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The 28th Legislature
First Session

Alberta Hansard

Wednesday evening, November 28, 2012

Issue 25e

The Honourable Gene Zwozdesky, Speaker

Legislative Assembly of Alberta The 28th Legislature

First Session

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Bilous, Deron, Edmonton-Beverly-Clareview (ND)
Blakeman, Laurie, Edmonton-Centre (AL),
Liberal Opposition House Leader
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Campbell, Hon. Robin, West Yellowhead (PC),
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Casey, Ron, Banff-Cochrane (PC)
Cusanelli, Hon. Christine, Calgary-Currie (PC)
Dallas, Hon. Cal, Red Deer-South (PC)
DeLong, Alana, Calgary-Bow (PC)
Denis, Hon. Jonathan, QC, Calgary-Acadia (PC),
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Forsyth, Heather, Calgary-Fish Creek (W)
Fox, Rodney M., Lacombe-Ponoka (W)
Fraser, Rick, Calgary-South East (PC)
Fritz, Yvonne, Calgary-Cross (PC)
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Griffiths, Hon. Doug, Battle River-Wainwright (PC)
Hale, Jason W., Strathmore-Brooks (W)
Hancock, Hon. Dave, QC, Edmonton-Whitemud (PC),
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Horne, Hon. Fred, Edmonton-Rutherford (PC)
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Stier, Pat, Livingstone-Macleod (W)
Strankman, Rick, Drumheller-Stettler (W)
Swann, Dr. David, Calgary-Mountain View (AL)
Towle, Kerry, Innisfail-Sylvan Lake (W),
Official Opposition Whip
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Weadick, Hon. Greg, Lethbridge-West (PC)
Webber, Len, Calgary-Foothills (PC)
Wilson, Jeff, Calgary-Shaw (W)
Woo-Paw, Hon. Teresa, Calgary-Northern Hills (PC)
Xiao, David H., Edmonton-McClung (PC)
Young, Steve, Edmonton-Riverview (PC),
Government Whip

Party standings:

Progressive Conservative: 61

Wildrose: 17

Alberta Liberal: 5

New Democrat: 4

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Hehr	Strankman
Jansen	Towle
Luan	Young
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Olesen	

Standing Committee on the Alberta Heritage Savings Trust Fund

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Deputy Chair: Mrs. Jablonski

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Dorward
Eggen
Kubinec
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Sherman

Select Special Conflicts of Interest Act Review Committee

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Fenske
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Saskiw
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Standing Committee on Families and Communities

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Jansen	Saskiw
Jeneroux	Swann
Johnson, L.	Wilson
Kang	Young
Kubinec	Vacant
Lemke	

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Blakeman
Brown
DeLong
Eggen
Leskiw
Quadri
Rogers
Wilson

Special Standing Committee on Members' Services

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Deputy Chair: Mr. Young

Calahasen
Dorward
Forsyth
Goudreau
Jablonski
Mason
Quest
Sherman
Smith

Standing Committee on Private Bills

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Deputy Chair: Ms L. Johnson

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Bhardwaj	Olesen
Brown	Pastoor
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Fox	Sarich
Fritz	Starke
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Kennedy-Glans	Webber
Luan	

Standing Committee on Privileges and Elections, Standing Orders and Printing

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Casey	Xiao
Fenske	Young
Fraser	Vacant
Hale	

Legislative Assembly of Alberta

7:30 p.m.

Wednesday, November 28, 2012

[Mrs. Jablonski in the chair]

Government Bills and Orders Committee of the Whole

The Deputy Chair: I'd like to call the committee to order.

Bill 4 Public Interest Disclosure (Whistleblower Protection) Act

The Deputy Chair: We are in debate on amendment A17. Just a reminder, we have the one-minute bells, so we'll ring the bells for 30 seconds, and there will be a minute pause, and then we'll ring for another minute. Okay?

Any hon. members wishing to speak on this bill? The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I must say it is a pleasure to stand once again to continue on in the vein of the Member for Calgary-Fish Creek, my friend and colleague. What amendment A17 is proposing is that we open up the whistle-blower legislation and give it the same powers that the Auditor General follows, to follow an account for tax dollars wherever they are so that the whistle-blowers, when they come forward, also have protection to come forward and can come forward.

Why would we audit something if a whistle-blower couldn't come forward and speak? It's only common sense to allow any person who is working for an entity that receives government funds to be able to stand up and blow the whistle if need be, maybe if there is gross mismanagement of public funds within that organization. Right now the way it stands in Bill 4 is that they're not covered. It's only the public entities, so the direct ministries. We want to open this up. We want this so that public entity means any organization receiving government funds. I think this is a very common-sense amendment and one that offers up a little bit of transparency and accountability.

Again, I think this is a wonderful amendment. I can't see any reason why we wouldn't want to extend the protections under Bill 4 to anybody who's working for a public entity, one that is receiving government funds, so any organization receiving government funds to operate. I think this is prudent, and I believe that we need to have this. All it's going to do is mirror the powers that the Auditor General has. We've got one entity where these powers are granted. Why not grant protection for those people as well? If they're already receiving government oversight, let's expand it to protect the employees when they come forward if they do see gross mismanagement.

With that, I'd like to thank you for your time and the ability to speak to this amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other speakers who wish to speak on amendment A17? The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Madam Chair. It is an honour and a privilege to speak to Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act, and this amendment that has been put forward by the hon. Member for Lacombe-Ponoka. I am

speaking in favour of this amendment because I think it's interesting that we trust and we receive guidance from the Auditor General on a regular basis. We trust his or her judgment. This amendment would essentially allow this act to have very similar powers and very similar actions.

Also, by changing it to public entity meaning any organization receiving government funds, I think there's an additional obligation on us. We need to ensure that if the organization is receiving government funds, then it needs to be protected by the whistle-blower legislation. The reason for that is because the minute we're using taxpayer dollars in any organization, we need to ensure that those working for that organization have the same protections that we're affording those people who are not working in the public sector. Allowing for it to have similar powers to the Auditor General's and to follow an account for tax dollars is extremely important, especially as we head into an era when the public itself has a limited amount of trust at the moment about where we're spending our tax dollars and how we're spending those tax dollars. It would ensure that this public entity that's receiving the government funds is accountable to the taxpayer and accountable to the Legislature.

The current act says that cabinet "may make regulations" relating to an organization "that receives all or a substantial part of its operating funding from the government," but this amendment would make sure any organization that receives public dollars would be covered by the act. The section of the act is not yet determined, but if we're saying that it may receive all or a substantial part of its operating funding from the government, then it's not that big a stretch to say that make sure any organization that receives public dollars would be covered by this act.

It would seem to be a reasonable amendment that not only protects the government, but it also protects those people who are working in those organizations that are receiving government funds. If we're saying that it's fair to have reasonable protection for those people who are working in government-funded facilities and organizations, then it would seem only fair that those organizations receiving taxpayer funds are afforded the same protection.

We have many facilities that receive taxpayer money and aren't necessarily government agencies, but they do receive taxpayer dollars. For example, let's just say that it's a seniors' facility. In that seniors' facility there's a worker that is not a government employee or not fully funded by government funds or taxpayer funds, and in that facility an employee sees areas of wrongdoing. That could mean a multitude of things. It could mean abuse of patients. It could be financial abuse. It could be concerns with regard to regulations.

I believe we heard the hon. Member for Airdrie talk about an unfortunate situation where paint thinner was kept in a closet and hadn't been removed for a time. Let's say that that was an ongoing practice hypothetically. I don't think it is, but let's just say it was. If it was an ongoing practice and that employee had a concern about that but because they really felt that they couldn't go to the designated officer that the act allows or in this case because they're only receiving government funds but not full funding, they really have no protection. So if they see any abuse going on or if they see any areas of concern, whether it be ethical, financial, or abusive, they have no ability to report without fear of reprisal or fear of losing their jobs.

This is really, really important when we're dealing with the more vulnerable in our society. We're dealing with people who can't speak up for themselves. We're dealing with people who literally are relying on others to ensure that their interests are met

and to ensure their protection. When we don't apply this act to a public entity that means any organization receiving government funds, then we're limiting the protection that we're providing to the more vulnerable people in our society. We're also limiting the ability for those workers to be able to do their job in an effective manner. It's easy to say all the time that anyone can step forward and anyone can put their job on the line and they'll be protected, but the reality of it is that if it's not legislated protection, then very few people are willing and able to do that.

I mean, we even see that right now. In areas that should have full protection, we see that employees are right now scared to come forward. Whether it be anonymously or not anonymously, they're terrified. They literally come forward only under duress and usually only under significant impact, and/or they leave their job and then come forward and say: oh, this was what I saw happening, but I couldn't speak to it at the time.

One of the clear areas where we saw that, really, was when Stephen Duckett left in 2009. I mean, he clearly came out against the government's position. He went against Alberta Health Services. Like him or not – I don't know the man, so I'm not saying that I do like him or don't like him – what I am saying is that, unfortunately, for unclear reasons, you know, he was dismissed. We know it was clearly after taking a position that wasn't in favour at that time. We had a payout of \$735,000 to him. Perhaps if there had been whistle-blower legislation, he might have taken that avenue rather than coming out publicly and then being publicly reprimanded and forced to lose his job. It would have also perhaps saved the face of everyone in here if his issue could have been dealt with in a more ethical and controlled manner.

It literally has the ability to protect the people that are taking care of our most vulnerable. I think that that's really important going forward. I think that if the act already says that people may be covered or organizations that are receiving government funding right now may be covered, then to say that they will be covered if they're receiving government funds is not that far a stretch.

Thank you.

7:40

The Deputy Chair: Thank you, hon. member.

Is there anyone else? The hon. Associate Minister of Municipal Affairs.

Mr. Weadick: Thank you, Madam Chair. It's a pleasure to rise today and just speak for a moment or two about this bill. If you look at the act the way it's been written, public entity is quite broadly defined already. "Public entity" means any agency, board, commission, Crown corporation or other entity designated as a public entity in the regulations." This leaves it within the regulatory ability to sit down with almost any organization that works with government and work through a process with them to see them become part of this.

Don't forget that this legislation is about our employees, about working with our government employees. This isn't about taking it to the entire province. The problem with this amendment as you see it means that almost every agency, every not-for-profit in the province of Alberta would fall under this legislation. Now, one part of that sounds good. It'll allow people to blow the whistle. The other piece of this is imposing the requirements of this act on every softball organization and judo club. Every organization that receives some funding from the provincial government would have to try to meet the requirements of this bill without ever having a chance to sit down and work with us or talk to us or determine if they even want to be part of it.

Whistle-blowing is important, but this bill is really geared not to open it up to every Albertan or to every organization that may receive money. It's about providing an opportunity for our staff, for people who work closely with government to find new and better ways to do things, to find an opportunity to speak to us. If they see things that may be done better or expenses that are being done wrong, they can come to us, they can sit down, and they can work with us. That's the intent of this bill. I believe that this amendment, first off, takes it out of regulation and broadens it so wide that it will almost become impossible to manage.

I'm thinking about organizations in my community that would fall under the requirements of managing this legislation. These are things like your local Scouts and Girl Guides. These are things like your local judo club. These are organizations that receive some funding support, that have some part-time people working with them who run organizations in our communities. You would be forcing them to meet the requirements of this act. You know what? We're here to listen to those folks if they see funding that is being misspent or misappropriated. We're always going to listen to them.

But this legislation isn't about that. It's about working with our staff, public servants, and creating a way for them to come to us freely and openly and talk about new and better ways to do things, to clean up things that maybe could be done better. Whistle-blowing isn't all about trying to sneak around and find how somebody did something wrong. It's also about finding new and better ways to do things. Often I've had people in my office – I've had nurses; I've had many, many people over the last five years – sitting across the desk and saying: you know, if we could do this this way, it would be so much better. You know what we do? I don't take her name. I take the idea. I pass it on to the Health minister or to the Associate Minister of Seniors. You know what? We've been able to fix many things because those people came and sat down across the desk from us. That's how it's done.

Imposing legislation like this without even talking to those organizations, many thousands and thousands of small community organizations, would be just wrong. I can't support that, and I believe that we should stick with what this is. It allows us within regulations to work with any organization that comes forward, that wants to work with us in this.

We already know that cities and any municipality, hundreds of them across the province, will have the opportunity simply by having a resolution at council to join this plan. We have huge opportunities to bring people into this. But if you water it down too much, we lose all of the impact.

I will be voting against this amendment. I believe that the way the bill is structured gives us the flexibility we need to do it right.

Thank you.

The Deputy Chair: Thank you, hon. minister.

Is there anyone else who would speak on amendment A17? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I rise to speak in favour of this amendment on a number of fronts. I do find it interesting that for legislation that is supposed to protect the whistle-blower, my colleague from the opposite side just argued how it doesn't do that. It actually just creates more bureaucracy rather than protecting whistle-blowers.

First of all, if the government did not consult with all these organizations, that in itself points to another flaw in this legislation. Those different groups should have been consulted. The purpose, again, of whistle-blower legislation is to protect the whistle-blower regardless of which department or entity they work for.

The fact that my colleagues from the Wildrose came up with this amendment to cover all groups that receive public dollars I think will help ensure that those dollars are accountable and that organizations that receive funding are held to account but, also, give the tools to the individuals working within these organizations. If they feel that they need to exercise their right by blowing the whistle because of something that does need to be improved or something that is wrong, it gives them the ability to do so. Ideal whistle-blower protection would ensure that the whistle-blower is made whole, which is something else I'll speak to later on regarding some of our amendments on this bill and the fact that it falls short as far as doing everything which it should be doing to protect the whistle-blower and the individuals themselves.

I do think that we do need to broaden the definition within public entity and, again, cover all organizations that receive public dollars. If this is meant as a tool to help individuals, to give them a way to ensure that there's a channel for them to make suggestions or improvements to an organization or especially if they see that there's either neglect or an abuse going on, they need the certainty to be able to speak out and there is a proper channel and recourse. Again, if that's what this act is intending to do, then let's expand it to include all agencies and organizations that receive public dollars.

Therefore, I will urge this Assembly to vote in favour of this amendment. Thank you, Madam Chair.

The Deputy Chair: Thank you very much, hon. member.

Is there anyone else who would like to speak on the amendment?

We'll call the question.

[The voice vote indicated that the motion on amendment A17 lost]

[Several members rose calling for a division. The division bell was rung at 7:47 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Swann
Bilous	Stier	Towle
Fox	Strankman	

7:50

Against the motion:

Allen	Hughes	McIver
Amery	Jansen	Olson
Brown	Jeneroux	Pastoor
Calahasen	Johnson, L.	Quadri
Campbell	Kennedy-Glans	Rodney
Cao	Khan	Sarich
Dallas	Lemke	Scott
DeLong	Leskiw	Weadick
Drysdale	Luan	Webber
Fenske	McDonald	Woo-Paw
Fraser		

Totals:	For – 8	Against – 31
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[Motion on amendment A17 lost]

The Deputy Chair: We will move back to Bill 4. Any members who wish to speak on this bill? The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I would like to move an amendment on behalf of the Member for Calgary-Fish Creek.

The Deputy Chair: We have another amendment. We'll pause for a minute while the pages deliver that amendment to each member.

Hon. colleagues, the amendment that you just received is out of order, so we're not going to discuss this amendment because it was discussed previously. We're going to go back to Bill 4.

The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I would like to move another amendment on behalf of the Member for Calgary-Fish Creek.

The Deputy Chair: Thank you. We'll pause while those papers get distributed.

This document is now considered A18. If you would like to proceed on amendment A18, the hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. Again, it's an honour to rise and speak on behalf of this amendment, which I support. What the intent of this amendment is is to further protect those who come forward to blow the whistle, those who may wish to stay anonymous when they blow the whistle. What we're looking to do in this is amend section 10(1), to strike out "only" at the end of section (1), strike out "or" at the end of clause (h), add "or" at the end of clause (i), and add the following after clause (i):

- (j) in a manner that protects the identity of the employee making the disclosure.

Now, I think it's pretty self-evident why we would want to protect the identity of the whistle-blower. Sometimes they come forward on very contentious issues, ones where they may be worried about their safety or may have other reason to be concerned about maybe some other type of reprisal that is not listed specifically within this act. I believe it behooves us to allow them the option to come forward with an anonymous disclosure that would – who knows, actually, what the anonymous disclosure would be? It's just the fact that they may not want their identity out there. I do believe that the protection of a person's identity is very important, and I believe the government thinks that as well. I mean, we've seen in the past other legislation put forward to protect the identity of Albertans. We saw it with the FOIP Act. We've seen it in other locations as well.

An employee really should be able to blow the whistle any time, and they really should be able to do it anonymously if they so choose. They should not be forced to have their identity released if they are concerned about that. Currently, the way this is written, employees have to identify themselves to their designated officer when making a disclosure. If they don't and they want to go through the commissioner – we just were talking about that in another section here, section 11, where it said that even if they go through the commissioner, they've got to come back to the company's designated officer. Again I ask: how is that keeping that person anonymous? We want to make sure that when they come forward, if they only want to speak with the commissioner and they want to stay anonymous, that request be met.

Now, employees shouldn't be intimidated when they are flagging down wrongdoing. Who would want to complain about their boss to their boss? I mean, they're looking for a little bit of anonymity when they're coming forward. Let's make sure that we're protecting those in our public service so that when they do want to come forward and they do have something sensitive and they are worried about their own person, they have the ability to stand up, come forward, and do it anonymously.

With that, I'd like to thank you for your time and thank you for the honour of standing and speaking to my colleague's amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other members who would wish to speak on this item? The hon. Member for Cypress-Medicine Hat.

Mr. Barnes: Thank you, Chairwoman. I'm in favour of this amendment. It seems to me that in running a \$44 billion enterprise annually and being a believer in opportunity and fairness for all and a believer in making this legislation the most effective way we can, as the hon. Member for Lacombe-Ponoka just pointed out, if an employee or a whistle-blower cannot blow the whistle anonymously with a degree of security and a degree of certainty that they will be protected – I guess it comes back to them being able to blow the whistle in the way that makes them the most comfortable.

8:00

I can think of some situations in Cypress-Medicine Hat in the short time I've been an MLA where people involved in the education system and people involved in the health care system have come to me and said: "Oh, I'm going to tell you something," or "Maybe I'll tell you something, but I don't ever want them to know it's me; please don't say my name." Fortunately, it's been nothing that hasn't been workable, but how do we know when it goes past that?

Again, to make this legislation, part of a \$44 billion annual enterprise, as strong as possible, it would seem to me that the thing to do is to make it so the whistle-blower, a fellow Albertan, is the most comfortable at blowing the whistle in the way they see fit. For some that will be going back to their employer – they'll be going back to the chain of command and sitting down and having a coffee or a beverage and working it out – but for others it won't. So why would we do anything to slow that down?

Employees should not be intimidated when they're blowing the whistle and they're helping us eliminate government wrongdoing. Of course, the whole purpose behind eliminating government wrongdoing is to make our government spending so it's more efficient, make it so it's more fair for all our citizens. The current situation where they have to identify themselves: I can see some real problems developing with that.

You know, as critic for Infrastructure and Transportation, I mean, there are billions of dollars spent on those two annually. I think there have been many, many times in there where if somebody has some idea of cost savings, if somebody has some ideas of things where our government money and government employees are not being treated properly, they should have the opportunity as well to come forward in the best way that suits them.

Thank you to the hon. Member for Lacombe-Ponoka for bringing this forward. I will certainly be supporting it.

The Deputy Chair: Thank you, hon. Member for Cypress-Medicine Hat.

Are there any other members who wish to speak? The hon. Member for Drumheller-Stettler.

Mr. Strankman: Yes, Madam Chairman. I'd like to speak in favour of this motion. I think it's important to part of the whistle-blower legislation. The similarity that I see in this legislation is to that of a newspaper source, where the reporter has a chance to use an anonymous source to report a wrongdoing or to bring forward a story. In that case, those options or those situations have been challenged and fought in legal jurisdictions both in this country

and others around the world, that there is a guarantee of anonymity to those people who bring those stories forward. And with that the responsibility then falls back on those who this person gives that story to to understand the credibility of that.

I take great umbrage that our government and the members opposite seem to have a level of fear or a certain form of vision – in the rural community we call it blinders – to a wider perspective of this legislation. This is only one of, as you know, many amendments that we're bringing forward here, but I think it's important to try and give this as much latitude as we can. In some cases more freedom creates less regulation, and it allows greater purpose to the legislation coming forward. Why should we have to come back multiple times to bring some of this forward? I think we have a chance now to be proactive about bringing this legislation forward, and our party is doing the best we can to bring forward amendments, albeit small. I think members opposite deserve to hear and understand our arguments.

With that, I yield the floor, Madam Chairman, and speak in favour of this amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other members that wish to speak on amendment A18? The hon. Member for Lethbridge-East on that amendment.

Ms Pastoor: Thank you, Madam Chair. I would speak against this amendment for a number of reasons. Research into best practices has demonstrated that an internal process supports developing an organizational culture that encourages people to speak out without fear of reprisal when they witness a wrongdoing. In turn, this will lead to an environment where wrongdoing is less likely to occur in the first place.

That said, the act sets out circumstances where the employee can disclose directly to the commissioner. These circumstances have been carefully considered and weighed in light of the advantage of an internal disclosure process. They include, for example, where the employee has suffered a reprisal or fears reprisal, where the employee is reporting about an individual charged with administering the internal processes, where the internal processes have produced an outcome that is not satisfactory to the employee. When making a disclosure internally, employees also have the option of notifying the commissioner to ensure appropriate oversight.

The second part of this amendment has no effect. As I've said before, anonymous disclosure from anyone, employee or not, is permitted specifically under section 21. The opposition's proposed clause (j) would do nothing but restate what the act already has said in other sections.

I would just make one, I think, personal comment in terms of actually standing up for something that you think is wrong and confronting your employer with it. When I was a nurse, there were a number of things that I was seeing that I didn't like, and I would speak out. But was I brave? Probably not. Why did I do it? I did it because I knew that I was protected by the union. The fact that I knew I had some kind of protection allowed me to pretend to be brave and speak out.

I believe that if people know that they will be protected by that commissioner, if they know that there's somebody else that is aware of what they've done and what they've said – and, of course, all of this should be in writing – then I believe that people will speak up. But if they're on their own, and they're only talking to their boss, which has been alluded to many times, and the boss is the one that can enforce reprisals, then yeah, they're not going to do it. But if they know there's someone behind it, they will.

For those reasons, I will not be supporting this amendment.

The Deputy Chair: Thank you, hon. member.
The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Madam Chair. Thank you to the hon. Member for Lethbridge-East. I appreciate your comments there on section 21. However, if you read section 21, it says:

If the Commissioner receives an allegation of wrongdoing that has been made anonymously or by an individual who is not an employee, the Commissioner may choose to investigate the disclosure or may, in the Commissioner's discretion, forward the allegation to the chief officer of the department, public entity or office of the Legislature in respect of which the allegation of wrongdoing is made while maintaining the anonymity of the individual . . .

At that point, yes.

. . . and the chief officer must manage and investigate the disclosure in accordance with the procedures established under section 5.

If you go back to section 5, they must do it in writing, so there is no anonymity. He may choose to investigate, he may choose to further it down the line, or he may choose to do nothing.

In reality there is no protection of anonymity. There is the option of it at the commissioner's discretion. So you're totally trusting that the commissioner will always do the right thing. There may be a time when the commissioner does not do the right thing, or there may be a perfect time when the commissioner does do the right thing, which I think is the intent of the bill, but then he puts it down to the chief officer, who then follows section 5, which then forces the person doing the whistle-blowing to now follow section 5, which then requires them to disclose.

Also, under disclosure of the commissioner in section 10(1), it says that the

employee may make a disclosure directly to the Commissioner only

- (a) if no procedures have been established.

And I'm sure that the departments will establish the procedures.

- (b) if the employee has made a disclosure in accordance with the procedures established under section 5,

which requires them to self-identify.

- (c) if the employee has made a disclosure in accordance with the procedures established under section 5 and the matter has not been resolved . . .

- (d) if the employee has made a disclosure in accordance with the procedures established under section 5, the investigation under those procedures has been completed,

and the final decision was not satisfactory.

- (e) if the . . . disclosure involves the employee's chief officer or the employee's designated officer.

And then it goes on to list, you know, a few more options there.

It says that you can only disclose to the commissioner if those five conditions are not met. If we're truly talking about protection of whistle-blowers, why does it matter who the whistle-blower discloses to? Why are we putting conditions on their anonymity and who they disclose to? If we truly want to protect whistle-blowers, there is no reason why that person could not anonymously or at any point in time disclose to the commissioner.

8:10

We're not saying: change all of these parts. You certainly can leave those conditions in there and certainly try and redirect them up the chain. That's fine. But why are we saying to a whistle-blower that you can only come to the commissioner under anonymity and only if you meet these section 10 conditions? It seems to me that we need to take a look at what is best for the whistle-blower and puts them in the most protected position.

Given that section 21 does not actually protect their anonymity and forces them back to section 5, which forces them to go to their chief officer and forces them to meet all of the subsections under section 5, which are substantial, and then only after going through that roundabout process can they make a disclosure to the commissioner anonymously, what we're really doing is – let's just say that the whistle-blower decides that they feel they can't meet section 5. They believe that they can't meet all of the subsections of section 10, and they fall under section 21. Let's say that they honestly believe that they have anonymity, and they go to the commissioner, and then the commissioner uses his discretion and says: "No; sorry; we're going to punt you back to your chief officer," back in section 5. What does that do to the morale and to the integrity of the system of the whistle-blower legislation? What it really does is effectively kill it.

We're saying to people: you can come forward, but in my discretion I'm going to tell you under which area you can come forward. It would seem to me that we shouldn't make it so hard for them to come forward. We need to make it easy for them to come forward. I think you just might find that if we make it easier for them to come forward, they may actually do exactly what the hon. Member for Lethbridge-East said. They may feel that they truly have the protection there, that they do feel that they can go to their supervisor, and if that solution doesn't work, they can go to the manager above that person, and if that person doesn't work, perhaps they could go to their deputy minister, their minister, or their MLA. Rather than creating a huge scene, they may be able to actually solve the problem from within rather than having to go public and actually putting themselves on the line.

If we're not going to protect their anonymity, if we're going to make them circle back and come back to section 5 anyway, why not just eliminate the process and truly allow for them to have anonymity, to have true whistle-blower protection, and keep integrity in the process?

Thank you.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you very much, Madam Chair, and thank you to the Member for Innisfail-Sylvan Lake. Thank you very much for that. I understand where you're coming from, but a couple of things. Enron and Nortel were brought down by women, women that had the backbone to stand up. Another thing that they did have was that they had a lot of data, they had a lot of stuff that proved what they were talking about. If you go to the commissioner, I don't think you need to – I think everybody should know who you are and what you're doing because surely you're not going to come forward unless you've got something concrete to present to the table. That's probably why I would disagree with that.

As far as huge scenes go, I think that huge scenes often can get results a lot quicker than worming around inside of internal stuff. But if a commissioner knows that somebody has that data, they have that information that proves whatever they're trying to talk about, he's going to do something. He might send them back, but he's sending them back with that protection behind their back, knowing that in section 5 that boss or whoever that is will know that the commissioner is behind this person. So their back is covered.

I think that was the end of my notes.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Madam Chair. First off, Enron was brought down by derivatives and false bookkeeping. The female that actually knew about it was unable to actually report it, and her legitimacy became legitimate after the collapse.

Ms Pastoor: But she started it.

Mr. Anglin: She knew about it.

It speaks directly to this amendment, Madam Chair. This is why this is a good amendment. As the hon. member pointed out, under section 21 it doesn't apply when you get down to section 10(1)(f) because if you look at section 11, that employee must disclose.

Now, using the Enron example, had this person had the ability to disclose anonymously – certainly, she knew what was going wrong. She had the knowledge, but nobody was listening. I don't know how to get beyond that even in this legislation, never mind the anonymity, dealing with the issue of this amendment. But it's an attempt. Anonymity is important in many regards.

I want to back up just to the particular section that reflects to the anonymity of section 11, which relates back to 10(1)(f): if it is a matter that “constitutes an imminent risk of a substantial and specific danger.” I couldn't care less if I knew who made the warning as long as I got the warning on that imminent danger. The last thing I would want to really concern myself with is the identity of who is going to ring the alarm. What I want is the alarm to be rung in a valid manner. In other words, it meets that standard of imminent danger.

I agree. It is rare that anonymity needs to be actually part of the process, but it has to be an avenue that is available when it is required, in my view. As I look at this legislation, we want people to come forward and disclose information. I don't agree with all the amendments that have been rejected. I think some were valid amendments that would have actually strengthened this bill. But for this amendment here to give one avenue to the protection of anonymity does not override any other aspect. It just throws that protection in there when that protection is required.

Section 21 is not paramount to section 10(1)(f) or section 11. There is no paramountcy there. As a matter of fact, section 11 actually mandates that “the employee must . . . make a disclosure about the matter to the employee's designated officer.” So the anonymity is lost.

Again, to summarize exactly what I've just been saying, if it has something to do with imminent threat or imminent danger, to respect anonymity is a valuable tool versus not getting the information. I don't see where it hurts either way.

Thank you very much.

The Deputy Chair: Thank you, hon. member.

Is there anyone else who would like to speak to the amendment? The hon. Associate Minister of Accountability, Transparency and Transformation.

Mr. Scott: Thank you, Madam Chair. I just wanted to briefly point out to my colleagues that section 21 does deal with the issue of anonymity. I realize that people are describing other sections of the act and that it's possible to refer the issue back pursuant to the circumstances set out in section 5, but the one thing that is going to need to be done – and it's right in section 21 – is that if it's referred back, it's done “while maintaining the anonymity of the individual.” That's in section 21, about the third line up from the bottom. So there is protection of anonymity in the act. It's in section 21.

For that reason, I can't support the amendment.

The Deputy Chair: Thank you, hon. member.

Is there anyone else who wishes to speak? The hon. Member for Lethbridge-East.

Ms Pastoor: Thank you, Madam Chair. Just a couple more comments, if I might. Clearly, I think that we're going to agree to disagree on this. If I was the commissioner and somebody came to me and I didn't know who they were, I'm not sure how much attention I would pay to it. Now, if it was something that was an imminent danger, then I probably would react.

I'll use an example. Way back when I was a nurse in long-term care, they set up a phone line that people could phone and complain about whatever it is that they wanted to complain about. It was very quickly changed so that people actually had to give their names because there was all kinds of nonsense being put out because they knew nobody could know who they were. So, clearly, they had to say their names.

I don't know what kind of funny stuff that you have to smoke, but I really don't think that there's a whole pile of privacy left in the world. Even if you do something anonymously, gossip usually takes over, and it doesn't take long for this kind of thing to come forward.

My comments.

8:20

The Deputy Chair: Thank you.

The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you very much, Madam Chair. The hon. minister brought up a comment about section 21. I would disagree. Managing or maintaining anonymity is not the same as protecting anonymity. There's a difference in language, and that is important to know here. If you go back to my example of 10(1)(f), of an imminent threat or danger to life, maintaining anonymity does not supersede section 11, which requires that that employee basically report this to their designated officer. I just want to point that out. There's no clarity here, which actually substantiates why this amendment is a good amendment to make sure it is clear and concise in law that anonymity can be protected when it is necessary.

The Deputy Chair: Thank you, hon. member.

Is there anyone else who would like to speak on amendment A18?

Seeing none, we'll go right to the question.

[The voice vote indicated that the motion on amendment A18 lost]

[Several members rose calling for a division. The division bell was rung at 8:22 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Anglin	Fox	Strankman
Barnes	Saskiw	Swann
Bilous	Stier	Towle

Against the motion:

Allen	Fraser	McIver
Amery	Hughes	Olson
Brown	Jeneroux	Pastoor
Calahasen	Johnson, L.	Quadri
Campbell	Kennedy-Glans	Rodney
Cao	Khan	Sarich

Dallas	Lemke	Scott
DeLong	Leskiw	Weadick
Drysdale	Luan	Webber
Fenske	McDonald	Woo-Paw
Totals:	For – 9	Against – 30

[Motion on amendment A18 lost]

The Deputy Chair: We will move back to Bill 4. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I'll move an amendment, that I'll pass out.

The Deputy Chair: We have an amendment. We'll pause until that amendment gets handed out. Hon. members, this will be known as amendment A19.

If you would like to proceed, hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. If you'll indulge me, I'd like to read the amendment itself. I'm moving that Bill 4, the Public Interest disclosure (Whistleblower Protection) Act, be amended as follows.

In part A section 5 is amended in subsection (8) by striking out "and that all future disclosures, other than in the circumstances described in section 10(1)(b) to (i), must be made to the designated officer in accordance with the approved procedures."

In part B section 10 is amended (a) in subsection (1) by striking out all the words that follow "directly to the Commissioner" and (b) in subsection (2) by striking out "or under subsection (1)(f)."

In part C section 11 is struck out.

In part D section 29 is amended in subsection (1) by striking out clause (c).

In part E section 36 is amended in clause (g) by striking out "when an employee may make a disclosure directly to the Commissioner, and."

At the moment this bill makes it very difficult for a whistle-blower to go directly to the commissioner. Only under exceptional circumstances, in other words, can an individual go directly to the commissioner. This amendment will ensure that a whistle-blower can go directly to the commissioner and bypass the internal processes. Once this internal whistle-blower policy is in place, again, they must use the internal process except under exceptional circumstances referred to in the bill. Essentially, a whistle-blower can only go directly to the commissioner if he or she feels there's an imminent threat to health or safety or if he or she has serious reasons to doubt the integrity, to mistrust the capability of the internal processes to deal with the issue. The challenge with this is that these limitations set out in clauses (a) to (i) are far too limiting, and they should be struck out in order to encourage whistle-blowers who feel anxious about internally reporting to a chief officer.

8:30

It's another example where the bill seems designed to discourage whistle-blowers and to protect public entities from them. We should be encouraging all avenues of disclosure. This, for example, is a specific case with a simple amendment to the bill which can allow whistle-blowers to feel safe in going outside of their workplace right from the outset should they so choose.

The process for blowing the whistle should be as clear and as transparent as possible. Oftentimes serious cases of wrongdoing which threaten the well-being or safety of employees require quick action. Again, this amendment will ensure that the employee

and not the regulations decides when he or she can go to the commissioner and when he or she can go to the internal chief officer.

Again, Madam Chair, it comes down to: what is the purpose of this legislation? If it's to provide the whistle-blower with the tools to be able to act and in certain situations act immediately and promptly, then this just opens up an avenue where they're not going to be limited to going through the internal process first, where they can go to the commissioner. I feel that this is an amendment that, hopefully, will be accepted by this Legislature and Assembly.

Again, if we look at the intention of this bill, to protect whistle-blowers, to give them options and avenues to do what's going to be serving all of us in our best interest the most effectively and efficiently, then I recommend that the Assembly accept this amendment.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you very much, Madam Chair. I'm pleased to rise in support of this amendment. I think it's a very thoughtful and appropriate shift to put the onus on government to make it as safe and easy for a whistle-blower to achieve the end, which is to expose wrongdoing. By limiting that and by forcing internal processes first, you're simply going to discourage a large majority of whistle-blowing. It just doesn't indicate to me a government that really wants to get at the root of problems: mismanagement, malfeasance, waste, corruption.

Why not make it the very first priority to allow a whistle-blower – and I again have to go back to my own experience. If I was able to go outside of the organization safely and raise some of the issues around carbon and climate and felt safe to do so, I would have done so. This bill suggests to me that we're still not ready for that. We're still not ready to allow people inside the bureaucracy to actually avoid any perception of vulnerability and any perception of the possibility of indirect harm coming back to them.

One of the big challenges, of course, in this whole legislation is that there may not be any immediate retaliation, there may not be any financial impact, there may not be any job impact for months, but the next opportunity for retaliation may come.

I guess I would argue very strongly that we should make every effort to really facilitate the easiest, safest, and most timely response directly to the commissioner. It's a key issue for me in terms of adding credibility and effectiveness to this bill.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on this amendment A19? The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Madam Chair, and I'll keep my comments brief. Clearly, even in this room there's some confusion on whether there's anonymity or whether there isn't. The hon. Associate Minister of Accountability, Transparency and Transformation mentioned that section 21 does offer anonymity, but then the last sentence of that also says that "the chief officer must manage and investigate the disclosure in accordance with the procedures established under section 5."

I believe that you have the greatest of intents here – I honestly do – and I think that what you're trying to achieve is anonymity, but it concerns me greatly when the hon. Member for Lethbridge-East says that anybody who has information should have to

disclose, not just that they may or have the option not to disclose but should have to. Clearly, within this room of legislators there's a discrepancy. She also went on to say that in the event that they had the evidence and didn't disclose, she would not take it seriously, that if she was the commissioner, she would believe that if a person didn't disclose, they would have less value in what they were whistle-blowing about than somebody who did. I don't believe that's what she actually meant. I'm hoping what she actually meant was that we want to make sure that the people coming forward have the best information and that they're not sending everybody on a wild goose chase. I hope that's what she meant.

The fact that there's even a discrepancy in this room makes me wonder: how could there not be room for discrepancy for the people coming forward, especially when we're hearing comments from MLAs and from legislators that say, "On the one hand you have anonymity, but on the other hand you may not have anonymity, and if you have anonymity, I may not pay any attention to your complaint anyway"? That causes great concern, and I think that would cause great concern to somebody who's thinking about coming forward.

I think the intent of the act is good. I think the intent of the act is to provide the ability for whistle-blowers to come forward, and I think this amendment allows you to do that. But, clearly, if there's discrepancy in this room, then I think there's going to be some confusion once we get out to the average public.

Thank you.

The Deputy Chair: Thank you, hon. member.

Mr. Scott: Just to speak to the point that was just made, I want to point out that section 21, the anonymity section, is surrounded by the rest of the language. Anonymity is protected by section 21.

As to the specific amendment itself, I just want to point out to my colleagues that section 10(1)(h) provides that if an employee has a reasonable fear that they're going to have or experience a reprisal, they can go straight to the commissioner. The procedures permit that. It's already in the legislation. I think that that's a reason why I cannot support this amendment.

The Deputy Chair: Thank you, hon. minister.

Seeing no other members wishing to speak on amendment A19, I'll call the question.

[The voice vote indicated that the motion on amendment A19 lost]

[Several members rose calling for a division. The division bell was rung at 8:37 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Anglin	Fox	Strankman
Barnes	Saskiw	Swann
Bilous	Stier	Towle

8:40

Against the motion:

Allen	Hughes	McIver
Amery	Jansen	Olson
Brown	Jeneroux	Pastoor
Calahasen	Johnson, L.	Quadri
Campbell	Kennedy-Glans	Rodney
Cao	Khan	Sarich

Dallas	Lemke	Scott
DeLong	Leskiw	Weadick
Drysdale	Luan	Webber
Fenske	McDonald	Woo-Paw
Fraser		

Totals: For – 9 Against – 31

[Motion on amendment A19 lost]

The Deputy Chair: We will move back to Bill 4. Are there any members who wish to speak on Bill 4? The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I must say what an honour it is to stand once again and move another amendment on behalf of my colleague the wonderful Member for Calgary-Fish Creek.

The Deputy Chair: All right. We'll take a few minutes as we pass out the amendment. This amendment will be known as A20.

Hon. member, we may proceed on amendment A20.

Mr. Fox: Thank you very much, Madam Chair. Again, I must say what an honour and a privilege it is to stand here and support this amendment and support those that would wish to use whistle-blower legislation. Now, what is this amendment? This amendment is another one that is looking to protect the anonymity of somebody who may wish to come forward and blow the whistle. What it does is amend section 8 of the bill, the whistle-blower act.

How does it read here in section 8? It's a request for advice.

8(1) An employee who is considering making a disclosure may request information or advice from the employee's designated officer or chief officer or from the Commissioner.

(2) The designated officer, the chief officer or the Commissioner may require a request under subsection (1) to be in writing.

Now, why? Why do we always have to disclose somebody who's coming forward looking for information? The current bill can require a potential whistle-blower to make a written request for that information. They may not be willing to come forward yet. They might actually just need information on the process itself and not wish to identify themselves yet or at all.

Really, the government or the ministry or the commissioner or the chief officer or the designated officer: I mean, do they really need to be tracking who's asking for information? Do they really need to know to begin with? I think not. I think that when somebody wants to come forward or may need information to come forward, they should not be painting a target on their back just by requesting the information on how to do so. Employees should be able to learn the policies while remaining anonymous. In fact, I dare say that the employees of these public entities, your ministries, have a right to privacy in requesting that information. I just can't understand why we put in here "may request." May request that they put this in writing, that you have to go directly to them.

Why can't this information be open and available to everybody? Why are we hiding the process? I don't get it. I can't fathom it. Why hide the process on how somebody can come forward and blow the whistle? And blow the whistle on what? Well, anything that could harm or be a danger to the life, health, or safety of individuals or to the environment. I mean, why? Why would you hide the process? I don't get it. Why make somebody come forward and request that information? Why isn't it open and out there and in the public domain? I mean, this is a procedure of government. This is a procedure that you should be laying out there rather than hiding it behind closed doors.

When somebody is coming forward, they're doing so in good faith. They're needing information. With information comes power. You're empowering them to be able to come forward. When you hide it or make them request that information from somebody that they're not sure they're ready to trust yet, you're not empowering them. You're taking that power away. You're taking that knowledge away. Again, we keep going on and on and on about the same issues: anonymity, protecting the whistle-blower, protecting the person, not the process. We want to make sure that the person is protected. The person is paramount above all else.

We don't see that with the way this legislation is written now. This is why we're bringing forward all of these amendments. This is something that not just the opposition parties seem to think is required, but this is something that independent organizations like the FAIR organization are asking for. Whistle-blowers are asking for this. The public is asking for this. We want to make sure that those who come forward, who are heroes, are protected. When we're hiding that information or having them request that information and having to out themselves before they even know that they want to make a claim under this act or seek this act for their protection, I mean, they just can't do it. Honestly, by hiding that information, you're damaging the integrity of this bill. I honestly don't get it. That's why we keep bringing these types of amendments forward, amendments that are designed to protect the whistle-blower, to protect the person, because we want to see integrity in this legislation.

You know, I guess I have to say thank you for the opportunity to stand up for whistle-blowers, to stand up for those who want to come forward as heroes. Again I thank you. I thank this Assembly for allowing me the ability to stand here and ask that we amend this bill so that whistle-blowers are protected not only when they blow the whistle but when they seek the information to decide whether or not they wish to come forward.

Thank you.

The Deputy Chair: Thank you, hon. member.

Do any other members wish to speak on this amendment? The hon. Member for Livingstone-MacLeod.

Mr. Stier: Thank you, Madam Chairman. It's very nice to speak to all of you folks here tonight. I don't often get up until something really strikes me as very important. This one, I think, is very key. I would like to just take a few minutes to talk about it if I may. I have to agree with my associate here from Lacombe-Ponoka. This basic clause has to do only with requesting advice. It is not to make a complaint. It is only for requesting advice.

8:50

I know that perhaps the hon. member across the way may get up and want to recite to us once again section 21 about anonymous complaints in whistle-blowing. I don't think in this case that applies because this, again, is simply just information.

You know, a lot of this bill is great. It's bringing to us a piece of legislation that we've needed for some time to protect whistle-blowers, and I think it's really important. A lot of times it doesn't go far enough, but in this case I think it's gone too far. Whistle-blowers have a lot of nerve and bravery, I think, to come forward, and these people deserve some kind of protection in this stage of their situation.

As the bill stands, it says that the designated officer in the ministry can request a written request. Why? As he has just said, why would that be necessary just for information? It seems absolutely way over the top, and it looks to me like it may be a

way for the government to track who's blowing the whistle. It seems to me to be a way to interfere with the whole sense of this bill.

I would ask those of you on the other side of the House to have a really good look at this one. I think it makes an awful lot of sense to perhaps rejig this one. We think we've got a solution to it, and I would ask for your support on this amendment.

Thank you very much.

The Deputy Chair: Thank you, hon. member.

Is there any other member who would like to speak on amendment A20? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I rise to speak in support of this amendment for a couple of reasons. I think, first and foremost, that if we want whistle-blower legislation to encourage whistle-blowers to come forward to report wrongdoings so that we can improve our system, then we need to ensure that whistle-blowers are encouraged to step forward and, especially, to learn the process of how to go about blowing the whistle. As my colleagues from the Wildrose caucus have eloquently illustrated, this is something that's helping to educate our public sector, our workers, to give them the tools to be able to come forward and learn how to navigate through the process should an instance arise where they feel compelled to use this legislation once it's in place. I think it's important that they can learn about the process while retaining anonymity, while retaining their identity, without fear of reprisal on even inquiring into processes of blowing the whistle.

It's for this reason, I believe, that my colleagues from the Wildrose caucus have put forward this amendment. You know, we don't want our workers to fear reprisal. We don't want them to fear for their safety or to jeopardize or potentially jeopardize their relationship within their professional environments by merely inquiring into how it goes or how it works. My concern is that without this amendment, anyone who steps forward to ask about it will suddenly be grilled on why they want to know the process and who are they planning to blow the whistle on. Suddenly it becomes a witch hunt when a person may be honestly asking about the process just to educate themselves.

For these reasons, I think, again, if we want to protect the whistle-blowers – I mean, I'm frequently hearing from the government that they're doing this for the whistle-blower, to help improve transparency and accountability. Well, it's time to step up to the plate and put in some of these amendments that actually do that and will help facilitate this process. So I encourage members on the opposite side of the House to look at this amendment, which I think is a very friendly amendment to the current legislation.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A20? The hon. Associate Minister of Accountability, Transparency and Transformation.

Mr. Scott: Thank you, Madam Chair. I just want to point out to my colleagues that the act does not prevent an employee from making anonymous requests for advice or restrict a designated officer, chief officer, or commissioner from replying to anonymous requests for advice. For this reason, I cannot support this amendment.

The Deputy Chair: Thank you, hon. minister.

The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. What this bill is missing, though, is the ability to find the procedures in the public domain. There is nothing that an employee can go to to find the procedures. They have to go through the designated officer, the deputy minister, or the commissioner. I think it behooves us to make sure that those policies are out there and in the public realm. I mean, if you're going to go and even think about blowing the whistle, you want to know what the rules are before you even start. You might not be comfortable going directly to these individuals right at the beginning. You may just want to read up on it. There is nothing that allows the person to do that. There is nothing that empowers the person to educate themselves before they come forward and present themselves to these individuals. I think it behooves us – it behooves us – to allow those people that freedom, the freedom to gather that information anonymously.

Thank you.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Livingstone-Macleod.

Mr. Stier: Thank you, Madam Chair. Once again I would just like to refer to the last comments from the associate minister if I could. He says that the act does not prevent or preclude someone from seeking advice. I beg to differ because the very section that we're seeking to amend says:

8(1) An employee who is considering making a disclosure may request information or advice from the employee's designated officer or chief officer or from the Commissioner.

That's fine. However:

(2) The designated officer, the chief officer or the Commissioner may require a request under subsection (1) to be in writing.

May require, meaning that he would have to disclose his identity. That's not my definition of anonymity. If I could suggest, it is actually quite the opposite.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Is there anyone else who wishes to speak on amendment A20, Bill 4?

Seeing none, we'll call the question.

[The voice vote indicated that the motion on amendment A20 lost]

[Several members rose calling for a division. The division bell was rung at 8:57 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Swann
Bilous	Stier	Towle
Fox	Strankman	

9:00

Against the motion:

Allen	Jansen	Olson
Amery	Jeneroux	Pastoor
Brown	Johnson, L.	Quadri
Calahasen	Kennedy-Glans	Rodney
Campbell	Khan	Sarich
Cao	Lemke	Scott
Dallas	Leskiw	Weadick

DeLong	Luan	Webber
Drysdale	McDonald	Woo-Paw
Fenske	McIver	Young
Fraser		

Totals: For – 8 Against – 31

[Motion on amendment A20 lost]

The Deputy Chair: We will move back to Bill 4. Is anyone wishing to speak on Bill 4? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I'm putting forward another amendment with the requisite number of copies.

The Deputy Chair: Thank you, hon. member. We will pause.

You may proceed, hon. member. This will be known as amendment A21.

Mr. Bilous: Thank you, Madam Chair. This is dealing with section 11 of Bill 4. I'm moving that Bill 4, Public Interest Disclosure (Whistleblower Protection) Act, be amended by adding the following after section 11:

When wrongdoings may be reported to a Member of the Legislative Assembly or journalist

11.1 This section applies if an employee has made a disclosure to a designated officer and the Commissioner and

- (a) the Commissioner has refused or failed to investigate the disclosure,
 - (b) the employee has not been advised with a period of 3 months after the day the disclosure is made whether or not the disclosure will be investigated or dealt with,
 - (c) the employee has not been advised of the progress of an investigation for a period of greater than 3 months, or
 - (d) the employee is advised at the conclusion of the investigation by the Commissioner that no action will be taken in relation to the wrongdoing.
- (2) This section also applies if an employee honestly believes on reasonable grounds that
- (a) the employee has information that tends to show a wrongdoing,
 - (b) there is a significant risk of detrimental action to the employee or another person if a disclosure is made, or
 - (c) it would be unreasonable in the circumstances for the employee to make a disclosure to a designated officer or the Commissioner.
- (3) An employee may report a wrongdoing to
- (a) a member of the Legislative Assembly, or
 - (b) a journalist.
- (4) In reporting a wrongdoing under this section, an employee
- (a) must disclose sufficient information to show that the conduct is a wrongdoing, but not more than is reasonably necessary to show that the conduct is a wrongdoing, and
 - (b) if a wrongdoing was reported to a designated officer or the Commissioner, the employee may inform the member of the Legislative Assembly or journalist about the progress and outcome of any investigation.

At the moment the current bill does not provide any provisions for when it's permissible for an employee to report a wrongdoing publicly to an MLA or to the media. This amendment sets up a process for a disclosure to an MLA and to the media.

I'd like to point out a couple of things. Number one, even our federal legislation has a provision which allows for public disclosure of blowing a whistle. Section 16 of our federal law states:

16. (1) A disclosure that a public servant may make under sections 12 to 14 may be made to the public if there is not sufficient time to make the disclosure under those sections and the public servant believes on reasonable grounds that the subject-matter of the disclosure is an act or omission that
- (a) constitutes a serious offence under an Act of Parliament or of the legislature of a province; or
 - (b) constitutes an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment.

As we can see, our federal legislation at least provides that opportunity for whistle-blowers.

Where this amendment is coming from, hon. members, is that if Alberta is serious about setting the standard for whistle-blower protection in Canada, which I have heard the hon. Associate Minister for Accountability, Transparency and Transformation mention on numerous occasions, that our whistle-blower legislation here in Alberta will be the toughest, even tougher than our federal cousins', well, then this section needs to be amended. Much more needs to happen as well if that's to be the case here in the province, but we can start with this. Again, if the claim is that we're going to be open and transparent, then there is nothing for public entities or for public employees to hide. Full public disclosure should be encouraged. This is giving the avenue and the processes for how an individual can go to their Member of the Legislative Assembly or to the media in order to disclose.

This amendment, hon. members, is taken directly from Australian legislation. Again, we've often heard that our government has consulted legislation from around the globe. In case this was missed in the first perusal, this is taken from Australian legislation, and it's considered by experts to provide the strongest protection for whistle-blowers who wish to go public.

When a breach of an act is in question or there is significant risk to the health and safety of Albertans, there shouldn't be any hesitation on the part of the whistle-blower to go public. I would add not only hesitation, but there shouldn't be anything stopping or slowing or delaying or deterring a public servant from blowing the whistle and going public. As I have said, this gives them an avenue and the steps in order to be able to do that.

I will ask this Assembly to consider this amendment. Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who would like to speak on amendment A21?

Mrs. Towle: I'll just keep this brief. I do rise in support of this amendment. It's very similar to one that we proposed as well, but I think that it's actually more in depth. I appreciate the effort that was put into it. I think that it goes back to exactly what we've been saying all night. In reality, the person who is wanting to come forward and identify a situation that causes them to be a whistle-blower should be able to do that in any manner that is acceptable and comfortable and makes them feel safe to do so. Regardless of whether it's the media, whether it's a commissioner, whether it's a chief officer or it's your MLA, they should be able to do that.

There have been situations where none of those avenues are safe, so they decide to disclose to the media. I appreciate the hon. member from Calgary for his comments the other day about how sometimes that can go haywire. You're absolutely right. Some-

times it can. I can understand the concern there. But if that person is taking that avenue, then sometimes there's a reason for them to do that.

9:10

I also can appreciate other members' concerns here that MLAs are not ombudspersons and MLAs shouldn't be involved in this situation, but the reality of it is that this is our job. People come into our offices every single day and disclose personal detrimental situations to us all the time.

I have a situation right now in my office where a person has come forward to me as the Seniors critic and is talking about what they believe to be abuse in a seniors' centre. They believe that they've already taken their complaint as far as they can go through the system. They claim to have written a letter to the minister. They claim to have written a letter to the associate minister. They've provided a letter to me where they've made a complaint to the Protections for Persons in Care Act. They've provided a letter where they've complained to the elder abuse strategy person. They feel that there is no other avenue to go to. They also feel that if they come forward, their loved one will be punished or abused further. Where do they go? They're even scared to come to me. They don't even want me to bring this situation up yet because they're terrified that if I do, their senior will be abused, their loved one will be hurt even further.

That is a scary situation for us to be in these days. There should not be a single Albertan who believes that if they report something that has a negative impact on someone else – that they're scared to come forward. There shouldn't be a single person out there that if they've used the process in place – and many of the members here have talked about the processes, the processes, the processes. That's fine. But sometimes the process fails, and when the process fails and when the person who's coming forward doesn't trust the process, where do they go?

So far they have no ability to have anonymity. They have to go to their chief officer. They have to disclose in writing. We're just making it pretty much impossible for them to come forward, so they're reaching out to other people, and they are reaching out to their MLA. Now, I could take forward an anonymous complaint or an anonymous situation, but am I going to go to the chief officer of that person who's an employee or that person whose loved one is in that facility? They're too scared to have that happen. There's a reason they're scared. I don't believe that the average person who's gone to that many lengths is going forward to that point just to create a problem. I believe that that person truly, honestly believes that their loved one is being hurt in some way.

I can tell you that as a caregiver, as someone who cared for my brother in a long-term care facility, I was very fortunate. My brother was never in that situation. But I can tell you as somebody who's been there that if I truly believed that that person that I loved was being abused in any way and that if I took that information through the process, he would be punished further, I wouldn't do it.

That's the fundamental problem here. We're putting up a roadblock to say, "You have to do it this way, and if you don't like doing it this way, then don't come forward," which means that that behaviour continues until either that employee leaves, the person dies, or they're taken out of that situation. I don't think we want to put any Albertan in a situation where they're forced to make a decision for caring for their loved one – this is just one example – or coming forward. We don't want to do that. This legislation isn't supposed to do that, but it's exactly what it does.

If we just take a step back and realize that they could disclose and they should be able to disclose in whatever manner they're comfortable with and then let that matter go forward and they can go through the process, that's fine. But what does it matter how the information gets to where it needs to be? What matters is that the information gets there and we resolve the problem. I think it's imperative on us to realize this isn't just about protecting us; it's protecting those people who can't stick up for themselves and those people who are scared to come forward. Right now in Alberta there are people who are scared to come forward.

Thank you.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Calgary-Varsity.

Ms Kennedy-Glans: Thank you, Madam Chair. I just want to make sure that the record stands corrected. Last evening we talked about MLAs' roles as ombudspersons for their constituents. MLAs aren't the Ombudsman. The Ombudsman is a separate, independent office, and I think we all need to respect that office. MLAs certainly act as ombudspersons for their constituents. I think every single elected official here in this Legislature would agree that that is our role. I don't think there is any dispute about that, and I just want to make sure that the record stands corrected on that.

Thank you.

The Deputy Chair: Thank you, hon. member.

Mr. Scott: Madam Chair, these two issues were dealt with last night. I just want to briefly restate some of the points that were made. Nothing in this act prevents somebody from going to their MLA. Nothing in this act prevents somebody from going to the media. We have anonymity protected in this act, and I think we have effective procedures not only for reporting but for actually addressing the wrongdoings and for addressing things that need to be fixed. We have an effective procedure set out in this act, and that's why I cannot support this amendment.

The Deputy Chair: Thank you, hon. minister.

Is there any other member that wishes to speak on amendment A21? On the amendment, the hon. Member for Calgary-Mountain View.

Dr. Swann: Thanks, Madam Chair. I guess that, to summarize a little of the way we are seeing this bill, it's an attempt by government to balance the rights of the employer with the rights of the employee. We think the bias should be much higher in favour of the employee who is trying to expose wrongdoing because in your attempts to try and protect the interests of the employer, you're sending a very mixed message to those that would see problems and want to raise problems but have too much at risk to expose it.

Efforts by this bill, if anything, bias it more in favour of the employee and demonstrate to would-be whistle-blowers that the bias is not so much in finding a balance between the rights of employer and employee, but the bias is in favour of exposing wrongdoing. What we haven't seen in this bill so far is the bias in favour of whistle-blowing, which would send a very strong message to any of us who support whistle-blowing that you're really serious about wanting to know and to stamp out wrongdoing. One might call it erring on the side of the whistle-blower. That's, essentially, what I think we're asking for.

In all of these different amendments we're saying that the balance of power is too much in balance. You're not biasing this

in favour of people taking the risk of sticking their neck out and potentially compromising their future, their family's future, anyone associated with them because of the lack of checks and the lack of real, definitive protection.

The Deputy Chair: Thank you, hon. member.

Is there anyone else who wishes to speak on amendment A21?

Seeing none, we'll call the question.

[The voice vote indicated that the motion on amendment A21 lost]

[Several members rose calling for a division. The division bell was rung at 9:18 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Swann
Bilous	Stier	Towle
Fox	Strankman	

Against the motion:

Allen	Hughes	Olson
Amery	Jansen	Pastoor
Brown	Jeneroux	Quadri
Calahasen	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sarich
Cao	Khan	Scott
Dallas	Lemke	Weadick
DeLong	Leskiw	Webber
Drysdale	Luan	Woo-Paw
Fenske	McDonald	Young
Fraser	McIver	

Totals:	For – 8	Against – 32
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[Motion on amendment A21 lost]

The Deputy Chair: We return to Bill 4. Are there any members who wish to speak, question, or provide an amendment? The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. Again, what a wonderful opportunity this is to rise in this Legislature and put forward another amendment on behalf of the hon. Member for Calgary-Fish Creek.

The Deputy Chair: Thank you, hon. member. We'll pause for a moment while we pass out the amendment.

Hon. member, this will be known as amendment A22. Please proceed.

Mr. Fox: Thank you, Madam Chair. How wonderful it is to be speaking to amendment A22. Now, this amendment is on section 32 of Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act. What section 32 is is the section with the reporting function back to the Legislature, so the chief officer's annual report.

32(1) Every chief officer must prepare a report annually on all disclosures that have been made to the designated officer of the department, public entity or office of the Legislature for which the chief officer is responsible.

(2) The report under subsection (1) must include the following information:

(a) the number of disclosures received by the designated officer, the number of disclosures acted on and the

- number of disclosures not acted on by the designated officer;
- (b) the number of investigations commenced by the designated officer as a result of disclosures;
 - (c) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations made or corrective measures taken in relation to the wrongdoing or the reasons why no corrective measure was taken.

What we're asking for, what the government is perceived to be asking for here is a report very similar to the one that the Auditor General provides. I think this is wonderful. We should have that report here in the Legislature. The only question that I have is: why is the reporting a little bit different? With the Auditor General and the other independent commissioners that we have that report to the Legislature, they do this on a semiannual basis, yet with the commissioner for whistle-blowers, not so. I don't understand this. Clearly, the Auditor General's report is a fantastic report. We get that twice a year. The Auditor General is doing a wonderful job. We get a nice, well-put-together report that has not only the findings but also recommendations and outstanding recommendations.

Unfortunately, with the chief officer's annual report we're missing the recommendations side. I would like to see that. I would like to see that the recommendations come forward. I would also like to see that we see that report twice a year, that we see a semiannual reporting process. The reason behind that is that, you know, after something comes forward, it might be two years before the investigation is done. Depending on when the last report was, we may still have to wait another year before we find out if that report was investigated, completed, acted on, and resolved. I don't understand why we would need to wait that extra year. I think that we should put this forward in the same way that the Auditor General puts their report forward. It's a system that is working very well.

The other independent commissioners of the Legislature operate in the same manner. They put forward this semiannual report. We all get to look through it as members, read the report, and come back and make sure that the report has been acted on and that everything is okay within the government. If there are some outstanding recommendations, we can see when those recommendations may be acted upon in the future or prompt for a little bit of action on those. Again, that is the job of the opposition, to prompt the government to work on some of the recommendations that the Auditor General puts forward.

Now, I see that this is working so very well with the other independent commissioners, so let's continue on in that tradition. Let's amend this and have a semiannual reporting, much like the Auditor General has, and have this information come forward on a semiannual basis so that all the members of the Legislature can know in a timely manner what's been going on within the ministries and that cases of wrongdoing have been looked at and have been resolved.

I can't understand why a whistle-blower would want to come forward if they didn't have any oversight on the commissioner. This is just the one place where we have a little bit of oversight, and that's we as all of the members of the Legislature, not just we as the opposition. It's good to have these reports, and it's good to have them often. We've seen it with the other independent commissioners, so let's do it with the whistle-blower commissioner. Let's follow the traditions that have already been set forth and have a semiannual report.

Again, thank you for the opportunity to stand and support my fellow Member for Calgary-Fish Creek and to support this wonderful, wonderful amendment.

9:30

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A22? The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Madam Chair. I rise to speak in favour of this amendment as well. It is my understanding there has been a long-standing practice in this Legislature and in many others that officers or these types of organizations report back to the Legislature on a semiannual basis. There's a reason for doing that. It allows for accountability and transparency. It also allows for a status update on what's going on. Is that department effective? Is this effective? Is the whistle-blower act in itself effective enough and doing its job and allowing for complaints to come forward, or is it not effective and something that should be reviewed further at a later date?

Clearly, we set out the standards for the Auditor General and several other of these types of groups that report back to the Legislature, and for some reason we've omitted the same standard we put to everyone else from this act alone. I'm certainly open to the Associate Minister of Accountability, Transparency and Transformation explaining why he would change the standard practice of what this Legislature was already doing, to report on a semiannual basis, and explaining why this report would be so much different and be pushed to a yearly basis.

It would seem to me that given this is a brand new act and given this is a brand new opportunity for people to come forward that not only would the government want to make sure that we're accountable and transparent, but they'd also want to make sure that there's progress being made in how effective the act actually is. In order to do that, it would certainly seem that to have it come back to the Legislature I believe it's every April with a fall update every October would allow for the Legislature to hear what has happened between spring and fall, so over the summer months. Maybe we don't get any complaints leading into the fall. Maybe the bulk of our complaints come at Christmas. Who knows? At least then we might even be able to establish some sort of pattern. But we're not going to know if it comes in yearly. It could also be quite a substantial amount of time, that 12 months in between. It would seem that if there's a reason that we make the Auditor General report semiannually, why wouldn't we follow the same practice and the same standards with this act that we apply to all other acts?

It would also seem that by reporting back to the Legislature every six months, or semiannually, if there were budget implications – perhaps you're overloaded with whistle-blower people who want to come forward; there might be a budget implication – then you could propose that with lots of advance, which would allow for reporting and all of that to justify or not justify your position on funding.

I just don't know why we would make it any different than what we currently expect of our other reporting agencies. I would open the floor to the Associate Minister of Accountability, Transparency and Transformation to maybe explain why there's such a difference between the annual and semiannual.

Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A22? On the amendment, the hon. Member for Edmonton-Riverview.

Mr. Young: Thank you, Madam Chair. It's interesting that on the amendment all the speakers from the members opposite keep talking about semiannually, but actually in the amendment here it's prescribed as April and October. Given the justification for the amendment, the April seems foolish because the legislation allows for the commissioner to report on any matter when the commissioner feels it is in the public interest to do so. That is a more open, transparent, and customized approach to reporting and is better use of the commissioner's resources than mandating a semiannual report.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thanks, Madam Chair. The hon. member in his statement even quoted from the provision and said that the Ethics Commissioner may report. This is a mandatory requirement that we think is very important. To actually leave the discretion with a commissioner once he has found there to be a wrongdoing, I think is completely unacceptable. If there's a finding of wrongdoing, it should clearly be made public. Anything other than that is just a very secretive process.

The Deputy Chair: Thank you, hon. member.

Is there any other member who wishes to comment on amendment A22? Seeing none, we'll call the question.

[The voice vote indicated that the motion on amendment A22 lost]

[Several members rose calling for a division. The division bell was rung at 9:36 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Swann
Bilous	Stier	Towle
Fox	Strankman	

9:40

Against the motion:

Allen	Hughes	Olson
Amery	Jansen	Pastoor
Brown	Jeneroux	Quadri
Calahasen	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sarich
Cao	Khan	Scott
Dallas	Lemke	Weadick
DeLong	Leskiw	Webber
Drysdale	Luan	Woo-Paw
Fenske	McDonald	Young
Fraser	McIver	

Totals: For – 8 Against – 32

[Motion on amendment A22 lost]

The Deputy Chair: Back on Bill 4, the hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I rise with an amendment to Bill 4.

The Deputy Chair: We'll pause while that amendment is being distributed.

This amendment will be known as A23. Hon. member, you may proceed.

Mr. Bilous: Thank you, Madam Chair. I'm moving that Bill 4, Public Interest Disclosure (Whistleblower Protection) Act be amended by striking out section 21 and substituting the following:

Allegations by others of wrongdoing

21 If the Commissioner receives a disclosure that has been made anonymously or by an individual who is not an employee and the Commissioner believes that the disclosure may relate to a wrongdoing set out in section 3, the Commissioner must investigate the disclosure while maintaining the anonymity of the individual in accordance with the procedures outlined in section 5.

At the moment this bill does not ensure the commissioner will investigate disclosures made to the commissioner by individuals who are not an employee. The amendment that I'm putting forward today will ensure the commissioner will investigate disclosures to ensure that the public interest is protected even in cases where the disclosure is not made by an employee.

Madam Chair, if I can indulge the House and explain some of the rationale behind this. Sometimes third parties are made aware of internal corruptions or gross misconducts or illegality or other wrongdoings, okay? In these cases nonemployees must have an open avenue to the commissioner as legislated under our whistleblower protection act. This avenue will ensure the protection and anonymity of nonemployees, which is important in cases where a whistle-blower may not be affiliated professionally with the organization he or she finds a wrongdoing within.

This amendment will obligate the commissioner to investigate these disclosures, to seek out wrongdoing only if the commissioner is convinced there has been a wrongdoing. I want to emphasize that to the hon. members across the way, that this isn't about creating an endless witch hunt. This isn't about, you know, trying to dig for wrongdoings that don't exist. This is only if the commissioner is convinced that there is a wrongdoing that it provides the commissioner an avenue. Again, it provides for nonemployees to be able to approach the commissioner if they learn of a wrongdoing. So once the commissioner deems that there has been a wrongdoing, they can ensure that all Albertans, even nonemployees, receive the full services of the commissioner and that their legitimate disclosures will result in an investigation.

I honestly believe, hon. members, that this will strengthen the whistle-blower protection act and, again, provide avenues where we're not limiting this only to public-sector employees because, again, there are many examples of instances where nonemployees learn of a wrongdoing that is legitimate. It's up to the commissioner to do his due diligence before pursuing, but this opens up another avenue or another channel to ensure that there is that accountability happening and that we aren't missing any potential wrongdoings. Again I would ask the members of this House to consider this amendment.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Is there any other member who wishes to speak on amendment A23? The hon. Member for Lacombe-Ponoka on the amendment.

Mr. Fox: Thank you very much, Madam Chair. I want to stand in support of this amendment. Why I'm standing in support of this amendment is because it is looking to protect the anonymous discloser, the anonymous whistle-blower, and make sure that when they do send something in, it is looked into. It is investigated. It isn't just dismissed because it was anonymous.

With that, I thank the chair for recognizing me, and I'd just like to state once again that I am in support of this amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on this amendment, A23?

Seeing none, I will call the question.

[The voice vote indicated that the motion on amendment A23 lost]

[Several members rose calling for a division. The division bell was rung at 9:47 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Swann
Bilous	Stier	Towle
Fox	Strankman	

9:50

Against the motion:

Allen	Hughes	Olson
Amery	Jansen	Pastoor
Brown	Jeneroux	Quadri
Calahasan	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sarich
Cao	Khan	Scott
Dallas	Lemke	Weadick
DeLong	Leskiw	Webber
Drysdale	Luan	Woo-Paw
Fenske	McDonald	Young
Fraser	McIver	
Totals:	For – 8	Against – 32

[Motion on amendment A23 lost]

The Deputy Chair: We are back on Bill 4. The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I am happy once again to stand and move the last amendment.

The Deputy Chair: The last amendment.

Mr. Fox: The last amendment from the Wildrose on behalf of the Member for Calgary-Fish Creek.

The Deputy Chair: Thank you. We will take a moment to distribute the amendment, and this amendment will be known as amendment A24.

Hon. member, we can proceed with amendment A24.

Mr. Fox: Thank you, Madam Chair. Now, I'm going to read the section of the act that we're looking to amend here, which is section 1(g).

“Employee” means an individual employed by, or an individual who has suffered a reprisal and has been terminated by, a department, a public entity or an office of the Legislature or an individual prescribed in the regulations as an employee.

Now, I understand that you are looking to protect the employees, but there are other classes of people as well that work within ministries. What we're looking to add here is “or who performs a service as an appointee, volunteer or student for or under a contract or agency relationship with” after “employed by”.

The reason why we need to add this in is because there are other people that work within the public entities. I don't understand why we wouldn't want to protect them if they saw something that they felt it necessary to come forward with.

Now, employee is limited, very limited, in scope. When we open this up, we're not really opening it that far. We're just making sure that, you know, if you do have a student that is working in a department, maybe volunteering time or working under contract or doing a practicum, they have the protection to come forward if they see something that just doesn't pass the smell test. We want to make sure that that person is protected and that their entire future career isn't damaged by coming forward. I couldn't fathom – I could not fathom – having somebody's career destroyed before it even started because they saw something that they thought maybe, just maybe, should go to the whistle-blower commissioner or to the designated officer. I don't understand why we wouldn't want to protect them from reprisals as well as the employees.

This is not really changing the scope of the bill at all. We just want to make sure that those who are working within these departments, whether they're there as an appointee, a volunteer, somebody under contract or in an agency relationship, are protected. That is the name that's on the front of this bill. This is whistle-blower protection, not protection for the government from the whistle-blower. I can't understand why this wouldn't have been included in the first place along with a lot of the other amendments we've spoken about here tonight.

You know, I'd really hoped that we would go to committee and discuss these things within a legislative committee and have a real back and forth about what's in this piece of legislation so that we could possibly fix some of the areas that we've found issue with, that independent groups have found issue with just like this one here, this amendment to section 1(g). I can't understand why we're not utilizing the legislative committees, which are there for that.

We really should have a discussion about this. We should have a further discussion about this because, clearly, there are issues with this piece of legislation. I mean, the NDs had multiple, multiple amendments. The Liberals had multiple amendments. We had over 20 amendments. They were all amendments in good faith. I know because I worked on most of them. This wasn't about what was going on on the other side of the aisle or trying to make anybody look bad. This was simply about trying to protect all those who come forward as whistle-blowers.

I guess this is the very last amendment that we have on this. I would sincerely hope that you would want to protect those who come forward who perform a service as an appointee, as a volunteer or student, or have come under contract or are in an agency relationship with the public entity.

With that, I thank you again for the opportunity and the ability to stand here today to bring this forward. In fact, I would like to thank the members of the Lacombe-Ponoka constituency for electing me to come forward, to stand up for whistle-blowers on this piece of legislation.

Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A24, Bill 4? The hon. Member for Innisfail-Sylvan Lake.

Mrs. Towle: Thank you, Madam Chair. I just to thank the hon. Member for Lacombe-Ponoka and the hon. Member for Calgary-Fish Creek and, as well, the hon. Member for Lac La Biche-St. Paul-Two Hills for all the effort they've put into all of these

amendments. It does take a lot of work. I've watched them over the last week or so putting forward these amendments and consulting with Albertans. I appreciate all the effort that you have put into it. Thank you very much, because they are important.

This last amendment is something that is really important because more and more often we rely on volunteers or appointees to come into certain facilities and actually work there and help with protecting the people who are there. For example, my brother was at the Innisfail health care centre, which is an Alberta Health Services facility. He was in Rosefield Centre. My brother could not feed himself. He required 11,000 calories a day to live. You could imagine: if you can't feed yourself, how do you get 11,000 calories a day?

Well, clearly, the staff there did not have enough time to continuously feed him. He could not feed himself because his disease had progressed so much that he was unable to hold a fork or a spoon or anything and provide that food to his mouth. So we engaged with certain people in the community who registered as volunteers. They came in in the day, when my mom was not able to come in. My mom was there every single evening to feed my brother. On the weekends we spelled off, and mostly mom fed him because it was something that she wanted to do.

When you're having to feed someone who needs 11,000 calories a day, you're literally having to feed them all the time. It's not just: let's go and feed them dinner, and let's go feed them breakfast, and let's go feed them lunch. You are having to literally sit down with them on a constant basis and feed them pudding and feed them Ensure and all of those things, and that takes time.

10:00

We acknowledged that that was almost impossible for front-line staff workers to do. There's not the ability in the system to have them be able to spend that much time with my brother. So by engaging the volunteers – we were able to find some fantastic volunteers that for two years, while he was in the Rosefield Centre, came in faithfully every single day that my mom could not be there and fed him all day long. Well, this is a huge burden that they've taken off of the health care system.

I think it's important to understand what our volunteers do in these facilities. These same people took time out of their day to spend eight hours a day feeding my brother, who couldn't feed himself. Now, without them that duty would have fallen to a health care worker, and clearly we don't have the staff nor do we have the dollars to provide that kind of service. In addition to that, that volunteer would take him outside because he could not wheel himself outside. They would light a cigarette for him. They would take him out to smell the flowers during the times when my mom had to work. My mom and I both had full-time jobs because we were the only ones paying the bills.

When we're relying that heavily on a volunteer sector, we need to protect them because they really are doing the job of our employees. If we're expecting them to do the job of our employees, then they should be granted the same protection as that employee gets. When we're taking a look at a sector of our health care system – and it's not just our health care system. We have volunteers who deal with people with developmental disabilities, our AISH clients – they're all over – yet we're asking them to work as employees.

Some of them are putting in significant hours. I know that the two volunteers that helped my brother for two years put in easily 40 hours a week and then were kind enough to come in even on the weekends just to see if my mom needed a hand. If you're doing that – we're not asking you for family members. When my mom came in, that was just her nurturing nature to go in there and sit with him

for that long until his passing. But when you're asking people to give up 40 hours of their week to go in and really do what employees should be doing but can't, don't have the time to do, then let's protect them just the same as if they're employees.

Not only are we talking about that, but we're also talking about these people that are in the system, that are there voluntarily. They also see things. They're made aware of situations. Some of those people that are there that are feeling vulnerable might confide in them. So then we're basically saying to them: you have no protection; so if you come forward, you may not be able to come back here.

I can tell you as a caregiver I relied on those volunteers to help my brother because we couldn't be there, but I can tell you, more importantly, that those two volunteers became my brother's best friends. You know, these were two older women who took the time out of their day to spend eight hours a day with some boy they didn't even know. When my brother came into that facility, he was just a patient, just like any one of us. But by the time of his death and to this day these people spend their holidays with our family, these people spend their time with our family. These people have dedicated their lives to the last two and a quarter years of my brother's life, all just because they're kind. And now we're saying to them: we don't want to protect you because you're just a volunteer.

Now, I'm giving you one side of the story – and I appreciate that you're hearing this; I feel like you are, and I think that's great – and if you take a look at it from that perspective, it's not just a frivolous amendment. These people add value to our system. They relieve the health care system. They relieve taxpayer dollars. But, more importantly, they make the lives of the people they're helping that much better. My brother loved these people. I love these people, and I didn't know them three years ago. I ask if you could just take a minute, before you automatically decide that this is something you absolutely cannot support, to take a look at it from that perspective.

We're asking a lot of people here. More and more people are going into care. More and more people need baths. More and more people need to be fed. My brother did get bathed once a week. Once a week. Now, if that volunteer had been allowed to bathe him, she would've done that, too. I'm not faulting the front-line workers for that. That's not their fault.

We're asking volunteers to be employees. So just take a step back, please think about it for two minutes, and consider this amendment.

Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A24?

Mr. Scott: Madam Chair, the act already allows anyone to make a disclosure to the commissioner even if they are an employee of a contractor hired by a public entity, an employee of a company that provides services on behalf of a public entity, a nonemployee, a volunteer, or a private citizen. That's covered in section 21.

This government recognizes the importance of accountability outside the public sector. We also recognize the importance of reducing red tape for both large and small businesses. We encourage Alberta businesses to take a leadership role and to develop similar protections for their employees. Prior to extending this legislation, it would be critical that we have consultation with the right organizations to make sure that the right people and the right organizations are covered.

For that reason, I cannot support this amendment.

The Deputy Chair: Thank you, hon. minister.

The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you very much, Madam Chair. I'm going to read section 21 here again:

If the Commissioner receives an allegation of wrongdoing that has been made anonymously or by an individual who is not an employee, the Commissioner may . . .

May, not must.

. . . choose to investigate the disclosure or may, in the Commissioner's discretion, forward the allegation to the chief officer of the department, public entity or office of the Legislature.

May.

Now, this only talks about disclosure. This does not afford protection. This is about investigation. This is about going forward and investigating a complaint, but it doesn't say anywhere in here that it applies to reprisal, and it doesn't offer protection. It just says that they may investigate.

Well, we want to make sure that not only can the commissioner investigate, but that person who had the audacity to come forward – the audacity to come forward – is protected from reprisal under this piece of legislation. Just by adding this to section 1(g), you are protecting them from reprisal. That's what we're looking for. We're looking to protect the whistle-blower. It's important that we protect these people.

I just can't understand why we don't want to extend the provisions that protect the employees to the volunteers, to the students who might come forward, to these people that are coming forward. I mean, I can't understand why you wouldn't want to apply that there rather than just investigate. This piece of legislation is so much more than an investigation tool. This piece of legislation is meant to protect the whistle-blower, not just to investigate allegations of wrongdoing.

Thank you.

The Deputy Chair: Thank you, hon. member.

Mrs. Towle: I will keep my comments brief. I can appreciate your position, and I understand that you believe section 21 covers them, but very clearly section 21 says may. It says may. If you've had someone in care and you're relying on that volunteer to be with them eight hours a day to provide a service that the system does not provide, I would defy any one of you to say: you are not entitled to the same protection that the LPN or the RN or the health care aide is given. Yet they're doing the same level of care because the system doesn't provide it currently. This isn't just about seniors. It's not just about care facilities. It's people with developmental disabilities. It's people on AISH.

I respect your position. I understand your position. But, very clearly, section 21 says may. Surely, at some point in time tonight we can take a step back, really take one amendment, and literally say that we're going to protect volunteers. They're integral to our system. They're integral to Albertans. They're integral to saving taxpayer dollars.

I understand your position, but section 21 just says may. It doesn't protect them. It doesn't say that you will investigate. It doesn't say that their volunteer position at that facility will be protected.

These people love the people they're helping. I would defy anyone in this room to believe that if you have a person in care right now and you have that volunteer looking after them, you would honestly say that that person doesn't deserve the same kind of care and compassion and protection that we're affording to employees. Do you honestly believe that that employee who is

helping people go from group homes to the mall doesn't deserve the same kind of protection if they see a wrongdoing? This is only if they see wrongdoing. That's it. Section 21 does not protect them.

Thank you.

10:10

The Deputy Chair: Thank you hon. member.

Are there any other members who wish to speak on amendment A24? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Madam Chair. Just going back to the member opposite's comments on section 21 in relation to this amendment, it's clear that it's permissive. It says may. Not only that, it even goes further in terms of the legislation. It's not only may; it's in his discretion. It is abundantly clear that it's permissive.

I'm not sure why the minister is sticking to his talking points, probably written by someone in his department, when he can clearly read the legislation and see that it's permissive, that it doesn't guarantee the protection of those who whistle-blow, and it doesn't guarantee that those instances that are put forward to the commissioner are eventually investigated. It's just mind boggling that someone who has written the legislation apparently still is trying to portray that it's mandatory when the language is clearly permissive.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I just wanted to weigh in on this conversation and to reiterate what some of the other hon. members have said as far as the impact that volunteers and caregivers have and the role that they play in our society, you know, the contributions that they make to ensuring that Alberta is the greatest province in the country.

It's disconcerting to hear that, again, the hon. associate minister is referring to a section which allows the commissioner to use their discretion as far as whether an investigation happens or not. I think, you know, if the intention of this bill is to protect whistle-blowers, which we've heard time and time again from this government, then this bill needs to reflect that language. Unfortunately, when you have a section that can be interpreted, which gives an out, which means that the commissioner may investigate or may not, that takes any teeth out of this bill, and I would argue that there are very few left in this bill or even to begin with.

I think this amendment put forward by my colleagues on this side of the House is trying to strengthen this bill. It's acknowledging the role that volunteers and caregivers play in that. Again, they may learn of either wrongdoings or ways to improve an agency or an organization, so give them the tools to be able to blow the whistle and ensure that action is taken and that it's not either dismissed or looked over.

Again, this is another amendment that I think is a reasonable amendment that this side of the House is putting forward. I'm a little dismayed as to how little interest the government has in looking at improving a bill, which is what we're supposed to be doing in this House during these debates and during this Committee of the Whole.

I would ask them to seriously consider this amendment and to look at the value that will come out of adding this to the bill. Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there other members who wish to speak on amendment A24?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A24 lost]

[Several members rose calling for a division. The division bell was rung at 10:14 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Strankman
Bilous	Smith	Swann
Fox	Stier	Towle

Against the motion:

Amery	Jeneroux	Pastoor
Calahasen	Johnson, L.	Quadri
Campbell	Kennedy-Glans	Rodney
Cao	Khan	Sandhu
Dallas	Lemke	Sarich
DeLong	Leskiw	Scott
Drysdale	Luan	Weadick
Fenske	McDonald	Webber
Fraser	McIver	Woo-Paw
Hughes	Olson	Young
Jansen		

Totals: For – 9 Against – 31

[Motion on amendment A24 lost]

The Deputy Chair: We now return to Bill 4. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair.

The Deputy Chair: Once again, we'll take a few moments to distribute the amendment. This amendment will be known as A25.

Hon. member, I think that it's okay for us to proceed with amendment A25.

10:20

Mr. Bilous: Wonderful. We were just verifying.

The Deputy Chair: It looks like everybody has a copy, so you may proceed.

Mr. Bilous: Wonderful. Thank you, Madam Chair. In this amendment I am moving that the Public Interest Disclosure (Whistleblower Protection) Act be amended in section 32 by striking out subsection (3) and substituting the following:

The report under subsection (1) must be included in the annual report of the department, public entity or office of the Legislature, and the report must be made publicly available.

This amendment is fairly straightforward. We're requiring that the chief officer's annual report be made public each year. At the moment the bill reads that the annual report of the chief officer on all disclosures made to her or him must be included in the annual report of the office of the Legislature if it's made public, and if the report is not made public, it must be made public or available on request. This amendment, what we're proposing, removes any reference to public request and, instead, stipulates that the annual report must always be publicly available.

Albertans should not have to put in a request in order to see an annual report issued by an officer of the Legislature, particularly concerning the number of whistle-blower disclosures received each year, the number of investigations commenced in each year, and a description of findings of wrongdoing and any recommendations or corrective measures taken in relation to the wrongdoing as well as, in cases where corrective measures are not taken, reasons for that decision.

You know, if we want to strengthen not only our democracy but the faith that Albertans have in this legislation and make this as open and transparent a process as possible, then this report should be made public, shouldn't have to be requested. Again, this government has made claims repeatedly about how it wants to be transparent and open. If they are serious about these objectives, then they'll support this amendment and ensure that these annual reports are automatically made public, that we're informing the public of the concerns that are coming into the chief officer's office along with the aforementioned things from the description of the wrongdoings, actions taken, et cetera. If we really do want to improve our agencies and public services that we offer in this province, then this is a great way to do that. Albertans should not have to request this report. It should be automatically made public.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to comment on amendment A25 to Bill 4? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thanks, Madam Chair. I guess, just referring to this amendment, it just seems to be the most reasonable amendment that I've seen today. It states that the annual report must be made public. If the commissioner is going to go through all the work and effort of creating a report, why would it not be made public? If this amendment isn't accepted by the government, it just seems that instead of Public Interest (Whistleblower Protection) Disclosure Act, it should be read as Nondisclosure Act. Why wouldn't the commissioner's annual report be made public? I think this is a very reasonable amendment. I genuinely hope that the minister will strongly consider this amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A25 to Bill 4?

Mrs. Towle: I'll keep it brief, but it would seem to me that it would just make sense that if we're protecting the public, then we should allow the information to go back to the public. It would seem to me that this act is called the Public Interest (Whistleblower Protection) Disclosure Act, and by not allowing the report to be made public automatically and requesting that the public request that it be reported or that it may be disclosed publicly and not actually implementing that it be mandatorily sent to the public, it defies the actual title of the act, which is the Public Interest Disclosure Act. It would seem to me that it would only make sense. This one is a no-brainer. We need to do the right thing and make sure that it's accepted publicly, that the public has access to it, because it's in the public interest. This is what the whole act defines.

Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak?

Mr. Strankman: Well, I too, Madam Chair, would like to challenge the associate minister and the members opposite as to why this is coming forward in this manner. As a member previously stated, it's a public interest disclosure, and it seems to me that this just may be some sort of a typo or a miscommunication or something. When the government presented Bill 2, they also presented 11 of their own amendments, which were primarily legalese to properly bring the bill forward. I would speak completely in favour of this amendment.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A25?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A25 lost]

[Several members rose calling for a division. The division bell was rung at 10:27 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Strankman
Bilous	Smith	Swann
Fox	Stier	Towle

10:30

Against the motion:

Allen	Jansen	Pastoor
Amery	Jeneroux	Quadri
Calahasen	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sandhu
Cao	Khan	Sarich
Dallas	Lemke	Scott
DeLong	Leskiw	Weadick
Drysdale	Luan	Webber
Fenske	McDonald	Woo-Paw
Fraser	McIver	Young
Hughes	Olson	

Totals: For – 9 Against – 32

[Motion on amendment A25 lost]

The Deputy Chair: We will go back to Bill 4. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I have another amendment to Bill 4 that I would like distributed.

The Deputy Chair: We will pause once again to have the amendment distributed. Hon. members, this is amendment A26.

Hon. member, you may proceed.

Mr. Bilous: I'd move that Bill 4, Public Interest Disclosure (Whistleblower Protection) Act, be amended in section 33 by striking out subsection (3) and substituting the following:

- (3) Where it is in the public interest to do so, the Commissioner must also publish special reports relating to any matter within the scope of the Commissioner's responsibilities under this Act, including reports referring to and commenting on any particular matter investigated by the Commissioner within 90 days of the matter being investigated.

The reasoning behind this, Madam Chair, is that section 33 refers to the commissioner's annual reports and special reports to the Legislative Assembly on the exercise and performance of her functions and duties as well as with regard to investigations that she conducts.

Currently section 33(3) indicates that

the Commissioner may publish a special report relating to any matter within the scope of the Commissioner's responsibilities under this Act, including a report referring to and commenting on any particular matter investigated by the Commissioner.

This amendment that I'm proposing today will require the commission to publish a special report within 90 days of any particular matter being investigated by their office. Again, this amendment maintains the commissioner's authority to publish additional special reports in addition to those that they shall be required to publish regarding investigations. It's imperative, in my view, that this Legislative Assembly be made aware of the matters that have been investigated and the conclusions and rationale reached by those investigations by the commissioner, putting a time frame on that, within the preceding three months.

This amendment ensures that such reporting is a requirement of the commissioner as opposed to a subjective judgment open to interpretation, which, again, is a real cause of angst for me and amongst my caucus. Within this bill at the moment there is so much that is left to the interpretation, the subjective opinion of the commissioner, so in order to serve all Albertans and serve the interests of all Albertans, we need to firm up certain sections of this bill and ensure that there are established timelines and parameters. As for us, as Members of the Legislative Assembly we want to ensure that we always have the most detailed information available in a timely manner to assist us as legislators. Again, that speaks to the three-month time frame in which we're requiring the commissioner to report.

In short, this amendment helps us to do our job as legislators, and I would ask that all members consider this amendment. Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members that wish to speak on amendment A26? The hon. Minister of Transportation.

Mr. McIver: Yeah. I'll be brief, Madam Chair. It occurs to me that there's just a distinction without a difference. The hon. member is representing that this takes away the choice of the commissioner, yet the first few words in this are, "Where it is in the public interest to do so," clearly a judgment call on the part of the commissioner.

So with all due respect to the hon. member, this doesn't change anything. Consequently, I don't see a point in supporting it.

The Deputy Chair: Thank you, hon. minister.

The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. I am standing to support this amendment. Why am I standing to support this amendment? Because there is a time frame in which that report must be released if the commissioner so decides to write one. Currently, there is nothing in here that says that. It says:

Where it is in the public interest to do so, the Commissioner may publish a special report relating to any matter within the scope of the Commissioner's responsibilities under this Act, including a report referring to and commenting on any particular matter investigated by the Commissioner.

Where is that report going? It doesn't say. It just says he's going to write one. Well, that's nice. We're going to have a report that's

going to go somewhere. It's not going to come out into the public, yet the name of the bill is Public Interest Disclosure (Whistleblower Protection) Act. So where is that report going to be disclosed? Well, in this amendment it specifically states that that report will be disclosed to the public and that it will be done in a timely manner, within 90 days.

It's not just going to be swept under a rug somewhere so that opposition members or some member at large can put in a FOIP request and maybe get the full report. Who knows? It might be redacted. I can't understand this. This bill is supposed to be about public interest disclosure, yet where there is something egregious enough that the commissioner will want to create a special report, that report is not going to go anywhere. It's laughable. It's absolutely laughable. I can't understand why that bill reads the way that it does.

Let's put that information out there for the public interest within 90 days, within a prescribed time frame, where the public can see what the whistle-blower commissioner is doing in the public interest. I mean, who is this bill for? Is this bill meant to protect whistle-blowers and bring things to light, or is it just a black hole in which investigations happen and get sucked into nothing?

Sorry; I can't support the way that this bill is written, and this amendment goes a long way in at least bringing forward a little bit of integrity behind the name of this bill, Public Interest Disclosure (Whistleblower Protection) Act.

10:40

The Deputy Chair: Thank you, hon. member.

Mr. Bilous: I would like to thank the hon. Minister of Transportation for speaking to this amendment. However, I need to clarify a few points that he's clearly overlooked. One, the way that the bill is currently written, it uses that word that this government seems to favour, and that's the word "may." At the moment, "the Commissioner may publish a special report." Again we're leaving that decision to the commissioner, as opposed to the amendment that we're putting forward, which instructs and legislates the commissioner, where he or she must publish the special reports as opposed to "may publish."

The second part of this amendment puts a time frame or a parameter around when the commissioner publishes the report. As this Assembly has seen, the government often commissions reports and then holds on to them like a nighttime blanket for months or years afterwards, clearly afraid to either share them or disclose them. This amendment stipulates that the commissioner must report, first and foremost, and second of all, that it is within a timely and reasonable manner. Instead of using those words, which, again, can be interpreted in too many ways, we've put 90 days as the parameter.

This amendment does strengthen this piece and ensures that the public is getting this information, number one, and getting it in a timely manner. Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Madam Chair. I'll be very brief. Just in response to the hon. Transportation minister's comments, if something is in the public interest to disclose, why would you then make it discretionary upon the commissioner to disclose it? It just makes absolutely no sense. I think that this is just another example of an absolutely disastrously written bill that hasn't been properly vetted. We, of course, provided the opportunity to put this to a committee so that poorly worded provisions like this are not put

into law. Eventually this and many other provisions are probably going to have to be amended. This is why you have all these different independent bodies coming out and saying that this bill is an absolute disaster. An absolute disaster. It's just shocking that you have a Premier who in a throne speech says that this government is going to be open and transparent and then comes out with this disastrous bill that does the complete opposite, protects the government from whistle-blowers instead of the other way around. To make it permissive for a commissioner to release a report when it's in the public interest to do so is just completely wrong.

It's unfortunate that the minister who drafted this doesn't just take some of these really reasonable amendments and accept them. This is supposed to be part of the process. Even though there are valid, substantive amendments being put forward, we're seeing again and again this government rejecting them, it looks like, without even reading them.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on this bill?

Mr. Scott: Just to speak to some of the comments that have been made by my colleagues, section 33(3) does not exist in isolation. It follows the annual report section, which is 33(1). Annually the commissioner is going to report on a number of things:

- (a) the number of general inquiries made to the Commissioner relating to this Act,
- (b) the number of disclosures received by the Commissioner under this Act . . .
- (c) the number of investigations commenced by the Commissioner under this Act,
- (d) the number of recommendations the Commissioner has made and whether the departments, public entities or offices of the Legislature . . . have complied with the recommendations.
- (e) the number of complaints of reprisals received by the Commissioner under this Act . . .
- (f) whether, in the opinion of the Commissioner, there are any systemic problems that may give rise to or have given rise to wrongdoings, and
- (g) any recommendations for improvement that the Commissioner considers appropriate.

There are strong reporting provisions in this act, Madam Chair. Section 33(3) supplements that. It says that whenever the commissioner thinks it's in the public interest, they can issue another report. This is very strong reporting, and that's the reason I cannot support this amendment.

The Deputy Chair: Thank you, hon. minister.

The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you, Madam Chair. One last question. Who is that special report going to? We know where the annual report is going, but the special report that's listed here – it's not clear. It's not clear in the legislation who that special report is going to come to. I think we need to have an amendment that specifies who this special report is going to be given to. Clearly, section (1) and section (2) deal with the annual report. Does that mean we're not going to get to see a special report that is in the public interest? It states here:

- (3) Where it is in the public interest to do so, the Commissioner may publish a special report relating to any matter within the scope of the Commissioner's responsibilities under this Act, including a report referring to and commenting on any particular matter investigated by the Commissioner.

If it's egregious enough that we need a special report, why are we now waiting for an annual report to get it? What's the purpose of having a special report? I don't understand.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A26, Bill 4?

Seeing none, we'll call the question.

[The voice vote indicated that the motion on amendment A26 lost]

[Several members rose calling for a division. The division bell was rung at 10:47 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Strankman
Bilous	Smith	Swann
Fox	Stier	Towle

10:50

Against the motion:

Allen	Jansen	Pastoor
Amery	Jeneroux	Quadri
Calahasen	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sandhu
Cao	Khan	Sarich
Dallas	Lemke	Scott
DeLong	Leskiw	Weadick
Drysdale	Luan	Webber
Fenske	McDonald	Woo-Paw
Fraser	McIver	Young
Hughes	Olson	

Totals: For – 9 Against – 32

[Motion on amendment A26 lost]

The Deputy Chair: We will move on to the main bill, Bill 4. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I'd like to put forward another amendment.

The Deputy Chair: Once again we'll take a few moments to distribute the amendment.

Hon. member, you may proceed on amendment A27.

Mr. Bilous: Thank you, Madam Chair. I move that Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act, be amended by adding the following after section 53:

The Commissioner has the duty to protect the job of any employee who in good faith makes a public interest disclosure.

It's interesting and at the same time almost frustrating that it's currently not in the bill that is supposed to be whistle-blower protection. It's not spelled out anywhere that the commissioner has the duty to protect the employee and his or her job.

This amendment simply clarifies what I'm sure members on the opposite side will say is inherently in this bill, yet we don't want to leave anything to interpretation or to reading between the lines. We want to spell out one of the fundamental duties of the commissioner, which is to ensure that whistle-blowers who make disclosures in good faith will not suffer by losing their job through the process. Again, nowhere in this bill is there a section that speaks directly to the relationship between the public interest

commissioner and the employee in terms of protecting their employment.

One of the fundamental indicators, when one looks at whistle-blower legislation throughout the world as far as an indicator of success, is in the protection of employees and whether or not whistle-blowers have managed to maintain their jobs throughout the process. Therefore, it's crucial to explicitly and fundamentally state that the duty of the commissioner is to protect the whistle-blower from losing his or her job. Otherwise, the lack of that statement undermines the whole purpose and intent of the bill.

This section will help to shift the perception that this act creates more hurdles for whistle-blowers than protection. Again, you know, if the purpose is to protect the whistle-blower, then it needs to be stated explicitly in this bill. The proposed section will enshrine the spirit of the bill, which is the protection of whistle-blowers as part of the commission.

I can pretty much anticipate that members on the opposite side will speak to the fact that it's already in the spirit of the bill, and I will challenge that comment by stating that it needs to be explicitly written into the bill that this is one of the duties and priorities of the commission in order to give potential whistle-blowers the confidence to step forward and blow the whistle. I mean, again, if there is fear of reprisal and the potential for that, then potential whistle-blowers will be unlikely to step forward, and this whole bill will essentially be meaningless as far as protecting whistleblowers or giving them the tools or the ability to come forward and the protection that will follow.

So I will ask members of this House to consider this amendment.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any members who wish to speak on amendment A27? The hon. Member for Lacombe-Ponoka.

Mr. Fox: Thank you very much, Madam Chair. Again, it is a pleasure to rise and support the amendment of my good friend from Edmonton-Beverly-Clareview. Now, what is this amendment? This amendment goes right to the very intent of this bill, whistle-blower protection. It's right there in the name, the shield provision, as the Member for Airdrie described it last night, of the act. This is meant to protect the whistle-blower. This act, I believe, was supposed to have been brought forward not to create just an internal reporting body but to protect those who come forward, those who put their jobs on the line, their ability to produce income on the line, which ultimately can affect their family and their home life. I mean, this is everything. This is why this bill was supposed to have come forward, to protect the employee who in good faith comes forward with a disclosure.

Now, nowhere in the bill does it state that the commissioner has a duty to protect that person. All that's in the bill is provisions that the employee should be protected from reprisal, but it doesn't put any onus back on the person that ultimately has the investigation purpose, the person that ultimately enacts the provisions under this bill to protect the employee. It just simply states that the employee is protected. But, you know, we should be making somebody responsible for it. The commissioner should be responsible.

11:00

They need to know. The employee needs to know that when they've come forward in good faith, there is somebody there who is willing to stand as the shield, to stand in front of them to protect them, not just from the piece of legislation but a physical human being to protect the whistle-blower who has come forward. I mean,

it's nice to have a piece of paper, but paper is flimsy; people aren't. When you have a commissioner that understands that their duty is to protect the person coming forward in good faith, they will do so. It's the same oath that many other public servants take.

So let's have the commissioner understand that it is his duty and put it in the legislation so that the commissioner knows that it's his or her duty to protect the employee who comes forward in good faith.

Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A27? Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A27 lost]

[Several members rose calling for a division. The division bell was rung at 11:02 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Strankman
Bilous	Smith	Swann
Fox	Stier	Towle

Against the motion:

Allen	Hughes	Olson
Amery	Jansen	Pastoor
Calahasen	Jeneroux	Quadri
Campbell	Johnson, L.	Rodney
Cao	Kennedy-Glans	Sandhu
Dallas	Khan	Sarich
DeLong	Leskiw	Scott
Drysdale	Luan	Weadick
Fenske	McDonald	Webber
Fraser	McIver	Young

Totals:	For – 9	Against – 30
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[Motion on amendment A27 lost]

The Deputy Chair: We return to Bill 4. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Chair. I rise with an amendment to Bill 4.

The Deputy Chair: Thank you. We will take a few minutes to distribute that amendment.

Hon. members, we have some guests in the members' gallery. I'm asking for unanimous consent to revert to introductions. If anyone is opposed, please say no.

[Unanimous consent granted]

The Deputy Chair: Thank you, hon. members.

Introduction of Guests

The Deputy Chair: I recognize the Member for Edmonton-Manning.

Mr. Sandhu: Thank you, Madam Chair. I want to thank all members of this Assembly for allowing me to introduce to you and through you my good friends, who have stood with me since my first nomination in 2007. Today is a celebration for the Sikh community of the first Guru Nanak Dev Ji's 544th birthday. The

Edmonton Sikh community donated \$14,000 to the food bank and \$40,000 to the University of Alberta chair of Punjabi language.

My friends helped me with my first nomination, and they're here to enjoy today's debate on Bill 4. They all came here with a very small amount of money 30 years ago and are all good businessmen here in the city of Edmonton. I'm proud of them. They are all my good friends. Stand with me just like brothers as I mention your names, please: Mr. Jasvir Singh Randhawa, Mr. Buta Singh Gill, Mr. Sunny Briach, Karnail Dhami, Sukhi Sandhu, Verinder Lyall, and Punjabi media icon Mr. Jarnail Singh Bosta. He looked after what I was doing in the Assembly and shared it throughout Alberta with the Punjabi radio station. I want to give all of my friends the warm welcome of this Assembly.

Thank you.

11:10

Bill 4 Public Interest Disclosure (Whistleblower Protection) Act (continued)

The Deputy Chair: Hon. Member for Edmonton-Beverly-Clareview, we can now proceed with amendment A28.

Mr. Bilous: Thank you, Madam Chair. I move that Bill 4, Public Interest Disclosure (Whistleblower Protection) Act be amended by striking out section 38 and substituting the following: "Notwithstanding section 3(1) of the Ombudsman Act, the Ombudsman shall serve as Public Interest Commissioner to carry on the duties and functions set out in this Act." Currently the bill as written allows for the Ombudsman to serve as the public interest commissioner but does not necessitate that. This amendment will ensure that the Ombudsman will serve as the public interest commissioner.

The logic behind this amendment is that we're trying to remove the ambiguity surrounding the appointment of the public interest commissioner. In order to maintain transparency in the process, this amendment will provide some clarity and avoid any questions surrounding the process of the appointment of the public interest commissioner, which is currently quite ambiguous if members look at that section.

Concerns have been raised that recommendations by the Legislative Assembly as per the appointment of the commissioner may not result in the best appointee for the job. This amendment will avoid the potential for the Lieutenant Governor in Council and the Assembly to appoint a person without the necessary credentials to serve in the role of commissioner. You know, it takes away or eliminates that possibility of not appointing the most qualified, effective, and nonpartisan person for the position. It is our position that in order to remove that ambiguity, we clarify that it will in fact be the Ombudsman, which, as I've stated, is one of the possible commissioners for this bill as written by the government.

I would ask, then, that all members of the Assembly consider this amendment. Thank you.

The Deputy Chair: Thank you, hon. member.

Are there any other members who would like to speak on amendment A28?

Seeing none, we will call the question.

[The voice vote indicated that the motion on Amendment A28 lost]

[Several members rose calling for a division. The division bell was rung at 11:13 p.m.]

[One minute having elapsed, the committee divided]

[Mrs. Jablonski in the chair]

For the motion:

Barnes	Saskiw	Strankman
Bilous	Smith	Towle
Fox	Stier	

The Deputy Chair: Hon. member, I've just been informed that you are unable to abstain while you are in the House. We just have to clarify. Hon. member, you are voting against amendment A28. Is that correct?

Dr. Swann: I'm voting against the amendment, Madam Chair.

The Deputy Chair: Okay. Stay standing for a moment. It's getting late, I know.

Against the motion:

Allen	Jansen	Pastoor
Amery	Jeneroux	Quadri
Calahasen	Johnson, L.	Rodney
Campbell	Kennedy-Glans	Sandhu
Cao	Lemke	Sarich
Dallas	Leskiw	Scott
DeLong	Luan	Swann
Drysdale	McDonald	Weadick
Fenske	McIver	Webber
Fraser	Olson	Young
Hughes		

Totals: For – 8 Against – 31

[Motion on amendment A28 lost]

The Deputy Chair: Once again we move back to Bill 4.

Mr. Bilous: Madam Chair, I rise to table my final amendment to this poorly written bill.

11:20

The Deputy Chair: Thank you. We will pause while we distribute that amendment.

Hon. members, the amendment that we were going to name A29 is out of order. The reason for that is because it is the same amendment that we have already defeated. That was amendment A11, and that was defeated on November 27.

We will move back to the bill in Committee of the Whole. Are there any members who have any comments or further amendments to be offered with respect to Bill 4?

Seeing none, I will call the question.

[The clauses of Bill 4 agreed to]

[Title and preamble agreed to]

The Deputy Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Deputy Chair: Opposed? Carried.

Mr. Campbell: Madam Chair, I'd ask that the committee rise and report on Bill 4.

[Motion carried]

[Mrs. Jablonski in the chair]

The Acting Speaker: Hon. Member for Calgary-East, would you read the report, please?

Mr. Amery: Thank you, Madam Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 4. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

The Acting Speaker: Does the Assembly concur in the report?

Hon. Members: Concur.

The Acting Speaker: Opposed? So ordered.

Government Bills and Orders Third Reading

Bill 4

Public Interest Disclosure (Whistleblower Protection) Act

The Acting Speaker: The hon. Associate Minister of Accountability, Transparency and Transformation to move third reading.

Mr. Scott: I move the bill for third reading.

The Acting Speaker: The hon. Leader of Her Majesty's Loyal Opposition.

Ms Smith: Thank you, Madam Speaker. Well, here we are, finally, on third reading, and I'm pleased to speak to Bill 4. Remember that when I first spoke on this, I said that we had hoped to be able to support it, that we were going to seek significant amendments to it, and in the absence of those significant amendments we would not be able to support it. So I will be voting against this bill. I am looking forward to seeing my colleague the hon. Member for Calgary-Fish Creek bring forward a piece of private member's legislation that will look like the kind of whistle-blower legislation that this government had the opportunity to draft and failed at doing.

When we started looking at this legislation, we said that we were going to judge it by three criteria. We wanted to see legislation that would allow for whistle-blowers to blow the whistle anywhere, anytime, for any reason.

One of the groups that the hon. Member for Calgary-Fish Creek has been working with in developing her draft legislation for her private member's bill was FAIR, the Federal Accountability Initiative for Reform. They took the time to go through and do an assessment of Alberta's bill even though they have been in the past a research agency that looks at federal legislation. They don't have much nice to say about the federal legislation. They have said that the federal legislation has cost taxpayers more than \$30 million with, as they quote, "virtually nothing to show for it." They say, "No other developed country has suffered such a spectacular and humiliating meltdown of its national whistle-blower system" as this system. Unfortunately, they do say that Alberta's bill, this legislation, which models after many of the errors in the federal bill, is not much better.

I want to read a couple of things from the report because I think it's instructive about the approach that they think that this government should have taken, which would have allowed them to endorse it. What they say about this bill is that the shortcomings and loopholes of this bill are so serious that any of the rest doesn't matter because the law as it's presently configured simply cannot be effective. I think that's important.

The other thing that is important is that in looking through the very serious concerns that they have with this legislation, they point out 15 major flaws. They say that it

does not look like a serious attempt at creating an effective anti-corruption system: it looks more like an attempt at window-dressing – or the result of a failure to understand the most basic requirements of whistleblower legislation.

There are three other areas from this report that I want to quote at length before I go into some of the more summary arguments that they make. Don't worry; I won't go through all of the 15 major flaws that they have with the bill. I will table this report, if it hasn't been done already, so that members can read it for themselves. The problem that we see, one of the big, serious issues, is that the most common types of wrongdoing are excluded. In the definition of wrongdoing the act doesn't reference the most common types of misconduct – namely, the violation of policies, violation of codes of conduct, and the like – even though they can have very serious consequences.

Here's an instructive example, I think. They give this example that most of the misconduct exposed within the financial industry during the major financial meltdown and economic devastation that it caused around the globe was in fact perfectly legal even though it was clearly immoral and unethical and violated numerous policies. That I think is instructive. Just because something doesn't violate the letter of the law doesn't mean that it's ethical. It doesn't mean that it doesn't breach some kind of code of conduct or policy. These are the kinds of things that we want to give our public servants the latitude to be able to report on without fear of retaliation.

Because what happens – and I'm sure the hon. Member for Calgary-Mountain View and the hon. Member for Edmonton-Meadowlark would be able to go on at length about this, about how false accusations and smears are routinely used to ruin truth tellers' reputations and to prevent them from ever finding employment again in their chosen field. Sometimes it results in the loss of income. Crushing legal bills often lead to the loss of home, and families can be torn apart because of extreme stresses. It's not surprising that some whistle-blowers, having lost everything yet still failing to stop the wrongdoing, commit suicide. That's what we're talking about here, Madam Speaker. That's why this is such a serious issue and why we had hoped that this bill would address it and why we're so disappointed that it doesn't.

This is the last piece that I'll quote from here.

The primary purpose of whistleblower legislation is to deter wrongdoing that harms the public interest, so it's essential to take appropriate, visible action when misconduct is proven. However, there is often great resistance to this, especially when senior people are implicated in some way, or simply trying to save face. It's not at all uncommon for proven wrongdoers [to] get a 'soft landing' or even to be promoted.

11:30

That, once again, is the problem with a system where you're forcing everyone to go through internal departmental processes when it could well be that the very people who are breaking the codes of conduct, who are creating a toxic work environment are the ones that have been continually promoted up the food chain and are now the bosses overseeing this process. This is the reason why this legislation is so fundamentally flawed. It hands over the power to one individual through this internal departmental structure to be able to have unlimited discretion to do anything or to do nothing at all.

That's the bigger fear, that they will do nothing at all. There's no avenue for appeal. There's no public disclosure despite the best efforts of the hon. Member for Edmonton-Beverly-Clareview to

add some requirements for public disclosure. I agree with the hon. Member for Lac La Biche-St. Paul-Two Hills. We probably should have changed the name of the bill to the Public Interest Nondisclosure Act after what I saw this evening with the voting down of those two amendments. There is no remedy, so there is no described forum in the legislation for how an individual could seek a remedy or redress or compensation.

One of the things that FAIR points out and that I think, again, the hon. Member for Edmonton-Beverly-Clareview tried to address is that the very best whistle-blower legislation focuses – and this is in the U.K., for instance – not on specifying the processes for investigation of disclosures and so on but focuses almost entirely upon the mechanism for providing a possible remedy for the whistle-blower. That's what whistle-blower legislation is supposed to do. The modest proposal from the Member for Edmonton-Beverly-Clareview, making it a mandate of the commissioner to ensure that a public servant would be able to keep their job, seems to me to be very baseline stuff if you're going to try to create whistle-blower protection that actually works. I'm very disappointed that the members opposite refused to support that amendment.

The other issues, of course, are not being able to go to the media, not being able to go to an MLA and be assured that your disclosure through those mechanisms is going to yield any positive results, and I'll talk more about that in just a minute. The FAIR organization, the Federal Accountability Initiative for Reform, says that there's been no evidence of extensive research done on this bill despite what the members opposite may say. If there had been extensive research done on this bill, it would not be as poorly written as it has been.

I thought that the Member for Lacombe-Ponoka asked the most relevant question. To me, it really resonated. He said: who is this bill for? This bill is not for the hard-working public servants, who are working in an environment where they observe wrongdoing, they observe breaches, and they're terrified to come forward and talk about it because they fear retaliation. That's who the bill is supposed to be for, but the way this bill is structured, it is structured to keep all of that information internal, to bog it down in processes, to keep the information internal, to never really get any true light shone on incidents that are occurring, and to give no real remedy. I think that for those serious reasons this is a bill that should not be supported.

We had some 20 amendments that were put forward. I think that in total there were 27 amendments that were put forward. I guess what I want to do in just finishing off my remarks on this this evening is just remind members of what it is we were trying to do with this piece of legislation. We were trying to create a safe environment for public servants to come forward to report wrongdoing, and I have to say that there is an incongruity that I can't help but notice between what the intention of this legislation was supposed to be and the experience that we have had on the opposition benches virtually every single day since we came into this Legislature.

We've been raising very serious issues of ethical violations. We've been raising very serious issues of breaches of code of conduct, very serious issues of breaches of expense policy, very serious apparent breaches of the conflict-of-interest code, very serious shortages of dollars leading to the prosecutors' offices having difficulty keeping up with their workload. These things, I think, that we are raising are the kinds of things that we want our public servants to be raising so that they can be addressed. Yet we raise these issues. For instance, let me go through a few of them.

The London expense trip began as an \$84,000 trip in the official public press release. Then we found out that there were a bunch of

expenses that weren't included, so it ballooned to \$500,000. By the time we ended up with the disclosure, it turned out it was closer to a million dollars, and we still can't get a full list of all of all of the receipts for all of the people who were on that trip. We're going to keep on asking.

The issue of health care expenses. I ask the Health minister virtually every day about why he won't release all of the expenses for all of the executives for all of the health regions going back to 2005. His response is: well, keep on doing your FOIPs, one FOIP at a time. That's the kind of response we're getting as an opposition when we're trying to raise legitimate issues of health care expenses that, once revealed, have demonstrated that there have been some serious flaws in the way the expense policy has been interpreted in the past.

We raised the issue today of a contract that was given to the firm of the Premier's ex-husband, serious issues, we think, warranting questions. We believe it's our job. We believe that there might be a public servant out there who is a little bit concerned about the closeness of the decision-maker when that decision was made. We would have thought that this is the kind of thing you'd want a public servant to bring forward. Yet every time we stand to ask a question, we're shouted down. We're ridiculed. We're told that this is not appropriate business to bring forward in the Legislature.

We brought forward the issue of the prosecutor in Airdrie dropping the case of a young woman who had been abused for nine years. Why was it dropped? Well, because there weren't enough resources to be able to get the case to court in a timely way. We raised this, and once again the Justice minister shouts us down, tells us we're wrong, says: oh, we'll do an internal investigation. He doesn't want to have a full review. These are the kinds of things you would expect that maybe a public servant would want to bring forward.

The health inquiry, the allegations of queue-jumping: when a public servant, Dr. Stephen Duckett, came on the scene, he stopped any preferential access that MLAs had to get minor tweaks to the waiting times for their constituents and other friends. We want to have a health inquiry that goes back and investigates all of that. Well, too bad. The terms of reference are: looking forward. When we try to put forward a notification to the inquiry to say, "Hey, maybe here are a few people of interest that you might want to have a look at," we're ridiculed. We're told that we're interfering. We're told that we shouldn't.

The fiscal update. We hear from the minister that he's given a full and complete fiscal update. Well, that's not what the Alberta Auditor General said. He's investigating for breaking the law. Maybe this is the kind of thing that a public servant would have wanted to bring forward before this shoddy piece of work was brought forward and presented to this Legislature.

The issue of a high donor giving what is alleged to be a \$430,000 cheque to a single political party: I don't know; it seems to me that the media was the one who blew the whistle on that, talking to someone internal to find out about it. It could have been cleared up very easily by just releasing copies of the cheques and the deposit slips, again the kind of thing you'd think that you would want some hard-working employee to bring forward if they think that there's a breach of the elections law. We bring it up, and we're told that it's an inappropriate avenue of discussion and line of questioning in this Legislature.

The Election Act: we have now seen over 80 investigations launched. Most of them have been launched because members of the opposition, members of the media got tips, got phone calls, got people saying, "Hey, maybe this isn't right" because in the law you're not supposed to have public institutions funnelling

taxpayer dollars back to a political party. You'd think that this is the kind of thing that maybe public servants would want to bring forward, but once again we bring it up in the Legislature, and we're told that it's not appropriate business to bring up, to bring forward.

The issue of the power lines. We finally saw some revision to the power line legislation, that's going to restore, as it should, an independent needs assessment for those power lines, but no one wants to go back and look at all of the reasons why those initial power line contracts were approved without proper scrutiny, without an independent needs assessment. I would note that the parent company of one of the companies who is going to be a huge beneficiary just announced another criminal prosecution, one of its executives. I don't know. Maybe there's someone in the public service that might want to bring this forward, might want to talk about something that is known about: what were the reasons behind why this decision was made against the public interest? These are the kinds of things that we are bringing forward as an opposition. These are the kinds of things that MLAs are hearing about. These are the kinds of things that the media are hearing about.

11:40

You have to understand why I find it a little incongruous that we're standing here debating a piece of legislation to be able to give the public sector the power and the latitude to come forward and to talk about these things without being punished, yet when we bring them up in the Legislature, we are called bottom-feeders. People make jokes about us being failed actresses. Yeah, I did hear that one even though I was walking out. We get shouted down by the folks across the way. When we're trying to put forward amendments late into the night, we've got the Deputy Premier, who rips them up and couldn't show more derision. Then they have the nerve to actually lecture us on decorum in the Legislature. This is the behaviour of a government that then puts forward legislation to create a safe environment for public workers, for public servants to come forward and to report wrongdoing.

Do you see, Madam Speaker, why we just can't support this legislation? There is such a huge divide between the talk of this government and the walk of this government. I don't believe it. The public doesn't believe it. Our hard-working public servants don't believe it. We're not going to pretend that this sham of a legislation is anything other than that. It is the Public Interest Nondisclosure Act. It will not protect whistle-blowers. It will not protect public servants. It is designed to protect the government. For that reason, I will be voting against it.

Thank you, Madam Speaker.

The Acting Speaker: The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you, Madam Speaker. I rise this evening to speak against this awfully written piece of legislation. I mean, we've been talking about renaming it. I think that it should be renamed the Public Disinterest Nondisclosure Act.

It's rife with problems, beginning with the fact that organizations that specialize in whistle-blower protection legislation were not consulted along with pieces of legislation from around the world that actually do serve to protect whistle-blowers. First and foremost, this is an act that was supposedly written to encourage and to provide protection for those public servants who see either acts of illegality or issues that they have, to give them a mechanism to report on that so that we can improve and strengthen our systems and agencies and government departments. It's frustrating with what we're left with because this bill doesn't

do that at all, not in the least. It doesn't provide an avenue. It does not protect the whistle-blower. It's rife with loopholes from the fact that you've got a commissioner who has sweeping, godlike powers to decide what's investigated and what's not. There is little to no protection for a public servant to step forward, let alone even inquire about how the whistle-blowing process works.

It doesn't include all workers. This government is doing more and more to contract out work to private contractors, who will not be covered by this legislation, which is something else that many different members from the opposition have put forward.

It's with great frustration that the work that the opposition parties have put into bringing forward amendments – as the Leader of the Official Opposition eloquently illustrated, we move amendments forward because we're trying to strengthen bills to provide the best possible legislation for all Albertans. The fact that this Legislative Assembly is divided up amongst four different parties, different ideologies, different points of view being represented: I was under the impression that this government and other members wanted to actually work with each other. What I have seen over the past few weeks regarding pieces of legislation like this whistle-blower protection act is that the government is not interested in working with opposition parties, listening to all different points of view, really putting forward legislation that is in the best interests of Albertans.

You know, it's quite sad that an amendment that's put forward is not based on the merit of the amendment but is looked at as who put it forward, and if it's not put forward by the government themselves, then they want nothing to do with it. I think this sends a very loud message to Albertans that you've got a government who is actually the opposite of transparent. They're actually quite opaque, disinterested in working with and listening to Albertans and working with other members of the Assembly, who represent a great number of Albertans across this province.

It's with great frustration that there were many amendments put forward that were quite reasonable, speaking with members from all different sides of the House, yet because of political positioning, amendments couldn't be accepted. It's at the peril of Albertans, and we're actually doing them a great disservice by not passing a bill that could have worked the way that the government says that it should or will. Unfortunately, as the opposition has pointed out in tabling over – I believe collectively we've tabled over 40 different amendments to this bill alone, which screams that it is full of holes and rife with problems. We're trying to amend them to strengthen this bill, to ensure that it's going to do what the government says that it's going to do.

You know, as the hon. Leader of the Opposition has put it, this bill seems to be more lip service than anything else and isn't in fact going to protect whistle-blowers or potential whistle-blowers from stepping forward in order to improve a system, to provide them with protection, to ensure that they're made whole, to give them the opportunity to blow the whistle any time to anyone anywhere, which is the fundamental principle of what whistle-blower protection should be doing.

Clearly, when we go through this bill, as we've done, we see time and time again that there are not only loopholes, but the way it's written is extremely subjective. It's up to the commissioner to decide whether an investigation is even warranted. What will happen with that? It's limiting on the information that the commissioner comes up with, the rulings that are made. I mean, this piece of legislation is anything but transparent, and I don't think the irony is going to be lost on Albertans when they look at this and say: this bill is terrible and is anything but transparent and is anything but going to protect whistle-blowers.

Again, as all members of the opposition have stated, this is a bill that really protects the government from the whistle-blower, not protecting the whistle-blower, nor will it encourage those who see wrongdoings to have the confidence to step forward to report it. I mean, the whole reporting process is a joke as far as reporting internally to your supervisor. I'm not sure how many people are going to step forward, but I would imagine very few.

It is for these reasons and many others that I have to vote against this bill, and it is with great frustration that another example of a bill that is not serving the best interests of Albertans – and, I mean, I'll take this moment to extend to the government the opportunity that we have in this House of working with different parties coming forward, coming up with the best bills that are going to serve the interests of all Albertans. I think the government has really failed to do that on this piece of legislation. It is for that reason and many others that I have to vote against Bill 4.

Thank you, Madam Speaker.

11:50

The Acting Speaker: Thank you, hon. member.

Hon. members, we do have Standing Order 29(2)(a) at this moment, so we have five minutes for questions or comments for the hon. member.

Seeing none, I'll move to the hon. Member for Calgary-Mountain View on Bill 4 in third reading.

Dr. Swann: Thank you, Madam Speaker. Well, let me say in this final phase of this bill how eagerly I anticipated this bill. It's been over a decade that on behalf of Albertans, on behalf of many professionals in this province and civil servants we've been pressing for a whistle-blower bill, and I do appreciate the fact that the government has taken a stab at a bill called the whistle-blower bill colloquially, Bill 4. I regret, as others have indicated, that there are so many problems with the bill that it is impossible for me and for this Liberal caucus to support it.

This is a bill that we said from the outset was in principle a great achievement, but after reading the completed bill and trying to amend it and failing, we've realized that this is such a flawed bill that it should be hoisted. I have a number of reasons. Clause 3(2) reads that the act would only apply to wrongdoings that have occurred after the coming into force of the act, completely limiting the investigations that may be required regarding incidents that may have occurred prior to and continuing into this current time. Not only will this not allow an exploration of past events; it will ensure that those individuals that have been accused in the past couple of years can fall back to this clause and be protected for their wrongdoings. Albertans need to know that those that have committed offences can be prosecuted for all they have done and not just what may happen tomorrow.

Clause 19(2) states: "the Commissioner is not required to investigate a disclosure." It also states that if the officer has begun an investigation and this process has taken over two years, the investigation may be discontinued. This allows the commissioner to discontinue without proving an outcome. All he must do is state that the investigation has been discontinued due to the lapse of two years.

The insult to injury can go even further, as in 22(4). There's a provision that allows the commissioner to choose to discontinue his or her investigations without reporting the findings or lack thereof to the initial whistle-blower. In fact, it states that he or she may decide what if anything is "appropriate in the circumstances." This is important as it means the whistle-blower could potentially receive a letter two years after reporting, stating that the commissioner has discontinued the investigation with no reason given.

Clause 51 allows the commissioner to be above reproach in this or any decision that they cannot be questioned on. There should be no individual that's free from the terms of this act. Taking into account the chance that officers are typically protected from action, there still has to be protection for the whistle-blower in the event the commissioner doesn't sit on an issue until two years has lapsed, then report nothing. A whistle-blower needs recourse that an investigation will occur prior to the two years lapsing, and should this not occur, they deserve to know why. To avoid protectionism and promote transparency, the commissioner should absolutely be responsible for ensuring that very timely and thorough investigations occur and that the whistle-blower is protected.

Clause 52 sets out that no proceeding of the commissioner is invalid for want of form. It also goes on to state that their decisions, again, cannot be challenged or reviewed. This becomes a large issue if you look at 49, which states, "Any person who contravenes section 24, 46, 47 or 48 is guilty of an offence and liable." If the commissioner, chief officer, a designated officer, or person acting on behalf or under the direction of any of these parties decides that an accusation is in bad faith, the act states that this is not subject to review. If the accused is terminated or fined and truly believes they were innocent and wrongly accused, they have no ability to defend themselves in court. Further, if the whistle-blower makes a claim and the commissioner decides that the claim is frivolous, he can then, in turn, be fined. There is, essentially, insufficient protection for the whistle-blower. What's more, they have no ability to protect themselves from being fined or punished for coming forward.

This is a bad bill. It has failed to provide assurance or protection for those in the public sector to come forward with concerns. It has failed to provide for appropriate and responsible measures for timely investigation. It will protect those that have been committing offences in the past. I mentioned that we tried to amend this by requesting that certain clauses be struck. All were voted down, as were other opposition amendments. The issue of this totally inadequate protection for whistle-blowers still remains.

Madam Speaker, we're back here, and we begin where we started in second reading. This is, we believe, a fatally flawed bill as it fails to make the process safe, anonymous, and accountable to the whistle-blower while at the same time opening those brave enough to try to come forward to fines or punishments themselves. We have no choice but to move that the motion for third reading of Bill 4, Public Interest Disclosure Act, 2012, be amended by deleting all the words after "that" and substituting the following: "Bill 4, Public Interest Disclosure (Whistleblower Protection) Act be not now read a third time but that it be read a third time this day six months hence."

Thank you, Madam Speaker.

The Acting Speaker: Thank you, hon. member. The hon. member has moved a hoist amendment. It does have to be distributed, so we'll take a few minutes to have that amendment distributed. Do you have that amendment with you?

Dr. Swann: I do not, Madam Speaker. I do not have it copied. My error.

The Acting Speaker: We'll pause for a moment. Like every other amendment, we expected to have a copy for each member of the House.

Dr. Swann: My oversight, Madam.

The Acting Speaker: Hon. member, would you read that one more time, and we'll listen carefully as none of us will have a copy of that amendment. Please read that again, and then after he's finished reading the hoist amendment, I'll ask if there are any other speakers to that amendment.

Proceed, hon. member.

Dr. Swann: I'm moving that the motion for third reading of Bill 4, Public Interest Disclosure Act, 2012, be amended by deleting all the words after "that" and substituting the following: "Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act be not now read a third time but that it be read a third time this day six months hence."

The Acting Speaker: Thank you, hon. member.

We heard the hoist amendment from the hon. Member for Calgary-Mountain View. Are there any members who would like to speak to the hoist amendment? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Madam Speaker. I'll be very brief. You know, we saw with this piece of legislation that there was absolutely no consultation with independent experts, experts in the field who've had experience examining other jurisdictions, as the Official Opposition leader mentioned, or FAIR, which looked at many other countries and jurisdictions and got best practices. Instead of doing that and having one of the strongest pieces of whistle-blower legislation, this government has apparently refused to look at that.

The result is pretty alarming. We have a bill that has been a complete failure according to independent groups that have come forward. Instead of actually protecting whistle-blowers, it protects the government from whistle-blowers. I think that in the circumstance where there are so many loopholes, you know, like section 31, where the government can exclude anybody from the powers within the act, so many different loopholes that make this legislation unworkable, there's no need to pass a piece of legislation that has so many problems with it. Even if it elevated the bar slightly, I think that it would be worth while to pass a piece of legislation like this, but in its current form I don't think it's worth while. Unfortunately, the minister refused to look at any of the amendments put forward by the opposition parties. We did a lot of work. Again, we talked to Albertans. We looked at best practices in other jurisdictions. The minister, for whatever reason, decided not to. In that case . . .

12:00

The Acting Speaker: Thank you very much, hon. member.

We do have a procedure. I have just been informed by Parliamentary Counsel that without the original copy of the amendment we cannot proceed. In the future, for any member interested in making a hoist amendment, it is an amendment, and we need copies just as we need copies for every other amendment.

We will not allow that amendment, and we'll proceed in third reading. Are there any members who wish to speak to Bill 4 in third reading?

Seeing that there are no other members who wish to speak, I would ask the hon. Minister of Accountability, Transparency and Transformation to close debate.

Mr. Scott: Thank you, Madam Speaker. As sponsor of Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act, 2012, I have appreciated the interest and lively debate by the members of this House. The intent of this act is to enable disclosure of wrong-

doing in public entities and further deliver on this government's promise to do business with openness and transparency.

We saw repeated comments during Committee of the Whole and even in second reading that focused on disclosure of wrongdoings that predate the act. I want to take this chance to again remind this House that while this act is not retroactive, it is most definitely retrospective. We very purposefully established an independent commissioner with the ability to exercise discretion in terms of investigating any wrongdoings that may have occurred in the past.

The disclosure process set out in the act reflects extensive research and consultation with our stakeholders. It is based on best practices that are already in place in many public entities, some of which are internationally recognized. Our research also indicates that an internal process helps build a culture where wrongdoings are less likely to occur in the first place. Madam Speaker, I feel strongly that what is before this House will be the most effective approach for enabling disclosures of wrongdoing.

Madam Speaker, there has also been much discussion around the establishment of an independent commissioner. I stand by the way in which we are establishing this office. An independent commissioner will be the best option to ensure accountability in the operation of this act. The commissioner acts as the ultimate overseer of internal disclosure procedures and investigates disclosures of wrongdoing when an internal procedure is inappropriate. As an independent officer the commissioner reports directly to the Legislative Assembly. While we heard much about accountability and checks and balances, I find it hard to believe that the members across the way could disagree that accountability to this Legislature is an effective way to ensure that the commissioner performs his or her duties in accordance with this legislation. With this legislation we are establishing a practical and effective mechanism to bring any wrongdoings to light and to make sure that employees who have courage to speak up about a wrongdoing are protected.

Madam Speaker, I am looking forward to getting on with this debate, so I would close by saying that this act is a cornerstone for this government's commitment to transform the way we interact and foster confidence in the public sector with Albertans. It is just the beginning. We are going to continue to be a leader in open and accountable government.

With that, Madam Speaker, I move that third reading of Bill 4, the Public Interest Disclosure (Whistleblower Protection) Act, 2012, be closed.

[The voice vote indicated that the motion for third reading carried]

[Several members rose calling for a division. The division bell was rung at 12:05 a.m.]

[Ten minutes having elapsed, the Assembly divided]

[Mrs. Jablonski in the chair]

For the motion:

Allen	Hughes	Pastoor
Amery	Jansen	Quadri
Calahasen	Jeneroux	Rodney
Campbell	Johnson, L.	Sandhu
Cao	Kennedy-Glans	Sarich
Dallas	Leskiw	Scott
DeLong	Luan	Weadick
Drysdale	McDonald	Webber
Fenske	McIver	Young
Fraser	Olson	

Against the motion:

Barnes	Saskiw	Swann
Bilous	Smith	Towle
Fox	Strankman	
Totals:	For – 29	Against – 8

[Motion carried; Bill 4 read a third time]

**12:20 Government Bills and Orders
Committee of the Whole
(continued)**

[Mrs. Jablonski in the chair]

The Deputy Chair: Hon. members, I'd like to call the committee to order.

**Bill 7
Election Accountability Amendment Act, 2012**

The Deputy Chair: The hon. Associate Minister of Municipal Affairs.

Mr. Weadick: Thank you very much, Madam Chair. I would like to propose an amendment to our bill, and I would ask that that be circulated. It's at the desk.

The Deputy Chair: We'll take a few minutes to circulate the amendment.

Hon. members, this amendment will be called A1. Will the hon. Associate Minister of Municipal Affairs please continue?

Mr. Weadick: Well, thank you, Madam Chair. In the interest of time I will just give a quick description. We have circulated this House amendment tonight to ensure that the Local Authorities Election Act will provide municipalities and school boards with the flexibility to adapt voter identification processes to their local circumstances.

In discussions with municipalities we found that some would like to use a variety of identifications that are specific to their municipalities, so this amendment simply allows that a city upon decision could allow something like a transit pass or something else that's issued by that municipality to be an acceptable form of identification. We're not removing any of the requirements for minimum standards with photographs and such, but it is allowing municipalities to select the kinds of identification that could be used in a municipal election.

With that, I would ask for the agreement of the House to add this amendment to the bill.

Thank you very much.

The Deputy Chair: Are there any other members that would like to speak to the bill?

Seeing none, we'll move to the question.

[Motion on amendment A1 carried]

The Deputy Chair: Back to Bill 7.

Mr. Campbell: I move that we adjourn debate.

[Motion to adjourn debate carried]

Mr. Campbell: Now I ask that the House rise and report progress on Bill 7.

[Motion carried]

[Mrs. Jablonski in the chair]

The Acting Speaker: Hon. Member for Calgary-East, would you read the report, please.

Mr. Amery: Thank you, Madam Speaker. The Committee of the Whole has had under consideration a certain bill. The committee reports progress on the following bill: Bill 7. I wish to table copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

The Acting Speaker: Thank you, hon. member. Does the Assembly concur in the report?

Hon. Members: Concur.

The Acting Speaker: Opposed? So ordered.

Mr. Campbell: Madam Speaker, seeing the time, I would suggest that we adjourn until 1:30 this afternoon.

[Motion carried; the Assembly adjourned at 12:26 a.m. on Thursday to 1:30 p.m.]

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