mr. Hinman: I'd be happy to. Did you say that you're tired or that you're going to retire? Maybe that's more appropriate if you're so out of touch.

Mr. Liepert actually went to an oil and gas function and said: if you're having the leader of the Wildrose come and address them, I will not be there. There are lots of times that that has gone on. There are many on the record, and I'd be happy to send some over to you if you're so naive. It's like the person who's not being bullied in the schoolyard who says, "I've never seen any going on" because they haven't come after you. I'm sorry that you're so out of touch with the behaviour of your government.

The Chair: Okay. We'll move on.

Ms Blakeman, you had a comment. Do you still?

12:50

Ms Blakeman: Well, I don't want to see this discussion move away from the central point of what I was trying to do here. To end up settling on whether we're going to remove the exemption only from cabinet or remove it from all public office holders is not what I want the discussion to be. I want the discussion to focus on the fact that right now we have half of a situation. So you have lobbyists that will report and keep a record only when they initiate a meeting with a public office holder but not the other way around, and I think that, having tried this act now for a period of time, you've had a number of examples raised to you where public policy has been changed, and there was no record to be found of it.

That's the point of this act. Lobbying is okay, but we should be able to find out who's lobbying whom on what. When you have the public office holders exempted, meetings that are initiated by public office holders exempted, from having to be part of that record keeping by the lobbyists, you end up with the situations I've outlined, and that was not the intent of the legislation.

If we all agree that the intent of the legislation is to acknowledge that lobbying is a legitimate activity, that it's desirable that it happen but that there is a system of registration for paid lobbyists and it should not impede that access, that it's desirable that we're able to know who is contacting government of Alberta and provincial entities, then that's what we need to do to fix the legislation. It's about the initiation of a meeting by the public office holder.

If you want to dicker about whether we limit that to cabinet or whether we leave it at all public office holders, let's make that a secondary discussion. The point of the discussion was to acknowledge that right now we are only registering or acknowledging half of the meetings that are going on and maybe less than that. I don't know.

Mr. Marz: Just a clarification, Mr. Odsen, that maybe you can provide for me. Are public office holders to be registered in this regard in any other jurisdiction in Canada? If they are, how has that been working and why?

Mr. Odsen: I'm sorry. Are you asking whether this exemption exists in other jurisdictions?

Mr. Marz: Yeah.

Mr. Odsen: It exists in all other jurisdictions except federally. Federally there is a bit of a twist on it. There can be circumstances where if something is initiated by a public office holder, it would be exempt, but in most instances it's not.

It's important to understand that the definition of public office holder as we've talked about in our act at present is anybody in government, anybody in the Assembly, political staffers, and anybody in any of these numerous prescribed provincial entities whereas federally it used to be that designated public office holders were, in essence, ministers and their political staff. However, in about 2008, 2009, after certain instances or circumstances concerning a former member from Edmonton-Strathcona, they amended the legislation and broadened the definition of public office holder to be all members of the House of Commons, all Senators, all political staff, and down as far as assistant deputy minister or equivalent in the federal bureaucracy.

One of the things as a result of that that one of the presenters at the last meeting, Mr. Chipeur, mentioned – and this is something that has been mentioned to me by my counterparts – is that that has had a chilling effect on communication between government and those outside government. I simply point that out. When you're looking at making a policy decision like this, I think it's important to see all sides.

Ms Blakeman: Just to clarify, Mr. Marz, it's not that the public office holder registers as a lobbyist, but the lobbyist records the meetings if the public office holder has initiated them.

Mr. Odsen: That's correct.

Ms Blakeman: Thank you.

Mr. Marz: I understood that.

Ms Blakeman: Oh, thank you.

Dr. Massolin: If I can add to Mr. Odsen's explanation just by explaining that the federal government doesn't have this exemption – that is true – but there is one exception to that, as Mr. Odsen alluded to. That has to do with requests for information where that is under an interpretation allowed to happen. In other words, if the public office holder initiates a request just for information, that's permissible.

Ms Neatby: I just also wanted to add a couple of things to what Mr. Odsen said, and that is that with the exemption that's across other provincial jurisdictions – it's similar to our section 3(2)(c) – some of the wording is more precise in that in some jurisdictions it requires that it's in direct response and that the request must be in writing. The exemption still exists, but it's somewhat narrower because that request has to be in writing.

Ms Blakeman: Sorry. For clarification, the public officer holder writes to the Canadian Wheat Board and says: "I'm looking for information. Can you come in and talk to me?"

Ms Neatby: Yes. Or even: "I'm looking for your views on X, Y, and Z. Can you come and talk to me?" The exemption would only apply if it is in response to the written request and it is on X, Y, and Z. If they go into A, B, C, and D, then they have to consider whether or not they're then lobbying and that the exemption doesn't apply, and does the obligation to register then come up?

Ms Blakeman: But then they're covered, right? The public could still find out. They can either track through the written invitation, which would tell them who the public office holder had met with, or they can look at the lobbyist registry and see who they registered to talk to. So that accomplishes what I'm looking for, which is ultimately the public's ability – public, opposition, media – to see who the minister is talking to.

The Chair: Ms Notley and then Mr. Quest.

Ms Notley: Yes. My question was back to Dr. Massolin. We have this different language. Our language talks about the public office holder requesting advice or comment, I believe, and you talk about the federal language, which talks about a request for information. Has there been applied an interpretive difference between those? Do you know?

Dr. Massolin: An interpretive difference? Well, Mr. Chair, what I mean, just for clarification, as I think Ms Notley understands, is that the federal government doesn't have this exemption, but there's been an interpretive bulletin put out by the Commissioner of Lobbying federally to say that requests for information are okay; in other words, that lobbyists would not have to register in those situations. That's simply what I meant.

Ms Notley: Right. What I meant to say – I framed it wrong because I actually didn't quite understand it the same way, but now I do. Is there a clear understanding or not that there's a difference between, on one hand, a request for information versus, on the other hand, a request for comment or advice?

Dr. Massolin: I mean, that's my understanding of what this interpretive bulletin sort of strives to do, to make sure that there's a differentiation between the two. Perhaps Ms Neatby or Mr. Odsen have more to add on that.

Mr. Odsen: That's my understanding as well, that it differentiates between information-providing only as opposed to getting involved with lobbying kinds of activities, but that can be in any given circumstance sometimes a pretty tough call to make.

Ms Notley: Is it fair to say, then, that the language in our current exemption is broader?

Mr. Odsen: Oh, yes.

Ms Notley: Right. Okay.

The Chair: Mr. Quest and then Ms Blakeman.

Mr. Quest: Okay. Again, maybe I need some clarity on this, Dr. Massolin. To me, if a lobbyist is requesting a meeting, it's going to be typically to influence, ask for something – a particular course of action, et cetera, et cetera – so I understand why those are recorded. But I'm still having some difficulty, as long as the minister requests the meeting and it is just a request for information, with why that would need to be recorded.

1:00

Dr. Massolin: Mr. Chair, that's the point. It's not federally whereas any other requests for advice or comment would be caught by this provision in the federal act, and that's the only act that does this. Every other act has an exemption. But if it's just for advice, the federal act provides an exemption where the lobbyist wouldn't have to register.

Mr. Quest: And the difference between advice and information: is advice lobbying and information not or what? Can you just clarify that for me?

Dr. Massolin: Well, yeah. That's the subject of the interpretation. It's simply information for information purposes – that is the way it's phrased – that you're just simply asking for information as opposed to advice, which, you know, implies a whole raft of different things. Information simply is, you know, filling in the gaps in terms of your knowledge base, for example. I mean, you could sort of think of a few examples of that.

Mr. Quest: I think it's going to get fairly complicated, when the minister requests the meeting, about who said what to whom about what. It sounds a bit cumbersome to me. Just as a comment.

Ms Blakeman: Could Ms Neatby provide us with a reference for what she laid out previously, which was the more specific exemption, the narrower exemption?

Ms Neatby: Well, I think Dr. Massolin has this at his fingertips.

Ms Blakeman: Excellent. Dr. Massolin, please.

Dr. Massolin: Yes. Thank you, and thank you, Ms Neatby. If you look at the work that the research staff did for the committee, on page 15 . . .

Ms Blakeman: Of which document?

Dr. Massolin: Pardon me. The crossjurisdictional comparison, which was posted late August.

At the top of page 15, as I mentioned, you will see a text box containing three blurbs and then providing information on the differences between the jurisdictions. You'll not see the federal government and the federal act listed here because it's not part of this exemption, but you'll see the first box, saying, "Submissions made to a public office holder by an individual on behalf of a person or organization in" – and this is in italics – "direct response to a written request from a public office holder for advice or comment."

You'll see that B.C., Manitoba, Ontario, Quebec, and Newfoundland and Labrador have that provision. Then the two other: you know, I don't know if I should read these out now. They're all listed there. The difference between the other two is that it's "in direct response to an oral or written request." The third one is "in response to a request initiated by a public office holder," and that's Alberta's provision. You can see the differences among the three rules, if you will, and the jurisdictions that have those specific rules.

Ms Blakeman: Sorry. Which page again?

Dr. Massolin: Fifteen. At the top of page 15.

The Chair: Well, I think we've certainly had a good discussion on this. I know that Ms Blakeman has not moved this particular motion, but we spoke to it as we are moving through this other set of concerns.

Ms Blakeman: I will move it as a motion later, but we were sort of putting stuff up and then leaving it until the end, which is fine with me.

The Chair: Correct. You bet.

If we can move on, then, that's fine. Let's move on. We're keeping track of the comments here and of the questions themselves. The conflict of interest applies to both consultant and organization lobbyists. "Should this be restricted to consultant lobbyist only?" Is that an issue? Then the other point, same subject matter: "Should some other or additional prohibitions be considered?" No concern on those?

Mr. Odsen: If I may. Thank you, Mr. Chairman. One of the reasons that I highlighted this is that the government of Alberta funds a number of organizations, both charitable and not charitable but not for-profit, that are being funded to help government achieve its goals, whatever they may be in a particular area, whether it's, for example, diversifying economic development or providing services in the community or doing those different kinds of things.

Certainly, it's been brought to my attention by a number of these different organizations that they have concerns whereby if they are receiving funding from government, does this, then, preclude them from being able to lobby government with respect to the kinds of things that are of interest to them in relation to this? Because that's come to my attention, it's something that I thought ought to be at least put in front of the committee for consideration. Consultant lobbyists, on the other hand, of course, are consultants who engage in consulting contracts. It's a different kind of enterprise, if you will. That's the only reason for raising that.

The Chair: I don't see any concerns from people to make any change on this.

Mr. Odsen: Okay.

The Chair: Let's move on to contingent fees. "Should lobbying on a contingent fee basis be prohibited?" Has anyone had any concerns on that?

Mr. Marz: I've got a question. Some municipal organizations have grant writers. That seems to be the popular thing with some right now. I don't know if any of them are on a contingent fee basis or not. I haven't been able to check that out yet. I kind of have a problem with one taxing authority paying tax dollars to lobby another taxpayer authority for more money when there's only one taxpayer. When one is hiring someone to transfer the money from here to here – it's all the same tax money. You take the taxpayers' money to do it. I tend to have a personal problem with that myself. If that's the case – I don't know – I think it's something that we could be looking at. Has it been a widespread thing that you're aware of, Mr. Odsen?

The Chair: Are other orders of government not exempt?

Mr. Odsen: If another order of government, if a prescribed provincial entity, indeed I think that if another department within government engages a consultant lobbyist to lobby on its behalf with respect to something, that certainly has to be registered. It is, I think, the issue that you're talking about. This is the thing that came up in Ontario a year or so ago, where in effect they passed a new act dealing with that, where they said that hospitals and universities and those kinds of things could not use money that they got from government to hire consultant lobbyists to lobby government. They could use money that they got from private donations or those kinds of things. As they've done in Ontario with all of those other kinds of things that they do, they put that in the office of the Integrity Commissioner as well, and she had to create a whole new department and staff it and all those kinds of things to track that. That's what they did in Ontario.

Mr. Marz: So I take from that that it's possible that's happening here, that taxpayers' money is used.

Mr. Odsen: There are a few consultant lobbyists who are registered as lobbying on behalf of, actually, some of the smaller post-secondary institutions, not any of the larger ones, not to my knowledge any of the hospitals or anything like that. If it is happening, it's not happening in any big way.

Ms Neatby: Just to add some clarification to that, section 1(3) of Alberta's Lobbyists Act says that "for the purposes of this Act, a consultant lobbyist engaged by a prescribed Provincial entity is considered to be a consultant lobbyist." So if the prescribed provincial entity hires a consultant to lobby the province, then that consultant lobbyist must register.

Mr. Odsen: And they have, to my knowledge.

The Chair: Okay. Fine with that, then?

Ms Blakeman: Sorry. What was the reference?

Ms Neatby: It's section 1(3).

Ms Blakeman: Oh, 1(3). Thank you.

1:10

The Chair: Let's move on to information detail. The issue to consider: sufficiency of information detail, schedule 1 and schedule 2. "Is there enough information? Is there too much information? Should names of public office holders lobbied be reported – if so, under what circumstances?"

Ms Blakeman: One of the issues under there is what I was trying to get at with what appears as motion 3 in my submission. Again, please don't pay particular attention to the exact wording, which I did very badly. Essentially, what we have here is that designated filers under section 5(2) are required to file only one return under subsection (1) even though they may communicate many times with the public office holder. There's also a reference in 4(2) that a designated filer is required to file only one return even though the person named may be communicating with many different office holders on many different things. So what we basically have is that when you commence something, when a lobbyist commences something, they're required to file the return. There's another word that is used here, but I can't find it off the top of my fingers.

I think that we should move to a monthly reporting of communications, where the lobbyist is registering with the registrar more frequently – in other words, on a monthly basis – and they are providing information of whom they have communicated with, so the communications themselves rather than just once when they commence on the action, if I can put it that way. I think that gives us a better sense of exactly what's going on. Again, if we're trying to hold to the intent of the legislation, it says: "Yeah, go ahead and lobby. A good thing." But we need to be able to find out what's going on, and I think this helps us do that. Right now they can file and say, "Well, I'm going to communicate with the department of health," and then we don't know with whom they've met or how many times. I think this monthly reporting of communications would help with that.

Mr. Odsen: Well, certainly, that's something that is a requirement under the federal legislation. Two things, I guess. Number one is that it's restricted to reporting on arranged meetings, so pre-arranged meetings as opposed to chance encounters and that kind of thing. Of course, the definition of a public office holder, as I've already indicated to you, is all members of the House of Commons and their political staff, all Senators and their political staff, deputy ministers down to assistant deputy ministers or equivalent, and nothing below that. So that's one piece of it.

Ms Blakeman: Well, I'm just wondering if the registrar has any recommendations on his level of comfort with or his opinion on what would be most user friendly in this province as to whether we should try and give instructions that a motion be written in such a way that it apply to a smaller group of people.

Mr. Odsen: Thank you, Ms Blakeman. Through the chair, I think that with the definition that we have now of public office holder, it would be virtually unworkable for something like that. The definition would have to be considerably narrowed for it to be workable in any sense.

The other thing that needs to be thought about in relation to this is the resources that would be required for oversight in relation to it, as I pointed out. Of course, you're dealing with a larger group federally than we would be provincially. But if I remember my information correctly, the federal lobbyist commissioner has got six people working full time who every month go through all these monthly reports that come in. In fact, they can only do 5 per cent of the total number of reports that they receive. They just pull 5 per cent at random and do follow-up checks with public office holders on what has been reported in terms of the meetings: "Did you meet with this person on this date? Is that what you talked about?" those kinds of things. That means, as I say, a substantial change in terms of the resourcing for my office as registrar because there's just, frankly, no way that I could possibly do that by myself.

The other thing is that it does place – now there's not a formal onus on public office holders to keep track of their interactions with lobbyists, but there certainly is an informal onus because they could be contacted to say: all right, verify that the information we've been provided by the lobbyist is correct.

Ms Blakeman: Okay. Thank you for your opinion on that because my feeling is the same, that it should be narrowed to apply to a fairly restricted group like cabinet members only. It would be possible to instruct that a motion be written in that way, so that's what I would pursue.

Thank you.

The Chair: Any other comments on that?

All right. We'll move on to enforcement confidentiality. "If the complainant has 'gone public' with the request for investigation, should the Registrar be extended the discretion to respond to the public domain?" Is that an issue?

Mr. Odsen: If I may, yes. Under the act – and actually it's the same under the Conflicts of Interest Act as well – if a complaint comes in or a request for an investigation comes in and if the registrar determines that there is no basis upon which to conduct an investigation, the only party that is advised that that's what the decision is is the person who has made the complaint or made the request in the first instance.

If, on the other hand, an investigation is to proceed, then the party who has made the request is advised that an investigation will be proceeding. The party against whom the complaint has been made is of course advised, and any individuals that need to be interviewed as part of the investigation necessarily are made aware of it. But nothing else is – how shall we say? – in the public domain unless and until an investigation report is completed and is put into the hands of the Speaker and laid before the House. Then and only then can something be made public with respect to it.

If at the time a complaint is made, it conjointly is something that receives publicity and is in the public domain, in essence the party against whom the complaint has been made certainly can comment, but the registrar cannot.

Ms Blakeman: So you can have a situation where a public office holder is essentially pilloried or accused of something publicly. If the decision by the registrar is not to proceed – in other words, there aren't enough grounds or a basis on which to proceed – that actually doesn't become public. It sort of hangs out there against the public office holder that was accused. Nobody ever hears that there was a decision not to proceed. But if the reverse happens – the person is accused publicly, and the registrar does proceed – then there's a whole public contingent to it or a public giving of information. So it's really one sided. You can quite skewer a public office holder, but you don't hear that they're not proceeding.

Mr. Odsen: Exactly.

Ms Blakeman: Can we put that up as one of the motions, then? I think that's fair.

Thank you.

The Chair: All right. Let's move on to administrative inquiry. "There is presently no 'middle ground' between 'Investigation' and 'No Investigation' – should the Registrar have the power to conduct an administrative inquiry to determine whether there are grounds for an investigation (and perhaps the discretion to make public the result of the inquiry)?"

Mr. Odsen: This just follows from the previous. It's either a full-blown investigation with a report to the Legislature or nothing. There's no middle ground that allows for making some preliminary inquiries to see whether this is something that really needs to be dealt with further. At least, there's nothing specific in the legislation.

Now, in fact, the legislation is very similar, again, in the other jurisdictions. Most of my peers have said: well, we can make an administrative inquiry to determine whether or not an investigation needs to go ahead. But even if they do, the same concerns arise about being able to make the findings of the administrative inquiry public if it's appropriate in the circumstances. That's simply, again, highlighted.

1:20

Ms Blakeman: I would like to see this move forward as a motion as well because we granted similar investigation powers to the FOIP commissioner for more or less the same reasons. Sometimes they have to kind of dig a bit deeper to see if there is something that should be addressed, and I believe they didn't have that power, and we had to give it to them. I'm happy to have anyone correct me here.

I think that this is something we should offer. We can catch it now without making the registrar have to cope through another five years before we review it again.

The Chair: Okay. Duly noted.

Let's move on to the maximum administrative penalties, presently $25,000. Should it be higher? Should there be options; for example, three times the amount of profit earned? I'm not sure where you got the suggestions for examples from, Mr. Odsen. Are they from other jurisdictions?

Mr. Odsen: Actually, it's from Justice.

The administrative penalty. The maximum fine: to begin with, $25,000 for, certainly, smaller organizations or an individual or something like that could be a pretty severe type of penalty. On the other hand, for very large organizations, some of the multi-national kinds of organizations that we've got, $25,000 is nothing.

Three times the profit was something that I've come across in other kinds of jurisprudential sort of readings. In terms of really having a deterrent effect with fines or those kinds of things, you really have to hammer the message home that if you do this, it's going to cost you a lot.

One of the first – indeed, I think it is the first prosecution that the federal commissioner was involved with involved a person who claimed that he wasn't lobbying when he clearly was and received a contingent fee of over a million dollars for the work that he did. His client received several hundred million dollars from the federal government as a result of these lobbying efforts. Something like having a maximum penalty of three times what you earn for your profit or fee as a result of breaching the act does seem to me might well have a deterrent effect.

Again, as I say, that's something that I've just come across in various jurisprudential kinds of readings, and it's entirely up to the committee how they might want to deal with that.

The Chair: Any comments?

Mr. Quest: I would be a little bit concerned about any kind of formula like three times the amount of the profit earned. Who is going to decide what the profit was, or do they mean the fee earned, perhaps? It might just be the wording.

Do we have some examples like this federal one? Again, a different act, but in the case you were mentioning, hundreds of millions of dollars changing hands, a million dollars paid to the lobbyist, what was the fine in that particular situation? Was somebody actually convicted and a fine levied?

Mr. Odsen: The person was convicted. There is no provision for administrative penalties under the federal legislation, so in essence what they were looking for was a jail term under a summary conviction sort of thing. They were convicted at trial in the federal court. They appealed. The trial decision, as I understand it, was upheld by the Federal Court of Appeal, and it's now on its way to the Supreme Court of Canada, so we don't know what the end result of that is going to be.

There is no provision in any other jurisdiction for a penalty that is set by a formula or something like that. In fact, Alberta was the first jurisdiction to introduce the whole notion of administrative penalties, and that was subsequently copied by British Columbia. The federal lobbyist commissioner would very much like to have that ability, but she does not at the present time.

Mr. Marz: I share Mr. Quest's concern on this. I'm just thinking of an example of a person – we talked earlier about the person that got a million-dollar contingency fee. If he was in breach of this and was charged three times the amount, I guess he'd probably be looking at jail time because he probably wouldn't have the $3 million to pay the fee. Then the taxpayers has to look after him in jail.

I think the intent of this is to prevent people from doing something rather than seeing how high a penalty we can assess. It should be high enough to be a deterrent, but I just can't see how three times is going to . . .

Mr. Odsen: If I may, I agree with you. My understanding through, as I say, my jurisprudential readings in relation to this matter is that if you're in the realm of about three times the kind

of profit or gain that is going to be made, if you go through the cost-benefit analysis and economic man and all that sort of thing, you need to get to about the level of three times before you really are into the area of having a deterrent effect. That, of course, from another aspect of wearing another hat, begs the question as to whether anything actually functions effectively as a deterrent.

The Chair: Okay.

Ms Blakeman, you had a comment or not?

Ms Blakeman: Well, I'm being a bit mischievous. I mean, there is something, a delicious, poetic justice that would come back on someone triple. It's like a witch's curse or something.

I guess what I would do on this one is say: how many instances of impropriety have we actually had in the two years of operation of the lobbyist registry? I think the answer is zip.

Mr. Odsen: That's correct.

Ms Blakeman: Okay. So we haven't had that much mischief, or at least we haven't been able to catch it.

I'm intrigued by this. If there is a way for us to create a parking list, a parking lot of ideas where we put things that we don't want to deal with right now but we might want to recommend that the next review have a look at, that's where I would put this one. I'm struck by the research that the registrar has referenced, that in order to really be effective, it is three times the amount of profit earned. If I may, I'd put it in the parking lot at this point.

The Chair: Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. Maybe I'd look for our registrar to give me some response on this one. The idea of the three times: I think that would be extremely cumbersome. While I would agree that the penalties, obviously, for contravention need to be substantial, I think the whole idea of trying to determine what a profit was could really waste a lot of valuable resources, whether it be in-house or through the courts ultimately, so I wouldn't be in favour of something like that.

However, I wonder: if we had a scale or something – and $25,000, as was referenced earlier, may be peanuts for some very large entities, but by the same token, unless you can tell me, sir, that lobbying is typically something that is germane to very large entities, what about a small enterprise of some manner? Heaven forbid someone would contravene this act on behalf of a small entity, they themselves being a small entity. Is there a need to have a smaller penalty here or something that references, for argument's sake, the CAPPs of the world versus – I don't know – some very small businesses that might also see a need to influence government policy where it might impact their particular enterprise?

The Chair: I think the key word here is maximum. That's in there.

Mr. Rogers: I realize that, but that's why I'm just wondering how it might be applied in terms of smaller penalties.

The Chair: Well, it's up to $25,000.

Mr. Odsen: Yes, $25,000 is the maximum. The principles to be applied are set out in the regulations, at least most of the principles, and they're pretty much the same as the sentencing principles as are contained in the Criminal Code of Canada under section 718.

1:30

Of course, proportionality is one of the fundamental and guiding sorts of principles. You take a look at the culpability. You have to take a look at the consequences arising out of the breach of the act and all these different kinds of things. Certainly, I think one of the things that we would need to look at is ability to pay. Obviously, when you're moving up to the higher end of the scale, from my perspective certainly, you're getting into looking at things that are particularly egregious, where the conduct is just something that is offensive, frankly. That message needs to be sent. But administrative oversights or some of those kinds of things? No.

Mr. Rogers: Okay. So with that, then, if I may, Mr. Chairman – and Ms Blakeman referenced the fact that we've had zero charges in these first two years – I feel that the potential may be there at some point in the future to raise this limit. Nonetheless, certainly for the experience that we've had over these last two years, I'm quite willing to leave this alone.

The Chair: Okay. We'll move on, then. I think we touched on the next item, and that's with regard to maximum penalties on conviction, when you start talking about jail time or something like that. It seems to me, unless you have a different point, Mr. Odsen, that this particular item might be treated the same way as the previous one.

Mr. Odsen: Yes. The primary thing this is referencing is that on a conviction for a first offence the maximum fine is $25,000. For a second and subsequent it can be up to $100,000. If, for example, a person or an organization or whatever has repeatedly breached the act, has been assessed administrative penalties one, two, three, five times, and I finally say, "Enough is enough; we're not going to do that anymore; we're going to prosecute you," the first time they're prosecuted the maximum penalty is $25,000 even though I have issued administrative penalties a number of times. In effect, those previous actions cannot be taken into account in terms of the assessment of the penalty the first time around on a prosecution. That's the only point I was raising there. Again, the federal lobbyist commissioner pointed that out in her submission as well.

The Chair: Okay. Any other comments?

All right. We'll move on to the maximum period of lobbying prohibition, presently two years. Should this be left alone or increased, keeping in mind, I guess, that we're still at zero on charges?

I can move on. Determining administrative penalty: "Factors to be considered when setting an administrative penalty are set out in the General Regulation – should they be brought into the Act?" When they're in the act, then they can't be changed at any time if you find the need to.

Ms Blakeman: Except in the House.

The Chair: That's right. I'm just sorting this out. Is it not better to leave them in the regulation as opposed to setting something up that cannot be adjusted when there comes a need that it might have to be?

Mr. Odsen: Well, I wasn't questioning whether – I was simply raising that as an issue. Is it something that you would rather see in the act? That's all.

Ms Blakeman: No. You'd have more flexibility without it.

The Chair: Okay. We're moving on. We're just about finished here. Additional miscellaneous, coalitions: "How does one determine who the 'designated filer' is for a coalition? What if they're all volunteers?" This kind of goes back to some of the stuff we were talking about earlier.

Ms Blakeman: A little bit, but having worked in a lot of coalitions, the best thing to do is ask them because they will self-determine. I don't think we probably need to put it into legislation, but it needs to be noted as a direction or request to the registrar that if there is a coalition that's been put together, ask the coalition who their designated filer is, because they will self-determine.

Mr. Odsen: The problem that I'm hopefully identifying here, perhaps not very well, is that the act presently states that the designated filer is, in essence, the chief executive officer or president, the highest-paid staff or the highest-ranking staffperson in the organization. Coalitions may not have any paid staff. If we want to capture them in terms of registration, how does that happen? That is the question that I'm asking. Right now, unless they have paid staff or they hire a consultant lobbyist who then has to register, naming them as their client, they're out there. They're not required to register.

Ms Blakeman: They're in the wind. Okay. Then this is something we need to deal with.

The Chair: Does that not go back to the talk we had about volunteers?

Mr. Odsen: Volunteers are part of it, yes. Absolutely.

Ms Blakeman: I thought we were dealing more with groups that come together to achieve a certain purpose. I would say that if we're going to do this, it should be written in such a way as to be clear that it's not including volunteer based not-for-profits but that it's dealing with profit-making organizations that form a coalition to influence the government on a specific basket of issues; for example, the employment standards act. You could end up with a coalition of construction companies or service industry people that formed a coalition to talk to the government about how they would like to see that done. I think that's who it should be aimed at.

Mr. Campbell: They'd all have paid staff, though.

Ms Blakeman: But the coalition itself wouldn't. The entity of the coalition doesn't.

The Chair: Do you think we're maybe looking for something that's not there?

Ms Blakeman: Well, he must have seen it if he's raising it.

Mr. Odsen: It's not that I've necessarily seen it. It's that it's something that I've noted in the act, and it's something that we've discussed. When I say we, my counterparts across the country have pretty much the same wording in their acts, and we all struggle with this: if it comes up, how do we deal with it?

The Chair: Has it come up?

Mr. Odsen: Well, it hasn't come up, to my knowledge, in the sense of, you know, somebody raising concerns about lobbying that's occurring on the part of a coalition and how come they're not registered. If it did come up, the first thing coming back is that if they're all volunteers, if there's no paid staff, then they're not required to register. That's why they're not registered. If, you know, going forward that's where you want to keep it, then that's fine.

Ms Blakeman: I think we've covered that in that we're not willing to do that to the not-for-profits. If it is a business sector, as Mr. Campbell has pointed out, then if it's a coalition of business entities or profit-making enterprises, they would in fact have paid staff, so they'd be captured. I think we're good on that one.

The Chair: All right. Multistakeholder advisory committees: "Should a definition of these, and an exemption, be incorporated in the Act?"

Mr. Rogers: No. I would refer back to the previous point, Mr. Chairman.

The Chair: Lobbyists code of conduct. "Should there be a Code of Conduct? If so, where is the appropriate place for it (the Act, the General Regulation, as promulgated by a lobbyists association)? If so, who enforces it, and what enforcement processes and sanctions would be appropriate?" Is there now a lobbyist code of conduct in any other jurisdiction?

Mr. Odsen: Federally there's a lobbyist code of conduct, in the province of Newfoundland, and in, I believe, the province of Quebec. Am I correct about Quebec?

Dr. Massolin: I think so, but I'll just verify that.

Mr. Odsen: Yeah. In each of those jurisdictions it's my understanding that it has been the lobbyist commissioner who has come up with the code of conduct. No other jurisdiction has it. Certainly, the feedback I have from within the province of Alberta from lobbyists is that they're not real keen to see something like that.

It has led to some real issues federally, in particular rule 8 of the Lobbyists' Code of Conduct. I can't give you the exact wording, but the essence of it is that a lobbyist shall not do anything that could have the effect of putting a public office holder in a position of conflict of interest. There have been some real challenges around what that might entail.

1:40

Mr. Quest: Again, unless there has been any confusion from the lobbyist organizations about what the expectations are, do we need it? That would be my question.

Mr. Rogers: Well, Mr. Chairman, I would submit that the very act that we're discussing is the lobbyists' code of conduct. If lobbyists as a group want to get together and create some rules on how they operate, just as accountants or lawyers or engineers might, that's a different story. For all intents and purposes the code of conduct, the conduct that we expect from lobbyists, is what we're outlining in this act, so I don't know why we would need anything else.

Ms Blakeman: To be fair, the government requires the groups that you've just mentioned to form a college and come up with those rules of behaviour, and we haven't done that in this act. So you haven't given us an equivalency here. Rather, you're making the argument for the opposite of what you intended.

The Chair: Well, they all came of age. For a time they all had to work through their own thing, and then they, the colleges themselves, requested it, I think. The professions requested it.

Ms Blakeman: Yeah, it's in the professions and occupations act. It's in there.

Mr. Rogers: The amendments are usually at their request. Anything that we change is because they're asking for it, typically.

Ms Blakeman: Fair enough, but they have rules and standards because the government required the profession to make them, and we have not done that. We've just set out an act that says that there are certain points you need to hit. If you guys are really keen about colleges and rules, then you should probably put in the code of conduct under this act.

Mr. Hinman: I think Mr. Odsen said that normally he would be the one, and in other jurisdictions it's actually written, that code of conduct. Then my question is: do you feel that you would like to write a code of conduct to add to the Lobbyists Act?

Mr. Odsen: No, that wasn't what I was intending to imply there at all. It is something that comes up from time to time. Because there are a couple of other jurisdictions that do have a code of conduct and since we're considering the act, I simply raised it. That's probably something that you might want to consider. I suppose, to be brutally frank with you, I don't know that I am actually all that keen to engage in some kind of an activity like that.

Mr. Hinman: That's what I wanted to know.

Mr. Campbell: I would suggest that we leave it alone. I mean, the act is less than two years old. You know, I don't think we've given it enough time to even see what's going to happen. Usually for most reviews you're looking at about five years to see where things are going and then make some changes. In less than two years we haven't had any convictions. Things seem to be rolling along pretty smoothly. I would suggest, you know, that we leave it alone.

The Chair: Okay. This takes us through that list.

Ms Blakeman wanted to discuss one other item that we'd gone through rather quickly.

Ms Blakeman: I want to apologize and beg your indulgence. I was not in attendance at the very beginning of this meeting.

If we refer back to the office of the Ethics Commissioner review put forward as an issue identification by the lobbyist registry, in the very first section under definitions, lobby, there was a question. "The key words are 'intention to influence'; should they remain?"

I guess what I want to put before you is that I have given a couple of motions that, if they were to pass – that is, the one about the meetings initiated by a public office holder being recorded and, secondly, that lobbyists would be reporting communications, not just initiation of actions – then we wouldn't need that phrase about attempting to influence because I think they record what's going on without commenting on it. If those don't pass, then I would suggest we do need to look at an amendment or a motion to consider taking the words "intention to influence" out.

I've given you a kind of either-or scenario there, but I just wanted to flag that because I knew the group had looked at it and moved past it. That would be my proposal.

The Chair: Is that part of your motion 2 that you're talking about?

Ms Blakeman: No. It would be a new motion. I'm basically saying: can we put it at the end of the list? If my other two motions don't pass, then I would be proposing that one because I think it is an attempt to balance off. In other words, if we can't have a situation where we're getting full and open reporting of all possible meetings, then I would want the definition of lobby to be, you know, in relation to either a consultant lobbyist or an organizational lobbyist: to communicate with a public office holder. In other words, we take out the words "in an attempt to influence" because I think it could in the end achieve the same thing. If we can just put that motion at the end, I'd appreciate it.

I did have one other motion I wanted to put forward, which was, oh yes, the tricky one. The other large loophole that I think exists with the Lobbyists Act is that a lobbyist is able to contract with the government and be paid for their work and lobby at the same time. The only prohibition here is that it can't be on exactly the same issue, entity. I think we need to narrow the exemption so that a given company cannot lobby if they have contracted with that department. In other words, if you have contracted with the Department of Energy, you can't lobby for anything in the Department of Energy, but you could be lobbying the Department of Human Services or whatever else is around.

I find it very problematic that you can have companies actively working around the table with the same officials and the next day be back there as a contractor or be there as a contractor giving advice on something and the next afternoon be there lobbying them. I find that very problematic. I think we should narrow the exemption so that it is made clear. You can either speak of this as narrowing the exemption so that a given company cannot lobby if they are contracted with the department or you can say, you know, broaden the prohibition so that the application is widened to the department. Either way you want to do it, it achieves the same thing in my mind, and that's a very important one to me.

I think those three are the ones that are most important to strengthen this act and to be able to achieve what we set out in the preamble.

The Chair: If I can comment on that one for just a second. If you have a large consulting firm that has about six or seven different departments that do various things, this would then eliminate the opportunity for them to actually do that sort of thing.

Ms Blakeman: No, it wouldn't. It would disallow them to be paid and to lobby in the same department at the same time. That's my intention. They could not be paid by the Department of Energy – and I'm sorry I'm picking on that one; I just happen to have it in my head – for advice on conventional oil and gas at the same time as they're lobbying on oil sands development.

The Chair: Oh. Okay.

Ms Blakeman: I just find that inappropriate. What I'm trying to do is stop them from literally, as I described, being around the table with the folks from the Department of Energy one afternoon, you know, being paid for their advice on conventional oil and gas and then being there the next morning to lobby on something in the same department. Or on health, you know, where they're in there lobbying on mental health, and then they're there the next day because they provide long-term care services. I just don't think both things should be happening in the same department at the same time. That doesn't prevent a group like KPMG or whoever else is out there, Hill & Knowlton, from providing advice to the Department of Energy and providing it on long-term care or lobbying on long-term care and health and providing advice on oil

sands development. That's fine. Just not the same department at the same time.

Mr. Campbell: What do you do with companies that might be working on regulations within a company, and the next day they want to go and talk to the Energy minister about, for example, the tabling of a G*azette* at the federal level? Are you going to consider them lobbying at the same time? I mean, in coal mining, for example, which is going on right now, say you're looking at streamlining regulations at coal companies and talking about the streamlining of the regulations.

1:50

Ms Blakeman: As a lobbying effort, yes.

Mr. Campbell: No, no. Because the government has asked them to come in and talk about streamlining – okay? – what their thoughts are about it. But at the same time the federal government has gazetted that on October 26 they want all submissions in on coal-fired generation. So the same company – for example, I'll use Sherritt coal; I'm not saying they're doing it, but I'll just use them as a coal company, okay? They're working with the government on streamlining regulations, and all of a sudden the federal government comes out with this gazetting of coal-fired generation across Canada. The same company is going to go to the Minister of Energy and say: listen, we want this done because this is going to hurt our business. So do you consider that lobbying at both extremes? I mean, they're not hiring lobbyists. These are just company officials.

You could have somebody in agriculture, a feedlot for example, that's been asked to come in and talk about regulations in agriculture, and then something happens at the federal level or in another province. These same feedlot operators all of a sudden are meeting with the minister, saying, "You know, this isn't going to work."

Ms Blakeman: Is that the only time that you can think of that it gets complicated? Both times you've used an example about an impact on Alberta businesses by a federal regulation.

Mr. Campbell: It could be a provincial regulation in another department. You could be talking Energy but Environment decides to come out with a regulation that impacts all your oil and gas. You know, you look at the land-use framework in SRD, for example, and the impact that's going to have on other departments within the government.

Ms Blakeman: Yes. Good example.

Mr. Campbell: You're going to have companies that might be working on projects and because of a regulation coming out of another department, all of a sudden they're having another conversation with those same people.

Ms Blakeman: I think there's a way to hand that over and have it written to be able to resolve your concerns and deal with mine at the same time. If that's the way we give the instruction, then that's the way they'll write it.

Mr. Campbell: I'm just saying that to me it becomes awfully complicated, and I don't know how you're going to write it to reduce all the mischief that could be caused by it. You're not talking lobbyists; you're talking people who are working for companies.

Ms Blakeman: Yeah. I understand what you're saying, and I agree with you, but at the same time I'm not going to forfeit my concerns in recognizing that there is a concern for other companies. I'm going to say: let's direct the people who actually write legislation to deal with that problem, and I trust that they will do it.

Mr. Campbell: Well, that's where I have a problem because people who are writing legislation don't always get the gist of the circumstance that's going on. Unless you're actually involved in the circumstance, it's sometimes hard to write the legislation. As smart as they are and as good a job as they do, if you don't understand the issue that you're involved in, you know, sometimes mischief comes into that. What I want to see happen is – I'll use the word for lack of a better word – the open-door policy where people from different industries, different walks of life can come in and meet and work on streamlining regulations and work to make their industry or their organization better.

Ms Notley: That's lobbying, though.

Mr. Campbell: Well, that's the whole problem we get into, though, right? Because then you deal with companies who aren't really lobbying, who are actually doing their regular business, versus the paid lobbyist that you register, and their job is just to lobby government. So there's that grey area there, and I'm really concerned that if we make too many rules and regulations, you know, we're going to take away some of that aspect of this province. One of the nice things about this province is that to get to see somebody in government, this province is probably one of the most accessible governments anywhere in Canada.

Ms Notley: For some people.

Mr. Campbell: Well, for anybody. I know that if you want to see a deputy minister or a minister in Ontario and B.C., you might spend a year waiting to go see a minister, and I've heard that from industry folks.

Ms Blakeman: I understand what you're saying, and I do want to protect that, but that's partly why this act differentiates between organizational and consultant lobbyists. They do recognize that difference.

The other thing that we're trying to do here – and I can see the conversation happening on the other side, so maybe they'll give us advice. I think part of what our process is today is to look at the ideas we've had thus far and at the end of the day vote and say: please go away, those of you who do this kind of thing, and come back with something that we can formally agree, yes or no, is going to go forward as a recommendation. When I tried to write it, I screwed it up, and I'll admit that. If what they're doing is lobbying, then it should be registered. Nobody is stopping them from doing it, and they don't have to do anything extra for it. All they do at this point is note the initiation of the action. But it doesn't stop them from doing that. That's the point of the act.

The Chair: Mr. Hinman, and then we'll have Mr. Campbell.

Mr. Hinman: Yeah. I understand Ms Blakeman's concern. I agree with Mr. Campbell. The problem that I see and the confusion for me is that these companies or organizations that are working for the government are the actual practitioners, as you're saying, that carry these things out. I'll use an example, then. Let's say that I have a company that sells health equipment to Alberta Health Services, and there's a new one that's come out, new MRI,

new technology. Right now because I sell to them, am I in a position to go and lobby them and say, "Look; this is the new technology," and show it to them, lobbying for them to change or do something else as opposed to saying: well, no; I need to go hire someone else to lobby? I think there are just numerous examples where, you know, a company is working for the provincial government or providing services, and they're in the best position, I think, for whoever – the minister, the deputy minister, or the head of Alberta Health – to almost go through . . .

Ms Blakeman: So what's the problem? Why can't they do that? All they have to do is when they go and meet with them and try and convince them to buy this new technology, it gets listed as a lobbying initiative, and it gets registered with the registrar.

Mr. Hinman: I guess I wasn't quite clear if that's all that we were trying to do. I thought the way you wanted to write this is that they couldn't do it. You said that, you know, if you have a contract with the government, you now are eliminated. You're not allowed to do it.

Ms Blakeman: That's true. That is what I said.

Mr. Hinman: So that's my concern.

Ms Blakeman: Okay. That pointy bit I'm sitting on is my own petard.

Mr. Campbell: I agree with Mr. Hinman. First of all, I think one of the things we have to be careful of is that we don't create a system that we ruin the entrepreneurial spirit that is in Alberta right now. You've got a lot of small companies, one or two people, sometimes three people, especially in R and D right now, that are coming up with ideas, and they want to go talk to somebody about it. They don't understand the Lobbyists Act. They're doing business. So I think we've got to be really careful about that.

The other concern I have is that, you know, there have been a lot of good points raised today, but I'll say again that we're in the infancy of this act; it's only two years old. We've had no issues. I think we need a little more time to look at where things are going. You know, if we have some real issues that actually come up, then we can address those issues, but I think that right now we're doing a lot of what-ifs. We're trying to formulate legislation on what might happen in the future. I just look at that as not always a good way to write legislation.

I think that we let things go as they are because the Lobbyists Act is doing its job right now, and we wait for another couple of years and see if it's still moving down the process.

Ms Blakeman: Well, to be fair, Mr. Campbell, I have given you three examples of where government policy was changed.

Mr. Campbell: I didn't hear those three. Sorry.

Ms Blakeman: The minimum wage, the labour code, and I had one other one. There was a third one, too, if I go through my notes fast enough here. There was something to do with CAPP or with oil and gas. All admit they were successful in lobbying government, but nowhere did they turn up as lobbyists. To me that's wrong. There's something wrong with the system when the group admits that they – and not just showing up at a public hearing like this. That didn't seem to be what those groups were talking about, the hotel and bar people. So I have no problem with lobbying. That is absolutely a legal activity and should go on. Where I have a problem is when it doesn't show up. The whole point of the Lobbyists Act is that it's supposed to show up.

Those are the loopholes I'm trying to plug from what I've seen in two years of operation. I know where government policy has been changed, where people admit they've been lobbying or it's clear they've been lobbying the government, and they do not show up on the registry because they didn't fall under the requirements of the act. To me there's a loophole there. I'm more than willing to have them lobby, but I want to be able to tell that they were lobbying on that issue. That's where the holes are.

Mr. Campbell: Which part of the labour code are you talking about? I don't remember that.

Ms Blakeman: It's been in the media that they've been asked in by the previous minister of employment to consult on the labour code over the summer. If I know about this, this is not a secret.

Mr. Campbell: So was labour called in.

Ms Blakeman: No, they weren't.

2:00

Ms Notley: No, no, no. Labour was called in to consult on a completed paper that had been written by government and industry, and then labour was told to respond to a paper that had already been written, so it's a fundamentally different process.

Mr. Quest: Since, I guess, none of us know if or when any of these conversations may or may not have taken place, I think we have to kind of accept the fact that if I'm the executive director of the hotel and restaurant association or some industry association and things go my way, I'm probably the first one that's going to put up my hand and say: what a great job I did of lobbying government. How do we know what conversations did or didn't take place? Obviously, in those positions somebody is going to take credit, so I'm going to suggest that if it doesn't show up anywhere, we need to consider that maybe it wasn't there.

Mr. Marz: Mr. Chairman, on some of the changes to the labour code and minimum wage and that sort thing, there was an all-party committee struck to do consultation on this just a while back. We heard from all sorts of different people on that. For anybody to say afterwards, "Yeah, I was the one that was responsible for doing this, that, or the other thing" – everybody wants to take credit for something, but this process was open and transparent, with a record of everybody's names that participated in that process. A lot of those changes came as a direct result of that consultation.

Ms Blakeman: Well, we have a different set of facts.

Go ahead, Rachel.

Ms Notley: Yeah. I was just going to say, as I've already said before, that I sat on that committee. They came before the committee. They were the only people recommending that process. The committee recommended against what they wanted. The issue was completely dead. Then they subsequently talked publicly about meetings that they had subsequent to their meeting with the committee, which involved the minister, who had had nothing to do with the committee. Let's just be clear that that's what happened.

The Chair: Anyway, we do have probably six or seven tweaks that we talked about earlier in the day. Ms Notley, you had a motion that you wanted to discuss. You wanted to wait until we

got through this discussion here, if we're finished, and then you wanted to speak to that and see where it goes.

Ms Notley: Actually, I had three motions.

The Chair: Yeah. One page, three motions.

Ms Notley: Yeah. That's right.

One was one that Ms Blakeman has already addressed, right? On my first one you can lead that conversation. I won't talk about it.

On my other two motions I'm going to start with the third one because we haven't talked about it at all yet. This arose from the conversations that we've had around the positive obligation of the public office holders to report their receipt of lobbying efforts. I know that there was quite a bit of discussion about that after the representative from the Chumir foundation advocated that. I was going through the submissions, and I see that there were a number of organizations that proposed that.

However, having read all of the fabulous background information that was provided to us by both the commissioner's office as well as Dr. Massolin and his staff, I see that that positive obligation doesn't exist anywhere else in Canada, but it does seem to me that the federal government, although they had originally proposed that they would develop a lobbyist act that would impose that positive obligation on public officials, backed down on it, I believe, when the government changed.

What there is in place is sort of what I would refer to as a bit of a halfway point, which simply suggests that when the commissioner receives a report from a lobbyist about the actions of that lobbyist, on occasion, sort of at the discretion of the commissioner, the commissioner can share that with the public office holder. The public office holder is requested to confirm the accuracy of that report, and should the public office holder choose not to, there's no penalty even that goes to them. It's simply that the commissioner can then publicly comment on the fact that the public office holder is not responding to that request.

What that does is that it leaves a lot of discretion. There's no actual penalty to the public office holder, but it starts the process of having the public office holder in critical situations, that in the discretion of the commissioner require a certain amount of accountability, to make sure that the information that's put forward by particularly sensitive lobbyists or whatever is accurate.

I think that that's a good way to start this process, to ensure a certain level of accountability on the part of public office holders while ensuring a great deal of discretion so that the types of concerns that were raised by a lot of members of this committee the last time that we discussed it don't become a problem.

As a result the motion that I'm putting forward is that

> we adopt a clause similar to what you see in section 9 of the federal Lobbying Act wherein the commissioner has the discretion to ask the public office holder to confirm the report and to report on whether that public office holder chose to respond to that request.

That's the proposal I'm putting forward in an effort to start to address this issue.

The Chair: I don't quite understand the last line in your sentence there: "and that the public officer may make public comment where the public officer fails to respond."

Ms Notley: It should have said "commissioner." You're right. Thank you. Sorry. That was my mistake.

The Chair: Commissioner. Commissioner is the other one.

Ms Notley: Yeah.

Mr. Rogers: Mr. Chairman, if I may.

The Chair: Yes, Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. In response to this – I don't know if it's officially a motion or not – proposal . . .

The Chair: I think she's moved it.

Mr. Rogers: To this motion. Okay.

Speaking to the motion, I would look for a comment from Mr. Odsen. I guess I'm looking for some clarification on whether at any time and whether you've had opportunity or not to feel that anywhere in your responsibilities as outlined in the act you would be, I guess, unable to get a confirmation from a public office holder to back up something that a lobbyist has reported. I would expect you to have that ability right now, and if you don't, I guess I'd like to know that.

To comment further, Ms Notley mentions that she does not anticipate or is not proposing a penalty to the public office holder by this proposal. Nonetheless, it would in effect provide for a public sanction against that individual because, certainly, if we give the commissioner the ability to publish the conversation or the results of the conversation with that public office holder, then in effect it's a form of a sanction against that individual by the commissioner making this public. I just make that observation.

But I'm curious, Mr. Odsen, about what's taken place so far or what you envision would take place in a situation like this.

Mr. Odsen: Thank you, Mr. Rogers. As our legislation presently stands, of course, lobbyists do not have to report on specific meetings that they've had with public office holders, so the only time something like this would come up or at least the only time it has come up has been when an investigation is required because then, of course, I'd be in contact with whomever it is within the government that was involved in this. I've certainly not had any difficulty whatsoever in getting whatever I wanted to know from those individuals.

Going forward, with respect to what's being proposed here – and I did mention this earlier – the federal lobbyist commissioner has got a number of staff whose sole job it is to follow up on these things. We wouldn't have as many in Alberta because, obviously, there aren't as many – if we narrow the definition of public office holder in a meaningful way, we wouldn't have as many in the pool, so to speak – as they have federally.

Notwithstanding that fact, it still would mean that there would need to be what they call compliance officers, whose job it is to contact public office holders and say: "This is what we have in the report. We need your confirmation or verification." If the party does not respond or says, "No, I don't have a record of this," or whatever, then federally it's up to the lobbyist commissioner to determine whether or not she wants to make that fact public.

We've also been talking, as a matter of semantics here, about registrar/commissioner. Of course, in our set-up I'm the registrar, but it's the Ethics Commissioner who's the commissioner, so a bit of a difference there. You want to think about who is going to be doing what.

2:10

Mr. Rogers: Mr. Chairman, just to follow up, it seems to me, again, from that response that, I guess, the compliance that Ms Notley seems to be looking for by this motion already exists. The only piece that doesn't exist is in terms of verification, where the

registrar, in our case, had need to verify that that has not been an issue to date, but this would provide, in essence, this public sanction against the office holder. I guess that may be something necessary at some point, if we decide it is, but I would certainly have a hard time supporting a motion that would provide a sanction to public office holders without more discussion.

Those are just my thoughts on the face value of this. Thank you.

The Chair: As clarification, you mentioned sanctions there. I don't see anything in here that mentions sanctions at all.

Mr. Rogers: Well, my point, Mr. Chairman, is that by allowing the registrar in the case of Alberta to make a public statement or a public disclosure that public office holder Joe has not complied or confirmed a request, in essence to me that is a form of public sanction against that office holder. That's my take on it.

Ms Notley: First of all, what this really is is a bit of a stratified or crystallized education tool. To be clear, the public office holder isn't sanctioned, as you put it, for reporting something different; they're only sanctioned for ignoring the commissioner. They can tell the commissioner whatever they want. The point is simply that the commissioner gets to say: well, I tried to check it, but the public office holder ignored me. What it is is an opportunity to ensure a bit of a slower but a hopefully more progressive development of a culture of accountability. That's really all it is.

Calling that a sanction – I mean, I think that, frankly, Syncrude or Suncor or whoever it was would have thought that if they hadn't been taken to court over the ducks, there was a difference between going to court and not going to court, notwithstanding the public outcry. In fact, many people also thought there was as well when the initial decision was not to pursue it.

The fact of the matter is that that's not a sanction. That's simply public comment on the responsiveness of all or any public office holder to a request of an agent of the officer of the Legislature. Presumably, you know, you shouldn't be thinking about that as a sanction. You should just think about that as doing your job.

I do think that there are examples. For example, we've just been around the block on this whole question of the minister of labour. Well, this would stratify or formalize the ability of the commissioner or an agent of the commissioner or the registrar to contact that minister and say: is it correct that you had no meetings with these agents over this period of time or that there were no meetings that would have met the criteria under the act? Obviously, it wouldn't just be whether there were meetings but whether they were meetings that met the criteria under the act. Then the minister would respond. If the minister responded and said, "Well, no; actually, I did meet with them," well, fine. Then the minister has done exactly what the minister was supposed to do, and nobody is giving the minister any grief for that. But from the fact that it's not reported in the lobbyist registry, then the lobbyists may have to rethink whether or not they should have reported that.

All it's doing is increasing a level of collective responsibility and adherence to the principles of the act, and it's doing it, I would suggest, in an exceptionally light-handed way because it is giving discretion up the yingyang to everybody here and it's offering no penalty. But it's the beginning of a process of actually being able to hold the public office holders a little bit accountable for the decision-making process, which is what this piece of legislation is all about.

The Chair: Mr. Odsen.

Mr. Odsen: Thank you, Mr. Chair. Just so we're clear, if I understood you correctly, Ms Notley, it's only those reports that have been submitted, talking federally now, that lead to queries of public office holders for confirmation of what's been reported. The example that you gave just now is a different thing, I think, because what you're talking about is that there's been no report and I then contact the minister and say: well, did you meet with these people or not? That sounds to me more like it might be the start of an investigation or an administrative inquiry, if such existed, as opposed to confirmation of what's been reported because they haven't reported anything.

Ms Notley: Well, it's an attempt to get around the fact that there's a whole absence of reporting going on. In that particular case a component of that organization did report. So a component of that organization reported but didn't report in terms of that particular piece. There's actually a bit of a grey area in that regard, so that's why I used that one as an example.

But, yeah, I think you know where I'm going with this. It's a light-handed educational tool trying to get towards this notion of putting some sense of responsibility on the public office holders but doing it in a very measured and discretionary way.

The Chair: Any other comments with regard to motion 3?

Shall we call the question on it? We'll use a show of hands. All in favour? Opposed? That motion is lost.

Ms Notley: Can we just record that?

The Chair: Yes. It was three to five.

Oh, you want to record it. You should have asked to record it before. Then we could have done it by name.

Ms Notley: I think you could do it now.

The Chair: All in favour of the motion?

Ms Blakeman: I'm sorry, Mr. Chair.

The Chair: Yes, Ms Blakeman.

Ms Blakeman: What was it that you asked for?

The Chair: Ms Notley asked for a recorded vote after we had taken the vote.

Ms Blakeman: Okay. I'm ready to vote and be recorded. In the House you do a voice vote, and then that is followed by a recorded vote. That's exactly what's happening here. There was a show of hands, and there was a request.

The Chair: Okay. I guess, then, all in favour, please state your name. In favour of it.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald, Edmonton-Gold Bar.

The Chair: All those opposed?

Mr. Campbell: Robin Campbell.

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

Mr. Lindsay: Fred Lindsay, Stony Plain.

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Mr. Quest: Dave Quest, Strathcona.

Mr. Hinman: Paul Hinman, Calgary-Glenmore.

The Chair: The motion is defeated.

Ms Notley, do you want to speak to motions 1 and 2 or do them each separately?

Ms Notley: I'll address motion 2. Let me start by saying that the way I wrote this, I actually sort of wrote it in two clauses. This was the one where I had kind of opened it up and asked people whether there might be some willingness to consider one part of it. So I think that, with the discretion of the chair, what I might do is amend what's in front of you, if that's okay, rather than put in what's in front of you and then have to amend it on the record because that'll be very confusing.

2:20

Ms Blakeman: Are you talking about motion 1 or 2?

Ms Notley: Motion 2.

Ms Blakeman: Well, can we just sever it?

Mr. Rogers: Mr. Chairman, there's nothing on the floor. Whatever comes now will be on the floor. There's nothing on the floor.

Ms Notley: That's right. I handed out something in writing, so I just want to make sure.

The Chair: Yeah. We're talking about motion 2. Is that the one you want to speak to?

Ms Notley: Right.

The Chair: So you will be moving motion 2?

Ms Notley: Well, this is my request: to read in something slightly different than motion 2.

The Chair: That's fine because you haven't moved anything. Those were just suggestions. Ms Blakeman has the same thing on hers.

Ms Notley: Okay. What I'm going to do, then, is I'm going to divide it into two. I'm going to start by saying that I'm moving that the committee recommend that the act be amended to specify that all time spent in preparation of lobbying activity be included within the calculation of the 100-hour threshold.

The Chair: Is everybody familiar with exactly what she said, or should it be read back?

Mr. Quest: No, I think we're okay.

The Chair: Okay.

Mr. Quest: Just a question if we're in discussion here. Who measures and verifies this preparation time? How do we know what it is or isn't or was or wasn't?

Ms Notley: Well, there was some discussion about this earlier, but maybe if the registrar wants to review that issue again.

Mr. Odsen: Well, as it presently stands under the act and unless there is something in addition to this, the onus is on the lobbyist to track their time. If, then, a query comes into my office as to why somebody is not registered, I contact them. If they say, "We're less than 100 hours," then I would say: "All right. I'm going to come in and take a look at what you've done with respect to that to verify that and satisfy myself that, indeed, you don't meet that threshold."

Mr. Quest: All right. Thank you.

Mr. Marz: Just a question on that. Unless they were charging and billing for the time specifically, it would be very difficult to prove within 10 hours or so whether or not – how would you actually prove that, if I put 40 hours in preparing and you said it sounded more like 50 hours of work? I'm maybe just a more efficient worker than you're used to seeing. I think that this could be onerous unless the person actually bills for the time in his records.

Mr. Odsen: It could in some circumstances be difficult; that's true. Within management there's a term for that: time effectiveness or efficiency or whatever. Of course, lawyers, accountants, maybe consultants, those kinds of things, in many instances are quite used to and familiar with recording their time in terms of what they're doing and that kind of thing. Others have never done it. I think there are ways, if there isn't information, to apply certain standards: it typically takes this amount of time to do this kind of thing or that sort of thing. The onus again, though, is going to be on the lobbyist to satisfy me that what they've recorded is accurate and truly reflects the amount of time and is well below the threshold.

Mr. Marz: But you still have to have some specific justification, I would think, as well as criteria to argue that point with them.

Mr. Odsen: If I'm going to disagree with them, yes. I couldn't just say: "Well, no; it wouldn't take me anywhere near that long," or "It would take me 10 times as long as what you've indicated there; I don't believe you" kind of thing. No. I would have to have some kind of objective criteria to apply and would not even consider doing anything other than having some sort of effective criteria. And if there is none available, then I would have to accept what they tell me.

The Chair: Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. Speaking to this, you know, it's hard to expect that an individual would show up and make their pitch and basically start the process from scratch. I mean, this lobbyist business, in my opinion, done properly, and this whole registry and tracking process relies a lot on credibility, and until proven otherwise, it's my humble opinion that there's a certain level of credibility expected from these people participating in this business. As such, Mr. Odsen has talked about some attempt on his part that would be made to verify, if there was a discrepancy or a need to verify, essentially how these people came to what they're reporting in terms of effort put into a file. So I don't have a problem with this.

I believe that the idea that someone would show up to make a pitch to minister X or public official X having done no legwork before he showed up on the door is certainly not realistic. So I don't have a problem with the idea of including prep time in this, and I think it can be reasonably ascertained with the assumption that these are credible people, again, until we prove them otherwise.

So I can live with this.

Mr. Campbell: Well, I hate to disagree with my colleague, but I do. There are a number of people in the Lobbyists Act that, if you look at them, live their industry every day. They don't do any prep

time; they live it. So every day they're dealing with what their industry is about.

For example, if you look at construction, if you talk about the merit shop, those guys live that every day. They don't have to prep anything to go see the minister. You look at the business agents that work for the boilermakers or for the IBEW or for the pipefitters, the operating engineers: they're living this every day. They'll go in and talk to the minister. They don't do any prep because every day on the job they're discussing this either with their members or they're doing grievances or they're doing arbitrations or they're doing collective bargaining. So they're living this.

Again, we go back to the Lobbyists Act. There's a distinction between your two lobbyists. You have your professional lobbyist that a big company hires, and maybe they might do some prep work, but you've got other people in the agricultural system or the energy sector or whatever, and these people live their jobs every day. There's no prep work done. So if you get into this prep work thing, you're looking at: are we going to hire more people? I mean, all of this costs money. While it looks on the surface that it's something that's innocent – and maybe it is – down the road it's going to cost money. You're going to have to hire somebody to do this work because you can't expect the registrar and the commissioner to do all of this.

So you're making these decisions, you know. How many people are we going to hire to add to that department and at what cost? Do we hire four or five investigators at a hundred thousand a year? There's a half million dollars that the Ethics Commissioner will come back and ask us for on supplementary estimates for more money into his budget.

I don't think we need the 100 hours. I've said it before, and I'll say it again: let's leave the thing alone, and let's move on.

Ms Notley: All right. Well, needless to say, I disagree with many things inherent in those statements. To begin with, you know, I think that if we change this to include prep time and if someone says, "Yes, I met with the minister three times last year, but I was talking to him about the Canadian Wheat Board, and we just had a 10-minute conversation, and there was no prep time," it is absolutely within the discretion of the registrar to say, "Well, yeah; you've been living this business forever, and I believe that there probably was no prep time, so you don't have to be included," or whatever, right? That's within the discretion of the registrar.

However, if you've got people who meet with government officials, let's say, once a month and each time they meet with a government official they spend an hour with him and each time they leave they drop off a 20-page frickin' briefing note and then at the end of it they say, "Oh, no; I only spent 12 hours lobbying," well, that's utterly ridiculous. That's just ridiculous because the fact of the matter is that they dropped off a 20-page briefing note. That should be covered.

I think we just need to use a little bit of common sense. This works in B.C., and if it can work there, it can work here. It's about expanding the scope of people who are included. The fact of the matter is that the registrar has to spend as much time tracking how much time is spent in each meeting right now as they would have to spend asking them whether they included prep time in that 100-hour calculation. It's the same amount of time spent checking it. It's really about: do we want to include people under this Lobbyists Act, or do we not want to include people under this Lobbyists Act? If we want it to be real, then let's make it real. If we don't, well, then let's just carry on.

2:30

The Chair: Okay. Ms Notley, I know you're passionate about this, but let's keep our language.

Ms Notley: Did I say anything inappropriate? I think our language is the same language.

Mr. Hinman: Yes. I thought on that one that everything was fine, but I missed it.

I guess I just want to speak somewhat in support of this. I think we're missing the real key, and Ms Notley kind of summarized it there at the end. Are we registering all the lobbyists or not? When we put these time constraints on 100 hours or 50 hours – and right now we're just talking about the 100 hours and whether or not there's prep time put in there. I agree that that should be included, so I support that. My concern with the loopholes here is: 50 hours or 100 hours? If someone is a lobbyist and they come in there for five hours and do a phenomenal job and they leave again, I'm concerned that we've missed those lobbyists.

To me, as you said, if we're going to make a lobbyists registry, let's register all the lobbyists and not just those that are over 100 hours, including their prep time. My concern is that I'm not even sure you're moving it down to 50 hours. You're leaving it at 100, and that's the loophole that I'm concerned about. Do we really have a list?

Mr. Odsen: Just to note, and I hope everybody's clear on this, those consultant lobbyists who are engaged by somebody must register. There's no time threshold for them. It's only organizations that have the time threshold. Once you start dropping down, as I mentioned earlier, where you have sort of the one-offs, the one particular interests, that kind of thing, I think you necessarily are going to be capturing small business owners. You're going to be capturing farmers, somebody who has one issue that's come up. It's of deep concern to them. They come in and lobby government with respect to that. That's the end of it, regardless of which way it ends up.

Again, I simply say: is that really what you want to do? These are not the ongoing lobbying kinds of efforts that you'll see from the big players in the energy industry or in agribusiness for that matter, that kind of thing. The feedlot owner, the person who has the RV lot, where they're selling RVs and that kind of thing: are these the people you need to be capturing as well? I simply raise the question because that's one of the things that this threshold addresses. Wherever you set that threshold, you're kind of saying: "Okay. This is the line above which we want them and below which, no, we don't."

Mr. Hinman: That's exactly the question that I would like your recommendation on. Do you feel that that 100 hours, and I say with preparation time, is good, or do we miss numerous one-offs where something new comes up, whether it's – I want to say automobile insurance, but that was a huge lobby group – different groups, as you mentioned, whether it's a feedlot operator or, you know, something else? Are we missing people for whom you feel that that time frame should be lowered?

Mr. Odsen: As I said, there's no question that we are missing people because of the time threshold. Whether they ought to be included or not is not really my call. That's your call and the call of the Legislature, I think. How far do you want to extend it? I mean, you could say: no time threshold. You know: "If you're lobbying government, you must register. Period." Then you don't even worry about this.

The Chair: Mr. Marz, and then I think we'll call the question.

Mr. Marz: Well, I think the motion before us here, as I stated before, is too difficult to track. It's going to be time consuming, and as Mr. Campbell pointed out, time is money. I'm sure we'll probably be back here looking for a request for more money to track some of these things based on the decisions we make here.

I'd be more apt to support a reduction from the 100 to the 50 hours because that's basically an hour per week of lobbying throughout the year, and it would probably capture a lot more people. I guess if you're going to lobby an hour per week, you probably should be registered as a lobbyist. But I can't support the motion as it is.

The Chair: Any other comments on it?

I'll have Jody read the motion.

Ms Rempel: Okay. We had it moved by Ms Notley that

> the Standing Committee on Legislative Offices recommend that the Lobbyists Act be amended to specify that all time spent in preparation of lobbying activity be included within the calculation of the 100-hour threshold.

Mr. Hinman: Rachel, are you asking for a recorded vote?

Ms Notley: Yes. I'd better ask both before and after it, right?

The Chair: All in favour of the motion, state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

Mr. Hinman: Paul Hinman.

Mr. Rogers: I'm going to vote in favour of it.

The Chair: All those opposed?

Mr. Campbell: Robin Campbell.

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Quest: Dave Quest. Opposed.

The Chair: That motion is carried.

Ms Notley, you had another?

Ms Notley: Okay. Well, I'll throw it out there and see what people think. My second motion, then, on this issue would be to

> reduce the threshold from 100 hours to 50.

The Chair: No. We did that. You were going to number 1. That's the one we just finished.

Ms Notley: No.

Mr. Quest: I thought you took the 50 out.

Ms Notley: I did. I separated it. Right? So you can say no to this if you want, but what I did was sever it so that we dealt with how you calculate it.

The Chair: We've got the motion to include prep time in the 100. Now you want to reduce the 100 to 50.

Ms Notley: Yes.

You can vote it down, but I separated it out.

The Chair: Okay. Go ahead.

Ms Notley: So that's my motion. For all the reasons I've just suggested I think you should support it. And if Mr. Hinman wants to speak to it in particular, by all means, that would be great because I know he thought that the 50 was a better number.

Again, it just speaks to trying to expand the number of people who would be included under coverage of the Lobbyists Act to increase transparency of the conversation that Albertans are having every day with their government.

The Chair: To be clear, then, does this motion mean that you want to reduce it from 100 to 50 and then this 50 will include prep time? Is that what you're getting at?

Ms Notley: Yes.

The Chair: Because that was passed on the previous motion.

Ms Notley: You can vote it down, but that's why I split it.

The Chair: Mr. Rogers.

Mr. Rogers: Mr. Chairman, I want to speak to this. I think this is crazy.

Mr. Campbell: Well, then, vote against it, and let's get on with it.

Mr. Rogers: Well, no, I need to say what I've got to say.

I mean, it was one thing to suggest that prep time be included in the 100. You have to realize what we're doing here, folks. We're putting together a list of recommendations that will be included back to the Legislature. We're going to bring one recommendation that says: here's 100 hours including prep time. Then right after that we're going to have another recommendation that says: oh, by the way, we want to now cut the 100 hours to 50 hours. It does not make any sense, and I'll vote against it.

The Chair: Fine. Thank you.

Any other comments?

Mr. Hinman: I agree with what you're saying, but I think the problem – and it's proved its point – is that at 100 hours we're able to get preparation time put in; at 50 it wouldn't have passed. So it's a step forward. Hopefully, people will realize that 50 hours is a good time, and we'll reduce it, because I would have said, "Let's just go to 50 hours with prep time" and just voted once. Obviously, my colleague here was astute to do it one step at a time.

The Chair: Any other comments?

I'll call the question, and we'll ask for a recorded vote on that, too. All those in favour of the motion, please state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

Mr. Hinman: Paul Hinman.

The Chair: All those opposed, please state your name.

Mr. Campbell: Robin Campbell.

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

The Chair: That motion is defeated.

All right. Ms Notley, did you wish to look at what was your motion 1?

Ms Notley: As I said before, I think that was also one that Ms Blakeman was doing.

The Chair: Okay. Fine.

We have a few more left. Do you want a five-minute break? We will break until 10 minutes to 3. We'll get back here, and we'll go through the other motions that we have. Hopefully, we can wrap this up.

[The committee adjourned from 2:40 p.m. to 2:48 p.m.]

The Chair: Okay. We're back online. A couple of people will be coming in here in just a moment.

We have some motions left that have been submitted by Ms Blakeman, and I'd ask you to please proceed with those. I know that for the most part we have discussed in perhaps a roundabout way through the discussion paper a few of those, so if you'd like to put them forward with your discussion, please.

Ms Blakeman: Actually, with the assistance of the handsome gentleman Mr. Campbell and using his iPad, I've been able to type them out and e-mail them to the clerk of the committee. So she has them, and if I just speak slowly enough, she will be able to print them off for everyone.

The Chair: I think she sent them to the printer, and we should have them any moment.

Ms Blakeman: Okay. I just thought it was easier if you had the printed version.

The Chair: Are they quite a bit different than what you had originally sent out?

Ms Blakeman: They're cleaner, yeah, way different from what I originally sent out.

The Chair: All right. Okay. So then we'll just set this aside.

Ms Blakeman: Yes, please.

The Chair: All right.

Ms Blakeman: If I may ask a question.

The Chair: Yes.

Ms Blakeman: There were a few references that I suggested should be considered as motions that came from the registrar's issues identification document. Will those be considered as motions?

The Chair: Well, you talked about some of these, I know, parking them. You had one that you mentioned, and I'm not sure whether it in a roundabout way was part of one of your motions or not.

If anybody has any issues or concerns, today is the day to bring them up because at our next meeting we'll be looking at the final draft for the report.

Ms Blakeman: So we're not considering the other ones that were brought forward?

The Chair: Yeah. I'm sorry. You were distracted there. What I said was that there were quite a few of them you talked about that would be put in the parking lot. You know, there were about four or five different items there. If there is any other that you thought wasn't in a roundabout way part of your motion, please bring it forward, and we'll address it.

Ms Blakeman: You know what? I'm looking at the registrar to see if there was anything there he particularly wanted brought forward and not left in the parking lot.

The Chair: Okay. I think everyone has a copy now.

Ms Blakeman, you wanted to start with motion 1?

Ms Blakeman: Yes. You actually have my second document, which has three proposals on it.

The Chair: Yes. That's correct.

Ms Blakeman: There is one more coming, which has just a single one on it.

I will start with motion 1. Proposed by L. Blakeman to

> narrow the exemption in 6(3) and 6(4) so that no person can lobby a department at the same time as they or their company are contracted to provide advice or a service or program to the same department.

The Chair: Any comments?

Ms Blakeman: Well, this is trying to narrow – I'm repeating myself slightly, and I'll be very quick so I don't try the patience of the committee.

I feel that this is one of the loopholes that exists in the current legislation that does need to be addressed; that is, companies are essentially allowed to lobby and provide advice with a very broad definition. Only in very narrow circumstances are they exempted from doing that. I think it needs to be clearer that you should not be allowed to lobby a department at the same time as you are providing a contracted service or program or advice to them.

The Chair: Okay. Any other comments? Any questions?

Ms Blakeman: A recorded vote, please.

The Chair: Recorded vote. I will call the question, then, on that first motion. All those in favour, please state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

The Chair: All those opposed, please state your name.

Mr. Campbell: Robin Campbell.

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

Mr. Hinman: Paul Hinman.

The Chair: That motion is defeated.

Ms Blakeman: Yeah. I got flunked on that one. Okay.

The Chair: Motion 2.

Ms Blakeman: Motion 2. Proposed by L. Blakeman that

> based on the federal legislation, the Alberta legislation require a designated filer to file monthly reports on communications with members of Executive Council.

Communications are as defined in the act, so it does mean meetings on a lobbying effort.

Currently, all they're required to do is to file an initiation of an action. So if I were going to lobby the minister of culture on a new film hub in Calgary, all I'd have to do is enter it once and state a given period I'm going to lobby him for, two years, and I never have to report on that effort again. I don't have to describe how many times I met with the minister or anything. I just say that I'm going to lobby them on this one thing and that I'm going to do it for a period of two years. That is the only communication that we have, the only recording or registration of a communication effort that you get on any lobbying effort. I think it's important that we are aware of how many times they're communicating.

The lobbyists themselves are clearly keeping this record, so it's not an administrative burden on them. I'm sure they're billing every time they do this, so it's not an administrative burden to them. The requirement is on the lobbyist to file the monthly report or put on the website how many times and on what they've communicated with the member of Executive Council.

That's the other thing I've done that's very specific. It's not for any public office holder; it's for members of Executive Council.

2:55

Mr. Hinman: I just want to speak in favour of this. I think this is very positive in the fact that we'll actually know how much lobbying is going on because it is very vague. Otherwise, we have no idea whether they've met once or 100 times. So I hope that we'll pass this motion so that we have a better idea of the amount of lobbying that is going on.

The Chair: Mr. Odsen, did you want to comment?

Mr. Odsen: Just for clarification purposes, I suppose, any communication at any time in any kind of a meeting: in the federal legislation where this does exist, the need to be reported on is for prearranged meetings only. So any chance encounters or any of those kinds of things don't have to be reported. This doesn't specify that, so maybe some clarity might be at least thought about there.

Ms Blakeman: I'm happy to add that in. That's why I said "based on the federal legislation," because I didn't have all the wording of it. But that's my intention, that it follow what the federal legislation is offering us. As you mentioned, that's scheduled meetings only, not happenstance meetings at the coffee shop.

The Chair: Okay.

Any more questions?

Mr. Hinman: So if they happen to be at the same booth at the Grey Cup and speak for an hour, that wouldn't go in there?

Ms Blakeman: No, because I just don't know how we can accurately do that. We all get approached by people at social functions, and my reaction is: please call my office because I won't remember what you're telling me. I just don't know how we can control that. I think the only way you can control it is through scheduled meetings that happen, but at the very least we would have some idea of how many scheduled meetings there are.

Mr. Hinman: I guess that to me this just creates a black market where there are a lot of unscheduled meetings now where we happen to be golfing or something else. Again, the onus is on them, if they're lobbying, to record it. I don't know. It just seems to me like this is again one of these things where the integrity of it – they've already said that they've registered; it's for them to keep track of the time that they've met. Anyway, I'm a little bit nervous if you say only scheduled times.

Ms Blakeman: I'm doing what I think is most likely to pass because at this point I'm a half-full glass kind of gal, and I'm trying to improve this legislation. I think I have a better chance.

Mr. Odsen: Just further in terms of sort of information, shall we say, when you mention, Ms Blakeman, that the lobbyists are recording their meetings and billing for that, the consultant lobbyists, undoubtedly, yes, they are. Organization lobbyists: don't know that that's necessarily the case, but they might well be recording in terms of reporting to those above. It's going to depend, I think, on the size of the organization and the complexity. In any event, certainly that's something that undoubtedly they could be doing.

As the act presently stands, the chance meetings in the courtesy box or any of those kinds of things: the specific meeting isn't captured, but the fact that there's lobbying that occurs with that group in relation to that subject matter is captured. Just the specifics of it aren't.

Ms Blakeman: Yeah. And I've got to assume that even consultant lobbyists are keeping a Daytimer.

Mr. Odsen: Oh, no. It's the consultant lobbyists who are tracking.

Ms Blakeman: Oh, sorry. The organization lobbyists.

My point was that I don't think it's a huge administrative burden.

Mr. Odsen: That's fair.

The Chair: Any other comments?

I'll call the question.

Ms Blakeman: Recorded, please.

The Chair: Recorded. All those in favour of the motion, please state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

Mr. Hinman: Paul Hinman.

The Chair: All those opposed, please state your name.

Mr. Campbell: Robin Campbell.

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

The Chair: That motion is defeated.
Ms Blakeman, you had motion 3.

Ms Blakeman: I do, but there is another page with a single motion on it.

The Chair: Okay.

Ms Blakeman: Could we go to that one, please?

The Chair: Yes.

Ms Blakeman: Thank you.

The Chair: Please read it.

Ms Blakeman: Proposed by L. Blakeman to narrow the exemption in 3(2)(c) so any meeting requested of a lobbyist by a member of Executive Council would not be included in the exemption. Oh, boy, I hope that's clear. It's not. I'm sorry.

The intention behind that is that currently if a meeting is requested by a member of a public office holder, it need not be reported. It's not required to be reported by the lobbyist. I would like to see that reversed so that a meeting requested by a member of Executive Council – and, again, I'm narrowing that very specifically – would indeed be part of the lobbyist's reporting.

Ms Notley: I'm a little concerned because the act actually talks about submissions, not meetings, that are exempted. I'm looking at 3(2)(c). Is that what you're dealing with?

The Chair: Section 3(2)(c) is what is written on the motion, yes.

Ms Notley: That's right.

Ms Blakeman: Oh, yes. From the top section. Oh, hell. I mean – sorry.

Ms Notley: See, now you're not saying anything to her.

The Chair: She said sorry.

Ms Notley: But I never said what she said. Anyway, just kidding.

So I don't know if you'd like to make a shot at a friendly amendment? That's my concern.

Ms Blakeman: Yeah. It's really the meetings that I'm trying to capture here.

Ms Notley: Not the submissions?

Ms Blakeman: Well, both. I think it needs to be submissions and the meetings. That's what we're trying to capture.

The Chair: Yeah. You're saying any meeting; you're including that. You're not saying the wording of 3(2)(c).

Ms Blakeman: Go ahead and try a friendly amendment if you want to. You know what I'm intending.

Ms Notley: Well, do I? You want to include submissions as not being excluded, correct?

Ms Blakeman: Right. So that any submission or meeting.

Ms Notley: I think submissions in the act – am I not correct? – include advice or comment that might be communicated through a meeting as well, right? Sorry, I'm asking for . . .

The Chair: Ms Neatby.

Ms Neatby: If the intent of the motion is that lobbyists must report meetings that they have with members of Executive Council when those meetings are set up or initiated at the request of a member of Executive Council, I think that that can be drafted as a separate provision. So you can put a positive obligation. Then we probably have to look at: how does that play with the rest of – what section is that?

The Chair: Section 3(2)(c).

Ms Neatby: Section 3(2). And how does that play with the requirements in the schedule? So it would probably appear in the schedule. There would probably have to be some other provision in the act.

Ms Blakeman: So where it goes would be left up to the drafter, but the fact is that any meeting requested by a member of Executive Council would need to be recorded by a lobbyist.

Ms Neatby: Yeah. I think if the committee passes that motion, we could find a way of drafting it.

Ms Blakeman: Good. Thank you.

The Chair: So it's the intent that we're talking about, correct? Yes.

Ms Notley: So the intent, then, is not necessarily – if a member of Executive Council asks a lobbyist to provide a submission that is not provided through a meeting in person but rather through some other form of giving a submission, you're okay with that being still exempted?

Ms Blakeman: No. It would be included.

Ms Neatby: Now I'm losing the thread of what the intent of the motion is, so if you could just repeat it for me.

Ms Blakeman: So that if a member of Executive Council requests any kind of information or advice . . .

Mr. Hinman: Through verbal or through written submissions?

Ms Blakeman: Through any means.

The Chair: I've got a summary of what your intent is, I think, if Jody wants to read that to you, if that's fine.

Ms Rempel: This is my attempt at creating a motion. Moved by Ms Blakeman that

> the Standing Committee on Legislative Offices recommend that the Lobbyists Act be amended to include the reporting of communication occurring in response to a request from a member of Executive Council.

Ms Blakeman: Yes. Actually, that's very good. Thank you.

3:05

The Chair: That covers submissions and meetings?

Ms Blakeman: It does.

The Chair: Okay.

Ms Blakeman: I'm happy with that. Thank you. Well done.

The Chair: Any questions?

Mr. Rogers: Just a brief comment, Mr. Chairman. I believe that the act already places the onus on the lobbyist to report these meetings. You know, again, we talked earlier about this being only two years. Unless we find flagrant problems with this, I don't know why we're bothering because there's already an onus on these individuals to report. All we're doing is just kind of saying the same thing again in a roundabout way.

The Chair: Well, there was an exemption in that particular part of the act, though. That's what she's clarifying, an exemption that's in there.

Mr. Rogers: Because it's requested by a member of the Executive Council?

The Chair: Because that's an exemption at the moment.

Ms Blakeman, you were sticking your hand up. Am I correct?

Ms Blakeman: Yes, you're correct. We know what the motion is that we want, and let's go forward.

Mr. Rogers: You're going to hamstring these guys or girls.

The Chair: Did you want to make a comment?

Ms Blakeman: I really do not believe that asking a lobbyist to report that they've been requested to go to a meeting by a member of Executive Council or to provide a submission to them is somehow hamstringing a cabinet member. I just don't. They're not doing the work here. They're not reporting on it. But it does allow the public to understand that, you know, there has been a request for the lobbyist to provide that information or a submission to them.

It does fall perfectly inside of the preamble and the intent of the act. It upholds the intent of the act in that it verifies the right to lobby and the right of the public to know.

The Chair: Okay.

Any comments?

Mr. Hinman: Just briefly, I want to speak in favour of this with the comment that what this does – again, it doesn't matter where you are in the spectrum. If you have lobbyists that are lobbying the way you feel you should be going as a minister, what you can do right now is extend an invitation for them to come in, and they don't need to report. Yet if someone is lobbying the other way, they have to report. I think this just levels the playing field so that we actually know all of the individuals who are coming in and lobbying the minister, whether he's asking for that report to support his position or whether it's someone who comes in who is against their position.

So I think it's a good motion. I hope everyone will pass it.

The Chair: Ms Notley, you wanted to make a comment before we vote?

Ms Notley: Yeah. Sorry. I just put my hand up there. Now that I've clarified what it is, I just wanted a chance to speak in favour of the motion because, as I say, it's a gargantuan exemption and it's a loophole that can be driven through very easily simply by the minister's office going through the process of requesting the meeting. I don't think that that is helpful in terms of providing the transparency which this act was theoretically there to provide.

So I think this is an excellent amendment, and I urge my colleagues to support it.

The Chair: Thank you.

I will call the question. A recorded vote. All those in favour, please state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

Mr. Hinman: Paul Hinman.

The Chair: All those opposed, please state your name.

Mr. Campbell: Robin Campbell.

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

The Chair: That motion is defeated.

Ms Blakeman: Okay. I'll put forward my final motion, which is to amend section 1(f)(i) to delete "in an attempt to influence." So that section – and this is an interpretation section – would then read:

> "lobby" means, subject to section 3(2),
>
> (i) in relation to either a consultant lobbyist or an organization lobbyist, to communicate with a public office holder.

The Chair: So, in other words, what you're doing is just taking out those five words, "in an attempt to influence"?

Ms Blakeman: Yes. That's right.

What I've attempted to do during this entire process is to . . .

The Chair: It's on what was the original motion 4 from the handout that you got?

Ms Blakeman: Yes.

What I've been trying to do is narrow any exemptions that were not full disclosure and to try and make sure that there's a way for any individual – a member of the public, a member of government, media, the opposition – to be able to see clearly who the minister is talking to on any given subject. Currently, that is not available.

There are a number of exemptions which I've tried to reverse and have been defeated by my hon. colleagues opposite, so this is the catch-all motion that essentially says, okay, if you don't want to do it very specifically, then by deleting "in an attempt to influence," you basically end up with a definition of lobby that means any time a consultant lobbyist or an organization lobbyist communicates with a public office holder, that's lobbying and would be subject to all of the requirements in the act. So if you didn't want to do it specifically, then this is generally.

The Chair: Any questions?

So even by saying hello to them, then, is that what you were getting at?

Ms Blakeman: Yep. Well, yes, subject to section 3(2).

The Chair: Yeah. Okay.

Ms Blakeman: So it leaves in place everything that seemed to distress others but does say overall that – yeah. It's communicate.

The Chair: Mr. Odsen, you wanted to make a comment?

Mr. Odsen: Simply that that changes pretty dramatically, it seems to me, the focus of the act. Lobbying, by definition, aside from the definition contained in the act, is an attempt to influence. So if you take that out, any communication, you are significantly broadening, I agree, whatever is happening and changing, obviously, sort of the focus of what it's about.

Again, that's your decision, not mine.

Ms Blakeman: Well, if I can't do it one way, I'm trying to do it the other way.

The point is: how do I tell as a member of the public who my government is asking to speak with or who is speaking to them on a given subject? I cannot find that out right now.

The Chair: Mr. Hinman.

Mr. Hinman: Thank you, Mr. Chair. I'm a little bit concerned about how broad that is and whether people are – you know, if you see someone walking down the street and speaking to a minister, you run back and see that it's been registered every time they speak. I'm a little bit concerned that this is extremely broad and onerous.

I don't know that I fully comprehend, as the registrar said, just how onerous or how problematic this will be, and I just think that this is not the best. We had better motions brought forward.

Ms Blakeman: We did, and I wish they could have all been supported.

The Chair: Any further questions or comments on the motion?

I'll call the question. All those in favour, please state your name.

Ms Blakeman: Laurie Blakeman.

The Chair: Any others in favour?

Mr. MacDonald: Hugh MacDonald.

Ms Blakeman: Thanks, Hugh.

The Chair: All those opposed?

Mr. Hinman: Paul Hinman.

Mr. Quest: Dave Quest.

Mr. Rogers: George Rogers.

Mr. Lindsay: Fred Lindsay.

Mr. Marz: Richard Marz.

Ms Notley: Rachel Notley.

The Chair: That motion is defeated.

Do we have any other concerns or questions or motions to be brought forward at this time with regard to changes to the act?

Yes, Mr. Odsen.

Mr. Odsen: Thank you, Mr. Chair.

I'm sorry, Ms Blakeman. I wasn't quite on the uptake when you were talking to me a little earlier. When we had gone through the issues identification, we raised the issues about the confidentiality around investigations. There did seem to be – I got the sense that members of the committee were somewhat sympathetic to the points that I was making with respect to that and, perhaps, giving discretion to the registrar in certain circumstances where something has gone into the public domain to be able to respond in the public domain.

Ms Blakeman: That appears in your report on page 5 under enforcement, issue to consider, confidentiality, sections 15(4) and (7). Would that be what you're referring to?

Mr. Odsen: That's correct, yes.

Ms Blakeman: I'm prepared to make that motion as written, that

> if the complainant has gone public with the request for investigation, the registrar be extended the discretion to respond in the public domain.

The Chair: Okay. That is on page 5 of the issues document that we had with regard to enforcement under the confidentiality section.

3:15

Ms Blakeman: Yes, and I move that.

The Chair: Ms Blakeman is moving this.

Mr. Rogers: Just to be clear, then, Mr. Chairman, this is just following up on the fact that a complainant has already taken his or her complaint public and that the registrar is responding in a public fashion. There's no issue of confidentiality. All we're doing is just allowing the registrar to, I guess, follow up in a public fashion.

Mr. Hinman: I think that this is for the registrar to clarify, I guess, this assumption of guiltiness because it's there. He's going to be able to put in a clarification on where it's really sitting as opposed to the assumption that's often made when it becomes public.

The Chair: Well, it's not really guiltiness. Someone did a request for investigation. The registrar has the discretion of saying, "Who did it?" or "Who was he talking to?" or "Has the person responded?" That's the discretion the registrar has, right?

Ms Blakeman: No. Currently the registrar can only go public if they do an investigation. But if they decide not to do an investigation – somebody has been out there beaking off about a minister, and the registrar investigates and decides not to do an investigation – he has no ability under the act to also go public with that and say: we're not investigating that minister. It's hanging the minister out to dry. The accusation is public, but the refusal to do an investigation is not.

Mr. Rogers: That's what I was trying to clarify.

The Chair: Okay. Any comments on this? Any other questions on this? Ms Blakeman has moved this motion. I'll do a recorded vote again.

Ms Blakeman: Thank you.

The Chair: All those in favour of the motion?

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. Hinman: Paul Hinman.

The Chair: Have we got everybody that's in favour?

Mr. MacDonald: Yes, I'm in favour of that, Mr. Chairman. Hugh MacDonald.

The Chair: All those opposed?

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

The Chair: That's a tie. I will be voting. That motion is defeated.

Ms Blakeman: A further motion, Mr. Chair?

The Chair: Yes.

Ms Blakeman: That

> the registrar be granted the power to conduct an administrative inquiry to determine whether there are grounds for an investigation and the discretion to make public the result of any inquiry.

What we've got now is that he has yes or no, but he has nothing in between because he has no ability to investigate without doing a full investigation. This is granting him the power to start an inquiry and get enough information to then decide: yes or no, I'm going to go ahead. It's granting him additional powers, but they're powers that are currently missing right now, and they're reasonable powers under the act.

The Chair: Any other comments?

Mr. Lindsay: My understanding is that there is a way around this without going this route. Is that correct or not?

Mr. Odsen: I'm not sure. As the act presently reads, it's pretty clear. I think that when I was referencing it, I said that some of my counterparts in other jurisdictions go ahead and do that, but they don't have the power to go public with it. They only have the power to make sort of a preliminary inquiry on the matter and kill it at that point, but they can't go public with it if they decide to kill it.

The Chair: Okay.

Ms Blakeman: And the motion included both the discretion to do it and the discretion to make it public.

Mr. Marz: But once you do an investigation, that's all public.

Mr. Odsen: That's correct.

Ms Blakeman: That's already in the act.

Mr. Marz: Yeah. Well, why go public with a bunch of smoke if there's no fire?

Ms Blakeman: Because your minister is hanging out to dry.

The Chair: Any other questions on this?

Ms Blakeman: A recorded vote.

The Chair: I'd call the vote, a recorded vote. All those in favour, please state your name.

Ms Blakeman: Laurie Blakeman.

Ms Notley: Rachel Notley.

Mr. MacDonald: Hugh MacDonald.

Mr. Hinman: Paul Hinman.

The Chair: All those opposed?

Mr. Marz: Richard Marz.

Mr. Lindsay: Fred Lindsay.

Mr. Rogers: George Rogers.

Mr. Quest: Dave Quest.

The Chair: That is a tie vote, and I vote opposed.

Are there any other motions or comments with regard to the review that we're doing here?

If there are none, I guess the next step now in the review process is the preparation of the draft final report. Our research staff will put the report together, and this committee will review it at our next meeting.

Dr. Massolin, do you have any questions, comments?

Dr. Massolin: Well, I just wanted to remind the committee – I think the committee knows – that the research staff aids in the preparation of the final report of the committee. It's the committee's report. However, if there are any sort of recommendations and suggestions as to the format of the report – I think I've heard direction for the report in terms of the substantive portion of that report – if there are any other directions in terms of the format or any other issues that you might want to raise right now, I'd be happy to listen to that.

The Chair: I don't hear any.

Dr. Massolin: In that case I'll just prepare the report for the next meeting.

The Chair: Okay.

Any other business members wish to raise?

Ms Blakeman: There will likely be a minority report, so I'll endeavour to get that.

The Chair: All right.

Our next meeting is scheduled for the evening of October 26. Is there any interest in rescheduling this? Is this a good date?

Mr. Hinman: It's not a good date.

Mr. MacDonald: Why not?

Mr. Hinman: Oh, it just seems like it isn't.

The Chair: I'm sorry. I missed that.

Mr. Hinman: It just seems like it should be a different date.

The Chair: Okay. What date would you prefer?

Mr. Marz: What's wrong with the 26th? It's an evening meeting.

Mr. Hinman: You're in town for a caucus meeting, but others of us aren't.

Ms Blakeman: This is the draft report, not the final report, right?

Mr. MacDonald: This is the schedule to go over the draft report.

The Chair: We do have to have another meeting in order to be able to actually physically look at the draft report.

Ms Blakeman: Well, is there any other meeting that's in conflict with the Tuesday night if we move it to Tuesday night?

The Chair: To the night of the 25th? Yeah.

Ms Blakeman: No? It didn't work. Okay. I'll stay out of this.

Mr. Hinman: We can call in on that one if we so need?

Mr. MacDonald: Members can call in, correct?

The Chair: On the 26th?

Ms Blakeman: As long as you've reviewed it, I can't see why not. Well, up to the chair.

The Chair: Well, our meeting is scheduled from 6:30 to 8:30 on the 26th. Should I leave it there? Hearing no objections, the meeting will be October 26 from 6:30 to 8:30. Okay?

Anything else?

A motion to adjourn. Moved by Mr. Marz. All those in favour? I think that motion is carried.

[The committee adjourned at 3:24 p.m.]

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