



Legislative Assembly of Alberta

The 29th Legislature
Second Session

Select Special
Ethics and Accountability
Committee

Thursday, May 19, 2016
5 p.m.

Transcript No. 29-2-3

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Select Special Ethics and Accountability Committee

Littlewood, Jessica, Fort Saskatchewan-Vegreville (ND), Chair
Miller, Barb, Red Deer-South (ND), Deputy Chair

Anderson, Wayne, Highwood (W)
Clark, Greg, Calgary-Elbow (AP)
Connolly, Michael R.D., Calgary-Hawkwood (ND)
Cortes-Vargas, Estefania, Strathcona-Sherwood Park (ND)
Cyr, Scott J., Bonnyville-Cold Lake (W)
Drever, Deborah, Calgary-Bow (ND)
Jansen, Sandra, Calgary-North West (PC)
Loyola, Rod, Edmonton-Ellerslie (ND)
Nielsen, Christian E., Edmonton-Decore (ND)
Nixon, Jason, Rimbey-Rocky Mountain House-Sundre (W)
Renaud, Marie F., St. Albert (ND)
Starke, Dr. Richard, Vermilion-Lloydminster (PC)
Sucha, Graham, Calgary-Shaw (ND)
Swann, Dr. David, Calgary-Mountain View (AL)
Turner, Dr. A. Robert, Edmonton-Whitemud (ND)*
van Dijken, Glenn, Barrhead-Morinville-Westlock (W)

* substitution for Michael Connolly

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Stephanie LeBlanc	Parliamentary Counsel and Legal Research Officer
Philip Massolin	Manager of Research and Committee Services
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[Mrs. Littlewood in the chair]

The Chair: I will call this meeting to order. I'd like to call the meeting of the Select Special Ethics and Accountability Committee to order. Welcome to members and staff in attendance.

To begin, I'm going to ask that members and those joining the committee at the table introduce themselves for the record, and then I'll address members on the phone. I'll begin on my right.

Mr. Nielsen: Chris Nielsen, MLA, Edmonton-Decore.

Cortes-Vargas: Estefania Cortes-Vargas, MLA for Strathcona-Sherwood Park.

Loyola: Rod Loyola, MLA for Edmonton-Ellerslie.

Mr. Sucha: Graham Sucha, Calgary-Shaw.

Ms Drever: Deborah Drever, MLA for Calgary-Bow.

Dr. Turner: Bob Turner, MLA, Edmonton-Whitemud.

Dr. Starke: Richard Starke, MLA, Vermilion-Lloydminster.

Mr. Cyr: Scott Cyr, MLA, Bonnyville-Cold Lake.

Mr. Clark: Good afternoon. Greg Clark, MLA, Calgary-Elbow.

Ms Renaud: Marie Renaud, St. Albert.

Ms Jansen: Sandra Jansen, Calgary-North West.

The Chair: On the phones?

Mr. W. Anderson: Wayne Anderson, Highwood.

Mr. van Dijken: Glenn van Dijken, Barrhead-Morinville-Westlock.

The Chair: Dr. Swann, are you there? Mr. Nixon, are you there? The staff to introduce themselves, please. Go ahead.

Dr. Amato: Sarah Amato, research officer.

Ms Robert: Nancy Robert, research officer.

Dr. Massolin: Good afternoon. Philip Massolin, manager of research and committee services.

Ms Rempel: Jody Rempel, committee clerk.

The Chair: For the record, Dr. Turner is an official substitute for Mr. Connolly.

Mr. Nixon, I will get you to state your name and constituency for the record. Mr. Nixon?

Mr. Nixon: Sorry. I didn't hear you.

I'm Jason Nixon. I'm the MLA for Rimbey-Rocky Mountain House-Sundre.

The Chair: Thank you very much.

A few housekeeping items to address before we turn to the business at hand. A reminder again that the microphone consoles are operated by the *Hansard* staff, so there's no need for members to touch them. Please keep cellphones, iPhones, and BlackBerrys off the table as these may interfere with the audiofeed. Audio of committee proceedings is streamed live on the Internet and

recorded by *Hansard*. Audio access and meeting transcripts are obtained via the Legislative Assembly site.

Up next is the approval of the agenda. Does anyone have any changes to make? Mr. Clark.

Mr. Clark: Thank you very much, Chair. I'd like to move that we add after item 6, before 7, other business, a discussion about the deliberation and report-writing process. I'd just like to learn more about exactly what that process is, exactly who's responsible for what, just have a brief discussion about what that looks like. I think that'll help us frame the rest of the work on this committee.

The Chair: I think that's something that we would need to request from the LAO staff and have provided to the members.

Mr. Clark: I'd love to add that to the agenda so we can just frame exactly what that request is.

The Chair: You would like to add it under other business?

Mr. Clark: Perhaps under other business if that can be done. Certainly, we can do it then.

The Chair: Okay. I would like to get a motion to move the agenda as amended. Moved by Member Drever that the agenda for the May 19, 2016, meeting of the Select Special Ethics and Accountability Committee be adopted as amended. All in favour? Any opposed? Carried.

Next are the minutes from our last meeting. Are there any errors or omissions to note with the draft minutes? If not, would a member move adoption of the minutes, please?

Mr. Nielsen: So moved.

The Chair: Moved by Mr. Nielsen that the minutes of the May 10, 2016, meeting of the Select Special Ethics and Accountability Committee be adopted as circulated. All in favour? Any opposed? Carried.

Before we move on to agenda item 4, I would like to note for the record that the Alberta Federation of Labour has provided a written response to questions raised at our February 11, 2016, meeting.

On to the oral presentation. At our last meeting we passed a motion inviting an anonymous whistle-blower to meet with us and provide a confidential presentation regarding the Public Interest Disclosure (Whistleblower Protection) Act. In order to proceed with this item, I would suggest that we move in camera and invite Dr. Massolin and Dr. Amato to remain with us for this portion of the meeting. Is there someone willing to move that motion?

Dr. Starke: So moved, Chair.

The Chair: Moved by Dr. Starke that the Select Special Ethics and Accountability Committee move in camera. All in favour? Any opposed? Carried.

[The committee met in camera from 5:05 p.m. to 5:59 p.m.]

The Chair: Thank you, everyone. We are now back on the record and ready to move on to our next agenda item.

On the Conflicts of Interest Act, a summary of written submissions. Moving on to the focus of such, we have the written submission summary document prepared by our support staff. Ms Robert, would you mind starting us off on the document at hand for the written submission summary document, please, on the Conflicts of Interest Act?

Ms Robert: Certainly. Okay. I'm just going to give you a brief overview of the summary of stakeholder and public submissions with respect to the review of the Conflicts of Interest Act. The document was provided to you through the internal committee website.

All right. There were 32 submissions in total, 14 from stakeholders and 18 from members of the public. The submissions from members of the public, for the most part, made quite general comments about the act, and they are summarized in part B of the document. If you could please note that eight of the public submissions did not comment on any conflict-of-interest issues with respect to members, ministers, or designated office holders, and therefore they were not included in the review.

Abbreviations are used to identify stakeholders. You'll note them throughout the document. Each submitter's full name is listed in the appendix to the document.

The 14 stakeholders' submissions were predominantly from provincial agencies, boards, and commissions. There were eight, so 8 of the 14 were from agencies, boards, and commissions. The balance was from the Department of Justice and Solicitor General, which was made on behalf of the other government of Alberta deputy ministers and the Public Service Commissioner. There was a submission from the Ethics Commissioner, from a Member of the Legislative Assembly, from a public administration association, and from an academic. The Department of Justice and Solicitor General's submission was received on March 8, which was two business days after the deadline of March 4.

Part A of the document summarizes the issues and recommendations made by stakeholders who made submissions. If the committee could also please note that the submission from the Health Sciences Association of Alberta was actually a public submission, but it was summarized as part of the stakeholder submissions because it raised similar issues to those raised by stakeholders.

The document is organized by issue. The types of issues raised by stakeholders include standards for ethical behaviour and accountability; alignment of conflicts-of-interest provisions, so aligning conflict-of-interest provisions that apply to members, ministers, political staff, and designated office holders. There were issues with respect to the possible inclusion of agencies, boards, and commissions in the Conflicts of Interest Act; issues with respect to the requirement of members to resign as Crown employees upon election, most specifically, AHS employees; issues with respect to postemployment restrictions, gift provisions, and with respect to the definitions of private interest and direct associate.

The submissions from the Ethics Commissioner and the Department of Justice and Solicitor General have been referred to extensively in the document; however, as members are aware, recently the Ethics Commissioner and the Deputy Minister of Justice and Solicitor General and the Public Service Commissioner issued a joint submission clarifying some of the issues raised in their original submissions. The joint submission should be read in conjunction with the individual submissions from these stakeholders. In addition, the Ethics Commissioner and the Department of Justice and Solicitor General and the Public Service Commissioner may have the opportunity to elaborate on this joint submission should the committee decide to hold oral presentations from stakeholders.

Finally, in terms of what happens to the information extracted from the submission summary, the issues and recommendations raised will eventually, at the will of the committee, of course, be used to create an issues document that the committee can use in its deliberations.

That's all I really have. I'd be happy to answer any questions you might have.

The Chair: Thank you. I will open it up to the floor to ask any questions of Ms Robert.

Mr. Sucha: You know, just under some of the general comments we saw on page 20, you know, the term "toughened" was mentioned about some of the submissions that were coming in. Could you elaborate further on what, overall, that was looking towards?

6:05

Ms Robert: Unfortunately, the people that wrote that didn't say much more. They just said that the legislation should be tougher.

Mr. Sucha: Oh, okay.

Ms Robert: That the rules should be tougher. These submissions were two or three sentences long, for the most part, from members of the public.

Mr. Sucha: But it didn't elaborate any further.

Ms Robert: No, it didn't. Sorry.

Mr. Sucha: Generally between sort of the public submissions and then ones coming from stakeholder groups, did you find any specific themes that were similar or any themes that were generally different from those stakeholders as well?

Ms Robert: The public submissions: I can't really say. They were so general that, I mean, the things I noted in the summary are basically it. With respect to stakeholders there were some common themes. As I've noted, there were eight submissions from agencies, boards, and commissions, and the common theme from them was that they feel that they already have codes of conduct in place and that they're not sure that it would be appropriate to have them sort of rolled up into the Conflicts of Interest Act. There were at least two submissions expressing concern with respect to the fact that AHS employees are now considered Crown employees and are therefore in a conflict if they do not resign from their position once they're elected as MLAs. Those were two themes.

The other theme, I would say, that was talked about quite a bit, was whether or not conflicts provisions should be aligned across the board for members, ministers, political staff, and designated office-holders. You know, yes, they should be; no, they shouldn't be, and the reasons why and the reasons why not. That came up a fair bit as well.

Mr. Sucha: Okay. Thank you.

Dr. Turner: I'm just mindful of Dr. Starke's comments this afternoon about a potential conflict of interest. I am not an employee of AHS, but I am still in the practice of medicine. So do you think it would be appropriate for me to recuse myself from this discussion?

The Chair: Dr. Massolin.

Dr. Massolin: Thank you, Madam Chair. I think you're just receiving some information at this point. Perhaps you could reconsider at the point at which the committee is deliberating.

Dr. Turner: Okay. Thank you.

The Chair: Thank you.

Moving on to a discussion of additional presentations, as with the other legislation within our mandate and as we have just heard, we have already received written submissions on the Conflicts of Interest Act from both the public and identified stakeholders.

We've also been in contact with the Ethics Commissioner, who is the office of the Legislature responsible for administering this act, and they would like to present. Knowing that the commissioner and the Deputy Minister of Justice and Solicitor General, who made the joint submission, would like to come and make an additional presentation to the committee, would the committee like to make invitations for presenting at this time? Mr. Loyola.

Loyola: Yeah. I would be in favour of hearing from the Ethics Commissioner, for sure. And I'd really love to hear from the other members of the committee on who else they would be interested in inviting to give presentations.

The Chair: Are there more invitations at this time? Deputy Chair Miller.

Ms Miller: Yes. I would be interested in inviting Philip Bryden, who submitted on behalf of the government of Alberta.

The Chair: Okay. Any others?

I'll ask someone to make a motion, then.

Loyola: I so move.

The Chair: Moved by Member Loyola that the Select Special Ethics and Accountability Committee invite the following individuals/organizations to make an oral presentation to the committee as part of the review of the Conflicts of Interest Act: office of the Ethics Commissioner and Alberta Justice and Solicitor General.

All in favour? Any opposed? Carried.

Moving on to the election legislation piece, we need to just open it up to the floor again for members of the committee to make invitations. We have received a briefing from the Chief Electoral Officer, and we have already been given a summary of the submissions from both stakeholders and the public on that as well. At our last meeting this committee identified three groups and one individual it wished to invite for an oral presentation. Does the committee wish to identify any other possible presenters?

Mr. Cyr: This is on item 6? Yeah. Wildrose requests that Arthur Hamilton be invited to make a presentation on the Election Act. Also, Wildrose would like to request that the former Chief Electoral Officer, Lorne Gibson, be asked to make a presentation on the Election Finances and Contributions Disclosure Act.

The Chair: Okay. That's everything? Okay.

Is there anyone else?

Who would like to make a motion?

Mr. Nielsen: So moved.

The Chair: Okay. Moved by Mr. Nielsen that the Select Special Ethics and Accountability Committee invite the following individuals/organizations to make an oral presentation to the committee as part of the review of the Election Act and the Election Finances and Contributions Disclosure Act: Arthur Hamilton and Lorne Gibson.

All in favour? Opposed? Carried.

Under other business we have discussion of deliberations and report writing.

Mr. Clark: Thank you very much, Madam Chair. One of the things you and I have talked about briefly in the hallway and that we can now put on the record is: just what is that process? Speaking for myself, a few of us on this committee are brand new to this process, and I'm very interested in what the road map actually looks like

from here until the end of September. What do we actually do? What is that deliberation process? I note from the schedule you've handed around that the month of May includes deliberations and directions for drafting the report, so I don't know if we anticipate that coming up in the next meeting. It's not been something we've discussed here today in detail. I'm just curious what that process is.

Now, I'm open to your thoughts or the thoughts of the rest of the committee or perhaps some of the LAO staff as to how we can get this information or if any of this is something that we can talk about now or if, perhaps, we'd like to send them away and come back at our next meeting with something written or just even an oral presentation.

Some of the things I'm curious about are: what's the deliberation process? Do we put everything out on the table ourselves? I mean, do we create a list? Does each caucus submit something? Do we try to come up with things we all agree on and then carve out time to discuss that separately? Who writes the report? What's that process? Is there a to-and-fro kind of draft report process? How many times do we go back and forth? How much time do we need for that? Those sorts of things are really the big questions I have.

The other one is that if we're recommending changes to legislation, are we actually drafting legislation coming out of this committee, or are we simply making recommendations, that would then, perhaps, come before the House drafted as a government bill?

Those are the questions that I have. I don't know if there are any others from other members of the committee, but those are the questions that I think would help us really frame what exactly our schedule looks like. Once we have answers to that, perhaps we could put together an even more detailed schedule.

The Chair: Dr. Massolin.

Dr. Massolin: You passed that to me very quickly, Madam Chair. I noticed that.

Well, there are lots of excellent questions there. I can speak mainly from the historical experience of going through this process with committees, as my other colleagues have done as well. Of course, jump in if I mess up, which I sometimes do, or often do, some might say.

I think we're kind of on the cusp, Madam Chair, of this deliberation process and report-writing process with the Public Interest Disclosure (Whistleblower Protection) Act. The first step historically has been for my group, research services, to distill the issues that the committee has heard mostly via the stakeholders plus the other submitters to the committee. We've heard lots of information. The process now is to distill that information into issues, suggestions, proposals, recommendations.

6:15

What we do for the committee is that we put that into a document, a three-column document called an issues document, and organize it according to the act and try to make it succinct and digestible. It's a written document. And for PIDA, by the way, I think we're poised to post that very shortly. Once that's posted, either today or tomorrow, I believe, then the committee will have a chance to see it well in advance of the next meeting at which the discussions will commence, which is a week tomorrow.

That document is what we have sort of distilled that the committee has heard. So I just want to make sure, and I've said this in the past, that the committee understands that this document is simply our distillation of those issues. Of course, we approach that from the point of view of the Legislative Assembly Office, so we don't create a hierarchy or prioritize or anything like that.

That is not to say that the committee can't deviate completely from that document or pick and choose, cherry-pick from the document if you so choose, ignore things or look at things in much more depth. The committee is, of course, free to use that document in whatever way it chooses, including throwing it out if the committee so chooses, and bringing forward – and this is what has happened in the past – other issues to the table and having that discussed, you know, starting at the next committee meeting in the case of PIDA.

The next meeting, I believe, is the start of the deliberation process. So you will go through those issues. You know, again, it's up to the committee to either use our document or not, bring additional issues to the table, have discussions offline and then try to have agreement offline if they want or just hash it out in the committee. It's probably better to line things up prior, in my view. Then at the next meeting plus the meeting after that you come to some sort of focus, right? You're narrowing down the issues that you have an interest in. You're disposing of the issues and possible recommendations that you don't have an interest in.

Then the next step in that process, I believe, is to make recommendations for a report. Now, you asked the question, I think, Mr. Clark, about: what is the nature of those recommendations? Well, I think most people around the table understand that it's probably not a good idea to wordsmith and to propose specific recommendations for proposed legislation. Of course, again, it's the committee's choice to do that or not, but perhaps leave that to the legislative drafters.

You will understand at what process or what stage you need to sort of say, "Okay; we are interested in seeing section X of PIDA amended to do Y," right? You give the instruction at that point as a committee to us as research services to start drafting the report, to include that in the report. So that recommendation, you know, mostly presented to us through a motion that's passed by the committee, sometimes will then make it's way into a draft report, which, of course, the committee will see and ultimately approve.

So you go through that process. Hopefully, I'm explaining it well enough to understand, but it's a funnelling process. You've got the issues, generally, that you're interested in. You've got the proposals or suggestions that follow up the issues you're interested in. Then you have the recommendations that flow from that process that make it to the report, that we draft and you approve. And that can take a couple of meetings as well, to do that process.

I'll stop there and see if there are any further questions at this point.

The Chair: Mr. Clark.

Mr. Clark: Yeah. That's helpful. I think it really still remains to be seen, just in terms of how much agreement there is on certain, you know, material aspects of what we're actually dealing with and how much sound and fury comes out of the committee in terms of agreement and disagreement. Thank you, Dr. Massolin, for providing that detail.

Madam Chair, I would like to work with you or come up with an even more detailed timeline, if we can, perhaps put some specific if not dates then just numbers of meetings we anticipate in each month here going forward. Again, obviously, there was a concern raised at the last meeting that we have a very big job ahead of us and that perhaps we don't have enough time to tackle it. I guess that remains to be seen. But I would like to get some sense of the scale of the work that's left to be done given the substantive nature of each of these pieces of legislation that we've been asked to review.

The Chair: We will be working with a draft timeline going forward. I think once we – I mean, it's good to have that information from Dr. Massolin, and then we can work on getting a more solid timeline going forward. Absolutely, now that we have the people invited on the different acts, then we can actually send out those invitations and start to calendar that out going forward.

Mr. Clark: Yeah. I'd really like to see that in terms of how much time we're allocating to the deliberations for each. You know, that may depend a little bit on exactly what our stakeholders say and our own individual deliberations amongst ourselves as well. I'm interested to see how much time is allocated to that process. If it's possible to schedule that out even with dates, with some fair advanced warning given that we're going into summer, that might also be worth while.

Mr. Sucha: My feedback, I would say, is a mix between sort of a semiquestion and sort of comment and a statement that will probably be helpful for all committee members barring Dr. Starke and Ms Jansen as this isn't their first rodeo, so to speak. There's always that learning curve, especially when you take on a new job, of 18 to 24 months to really fully grasp what you're doing. One thing that's been helpful for myself – even with one of the committees I'm chairing we're doing a full review of PIPA – is just looking back in *Hansard* and seeing the process and how it's been done in the past because this isn't the first time that acts have been reviewed. Further to that point, if there are any references that the researchers have to previous times that this has happened, it's always a good frame of reference to look back at, and then it kind of gives you a bit more context to some of that stuff, too.

The Chair: Member Cortes-Vargas.

Cortes-Vargas: Yeah. I really echo that because that was really the first thing I did to get an idea of what we will be looking at. I'm really glad to hear, you know, that we're willing to come to the table because it's really just – I hope that in making that timeline, we're also flexible. Since we haven't gotten to deliberations, it's hard to tell, and there's a varying amount of work depending on which one. So as long as we're all flexible, I think it's good to estimate and then work from there.

The Chair: Okay. Thank you very much.

Loyola: I have a question through you to Dr. Massolin. Since on the first piece of legislation, PIDA, we've heard from stakeholders, when can we expect that first document?

Dr. Massolin: It's ready to be posted right away, I believe. Perhaps as soon as at the end of this meeting or tomorrow at the latest.

Loyola: Okay. Thank you very much.

The Chair: Good. I will move on to discussing the date of the next meeting. The next meeting is scheduled for the morning of Friday, May 27, 2016.

If there is nothing else for the committee's consideration, I'll call for a motion to adjourn. Moved by Member Cortes-Vargas that the May 19, 2016, meeting of the Select Special Ethics and Accountability Committee be adjourned. All in favour? Any opposed? Carried.

Thank you.

[The committee adjourned at 6:24 p.m.]

