Legislative Assembly of Alberta

The 30th Legislature
Second Session

Select Special
Public Health Act
Review Committee

Friday, July 17, 2020
9 a.m.

Transcript No. 30-2-2

Legislative Assembly of Alberta
The 30th Legislature
Second Session

Select Special Public Health Act Review Committee

Milliken, Nicholas, Calgary-Currie (UCP), Chair
Rosin, Miranda D., Banff-Kananaskis (UCP), Deputy Chair

Ganley, Kathleen T., Calgary-Mountain View (NDP)
Gray, Christina, Edmonton-Mill Woods (NDP)
Hoffman, Sarah, Edmonton-Glenora (NDP)
Long, Martin M., West Yellowhead (UCP)
Lovely, Jacqueline, Camrose (UCP)
Neudorf, Nathan T., Lethbridge-East (UCP)
Reid, Roger W., Livingstone-Macleod (UCP)
Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UCP)
Schow, Joseph R., Cardston-Siksika (UCP)*
Shepherd, David, Edmonton-City Centre (NDP)
Turton, Searle, Spruce Grove-Stony Plain (UCP)

* substitution for Martin Long

Support Staff

Shannon Dean, QC	Clerk
Stephanie LeBlanc	Clerk Assistant and Senior Parliamentary Counsel
Teri Cherkewich	Law Clerk
Vani Govindarajan	Legal Counsel
Trafton Koenig	Parliamentary Counsel
Philip Massolin	Clerk of Committees and Research Services
Sarah Amato	Research Officer
Nancy Robert	Research Officer
Michael Kulicki	Committee Clerk
Jody Rempel	Committee Clerk
Aaron Roth	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications
Jeanette Dotimas	Communications Consultant
Tracey Sales	Communications Consultant
Janet Schwegel	Director of Parliamentary Programs
Amanda LeBlanc	Deputy Editor of *Alberta Hansard*

Transcript produced by *Alberta Hansard*

Standing Committee on Public Health Act Review

Participants

Ministry of Health
Dean Blue, Senior Policy Adviser
Trish Merrithew-Mercredi, Assistant Deputy Minister, Public Health and Compliance

Ministry of Justice and Solicitor General
David Skene, Director, Barrister and Solicitor, Health Law

9 a.m. **Friday, July 17, 2020**

[Mr. Milliken in the chair]

The Chair: Hi, everyone. I'd like to take the moment to call this meeting to order. Welcome to members and staff in attendance for this meeting of the Select Special Public Health Act Review Committee.

My name is Nicholas Milliken. I'm the MLA for Calgary-Currie and chair of this committee. I'm going to ask also that those joining the committee at the table introduce themselves for the record. I guess perhaps we will just start on my right.

Ms Rosin: Miranda Rosin, MLA for Banff-Kananaskis and deputy chair of the committee.

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

Ms Lovely: Jackie Lovely, constituency of Camrose.

Mr. Turton: Searle Turton, Spruce Grove-Stony Plain.

Mr. Reid: Roger Reid, Livingstone-Macleod.

Mr. Schow: Joseph Schow, Cardston-Siksika.

Mr. Neudorf: Nathan Neudorf, Lethbridge-East.

Ms Hoffman: Sarah Hoffman, Edmonton-Glenora.

Mr. Shepherd: David Shepherd, Edmonton-City Centre.

Ms Gray: Good morning, everyone. Christina Gray, Edmonton-Mill Woods.

Dr. Massolin: Good morning. Philip Massolin, clerk of committees and research services.

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

The Chair: I believe it's my understanding that we do not have anybody calling in or on video. Correct. All right. I should make note that Mr. Schow is substituting for Mr. Long.

Based on the recommendations from the chief medical officer of health regarding physical distancing, attendees at today's meeting are advised to leave the appropriate distance between themselves and the other meeting participants. Please note that the microphones are operated by *Hansard,* so there's no need for you to press the buttons. Committee proceedings are being live streamed on the Internet and broadcast on Alberta Assembly TV. Please set your cellphones as well to silent in order to ensure that we have fewer intrusions or anything along those lines for the duration of this meeting. All right. One thing I will note, too, is that just for committee business there is no need to second motions.

Moving, now that we have called this meeting to order, to approval of the agenda, our first item of business this morning is approval of the agenda. Does anyone have any changes that they would like to make? If not, would a member please move a motion to approve the agenda? I see Mr. Reid. All those in favour of the motion by Mr. Reid to approve the agenda, please say aye. Any opposed, please say no. That is carried.

Moving on, next up we have approval of minutes from the previous meeting. Draft meeting minutes were posted for consideration of committee members. Are there any errors or omissions to note? If not, would a member please move a motion to approve the minutes.

Ms Hoffman: I can.

The Chair: I see Member Hoffman. Regarding the motion to approve the minutes as proposed by Member Hoffman, all those in favour, please say aye. Any opposed, please say no. That is carried.

As members will recall, the subcommittee on committee business was tasked by this committee to make recommendations regarding focus issues for the review of the Public Health Act and developing a stakeholder list. The subcommittee met on July 8, 2020, and issued a report on these matters dated July 13, 2020. There will be several opportunities during today's meeting to discuss the recommendations of the subcommittee in further detail. However, at this point in the meeting I would ask that the committee consider receiving the report for information. Do any of the committee members wish to receive the subcommittee report? This is not necessarily a motion, so I'll just take a consensus here. I think that the idea is to receive the report. Perfect.

All right. Moving on to focus issues for review of the Public Health Act, one of the items discussed in the report is focusing or determining the focus issues to be addressed in our review process. On the matter, the subcommittee recommends that the committee focus its review on the entire Public Health Act, with special emphasis on part 3 of the act. Before we determine whether or not we agree with this recommendation, are there any questions?

I should make a note that Member Ganley is on video conference now.

All right. Seeing none, moving on to (b), determining the focus issues, we have the recommendation of the subcommittee for consideration. Does anyone have any thoughts? I see Mr. Reid.

Mr. Reid: Mr. Chair, I'd like to make a motion that

> the Select Special Public Health Act Review Committee approve recommendation 3.1 of the subcommittee on committee business from its July 13, 2020, meeting, the report that the committee focus its review on the entire Public Health Act, with special emphasis on part 3 of the act.

The Chair: Do I have any comments? I see Member Hoffman.

Ms Hoffman: Sure. Yeah. I'll just say that I think it's wise that we review the act in its entirety, and I think it gives us room to hear from Albertans on matters of public importance, so I speak in support.

The Chair: Okay. Having heard the motion as proposed by Member Reid, all those in favour, please say aye. Any opposed, please say no.

> That is carried.

Technical briefing, Ministry of Health. I have a few introductory comments to make, and while I do so, I would like to invite our guests from the Ministry of Health to join us at the table and please set up for your presentation.

At our last meeting this committee made the decision to invite a technical briefing on the Public Health Act from the Ministry of Health. At that time the committee had not yet determined the focus issue for the review. Nevertheless, the subcommittee directed that its recommendations regarding focus issues be communicated to the ministry for informational purposes.

I believe our guests from the Ministry of Health are ready to begin, but I will obviously give them as much time as they need.

Ms Merrithew-Mercredi: I think we're ready, Chair.

The Chair: All right. Ms Merrithew-Mercredi, please introduce yourself and your colleagues for the record, and then proceed with your presentation. We do have set aside approximately a half-hour for the briefing and perhaps another amount of time for questions. Going forward on that, if you would please move forward.

Ms Merrithew-Mercredi: Well, first of all, good morning, and thank you for inviting us to join you here today. My name is Trish Merrithew-Mercredi. You did very well there, Chair. I'm the assistant deputy minister of public health and compliance. I also have with me Dean Blue, who is our senior policy adviser, and David Skene, who is a director of legal services. They will be taking questions, if necessary, with me. We also have two other policy analysts sitting in the gallery, who may be called upon to comment on specific subjects.

We're very pleased to be here this morning, one, to support the special select committee in terms of its review of the Public Health Act as mandated by Government Motion 23 of the Assembly. We will be providing a technical briefing on the Public Health Act. We will not be talking or speaking to the government's response to COVID-19. I think, as most of you are well aware, the government's response will be the subject of two separate initiatives: one, a review by the Auditor General as well as an independent process, which will inform planning for future pandemics. So we will speak only to the Public Health Act.

We'll be covering five separate elements here today, first of all talking a little bit about the context for public health – what it is and how it supports the health and economy of Alberta – and also about the Public Health Act: what that does, what the powers are, what powers it confers and on whom. We'll be talking a little bit about some of the recent amendments, which you're all familiar with, Bill 10 and Bill 24. We will also be describing some of the special, general, and emergency powers that accrue to individuals and groups under the act. Lastly, we'll be talking a little bit about some of the challenges that have been identified in the recent five or six months as well as some suggestions that we'd like to put forward for the consideration of the committee in terms of some of the work that might be done.

I understand that there will also be time for questions at the end of the presentation. We'll take those questions to the best of our abilities. If we're unable to answer at this point, we commit to responding to you in writing within five days.

First of all, public health: what is it? Public health is a combination of programs, services, and policies that protect and promote the health of all Albertans by keeping people healthy and preventing injury, illness, and premature death. All Canadian jurisdictions have public health legislation, which provide public health and all mainly focus on public health assessment, health surveillance, disease, injury prevention, health promotion, and protection. We're also currently preparing for the committee, if it's your wish, a crossjurisdictional scan of the legislation from across the country in terms of the various provinces and territories.

9:10

I think the economy obviously is front of mind for all members of this committee. Public health has a very important role to play in terms of supporting our economy. Public health contributes to a robust and stable economy, that benefits all Albertans. To give one example, we know that acute gastrointestinal illness is often passed on through unsafe food handling and that it costs, on average, every Canadian across Canada $115 per person, or $500 million in Alberta. E coli can't be cured, but it can certainly be prevented, and that's an important function that public health plays in terms of ensuring the health and well-being of Albertans so that they're able to contribute to Alberta's economy in a productive and useful way.

Public health, as you know, has a very long history in Alberta. The very first quarantine act actually was struck in 1795 to address typhus fever and smallpox, that was arriving in this country – actually, it was before this country existed – with settlers. I think it's fair to say that Albertans have always seen and understood the economic imperative of managing public health right from the beginning of the creation of this province. The Alberta government created the first Public Health Act in 1907, and we also created our first department of public health in 1919. The immediate need at that point was to address sanitation and medical needs as western settlement grew and spread but also to ensure that the social and economic disruption that resulted from cholera, typhus, and smallpox epidemics would be lessened in terms of its impact on Albertans and Alberta.

I think we can sum up public health as being described as an approach to maintain and improve the health of Albertans using the best available evidence to inform health promotion, protection, and prevention of death, disease, injury, and disability. The Public Health Act, Alberta's Public Health Act, provides a legislative foundation for provincial public health efforts. Again, just to reiterate, Alberta is not alone in having robust public health infrastructure. The majority of countries around the world, all countries that I'm aware of, actually, have public health programming and services, which might include anything from sanitation measures to detecting and controlling infectious disease outbreaks to promoting healthy living, avoiding injury, and prevention.

Alberta's Public Health Act provides statutory authority and accountability mechanisms to protect Albertans from illness and injury. Again, every Canadian province and territory supports public health measures. This isn't something that's peculiar to Alberta. Every province and territory has their own version of a public health act, and most of those acts include many of the same clauses intended to deal with the same issues. The goal of Alberta's Public Health Act is similar to our provincial counterparts: to help Albertans live well, to contribute to the well-being and economy of this province, and to avoid illness and injury by managing the risk of disease and other threats and by protecting health.

The act provides authority to offer voluntary public health programs such as immunization when specified in the regulations. There's also an authority given to cabinet to order immunizations if a communicable disease has or may become an epidemic or if a public health emergency exists, but I want to be very clear in pointing out that this is something that has never been exercised in the last hundred and some years. It's a power that exists in the act, but we've never had reason to actually action it.

Under the Public Health Act there are a number of accountabilities that accrue to different individuals and parties. First of all, as you're all well aware, the Legislative Assembly of Alberta is responsible for passing all legislation. The Lieutenant Governor in Council and cabinet in turn approve regulations made pursuant to the Public Health Act. The minister, he or she, appoints and dismisses the chief medical officer of health and also appoints the members of the board of Alberta Health Services, who are responsible for Alberta Health Services, which governs the delivery of health services across the province, delivers all those services that are available to all of us as Albertans.

The regional health authority in the act, or in this case Alberta Health Services, also appoints its own group of medical officers of health, which are distributed across the province. Each individual MOH has responsibility for a specific area. They also appoint executive officers, who are sometimes referred to as public health inspectors, and the chief medical officer of health, Dr. Hinshaw,

both advises the minister in cabinet as well as monitors and liaises with the medical officers of health appointed by Alberta Health Services and the executive officers. So there is a web of accountabilities and individuals who are responsible for exercising those accountabilities.

Page 12. Under the Public Health Act – and this is, I think, a subject of great controversy in this province right now – there are two types of powers that can be provided. One is what we call general or regular powers, and the second is emergency powers. Emergency powers are obviously top of mind at this point for most of us. General powers, though, are provided to enable the delivery of day-to-day programming, services, and policies that make up the majority of work in public health, so I think it's fair to point out that probably 98 per cent of our work on the ground involves the use of general powers. This involves, for instance, actions such as the chief medical officer of health's ability to make a new disease notifiable. A recent example of that is the vaping-associated lung illness which emerged last year in both Canada and the United States. It caused a number of cases as well as led to 69 deaths across both jurisdictions. When this emerged, though, as an issue, Dr. Hinshaw was able to make this illness reportable so we could track it in the province. Ultimately, this didn't become a significant cause of illness in Alberta, but we only know that because we were able to act quickly to ensure that we would get reports of illness as they occurred or if they did occur.

Another example, just for your information, is the use of a directive issued last year by Dr. Hinshaw to address a shortage of rabies vaccine that happened last summer and in order to ensure that anybody who might have been exposed to a potentially rabid animal had access to the vaccine and a different dosing schedule. The directive from Dr. Hinshaw ensured that anybody who required the vaccine and/or those services were able to access them in a timely way.

Slide 13, please. In terms of the actual authorities, the general powers that are given to the medical officers of health include the ability to take actions to prevent the spread of communicable diseases and to prevent threats to public health from unsafe food, water, or hazardous conditions. One example of this is the efforts of the medical officers of health, the annual advisory to the public around beach water quality. If you go to local beaches here in Alberta, you will see signs posted which provide information regarding the safety of the water. In the event that there is a pathogen or something reported in the water that is unsafe to use, we then take action under the Public Health Act to collect information and to report out on that.

The general powers that are given to executive officers include taking actions to prevent threats to public health from unsafe food, water, or hazardous conditions. One very pertinent example is ensuring safe drinking water. As most of you know, there was a very significant flood this year in Fort McMurray, and we were able to take action under the Public Health Act because the municipal drinking water system distribution was contaminated. So under the Public Health Act we were able to provide people with alternative means to access water and to order that nobody actually use the water available through the municipal water system.

Slide 14, please. As many of you know, there have been recent changes to the Public Health Act. It's very important that we're able to keep the act current and able to address and respond to new or emerging threats. Some of those changes were included in Bill 10 and Bill 24. The amendments included, for example, adding a definition of close contact, which helped us in terms of tracking and tracing individuals who either had been exposed to COVID or had actually been reported as being positive. It gave us the ability to appoint professionals other than communicable disease nurses as contact tracers. It also provided us with the ability to require staff to only work at one site, so it's what we call the one-site, one-worker regulation. It was particularly useful and important in terms of the situations that existed in a number of long-term care and continuing care facilities here in Alberta. It also provided eviction protection for Albertans.

9:20

One other thing I'd like to point out is that during the COVID exercise we identified gaps and came to realize that there were issues that needed to be addressed to allow us to do our jobs in as timely and effective a way as possible. One of those things involved cases that some of you are probably familiar with, which were reported in the media, regarding individuals who spat or coughed on police officers and then told the police officer in question that they were, in fact, COVID positive. Under those situations a police officer would be automatically required to quarantine for 14 days. The amendment in Bill 10 allowed Alberta Health to share information with the police force on whether the individual who claimed to be positive had in fact been tested and what the outcome of the test was.

I want to be really clear, though, that this was done to, one, ensure the health and safety of police officers and peace officers in Alberta and to ensure that no additional officers were required to be in quarantine unless it was absolutely required, but I also need to be equally clear that that information is provided very carefully and very specific, and only very specific information is available. It's not available to the public. For example, a police officer could not then go to the local media or a member of the local police establishment.

Number 15, please. Numbers 15 and 16: we've just put two small charts here for your edification, talking about what the situation was with respect to the act prior to the implementation of bills 10 and 24 and some of the changes that now exist. Those changes were made to provide greater clarity, transparency, and legal certainty. They also updated the penalties for noncompliance that were outdated and not aligned with either Alberta's own Safety Codes Act and/or with other provinces for violations of the legislation and the regulations.

Two quick examples. Order 630 provided employment protection for individuals who were required to be absent from the workplace because they were either ill themselves, had tested positive, and/or were providing care to other family members and required to stay at home. Order 626, which was passed under the Nursing Homes Act and the Public Health Act, suspended the contracts that existed with the operators of those facilities and appointed AHS as the administrator for Manoir du Lac and Millrise Seniors facilities. Those are just two examples. But it was important that that be done so that we were able to provide seniors who were at risk with the necessary protection and ensure that our most vulnerable members of society were in fact protected.

Other examples included some of the ministerial orders on enhanced border measures aimed at preventing a second wave and protecting our relaunch, recovery efforts. Under those acts provincial officers were authorized to access any area of an airport which a passenger might also access to require travellers coming into Alberta to undergo health assessments and to require travellers to complete a self-isolation or a period of self-isolation.

Slide 17, please. The main focus, though, of the Public Health Act is on the general powers and day-to-day efforts to promote healthy living in Alberta, to prevent injuries, and to minimize the risk to Albertans from exposure to preventable health hazards. However, here in Alberta, when it became evident around the world that we were facing a health concern, basically, of unknowable

proportions, the Premier created an emergency management committee of cabinet in February, which was activated by the declaration of state of emergency. Its role was to provide oversight and guidance to the public service such as ourselves in ensuring the best interests of Albertans were supported and taken care of, attended to during the crisis. The EMCC met regularly to provide political oversight and by reviewing and improving government efforts to tackle and control the outbreak. With the end of the declaration of the state of public health emergency in mid-June, EMCC was disbanded, and internal processes resumed.

One of the things, though, I'd like to point out is that it's important to note that we need to keep the Public Health Act current and ready to address any unknown or known threat to the health of Albertans, and one example I'd like to put forward is that we know, for example, that the threat of bioterrorism such as the use of weaponized smallpox is a real concern. There are countries elsewhere in the world which have the power to do that. We also know that new infectious diseases will continue to emerge such as SARS, Ebola, and MERS, all of which are far more deadly than COVID but, thankfully, do not transmit as easily as COVID does.

The next slide, please. Just something I pulled up last night, just for your interest. It's important to note that over the last several decades there have been a number of new infectious diseases that have emerged that are impacting human beings around the world. For example, there have been three new coronaviruses in the past 17 years. SARS emerged in 2003. We had MERS in 2012 and now COVID this year. It's not a stretch at all to imagine that a new coronavirus could emerge in the future, in the near future, that could spread as efficiently as COVID-19 but with a mortality rate like MERS, which had a mortality rate of approximately 35 per cent. So that would decimate this population, not only the population of Alberta but the population of Canada.

Pandemic influenza is certainly another worry. We know that the H5N1 avian influenza virus had a mortality rate of approximately 60 per cent, and it's been present sporadically in human beings around the world for the last 20 years. Thankfully for our sake, it doesn't spread easily, but that could change, or a new pandemic influenza strain could emerge with a high mortality rate as well. So we need to be able to respond in a timely and effective way as those issues and threats become evident. We need to be able to say, "We need to do this, and we need to do it now" and ensure that we're taking the proper steps based on the evidence available to us.

"Public health emergency," though, is a term that's been used quite widely in this province. It means an occurrence or threat of an illness, a health condition, an epidemic or pandemic disease, a novel or highly infectious agent or biological toxin, or the presence of a chemical agent or radioactive material that poses a significant risk to the public health. A public health emergency does not require a declaration to exist. A state of public health emergency is declared under section 52.1 of the Public Health Act. It does, however, require a cabinet order to come into existence.

There's growing evidence across the world that there are new and emerging issues, but for the most part we are able to use general powers and authorities that are embedded in the act. They are sufficient to allow us to manage the majority of the outbreaks. But there is growing evidence that certain and new issues may emerge, and in a case such as that, we would be required to advise cabinet to issue a public health emergency. The declaration of a state of public health emergency does allow the use of the broader emergency powers by government in extreme circumstances, but I would also point out to the members that that has only happened one time in Alberta in over a hundred years, and that was in the case of COVID-19, when it was evident that we were facing something that was different and something that was much more widespread and potentially something that might be deadly.

Slide 19, please. In terms of the Public Health Act cabinet also has available to it certain emergency powers which they may choose to implement under the act. All the different provinces and jurisdictions across this country either declared a state of emergency or a state of public health emergency, so it was not something that was only peculiar to Alberta. We've also provided in your packages a fact sheet which talks about when those orders came into effect in the various jurisdictions across the country and when they expire, for your information.

9:30

In terms of what the cabinet may do on the advice of the chief medical officer of health, they can order a declaration of a state of public health emergency relating to all or any part of Alberta, and a state of public health emergency does not have to include the entire province. It may include, for example, a specific county or geographic area of the province. On the recommendation of the minister, cabinet may order a hospital or facility to provide isolation or quarantine accommodation. They may also order the closure of any public place and order postponement of an election for a period not exceeding three months.

Slide 20, please. Each cabinet minister as well receives a set of emergency powers to make orders without consultation, to suspend or modify or specify additional or new provisions of an enactment under their authority. I need to be very clear: it's only with respect to an act that is actually a part of their area of responsibility or authority. They can do that during the state of public health emergency and for 60 days after if deemed to be in the interests of the public. They can keep orders in place for 60 days after the public health emergency has ended unless the minister deems that it's appropriate to terminate it earlier than that. They may also make an order retroactive to a date not earlier than the date of the order declaring a state of public health emergency.

The Public Health Act – and this is, I know, of interest to many people – under the emergency powers allows cabinet ministers to issue a ministerial order or to go to EMCC and cabinet for approval of an order in council without consulting their key stakeholders as they might normally do. I know that's of interest to many of you.

Page 21. The Health minister as well has special powers under the emergency, and during a state of public health emergency he or she may do a number of things, including providing for the distribution of the central health and medical supplies and providing, maintaining, and co-ordinating the delivery of health services. There's more information that you can look at at your leisure here and perhaps also in the act itself.

Page 22 speaks to the emergency powers of the chief medical officer of health, and I think this is perhaps somewhat surprising to some people who believe that the chief medical officer of health has unlimited powers to do any number of things. In fact, during a state of public health emergency the chief medical officer of health may authorize the absence from employment of any persons who are either themselves ill with pandemic influenza or who are caring for a family member who may be ill with pandemic influenza, so it allows them to stay home and to take care of either their own health or that of another member of their family.

Slide 23, please. Alberta Health Services as the regional health authority also receives during a state of public health emergency the authority to do several things, including making or terminating an order, declaring a local state of public health emergency relating to all or other parts of Alberta. They may also exercise the same powers, emergency powers, that accrue to the Minister of Health; for example, providing for the distribution of PPE, medications,

medical supplies, other items and acquiring or using any real or personal property for the purposes of dealing with the pandemic.

Slide 24. We've also spent a fair bit of time thinking and discussing internally what we might recommend to the committee in terms of changes that you might want to consider as part of your deliberations in terms of the review of the act. Some of those are lessons learned during the pandemic but refer, for the most part, to the general powers of the act only, not to the emergency powers that might in fact accrue to any member of either cabinet and/or the House. I noted earlier that the minister can provide voluntary public health programs to Albertans under this act only when these programs are set out in regulation, so using regulations or regulatory powers for the minister to provide programming or services is more cumbersome and less flexible than it would be if this general power was in the act without being limited to programs that are actually prescribed by regulation.

Another interesting point is that during the outbreak we also received requests from companies located in the oil sands who were either working on-site or operating work camps and who asked the chief medical officer of health to actually issue an order to allow them to collect and maintain and share information regarding individuals who might have been on-site or who might have been actually living in one of the camps to allow us to undertake contact tracing. As you were aware, there were several outbreaks in the oil sands that we were very concerned about, as were a number of other jurisdictions, because in many cases individuals who tested positive or who might have been exposed actually were residents of other jurisdictions. So the chief medical officer of health was receiving calls from chief medical officers of health in other jurisdictions.

There are also some loose ends that we would suggest you may want to look at regarding prosecutions, offences, and compliance that are basic housekeeping amendments that we'll talk about in the next few slides.

As you consider your recommendations, we'd like to also put forward to you several other items for your consideration: first, allowing the Health minister to develop and offer voluntary public health programming and services without the need to create an enabling regulation. As we now see the benefits of contact tracing to contain a pandemic, gathering information is crucial in terms of who might have been exposed. The government would only ask, in such a case, for the information when it was required. This could be limited to instances of pandemic or public health emergencies in the act.

We also would suggest that you would want to clarify the period of time that Alberta Health Services has available to proceed with prosecutions of offences, which would help ensure that known violations of safety measures can be appropriately prosecuted. We would suggest a three-year period would be useful.

Slide 26, please. We'd suggest as well that you consider allowing the courts to award additional penalties against owners who have been found to be in noncompliance and direct that the penalties to other parties named by the court include education programs, research programs, nonprofit organizations, or scholarship funds. You may also want to consider allowing legal fees associated with carrying out an order and obtaining court orders to be enforced the same as other costs. Enforcing orders is a major expenditure in the case of Alberta Health Services, and many of those costs are either never recovered or we cannot direct them to a place where they might be useful in terms of developing new public health programs or services.

We also think that it would be useful to allow executive officers to require that corporations disclose the name and contact information for each owner and agent with the care and control of a public place and to issue an order in the absence of an on-site inspection where there is good reason to believe that there is a health concern either in the facility or somewhere in the area that we simply do not necessarily have time to actually carry out a full inspection for and where we have sufficient evidence to believe that, in fact, there is a virus present, or there may be some other kind of health condition that we want to follow up on right away because it poses a significant risk to the health of Albertans.

Slide 27. At least some Albertans have expressed frustration over a couple of matters that might be readily addressed through this review. Some people, as you're aware, have expressed a desire for more controls on the use of emergency powers. There has also been concern that public health orders and the orders of the chief medical officer of health are not being posted publicly. They are in fact being posted publicly and have always been posted publicly. The issue is that the way the website is currently set up, it's very difficult to find the information even when you know what you're looking for. So we would suggest that we may want to look at the website, ensuring that not only the orders are present but that any Albertan who wishes to do so can access them for their information.

9:40

We also are suggesting to the committee that it may be useful or that you may want to consider amending the act to provide a waiver allowing the ministers to use orders during extreme circumstances only and only if the Legislative Assembly is unable to meet due to the emergency. For example, in the case of a bioterrorist attack, it's not unreasonable to suspect that all of the people in this room might be the focus of such an attack and may not be able to in fact meet or be so ill that you would not be able to even participate via teleconference or some other means of public government.

For the second concern, ensuring that all of the orders are posted, we would suggest to you that you might want to make it a requirement, actually, in the act that they are posted online and could either be on the government website, the Legislature website, or the Alberta Queen's Printer site or perhaps all three, for that matter.

That's it. Thank you very much. We'll proceed to taking questions.

The Chair: Thank you very much.

At this point we will be moving on to questions by the members. The first member that I see is Mr. Neudorf.

However, I would like to just take a moment to hopefully get acceptance by the committee generally that the idea would be just to go back and forth. I think that's probably the best way to go about it. Okay? Perfect.

Mr. Neudorf, if you could please begin.

Mr. Neudorf: Thank you, Mr. Chair, and thank you, members of the Ministry of Health, for your presentation and for being here today. I appreciate all that you've done. I believe you touched on it in your presentation, but I'd just like a little more clarity. In Alberta do we have more than one level of emergency – for example, a state of public health emergency as well as a state of emergency – and what are the differences? How do they work, or what do they each address? Does one supersede the other? If you could just provide some further conversation and clarity on that, that would be very, very helpful.

Ms Merrithew-Mercredi: I'm going to ask David if he could respond to that.

Mr. Skene: Certainly. Mr. Chairman, the state of emergency is a term that's used under the Emergency Management Act. A state of public health emergency is under the Public Health Act. The scope of authority and the powers that are granted under each enactment

are slightly different. What we saw during COVID, for example, is that certain municipalities – Edmonton and Calgary, for example – declared a state of local emergency and then utilized the authorities granted under that enactment to create orders, to place restrictions, to do several things. The state of public health emergency, which has been described, allows for specific powers of the chief medical officer of health and of cabinet ministers.

Now, with respect to which enactment takes precedence, there is no guidance in the legislation at this time as to which enactment takes precedence over the other. The other issue that we have to address is that there was overlap, for example, with what a local municipality was doing and what the state of public health emergency and the chief medical officer of health were doing.

Finally, there is no sort of scalability within the enactment right now, specifically the Public Health Act. There either is a state of public health emergency or there is not. A public health emergency in and of itself is a separate term and does have powers that the chief medical officer of health can utilize in that.

Member, I'm not sure if that answers your question.

Mr. Neudorf: Yeah, it does. Thank you very much.

Since I asked two questions in one, Mr. Chair, that was the clarification I was seeking just at this time. Thank you.

The Chair: Okay. The next individual is Member Ganley, who I believe is on video, so if we could set that up.

Ms Ganley: Hello. Can you hear me?

The Chair: We can.

Ms Ganley: Oh. I think I've got the video, too. I had a couple of different questions, but interestingly one of the them is right on that topic. During the presentation there was mention – I think it was around slide 19 – that some powers didn't require the declaration of a state of emergency. I was just wondering if there's a way to get, like, an easy list sort of listing out which ones require a declaration of a state of public health emergency and which ones can be used on their own.

Ms Merrithew-Mercredi: MLA Ganley, I think we can undertake to provide that for you within a week.

Ms Ganley: Thank you.

The Chair: Any follow-ups?

Ms Ganley: Not on that specific point. I can wait till another round if you would like.

The Chair: Sure.

I see, I believe, Mr. Reid.

Mr. Reid: Thank you, Chair, and thank you to the ministry for the presentation today. That was extremely helpful. These have been unprecedented times, and I think that sometimes our context is really tied into COVID specifically, so I appreciate kind of the broader scope of what we need to keep in consideration as we review this act. I appreciate it.

You brought up some points around Bill 10. Certainly, pieces that I heard from my constituents were related to concerns with Bill 10, and it was a good exercise for me to go in and actually dissect the existing Public Health Act back earlier in the spring, when this was introduced. Some of the comments that I had from constituents and those that reached out to me and my office were related to power grabs from the government, unprecedented powers.

I found it interesting that when I went back to the existing act, the phrase is that a minister

> may by order, without consultation,
>
> (a) suspend or modify the application or operation of all or part of an enactment.

To me, that's the power part there. I was surprised, I guess, to see that it already existed in the act and was not actually part of Bill 10. In fact, I guess my first question is related to some legal clarification. As an everyday Albertan, when I read through the changes that were made to pieces like 52.21(2), what does the language of Bill 10 do in terms of changing that? To me, the authority part is already in the act. I'm not sure what the very subtle wording changes mean in terms of implementation, I guess.

Mr. Skene: Certainly. The modification to the Public Health Act through Bill 10 was designed to clarify those authorities. The legal risk that was identified is that a narrow interpretation of "suspend or modify" may not have permitted the exercise of authorities to in fact add provisions or substitute provisions to legislation. You can make the argument that that power was already there – and indeed many people did – but we were concerned with the potential legal risk of somebody challenging a ministerial order on the basis that it was outside the authority of the act because it was actually adding a provision to something like the Public Health Act which was not a modification, that was something else.

For the purposes of mitigating that legal risk, the recommendation was to make those amendments to the legislation, clarify the wording that a modification included the ability to add provisions or substitute provisions as necessary.

Mr. Reid: Perfect. Thank you.

Also related, just digging a bit deeper into Bill 10 – and, again, I want to be able to have some context to be able to continue to study it and speak with Albertans. I appreciate the clarification not just about what was in Bill 10 but also what wasn't. Again, my own research showed some of that. You know, again, there are those out there that said that Bill 10 was a power grab by the government. Do you believe that Bill 10 actually implemented that ability for a power grab by members of the government in the case of a public health emergency?

Ms Hoffman: Sorry. Just for clarification, I don't know that that's in order. I think we're here to review legislation, not intent.

The Chair: Can you please repeat the question?

Mr. Reid: Sure. Just in terms of the response that I had from constituents where they stated that Bill 10 was a power grab by the government, it's now part of the act. Do you believe it was a power grab?

The Chair: I think it's within reason to answer on that.

Ms Hoffman: It's your ruling.

The Chair: The answer might be very short.

Mr. Skene: Well, I think that if we're speaking with respect to what the act did, if the act, speaking specifically about Bill 10, was a clarification of an existing power, it may not be properly described as a power grab.

I think the other point that's very important to keep in mind with the legislation – it's something that's not emphasized, in my view, enough – is that any modification to legislation made by ministerial order is temporary. It will last a maximum of 60 days following the lapsing of the state of public health emergency. It can be extended

by the Lieutenant Governor in Council but for a maximum of 180 days. So what we're talking about is the exercise of an existing authority. That authority, under section 52.1, has been in place since 2007. It was an amendment to the Public Health Act under the Pandemic Response Statutes Amendment Act, 2007. This was designed to enhance responsiveness to pandemics and similar public health emergencies. The power was there, the power was clarified, and the power was temporary. So I would potentially argue that those are factors to be considered if you're considering whether this was a power grab.

9:50

Mr. Reid: I appreciate that. Thank you.

The Chair: Mr. Shepherd, please.

Mr. Shepherd: Thank you, Mr. Chair. Indeed, my questions are along the same lines, so thank you, Mr. Reid, for setting that up. I suppose this will be to Mr. Skene again, then. I appreciate the clarification provided there. You've said several times that this was intended to clarify the power. That answers, I guess, the first question I had. Basically, it says here, in slide 16, that it "did not clarify whether this authority was sufficient to create new or alternate provisions." We had where they could in fact make modifications or adjustments, new or alternate. My assumption, then, is that you did in fact feel that that power already existed and that it simply needed to be clarified since that's sort of what was done here. What I want to understand, in terms of a crossjurisdictional study, is: is this the same language that's used in other provinces? Do other provinces explicitly state that a minister has the ability to create entirely new provisions and add those to legislation?

Mr. Skene: Member Shepherd, I believe I would not be able to answer that question right now. We are in the process of completing a crossjurisdictional scan, so with your permission we'll come back with an answer that sort of compares the existing authorities to those that exist in other jurisdictions. I am aware that Ontario has similar language, but whether it's identical, I can't answer at this point.

Mr. Shepherd: Okay. But it sounds like it is a fair characterization that your interpretation was that these powers existed, so you amended the legislation to state clearly what you believed to be the case.

Mr. Skene: Correct.

Mr. Shepherd: All right. Thank you.

The Chair: Ms Rosin.

Ms Rosin: Okay. Well, thank you, all, for being here. I'm going to go in the direction of looking at some of the powers that do exist in the act and what I think that I could believe and that possibly a lot of people who would look at this act may perceive as a severe overreach on civil liberties or as extensive powers. We look at the act and we see language that a person "shall submit to the treatment" necessary or shall "submit to any examinations necessary" or even language around that we can order a "medical, surgical, or other . . . treatment" onto a person. I mean, obviously, this language is quite heavy-handed, and it would imply that essentially someone's body is not their own and that we could really impose any form of treatment, surgery, exam on them that we or the medical officer deems necessary at the time. I'm wondering what your perspective is on that, I guess.

Actually, I did a control F search on the act, too, and if we look at the act, the words "shall submit to" or "shall be subject to" are in there 38 times alone. I'm just wanting to hear your perspective on that, whether you do think this is an overreach, whether you think those powers are maybe outdated and that they were in there for a time when we weren't as medically advanced and when medical treatment wasn't as well perceived, or just, I guess, if there are any checks and balances needed, what your perception is on language like that.

Ms Merrithew-Mercredi: Okay. Thank you, Deputy Chair. First of all, I need to say that I'm not aware of any medical officer of health, including the chief medical officer of health, removing bodily parts from any individual under the act. I think that part of the act, the language in the act, in some cases requires modernization. I would suggest to you that this may be a point that you would want to take a look at during your deliberations. I think that some parts of the act are historical or originated in historical circumstances. For example, we had the example of Typhoid Mary in New York City, I believe, who exposed any number of people to cholera and actually had an infected gallbladder. She wasn't showing any symptoms herself, but under the times they could have ordered the removal of her gallbladder.

I think what we need to look at is that we need to read the order in its entirety, and we also need to understand that there are some pieces of language or certain kinds of descriptions in the act that may require careful consideration and may require legal advice as to how those sections or terms or wording or phrases could be updated to prevent alarm on the part of the general population that something might happen.

Ms Rosin: Thank you.

I've got a couple of supplementals to follow up on that.

Ms Merrithew-Mercredi: Yes.

Ms Rosin: I really appreciated your answer. Yeah, you actually kind of specifically mentioned gallbladder removal. That actually is kind of funny because that's where I was going next. There is a clause – it's 29(2)(b)(i)(C), (D) – where it explicitly states in the act that you could take whatever steps necessary "to remove the source of [an] infection." I mean, it doesn't really specify if this was, you know, an organ disease or if you had leprosy on your arm or if you had an STD or an STI, what that removal could entail. I'm just curious. I appreciate that you say that, obviously, no chief medical officer that you know of is going to just order the removal of a body part, but from a strictly legal standpoint, when it states that we could take whatever steps necessary "to remove the source of [an] infection," could the language in the act enable such an act to take place?

Ms Merrithew-Mercredi: I'm not a lawyer . . .

Ms Rosin: Right.

Ms Merrithew-Mercredi: . . . so I can't comment on what might be allowed in a court of law, but I will tell you that I think the removal of the source of infection speaks most directly to, for example, if there were a dead animal that was contaminating a water site. They would be allowed to order the removal of that animal or that condition or the issue. So I think that's, generally speaking, what the act would be used for.

I could turn it over to David. I'm not sure if he's aware of any . . .

Mr. Skene: I think it's agreed that the interpretation we have normally given to this particular section of the act is that we are

talking about an environmental source of infection rather than an individual's source of infection. The elements of the act that speak to treatment of individuals are found later on in that act. But to the member's specific question, if you took a very specific interpretation of removal of a source of infection and if that source was part of a person's anatomy, I suppose it's within the scope. I would strongly recommend against that interpretation, but it is possible.

Ms Rosin: Okay. Thank you.

The Chair: Okay. Next on the list we have Member Hoffman.

Ms Hoffman: Thanks. I just want to go back to the framing at the beginning. I think it was around slide 3 that there was reference sort of to the purpose of the legislation, and it talked about personal public health measures to protect the public at large, and there was also reference to the economy and economic participation. In my reading of the legislation I don't believe that the economy surfaces at all. I understand if that's sort of a larger frame that's been applied to government for all legislation, but this specific legislation doesn't have a purpose or a preamble that talks about the economy or economic participation. So I just want to understand how that was included in the presentation as the purpose.

Ms Merrithew-Mercredi: That's a good question, MLA Hoffman. I think you're absolutely correct. That does not appear in the preamble to the act, but I think it is a reasonable assumption that if we don't have healthy Albertans and people who are able and capable of working, taking care of themselves and their families, and contributing to the greater good of Alberta, it's unlikely that we will also have an economy that can support Albertans as a whole.

Ms Hoffman: I think that's fine and fair for the overarching role of government, but not every specific piece of legislation talks about economic participation or those types of things, and this one certainly doesn't in its current form, so maybe that's something for . . .

Ms Merrithew-Mercredi: Yeah. We were attempting to situate public health within sort of the environment that we live in. Obviously, the economy and having a healthy population who are able to be a part of that economy is an important piece, so it's a correlation, you might say.

Ms Hoffman: I think that's fair.

Could I do one follow-up?

The Chair: Yes. Absolutely.

Ms Hoffman: Just also with regard to slide 3 it specifically says that this does not include an examination of the COVID-19 response, but also in many parts of the presentation and in the creation of this bill, of course, we're talking about the current context. I think one of the reasons why this committee was given such a tight time frame was to try to get recommendations in before we're too far into the fall, so, I think for all of us, acknowledging the current state of the world and specifically the pandemic that we're all living in. I'm just wondering why that was specifically mentioned in the PowerPoint when it seems that so many other points in the PowerPoint contradict that and do talk about the current state of the world in terms of the response to COVID-19.

10:00

Ms Merrithew-Mercredi: It's a good question, MLA Hoffman, and we attempted where and whenever possible to avoid discussing the current pandemic, COVID-19, because it was our understanding that the focus of the review, as demonstrated by the motion somewhat earlier, was to look at the act itself as opposed to perhaps how it was used as a tool to deal with COVID. That's how we approached creating the deck that you have in front of you.

Ms Hoffman: Yeah. Thank you.

The Chair: Thank you very much.

Mr. Rowswell: I guess as we're going through this process, like, when I read through the Public Health Act, this seemed to impart a lot of powers, and the feedback I got in a lot of cases was: well, boy, that's just a real big overreach. So I want to make sure you have enough powers to do your job. Is there anywhere, like, parts in there, that you want to make sure that we don't minimize that you can identify at this time?

Ms Merrithew-Mercredi: MLA, I would respond that I think that during your deliberations the committee needs to, to the best of its abilities, consider not only the current situation with respect to COVID-19 but other things that might emerge or other health conditions that might be on the horizon so that we're not, the department and health personnel in this province are not – their hands are not tied in terms of our ability to respond in a timely and effective way. We could, if you'd like, I think, probably undertake to provide you with some specific examples of how we see what that would look like. I don't know if that would help you.

Mr. Rowswell: Yeah, it might. Like, I just want to make sure that, you know, we don't change something that hurts your ability to respond to something that's maybe more serious, like the one you mentioned that's deadly like SARS but infectious like COVID. You know, that would be helpful.

Ms Merrithew-Mercredi: Maybe I'll let Dean just for a second, too.

Mr. Blue: Thank you, MLA and Mr. Chair. The context of this: I think the Public Health Act offers a lot of authorities and broad authorities. I think we normally act locally in a very prescriptive way, in a way we understand measles cases, things that we've had a lot of experience with and move around, but it also needs to authorize authorities of things that are unknown and unable to predict in the future. COVID-19 is a perfect example of a situation that was unpredictable, and we could not in any way create legislation that would allow specific responses that would only address COVID and no more than that. I think the broad and general authorities that the Public Health Act creates and authorizes a very educated and appointed statutory authority group to enact allows that flexibility across both government and the regional health authorities in the Department of Health to respond to whatever it is.

Coming back a little bit and building on MLA Rosin's question, I think the section that allows for the removal of a source of contamination is really important in the context. We could order the removal of a bioterrorist event downtown or the removal of entire sections of cities if we were unable to render them noninfectious at a case. Like, when we look at this in those general – and other interpretations, of course, could allow you to believe that we could remove or amputate limbs or other organs from people, but that broad authority and ability to act when necessary is really important. So that reading of that particular section very clearly allows and enables our medical officers of health or executive officers to act to remove a source that could pose an ongoing and indefinite risk to the public.

I think that from the recalcitrant perspective, when you look at the opportunities under 39, the question was posed: is this an important authority? Is this something that's still necessary? Recalcitrant patients: I will say that we rarely use that provision. It is an incredibly – I think we've used it 62 times over the last decade or so, mainly for the purposes of tuberculosis or individuals who are unable to recognize the safety risk they pose with HIV and not being able to manage their disease and not spread it to others.

That provision, when you look at the checks and balances, is that it really requires a prescribed physician intervention. So this is an authority that is given to a physician who's well trained, well regulated under the college and can make decisions for the interest of health and applies biomedical ethics quite regularly on a basis and is satisfied that another physician – a medical officer of health has to be satisfied for that evidence that that is an appropriate way to render them noninfectious. That is the least invasive way to do this for the protection of the population. You have a physician looking at the personal health and the clinical side, and you have a medical officer of health, who is also a physician, determining whether this population benefits and the protection is proportionate.

Then, of course, you have the opportunity under that section to appeal at any time to the Court of Queen's Bench for a certificate to be null and void. So I think the checks and balances of that section, although very authoritative and gives a broad-sweeping authority that's quite invasive in that tension between personal liberties and population benefits, still continue to be an important section. We rarely use it, but when we use it, it's very important for the protection of public.

Mr. Rowswell: Okay. Thank you.

The Chair: Next on the list I have Member Shepherd.

Mr. Shepherd: I'll allow my colleague to go first if she has some questions.

The Chair: Sure. Okay. First we'll go with Member Gray.

Ms Gray: Thank you very much. I want to say thank you for the supplemental information. You provided all of the attachments. I found them very helpful. I have a couple of questions just around kind of crossjurisdictional scans. You provided one around public health emergency powers. It's a high-level summary, but it appears that Alberta may be the only Public Health Act talking about "conscription of persons needed to meet an emergency," and since I only have this high-level summary, I wondered if you could speak to that and maybe the relevance of the conscription power in today's 2020 world.

Mr. Skene: Again, we would be completing a more comprehensive and detailed crossjurisdictional scan for the committee, so further information will be coming. With respect to the conscription powers those appear in section 52.6. Those are powers of the Minister of Health or a regional health authority. Again, it is an extreme authority. So if the question is, "Is it absolutely necessary?" then I think it would be very fact specific before such a power would be considered. On that basis one of the questions that this committee may want to ask itself is: is it relevant in today's environment? I think that's a legitimate question. I don't have specifics on whether there is similar wording in other jurisdictions, to drill down on that, but I think you're asking a very good question about the scope of those authorities in section 52.6.

Ms Gray: Fantastic. My other question – it might be cross-jurisdictional related; I'm not totally certain – is that I think there's an understanding that there's an important overlap between the work that health services, Health ministry are doing during a public health emergency and the work of Labour. The Public Health Act is talking about preventing injury and illness in the public health space, but in workplaces that's incredibly important. We saw that through a number of the outbreaks in most recent history through COVID-19, but Labour isn't mentioned in the Public Health Act. I'm wondering, as you do your crossjurisdictional, if any kind of explicit tying of these responsibilities together is included in other legislation, or is that – I'm just trying to understand how that can be made clear or how that is interpreted.

Ms Merrithew-Mercredi: MLA Gray, I can't answer the question at this point, but we will undertake to get you a response, and it would be not only in terms of the crossjurisdictional scan. But I can also tell you that during the most recent pandemic in Alberta, we did work closely with Labour as well as several other departments depending on the specific circumstances and situations that we were looking at.

Ms Gray: Perfect. If I may, just as you're looking at it and looking over the most recent response, you've identified many areas where legislation maybe wasn't adequate to the task. If any changes to legislation are needed to improve the co-ordination between different ministries and other ministries during a public health emergency, I know that I would certainly be interested in hearing about that.

Thank you.

Ms Merrithew-Mercredi: You're welcome.

The Chair: Thank you.

Next is Member Lovely.

Ms Lovely: Well, thank you, Mr. Chair. There are significant emergency powers granted to the minister and AHS in the event of a public health emergency relating to the acquisition or use of property and "conscription of persons needed to meet an emergency," among others. My question is: why would both authorities, AHS and the minister, require these powers in a public health emergency?

10:10

Mr. Skene: Member, I think the important thing – again, if you go to section 52.6 of the act, they are covering an order under section 52.1, which is a state of public health emergency. An order under section 52.2 is a state of local public health emergency, which is actually done by the regional health authority. What we tried to point out in the presentation is that the reason that both of them are mentioned is that the regional health authority would normally be exercising those authorities during a state of local public health emergency. The Minister of Health would be exercising those same authorities during a state of public health emergency. That's the intended distinction. However, that legislation or that provision should be clarified because it could be interpreted another way, that AHS does have the authority to do the same things during a state of public health emergency, but the intention is that it would be under a local public health emergency.

The Chair: Thank you.

Just so all are aware, I think in the last committee meeting we had somewhat, not strictly, discussed a half-hour for the presentation and a half-hour for questions. I think we had some really good questions coming as we are all here.

The next individual that I have on the list is Member Shepherd. I think that this is still working well, so if we're comfortable with that, then, Member Shepherd, please continue.

Mr. Shepherd: Absolutely. I believe my colleague Member Ganley had some questions. If you don't mind, I'll allow her to go ahead of me.

The Chair: Sure. Absolutely. Member Ganley.

Ms Ganley: Absolutely. Can you hear me okay?

The Chair: Yes.

Ms Ganley: Okay. Perfect.

I do want to get into some questions, and I'll leave this one for later. I'll give this one as sort of comment. Laws are written for people, so I find this distinction between the law and the effects that the law has rather peculiar.

But moving right along from there, my questions are around that there are several suggestions on the slide – around about slide 24 I believe they start – that sort of talk about things that we should be doing going forward. Sorry; they start on slide 26. I have a few different questions. The first relates to just the way it's worded. We talk about allowing additional powers vis-à-vis prosecutions, which may or may not be a good idea. Absent some real-life examples it's hard to know what the challenges there are. I'm just wondering if you can clarify why you think those are necessary, why you think that three years is necessary instead of the usual two, and what you mean when you talk about directing penalties against other parties named. I'm just a little concerned. Normally the only person who can be penalized is the individual who is found to have contravened the act. I'm just a little curious what all that means.

Ms Merrithew-Mercredi: MLA Ganley, I think I need to spend some time talking to some of my own staff regarding this, so I will respond to you within the week so we give you specific and accurate information.

Ms Ganley: Okay. Can I ask, just since you're bringing that back anyway, about another one of those places where you've indicated sort of suggestions for other future things? There was discussion of – and I just want to make sure that these are two separate things – allowing them to develop programs without regulations. I'm a little bit curious about what the problem with regulation is, whether we're talking about general public health programs or programs specific to an emergency. The idea that there would be sort of rules in place that are not written down in a way that the public can see is a bit of a concern to me.

The suggestions also talk about authorizing. When you were talking specifically about offering these other programs, you were talking about the keeping of information about individuals. I'm just wondering what we're talking about when we're saying without regulation. I'm a tiny bit concerned, you know, that when we're dealing with something that someone is going to be subject to, specifically about keeping, potentially, their private health information: why it is that you'd need to do that without regulation and under sort of what circumstances and sort of what problem this is designed to solve?

Mr. Blue: Thank you, Mr. Chair. I'll take an opportunity to try to answer that to the best of my knowledge. This arises from specific provisions of the Public Health Act that allow the minister to create public health programs, offer care services, offer biologicals. It's the basis for the provision of the public health programming across the province. This is wellness, public health prevention, cancer prevention programs, immunization, postexposure prophylaxis. So it is the heart of our operational public health programming.

It currently reads that the minister may offer those programs as prescribed in regulation. Regulation is a very difficult place to prescribe an entire program such as our immunization program. It would have to go through specifically each one of our biologics to determine eligibility criteria: who's eligible for that program, and under what circumstances are they eligible? Regulation is not very flexible and is quite a powerful piece of legislation to be using to prescribe all of that programming.

The intent was: not during an emergency. This was actually an opportunity to fix something that has been long-standing with the Public Health Act, and we were looking at the consideration that if we are changing this, we would prefer, as with other acts like the Government Organization Act, to allow programs to be established by a minister but not through prescription in regs. So I think our intent with this was to allow the department flexibility to create publicly – obviously, transparency is very important – our immunization programs, our postexposure, wellness, and cancer prevention programs without having to necessarily move to regulation to allow the minister to provide that service.

Ms Ganley: Then the thing about tracking information: that's a separate suggestion? Those two things don't go together?

Ms Merrithew-Mercredi: That's correct, MLA Ganley.

Mr. Blue: That's correct.

Ms Ganley: Thank you.

The Chair: All right. Next on the list we have MLA Turton.

Mr. Turton: Yes. Thank you, Mr. Chair, and thank you very much for coming before us today. My one question I have is along the lines of what Member Rosin was talking about in terms of emergency powers and some of the more, let's say, extreme measures that the government can take in order to keep Albertans safe. I guess the question I have specifically is referring to forced vaccinations, forced immunizations. I believe, you know, you've stated very clearly that the government has wide-ranging powers to keep Albertans safe. If someone is sick, we can take a whole host of different measures, but I believe that one item starts to get into that grey area, where you're now affecting people that are potentially healthy. I'd just like to get your feedback about maybe that provision. I know you're currently doing a crossjurisdictional scan, but are there any other cases across the country where maybe some of those powers can be used to affect healthy individuals, you know, in an emergency situation like we're dealing with right now?

Mr. Blue: Sure. Thank you, Mr. Chair. Mandatory immunization, of course, is always a bit of an interesting conversation and discussion when we get into it. There are many particular ethical principles that are in tension with each other. I will start, perhaps, my answer with that public health is deeply ingrained with biomedical principles and ethical principles. When we look at our immunization programs, we do include an understanding that there is some moral and ethical basis to the decisions that we make. We're always very careful to ensure that we've taken all of those tension principles of personal choice and public and population benefits into play.

What we get into is a real situation with immunization, where it offers a personal benefit but also offers the potential for a population benefit of herd immunity. Most of what we do with immunizations is – we're thankful that they're very well studied,

well designed, safe, but they offer a benefit to a very large proportion of the population as a whole. Some, however, only offer partial benefit or perhaps were not able to immunize certain segments of that population. For example, preventing pertussis, or whooping cough, in children under one is very difficult to do with immunization. We don't have the ability to really develop good protection in that population, so in order for us to protect the very vulnerable – those under six months especially are very, very vulnerable to getting whooping cough and having serious outcomes with it – from pertussis, we want a population herd immunity.

We protect that individual on a population basis by offering protection for as many as we can. At a certain point in a population we actually see the disease disappear if enough people participate voluntarily in our imms program. That's why we're very passionate about voluntary immunization and getting our rates up as high as possible, because it offers a benefit for all and sometimes for those that we can't protect with the interventions we have available.

10:20

When it comes to mandatory immunizations, we've never had mandatory immunizations in the province, and it would be a very long and deep discussion balancing those personal choice rights with what that would bring to the population. Why we would make a decision or recommendation for government to make a decision around immunizations would come through that ethical review of: why would we ever require somebody to do something against their will? It is that harm principle of saying: we should stop interventions that are for an individual only. If it's for their personal life, if it's only for their benefit: that's where public health stops. We want the population benefit. With immunizations sometimes we get a population benefit from that personalized choice, and it's not just the individual we're offering protection to.

For the mandatory immunizations, although in the foreseeable future we don't expect mandatory immunization – it's a full choice – we use those ethical balances. In an extreme emergency, if we required a population herd immunity to protect a subsection or a section of the population, that may be something where, through deliberations, consultation with our ethical specialists, our biomedical specialists, and probably a very large segment of the medical and social establishments, we may make a recommendation towards immunization on a mandatory basis. Right now, currently, we don't, we never have, and in the foreseeable future we don't imagine a scenario where that would occur, but the authority to have it, if it was ever necessary – again, it comes back to: we can't predict the next thing on our horizon, and we have a significant number of increasing emerging diseases that we need to address.

Mr. Turton: Just a quick supplemental. From your words, that power does currently exist with the government, to have that ability, even though it has not been used. I do believe that it's one of the more extreme measures that we have to keep Albertans safe. But is there any aspect in the act under the emergency powers that even though they can be used, there's general practice or acknowledgement that sober second thought or some type of check and balance has to be used before it, or is it a case of: once the emergency powers are enacted, it's like a light switch, and the government can use the entire breadth of what's in the act at any point as it sees fit? Is the light-switch analogy appropriate in this case, or is it more of a dimmer switch?

Mr. Blue: I feel like, as of right now, a declaration authorizes all of the authorities, and there is none. I would agree with the light-switch analogy, that it is all or nothing. I do think there are opportunities under the review to look at proportionate need and enact authorities along lines of proportionate need. I think that when these were originally contemplated, the light-switch approach was that we may only have one chance to flip the switch, because we will be responding for a very long period of time and maybe will not have an opportunity to test it with decision-makers. I think it was some protection to ensure that we didn't have to retest and continue to sort of proportionately determine whether or not we needed more authority to respond and then come back to government as decision-makers in this area. Ultimately, it is the government that is making these decisions on the recommendation, of course, of public health.

Mr. Turton: Excellent. Thank you.

The Chair: Next on the list I actually have Member Shepherd.

Mr. Shepherd: Thank you, Mr. Chair. I will actually take the opportunity this time. Again, talking about slide 16 and the alterations made through bills 10 and 24, on slide 16 it talks about the Minister of Health being able to "make regulations to carry out the intent of the chief medical officer of health's [orders] without a state of public health emergency declaration." A couple of things I just wanted to clarify there. We have in fact seen that the government has quite capably implemented many of those. We've debated legislation and are currently debating legislation, Bill 30, which does some of that work. Bill 24, similarly, did some of that work.

I had two questions around that. Can you clarify in what circumstances or situations, I guess, the minister would require this authority outside of a state of public health emergency, as it sort of allows here? Why would he need to do that outside of that, and why does he need this extraordinary power when it seems to be able to be accomplished through legislation?

Mr. Skene: Member, thank you for the question. The circumstances that we were talking about: again, we distinguish between a state of public health emergency and a public health emergency. The public health emergency under section 29 authorizes the chief medical officer of health to make certain orders. What we have found is that in some circumstances, in order to properly implement a chief medical officer of health order, there is some sort of regulatory or legislative change required. If it was a legislative change, we would only be able to do it if a state of public health emergency had been declared.

The circumstances we're thinking about are a chief medical officer of health making an order under section 29 where some regulatory assistance would be required or would help with the implementation of that particular order. We would have to think through what a specific example could be. A possible example may be the need for additional contact tracing. Right now that's been accomplished through an amendment to the communicable diseases regulation. If we're needing other individuals to do contact tracing, then the CMOH could make an order saying that contact tracing is necessary but then a regulation by the minister to help support that by saying: okay; these people are now able to do contact tracing. That would be one example.

Mr. Shepherd: Okay. Does the language as it currently exists in the legislation limit that power to only making changes to enact specific orders from the chief medical officer of health?

Mr. Skene: Member, I would point out that we're talking about a regulation, not an act, that the minister would have authority to do, and the limitation is that the regulation is in aid of a chief medical officer of health order.

The other thing I'd point out is that this type of sort of broad, grab bag approach, almost, to regulation authority already exists in the Public Health Act. In the previous section the Lieutenant Governor in Council can make an order necessary to give effect to the intention of the act. What we did is that we looked at that and said: that could be helpful to, again, expand the tools we have available to assist implementation of a chief medical officer of health order. But it is limited to a regulation.

Mr. Shepherd: Thank you.

To my knowledge, one circumstance where that may have been put in place so far, what we were talking about earlier, was around officers of the law and providing that protection and that information provision. Is that the one time that that's sort of been enacted so far?

Mr. Skene: Well, the specific provision you're talking about, to allow disclosure of a COVID test result to police with respect to an individual who spits on a police officer and claims they have COVID: that's actually an amendment to the act itself. That was in Bill 24 as well but was originally done through the ministerial order process.

Mr. Shepherd: Excellent. Thank you.

The Chair: Next we have Member Schow.

Mr. Schow: Thank you, Mr. Chair. I'd like to thank all of you for being here today. My question is in two parts. I'll break it up. The first one is: was the act ever before the Legislature under the previous government?

Ms Merrithew-Mercredi: Unfortunately, MLA, I've only been in this position for four months, so I can't comment. I don't know.

You might be able to, Dean.

Mr. Blue: Could you repeat the question?

Mr. Schow: Was the act ever before the Legislature under the previous government?

Mr. Blue: I actually couldn't answer that.

David might be in a better position.

Mr. Skene: I'm actually inclined to defer the question to Member Hoffman, but I honestly don't recall substantive amendments to the act.

Ms Hoffman: Yeah. I didn't bring any.

Mr. Schow: Okay. That would be the answer to my next question, which was: was the emergency power section amended to restrict the power of government at that time? That would be a no because it wasn't brought before the Legislature.

Mr. Skene: Yeah. Section 52.1 was done in 2007, and 52.6 was actually introduced in 2003.

Mr. Schow: Okay.

The Chair: All right. Next on the list I have Member Hoffman.

Ms Hoffman: Thanks. Mine relates to slide 28 of the presentation. There was reference to asking for the ability of the minister to essentially bring in legislation without going through the Legislature. That is sort of my reading of it. There was reference to, you know, if there was a biomedical attack and members of the Assembly were unable to gather even virtually, that that was something for consideration. I'm just wondering: is there an interjurisdictional comparison around other jurisdictions bringing in this power or ever needing this power in the example that was raised?

Ms Merrithew-Mercredi: I'm not sure, MLA Hoffman, but we will put that into our scan if you would like. We can certainly follow up on that for you.

Ms Hoffman: Yeah. That would be great, an interjurisdictional comparison, just because it seems like a significant overreach. I understand the intent around public health matters, but I just think that we're here for a reason, and that public oversight and accountability are important for me. I certainly wouldn't want to embark on any considerations of taking away the legislative responsibilities of members and the public, so I would find that incredibly helpful.

And I had one follow-up. No, it's related in the first question. That's fine. Thank you.

10:30

The Chair: Thank you, Member.

Next I have on the list MLA Neudorf.

Mr. Neudorf: Thank you, Mr. Chair. Just a quick comment relating back to Mr. Turton. In terms of the forced vaccination it would be my thought, particularly in light of COVID-19, I believe, that there may be an opportunity as a check and balance to review the escalation or de-escalation of said public health emergency.

At the very beginning of COVID there were estimates saying that possibly 32,000 people in Alberta would have this, a very, very heightened thing, and if it was in a state of sense that a vaccination was available at the time, that could have a very different outcome than what we've actually seen with the de-escalation of the severity of COVID. Not that it isn't still a pandemic or important, but definitely the number is far, far, far less. It may be at the right point in time, when we're discussing a check and balance, that there might be some language introduced to allow that escalation or de-escalation, where the first perception of something is not necessarily the last perception of something.

That's just a comment, but it does lead into my question. Many times within the Public Health Act there is language that is similar to or implies what is allowable, and the powers of enforcement are hinged on a comment – the one I have is in section 53 – "in the public interest." Would you have any clear definition of what that statement means at this point in time?

Mr. Skene: I think the short answer to that question, Mr. Neudorf, is no. We don't have a legislative definition of "the public interest." I think it is one of those terms that we do see in legislation that is designed to ensure that there is some sort of a check that is on the exercise of that particular authority. With respect to what it specifically means in a legal definition I'm happy to research that issue, but at this point there's no specific definition that I'm aware of.

Mr. Neudorf: Thank you very much. I appreciate that.

My follow-up question is related to that. Because of that and because of the powers linked to phrases like that, interpretation can become incredibly important. With one individual's view – this act does empower a much more limited number of individuals as opposed to the entire Legislature. That interpretation becomes incredibly powerful. Therefore, I would ask that some research be done, Mr. Chair, with your permission, recommending what could be done to defining the scope and breadth of that kind of phraseology as it has so much power attributed to it. I would appreciate that.

Thank you, Mr. Chair.

The Chair: I see some nods.

Mr. Skene: Yeah, certainly. I think that the issue is a bit broader with respect to section 52.1 and similar provisions, where what we are looking at is kind of the box that's put in place or being placed around the exercise of an authority.

One thing I just wanted to clarify from a previous answer is that, for example, when I state that my view is that the power existed under section 52.1, that is my opinion. Obviously, contrary opinions are out there, which is why that amendment to section 52.1 was made.

Thank you.

The Chair: Next I have Member Gray.

Ms Gray: Thank you very much. The questions I'd like to ask are kind of touching on contact tracing and on slides 25 and 26. First, on 25 it says that the "inability to require information compilation and collection for contact tracing" was one of the challenges, and on 26 you're asking about "CMOH to authorize businesses to proactively keep records of names and contact information" at those places of business. First, my clarifying question is: would both of those be under only the state of public health emergency or the broader public health emergency? I will get more comfortable with this terminology as we go through the process at committee. That's my first question when we're talking about contact tracing. Would you need the state of public health emergency, or are you thinking that you need these abilities from slides 25 and 26? Please.

Mr. Blue: Thank you for the question, Member. Just to clarify, the contact tracing and the authorities under the act to allow contact tracing of an identified case, I think, are sufficient for public health programming to control. I think the contemplation of what is missing is that there is a proactive way. There are quite broad latitude and authorities under the act for medical officers and health executive officers and those in power to act on behalf of a medical officer of health to investigate individuals, to ask a case. When we have a case of one of the diseases prescribed in the regulations, that authorizes a lot of activity that is quite sufficient for the public health.

What we have identified as a potential gap is, in situations like a public health emergency, we may proactively want to require organizations, like large industrial work sites or, in some places, places that have workers that live off-site but more in congregate facilities, to track and maintain lists of individuals who have accessed their sites. That is not necessarily contemplated or authorized because, outside of an outbreak or an identified case, the Public Health Act doesn't speak into that territory. So we couldn't ask, for example, a work camp or a large employer in the oil sands to actually track and maintain their lists of people who are accessing their sites. They did not necessarily feel that they were empowered under other legislation or were prevented from doing so under other privacy legislation.

There was a proactive need for us to be able to look at that to react quickly, especially the pan-Canadian approach to these sites. We have Canadians working and moving into Alberta at these locations. For us to be able to work with our provincial counterparts, to enable us to say, "There are cases identified or contacts identified with an outbreak that have moved in your province; here's the name and contact information," and move it forward, that continued to be a challenge and continues to be a challenge for us to not be able to enable employers to actually maintain significant lists of those for quick action to control an outbreak and also to control subsequent outbreaks from contacts that have left site.

In my mind it was contemplated only during states of emergency. Normally we would have the time and ability to do this in regular business. We wouldn't see the necessity. Because the risk is heightened during COVID-19, we would consider this only to be a public health emergency situation authority.

Ms Gray: Okay.

Mr. Blue: That's how we felt it was required in this situation, not necessarily when outside of an emergent situation.

Thank you.

Ms Gray: Thank you. That's helpful. Just as the follow-up to that, as you make this suggestion, do you have any guidance or vision for balancing the rights of individuals with the rights of the collective, the guidance to how employers would be advised to keep personal information private, who they would share with? Like, those are the kinds of details you would see be included in this legislation?

Ms Merrithew-Mercredi: MLA, I don't think it would be included actually in the legislation, but there would certainly be guidelines and regulations that controlled how the information was collected, who it was released to, and for what purposes.

Ms Gray: Thank you.

The Chair: Thank you.

Next I have Member Rosin.

Ms Rosin: Okay. Thank you guys again. You may have heard from our side, I think, that there's a large consensus around some concerns around some of the powers in the act that revolve around what powers a medical officer could have over a person and their property or their body or immunizations. I'm wondering – I believe Member Neudorf kind of talked about the vague wording of what deems public interest or what deems significant – if you could just talk to what checks and balances currently do exist in the act to ensure that we balance public interest with individual civil liberties. What checks and balances currently exist or what checks and balances don't exist, and where is there a gap currently?

10:40

Mr. Skene: Thank you for the question. A more detailed analysis, I think, would be necessary to give you a comprehensive list. Some examples that we have: again going back to section 52.1, the modifications to legislation made under that are temporary. So that is a check on the exercise of that, but further checks and balances could well be warranted.

The other checks and balances that exist with respect to the exercise of authority over individuals, whether it's an isolation order or quarantine, is through an application to the Court of Queen's Bench, so there is that off-ramp, if you will, to have a judge review the sufficiency of the certificate that's been issued and whether the individual should be released.

Those are the two primary examples. Should there be more? I think that is a legitimate question as to whether additional checks and balances are necessary. We have some; we could very easily make the case for additional checks and balances.

Ms Rosin: Okay. I would imagine if, say, I get a certificate that says I need a mandatory examination or a mandatory quarantine order that by the time I get the certificate to the time that I actually get my spot in the court queue, it would be a significant amount of time, correct? That certificate may go into effect before I had a chance to appeal.

Mr. Skene: Yeah. That is one of the issues, I think, we'd need to address. I mean, the idea here of what can be done under a certificate is with respect to testing, with respect to treatment, again, being done with respect to ensuring the safety of the individual and safety of the public. But I believe what you're pointing out is that recourse to the courts can be a somewhat cumbersome tool and can be a somewhat long tool. Wrong analogy, but you understand what I'm saying. It takes time.

Ms Rosin: Okay. Thank you. Another question. Section 52.6(1.1) states that the chief medical officer can "impose, authorize the absence from employment." I actually completely understand why this would be the case. If someone was deathly ill, we don't want them going into the workplace. But would you say that there's an opportunity to modernize that? I think if we've learned one thing during COVID, it's that we live in a digital era, and we can work remotely. Would you say there's a way to legally and properly modernize that to just say that we could stop a person from physically going to work but not from working?

Mr. Skene: I think that's a very good observation with respect to some modernization to the language that would be necessary, so, yes, I think that would be a good improvement to the legislation, frankly.

Ms Rosin: Okay. I have one more question, then I will cede some time. Right at the beginning of the act, actually, in the definition section – I believe it's 1(hh.1) – is the definition of a public health emergency. Maybe I'm reading it wrong, but I feel as though the definition is very vague. It says a public health emergency may be declared if X, Y, Z are met. Then I believe it just says, "that poses a significant risk to public health." I'm wondering what defines "significant" from a legal perspective, and if there's room that that could be interpreted, that we see these powers imposed in a time when there may not actually be a serious risk? Could this entire act with all of its overreaching powers be imposed almost at leisure because "significant" is not clearly defined, or what, in a legal perspective, would define that word?

Mr. Skene: Again, the legal interpretation of "significant" – frankly, this will be of no help – is sort of something that's not trivial. With respect to additional wording that will clarify what the threshold is for a public health emergency to be declared, obviously, the language in that definition can be looked at very carefully. All I can say with respect to the legal definition of "significant" is that it reaches a certain standard of importance. It is not a trivial circumstance. It is not, as you say, at whim. There has to be a basis for it. Indeed, if you look at section 29, it requires the chief medical officer of health to conduct an investigation to sort of satisfy herself in this case that there is that risk to the public health that justifies the use of her powers, and the same thing under section 52.1 for the declaration of a state of public health emergency, consultation with the chief medical officer of health.

But at the end of the day, it is a judgment call. You are correct.

Ms Rosin: Okay. But you would say there are significant checks and balances in the rest of the act pertaining to that definition that would ensure that it is not used in a loose description?

Mr. Skene: I would say that there are very clearly checks and balances, and there are very clear requirements that have to be met before certain actions can be taken. That is correct. But I would never, ever say that legislation cannot be improved.

Ms Rosin: Okay. Thank you.

The Chair: Thank you, Member.

I am starting to get cognizant of your time as well with regard to the presentation and the question-and-answer period; however, I do have a couple more individuals on the list. The first individual is, I believe, Member Ganley.

Oh. We need you to unmute as well, please.

Ms Ganley: Yes. The joy of the video conference, isn't it?

I have more questions, you will not be surprised to discover, on the continuing suggestions. I think that if we're looking at this act broadly, which is my understanding, it's definitely worth considering these things. On slide 28 we have, "to provide more flexibility and speed, if Members of the Legislative Assembly cannot meet, provide a waiver for Minister to use Ministerial Orders to modify timelines or limitation periods during extreme circumstances." I'm not really sure what those timelines or limitation periods refer to specifically or what the circumstances are. I think what I'm hoping is, generally around these continuing suggestions, because I find them all fairly vague, whether we're going to get sort of suggested language or more of an outline of what exactly it is that we're driving at here. Some of these things sound like: oh, that could kind of be a good idea, but also it could kind of be a bit of an overreach. So I'm just wondering: are we going to see more from these suggestions, and can we see them in a slightly more detailed manner, I guess, more specifically?

Ms Merrithew-Mercredi: MLA Ganley, we can provide you with greater detail if you prefer or wish, and we can undertake to get that to you as soon as possible.

Ms Ganley: Fantastic.

Then, just my last question on these suggestions. Interestingly, I had some very similar questions to the ones that Member Gray had around talking about the keeping of lists and allowing corporations to disclose information. Basically, you would say – essentially, what this is aimed at is the way in which the act has interacted with the managing of this particular public health emergency. It has sort of brought you to see that it lacks this particular power. Would you say that that's correct?

Ms Merrithew-Mercredi: I would.

Ms Ganley: Okay. Thank you.

The Chair: All right. Next we have Member Neudorf.

Mr. Neudorf: Thank you, Mr. Chair. Just a couple of questions at the end of my thoughts. In section 20 it refers to sexually transmitted infections. I just want clarification. In what circumstances would these be considered under a state of public health emergency? How would that be related that way?

Mr. Blue: Thank you for the question, Member. Section 20 provides provisions for sexually transmitted infections. By nature of the route of transmission it would be hard to imagine a scenario in which a broad standing public health emergency would exist in the province. I can't really believe that for a sexually transmitted infection like syphilis or others – although it's a public health crisis and impacting Albertans in a way, a very specific population within Alberta is impacted by syphilis whereas with COVID all Albertans are at risk. All Albertans are susceptible, and we're looking to our current knowledge base, and that is a public health emergency to which we would respond with appropriate public health powers. The act really enables us through our day-to-day. Even a public health crisis like a syphilis outbreak in the province, it enables us and gives us full authority to act within that scope. It doesn't take

an emergency to respond and to protect identities but also to ensure that we're taking public health action to minimize the impacts, including congenital syphilis, of course, as a tragedy and a tragic outcome of our current syphilis outbreak in the province.

To be very pointed, no, I could not see a sexually transmitted infection that would translate into a public health emergency in the same way that COVID would. However, precluding that, a state of local emergency declared by a regional health authority to enable actions on a very local level in a population wouldn't necessarily be outside the realm. Again, we're enabled and empowered through the act to do those things that we need to and to respond adequately. I don't see it actually occurring.

Mr. Neudorf: Thank you for that clarification. I appreciate that. It may need further investigation as we go through our process here.

The second part. I just want to make sure I've got all of it. In section 52.1 it allows for, I believe, the minister and others in authority that they "may by order, without consultation": some very, very strong powers given to the minister and to the CMOH, that they can make recommendations, that they could engage a lot of regulation, for sure. I just want to make sure that there – in your opinion, would there be checks and balances to limit that quite extreme power, or should that also be an area where we look at a little bit more in depth to ensure that those checks and balances are in place specifically to those two positions outside of what the entire cabinet and the rest of government would be able to speak to? That phrase, "without consultation," is what I'm most concerned with in addressing right now.

10:50

Mr. Blue: I can start, maybe, and you can supplement.

I think checks and balances are important across all perspectives. As a member of the public service, recognizing that we serve both the government and Albertans as a whole, checks and balances are not something that I would ever not recommend that we maintain, especially when we're talking about the types and scope of authority that the Public Health Act authorizes. I think the natural tension that we all feel with this is the speed at which some things can happen in the population, public health, and the crises that can impact Alberta. COVID was quite quick, but things are much quicker, and I think it's that natural tension with ensuring that the checks and balances we put in place are effective but also allow for a timely review of that particular piece. I think there is opportunity, absolutely, to improve the legislation to allow that, as long as and provided that it doesn't take or require things that would not be possible to actually allow that check to occur in an effective way.

Thank you, Mr. Chair.

Mr. Skene: Thank you. The only thing I would add to that answer is that the main purpose of the language "without consultation" is, again, to ensure a speedy response. The entire presumption of section 52.1 as it has been amended is to allow for this quick response to modify legislation and with the additional authority and clarification that we have in the act to add provisions or substitute provisions to legislation. This whole authority is predicated on the need to do it quickly, and that's why the requirement to consult, as would normally happen with legislative development, was expressly removed and replaced. We can do it by order because we have to, and we have to do it quickly. That's the current structure.

Mr. Neudorf: Mr. Chair, just for clarification, because I'm not a lawyer, would it be possible to have language that says that consultation should be done? If, failing the ability, someone is sick, so the order of authority is not there, and then do that? Would that cause an onerous reduction of response time if it was worded in such a way that, "If possible, do A; if not possible, then you can proceed to B?" where that adds that layer of check and balance but without necessarily inhibiting the speed? Would that be acceptable?

Mr. Skene: I think that that's a suggestion that we would want to work very carefully through. I think we have talked earlier in the questions about the need for that box around the exercise of the authority. If it's drafted correctly – and I think it's important to recognize that this legislation can be drafted and can be changed as you see fit. As the Legislative Assembly you can make whatever amendments you feel you need to make. But I think that when we're looking at a specific example, we do have to work it through. Frankly, that ability to carefully consider and review the implications is something that is not present during the response that we saw, specifically during COVID and the ability to do the changes we needed to do on the timelines we did them.

Mr. Neudorf: Thank you very much. I appreciate that.

The Chair: Okay. Thank you.

It looks like we have, I think, two more questions.

Ms Hoffman: Mine is very short, and then if my colleague could do the supplemental. The one I want to raise relates to Member Rosin, and it is more of a reflection on where we're at today in the world, and that's just: I appreciate the highlight about working remotely and how it's become a bit of a norm for those who are fortunate enough to have employment right now.

I spoke with a constituent who's an employer recently who talked about how they were so used to just assigning work-at-home initiatives, and one of their employees very reluctantly approached them to say: "I just want you to know that I'm actually sick. I have COVID. We're the reason why the work site is shut down right now, and I probably can't keep working as long as I have COVID." It's just interesting because we get into the mentality of assigning work at home. I just hope that the recommendations, when they come back, acknowledge that people might actually be sick, and there may be times where we can assign work at home for the vast majority, but there might actually have to be times when sick time still applies even in the work remotely scenario.

Ms Merrithew-Mercredi: Your point is well taken. I have staff who have been working from home, staff who I've never even met, actually, who have been, in fact, ill during the process and have been at home but not working.

Ms Hoffman: So there's some consideration of that in the recommendations.

Then if my colleague could supplement.

Ms Gray: I think just a final thank you to the presenters for being here and an echoing of – you've already made the commitment to bring it forward – Kathleen's request around all the suggestions you've made and having the more detailed form of them I think would be incredibly helpful for this committee to be able to consider and to ask even more in-depth questions when we get to that phase.

Thank you.

The Chair: The final on the list is Mr. Schow.

Mr. Schow: Thank you, Mr. Chair. My question is actually more of a statement. I appreciate that in you being here today, there is a bit of gap in knowledge, again, that you're new to the position, but I did ask a question regarding the Public Health Act and whether or not it had been reviewed in the previous government. Just by sheer

convenience we have the former Minister of Health here, who answered that question for us, saying that no, it was not.

Ms Hoffman: If I could clarify . . .

Mr. Schow: I would like to – it is indeed my time, Member Hoffman. I would like to finish my point. It is worth mentioning that the Public Health Act actually was reviewed by the Legislature with Bill 28 in 2016. It was to improve childhood disease protection. Now, the reason why I bring this up is, one, just a point of clarification, but two, that I do know that on a number of occasions Member Hoffman has cast aspersions on the current Health minister for not knowing his file. I know that in this world time can move quickly and a week can seem like a lifetime, but being the previous Health minister, I think it would be unusual to not remember a bill that was produced for the Legislature. I just wanted to make that point of clarification.

The Chair: Hon. member, I do want to remind all members to direct comments through the chair. What was your question? Who was your question to?

Mr. Schow: Mr. Chair, all the previous remarks were made through you, but the question was not a question, more of a statement, a point of clarification, as there was information provided to the committee when I asked my previous question that was actually inaccurate.

The Chair: Thank you, hon. member.

Thank you very much to everyone. That wraps up the technical briefing portion of the agenda.

Ms Merrithew-Mercredi, on behalf of the committee I would like to express our appreciation to you and your colleagues for the work that you do and for taking the time to join us today. Thank you very much for your presentation. If we could please give them a round of applause. [applause]

I also would just mention that we've done quite a long haul here in one single block of time, so perhaps this is a good time to take a five-minute rest. We will report back in five minutes.

[The committee adjourned from 10:58 a.m. to 11:05 a.m.]

The Chair: Thank you, everyone. I'd like to call the committee back to order.

We are on agenda item 6(b). Moving on, then, to that agenda item, I would note that during previous statute reviews other committees have found it useful to request that ministry staff who are experts on the subject matter provide support throughout the review process and potentially attend committee meetings to provide technical assistance whenever that might be requested.

Is this a request, I guess, that the committee would potentially be looking to make at this time? I see Mr. Turton.

Mr. Turton: Yes. I'll make a motion for 6(b) as presented.

The Chair: Can you please read that motion in for the benefit of *Hansard* and the record?

Mr. Turton: Yeah. Absolutely. I move that

> the Select Special Public Health Act Review Committee request that officials from the Ministry of Health work in conjunction with Legislative Assembly Office staff as requested to support the committee during the review of the Public Health Act and that officials attend committee meetings and participate when requested in order to provide technical expertise.

The Chair: Any comments? I see Member Shepherd.

Mr. Shepherd: Thank you, Mr. Chair. I appreciate the motion from Mr. Turton. I just want to understand, then, how this would work in terms of the circumstances of the committee, so if we could get clarification. If technical support or a technical briefing on a particular portion is required or if there is a member that's interested, does it require, then, a majority vote of the committee to make that request and to request that to be provided at the next meeting, or is that simply something that can be requested by any member? Would that be provided in writing? How would the mechanics of this motion actually work out?

The Chair: Yeah. Go ahead.

Mr. Roth: Thank you, Mr. Chair. In the past what's happened is that it's often the case that ministry officials would be seated in the gallery. Certainly, during the deliberations phase, like, there's usually some back and forth in terms of questions and answers and providing technical details as the committee deliberates on, you know, what recommendations it might want to put into a report, that sort of thing.

The Chair: Dr. Massolin.

Dr. Massolin: Yes. Thank you, Mr. Chair. If I could just supplement that answer as well, just to talk about past committee practice. What has happened in the past is that with a motion such as this, if the committee wishes to pass it, the information that comes from government officials or in some cases officers of the Legislature, as the case may be, would flow through the committee research services branch in order to deliver it in a manner in which the committee can receive it. The request would likewise come at the committee table through research services, and we would facilitate that. I mean, that's the way it's happened in the past. There have not been any direct requests per se except for some along the lines of what has happened already in terms of asking for supplementary responses or additional responses to the questions that were asked during the technical briefing Q and A phase.

Thank you.

The Chair: I see Member Neudorf.

Mr. Neudorf: Thank you, Mr. Chair. Just for clarification, again, on Mr. Shepherd's point, would this, then, be similar to estimates, where either the government or the opposition could make the request of said ministry or said officials? Therefore, there is no motion or vote on that request, but it is up to the ministry in terms of the substance and nature of the response, under no compulsion. Is that correct?

The Chair: I would look to Dr. Massolin.

Dr. Massolin: Yes. I can respond to that. Again, I think, you know, the request wouldn't directly go to the government ministry unless they're sitting at the table right there and assisting the committee. That's the first point.

The second point is that there are basically two mechanisms by which a committee can make a request; that is, a simple request that's done by consensus – everybody agrees to it – or by motion.

Thank you.

The Chair: Any other questions, comments?

Seeing none, on the motion as proposed by Mr. Turton, all those in favour of the motion, please say aye. Any opposed, please say no.

That is carried.

It sounds like that is dealt with, and it looks that way as well.

Moving on to section 7 of the agenda . . .

Mr. Shepherd: Sorry. As we were moving to the item, I wanted to speak to the item once you'd had a chance to introduce it, Mr. Chair.

The Chair: Yeah. I've seen two people already, actually. Yes, I will have a list, definitely.

As noted earlier this morning, the subcommittee on committee business also made recommendations to this committee regarding stakeholders – and there will be time for all members to discuss that. Specifically, the subcommittee recommends that the following stakeholders be invited to make oral presentations to the committee as part of the review of the Public Health Act: one, Alberta Health Services' most senior official or appropriate representative; two, Dr. Deena Hinshaw, Alberta's chief medical officer of health; three, the Justice Centre for Constitutional Freedoms' most senior official or appropriate representative; and four, the Canadian Civil Liberties Association's most senior official or appropriate representative.

Does anyone have any comments or questions? The individual who first did catch my eye was Mr. Neudorf.

Mr. Neudorf: Thank you, Mr. Chair. I'd just like to make that motion as appropriate. I think there is discussion, but this was agreed upon by the subcommittee. These four in particular: there was general agreement with that, so I'd like to make that motion at the appropriate time.

The Chair: For the benefit of *Hansard*, would you please read your proposed motion, though, into the record?

Mr. Neudorf: Thank you. Sure. I move that

> the Select Special Public Health Act Review Committee approve recommendation 3.2 of the subcommittee on committee business in its July 13, 2020, report and invite the following stakeholders to make oral presentations to the committee to support discussion of the agreed-upon focus area:
>
> (1) Alberta Health Services, most senior official or appropriate representative;
> (2) Dr. Deena Hinshaw, Alberta's chief medical officer of health;
> (3) Justice Centre for Constitutional Freedoms, most senior official or appropriate representative; and
> (4) Canadian Civil Liberties Association, most senior official or appropriate representative.

The Chair: Thank you.

Comments? I see Member Shepherd.

Mr. Shepherd: Thank you, Mr. Chair. Given that I did not have the opportunity to speak at the beginning and offer a motion which we would have preferred, I would at this point like to bring forward, then, an amendment to this motion. I believe that that amendment has been provided as per the instructions and the request of the committee. Would you like me to read it into the record?

The Chair: Yes, please.

Mr. Shepherd: Thank you, Mr. Chair. I move that the motion be amended

> (a) by adding ", or written submissions if they are unable to appear in person," after "oral presentations", and
> (b) by adding the following after clause (4): and also invite the following stakeholders to make oral presentations, or written submissions if they are unable to appear in person, to the committee:
>
> (1) in respect of section 52 of the Public Health Act: Premier, Jason Kenney; Minister of Health, Tyler Shandro; Deputy Minister of Health, Lorna Rosen; Minister of Justice, Doug Schweitzer; Deputy Minister of Justice, Frank Bosscha; Auditor General, Doug Wylie
> (2) in respect of sections 17, 59, and 60 of the Public Health Act: Alberta's Health Advocate and seniors advocate, Janice Harrington; AHS zone lead medical officers of health Dr. Chris Sikora, Dr. Albert de Villiers, Dr. David Strong, Dr. Vivien Suttorp, Dr. Laura McDougall; Minister of Labour, Jason Copping; Deputy Minister of Labour, Shawn McLeod; JBS Canada president David Colwell; Cargill chairman and CEO David MacLennan; Revera president and CEO Thomas Wellner; Retirement Concepts CEO Azim Jamal; Extendicare CEO Dr. Michael Guerriere
> (3) in respect of section 12 of the Public Health Act: Alberta Union of Provincial Employees president Guy Smith; Health Sciences Association of Alberta president Mike Parker; Canadian Union of Public Employees Alberta president Rory Gill; Friends of Medicare president Sandra Azocar; United Nurses of Alberta president Heather Smith.

I would be happy to speak to our reasons for introducing this amendment, Mr. Chair.

The Chair: Yes, please.

Mr. Shepherd: As Mr. Neudorf noted, this is not what was in the recommendation of the report that came forward from the subcommittee. Of course, we all recognize that that subcommittee has a majority of government members. While it would be inappropriate to discuss the precise things that were discussed within that meeting, needless to say, there were some differences of opinion. Indeed, while certain decisions need to be made to allow processes to move forward, this is the true reflection of what our caucus believes is indeed necessary for appropriate review of this act.

11:15

As my colleague Member Ganley has aptly stated a number of times, the legislation does not exist only unto itself. The application and the impact of that legislation is a due part of review of that legislation, and indeed, as I have noted previously, in previous reviews of legislation we have reached out to these specific parties, who are both impacted by and are required to enact portions of that legislation. Indeed, we saw that in the presentation this morning from the Department of Health, where they specifically noted the specific parties, including some of those I've named here within AHS, the zone directors and others, who have specific things that they are involved with in regard to this act and in regard to the powers they are granted or how the powers that are granted to ministers or the chief medical officer of health, in fact, play out.

So I think it's incredibly important. I mean, I could go through and explain for each one of these why specifically we feel that they should be part of this, but I will save the committee some time and simply note that each of these individuals are part of an organization or part of government or part of a group that was directly involved with the direct impact of the use of the powers that are related to the Public Health Act. If we are reviewing that act and we are reviewing how effective the powers that it gives and indeed the mechanisms that it puts in place are, how able those are . . .

Mr. Schow: Point of clarification.

The Chair: I would take the opportunity to just – sure. Please.

Mr. Schow: Yeah. I recognize that this motion that the member is reading was submitted prior, but was it submitted as an amendment,

or was it submitted as a motion? If it's submitted as an amendment, it would be in order, but if it's submitted as a motion, then my understanding is that – [interjection] It's an amendment?

Mr. Shepherd: I'd be happy to clarify for the member that it was submitted as both.

The Chair: Perfect question. Perfect answer. Yeah.
Please continue.

Mr. Shepherd: Okay. Yes, it was submitted as both. Acknowledging the different outcomes and mechanisms, we do think ahead on how we plan for committee as I'm sure you do, Mr. Schow.

Mr. Schow: I fly by the seat of my pants.

Mr. Shepherd: As I was saying, Mr. Chair, each of these individuals represent organizations who had direct part in our most recent actual application of the powers of this act. As my colleague Member Ganley has laid out, we need to consider how this actually functions in the wild, as it were. I recall during the review of the Mental Health Act, we indeed heard from individuals who were impacted by the use of the powers of that act. We heard from individuals who exercised powers under that act. We heard from police services. We heard from front-line health care workers. That is a due part of understanding what aspects of an act are functional, what aspects of an act may need to be adjusted, and what aspects of an act may need to be changed.

At present the motion that we have from the government is indeed to invite a few high-level parties and indeed a few parties interested in what seems to be the main focus of the government members, at least from the questions today, that being around the area of civil liberties. Now, given that we have indeed agreed as a committee that we would have a much broader focus than that, that indeed we are reviewing the entire act with a special focus on this single section – and indeed that was the recommendation of the subcommittee, and that was approved by all members here today – I think that to state that the only people at this point that we need to hear from would be Alberta Health Services and Dr. Deena Hinshaw in regard to the entirety of this act, its application, and its actual impacts seems to me to fall woefully short.

For that reason, I move this amendment that we add these additional parties so that we can conduct a far more fulsome review as I think that is what we owe to Albertans.

Thank you.

The Chair: Thank you, hon. member.
I see hon. Member Reid.

Mr. Reid: Thank you, Chair. My thank you to the hon. member across for the proposed amendment. Again I want to come back to that the scope of the committee is to review the Public Health Act, and I think in our discussions we were certainly clear that we wanted to speak to those who are experts in the act. While I agree that we need to reflect on the impact of legislation in terms of real life, it's been clear that both the Auditor General and the Ministry of Health are both doing inquiries and reviews into that. The thing that I've learned over the last number of months as I've studied the act and as we moved into this committee is that, yes, while there are certainly real-world impacts, and I think it was affirmed today by the officials from the ministry, there is also a need to look at worst-case scenario. We need to reflect on issues that we may or may not ever have to face as a society and put the tools in place to be able to deal with those.

Again, the points that were made this morning are that we've seen three new coronaviruses in the last 17 years. All have been very different. What we learned is that the current pandemic that we're dealing with: while spread is significant, mortality is not very significant. I actually think that if we just reflected on the Public Health Act in light of COVID-19, we actually would be doing a disservice to our ability to respond to more severe outbreaks in the future, whether those be intentional biological attacks or simply the natural evolution of something like a coronavirus, where we could see something that is a combination of COVID-19 and SARS, that spreads quickly and has a high mortality rate.

Again, we have discussed at the subcommittee level the opportunity for written submissions from all Albertans, and while the list of potential stakeholders is extensive, it's certainly not exhaustive. We don't see the invitation of my friend Sean, who opened a barbershop and had to close because they cared for immunocompromised seniors in their home. We don't see Ed Sims, the CEO of WestJet, who's seen an incredible impact to their business. Again, I think there's that opportunity to invite all of these stakeholders personally to submit their written submissions to us, we review those as a committee, and if we do see pertinent information being brought forward, then we do have the opportunity to call them forward for oral presentations.

That's all I need to say. Thank you.

The Chair: Next on the list I have Member Ganley.

Ms Ganley: Thank you very much. I think I'll cede first to my colleague Member Hoffman, and then I can jump in after that.

The Chair: Sure.
Go ahead, Member Hoffman.

Ms Hoffman: I just want to say that I appreciate that the list that I tried to propose at our prior meeting was brought forward by my colleague here today. I think that it's important for us to, as is evidenced from some of the other committees that we have set up where both government members and opposition members have an opportunity to call on folks to add to the conversation – one very clear example, I think, is the private members' committee, where the committee is addressing legislation and both parties have an opportunity to invite folks to come and provide briefings and answer questions. I think it would only be fair and appropriately balanced if we had the opportunity to also submit a list for consideration, and that's what my colleague has done here today.

I think as well the specific experiences with the zone medical health directors is incredibly relevant given that I think globally there's an acknowledgement that there will be multiple phases of COVID, and ensuring that there are opportunities for us to address COVID and other types of COVID viruses that might be after 2019's COVID virus would be fair and appropriate. Why would we tie our hands from the ability to gather this important information from folks who are zone directors? I think it would be irresponsible of our committee to not include those voices in, for example, this review.

Thank you.

The Chair: Thank you.
Next I have Member Neudorf.

Mr. Neudorf: Thank you, Mr. Chair. I do want to reiterate what my colleague MLA Reid has stated. Obviously everyone in Alberta has been impacted by COVID-19 and, therefore, by this act, but there are already two other mechanisms by which this outcome will be reviewed. As has been mentioned, the Auditor General is doing

their report as well as an independent process for a further review, and anyone can submit a written response.

I did use this analogy before, and I apologize to everyone else here. I've been fully submersed in the Student Transportation Task Force, so my analogy is a bus analogy. If a bus full of passengers happens to break down, you do not ask, necessarily, the passengers what should be done to correct it. You don't even ask the drivers what should be done to correct it. You go to the mechanics. Those are the experts and specialists in buses, and I believe that the act is a bus, and we need to take it to mechanics for repair. I believe the list that we have put forward are those specialists that can do that and speak to that most succinctly. Though everybody else on the bus might have an opinion and a viewpoint and have been impacted by that, I think it is an unnecessarily laborious task that is better accomplished in the other two reviews that are already going to take place.

Thank you, Mr. Chair.

11:25

The Chair: Thank you.

Now, I believe next on the list, we have Member Ganley.

Ms Ganley: Yes. Thank you, Mr. Chair. I just need to echo the comments of my colleagues. I think this idea – and, in fact, we saw today as the department presented us a technical presentation that they were unable to even say what the impact of the provisions were or what the impact of the provisions they were suggesting were without reference to problems that had arisen as a result of that act interacting with the world out there in the form of this current pandemic. So I think the suggestion that we can review the act without considering the impacts that the act is having is just false.

I'm not really sure what the members are suggesting. It seems like the UCP members are suggesting that we wait until these other reviews are back because they will have more information. I also think the analogy about the bus driver and the mechanic or whatever is just wrong. The idea that – and I have a great deal of respect for lawyers – lawyers at the Civil Liberties Association or the Justice Centre for Constitutional Freedoms have more knowledge of how the act works on the ground than the public health officials, the zone representatives, who are implementing it, I think, is just wrong. You know, I know you can draw a circle of different widenesses, but the idea that these four people are clear choices and everyone else is obviously ridiculous, I think, is a bit misleading. I think what we're having a conversation about is whether or not these individuals are relevant, and I would just reiterate that I think the suggestion that these individuals are not relevant because everybody has been impacted and we have to speak to everybody is just, honestly, a little bit ridiculous.

I think it's pretty clear that these represent specific instances in which the act has maybe not operated as it ought to operate. Again, the purpose of that act being the protection of public health, these impacts on the public, in my view, are absolutely a hundred per cent relevant.

The Chair: Thank you, Member.

Just to move back to the point of clarification from Mr. Schow – I know that there's been a request from the table – I just want to extra confirm that this is amendment 11. I believe that I followed your exact reading into the record, and I believe it followed perfectly, including mentioned that you were doing it on behalf of Member Gray. I just wanted to confirm that before we move along to continue with debate. That's all.

Mr. Shepherd: Yes. That would be correct, Mr. Chair.

The Chair: Yeah. That's okay. Perfect.

Next we have MLA Turton.

Mr. Turton: Yes. Thank you, Mr. Chair. I guess just to kind of chime in, I'd like the thank the hon. member, Mr. Shepherd, for putting forth this amendment. You know, I'd like to bring us back to the main purpose of this committee, and that's to review the Public Health Act. If everyone can remember just even about an hour and a half ago or so, slide 3 really talked about – when officials from Alberta Health Services came in, they said that there will be "an independent process which will inform planning for future pandemics," and I really think at that point it would be a more appropriate place for many of the stakeholders that the hon. member has asked to bring forward. That independent process later on will really be the appropriate location to really talk about the context of how the act was rolled out, how it affected all the different ministries, and that will address many of the issues that Member Ganley was talking about previously.

As well, I'd also like to highlight that, you know, for many of the stakeholders that were mentioned in the amendment, they have the ability to put forth written submissions. I look forward to reading those submissions, finding out how they think our Public Health Act and emergency powers can be improved, but, really, when I look at our purpose as a committee, I'm not so much interested in COVID-19 because, let's be honest, in another year or so or a couple of years this will be simply a historical footnote. I'm more interested in ensuring that the act is prepared and set up in a way that we can look after the next massive pandemic that happens. It could be Ebola. It could be the bioterrorist weapons that were talked about previously. It could be about potential threats of Ebola or anthrax. We don't know what that will be, so I find if – we should be, as a committee, facing forward into the future to prepare this framework for issues that we don't even know could possibly be coming down the tubes versus having it as a rearview mirror and looking at what has already happened. So while I appreciate the amendment from the hon. member, I will be voting against this amendment.

Thank you.

The Chair: Thank you, hon. member.

Next on the list I have Gray.

Ms Gray: Thank you very much, Mr. Chair. I am speaking in favour of the amendment that's currently before us. To use the analogies that we have seen, when it comes to the Public Health Act, when it comes to our review, we have such an important opportunity right now to talk to people about the operations of the powers of the act in the moment. To call some of the people who have been named in this amendment passengers on the bus rather than people who are experts, who have direct involvement, who have influenced the public health response and have been governed by the Public Health Act, I think does a disservice.

Having people like the AHS zone leads, people like Cargill Chairman and CEO David MacLennan be able to speak to the possible limitations or impacts of the Public Health Act that had a direct impact on him as well as the workers at Cargill is incredibly important to this process, and I'm disappointed to hear the government members wanting to not include these very pertinent individuals, who I are think are well considered – thank you, Member Shepherd, for moving this motion on my behalf – without their consideration and to defer that to two reviews that have unnamed timelines, one that hasn't started and is still in the RFP process, when we have that opportunity now to review the Public Health Act. It is in the scope of our review because the scope is specifically the Public Health Act, including all sections, and our

timeline is the opportunity for us to make these changes and put that in. We do not control the timelines for the other two reviews that have been mentioned.

So I think this is an important opportunity. I will be supporting the amendment, and I would encourage all members to consider that and support it as well. Thank you.

The Chair: Thank you, hon. member.

I see the hon. Member Schow.

Mr. Schow: Thank you, Mr. Chair. I appreciate you acknowledging me. I'd like to speak against this amendment for a couple of reasons. One, looking at the sheer size of this amendment and having been in this committee this morning as a substitute, not as a permanent member, for the benefit of my hon. colleagues, looking at this list and how long we spent this morning speaking with members from the ministry, unless you want to be here until 2030, I don't know how you're going to get through all of these. I think that you want to streamline the process and speak to some of the heads, which would include Dr. Deena Hinshaw, who is on the initial motion.

I see also some intent to bring in people like David MacLennan, as Member Gray had mentioned, the CEO of Cargill. The scope of this review is to talk about the future of the Public Health Act, not to do a postmortem on the COVID-19 response. I'm certain that a postmortem will take place. It certainly is in order. That's not within the scope of this committee.

Looking at this amendment, looking at the huge list of people and also looking at the Alberta Union of Provincial Employees, the Canadian Union of Public Employees, you know, we're not reviewing labour legislation; we are reviewing the Public Health Act. While I can understand that the Public Health Act does affect members of the workforce, both in the private and the public sectors, I don't see how bringing in these members will really, again, be within the scope of this committee.

I've got to tell you. It'll probably come as a surprise, but I'm just not in support of this amendment.

The Chair: Thank you, hon. member.

I believe the next member on my list is Member Shepherd.

Mr. Shepherd: Thank you, Mr. Chair. I appreciate the opportunity to respond to a few of the comments that have been made in regard to the motion that I brought forward and some of the arguments that have been presented. I appreciated the analogy from Mr. Neudorf that he brought that forward, again, the analogy of the bus. Now, there are a couple of things I would comment on in regard to that analogy. First, I would say that in Mr. Neudorf's analogy he appears to be indeed suggesting that this act is broken. Indeed, it's acknowledged that this act is not functioning as it should and is in need of repair. Now, if that's the case, then I think it's also worth considering the circumstances under which that occurred. What was the driver doing at the time that the bus broke down? Was he trying to drive over terrain for which it wasn't suited? In fact, if that was necessary, well, then what changes need to be made to that bus to ensure that it can handle the circumstances that need to be gone through?

11:35

Mr. Schow: Point of order, Mr. Chair.

The Chair: Hon. members, a point of order has been called. I believe it's the hon. Mr. Schow.

Mr. Schow: Yeah. I just want to draw a point of order on 23(i), "imputes false or unavowed motives to another Member." Now, I do believe that Mr. Shepherd is actually putting words in the mouth of Mr. Neudorf. If you asked Mr. Neudorf himself, I suspect he would confirm what I'm saying. I know the analogy was an entertaining one, and I certainly enjoyed listening to it. I thought it worked pretty well. But at no point in that analogy did I find that Mr. Neudorf implied that this act was broken in whole or in part. I just feel like we are speaking to the fact that we are reviewing the act, and that is an important thing to do. We are trying to consult the stakeholders in a streamlined process. But to put words in the hon. member's mouth, Mr. Chair, would be unparliamentary. I ask that that member change the direction of his comments with regard to this amendment. I think it's a point of order.

The Chair: Member Gray.

Ms Gray: Thank you very much, Mr. Chair. I don't think we have a point of order here. A very straight-forward, common-sense analogy was put forward of a bus being broken down, and from that starting point I think it's very clear there's an implication of something being broken. Calling in a mechanic to fix it was the exact language that MLA Neudorf was using. My colleague is simply continuing that analogy, and I think he should be allowed to do that. We're trying to put the arguments within the frame that government members have already introduced, and I, for one, thought it made perfect sense when I was listening, so I don't think that we have a point of order here.

The Chair: At this stage I'm prepared to say that there is not a point of order. What I would say to all members is that I think that it is very, very self-evident that this act is not a bus. For the purposes of debate I can see how it has been used. That said, I think that there would be opportunities to further debate the analogy should it be under question.

If the hon. Member Shepherd could please continue.

Mr. Shepherd: Thank you, Mr. Chair. Certainly, I appreciate Mr. Schow joining us here today to serve in defence of his colleagues.

What I will do is that I will continue to where I was going with this particular analogy. What I would say is that this is far more analogous to the bus needing to be redesigned, so taking a look and saying: "You know what? This bus has served us pretty well. It's gotten us where we needed to go, but we recognize that, hey, maybe there are changes that need to be made to make sure that it serves its purpose better." Now, indeed, you'd want to consult the folks that actually designed the bus, you'd want to consult the mechanic about the engine, but you'd also want to consult the driver about how it handles and how it turns corners. You'd want to talk to the passengers about the comfort of the ride, about their ability to get on and off. Indeed, if an individual, say, had a disability, are they able to access and make use of that bus?

At the risk of, I guess, beating a dead horse, I will set the analogy aside there. All that to say, you know: the other comments I've heard from government members so far suggest that because there are currently the reviews that are happening by the Auditor General and the independent third party, there is no need to speak with anybody within these groups. Well, I don't believe that this committee is going to be waiting until those reviews are done, and I certainly hope it's not the intent of this government to have to bring further amendments to this act into the House after those reviews are completed, let alone start another review committee to address that.

I think it would be appropriate to have some response and some opportunity for us as a committee to speak with individuals, at least the zone heads, which, as I would note, are actually cited on slide 14. That was presented to us today by the department, where they talk about it as well as talking about the powers that are given to the minister and the powers that are given to the chief medical officer

of health, talk about the general powers that are given to all the medical officers of health to take actions to prevent the spread of communicable diseases as well as the general powers given to executive officers. Perhaps if the government would like to amend this to remove some of the others who they feel are extraneous to this, I would say that at least the zone heads would obviously be part of this and have some reflection on how well the bus drives or on if any aspects of the act could be improved to better support their important work in whatever circumstance we have coming up in the future.

However, given that I recognize that we are at a particular time – I think I've made my thoughts on this quite clear, Mr. Chair – then I'm prepared if government members are to take this to a vote. Oh. Pardon me. Unless any of my colleagues have a further word.

Ms Hoffman: Just to add one little piece, just that it was referred to as that we're not here to do a postmortem, and we are here to strengthen the legislation. That was said by one of the government members. What I do want to say is that absolutely my intent is to strengthen the legislation and that in the midst of this pandemic people have died. They've died in their place of residence, where they received public health care. They have been impacted by their work conditions and died as a result as well. I think it would behoove all of us to follow the advice of my colleague Mr. Shepherd and include an opportunity for these folks to come and talk about their experiences in the midst of the current public health crisis, the one that precipitated the bringing forward of this bill and in turn the referral to committee. I think it would be the responsible thing for us to actually reflect on the grave impacts of lives lost through this pandemic and ensure that we do everything within our power as legislators to prevent that from happening in further waves or in further pandemics.

Thank you.

The Chair: Thank you.

Any further? I believe that hon. Member Neudorf caught my eye.

Mr. Neudorf: Thank you, Mr. Chair. I didn't expect quite so much debate on my analogy. I do admit that it was possibly imperfect, and I started with an apology. I do believe that the driver and the passengers on the bus do have the opportunity to provide a written response. I believe it is implied in our review of the Public Health Act. Not presupposing the outcome of this committee, not presupposing what may or may not be recommended to make adjustments to that, it means that it is implied within our mandate to have a very, very specialized look at the act, whether or not it is broken or needs a repair or whether it is just to be modified or whether it needs not to be touched at all. I did not mean in any way, shape, or form to presuppose the outcome of what this committee may recommend, but I do believe it is implied that it needs to be very, very specialized in its review, which is why I believe in the original motion and not the amendment.

Thank you, sir.

The Chair: Any other comments? I see Member Reid.

Mr. Reid: Thank you, Chair. I guess I just want to clarify for the record that I don't believe it's the government members' intention to exclude anyone from participating in this. I think we are just looking at being expeditious. Again, the opportunity is for all Albertans to submit written comments. I'm certainly mindful of the direction of the chief medical officer of health in terms of physical distancing and those types of things that we need to do at this time. We are taking those precautions, of course, as government when we sit in the House. I certainly look forward to the submissions of Albertans. When we find those themes that are significant and we see that they do relate to the act, I'm absolutely happy to invite those individuals to come and make oral presentations.

I think somebody on the other side made the comment about: there's no need. I don't believe that's true. I think we need to get as much information as we can but not necessarily have exhaustive oral presentations in this room or others at the Legislature. I think we can just be mindful of that. A reminder that the four groups that are listed are not exhaustive. It's not only these four. This is simply a starting point for us, and I fully believe that there's even a potential for when these folks come forward to present to us that that may lead us to call other people to present to the group. I am open to that.

Again, just for clarification, the list of four is not exhaustive, and we are open to submissions from all Albertans. Thank you.

The Chair: Thank you, hon. members.

Are there any other members wishing to speak?

Seeing none, on the amendment as proposed by Member Shepherd on behalf of Member Gray, all those in favour of the amendment, please say aye. Any opposed, please say no.

That is defeated.

Going back to the motion, I see the hon. Member Turton.

Mr. Turton: Yes. Thank you, Mr. Chair. I just have a question about the original motion that's before us. I guess my question is regarding, you know, some of the wording about where it says "most senior official or appropriate representative." In terms of the singular sense I think it's important for each one of these four stakeholders to have the opportunity to either bring support staff or other pertinent individuals in their organizations that might have something constructive to add to the conversation. So I would ask, if it's possible, perhaps to do a friendly amendment and maybe make it so that multiple individuals from those four respective organizations can come if those organizations so choose.

11:45

The Chair: All right. Well, we've heard an amendment at least in idea. I believe that what the table will do is that it will now put together what they deem to be the intention. Prior to that we would have to vote on this. Given previous direction to the committee, we would need a majority. So on the idea of proposing an amendment in this manner – yes?

Ms Hoffman: Doesn't it require unanimous consent for things that aren't provided by amendment ahead of time?

The Chair: Just a majority, yeah.

On the proposal of putting forth an amendment pursuant to Member Turton's intention . . .

Ms Rosin: Could I just ask a quick question for clarification first?

The Chair: Sure.

Ms Rosin: Before we do this, I guess I'll ask the table: do we need an amendment? Like, does the motion in its present form prohibit more than one individual from coming? That's what we're trying to figure out and fix.

Dr. Massolin: Mr. Chair, I think we've got an excellent question there. I think that this could be handled in an administrative capacity possibly, if this committee is in agreement, of course, with it. Typically what happens is that the chair would send out an invitation on behalf of the committee to these individuals, to the appropriate person, the leader of the organization, the individual, as

the case may be, and then indicate that that individual could bring others with him or her to support the presentation. I hope that makes sense.

The Chair: So what you're saying is that under common course or under, I guess, precedent, in previous examples where individual stakeholders have been invited, the request would be not so singularly focused. It would be to the most senior person plus support staff in the actual invitation.

Dr. Massolin: Yes. That's right, Mr. Chair. There are multiple examples. Public Accounts does that on a regular basis, for example, but stakeholder presentations include this element as well. You have the addressee being the leader of the organization, but also the implication or the direct sort of direction is that the appropriate officials make comment or provide the committee submissions on the appropriate material and would also attend and be able to present and answer questions.

The Chair: I'm seeing a lot of nods with regard to this being something that can be dealt with on an administrative level. I believe that we have consensus, and that is my ruling with all those thumbs up.

Moving back to the original motion, I see Member Hoffman.

Ms Hoffman: Thank you. I did provide my proposed amendment ahead of time in writing. It's number 12 from the submission.

The Chair: Okay. Could you please read it into the record, please?

Ms Hoffman: Yeah. I move that the motion be amended by inserting the following after clause (4):

> and also invite front-line health care workers, specifically doctors, nurses, nursing aides, health care aides, and emergency medical personnel, to make oral presentations to the committee by sending invitations to their representative groups.

The Chair: Please continue with your thoughts.

Ms Hoffman: For rationale, respecting what Member Reid said around time limitations, I think that that's fair. I think that, similar to the invitations that are likely going to be issued to the four that were proposed by the subcommittee, this gives us an opportunity to reach out to representative groups who represent front-line workers, who definitely live in response to the legislation. They're the ones who have significant responsibilities for executing it and ensuring the safety and well-being of all of us.

Having been Minister of Health for four years, I think that some of my colleagues highlight opportunities where I don't know everything, and that certainly is the case on what it's like, for example, to be a front-line health care aide in a long-term care facility. So I think it would be fair for us to invite the representative groups of front-line workers, and I'm fine with us working around some time limitations and things like that given the feedback we've heard from some our colleagues. But I think their voice is incredibly important on ensuring that we have the safety and well-being of Albertans reflected in the legislation, that front-line workers – I think their voice is important for us to ensure that this is done in a way that's going to ensure the safety and well-being of all with regard to the current pandemic but also any other public health emergencies. That's why I would like to move that we invite these representative groups to present.

The Chair: Comments?

Seeing none, on the amendment as proposed by Member Hoffman, all those in favour of the amendment, please say aye. Any opposed, please say no.

That is defeated.

I believe we are on to the motion proper again. Are there any members looking to debate on the motion as proposed by the hon. Member Neudorf? Seeing none – oh. I actually do have one member, Member Ganley, on the line.

Ms Ganley: Oh. Sorry. That was actually on the last motion, so that's fine. Thank you.

The Chair: Any members looking to speak to the motion as proposed by Member Neudorf?

Mr. Shepherd: I'll just make one last comment, Mr. Chair. Just to be clear, as we proceed into a vote on this motion, we certainly do support hearing from all of the individuals that are named here. We certainly believe it's incredibly important that their voices be part of this discussion. As we believe a number of other voices should be part of this conversation, we will look forward to, hopefully, the co-operation of members of government, then, as we move forward with that process in ensuring that, should that seem appropriate and should those avenues seem to be worthy of exploration on behalf of the people of Alberta, they will indeed support us in doing so.

Thank you, Mr. Chair.

The Chair: Okay. Any other members?

Seeing none, on the motion as proposed by Member Neudorf, all those in favour of the motion, please say aye. Any opposed, please say no.

That is carried.

Moving on to 7(c)(i), the subcommittee has also made a recommendation that this committee invite members of the public to provide written submissions to the committee as part of the review of the Public Health Act. Does anyone have any questions, comments, or recommendations? Member Rowswell had caught my eye previously. Please.

Mr. Rowswell: Read the motion? Or . . .

The Chair: Up to you.

Mr. Rowswell: Okay. Good. Moved that

> the Select Special Public Health Act Review Committee approve recommendation 3.3 of the subcommittee on committee business in its July 13, 2020, report and invite members of the public to provide written submissions to the committee by August 25, 2020, on any aspect of the Public Health Act.

The Chair: Thank you. I believe, for further clarification, that was number 10 that was previously provided. Any members wishing to speak to the motion?

Ms Hoffman: I'm just trying to follow along on the electronic agenda. Can you tell me which item?

The Chair: Public input: inviting submissions.

Mr. Shepherd: So 7(c)(i).

The Chair: And then it's 10.

Ms Hoffman: Thank you. Okay.

The Chair: Any comments? Member Gray.

Ms Gray: Thank you very much. I appreciate MLA Rowswell moving this motion. I think public input and written submissions will be incredibly important. As well, during the discussion of who would be invited, I think the point was raised a number of times that the people we were inviting could make written submissions, and I certainly hope that each of them will do that.

I just want to ask for clarification. After we receive all of these written submissions, if there is something of value, if there's something that we want to be able to delve deeper into, would we then be able to invite those members of the public who have provided written submissions to present? I think my colleague had provided in advance a potential amendment to facilitate that, but guidance from the table would be appreciated.

Mr. Roth: Thanks, Mr. Chair. That would be a decision of the committee if it wished to hear additional information from any of the people that made a submission.

11:55

The Chair: Any members wishing to discuss the motion as proposed by Mr. Rowswell?

Seeing none, on the motion as proposed by Member Rowswell, all those in favour of the motion, please say aye. Any opposed, please say no.

That is carried.

Just as a note, a motion is required to invite submissions to set a due date. Having determined that we would like to invite, obviously, the public to participate in the review of the Public Health Act, this would be a good time to turn the floor over to Rhonda Sorensen, manager of corporate communications with the Legislative Assembly Office, who can give us some points for raising awareness of this review.

Ms Sorensen.

Ms Sorensen: Thank you, Mr. Chair. Members should have received a document earlier this week outlining a number of no-cost, low-cost, and paid submission ideas to engage the public in this review. I am certainly happy to go through the document or entertain any questions about specific initiatives that have been undertaken by previous committees of the Legislative Assembly. Otherwise, I am simply looking for some direction from the committee on which initiatives they might want us to undertake on its behalf.

The Chair: Member Gray.

Ms Gray: Thank you. Thank you so much for providing this guidance. Getting information out to the public when these reviews are happening is always critically important but especially right now, during a pandemic. I mean, everyone's attention is drawn and pulled in so many different ways, and Alberta families are stressed. I think it's incumbent on us to make the effort to reach out. Along those lines, I did submit a motion, and I will read that into the record at this time if that works for you, Mr. Chair.

The Chair: Please do.

Ms Gray: I move that

> the Select Special Public Health Act Review Committee authorize communications services of the Legislative Assembly Office to solicit submissions from members of the public through the no-cost and low-cost options presented by communications services at this meeting.

The reason that I suggested the two is because, ideally, we'd like to see all of the no-cost communications options used. As well, the low-cost communications options represent roughly $2,000 and will use some of those social media advertising options, which I think are incredibly effective at reaching people these days. I think that between those two we'll be well able to let people know that there's a review coming.

With your permission, I may actually forward this document to the minister of labour, who is doing a WCB and OHS review but has not tweeted about it or shared that. I want him to know that there are some low- and no-cost options to get that information out. So thank you. That's helpful.

The Chair: Any discussion on the motion as proposed by Member Gray?

I do see that we are approaching 12. We have only a couple of items left on the agenda. However, I would not presuppose a decision by the committee. We would need unanimous consent to move beyond 12, so if there is anyone who does not want to provide unanimous consent, please make yourself known now. All right. Unanimous consent was not given.

Moving, then, to adjournment of the meeting, thank you very much . . .

Ms Gray: May I? Just a clarification. There was a motion on the floor. Does this mean that leaving this meeting, there will be no public notifications about any of this because my motion was not passed? We're unable to proceed now?

The Chair: It's simply adjourned debate.

Mr. Schow: Mr. Chair, may I ask for another motion and then adjourn?

The Chair: Procedurally we can't. It's my understanding that procedurally we have adjourned the motion.

Since it is 12 o'clock, I will call for a motion to adjourn. Do I have a motion to adjourn?

Ms Gray: You don't need a motion to adjourn.

The Chair: We don't need a motion? Okay.

Mr. Roth: You do.

The Chair: I do. I guess the clearest way to consider this is if the motion to adjourn fails, then we would look for unanimous consent to continue again. Is there a motion to adjourn? Anyone? I see Member Shepherd.

Mr. Shepherd: Actually, I'll decline. I'll leave the government members to clean up their mess.

Mr. Schow: So moved, Chair.

The Chair: I see hon. Member Schow has moved a motion to adjourn. All those in favour, please say aye. All those opposed, please say no. That is carried. We are adjourned.

[The committee adjourned at 12:01 p.m.]

Published under the Authority of the Speaker
of the Legislative Assembly of Alberta