



Legislative Assembly of Alberta

The 27th Legislature
First Session

Standing Committee
on the
Economy

Monday, October 6, 2008
1:31 p.m.

Transcript No. 27-1-5

**Legislative Assembly of Alberta
The 27th Legislature
First Session**

Standing Committee on the Economy

Allred, Ken, St. Albert (PC), Chair
Taylor, Dave, Calgary-Currie (L), Deputy Chair

Amery, Moe, Calgary-East (PC)
Bhullar, Manmeet Singh, Calgary-Montrose (PC)
Blakeman, Laurie, Edmonton-Centre (L)
Campbell, Robin, West Yellowhead (PC)
Chase, Harry B., Calgary-Varsity (L) *
Marz, Richard, Olds-Didsbury-Three Hills (PC)
Mason, Brian, Edmonton-Highlands-Norwood (NDP)
McFarland, Barry, Little Bow (PC)
Weadick, Greg, Lethbridge-West (PC)
Xiao, David H., Edmonton-McClung (PC)

* substitution for Laurie Blakeman

Bill 204 Sponsor

Johnston, Art, Calgary-Hays (PC)

Support Staff

W.J. David McNeil	Clerk
Louise J. Kamuchik	Clerk Assistant/Director of House Services
Micheline S. Gravel	Clerk of <i>Journals</i> /Table Research
Robert H. Reynolds, QC	Senior Parliamentary Counsel
Shannon Dean	Senior Parliamentary Counsel
Corinne Dacyshyn	Committee Clerk
Erin Norton	Committee Clerk
Jody Rempel	Committee Clerk
Karen Sawchuk	Committee Clerk
Rhonda Sorensen	Manager of Communications Services
Melanie Friesacher	Communications Consultant
Tracey Sales	Communications Consultant
Philip Massolin	Committee Research Co-ordinator
Stephanie LeBlanc	Legal Research Officer
Diana Staley	Research Officer
Rachel Stein	Research Officer
Liz Sim	Managing Editor of <i>Alberta Hansard</i>

1:31 p.m.

Monday, October 6, 2008

[Mr. Allred in the chair]

The Chair: We'll call the meeting of the Standing Committee on the Economy to order. I'll ask the committee members to introduce themselves, and I will start with Robin Campbell, who, I believe, is on the line.

Mr. Campbell: I'm here, Ken. Robin Campbell, West Yellowhead.

The Chair: Dave Taylor, are you on the line? Not yet. Okay. We'll start with Greg.

Mr. Weadick: Hi. Greg Weadick, Lethbridge-West.

Mr. Chase: Hi. Harry Chase, representing Laurie Blakeman and her fabulous downtown Edmonton constituency.

The Chair: Welcome, Harry.

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

The Chair: And another substitute.

Mr. Mitzel: Len Mitzel, MLA for Cypress-Medicine Hat, representing Barry McFarland, MLA for Little Bow.

The Chair: My name is Ken Allred, and I'm chairing the committee.

I'd ask staff to introduce themselves.

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

Ms Norton: Erin Norton, committee clerk.

Dr. McNeil: David McNeil, Clerk of the Assembly.

Mr. Reynolds: Rob Reynolds, Senior Parliamentary Counsel.

Ms Gravel: Micheline Gravel, Clerk of *Journals*/Table Research.

Ms Stein: Rachel Stein, research officer, Legislative Assembly Office.

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

Ms Sorensen: Rhonda Sorensen, manager of communications services, Legislative Assembly Office.

The Chair: Okay. Thank you.

If we could have a motion to approve the agenda as circulated. I'll give Mr. Chase the opportunity since he hasn't had his name in the record yet. Any discussion, additions, deletions? All those in favour? Those opposed? The motion is carried.

Review and approval of the minutes of the September 29, 2008, meeting. Are there any errors or omissions? If not, could we have a motion to approve them as circulated? Mr. Weadick. Any discussion? All those in favour? Opposed? The motion is carried.

The next item is Approval of Draft Committee Budget for 2009-2010. That was circulated on the web. Any comments, discussion?

Welcome to two other members, David Xiao and Moe Amery.

Okay. If there are no comments on the budget, could we have a motion to approve the budget as circulated? Mr. Xiao. Okay. Any discussion? All those in favour? Those opposed? The motion is carried.

The next item is Review of Draft Report. Mr. Chase.

Mr. Chase: Yes. I was just wondering at what point in the meeting – I'm assuming under Other Business – we will have an opportunity to discuss the latest attachment received from MLA Art Johnston.

The Chair: Yes, we can review that under Other Business.

Mr. Chase: Great. Thanks very much.

The Chair: Now, under the report, which was, again, on the website, we have a few changes that are going to have to be made. Firstly, on page 3 we'll have to add two new members that are present at this meeting, Mr. Chase and Mr. Mitzel substituting. Just one item on that point. Mr. Mitzel, do we have a letter for you to replace Barry McFarland?

Mr. Mitzel: As far as I know, you don't.

The Chair: Apparently a letter was not received, Mr. Mitzel, so unfortunately you're not entitled to vote. In that case the only one that would be added to page 3 would be Mr. Chase.

On page 5 I understand that there is a concern with regard to the wording of the motion in that the word "intention" gives direction to the ministries to come back, and we only have the power to recommend. Now, on that basis, Mr. Marz.

Mr. Marz: Yes, Mr. Chair. I read that after the fact as well and realized that the committee does only have powers to recommend, and perhaps the wording should be changed to reflect what we're able to do and what we're not able to do in this committee. I'd be prepared to rescind that motion and replace it with this motion: that the committee recommend that Bill 204 . . .

The Chair: Just before we get carried away here, the first opportunity would be to rescind it, and then we'll move into a motion to replace it.

Mr. Marz: That's a good idea, Mr. Chair, and I think that's a proper procedure, but perhaps the members would want to be aware of what the replacement motion may be before they just vote on a rescinding motion. Without the idea of knowing where we're going, we may not get support to rescind the motion.

The Chair: Okay. Perhaps in speaking to the rescinding of the motion, you can indicate what the concerns are.

Mr. Marz: Right. I'd just like to read the motion that I would be prepared to propose if the vote on the motion to rescind is passed.

The Chair: Okay, but the motions will be dealt with separately.

Mr. Marz: Right. I agree with that. Is that everyone's understanding?

Okay. It's very, very similar. I'd be prepared to bring forth a motion. On the assumption of my motion on the floor to rescind my original motion, I'd be prepared to propose this: that the committee recommend that Bill 204 not proceed and that the issue be referred

to the ministries of Transportation, Solicitor General, and Justice with the recommendation that an offence of distracted driving be created by legislation or regulation and that the draft legislation or prospective regulation be referred back to the standing committee at the earliest possible opportunity.

The Chair: Okay. As I understand it, you're making a number of changes. One, you're changing the word "intention" to read "recommendation." In place of "legislation" you're saying: or regulation.

Mr. Marz: That's correct. I have discussed this with some ministers that were involved here, and I understand that the legislation is already on the books, that we could just accommodate this particular thing we're trying to do by regulation. Thereby, if it was in regulation, we could change fines as needed through regulation, not use up the time in the Assembly for those types of smaller things.

The Chair: And you're proposing a third change, to change "prior to the spring session" to "at the earliest opportunity." Correct?

1:40

Mr. Marz: That's correct. If it could be done by regulation, perhaps it might be possible before the spring sitting, and we might be able to keep Albertans even safer on the roads through the Christmas season. That's my hope.

The Chair: Okay. Are the members clear on what the proposal is or, first, on what the concerns with the existing motion are? Mr. Chase.

Mr. Chase: Yes. I'm not sure whether to speak to the actual motion or the motion as amended. I would like to address the current motion.

The Chair: Okay. Well, the first motion, or the motion that's on the table at present, is to rescind the present motion, but I understand you may have some concerns with the changes that are being made. Your discussion at this point in time will be on the rescission of the motion.

Mr. Chase: With regard to rescinding the motion, it's the process that I'm having a little bit of difficulty with. Once the motion is rescinded, we have nothing in its place.

The Chair: That's correct.

Mr. Chase: When we've wiped that motion off the books, we will then discuss the new motion or a motion as amended?

The Chair: A new motion will come forward which will be open for full discussion. That's correct.

Mr. Chase: Okay. Thank you. Then I will support the rescinding.

The Chair: Welcome, Manmeet.

Okay. The motion before us is to rescind the motion that was passed at the last meeting. Unfortunately, everything came together so fast at the last meeting, and in putting together a motion on the fly, sometimes we miss some of these things. The motion is to rescind the motion from September 29. Any further discussion? All those in favour? Those opposed? The motion is carried.

Okay. Mr. Marz, if you want to introduce a new motion.

Mr. Marz: Yes. Thank you, Mr. Chair. I would like to propose the motion that the committee recommend that Bill 204 not proceed and that the issue be referred to the ministries of Transportation, Solicitor General, and Justice with the recommendation that an offence of distracted driving be created by legislation or regulation and that the draft legislation or prospective regulation be referred back to the standing committee at the earliest opportunity.

The Chair: Okay. Is everyone clear on the motion? Mr. Chase.

Mr. Chase: Yes. Speaking to the motion, I want to first refer to MLA Art Johnston, who proposed Bill 204. He has recently sent us a memorandum indicating his desire to have distracted driving included within his Bill 204 rather than Bill 204, which is a ban on cellphone usage, being lost and sort of added on to a list of other distracted driving offences. He's made it very clear in his letter – and I strongly support his intention in putting forward the bill in the first place – that the potential damage caused by the distraction of an electronic conversation, whether it be orally or through texting, is a sufficiently large concern that it should come first and foremost and take much greater precedence than makeup, reaching for the glove compartment, and so on.

The idea of a ban on cellphones, whether hand held or hands free, has been put forward in the form of legislation since, I believe, 2000. I know the Leader of Her Majesty's Loyal Opposition, Kevin Taft, put forward a similar motion in 2005. I put forward a motion outlining hand-held cellphones. The emergency doctors throughout Alberta have indicated their concerns. The University of Calgary and numerous universities have indicated the dangers associated specifically with cellphone usage. Numerous companies in Alberta have already made it illegal for their employees to use cellphones during the conducting of their business while driving. Further delaying this bill's passage, as Richard Marz indicated, will allow a dangerous circumstance to continue. While I understand Richard putting forth the motion and hoping that it will get on the books before Christmastime, I would suggest: bring back the original motion, put the amendments into the bill that have been suggested with regard to the various other causes of distracted driving, and go forward with Art Johnston's wishes on Bill 204.

Thank you.

The Chair: Mr. Marz.

Mr. Marz: Yes. The member wasn't at the last meeting to hear the presentations by the five members of various police forces throughout the province who discussed this proposal at length and were all very supportive of a distracted driving offence that was actually less prescriptive than naming individual ones. I did bring up the naming of all the different ones specifically in regulation or legislation, and they preferred not to because they felt, if my memory serves me right, that their ability to make an offence stick would be better if it was more in general terms than in prescriptive terms.

Also, the evidence we have seen in past presentations is that in those jurisdictions that did adopt a cellphone bill in particular that within approximately a year, I believe it was, uses had gone right back up to where they were before. The advice and, I guess, the input from the police forces: they were very unanimously in support of this.

The Chair: Mr. Chase.

Mr. Chase: Yes. Not to contradict the police forces, but there is such a thing as once legislation is on the books, the frequency of

defying that legislation is sufficiently reduced because the legislation is out there regardless of the police enforcement. It's almost a secondary when people are made aware of the law. An example would be seat belts. Another example would be Bill 39, I believe it was, the Traffic Safety Amendment Act, 2005, that Richard Magnus from Calgary put forward on passing highway safety workers, RCMP, individuals picking up trash and so on. As soon as that became law – and there was an education portion of providing that information – people started respecting that law, and lives were saved.

I believe the power of the law itself in legislation will have a similar public attitude change and will not require the degree of enforcement. Some people will continue to defy that, but I would say that the number of individuals defying the law when it has been spelled out clearly and has been provided through education to Albertans will reduce accidents tremendously. I support the police. They're the ones who are on the front lines and will have to make the offences and then take it to court to have the offence stick. But just the fact that it's part of legislation like bike helmets, like motorcycle helmets, like not speeding through construction zones: I believe that power is sufficiently important to convince a large segment of society to obey the law, and as a result we'll have safer driver conditions and less enforcement required by law officers.

Thank you.

The Chair: Thank you.
Mr. Taylor.

Mr. Taylor: Yes. Hi.

The Chair: Welcome.

Mr. Taylor: Thank you. I'm with you now.

The Chair: Do you want me to just bring you up to speed, Dave?

Mr. Taylor: If you wouldn't mind.

The Chair: We're on item 5, Review of Draft Report. We've had a concern with some of the wording in the recommendation that we made. Therefore, the motion from the last meeting was rescinded, and we have a new motion in its place. I'll try and highlight the changes for you if you want to just follow along. The new motion that's proposed is that the committee recommend that Bill 204 not proceed and that the issue be referred to the ministries of Transportation, Solicitor General, and Justice with the recommendation – that's in place of intention – that an offence of distracted driving be created by legislation or regulation. Another change.

1:50

Mr. Taylor: Created by legislation or regulation.

The Chair: Or regulation. And that the draft legislation or prospective regulation be referred back to the standing committee at the earliest opportunity. So you'll see there are three changes there.

Mr. Taylor: So “prior to the spring session” has become “at the earliest opportunity.”

The Chair: That's correct.

Mr. Taylor: Thank you.

The Chair: Is that clear?

Mr. Taylor: Yes, it is.

The Chair: Okay. Further discussion? Robin, go ahead.

Mr. Campbell: Yes. I think that, you know, we had these discussions already and went through the same information that Mr. Chase has brought forward today. I think it's important to understand that all three representative parties at the committee agreed on the original motion to be passed and to go into a report. I think if we understand that it has to be a recommendation instead of intention and we understand that regulation means that we might be able to have something done quicker than legislation, then I think we're at the point where we were last meeting. I would ask that the question be called and that then we vote on this change and move on with the rest of the report.

The Chair: A request for the question. Do we want to take the question or have further debate? What is the wish of the committee?

I don't hear a unanimous request for the question, so we'll continue with the discussion. Mr. Chase.

Mr. Chase: Yes. I very much appreciate the fact that I haven't been on this committee previously and that there had been a general agreement put forward by the committee. I also value Art Johnston's opinion as the mover of the bill and as a former police officer. He has offered what I believe is new information – and feel free to contradict me if I'm wrong – in the idea of putting the extra distractions under the auspices of Bill 204 by simple amendment. That would allow Bill 204 to be brought forward to us during our fall session with the amendments that cover the other distractions and be passed into legislation. I have a great preference for the opportunity to debate legislation as opposed to the restrictions of regulation, which do not allow for sufficient debate, in my opinion.

The Chair: Further discussion?

Mr. Marz: I've gone over the letter from Mr. Johnston, and I see nothing in it at all that the committee hasn't had access to before. There's no new information that I'm aware of at all by going over this. We've had this. It's a repetition of what we've heard before.

Mr. Taylor: If you will bear with me and accept my apologies for joining the meeting late today, can I just recheck the new wording and confirm that it says: with the recommendation that an offence of distracted driving be created by legislation or regulation and that the draft legislation or prospective regulation be referred back to the Standing Committee on the Economy at the earliest opportunity?

The Chair: That's correct.

Mr. Taylor: So there is now no reference to time at all other than “the earliest opportunity,” no reference to our intention at our last meeting of getting this legislation back before the committee prior to the spring session, and no reference to having the bill itself or the regulation, for that matter, in place or introduced or in play in time for the spring 2009 sitting of the Assembly?

The Chair: That would be my understanding.

Mr. Taylor: Okay. I had missed the first few minutes of the meeting – I understand that – and may be asking you to go over

ground that's already been covered, but can someone offer an explanation as to why we have taken out those timelines?

The Chair: Mr. Marz, do you want to address that?

Mr. Marz: Well, if it would give the committee members a comfort zone, I would be more than pleased to add to the draft that you just read the words "or prior to the spring 2009 sitting" if that would be agreeable.

Mr. Taylor: It would certainly be agreeable to me, Mr. Chair, if it's agreeable to the rest of the committee. I personally am more comfortable, especially if we're considering the possibility of going the route of regulation versus the opportunity that Mr. Chase pointed out for a full debate of the legislation back on the floor of the Assembly. I'd like to know that this is proceeding and coming back, at the very least, to our committee by a certain time. The way it was worded before leaves me with the feeling that the earliest opportunity may in fact turn out to be no opportunity, and I think we do wish to see substantial progress on this. That was certainly my feeling of the mood at our last meeting.

Mr. Marz: My apologies, Mr. Taylor. I guess it was my assumption, since I was informed that it could be done by regulation, that we could be done prior to the spring sitting. But a deadline, I think, is appropriate in the motion, and I'd be prepared to add those words to my motion.

Mr. Taylor: Thank you.

The Chair: Does anyone have any objection to adding those words to the motion as a friendly amendment?

Hon. Members: No.

The Chair: Hearing no dissension, we will add those words to the motion. The motion will now read that the committee recommend that Bill 204 not proceed and that the issue be referred to the ministries of Transportation, Solicitor General, and Justice with the recommendation that an offence of distracted driving be created by legislation or regulation and that the draft legislation or prospective regulation be referred back to the Standing Committee on the Economy at the earliest opportunity or prior to the spring 2009 sitting.

Mr. Chase: Just clarification so that I can fully understand the process. We've left choices. Within that motion it said, "legislation or regulation," and then it added a time limit. Again, if it's in regulation, it basically kills Bill 204 because there will never be an opportunity to debate the content and intent of Bill 204 if it's simply handed over to the Ministry of Transportation to include in regulation. I'm very concerned that the danger associated with driving while being distracted by a cellphone, either hands free or hand held, is being lost. It's what I consider the generalizing of a significant piece of legislation down to a few regulatory points, which we'll never have an opportunity to debate, that concerns me. I'm afraid that it's almost, to use a cliché, that we've thrown the baby out with the bathwater, and the bathwater has gotten rather cold in the process.

The Chair: Mr. Chase, if I might just point out that the main thrust of the first part of the resolution is that the committee recommend

that Bill 204 not proceed. So at that point it wouldn't proceed in any event.

Mr. Marz.

Mr. Marz: Yes. If I may comment on the public debate aspect of Mr. Chase's comments, this committee itself is recorded in *Hansard*. It is open to the public and available on the Internet. I'm sure that as the regulation or proposed regulation or proposed legislation comes back – I'm not sure what it'll be at this point in time – that at that point it will be debated at this committee level in a very public forum. So that opportunity exists within a very public and open committee.

Mr. Taylor: Mr. Chair, I wonder if we could get from Parliamentary Counsel some guidance on, indeed, what would happen if a prospective regulation is referred back to our committee, the process that would be followed in that event. I'm presuming that Mr. Marz is right that there would be at least some debate on it at the committee level, but how would the committee proceed? What sort of recommendation would the committee be able to make around a regulation, in any event?

2:00

The Chair: Mr. Reynolds, do you wish to comment?

Mr. Reynolds: Thank you, Mr. Chair. First of all, to go back to the first principles, I should indicate that Standing Order 52.03 says, "A Policy Field Committee may review any regulation, amendment to a regulation or prospective regulation within its mandate." There were other aspects about review of regulations that were contained in the temporary standing orders for the 2007 session that were far more detailed, but those were taken out because perhaps the feeling was that those inhibited the committee in its review. My sense is that the committee would not necessarily be bound by anything in its recommendations with respect to the prospective regulation. Obviously, they'd have to deal with the prospective regulation or the subject matter.

I'm not sure what you had in mind, Mr. Taylor, but I don't think the committee would be restricted in any way in terms of what it proposed. I mean, if the committee wanted to propose alternate wording or alternate offences or that this was too broad or too narrow, I can't see why you would be inhibited in doing that.

Mr. Taylor: To whom would we be making that recommendation, Mr. Reynolds? Back to the minister or ministers? Back to the ministries themselves? I may be misunderstanding something here – it certainly wouldn't be the first time and won't be the last – but I'm having a tough time at the other end of the phone line here wrapping my head around the notion that we would be making a recommendation to the Assembly about a regulation which, you know, in the normal course of events the Assembly would never deal with.

Mr. Reynolds: Mr. Taylor, I believe you hit on a very good point that may be addressed by the Privileges and Elections Committee with respect to its review of the standing orders. There is, if you will, perhaps a bit of a, well, to use a fancy Latin word, lacuna. There's a bit of a hole there, as it were, with respect to this.

The standing orders contemplate the committee making recommendations to the Assembly. Clearly, it would be more appropriate in this regard to make the recommendations to the minister because it would be the minister or Executive Council that would be referring the regulation to the committee. I believe that the practical solution,

of course, subject to changing, would be that the committee would make its recommendation - it would be to the minister or ministers - but that that recommendation would be tabled in the Assembly. If the Assembly wasn't sitting, it could be done by means of an intersessional deposit, which means leaving it with the Clerk, in essence, meaning that it's tabled in the Assembly. I would imagine that the recommendation would more appropriately go to the minister.

Does that answer your question, Mr. Taylor?

Mr. Taylor: Mr. Chair, that answers my question relative to the process involved, I think. It causes me, though, some concern as to whether we should be going down that road. Again, my apologies for joining late. I gather that Mr. Marz proposed his amendment on the basis of some understanding that we might be able to accomplish what we set out to do with our direction to come up with the proposed motion at our last meeting: to accomplish this creation of an offence of distracted driving in a relatively faster and perhaps more effective way than going, you know, the route of creating an entirely new piece of legislation.

Nevertheless, regulations don't get debated on the floor of the Assembly. When we originally proposed this motion, we were talking about a recommendation to the ministries involved to come up with a bill that would then go before the House for full debate: three readings, committee study, and the possibility again, I would gather, of referring this bill back to the Standing Committee on the Economy.

I may be misunderstanding something there in that we were also asking that the proposed bill, the draft legislation, be referred back to our committee before the spring 2009 sitting started. Maybe that would shortcut the normal course of debate on a new piece of legislation by a step or two. Still, the intent as I understood it at our last meeting was that we would be directing the ministries to draft a piece of legislation that would then find its way either directly or indirectly back to the floor of the Assembly for full debate by the full House.

The Chair: Mr. Reynolds, did you have another comment?

Mr. Reynolds: I'm sorry. Just for the sake of completeness, Mr. Chair, I wanted to also indicate that Standing Order 52.09 indicates: "The Government shall respond to a Policy Field Committee's report on any matter other than a report on a Bill within 150 days from the date on which the Policy Field Committee reports." That means that if there is a report on a prospective regulation, the government would have to respond to it under the current standing orders. Of course, if the regulation was brought into force 150 days beforehand based on the committee's recommendation, I would imagine that might constitute the government's response. In any event, there is that provision in the standing orders.

I just want to make one comment about the motion, if I may, Mr. Chair. I was just wondering with respect to the word "or" at the end. I wouldn't say that it may be confusing, but it may appear to be two different things: at the earliest convenience or prior to the spring 2009 sitting. I was wondering, Mr. Marz: was it your intention that that should be "but" instead of "or" at the earliest opportunity? You could say: but, in any event, prior to the spring 2009 sitting.

Mr. Marz: No. My intention was that if this can be accommodated earlier than the 2009 sitting, I would be hopeful that it would be done. If it's not possible because we have three ministries involved here and we are going into session and we're going to be busy and perhaps the consultation between these three departments may take

longer than I anticipate, then perhaps "or the deadline of 2009" would be the appropriate one.

The Chair: Mr. Reynolds.

Mr. Reynolds: Yes. I wasn't disagreeing with you at all. I was just wondering if perhaps someone who didn't have the benefit of listening to this might perceive there to be some ambiguity. I was just wondering if you'd said, "at the earliest opportunity but, in any event, no later than the spring 2009 sitting" or "but, in any event, prior to the spring 2009 sitting," if that would perfect your intention in any way.

Mr. Marz: I'm not a professional wordsmith - I'll concede that - but I don't understand the difference between what you're saying and what I'm saying.

The Chair: I think our legal counsel makes a good point. I think there is an ambiguity: at the earliest opportunity, which might be June, or prior to the spring sitting, which is February or March. I think it is worth clarifying.

Mr. Chase, on this point.

Mr. Chase: Yes. I fully understand Richard's intent and the very positive intent of the committee to get this onto the streets and enforced as quickly as possible. Legal counsel pointed out another problem, and that was the 150-day circumstance with regard to bills. When we're all said and done and the discussion has terminated, the object is to get this thing into law in one form or another, whether it's Bill 204, which is my particular preference and that of the mover, Art Johnston.

With regard to the public's ability for input, the moment this goes to the ministry and goes into the regulatory process, any public input is lost because it's no longer on the floor of the Legislature. I'm sorry that I don't know to what extent you've sought public input in this committee. I'm assuming that the police chiefs of a number of districts had a say, that you probably heard from other representatives of the public, the Alberta motor vehicles association, AMA, et cetera. You've probably heard from emergency physicians. I'm just concerned that we're going to lose the ability for the public to have input through their elected representatives on the floor of the Assembly. At whatever point this gets directed to the ministry of transport or other affected ministries, I believe public input will be lost.

2:10

The Chair: If I might just ask Mr. Reynolds to clarify a bit. As I understand it, this committee is free to have asked for further public submissions or further public hearings if necessary, at any time. Is that not correct?

Mr. Reynolds: Yes, Mr. Chair.

The Chair: Thank you.

Okay. Mr. Bhullar, then Mr. Marz.

Mr. Bhullar: Thank you, Mr. Chair. Mr. Chase, with all due respect, Bill 204 has been debated in the Assembly already, and then it's come to this committee and we've debated it. It's through that debate that we have come to the conclusion that we believe a distracted driving offence would be a very wise way to address this issue.

With respect to public input we've spent some \$72,000 advertising for the public to engage and to give us their thoughts. We've

sought out public opinion as well as the opinion of stakeholders involved in this, and we've been at this for some months now. I think we're at a point, to be quite honest, where all of us feel that we're in line with a distracted driving offence. Further debate, I think, would also continue. Perhaps legal counsel can provide me with some understanding here, but I believe that if the recommendation to the Assembly is a part of a motion for the Assembly, that would be voted on. Am I right?

Mr. Reynolds: Yes. That would be correct. It would be in the form of a report to the Assembly, and there is usually a vote of concurrence in the report of the committee. That's how it would come to the Assembly.

Mr. Bhullar: So in such an event, Mr. Chase, I think that would also give us an opportunity to have some further debate in the Assembly should that be needed.

The Chair: On this point.

Mr. Chase: Well, would the question in the Assembly not be asked, "Do you concur or do you not concur?" in which case there would be no debate.

Mr. Reynolds: Typically these motions are done in the daily Routine under reports from standing committees, at which point the report is tabled. Typically the chair of the committee asks for a vote of concurrence in the report. Yes, it is possible to debate the report at that time. Typically they haven't been, but this is still a relatively new procedure. It may be the case that there may be another time other than the daily Routine when it would be debated, but certainly it is a debatable motion under the rules of the Assembly.

Mr. Marz: Upon reading my draft for the sixth or seventh time, I think by just removing the word "or" between "opportunity" and "prior," so it would read: "referred back to the Standing Committee on the Economy at the earliest opportunity prior to the spring 2009 sitting." That should remove any ambiguity that exists in the motion. You don't have to replace the word with "but"; just remove the word "or." It's "earliest opportunity prior," so it can be just prior to the spring sitting, or it can be tomorrow.

The Chair: Any comments from legal counsel?

Mr. Reynolds: It's your motion, Mr. Marz, and I certainly wouldn't want to interfere with the work of the committee, but I think that it accomplishes the same end, yes.

Mr. Marz: I like it this way.

The Chair: Can we take that as another friendly amendment? Okay. Thank you.

I have Mr. Weadick.

Mr. Weadick: Thank you, Mr. Chairman. Maybe I'm just a little unclear. I'm not sure what all the discussion around debate in the Legislature is. If this committee determines that an offence of distracted driving is appropriate and it goes to the minister and he comes back with that and it's a regulation that gets enacted, we've accomplished what we want to accomplish. I'm not sure what all this extra debate somewhere else is all about. That's the process that we're in, and it seems to make sense that if we can get it done and it happens in the next month or two without any – I don't see the

need for further debate anywhere if we can get what we've requested done. Maybe I'm missing something in the process, but we had a whole bunch of talk about debating things in the Legislature. If we can get it done, what do we want to debate it for?

The Chair: But it will be referred back to this committee, and we'll decide then if we want to debate it or not.

Mr. Chase, you're next.

Mr. Chase: Yes. It's taken us eight years to get to this point. I'm very anxious for it to get passed into law, and I want it to be the best law possible so that further confusions and further delays are not likely to happen. I want it clearly spelled out to law enforcement what their duties are, and I want it clearly provided through education to the general public what the expectations are so that we can start saving lives.

I understand the desire to do things to the best ability. I know the committee has spent numerous hours. As you mentioned, \$72,000 worth, I believe, was the figure of public-input seeking that took place. I look forward to this being enacted, and my concern is having one more opportunity to review it in order for it to be the best it can be. It was pulled just after second reading, I believe, so there was limited debate given the wisdom of 82 members to have an opportunity. It has gone through a few different evolutions, going from a specific bill dealing with cellphones to a wider range of distractions which will be considerably harder to enforce than the specifics associated with a cellphone ban.

We all want to save lives, and I believe the Legislature, which is the representative of the people, has the best opportunity to make that decision. I don't wish to slow the process down. I just want to make sure that there's always the opportunity for the people that represent the sober second thought through the Legislature to have an opportunity to debate the final structure of what has gone from a bill to a regulation which could be dead-ended at the ministry.

The Chair: Mr. Taylor.

Mr. Taylor: Thank you, Mr. Chair. I, too, as a rule prefer to see new law or new amendments to old law debated on the floor of the Legislature rather than simply enacted by a regulation. Given the mood of the committee and, for Mr. Chase's benefit, given that that mood was informed by considerable public input, considerable consultation, and considerable presentations to this committee, the concern that I have in this case is that we really are moving forward in a timely fashion. I think the change to the wording, the friendly amendments that have changed the wording to Mr. Marz's amendment here to put a firm timeline on this, addresses some of my concern in any event.

I'm a little concerned about this notion that the government has to report back within 150 days. Any recommendation that a committee makes – and I'm not sure, Mr. Reynolds, that I'm quoting chapter and verse of the standing order here because I'm doing it from recollection of what you said – 150 days from us making a recommendation around a regulation: that's seven months. If this were to be referred back or to come back in the form of a regulation rather than legislation, and then there was another seven-month wait period before we really saw any action around creating the offence of distracted driving, I wouldn't suggest that that's a timely enough way of going about this, that the benefit of doing it by regulation would outweigh the wisdom of doing it via legislation.

I guess, Mr. Chair, that I'm looking for some assurance, whether it's from Parliamentary Counsel through a clearer explanation of just what would be required here under the standing orders or from

yourself or from Mr. Marz or from whoever can offer it, as to why we would be better served going the regulation route than just sticking with a recommendation that draft legislation be referred back to us.

2:20

The Chair: The months must be awfully short down there in Calgary. I count 150 days as five months.

Mr. Taylor: Well, nobody ever recommended I be the finance critic either, Mr. Chair. You're right about that, and I sit corrected. However, my question still stands.

The Chair: Mr. Reynolds, I think, is going to respond to it.

Mr. Taylor: Thank you.

Mr. Reynolds: Mr. Chair, through you to Mr. Taylor, I hope I wasn't misleading. The report on a bill is not subject to the 150 days. The standing order says, "on any matter other than a report on a Bill." Accordingly, when there is the report on the bill, the House takes the vote. That's what happens. If the recommendation is that the bill not proceed and other recommendations, then that's what happens: the bill does not proceed.

What I was referring to was that I thought – and perhaps I'm incorrect – that a member of the committee indicated that if the committee considered the prospective regulation, they would make the report and nothing would happen. I was trying to address the issue that if there was a report on a prospective regulation – now, that assumes that you've made your recommendation on the bill, the minister has referred a prospective regulation to the committee, and the committee has reported on that – the government then has 150 days to respond to that report. Now, it's within 150 days. The government can respond in less time than 150 days.

I hope, Mr. Chair, that that clarifies the point I was trying to make.

Mr. Taylor: But that does imply, does it not, that if the government wished to, if there was not a strong will on the part of the ministries involved to move this forward in a timely fashion, they could drag it out for five more months, by which time, if we'd gone the route of legislation, we probably would have dealt with this? Am I wrong?

Mr. Reynolds: Well, I'm just telling you what the standing orders say. All I'm saying is that there would be a maximum of five months to respond to a report on a prospective regulation. I mean, it's up to the government how quickly they want to move with this, but I'm just assuming that if they send a prospective regulation to you prior to the spring session, it may be an indication that there might be some movement. But I certainly can't speak for the government on this.

As I said, I was just trying to address the earlier concern that if there was a report on the regulation, I thought someone said that the government would never have to respond. The point is that they would.

The Chair: Is that okay, Mr. Taylor?

Mr. Taylor: Yes, it is. I think that that does what I was looking for: gives me some indication of just what the process would be. In so doing, I'm left with the impression that, in fact, we are directing here, if we pass this motion, the ministries involved to come back to us with at least a prospective regulation before the beginning of the spring 2009 sitting of the Legislature. I'm going to act on a

presumption here that we would probably deal with and report on that regulation in as timely a fashion as we could possibly handle. Then the government has up to another five months after that before it necessarily does anything about our report.

I would just say that if the goal of Mr. Marz's amendment was to cause faster action to happen around creating an offence of distracted driving, I'm not sure at all that going the route of regulation is going to accomplish that end.

Mr. Chase: That's a concern I share. I know that for everyone here your intention is to get it out in law, give police officers a tool to save lives caused by distracted driving, including cellphone usage. But my concern is that if Bill 204's intention wasn't killed in the House, then it will be killed by the committee's recommendation to send it to the ministry for further consideration as a regulation, and it may never resurface again.

There is no obligation on the ministry. There is no compulsion that this committee can provide to that ministry to bring back their suggested regulations because the regulation is under the sole authority of the ministry unless I'm wrong. I don't want to lose what you've all worked so hard to accomplish by a series of referrals which may or may not happen. I don't want to lose the intent that Mr. Johnston put forward.

If Parliamentary Counsel can give me any reassurance that we can somehow dictate to the ministry of transport and the ministries of Justice and so on that are involved in the final formulation of the regulation that we'll have an opportunity to see the end product in a timely manner, then I'm supportive. I know exactly what Richard is trying to accomplish. I support him totally in moving this thing along, but I'm afraid that it's actually potentially being lost rather than moved on more quickly.

Mr. Marz: Well, the power of this committee is not to dictate to government; it's only to make recommendations. If we want to be very prescriptive to the government, they can either take the recommendation and do something with it, or they can provide a report back and say that they reject the recommendation of the committee. That's their prerogative to do that. I think my motion provides the greatest possible latitude and the greatest number of options for the government to look at actually getting a specific regulation or law passed that's going to provide a greater amount of tools for the police to use in enforcing the highway traffic act. I think my motion also allows them to do that in the quickest way possible if they choose to do that.

I have no idea how they're going to react to it. The government has the option to either reject our recommendation or react by bringing forth legislation or react by bringing forth a regulation. In any case, if they bring forth legislation or regulation, we're recommending that that be brought back to this committee for further review and possible recommendations to the government. I don't think it's that complex.

The Chair: Further discussion?

Okay. I will read the motion just once more for clarification.

That the committee recommend that Bill 204 not proceed and that the issue be referred to the ministries of Transportation, Solicitor General, and Justice with the recommendation that an offence of distracted driving be created by legislation or regulation and that the draft legislation or prospective regulation be referred back to the Standing Committee on the Economy at the earliest opportunity prior to the spring 2009 sitting.

Any further discussion?

Hon. Members: Question.

The Chair: The question has been called. All those in favour?

Hon. Members: Agreed.

The Chair: Those opposed?

Mr. Taylor: Opposed.

The Chair: Two opposed. For the record, Mr. Chase and Mr. Taylor are opposed.

Mr. Taylor: Mr. Chair, Dave Taylor here if I may.

The Chair: Please.

Mr. Taylor: I'd like to inquire as to the possibility of including a line or two in our final report – whether it constitutes a minority report, I'm not sure – that just expresses, certainly in my case, my reservations around the decision of possibly going the regulation route, very much as I've expressed in the debate thus far.

2:30

The Chair: Mr. Reynolds, did you want to respond to that from a procedural perspective?

Mr. Reynolds: Thank you so much, Mr. Chair. I believe that, actually, what Mr. Taylor is proposing would be a form of minority report, and I'm just searching for the appropriate standing order if, in fact, you could just permit me to look for a moment before I give a complete response here.

The Chair: Okay, we'll give you a few minutes.

Mr. Campbell: Mr. Chair?

The Chair: Yes, Mr. Campbell.

Mr. Campbell: I'm just wondering. I'm sitting out at a gas plant, and my battery is going low. I'm just wondering how much longer we have to go this afternoon.

Mr. Marz: Are you driving?

Mr. Campbell: No. I'm stationary. I'm not even in my own vehicle. I have a representative from West Fraser showing me their FMA, so we just pulled over where I have some cell coverage. I'm just wondering how much longer we'll be.

The Chair: Well, we only have a few more items on the agenda left, so hopefully it won't be too long.

Mr. Campbell: Well, if you lose me, it's because I've run out of juice, and I apologize.

The Chair: Okay. Thank you.

Mr. Campbell: Good.

Mr. Reynolds: Mr. Chair, after consulting with my colleagues, I believe that the appropriate standing order would be temporary Standing Order 68(2), which reads: "The report of a committee is the report as determined by the committee as a whole or the majority of it but shall include any dissenting or minority reports concerning the

report or parts of it." So I believe what Mr. Taylor, subject to the wishes of the committee, is recommending is that if it was not accepted by the rest of the committee, it would constitute a minority or dissenting report.

The Chair: The report is adopted by the committee, so the dissenting comments could be part of the report if they were adopted by the committee. Is that what you're saying?

Mr. Reynolds: No, no. If his comments, his perspective were not adopted by the committee, then it would form a dissenting or minority report in my view. I must tell you that over the past few years we haven't had much experience with this.

Mr. Chase: With dissent?

Mr. Reynolds: With dissenting reports. So there we are. We would be trailblazers amongst the policy field committees in this regard.

The Chair: Okay. Well, the report is included in your package, and there will now be another amendment. I'll just go through the amendments from the start again. On page 3 there is the addition of Harry Chase as a substitute member. On page 5 there will be a new motion to replace the one that was included in the report and that has just now been passed. On page 6 or 7 there will be a note as to the presentations of the Solicitor General and Transportation. That is the report as it is proposed at present. If we could have a motion to adopt the report. Mr. Weadick has made that motion. Discussion on the report?

Mr. Taylor: Mr. Chair, Dave Taylor here again.

The Chair: Go ahead.

Mr. Taylor: Recognizing that it falls on my shoulders to be the trailblazer here, I am a little unclear as to how we are going to introduce in the context of that motion a line or two that would reflect my concern about going the route of prospective regulation. Quite frankly, sir, I'm fine with the rest of the motion, absolutely fine with it. My concern around prospective regulation: I would be fine with that, too, if it results in action on the offence of distracted driving more quickly than the full legislative process might, but otherwise I'd have a real problem with going regulation over legislation.

The Chair: You're free to introduce an amendment to the report if you can get approval of the committee.

Mr. Taylor: Okay. I will seek that approval, then.

The Chair: Sorry. Just a minute. Maybe I'm out of order there. Mr. Reynolds, do you want to speak to that?

Mr. Reynolds: Yes, thank you. I believe what Mr. Taylor is proposing would be something that on the face of it is at variance with what the rest of the committee has adopted. When I spoke earlier, I meant that in general if you have a minority report, it's something that the rest of the committee hasn't agreed to. In this case it sounds like what Mr. Taylor is proposing, Mr. Chair, would in fact be a minority or dissenting report, which he would have to draft himself for incorporation in the report.

Mr. Taylor: Mr. Chair, may I ask a further question of Mr. Reynolds?

The Chair: Please do.

Mr. Taylor: If I were to draft that myself, which in real, practical terms would constitute about a two-line addendum to the report, would I then submit it for inclusion in the body of the report that goes forward to the Legislature?

Mr. Reynolds: Yes. Standing Order 68(2) is clear. I believe it was an amendment that was agreed upon, insisted upon by your House leader, that says “but shall include any dissenting or minority reports concerning the report or parts of it,” which says to me that the minority or dissenting report would be included in the report.

Mr. Taylor: Okay.

Mr. Reynolds: But to be clear, it’s not the report of the committee, so when the Assembly votes in concurrence in the report, it is not voting in concurrence of the dissenting report.

Mr. Taylor: Exactly. It is a way for the dissenter to get on record the exact nature of his dissent.

Mr. Reynolds: Yes.

The Chair: Okay, Mr. Taylor?

Mr. Taylor: Sounds good to me. I guess the only clarification I need – and I will remember, next time I want to blaze a trail, to do it in person, where I can see the reaction of everybody around the table, rather than try to do this over the telephone – is that I would assume, then, that I will submit my one or two lines of dissent to you, Mr. Chair, and then it will be included in the final report. Correct?

The Chair: Yes.

Mr. Taylor: Thank you.

Mr. Chase: Not to beat a dead horse suffering under a blazing saddle, but one more go. I want it on the record that this dissenting report will not be subject to a vote of inclusion by this committee, that it will comprise a small portion of the entire report.

The Chair: That’s correct.

Mr. Chase: Thank you.

The Chair: Okay. Do we have a motion to adopt the report?

Mr. Marz: No, we haven’t got one yet.

The Chair: If we could have a motion to adopt the report with those amendments.

Mr. Marz: I have a question. If I’m understanding this right, the whole report is subject to a majority vote of the committee. If there’s a dissenting part of that report, although I understand Mr. Taylor’s comment that he has concerns around the regulation only provided that nothing would come forward, I would like to see those comments before I would be comfortable with their being in the report. I would want to make sure that it reflects exactly what he has told us.

The Chair: As I understand it, it’s a dissenting report that isn’t part of the main report.

Ms Gravel: It would be attached to the report. Of course, the chair would sign. Any opinions or recommendations dissenting from the report would be simply attached to it.

The Chair: So what we need at this point is a motion to adopt the report as amended in your package, and then Mr. Taylor can have an addendum to submit to it.

Mr. Marz: I’ll move that part of it.

The Chair: Okay. We have a motion to adopt the report as amended. Any discussion? If not, all those in favour?

Hon. Members: Agreed.

The Chair: Those opposed? No one opposed? Carried unanimously.

Moving on to Other Business, is there any other business?

Date of the next meeting: there shouldn’t need to be another meeting until we get something back, which will be after the Legislature approves our recommendation, assuming they do, so it will be at the call of the chair in consultation with the deputy chair.

Any further business? I therefore declare the meeting adjourned.

[The committee adjourned at 2:40 p.m.]

