

Title: Wednesday, October 3, 2007 Government Services Committee

Date: 07/10/03

Time: 9:03 a.m.

[Mr. Cenaiko in the chair]

The Chair: Good morning. We'll call the meeting to order. I thank everyone for being here this morning and ask that everyone at the table, including our guests from Justice and the office of the Ethics Commissioner, please introduce themselves for the record. We'll go around the table.

I'm Harvey Cenaiko, chair of the Policy Field Committee on Government Services and MLA for Calgary-Buffalo.

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

Ms DeLong: Alana DeLong, Calgary-Bow.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Mr. Coutts: Good morning. Dave Coutts, Livingstone-Macleod.

Ms Neatby: Joan Neatby, Alberta Justice.

Ms Barnsley: Alice Barnsley, Alberta Justice.

Ms South: Karen South, office of the Ethics Commissioner.

Ms Dafoe: Sarah Dafoe, Alberta Justice.

Mrs. Kamuchik: Louise Kamuchik, Clerk Assistant, director of House services.

Ms Close: Heather Close, committee research librarian, Legislative Assembly Office.

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

Mr. Reynolds: Good morning. Rob Reynolds, Senior Parliamentary Counsel, Legislative Assembly of Alberta.

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

Ms Pastoor: Bridget Pastoor, Lethbridge-East.

Mr. Elsalhy: Mo Elsalhy, Edmonton-McClung, deputy chair.

The Chair: Thank you, everyone. We'll move to item 2, Approval of Agenda. I'd entertain a motion to approve today's agenda. I hope you all have a copy of it. If I can have a motion that the agenda for the October 3, 2007, meeting of the Standing Committee on Government Services be adopted as circulated.

Ms Pastoor: So moved.

The Chair: Bridget. Okay. All in favour? Okay. No objections. Carried.

Item 3, approval of September 13, 2007, meeting minutes. Now, if we could move the minutes of the previous meeting, held on September 13, does anyone have any corrections to the minutes? I believe we didn't approve the minutes at our meeting last week.

Ms Rempel: No.

The Chair: So we need approval of the minutes for the 13th of September.

Dr. Brown: One comment, Mr. Chairman. At least in my minutes I did not have the schedule 1 and schedule 2 attached, which were the interjurisdictional comparisons. Other members may wish to make sure that they have copies of those documents.

The Chair: Okay. Looking for a motion that the minutes of the September 13, 2007, meeting of the Standing Committee on Government Services be adopted as circulated.

Mr. Marz: I would move that.

The Chair: Richard Marz. All in favour? Opposed? Carried.

Move to 4, Items Arising from Previous Meeting: (a) Lobbyist Registration Fee Schedules. Members may recall that during the September 13 meeting it was determined that additional information was required on the lobbyist registration fees in other jurisdictions. This and other related information was made available to members last week on the committee's internal website through a document entitled Ease of Filing for Lobbyists. This item is before us for information only. Are there any questions or concerns regarding the information provided? That's for information purposes.

Number 4(b) is Interim Report on Oral Submissions. Finally, following last week's public hearings, the committee has received a brief interim report on the oral submissions received on Bill 1, and I believe our committee research co-ordinator has a few comments to make on the report.

Phil.

Dr. Massolin: Great. Thanks, Mr. Chair. I don't have a lot to say, but I just wanted to point out a few things about this document. First of all, it's not really an interim report. What it is is a report on both the public hearings that we had last week and the written submissions, so the amalgamation of all the public consultations and stakeholder consultations that this committee has had to date. It has been organized a little bit differently than the other documents. It has been organized according to some of the major issues that this committee has identified but also that stakeholders and the public have identified.

If you go to page 2, you can see in the table of contents the major issues set out there and the subissues that fall under each of the categories. Submitters' comments have been categorized according to those major issues. At the end of the document you will find an appendix, which lists the submitters both from the public hearings and from the written submissions as well.

I don't really have much more to offer on that, but I'm willing and, hopefully, able to answer your questions right now.

The Chair: Okay. Any questions from the committee members? Bridget.

Ms Pastoor: Thanks, Mr. Chair. I wish I could remember the name of it exactly, Philip, but I believe that there was a submission from southern Alberta that could well have been late. Do you know if that was accepted or not? It would have come in probably the day after our meeting in September when we decided that we would accept.

Dr. Massolin: I can't recall precisely which one that is.

Ms Pastoor: It would have come from Volunteer Lethbridge, and I think it was labelled southern Alberta.

Dr. Massolin: I don't know. I'm not aware of it. I'm wondering if the committee clerk has anything to offer.

9:10

Ms Rempel: I'll have to check through everything, but the discussion at the September 13 meeting did indicate that if it wasn't received by the end of that day, it would not be part of the official record.

Ms Pastoor: Okay.

Ms Rempel: Some items that were received were distributed strictly for information purposes as well.

Ms Pastoor: Okay. That's fine. Thank you. I assumed that it probably did get in late because by the time I got back to them that day, et cetera. Okay. That's good. I just wanted to check on that. Thank you.

The Chair: Any other questions for Philip?

Okay. We'll move to 5, Scheduling: (a) Approve List of Priority Issues for Bill 1. At the committee's request research staff have reported a list of priority issues related to Bill 1 based on the written and oral presentations received by the committee. Before we determine whether or not we would like to accept the list as distributed or if there are any changes or additions we would like to make, I'd like to invite Dr. Massolin to address the committee again to run through what we have received.

Dr. Massolin: Great. Thanks again, Mr. Chair. This document was prepared to reflect the committee's discussion from Friday. If you look at page 2, the table of contents, you'll see an indication there of the issues that were identified. Hopefully, this is representative of the committee's discussion. For instance, you can see the two categories of exemption. What we've done there is indicate the submitters that wish to be exempt from the bill according to nonprofit organizations and the other category, which includes the universities and colleges as well as school boards, and then the remaining priority issues as indicated there.

Then if you turn to page 4, the start of the table we've prepared, basically, what we've done here is put together a three-column document. The first column indicates the issues. We've got the focus or priority issue there plus a little summary of some of the key concerns brought out by submitters.

In the second column you see the legislative provisions. What we've done as far as possible is indicate what Bill 1 says on the issue and in some cases have indicated what other Canadian jurisdictions which have lobbyist legislation have indicated. Just a note there: you can refer to the cross-jurisdictional analysis as well for further information on that score.

Then, finally, the third column indicates items for discussion. This basically breaks down the issue in terms of its constituent parts. For instance, in this not-for-profit exemption there was a recommendation that there be sort of a tripartite division of the not-for-profits as follows: charitable organizations, not-for-profits providing services in the public interest, and other not-for-profits. I guess that it's up to the committee to determine whether that's an acceptable way to go or not. Other issues follow.

That's kind of the organizational structure that we've put together here, and I believe that as appendices to this document we've included as well examples of the lobbyists' returns from Ontario and the federal return as well just to give you a sense of what a lobbyist, both organization and consultant, would need to do in terms of registering.

That is basically the document. Again, I'm prepared to answer any questions you may have.

The Chair: Okay. Thank you, Phil.

Does anyone have any questions for Phil or comments on the list of priorities?

Dr. Brown: Mr. Chairman, you're just asking for comments regarding the completeness or whatever and not any details regarding each of the individual items at this time.

The Chair: No. At this point in time we'll move through the agenda. In 5(b) we'll talk about looking at what we'll do the rest of this morning, but really this is just about adopting a list for the discussion purposes that we're going to be having later this morning. If that's okay with committee members, I'd like someone to move the following, that the Standing Committee on Government Services approve the list of priority issues as circulated.

Ms DeLong: Sorry to put a bump in the road, but there was one that I know that I asked for that I don't see. It was associated persons, clarifying that limit of the associated persons. Maybe I'm not looking in the right place yet to find that.

The Chair: Phil, can you help us with that?

Dr. Massolin: Yes. That is indicated under 2.4, which is on page 7 of the document. If you look at the third column, you can see that we've indicated, "Could definitions of the following be clarified," and under that is included "person associated."

Ms DeLong: Okay. Great.

The Chair: Phil, I just have one question for you. In an issue where we have an MLA that's appointed to chair a not-for-profit organization, would the not-for-profit organization, for example, be considered as lobbying government if the MLA is actually working with the minister in relation to program, services, legislation? Maybe I could get our legal beagle.

Mr. Reynolds: Well, thank you, Mr. Chair.

The Chair: Like AADAC or the Stampede board or Northlands.

Mr. Reynolds: Yeah, I understand what you're saying. I guess what I'm wondering about is: you know, when you put the question – and I was looking at Ms Dafoe on that – for the member would that be a conflict-of-interest issue more than a lobbying issue? Maybe Sarah would like to jump in on this point.

Ms Dafoe: Oh, you know I would. Right now there's nothing in the Conflicts of Interest Act that I think would restrict an MLA from doing that. There are restrictions on ministers and what kind of outside employment they may take while they hold their ministerial post. But with respect to members – perhaps Karen South, who is looking at me with a smile on her face, may correct me – I don't believe that there's any limit on that kind of activity right now.

Ms South: Other than the offices, which are listed in the schedule, that members cannot hold, there is nothing against them being appointed to the various boards and agencies that they are currently acting on. I think your question is more under the Lobbyists Act. Is the MLA required to register as a lobbyist if they're acting as the

head of that agency? I would think some of them are provincial entities.

The Chair: Well, at this point I think what we're bringing up is all elected officials, whether they're municipal or provincial or federal or school board trustees. I think that is what we're going to be looking at later as well. I can't see that individual having to register as a lobbyist because they're elected. I'd like to ask George that question because George was the MLA representing the Northlands board.

Mr. VanderBurg: Yeah, and let's make it clear that there was no pay for that job. It was completely voluntary.

The Chair: Okay. So you didn't receive any funds, but the question is: were you lobbying on their behalf? If so, that obviously has to be looked at because you're an elected official and appointed to that.

Mr. VanderBurg: It was nonstop lobbying, but I don't see a conflict.

The Chair: I don't either. I just thought I'd bring that up.

Ms Neatby: You'd ask all the same questions in that situation that you would ask of any person. The first question would be: is the MLA paid? Mr. VanderBurg in his situation was not paid, and the question ends there. But if the MLA chairing an organization or just in any capacity is paid to lobby government, then they would be lobbying. No?

Mr. Reynolds: Well, if an MLA was paid to lobby on behalf of someone, I think there would be a lot of issues there. The other part is that an MLA is not considered to be a lobbyist when acting in their official capacity as a Member of the Legislative Assembly.

9:20

Ms Neatby: But if they have a different hat on?

Mr. Reynolds: Yes. If they're on a nonprofit board, you're saying that that would constitute acting outside their official capacity?

Ms Neatby: Right. It's a situation that we never contemplated.

The Chair: Yes. But I think the question is if they're an elected member acting in best interests of the constituents because, again, you could have a number of MLAs from any party in the Assembly that are volunteers on a community board or a community agency and looking after, sort of, the best interests of the community because they volunteer on it. I'm sure there are lots of our members that are members of ag societies because they live in rural Alberta, and I'm sure there are many urban members that are board members of various agencies within their community because they may have started that before they ran as an elected official. I think you can't penalize them once they've become an elected official.

Ms Neatby: When the MLA is representing the interests of their constituency and their community, I think they're doing their job. So it's a different situation than the one that was first discussed, where an MLA has a different hat on and then is communicating to government officials to influence their decision.

Mr. Elsalhy: Okay. I have a question to add another layer to this. Mr. Cenaiko is a retired police officer. What if he's approaching the

Solicitor General asking for, you know, policy changes or something to be changed or amended? I'm a pharmacist. What if I'm approaching the minister of health about something that has to do with pharmacists?

I remind you that when we discussed the Conflicts of Interest Act in the review committee, we expanded the definition of constituent. We said that, you know, we're elected to represent everybody in Alberta, and it's not just people who physically live in my constituency of Edmonton-McClung or Calgary-Buffalo. We expanded that definition. So if I'm doing this and I'm talking to the minister of health or if Harvey is talking to the Solicitor General or if Bridget is talking to the minister of health about nursing, and so on, how does that work?

Ms Neatby: As long as you're not being paid by someone else to do that, I think that's fine. My issue here is that I'm not familiar with the Conflicts of Interest Act, so I don't know if there's anything that deals with that in the act.

The Chair: What you're saying is that if the pharmaceutical association of Canada was paying Mo to lobby the minister of health, then Mo might be in a conflict.

Ms Neatby: Well, I don't know if there'd be any legislation that applies to that conflict, but he might want to consider that position.

Mr. Elsalhy: Even from an optics standpoint that looks horrible.

The Chair: Well, yeah, it would because it would be the same as the Alberta Association of Chiefs of Police asking me to lobby on their behalf. Obviously, I have an interest in policing and I can speak to the Solicitor General, but if I'm not paid – I think that's our role as MLAs, to represent different organizations and/or what's in the public's interest. That may be lobbying ministers regarding various pieces of public policy and/or legislation as long as we're not being paid. Of course, if we were being paid, we'd have to report it to Karen and to the Ethics Commissioner. I'm sure they'd let us know that we're in a conflict.

Mr. Elsalhy: That it doesn't look good.

The Chair: Yeah. I'm sure they'd let us know that we'd be in a conflict.

Ms Pastoor: In my mind I still don't have that question answered. When you're wearing a different hat and you have been appointed as a chair of something, I think it's a different situation than what we just sort of clarified now. If you're wearing a different hat and you've actually been appointed, I think there is a totally different onus on your behaviour in terms of lobbying.

Ms Neatby: When you are acting in your official capacity as an MLA, then you are not lobbying and you do not have to register. I think that when the question first started out, I understood it as that you're stepping outside of your role as MLA into a different role and then lobbying a minister.

Dr. Brown: Mr. Chairman, I'm wondering whether or not this is the appropriate time to get into the details on those issues. That's the reason I was asking as I had some questions along the very same issue, and I wondered whether or not we were just trying to elaborate on the list of issues at this time rather than the detail.

The Chair: Thank you very much, Dr. Brown. I guess my question to Philip was: is this included in the list for discussion? Although maybe we've discussed it and we can agree on it. Technically it's not in here, but I think we've come to an agreement.

Dr. Massolin: Yeah, I don't think it is in here.

Ms DeLong: In terms of completeness, in terms of what's in here, I noticed that you've pulled the forms off the website for each of these. Could you also pull off the screens for the online registry so that people understand how difficult it is to register online?

The Chair: Or easy.

Dr. Massolin: I can certainly do that, yes.

Ms DeLong: Okay. Thank you.

The Chair: Okay. If there are no other questions, then based on that discussion I'd like someone to move that
the Standing Committee on Government Services approve the list of
priority issues as revised.

Mr. Elsalhy: So moved.

The Chair: Moved by Mo Elsalhy. All in favour? Carried.

We'll move on to 5(b), scheduled dates for discussion. Now that we've identified focus areas for our discussions, perhaps we can set aside some specific times for debating the various issues related to bills 1 and 2. Although both bills are clearly important, based on the number of submissions received regarding Bill 1, I don't think it's unreasonable for the committee to plan to spend more time reviewing this bill than it does Bill 2.

Keeping this in mind, I would suggest that we take the meetings today and next week to focus on the list of priority issues identified for Bill 1. On October 18 we can switch our focus to Bill 2, and then for October 25 we will be at the stage where we may be able to review a draft report and agree to a final report, possibly, on November 2. Any thoughts on that?

Mr. Marz: So your plan is to do some planning on this today.

The Chair: Today and next week, on the 9th, I believe it is. Then on the 18th we'll discuss Bill 2 so that during that period of time they'll be able to start to draft a report for us on Bill 1.

Mr. Marz: Are we going to have a breakdown before on Bill 2 that's similar, that has been identified with the written submission? Because we didn't have any public presentations on Bill 2. Are we going to have any breakdown on the issues and that sort of thing similar to this, or was there enough information brought forward to do that?

Dr. Massolin: Well, we do have the written submission summary that has already been provided. I mean, the only question, I guess, is a question for the committee in terms of providing me some input as to what the key issues are, and I can sort of reconfigure that written submission according to those issues if you want.

Mr. Marz: Okay.

The Chair: Dr. Brown?

Dr. Brown: I have no comment on it, Mr. Chairman, except to say that I think the issues that have been defined in the Conflicts of Interest Amendment Act, Bill 2, are somewhat narrower, so I would agree with the allocation of time that you've proposed.

The Chair: Dr. Massolin, if you can provide that to us sometime between now and the 18th, that'll provide us with, I guess, a brief summary of what we're going to have to be discussing. I think there are only a few areas there that'll have to be looked at.

Dr. Massolin: Mr. Chair, are you okay with my sort of just reflecting the submitter's comments as opposed to also having the committee's feedback? I mean, that's what we did with Bill 1. Maybe we're undergoing a little bit of a different process here for Bill 2.

The Chair: What are the thoughts of the committee?

Mr. Marz: It might be worth while to have some thoughts of the committee on Bill 2, but we have already discussed some of the issues at previous meetings.

9:30

The Chair: If we have time at the end of the day, maybe we could just take a quick look at the Bill 2 information that's provided to us, and then we can have a bit of a discussion, and that might give you a clearer picture to line us up for the 18th of October.

Dr. Massolin: Thank you.

The Chair: Now we have to start doing the real work. I'll open it up to the committee regarding the issues to be discussed today, for the rest of the morning. Obviously, if there are questions that committee members raise, I would again ask the various offices of the Assembly and thank them for being here, the office of the Ethics Commissioner, the LAO, and some representation from Justice, from their legal staff as well that are here to assist us regarding the legal jargon that may be required, and of course our LAO legal brain and whiz, Rob Reynolds, is always there to help us. Thank you very much for being with us.

I'll open it up to the floor. Philip, do you have any suggestions on how you might want us to review this? Do you want us to start off on page 4 and move forward?

Dr. Massolin: Yes. That was kind of my idea. What I tried to do is obviously deal with the not-for-profit issue right up front and the general issue of exemptions. So that's as good a place as any to start, I would think.

The Chair: Seeing as you're the head researcher, do you want to sort of take us through what you've provided us on this, and we'll open it up for discussion?

Dr. Massolin: Sure. First, on page 4 we've set out this whole issue of exemption. We heard a lot of feedback from the not-for-profit sector with respect to the desire to be exempt from the provisions of Bill 1. They made several arguments. Obviously, the chilling effect and a few others were very much front and centre in those arguments. There were certain proposals and recommendations in terms of how to remedy this situation. The biggest one was to exempt all not-for-profit organizations. Failing that, as you recall, I think it was the Muttart Foundation that said: at least exempt charitable organizations.

Is there a question?

Mr. VanderBurg: Was there also public service? Didn't they also talk about public service?

Dr. Massolin: Yes, providing services that are in the public interest or public good. I mean, it was a results-oriented idea. The idea is that you create three categories of not-for-profits: charitable, the not-for-profits who provide this public service, and then the third category is the not-for-profits that are self-interested. That was kind of the tripartite sort of solution that was proposed as well.

Then the committee I think discussed at one point as well the difficulty that you might undergo to try to determine what is in the public interest. I pointed that out as well, and this is maybe a consideration for you in your deliberations right now. Would that be possible? How feasible, how difficult would it be?

Just another issue that came up. Is there a distinction the bill made between sort of lobbying as opposed to advocacy? I think this is an issue that was raised by a committee member and also something that you might consider.

The important sort of legislative question is: how might you do this once you come to your decision? I mean, is it through an outright exemption? In terms of dealing with this issue, is it through the reduction of administrative burdens, including reporting requirements? Is it through the introduction of a threshold consideration, the 20 per cent rule? It's not here, but I would also suggest that that's a possibility. Or is there an option for discretionary exemption on the part of the Ethics Commissioner? I believe that to be an option as well.

Mr. Marz: A number of things. If we're going to make a distinction between lobbying and advocacy – I certainly think the two words are synonymous – we would have to make sure that clear definitions are in the act to define which is which.

The other thing. With the other standing committee that I am on, during the public consultations there have been people identifying linkages between some nonprofits and some major corporations and the advocacy that those nonprofits may be doing on behalf of a major corporation, so to exempt that leaves the back door open for lobbying on behalf of those major corporations under the auspices of a nonprofit.

I'm a little concerned that all the other jurisdictions that adopted a lobbyist act did not exempt nonprofits, and they seemed to have survived it quite well. I haven't seen any testimony that it was erroneous for any of them to have it. Simply, if we could perhaps have a discussion on leaving them in but make it simpler and more user friendly for them, I think it might alleviate some of the concerns that were expressed.

The Chair: Thank you very much, Richard. I agree with you. I think that part of our discussion last week was looking at this. You're right that no other Canadian jurisdiction exempts the nonprofits, but clearly they've provided a percentage of time or a number of days. If you lobby or if you're an advocate for this organization for more than, for example, 12 days in Quebec, then clearly you're a lobbyist, and you have to register. I don't want to penalize those small organizations. I don't think it's fair that those not-for-profits that are out there providing services or facilities and fundraising attempts for their community be penalized. But there are large organizations that lobby government for policy change, and they do it on a weekly basis. Those, I think, are the ones that we have to be careful of, and I have difficulty being able to distinguish between not-for-profit organizations as such.

Ms DeLong: What I would prefer to see us do is deal with the

concerns that were brought forward in terms of the administrative burden and all of these other things that make our system onerous in any way, and after we've dealt with that and, you know, after we've looked at the threshold and all those things, I'd like to at that time come back to deciding who's in and who's out. So could I put a motion forward on that?

The Chair: Well, I don't know whether we want to do a motion. This is discussion regarding all of these items. But we might be able to get that question answered by our staff that are here right now. We'll just go to Dr. Brown first.

Dr. Brown: Thank you, Mr. Chairman. I would agree with Mr. Marz that probably a blanket exemption for not-for-profit organizations would not be appropriate. It's not been the practice in other jurisdictions.

However, having said that, I think that there perhaps is an opportunity for us to respond to some of the concerns that we've heard about occasional activities which might be construed as lobbying or advocacy or whatever. For example, in the case of the Alberta Medical Association we heard the concern that perhaps the doctors might be inhibited from calling MLAs or ministers or whatever.

I would suggest in respect of the definition of in-house lobbyist that it would be appropriate for the committee to consider putting in a definition similar to what the majority of these other jurisdictions have done as shown in the table that Dr. Massolin presented, and that is to define a lobbyist, in the case of an in-house lobbyist, as an individual who is employed by a person or organization and a significant part of whose duties as an employee is to lobby on behalf of the employer. I would suggest that putting that in would get rid of a lot of the concerns about numerous people in an organization being caught in the trap of being a lobbyist and maybe being obliged to register and to report.

The Chair: Go ahead, Richard.

9:40

Mr. Marz: I would agree with Dr. Brown on this point. The two ways that have been identified to us are basically a 20 per cent rule or a number of days rule, which in Quebec's case is 12 days. I would submit that on behalf of the smaller ones the 12 days would be much easier to track and define than 20 per cent of each individual organization. That way we would be having a cut-off point between small and large. For most small organizations 12 days a year or one day a month would be more than adequate to lobby government on behalf of whatever they could end up affording to do on their own behalf in their communities.

The Chair: On this point, Bridget, or on another one?

Ms Pastoor: No. I think it's on this point. I'm wondering if we're talking about the distinctions of these different types. If there was a way that when they register as a lobbyist, they're not just registering as a lobbyist. They would register as a lobbyist under a certain definition: I'm going to be the lobbyist for a not-for-profit and I'm providing a public interest in whatever or I'm registering as a lobbyist for a charitable organization. If we have those different definitions, it's quite clear what kind of a lobbyist they are.

The Chair: Okay. That's a good point, and I think that that's part of Alana's question regarding how onerous will the process be and/or should this be included. I think I'd like to get some legal advice on this.

Ms Neatby: I'm not sure that it's really a legal question, about the onerousness of registration.

The Chair: Okay. Put it this way. Should it be clarified in the legislation that upon an individual lobbying they would include, obviously, the organization but as well make the distinction that it's a not-for-profit organization or it is a for-profit organization? Is that required in there?

Ms Neatby: Bill 1 doesn't make a distinction between for-profit and not-for-profit when it comes to organization lobbyists.

The Chair: But it could be something on the form that you would fill out.

Ms Neatby: That would mean that there's more administration.

The Chair: Well, it's just that there would be one more line. Do we have to distinguish between whether it's a not-for-profit, a for-profit, or a charitable organization when you're registering? Can someone answer that?

Ms Neatby: There's no requirement to indicate that under the scheme in Bill 1.

Dr. Brown: Well, I think, Mr. Chairman, the significant difference is whether you're an in-house lobbyist or you're a consultant lobbyist, and that's the essential distinction, not what type of organization you're working for. That is why I'm suggesting that the most appropriate way would be to go with a definition along the lines of B.C., which talks about the in-house lobbyists in terms of an individual being employed by any kind of a person or organization who is devoting a significant part of their duties to their efforts of lobbying. I would suggest that a significant portion is probably a better terminology than the number of days per year or the number of hours in a day simply because it puts the onus on the individual to respond if they are devoting a significant part of their time to lobbying. I think that there are people that may want to be registered in that instance in order to make sure that they're compliant with the act.

The Chair: Okay. Thank you, Dr. Brown.

Ms Neatby: If I might add some comments to Dr. Brown's suggestion. In jurisdictions that use that definition, like B.C., or a similar definition, where if you're an organization lobbyist or an in-house lobbyist, you're required to register when you spend a significant amount of time or a significant portion of your duties is spent lobbying – in those jurisdictions they set their threshold in regulation or in policy. So that definition is a signal that a threshold will be adopted, and the mechanism for adopting it differs from one jurisdiction to the other. Some put it in reg, and some put it in policy or interpretation bulletins from the legislative officer responsible.

The Chair: Okay. If we could just go back to the issue related to the definition that Dr. Brown is talking about, would there be an issue with adding what Dr. Brown said regarding the component regarding being a lobbyist or registering as a lobbyist?

Mr. Marz: I agree in principle, but I believe that to just say significant portion without a threshold is too ambiguous. You have to have a threshold, whether we use a percentage, which would be

different for every organization and tougher to calculate – a simple number of days per year would be much easier to calculate. Whatever we use, I think we still need a threshold to define what is a consultant lobbyist and which is just more, basically, of an advocate for smaller organizations.

The Chair: Moe Amery?

Mr. Amery: On a different point, not on this point.

The Chair: Okay. Well, we'll continue on this point.

Ms DeLong: I think that we've got confusion here, and that is because of how we've set it up so that an organization is essentially a lobbyist organization. So it isn't individual people that are actually registering within that organization; it's the organization itself which is actually the lobbyist. When it comes to the percentage or the number of days, it's that organization that hits that threshold rather than an individual that hits that threshold of that one kind of lobbyist.

The Chair: Can we get clarification on that before we move on? I don't think it's the organization.

Dr. Brown: You're talking about Ontario, not the other ones.

The Chair: It's individuals. In the act now we're talking about individuals.

Ms DeLong: Each person would have their own threshold? So you could have an organization of a hundred people, and they each spend a day a year, so you'd have a hundred days, and nobody would be registered? Is that true?

Ms Neatby: There's a variety of approaches to the concept of threshold among jurisdictions. In B.C. the threshold does apply to a single person. In some other jurisdictions it's cumulative. The organization says that they have five people who as part of their job lobby government. Cumulatively if they spend 20 per cent of their time lobbying, then they all must be registered. There are options for setting a threshold.

Ms DeLong: We're starting from scratch here in that we don't have anything in the act right now that has a threshold in it. I guess we've got to look at all the different possibilities in terms of what we should do here. You know, should it be an individual threshold? Should it be an organization threshold?

The Chair: That's what we have to discuss. I mean, if we want to do that now, we can look at the option that Quebec uses, 12 days, and look at the model that B.C. uses, 20 per cent. If we come to an agreement on that, then we can move to the next step and say: okay; how are we going to and who is going to be required to register? Do you want to make a decision?

Ms DeLong: I think what we should first of all decide upon is: do we want a threshold? Okay? Have we agreed on that? I'll put forward a motion that we do come up with a threshold.

9:50

Ms Pastoor: I can understand the threshold of trying to define something. Let's say that your threshold is 20 per cent. In your organization you've got five people that might be designated, and if

all they're going to do is 18 per cent, none of them will be registered. The minute they hit the 18, they're out, and the next guy comes in.

The Chair: I think Richard Marz brought up Quebec's model of 12 days.

Ms Pastoor: So they only work 11 days.

Ms DeLong: Have we decided that we're going to have a threshold?

The Chair: Well, are we in agreement that we're going to have a threshold? I don't think we need a motion. I think that if there's consensus among the group . . .

Ms DeLong: Okay.

Mr. Amery: Listening to the presenters last week, I think most of them agreed with the threshold. Looking at the cross-jurisdictional analysis here, most of them have this threshold. I think those people, the way I understood it, are not against being registered, but they should have some limitations there. On the other hand, when we were listening to the presentation from the four different universities, the lady who made the presentation said: we have two people employed as a liaison to the government, but we have 2,200 people who could be talking to government. So we have to have a balance between the two.

Mr. Marz: If we don't put a threshold on an organization instead of individuals within the organization, then we've left a loophole that's big enough to drive a Kenworth through. We may as well not even proceed with the bill because you can just have a total staff that's constantly lobbying to just below their threshold and never get registered. I'm in favour of a threshold, but I think it has to apply to the organization, not to numerous individuals within an organization, or else your Lobbyists Act is becoming redundant.

The Chair: Yeah. Okay. Good point.

Dr. Brown: Well, I agree with the concept of a threshold, but I don't think the threshold necessarily needs to be measured in some sort of a temporal way. I think that the appropriate way is the way that five jurisdictions out of the six that are in our table have proceeded, and that is to say that if your job description or a significant part of your duties as an employee is to lobby, then you should register. I mean, that gets away from this whole issue of number of days in a year and the number of hours or whatever. There's some wisdom in the fact that these things have been constructed this way and drafted that way.

The Chair: I guess my question would be: what if you don't?

Dr. Brown: You're imperiling yourself.

The Chair: I mean, the onus would be to prove that the individual was a lobbyist, and I don't know how the Ethics Commissioner would do that.

Dr. Brown: I would just respond, Mr. Chairman. How would one prove that you spent less than 20 per cent of your time?

The Chair: Exactly. I don't know how you could do that, but if you had a limit like Quebec does of 12 days, I think the notations will be

there, plus it would be on paper who they're lobbying. Now, whether 12 days is right – maybe it should be more. I don't know. We'll just get some legal advice on this.

Ms Barnsley: Just a point of clarification in terms of how the thresholds are set up in other jurisdictions. I believe that in Newfoundland the legislation itself sets out a 20 per cent limit. In the other jurisdictions the legislation talks about lobbying being a significant part of those people's duties. However, the concept of significant part is then elaborated upon in either regulation or by an interpretation bulletin by the registrar. There is always further definition in terms of looking at numbers of days, looking at percentages of time, or whatever that may be, but that is set out in the regulation, not in the bill itself. Given that sort of model, an option available to this committee would be, if the committee were to decide it wanted a threshold, you know, to recommend wording along the lines of significant part, and then it could be a matter for regulation to deal with how that should actually operate.

The Chair: Dr. Brown.

Dr. Brown: Yeah. Just on that point, Mr. Chairman, if I could. I think the point is well taken, and there are certainly precedents. The Ethics Commissioner has issued interpretation bulletins or information circulars regarding certain parts of the Conflicts of Interest Act, and I think that that may in fact be an appropriate way to deal with it, to set out what in the Ethics Commissioner's view would be taken as a significant portion of your duties. I don't preclude the fact that there needs to be some clarity put there, but I don't know whether imbedding it in the legislation is the appropriate way to proceed.

The Chair: You mean in this legislation.

Dr. Brown: Yes.

The Chair: You're not saying the regulation.

Dr. Brown: Well, I'm just saying that there are ample opportunities to clarify what significant duties would be interpreted to mean.

Ms DeLong: One of the major concerns that I heard coming forward was the risk, the uncertainty that they saw out there in terms of whether or not they were covered and exactly, you know, what the rules were. I would very much like to see that the act itself is very clear, that we don't have to have sort of an extra piece that goes out to people saying: well, significant is so many days, or significant is this, or significant is that. What I'd like to see is that it's very clear so that people feel that they know exactly whether or not they have to register, that there's no question on that. So I would very much like to put in a word for making it 12 days, but I do think that it has to be per organization rather than per individual.

The Chair: Mo Elsalhy.

Mr. Elsalhy: Thank you, Mr. Chair. Like other committee members I am struggling with this. I think that there could be a happy medium, where we can actually hold the stick from the middle. Basically, everybody who lobbies registers, and maybe what we can talk about now is the requirement to keep your record in good standing. If an organization lobbied one time and then their issue was resolved, and they don't need to lobby again, after one year that record is archived. They're no longer considered an active lobbyist because they updated the record, saying: "You know what? We've ceased lobbying. We are no longer doing it."

The issue of reporting is a different issue. Whether, in fact, we require them to report or whether we stipulate that they don't have to report as frequently as other entities, that could be that happy medium approach that I'm taking. Let me rephrase that. Basically, we're going to require everybody who lobbies to register. Once a year they would have to revisit that account or revisit that entry or revisit that website and say, "I'm continuing to lobby" or "I'm not." Then the reporting is that area where we can actually stipulate the threshold. If somebody is only doing 20 per cent or 12 days, then maybe the reporting requirement for them would be less frequent. Maybe instead of every three months they only do it once a year or something like this. I think that alleviates that concern. If they cease to lobby, then that's it. That entry is archived and we move on.

The Chair: Okay. Thanks, Mo.

Ms Pastoor: It's just that we're discussing the lobbyist bill, and I think the point is that we want people to be lobbyists and registered as lobbyists. Whatever the definition of a lobbyist is should apply to anyone that performs that behaviour. Whether they do it for two hours or one hour, they're still a lobbyist. That's what the bill is called. I think that if you define the word "lobbyist," anybody that does that behaviour is a lobbyist.

The Chair: Okay. Moe Amery.

Mr. Amery: Thank you, Mr. Chairman. Just a clarification. If we go with individual lobbying and we set up 10 days or 12 days, if we are dealing with a large organization that has 2,000 people, they can select 30 people to lobby at 10 days each, and they could be lobbying the whole year round. They can be lobbying for 300 days continuously. I think that if we go for an organization's lobby, that would set a limit there and help solve the problems.

10:00

The Chair: Moe, I think that's what Alana was saying as well.

Mr. Marz: I would agree with that as well, that it has to be on an organizational level rather than an individual. I have no problem with thresholds being in regulation as opposed to legislation if that's what other jurisdictions are doing, but I think the direction from this committee has to be provided on what we think it should be, whether it's a percentage or whether it's a day thing. I think our report should reflect what this committee thinks because we're charged with making recommendations on the Lobbyists Act. I think we would be deficient in our duties if we didn't also make comment on what should be in the regulation part of it.

The Chair: Members, we have a motion by Alana DeLong on the floor to set a threshold.

Dr. Brown: Well, Mr. Chairman, what do you mean by threshold? That was the point of my comments. Does it mean a significant part, or does it mean a temporal measure such as days or hours or percentages?

The Chair: That's what we want to decide, I guess.

Ms DeLong: We have to decide that we want a threshold first, and then we decide what threshold.

The Chair: If we want a threshold, I guess, let's determine that

either by consensus or through a motion. Alana has made a motion to have a threshold. Are we in agreement with having a threshold to make that distinction between you are lobbying or you are not lobbying? Are we in agreement with the motion?

Mr. Amery: Is that an organizational threshold?

The Chair: Just a threshold. This is just a threshold.

So everybody is agreed?

Mr. VanderBurg: I don't know if everybody is agreed. I haven't seen everybody vote.

Ms Pastoor: I'm sorry. Would you repeat that motion?

Ms DeLong: Okay. The motion is: do we want a threshold? We'll define the threshold afterwards. Do we want a threshold?

Mr. Marz: I think the motion is to have a threshold.

Ms DeLong: Yes. Sorry.

The Chair: The motion is to have a threshold.

Mo.

Mr. Elsalhy: Yes. I'm just asking if this motion is amendable. I would suggest that it's a threshold for reporting purposes, not for registration. Everybody registers. The reporting component is where we bring in the threshold.

Ms DeLong: No.

Mr. Elsalhy: Are you saying, "No, that's not a good idea," or are you saying, "No, it is not amendable"?

Mr. Reynolds: The motion, of course, is amendable. I would not have the temerity to suggest whether anything that comes out of the committee is a good idea or a bad idea. That's up to members, and we work for you, so whatever you decide is the idea that we follow.

If I was shaking my head, it was because as I understood the motion and the discussion, the threshold would operate to define who was a lobbyist in the sense that if you lobbied for 12 days, 20 per cent, a significant part, whatever threshold you established, then defined in regulations as 20 per cent, that would be the trigger as to whether you would qualify or have to meet the obligations and duties set out in the Lobbyists Act. That was my understanding of what you were suggesting when you suggested a threshold. That's why I was shaking my head.

Ms Neatby: Yes. That's correct. In jurisdictions that have a threshold, the obligation to register and report – it's the same activity – is triggered when the threshold is met.

The Chair: Does that answer your question, Mo?

Mr. Elsalhy: Yes. That's fine.

The Chair: Okay. Alana has a motion on the floor, then, to set a threshold. Am I right? Are we all in favour? Agreed?

Some Hon. Members: Agreed.

The Chair: Okay. It's agreed. It's unanimous, I think.

Mr. VanderBurg: We're not all in favour.

The Chair: Are we all in favour?

Ms DeLong: No, we're not.

Mr. VanderBurg: That's what I want to get clear.

Ms Pastoor: It defines a lobbyist, and I don't think that's how a lobbyist is defined.

The Chair: So there's . . .

Ms Pastoor: Some dissent.

The Chair: . . . some dissent. That's right.

Okay. We have determined that there will be a threshold. Now the discussion on the floor will be: let's determine what that threshold should be.

Mr. VanderBurg: Mr. Chairman, I just want to get clarification on the members from the Official Opposition that didn't vote on it. Is the reason you didn't vote on it because you want everybody to register, including nonprofits?

Mr. Elsalhy: No. We're not dealing with the exemptions yet.

Ms Pastoor: No. We're not dealing with that. We're dealing with the fact that the definition – back to what I said before. We're talking about the Lobbyists Act. We want people to be lobbyists. If you lobby, if you perform a certain behaviour which falls under the definition of lobbyist, you're a lobbyist, period. I don't believe that a threshold should establish a definition of if you're a lobbyist.

Mr. VanderBurg: So you would say that the federal government and other jurisdictions that have a threshold are wrong, in your opinion?

Ms Pastoor: No, I don't say that they're wrong. I'm saying that I think we should do it differently.

Mr. VanderBurg: Okay.

Dr. Brown: Well, I'd just like to respond to Ms Pastoor's comments with respect to that. What I heard from a number of the presenters to the committee was that they're concerned about getting tangled in this web. If an individual, by virtue of the fact that they happen to be a member of the Alberta Medical Association, makes an occasional call or they meet somebody at a cocktail party, they don't want to have to register or to report, and I think that is a legitimate concern. I heard it on behalf of a whole number of these nonprofit organizations. I think what we're trying to do is get to the meat of the matter and say: if you're a lobbyist, you need to register, but just by virtue of the fact that you are affiliated with an organization and you have an occasional contact with a legislator, then you don't have to register. I think that's what we're trying to achieve here. So my reasoning in supporting some sort of a threshold, as the other jurisdictions all have, is to define who is a lobbyist. If we don't restrict it in any way, then we catch a lot of people that we're not intending to catch.

The Chair: Okay. Now, Dr. Brown, you mentioned earlier regarding expanding the definition. Now that we've made the

decision regarding a threshold, you wanted to add something regarding the definition of a lobbyist.

Dr. Brown: Well, my suggestion was that we follow the precedent of five of these other jurisdictions which have lobbyist registries and define it, within the legislation at least, as being an individual who is employed by a person or organization and a significant part of whose duties as an employee is to lobby on behalf of the employer or a subsidiary or parent company of the employer.

Mr. Reynolds: I think that just for perhaps some clarity, what Dr. Brown was talking about and I think what everyone has been talking about would actually be an amendment to the definition of organizational lobbyist. It wouldn't be, as I understand it, an amendment to the section on lobby, and it wouldn't be an amendment to the section on consultant lobbyist because, to paraphrase, a consultant lobbyist is someone you hire to lobby. Obviously, they wouldn't be subject to the 20 per cent requirement because they would be paid to do that. The actual amendment, if I'm following along, would be to the definition of organizational lobbyist.

Dr. Brown: Mr. Reynolds is correct, Mr. Chairman. That's exactly what my intention was. We're talking about an organization lobbyist, an in-house lobbyist.

The Chair: I think we have a consensus around the table. I agree: I think there's an amendment to the definition to make it simpler and easier for people to understand. That's part of our role here. I think what part of the difficulty was with our presenters from the public is that a lot of them couldn't understand the legislation. I think what we want to be able to do is really clarify some of those issues and definitions within the act as well.

Dr. Brown: Can I ask, Mr. Chairman, whether or not Ms Pastoor and Mr. Elsalhy are satisfied that some sort of a definition along those lines would be appropriate?

The Chair: Mo.

Mr. Elsalhy: Yes. Thank you, Dr. Brown. The clarification you provided was most useful. I think that, yes, we need to get everybody who does lobbying, who engages in that activity, as Bridget said, to lobby. Now we're saying that if you are doing it up to that threshold, which is to be determined by the committee, then, yes, you qualify for registering, and you are the one we're interested in seeing register.

10:10

I would still come back to the issue that maybe it should also affect the reporting or the frequency of the reporting – and maybe that's a discussion we should have later – in terms of making it, you know, easier or less onerous for people who only spend a very small fraction of their time doing it. They shouldn't be caught under the same net as someone who engages in it on a full-time basis and makes money doing it.

Then in return to Mr. VanderBurg, the issue of exemptions and the issue of school boards and nonprofits are to be determined later, so we were in no way – let me make that clear – advocating that these guys should be captured. That's a discussion we should expand on.

Mr. VanderBurg: That's what I want to get clear.

Mr. Elsalhy: Yes. Thank you.

Mr. VanderBurg: I think we're thinking the same on that issue.

Ms Pastoor: Yeah, I think Mo summed it up, and I'm more comfortable with that. Still, if a behaviour is a lobbyist behaviour, it sort of makes you a lobbyist.

I think that on one point Mr. VanderBurg brought up and used the word "opposition." I don't really consider myself the opposition as part of this committee. I believe that we're all the same.

Mr. VanderBurg: I'll take that back.

Ms Pastoor: Thank you.

The Chair: Thank you very much, Bridget and George.

Okay. I think we've reached consensus around the table that we require an amendment to the bill regarding the definition – am I right, then, Rob? – to include some of Dr. Brown's comments related to an organizational and/or occasional lobbyist.

Mr. Reynolds: Yes. Mr. Chair, just to clarify here. I think there's a clear consensus that that was the direction of the committee. This would come back to the committee, of course, in the form of an amendment that we in Justice could work on – Joan and Mr. Pagano from Legislative Counsel – so you would see this.

The Chair: This will be in our report.

Mr. Reynolds: Yes. When you see the amendment, that's when you would vote on it, et cetera, if that's what you wanted. This isn't your last chance to see it if anyone was thinking that. I think this is more direction to get something done or drafted to return to you.

The Chair: Yes. So we've agreed on a threshold. Now we've agreed on changing the definition or adding a definition, which will all be included in the final report. The final report will actually be, I guess, the foundation for amendments going into the Assembly through legislation.

Mr. Reynolds: Yes. The way we were looking at it was that the report would contain the amendments coming out of the committee.

The Chair: Thank you very much, Rob. Exactly.

Okay. We're doing very well. We're still on the first issue, but we're doing very well. Now, we're still on page 4, and we're still talking about exemptions. Let's have the discussion, then, on exemptions and try to clarify those issues. Again, items for discussion, as Dr. Massolin mentioned. Do we need to distinguish between charitable organizations, not-for-profits, other not-for-profits? As Dr. Brown mentioned, no other Canadian jurisdiction exempts them. They are all included in the legislation. It's the threshold that may determine whether they, in fact, have to register or not.

Mr. Amery: Mr. Chairman, I have a question for Phil for clarification. Most, if not all, of the organizations that presented to us last week expressed concerns about the administrative burden that they will incur if they have to register. As a matter of fact, two of the organizations who presented to us last week met with me yesterday, and they said that if they are included in this act, they will cease to exist. From your cross-jurisdictional comparison here, have you been able to find that that's true, that some of those small organizations would cease to exist if they are included in this act?

Dr. Massolin: Well, thank you for the question. Unfortunately, no. The focus of this cross-jurisdictional piece was just to compare the specific provisions and sort of the ones that really stand out as opposed to ascertaining the effect. As one of the submitters really pointed out for the committee that in other jurisdictions it had, you know, X, Y, Z, or no effect, we didn't go down that path, no.

Mr. Amery: Okay. Thank you.

The Chair: Bridget and then Richard.

Ms Pastoor: Yes. I think, too, what I heard, particularly from the smaller organizations, were a couple of things we haven't discussed yet: the registration fee, which would be onerous for them, and the fact that they have that much extra work to do. I think that it's already been discussed that if there's a process whereby they can do it very easily and quickly, their opposition wouldn't be as strong to actually being included as a lobbyist.

The Chair: Again, my question would be to the office staff that we have here. Has anyone filled out one of the forms, and how long did it take?

Ms South: Just as preliminary work back in March I did develop draft forms based on the text in Bill 1, and, yes, I've filled them out electronically. A simple tab key takes you from box to box. The information requested is fairly simple and should be easy for them to fill out. In respect of subject matter there are boxes you can check in general subject areas. It is fairly simple to fill out.

The Chair: I would take it that the first time you register, if you're going to be an ongoing lobbyist for an organization, whether it's not-for-profit or not, in renewing that application, you'd only have to change the boxes if boxes were required to be changed. Either way, you just provide an update. You won't have to reapply and redo the same thing you just did six months or a year ago.

Ms South: Following last Thursday's public hearings, I did have an e-mail exchange with the registrar in Ontario with respect to the requirements to file updates or amending registrations. She said that they're actually fairly rare from the nonprofit sector, that in most cases they word their activities fairly broadly so that there is no need to file amendments over the course of the year. Then they just fill them out periodically as required. When any organization is filing an amended registration, yes, they only fill out the boxes that are necessary, not the whole thing.

The Chair: So would you say 15 minutes?

Ms South: It did for me, but I do consider myself to be fairly computer literate.

The Chair: It could take a half-hour for an organization?

Ms South: I would be surprised if it took any longer for them.

The Chair: Okay.

Ms South: One of the other issues that was raised earlier here about identifying themselves as a charity or a nonprofit. On an organization lobbyist registration form there is a box where you are required to fill in the activities of your organization. That might be the spot where you would identify your status.

Mr. VanderBurg: In most of my constituency it takes a half-hour to download the form. Come on, you guys; we don't have the high-speed Internet.

The Chair: You should have that available at your office.

Mr. VanderBurg: Oh, at my office I do, but you've got to drive two hours to get to it.

The Chair: Okay. I think that provides us with some clarification on the process for registering with the forms. I think that helps us. I think that may have answered some of Alana's concerns and some of Bridget's concerns.

The issue, then, as we move forward, is related to the exemption. Are we going to exempt any individual, any charitable organization, a not-for-profit organization, and/or for-profit? That's the question.

10:20

Mr. Marz: During the presentations a significant number of presenters complimented the government on bringing this legislation forward and said that it was good legislation. It just wasn't good for them. I think we have to take that into consideration as well. "It's good legislation, but I don't want to be bothered with the extra issue of filing or whatever." I think that if we keep it as simple as we can, keep the fees so that they're not restrictive, and also look at the fines because there's a fair amount of fear that if someone inadvertently, through omission or error, not intentionally, contravened this, the fines would be onerous for them. I think we have to look at that. It would take away a lot of the concerns that people have out there.

I think that introducing a threshold would define the difference between large and small. Quite frankly, some of these very large organizations that are lobbying constantly, nonprofit ones, should be registering because the public should know how much activity is going on and how much is actually going to the charity. It might be nice to know some of this information. I'm sure the public would like to know that. I think the threshold will take care of that between the large and the small. But for us to start exempting nonprofits just because they're nonprofits, I think that as far as exemption goes, perhaps leave it at elected bodies, including school boards and other elected bodies. We're all levels of government, and we should be able to talk to each other without registering every time.

The Chair: Okay.

Bridget on this point.

Ms Pastoor: Yes. I just wanted to reiterate the point that I believe that anybody who is elected should be exempt.

The Chair: I think we spoke about that. Are we all in consensus?

Ms DeLong: Could we get that one off the table, that we've all agreed on that?

The Chair: Yeah, maybe we could. We have consensus that any elected officials, whether it's school board, municipal, provincial, or federal, obviously are exempt.

Dr. Brown: I agree.

Mr. VanderBurg: I'm with the opposition on that.

Ms Pastoor: I'm not sure what room he's sitting in, but I haven't noticed any opposition in this one.

The Chair: Okay. So we've come to consensus on that. Philip, if you want to make sure we've got it listed that this is an exemption. So, obviously, elected officials will be exempt.

Dr. Massolin: Yes, but there is, I guess, one caveat in terms of the staff, for instance, you know, school boards and so forth, just to let you know. I mean, obviously the elected officials are one category, but then there's that adjunct, right?

The Chair: I think that when we talk about elected officials, we're talking about elected officials. That's it.

Dr. Massolin: Okay.

The Chair: The superintendents of a school board are not elected officials, and if they go over the threshold, which we haven't decided yet, then they'll have to register. If they stay under the threshold, they won't have to register.

Dr. Brown on this point.

Dr. Brown: Two comments here, Mr. Chairman, if I could. First of all, I think that if you're going to exempt the school boards, then their staff certainly ought to be exempted as well. A superintendent of schools, I mean, is part of the organization. I disagree with the concept.

The second point I'd like to make is with respect to the use of the words "elected officials." I think what we're referring to is publicly elected officials. We're not talking about the elected head of APEGGA or the AMA or something. There are all kinds of people that are democratically elected by their constituencies, but they're certainly not in a level of government.

The Chair: Okay.

Richard, on this point. I think we're all in agreement that it's publicly elected officials.

Mr. Marz: That's the first point I was going to make. I regretted not saying that up front by the time I was finished speaking. I should have said publicly elected official because I didn't want it to be confused with the head of the Elks club or the Legion or whatever. So publicly elected official. I think we're in agreement with that.

I think that if we also said that this law would apply to organizations, not individuals, that would take care of Dr. Brown's issue on the CEO of the school board or the chief elected official of the county or the town. It's the organization that's doing the lobbying, and the thresholds should be set on the organization. That would cover getting under that idea by putting several lobbyists in so that they can lobby nonstop without registering. I think that defining the Lobbyists Act to organizations rather than the individuals within the organizations would take care of that.

Mr. VanderBurg: Well, I want to comment on Bridget's motion or comment about, you know, removing the school boards. I agree with her. I don't see the superintendent of schools, who is appointed by the minister, as any different than a town manager, and in the act today the town manager is exempted. He's not a lobbyist. He's an extension of the town council and the mayor, so I don't know why we would think that we'd want to create a special category for a superintendent of schools. A superintendent of schools is absolutely no different than the town manager for the town of Whitecourt. The minister appoints the superintendent of schools – each superintendent is appointed directly by the Minister of Education – so I would

agree with Dr. Brown that the superintendents of schools are just an extension of the school boards.

The Chair: Which would include the town managers or the county manager with elected officials.

Mr. VanderBurg: I don't want to create more.

The Chair: Okay.

Ms DeLong: A question. What about the health boards? I mean, to me that's sort of similar. We've got the superintendent of schools, but we've also got all the health boards, and we've got the PDD boards and all of these. What's the situation with those in terms of lobbying? This is just a question.

The Chair: Rob, can you help us out with the question?

Mr. Reynolds: Joan will.

Ms Neatby: Mr. Chairman, on the intent, while we were looking at this question, "What should the scope of the act be?" we looked at other jurisdictions, and in other jurisdictions they look at whether entities are Crown controlled. In Alberta we consider the SUCH sector to be Crown controlled, and that's schools, universities, colleges, and hospitals. We did hear from the universities, and they said to the committee: we should be prescribed. The impact of prescribing universities would be that they would be what we call recognized as being inside the government family, so when their officers and employees and directors are talking to government trying to influence government decisions, that would not trigger the obligation to register under the act because they're acting in their official capacity.

That's one principle that we were thinking of when we were drafting this legislation, that we would, when we get to the regulations, prescribe provincial entities, and one of the principles that we would look at would be: what's in the government family? In other words, what is Crown controlled? The committee has heard from school boards saying, "We would like to be treated in a manner similar to municipalities" on the basis that they are elected. Now, when we look at the principle of Crown control, Alberta considers municipalities not to be Crown controlled but school boards to be Crown controlled, so that's one consideration. As the committee members have all said, another consideration is that school boards are elected.

The Chair: Okay. Thank you, Joan.

Dr. Brown: Mr. Chairman, I'm not sure whether we have a motion on the floor right now with respect to the issue of the school boards, but if we don't, I'd like to make a motion.

The Chair: Just regarding school boards? Or would you like to make a motion regarding Joan's comments regarding the organizations that are inside the government family?

Dr. Brown: Well, my immediate concern would be the school boards, which is the one, I think, that we heard loud and clear. My motion would be that

under section 3 of the act we also include an exemption for members of a school board recognized under the School Act and officers and employees of the school boards.

The Chair: Okay.

10:30

Mr. Marz: Are we going to perhaps establish whether or not this act should apply to organizations as a whole or individuals within the organizations? If we establish that, then that covers that. That covers all the officers within the school board or the county or the town. Perhaps we should look at establishing that first: what's this act going to apply to? Is it going to apply to all individuals that lobby within an organization – so they can lobby up to 19 per cent of their time, or whatever it is, up to just below the threshold that we apply – or should we just apply it to the organization? If the organization is lobbying, anybody within an organization is lobbying on behalf of the organization, so who's the lobbyist? The organization, I would say, is the lobbyist, not the individual because he's being paid to lobby on behalf of the organization.

I think that if we establish that first, then whatever we establish after that of who's in or who's out would cover whoever is working within that organization. I would suggest that we look at that first.

The Chair: I think, Richard, that at this point, though, we're talking about elected bodies and expanding on those organizations of elected bodies.

Mr. Marz: Yeah, and that would cover them.

The Chair: Then we have to move on to not-for-profit organizations.

Mr. Marz: Yeah, but if we establish that it's the organization, the publicly elected organization, whether it's a school board or a county council or a town council or whatever, their officials would fall within that.

Ms Pastoor: I wonder if we could ask Dr. Brown to amend this particular motion to just exempting elected school boards, and then we could have the conversation about organization versus personnel following that.

Ms Neatby: I would like to add to my earlier comments. If the committee decides to treat school boards in the same manner as municipalities, then you would do what I understand Dr. Brown suggested earlier. You would amend section 3 to exempt officers and employees of school boards and also anyone who is elected. If you look at section 3 as it is now, that is how they treat municipalities. In 3(1)(c) members of council are exempt, and officers and employees of municipalities are also exempt. So they covered the whole sector.

The Chair: Okay. Is that your motion, Dr. Brown?

Dr. Brown: Well, that was my motion, but I have no objection to proceeding as Ms Pastoor wishes, to exempt the school boards, and if you want further discussion on the issue of employees . . .

The Chair: You know what? We'll be here forever. The legislation is in place right now regarding municipalities. If we're all agreed on elected officials and/or the officers of those organizations, then let's just follow suit with what's in the legislation and make sure that that amendment comes forward in our final report. If that's your motion, Dr. Brown, we'll entertain it.

Dr. Brown: I've made the motion, if there's further discussion, Mr. Chairman.

Ms Pastoor: Back, I guess, to my point. It is in the drafted legislation, 3(1)(c), but is that not up for discussion as well? Would we amend this to read only whatever and discuss 3(1)(c) as: should these people be in or out? I mean, it's been suggested that they are in the drafted legislation. Is that up for discussion or not?

The Chair: The whole act is up for discussion. If you want to make a motion on that, we can vote on that, but we've got one on the floor right now.

Dr. Brown: Mr. Chairman, I'd like to respond to that because I think that there is a rationale for having it. As Mr. Marz mentioned earlier, if you're going to say that the town council or the municipal council ought to be exempted from the act, then what's the rationale for including the town manager or, you know, the chief superintendent or the city managers of Edmonton or Calgary. I see that there's certainly a parallel there. Similarly, the Métis settlements and other individuals that are employed by the Métis settlements. I don't see any distinction to be made there between the officers of the organization and the organization itself and the elected people in the organization. I think that they're all one and the same. If you're going to exempt them, then I think the rationale applies equally to all of them.

Ms Pastoor: I'm sorry. I think there's a difference between someone that's elected and someone that's paid, that's an employee.

The Chair: The motion is on the floor. All those in favour? Opposed? Carried. We have that, so that'll be amended: elected school board members and officers of those organizations. Okay.

The other question I think that someone had mentioned was regarding universities, which Joan actually mentioned, and she used the term "inside the government family." If we can discuss that and get that issue clarified, then we can move on to not-for-profit and for-profit organizations.

Ms DeLong: I think that when it comes to universities, we do have a slightly different situation. Those organizations receive partial funding from us, partial funding from the students, partial funding from industry. They are also in competition with private organizations and nonprofit organizations. I myself would like to be able to know how much time is being spent by these various organizations in terms of the amount of lobbying that's being done. Even I would like to have access to that information.

The Chair: Is there a distinction, Alana, that you would draw between the health authorities and the postsecondary institutions?

Ms DeLong: Yes. The postsecondaries are totally independent. You know, I think we might appoint board members, but essentially those organizations are independently run. They're self-governing. I would just like to know the amount of lobbying that's being done by the various organizations.

The Chair: Any other concern or clarification regarding postsecondary institutions?

Then if that's the case, we probably should speak about, I think, health authorities, another big issue: if we're going to exempt them or not. I'll open that up to the floor. Any questions?

Mr. Reynolds: Just for clarification on a few points. Ms Neatby can certainly speak to this herself as she raised it. When she indicated that these groups would be part of the government family, I believe

the point would be to include them under the definition of public office holder.

Ms Neatby: That would be the effect of prescribing as a provincial entity. The effect would be that they would be public office holders, so anyone who would like to lobby them would have to register. If the committee did as the universities have suggested and prescribed them as provincial entities, then the people within the universities could communicate with government as much as they like. They would not have to register. However, if somebody is lobbying them and they meet all the other requirements of the act – they exceed the threshold, for example – then they would have to register as lobbying the universities. You would know by looking at the registry who is lobbying universities, but the universities themselves would be able to talk to you as much as they like and would not have to register.

10:40

Mr. VanderBurg: You're talking about like a supplier to the university that wants to supply them with certain equipment.

Ms Neatby: We have drafted the act so that it does not apply to procurement activities. However, I'm not familiar with the university sector. There might be some other outside people who . . .

The Chair: Pharmaceutical.

Ms Neatby: Yes. Or perhaps it could be that the junk food lobby comes in and says: can we open up 10 more McDonald's in the U of A? They might have to register.

The Chair: That's in the act right now. Is that what you're saying, Joan?

Ms Neatby: Yes.

The Chair: Okay. Does that include health authorities?

Ms Neatby: Well, the scheme is in the act.

Mr. Reynolds: The scheme is in the act, but universities aren't specifically named in the act.

Ms Neatby: They are not in it.

The Chair: Postsecondaries.

Ms Neatby: Right.

Mr. Reynolds: Your postsecondary institutions, yes. They are not in there.

Ms Neatby: I'm sorry. I misunderstood. We would have to take a step to prescribe universities. So in our regulations, if the committee agreed with the universities' recommendations, we would prescribe universities as provincial entities. The impact of that would be, as I said earlier, that their officers and employees, their board of governors could communicate with government as much as they liked and attempt to influence your decisions. That would not trigger the obligation to register. But if people lobby them to try to change their decisions, then those people would have to register.

The Chair: I'm just wondering if that should be included in our report and/or in an amendment.

Mr. Reynolds: That's why I raised it.

Ms Neatby: You would not need to amend the act in order to take the step that the act apply to universities.

The Chair: Well, there's no regulation, and that's part of the problem.

Ms Neatby: There is a regulation to take that step.

The Chair: There can't be a regulation because the bill hasn't been approved yet.

Ms Neatby: There's a regulation-making power.

Mr. Reynolds: Yes. I hate to disagree with Ms Neatby in any way. Well, perhaps this isn't a disagreement. The postsecondary education sector is not explicitly mentioned in the act right now. What you're saying, as I understand it, is that there is room in the regulation-making power to prescribe provincial entities for the purposes of this act. If I understand what you were saying, the intention would be to prescribe postsecondary institutions as provincial entities. Obviously, that hasn't been done because the act isn't in force.

Ms Neatby: There's no power yet.

Mr. Reynolds: Yes, of course. So there are no regulations. The question is, as the chair put it, whether the committee wants to make a specific reference to postsecondary institutions or whatever in the bill. Would you agree with that?

Ms Neatby: Yeah, you could if you get that recommendation.

The Chair: Committee members, with regard to postsecondary institutions do we then want to bring this forward and/or ensure that they are exempt, but any that lobby them have to register?

Ms DeLong: Myself, I am much more interested in the lobbying that the universities and the postsecondaries are doing rather than who is lobbying them. If we get a choice as to what information we get, I would like to know what lobbying is being done by various public. I mean, they are totally separate institutes, so I would very much like to know what lobbying they are doing.

The Chair: The lobbying they are doing with government?

Ms DeLong: Yes.

Mr. Marz: Mr. Chair, I was just thinking that as the list of exemptions is growing, perhaps we might save a lot of paper in the bill if we just put who it applies to instead of who is exempted. Just a helpful comment.

Dr. Brown: Mr. Chairman, I wonder if we could take a five-minute break?

The Chair: Yes, let's do that.

[The committee adjourned from 10:44 a.m. to 10:55 a.m.]

The Chair: Okay. We'll reconvene.

Mr. VanderBurg: Mr. Chairman, it's nice to have a coffee break because sometimes it gets us back to reality, you know, to the intention of the bill. A lot of this discussion that we've had today is not productive. Again, we sat here as an all-party committee to think of ways to streamline the process for our nonprofits, for our school boards. We agree on the school boards. We still always have the opportunity to present an amendment in the Legislature and debate it and have it passed.

We're making this bill very, very complicated. We don't want to create barriers for Albertans. We just want to have a record of when someone lobbies and gets paid for it at a certain point. I think Richard Marz has a good point when he talks about if we accept the threshold of days – days is simple to me – then a lot of these points are moot. I think that takes the fear away from our nonprofits and all the rest of it. I think that we're getting way too broad in our discussion about, you know, universities. I think we have some clear points that we need to give direction to the staff because these guys aren't going to have any hair left by the time we're done here, if we ever get done.

I think we need to focus back on what, really, our mission is here. We want a threshold. I think everybody's saying: yes, we want a threshold. Let's talk about that. Let's get to that. A lot of these other issues will then go away, and at least staff will have some clear direction on what we want out of this committee.

The Chair: Well, I agree a hundred per cent. We've gone off of where we want to go today. We're still on page 4. If we can reach consensus around the room, then maybe we should move to developing the threshold, the amount of time. We've agreed to a threshold. What is it, though? What is the threshold?

Mr. Marz: To expedite things – and I agree with what George said, that he agreed with me, just for the record. I think that the 12 days is something that's used in other jurisdictions. It seems to be working. If down the road a year or two it's not working, we can always introduce an amendment. It's easy to amend. I think it would be a good starting point for us to adopt that 12 days. Perhaps then we can go beyond that. I would move that we adopt 12 days as the threshold for Alberta.

Mr. Amery: Is that for organizations or for all?

Mr. Marz: That's for everyone, organizations or individuals. Then I think that to get beyond this, we need to have a separate discussion. Otherwise, this motion is going to bog down into something that it's not. I want to keep it simple just so that we can progress. If you're beyond 12 days, you register.

Dr. Brown: Well, just going back a step here, we're talking about the organization lobbyist – right? – not a consultant lobbyist. Are we agreed on the consultant lobbyist? If you get paid to lobby and you're not within the organization, if you're a hired gun – are we okay with that definition? Here we're talking about organization lobbyists.

The Chair: We're agreed on that, right?

Dr. Brown: In the draft bill, section 1(1)(g) is the definition of organization lobbyist. My earlier motion – I'm not sure whether we voted on the motion or not – was with respect to the further restriction of the definition that we have already in there, to cut it down somewhat so that we're not talking about volunteers, not talking about people that are not paid to lobby.

My suggestion was that we talk about somebody whose duties involve a significant portion of lobbying. If you look at 1(g), “organization lobbyist,” and if you restrict that to the individuals who are devoting a significant portion of their time as the other five jurisdictions I alluded to earlier have done already, I think it achieves what you want to do.

If we want to go that extra step, as Mr. Marz has suggested, then let’s not do it within the body of the legislation. Let’s do it with respect to an interpretation bulletin or guidelines or something outside of the legislation. Let’s leave some discretion in there.

The Chair: Any further comments on Richard Marz’s motion?

Ms DeLong: Again, for the clarity of all those nonprofits who came before us and were unsure of whether it was going to apply to them, I would like to see right in the legislation that it’s 12 days.

The Chair: Okay. There’s a motion on the floor. All those in favour? Opposed? Carried. Twelve days it is.

Mr. Marz: Just for clarification, Mr. Chair. I agree with Dr. Brown that organizations as far as paid lobbyists are not applicable here, but organizations such as your local Kiwanis Club or Rotary Club: those are the types of organizations I was envisioning in this sort of thing, not paid lobbyists but volunteer lobbyists. If you’re going to be over the 12 days, then you would register. If you’re under the 12 days a year, you wouldn’t.

Dr. Brown: You’re talking about an organization lobbyist again, not a consultant lobbyist.

Mr. Marz: I’m talking about your local nonprofit organizations.

Dr. Brown: Not volunteers.

The Chair: But they could be volunteers.

Mr. Marz: They could be volunteers. If they’re over 12 days a year, then they would register. Some of these nonprofits become pretty significant lobby groups, and the more significant they are, as I’ve seen in other presentations in the Community Services Committee, there are oftentimes affiliations between corporations.

Ms Neatby: Just a point for clarification, Mr. Chair. The act applies to people who are paid to lobby, so if someone is strictly a volunteer and receives no payment, under the act as drafted they would not have to register as a lobbyist. There are some organizations, as you’ve heard, who do have paid staff who engage in lobbying.

The Chair: This motion would state, then, that if those organizations – it doesn’t matter whether they’re a not-for-profit or a volunteer organization – lobby for more than 12 days, they will have to register.

Ms Neatby: If they fit within the definition of organization lobbyist and the threshold is imposed, once they exceed the threshold, the obligation to register would be triggered.

Mr. Reynolds: I’m just saying that the definition right now says “an employee, officer or director of an organization who receives a payment for the performance.” That would be built upon with the 12-day requirement is how I would envision this.

Ms Neatby: Right. But my understanding is that we’d insert into the definition “significant portion of duties” or whatever wording Dr. Brown referred to, and that would be part of what you’d consider.

Mr. Reynolds: Yes. You would still have to receive payment to qualify as an organizational lobbyist, to clarify your point. So someone who is a volunteer who doesn’t receive any payment would not be an organizational lobbyist in my understanding.

Ms Neatby: Correct.

Mr. Reynolds: Does that clarify it?

Ms Pastoor: Okay. But it says “an employee, officer or director . . . who receives a payment.” The minute that they receive a payment, does that not then make them a corporate lobbyist if they’re a paid lobbyist? When do they jump across?

11:05

Ms Neatby: If you’re a volunteer, then the definition doesn’t apply to you.

Ms Pastoor: No, but it says “who receives a payment.”

Ms Neatby: Right. If you do receive a payment, then you now have to start to examine the act to see if you must register.

Ms Pastoor: So you’re a paid lobbyist within the organization lobby, but the corporate lobbyists are always lobbyists. All right.

Ms Neatby: The threshold would apply to all organization lobbyists is my understanding of the motion as it is now, so the definition of organization lobbyist would cover a full range of organizations, from not-for-profit to for-profit. Then a person would have to look at the act and say: “Am I receiving payment? Have I exceeded the threshold? Am I lobbying?” If the answer to all of those questions is yes, then they would register.

The Chair: If I could just throw an example on the floor. If you have a not-for-profit organization that has a board of directors that are volunteers, but the executive director receives a salary and lobbies for more than the 12 days, the individual that has a salary from the organization and lobbies for more than 12 days will have to register.

Ms Neatby: That’s correct, and the assumption built into the question is that no one on the board of directors is receiving any payment. So the trigger to start looking at the act is whether or not you’re paid, and then you ask yourself, “Have I exceeded the threshold?” and you ask yourself, “Is the activity I’m engaging in lobbying under the act?”

The Chair: Okay.

Ms DeLong: I guess the question is if you’ve got a labour group or, say, electrical contractors. Okay. You’ve got electrical contractors. They’re paid as electrical contractors. They all belong to an organization, but they’re not paid by the organization. They’ve joined the organization. When they’re lobbying, does that count as lobbying even if there are days and days of lobbying done by people who are paid because they’re part of that organization? What’s the interpretation there?

Ms Neatby: Okay. I think there were some aspects to the question, and Rob's given me a hint across the table here that one of them is negotiations.

Mr. Reynolds: Well, no. I'm saying in response to your question – you said that they were contractors or employees – that if they were part of an organization and the organization was lobbying and they met the requirements, then, yes, that would be lobbying. I mean, in the definition of organization you have a trade union or a labour organization, “a business, trade, industry, enterprise, professional or voluntary organization or institution.” So if there was an association of whatever and they had a person who was paid to contact government and they met the 12 or whatever threshold, then, yes, they'd have to register as a lobbyist.

Ms DeLong: Right. Okay. But not the people who actually belong to the organization because, essentially, they're volunteering their time to the organization.

Mr. Reynolds: Yes.

Ms DeLong: Is that clear? It's not clear to me yet.

Ms Neatby: The definition applies if you receive payment.

Ms DeLong: From that organization.

Ms Neatby: Right. Now, just to make things more complicated, in one jurisdiction I believe there's an interpretation bulletin that says that in that type of association you're talking about, the question is: on whose behalf are you actually lobbying? Is this organization a real organization, or is it just an umbrella organization, but you're really lobbying for another organization that pays you? There are a few tests that they apply to determine if that's the case.

Mr. Marz: I think we want to keep our legislation as simple as possible and no more restrictive than other jurisdictions currently have. Get it into place, get it working, get the public, our businesses, our nonprofit organizations working with it, and then after a year or two if we identify some need to be more restrictive or less restrictive, we can certainly address it then. But I think that by keeping in line with some of the other jurisdictions, we've had the advantage of seeing how their legislation is working, and adopting the 12 days applying to all organizations is a way to go. We don't want to create an economic disadvantage in Alberta over other jurisdictions either. We had the advantage of seeing the legislation in other jurisdictions. I don't think we should make ours more restrictive than we need to at the initial stage.

The Chair: Okay.
Moe.

Mr. Amery: Thanks, Mr. Chairman. What kind of enforcement mechanism is there in place to make sure that those lobbyists register when they exceed the 12-day limit? Who would keep track of how many days? Are we depending on the honour system, that they would do it when they know that they exceeded the 12-day limit that's imposed on them?

Ms Neatby: Yes. We are depending on the honour system, but also in the bill we're providing the office of the Ethics Commissioner with some powers to investigate.

Mr. Amery: My neighbour here asked me to ask a question. Has anyone in other areas ever been fined?

Ms Neatby: To my knowledge there has been enforcement activity in Quebec. I don't know if Karen knows more. I think one of the presenters mentioned three enforcement activities in Quebec. Karen, do you know?

Ms South: I know that there was a municipal person fined in Quebec within the last year, and I know that the Information and Privacy Commissioner accessed the registrar in British Columbia, and they did do an investigation regarding a nonregistration by somebody there. I can't remember whether he assessed a penalty or not.

Mr. Amery: If someone is fined for violating this threshold, the \$50,000 penalty applies?

The Chair: We haven't got there yet.

Mr. Amery: Oh, we haven't got that far.

The Chair: We haven't discussed the fines yet, but it's on the list.
Dr. Brown.

Dr. Brown: I don't need to comment on the issue. Thanks, Mr. Chairman.

The Chair: Where were we? We approved your motion, didn't we?

Mr. Marz: Yeah, we did approve the motion.

Ms DeLong: Did we finish up with universities? I'm ready now to change my vote on that, that we exclude universities.

Mr. Marz: They're an extension of government.

Ms DeLong: As an extension of government.

The Chair: Help me, Rob or Joan, regarding what's in the act right now or what isn't in the act.

Mr. Reynolds: Well, just to summarize. I don't think universities are explicitly. Postsecondary education institutions are not specifically mentioned as part of what Joan referred to as the government family, which would be found in the bill under the definition of public office holder. I believe the submission that was made was that there may be an intention to include them in the definition of prescribed provincial entity at some point down the road, in the regulations or perhaps an interpretation bulletin, probably in the regulations. So there's nothing right now about universities, regional health authorities, and other entities that would fall in that government family criteria.

The Chair: The question is: do we even want to include that in our report? We're not talking about adding an amendment but including that in the report for clarification of the bill. Consensus on that?

Some Hon. Members: Agreed.

Ms Pastoor: Could I just make a comment, though? What Rob was saying is that if we do that suggestion, whatever, in the report as the universities, it would then capture every single entity that we

consider to be in the government family, or are we just talking about universities?

11:15

Ms DeLong: I believe the universities were a grey area.

Ms Pastoor: Well, now we've brought up PDD boards; we've brought up hospital boards. If they're in the government family, are they part of what we're talking about now, or are we specifically isolating universities?

Ms Neatby: I can't speak to what the committee is going to be . . .

The Chair: Can you speak up, Joan, because we can't hear you?

Ms Neatby: Oh, sorry. When we looked at other jurisdictions, we noticed that they capture entities that are Crown controlled. So our mechanism for doing that in this bill was to give ourselves the ability to prescribe provincial entities, and we have a regulation-making power to do that. There would be an examination of which entities are Crown controlled. That's what I mean by "in the government family."

The Chair: I think, as well, on that note that those provincial entities can be called before Public Accounts and can be questioned regarding their lobbying activities.

Ms Neatby: Many are consolidated in the financial accounts. That's not an area of my expertise, though.

The Chair: Actually, we have the universities, postsecondary institutions, coming next week. So whether this legislation was or wasn't in place, for example, as an all-party committee we can ask questions of the institution regarding their lobbying activities.

Mr. Reynolds: Mr. Chair, with respect to your other question about whether it be included in the report, you know, obviously there are some ways, if the committee chooses to, that they can go. They can specifically indicate institutions or categories of institutions that they want included in the definition of prescribed provincial entity to cover, as Joan said, "in the government family." Or I take it that the committee could make a recommendation to the Lieutenant Governor in Council in the report that regulations pursuant to the legislation contain these entities. I'm not prejudging what you might decide, but those are the avenues you might choose.

The Chair: No. That's my feeling, that it would follow through with the regulations. But we're going to include it in the report so that it's addressed in the report that it would be required in the regulation. Joan, once the legislation is in, the regulation will be drafted, and that would then be included in the regulation.

Some Hon. Members: Agreed.

Mr. Elsalhy: And this committee can also have input with respect to the regulations.

The Chair: I don't know about that.

Mr. Elsalhy: Yes, it's in our mandate.

The Chair: Oh, is it? Okay. Then, as Mo said, this committee has the opportunity to address what may or may not be in the regulations.

Mr. Reynolds: Yes, it would be part of the committee's mandate, but the committee's mandate with respect to this bill is to report the bill back.

The Chair: To the Assembly.

Mr. Reynolds: Your mandate is on a broader scale, yes, on another issue, but that's not the question you've been asked by the Assembly.

The Chair: Okay. I think we'll move on. If we all are in agreement with this, then we can move on to the next point.

Dr. Brown: What are we agreeing on, Mr. Chair?

The Chair: We're agreeing on the fact that certain institutions, because they're in the government family or of government nature or a public entity, will be addressed in the regulation with respect to their exemption. Is that right, Rob? Let's get this right here.

Mr. Reynolds: You know, these are going to come back. I mean, this will come back in written form.

The Chair: I know, but you asked for verification of whether we wanted it.

Mr. Reynolds: I think that the motion . . .

The Chair: There's no motion on this.

Mr. Reynolds: There's no motion, but the indication seems to be that you would like a recommendation concerning the inclusion of some entities in the description of prescribed provincial entity when those regulations come out subsequent to the passage of the legislation.

The Chair: Okay. Philip is writing that down. We should have asked Philip what he had written down, but we didn't.

Dr. Brown: Well, Mr. Chairman, lobby is defined in section 1(1)(e) as communicating with a public office holder for certain defined purposes. Then if you look at public office holder, it is defined as including "an employee, officer, director or member . . . of a prescribed Provincial entity." So anybody communicating with an employee of a prescribed provincial entity is a lobbyist.

Then if you look at provincial entity, it is also defined under 1(1)(i) as meaning a "Provincial agency as defined in section 1 of the Financial Administration Act and includes any body or entity referred to in the List of Government Entities." So that to me is fairly well defined the way it is. I'm not sure whether or not we need to go beyond what's in there. If they're included in the list of government entities listed in the government estimates, then they're included. That's who you're lobbying. So we don't need to get into this discussion.

Ms Barnsley: Just a point of clarification. The definition of provincial entity defines sort of the maximum body, the maximum group from which prescribed provincial entities can be selected. So there's a regulation-making power to list the prescribed provincial entities, and those entities will be chosen from provincial entities. It's not necessarily so that anything that fits within the definition of provincial entity will end up being a prescribed provincial entity. Just because something falls within the definition of provincial entity

doesn't mean that it would at the end of the day be a prescribed provincial entity.

Dr. Brown: No, but it would have to be more restrictive than being a provincial entity. So if we look at that list right now, and the organizations we're arguing about are not included in that list, then we don't have to worry about it.

Mr. Elsalhy: Just to further clarify it. One list is a subset of the other list. What you're saying is that the minister or cabinet or whoever makes those regulations or the commissioner or the registrar, when they're making those decisions, can pick a provincial entity that doesn't appear on that larger list.

Ms Barnsley: No. It has to be something that's on that larger list.

Mr. Elsalhy: Okay. Good. So the smaller list, the subset, has to be part of that bigger one.

Ms Barnsley: Correct.

Mr. Elsalhy: They can't add to it.

Ms Barnsley: Correct.

Mr. Elsalhy: Okay. Very good. Thank you.

Dr. Brown: If they weren't on that larger list, Mr. Elsalhy, then they would be caught by the general provisions of the act, and they would have to register if they fell within the definition of lobbyist.

Mr. Chairman, if I can make a suggestion, perhaps for the next meeting, for the purposes of clarification if we could get that list and we could have an idea of what types of entities are included in the government estimates, then I think it would help the committee to have some comfort in the decision they're making.

The Chair: Yeah, and we wouldn't be spinning our wheels here.

Mr. VanderBurg: Well, it's so complicated. I mean, the universities didn't even know whether they were on it or not. That's why they're asking the question, right?

Ms Neatby: They're on it.

Mr. VanderBurg: They're on it, yeah, but they're asking the question, and they want clarification.

Ms Neatby: They want us to prescribe them.

Mr. VanderBurg: Right. They're the ones that issue the law degree.

The Chair: Okay. We'll get the list for the next meeting. So we've got that settled, then, what we're going to include?

Dr. Massolin: Yeah, I think so.

The Chair: Okay. Anything else, then? Have we dealt with all our issues on page 4? If we've made the distinction that there is a threshold – the threshold is 12 days – then obviously we don't have to deal with whether they're a charitable, a not-for-profit, or a private organization.

Ms DeLong: We're on page 7, aren't we?

The Chair: Okay. Page 7, dual role prohibition. Philip, can you take us through this?

Dr. Massolin: Yes, certainly. Thank you, Mr. Chair. This section deals with the so-called dual role prohibition. You can see some of the concerns that the submitters had with it in terms of how the dual role prohibition would be triggered, and then some definitional issues, including the definition of subject matter, the associated person, and so on.

You've got in the second column there a restatement of what Bill 1 says on the matter. Then the issue before you, or maybe part of the issue at least, is whether or not this should be clarified in terms of clarifying those definitions: subject matter, person associated, and payment. The other issue as well is: should this be changed from an offence to merely a reportable item under the bill?

Are there any questions for me?

11:25

Mr. VanderBurg: In your opinion should it be just a reportable item?

Dr. Massolin: I don't think I'm at liberty to say that.

Mr. VanderBurg: Oh. You don't have an opinion? I value your opinion.

Dr. Massolin: I have lots of opinions, but I don't think I'm at liberty to share them.

Ms DeLong: To get us back to the problem, the one that I really saw was in the environmental area where you've got various people with certain expertise, yet at the same time they do feel a responsibility to lobby in certain ways. What I'm wondering is: can we get around the problem by restricting this to a consultant lobbyist versus an organization lobbyist? We do have the two different kinds of lobbyists. If we were to open it up so that the organization lobbyist could do both roles and maybe only report. I don't know, but that's sort of the basic problem that I see. We've got these experts who need to be able to lobby us, yet they're the ones that also, you know, will be producing reports for us.

The Chair: I just want to be clear here. If government asks them to provide them with input, they are not a lobbyist. They are not lobbying government.

Ms DeLong: Right.

Dr. Brown: No, but I think the point, Mr. Chairman, is that that may be in fact their primary purpose. If it was the Sierra Club that was asked to sit on a stakeholder committee, then their purpose is to lobby for environmental issues. The point was made that they should be allowed to receive an honorarium or whatever for sitting on the minister's committee, if they've requested to do so.

The Chair: Okay. So you're saying that they get an honorarium to do that. Are they lobbying government?

Dr. Brown: Not by virtue of being on the minister's committee.

The Chair: No, but let's say that they meet with the minister and/or other government members later and try to lobby them for policy or legislative change.

Dr. Brown: Well, the point is that there's a prohibition that is being proposed here. What we've heard from some of the stakeholders is that that's unduly harsh and perhaps unfair for some of them that do have a dual role. If they're specifically asked to sit on a multistakeholder advisory committee, they may receive some payment for doing so, for their time, but that shouldn't prohibit them from carrying out their primary function of lobbying on behalf of any particular interest group.

Another example might be if you appointed a union member to a panel to advise on labour laws, you know. It shouldn't preclude that person from carrying out their duties with the union.

The Chair: So as long as they register, they can continue to lobby.

Dr. Brown: Well, that's one possible solution, Mr. Chairman.

The Chair: Well, I think we have to be careful here. If an individual is from an environmental group – let's say the Sierra Club – and that's his role, to lobby, and he may lobby more than 12 days a year and the government appoints him to sit on a committee to provide advice, he still has to be registered as a lobbyist.

Ms DeLong: Well, yeah. The problem is the actual prohibition – okay? – that you can't both lobby and be paid to provide advice.

Dr. Brown: It's the prohibition. You can't do it.

Mr. Elsalhy: On the same subject.

Ms DeLong: Yeah, or in the same area. When it comes to environmentalists, they're often in that situation. So what do we do about it?

Dr. Brown: Well, Mr. Chairman, I think that you've addressed a very salient point, and that is that if we look at what the purpose behind this prohibition is, the way I look at it, I think it's there to prevent some sort of conflict of interest. If people are aware of the fact that there's a conflict of interest, to me the disclosure goes a long way to alleviating the problem. Maybe part of the reporting procedure if you're a lobbyist over 12 days is to say: do you have any contracts with the government? If so, for how much, and for what purpose? Perhaps that's the way that we ought to deal with it.

Mr. Reynolds: I was just going to say, just to reinforce Dr. Brown's earlier point, that the concern that came up, it seemed to me, was that, as he indicated, when people are asked to sit on committees – ministerial committees, whatever sort of committees or commissions – where there's some payment involved, under section 6 would that knock them out from being able to lobby on that subject matter? That seemed to be the concern from, especially, the not-for-profit groups that came forward. I'm sorry; I can't remember the person. I recall it was from a not-for-profit who said, "If it's a choice between sitting on a committee or continuing to do my job, I'll do my job," which is fine.

I guess there are just a couple of things, Mr. Chair. Is the understanding correct that sitting on the committee and receiving payment in addition to just expenses would sort of knock you out of the box under section 6? Secondly, it's something for the committee to consider if you want to build in some kind of exemption or make a recommendation about section 6, either along the lines Dr. Brown suggested or whether you want to limit it in some way.

Mr. Marz: I look at this, and you'll recall that when we had the

labour review done – and the chair was also on that committee with me – we had a member from the Building Trades Council as well as a member from Merit Contractors providing expert advice. How do you differentiate between expert advice and actual lobbying on behalf of the organizations that they're there for during the course of that time? When they're receiving a small per diem, I guess they're classified as being paid. We asked them to provide that expert advice, and I think that to just be reportable would be adequate to handle that sort of thing. I certainly wouldn't see that as an offence, where they would have to register or anything like that, just as long as it's reported that that's what their interests are. We don't want to lose that expertise or that access to that expertise in the course of this legislation.

The Chair: Okay. We don't need a motion. Are we all in consensus?

Bridget.

Ms Pastoor: Yeah. I guess that when you sit as one single person and you've got two different people signing your paycheque, my question always is: who signs your paycheque? To me, if someone is signing your paycheque, obviously you owe them a loyalty. You owe them a loyalty either as an employee or you owe them a loyalty for expert advice. So if two people are signing your paycheques, where is your loyalty? Again, I agree with Dr. Brown: I think this then becomes a conflict of interest. Perhaps the reportability suggestion would maybe cover that, but still you've got two different people signing paycheques that you supposedly owe loyalties to. I mean, I'm not sure that some of the people shouldn't excuse themselves from one section of it. It's an integrity issue.

Dr. Brown: Mr. Chairman, I'm going to make a suggestion, and I thank Ms Pastoor for twiggging me to the idea. I think that if we had a combination of two things: one is the disclosure and also a threshold. We're not trying to get at some sort of an honorarium. I don't know what these guys would get for sitting on a multistakeholder advisory committee, but I'm sure the honorarium is quite small. If we put a maximum on the amount of a receipt, then I think it would address the issue that was brought before us by the environmental groups. I think it would go a long way if we had two things: disclosure of the fact that you do have the contract and how much it was for as part of your registry as a lobbyist and, secondly, that you could only receive up to a certain threshold. I'd like to just throw that idea out for the committee's consideration.

11:35

Ms Pastoor: I would agree with that, but I think that sometimes when we are asking for expert advice, those experts come with a decent paycheque. I mean, we're paying for people with PhDs and years and years of experience. Then if they come in at, you know, a nominal fee sort of thing, they're actually in essence being volunteers because they believe in whatever their cause is, which sort of then flips them into an advocacy role. It's a good idea, but I just can see conflict within yourself.

Dr. Brown: Well, there's a parallel in our Conflicts of Interest Act. When we talk about MLAs – you know, the gifts and so on – there are certain ceilings on them, and I see some sort of a rationale for having a limit. As you point out, the conflict is generated by the fact of: who's your boss, and who are you receiving your paycheque from? That to some extent is mitigated if you're only receiving a limited amount. I mean, if it's not an exorbitant amount, then obviously it's not comparable to your employment. It's something

in the nature of a secondary compensation or an honorarium, a true honorarium.

The Chair: Okay.
Mo.

Mr. Elsalhy: Yes. Here's another wrinkle. Most of these committees or commissions or task forces are usually of a temporary nature. For example, when we had the royalty review commission or committee, it was basically something to study one issue, and they had an expectation to finish their work by, you know, six weeks or something like this. When we had the safer communities task force, they had to report by no later than 28 days and so on. It's usually on a temporary basis. Yes, someone is invited to sit on that task force or committee, and, yes, they receive an honorarium, but it's only temporary.

This is totally different from someone who is under contract on sort of a long-term basis: somebody who advises the Minister of Environment on a continuous basis, somebody who provides expert advice on water quality on a continuous basis, and so on. This is different. I think that's when, you know, the who is your boss question is in effect. But for people who are doing something temporary, something that only lasts five weeks or six weeks or a couple of months at the most and with a stipulation that should you receive more than \$2,500 or three grand or whatever in cumulative honoraria or payments, then maybe the reporting is different. I think we have to make the distinction between someone who's invited to sit on a task force or a committee to provide expert advice on a temporary basis versus someone who's employed or under contract longer term.

Mr. Reynolds: Just a couple of things on where the committee may want to go on this, a couple of options. One, my understanding of what Dr. Brown was saying is that you can cover this in the reporting, and of course it is to an extent, I think, covered in the reporting requirement under schedule 2, Organization Lobbyist Return, if I'm not mistaken, which is on page 27 of the bill. Clause (r) talks about a statement "stating whether any organization lobbyist named . . . holds a contract for providing paid advice to a department." It's in schedule 2, the Organization Lobbyist Return. That might capture it. If that's the way you're going, then I assume that you would be recommending an amendment to section 19 of the bill, which talks about offences, so you would take it out of the offence provision. It wouldn't be an offence, if I understand where you're going.

Another option, along the lines of, I believe, what some other members were saying, an alternative, if you want to go there, is to set out some sort of exemption from this – Ms Neatby and I were just talking briefly about this – something about multistakeholder, multiparty consultation, that if you're part of that, you're excluded from the operation of this section. That's something that would get at the situation where someone is asked to sit on a committee or a commission for the government or a Crown-controlled agency or something like that. If that's what you're trying to get at, you could build an exemption into that section for that. It's just sort of which way the committee wants to go.

Dr. Brown: Mr. Chairman, I think that's an excellent suggestion. I would propose that we do provide a specific exemption. The multistakeholder advisory committees are chosen usually because they do represent specific interest groups and whatnot, and quite often I think they would be put in a deliberate conflict of interest if you wanted to consider it in the purest terms. It's very much proper

and ethical to do so because you want to get the viewpoint from a particular angle. I would suggest that we make a specific exemption within the blanket prohibition here to exempt persons who are appointed by a minister to a multistakeholder advisory committee. That would be a motion.

The Chair: Did you want to make that specific to a multistakeholder advisory committee?

Dr. Brown: For lack of a better term. We could say: or similar entity or something. I don't know. I leave it up to the drafters to do it.

Ms DeLong: I move that we just make this simple and just make it that it has to be reported, that it's got to be part of the reporting. Then whatever conflict you're in is perfectly open to everybody.

Mr. Reynolds: That's already in the bill.

Ms DeLong: No, no. Right now there's an actual penalty for actually doing any of it. It's an offence. Take the offence out, and make it reportable.

The Chair: The offence is for more than this. I think what we want to do is look at amending.

Mr. Reynolds: There are two different things. Dr. Brown is proposing one. As I understand Ms DeLong, she's proposing something else. As I understand it, the money that you obtain from government for sitting on a committee is reportable right now. That's my understanding of that section. So it's already reportable.

Ms DeLong: Okay. Good. So we just have to take out the offence, then.

Mr. Reynolds: Well, yes, if you wanted to go that way.

The Chair: I don't know if you want to take the offence out or just determine what their function will be, whether it's a minister, figure out what government wants them to do.

Ms DeLong: My concern is that that's an idea that hasn't been out there. To make that cut-off, we don't know for sure that we're going to actually solve the problem with the environmentalists or not. I don't know what contracts they have, whether they're just on multiparty committees. For instance, if we need a report on grizzly bears and, you know, you've got one specialist who really knows grizzly bears, yeah, he's got this contract, but at the same time he's really involved in the lobbying. I'm just concerned that if we make the cut-off that it's a multiparty sort of situation, we might be missing a lot here, and we might be leaving problems out there still to be solved.

The Chair: Rob, can you provide some clarification?

Mr. Reynolds: Clearly, it's up to the committee which way they want to do it, but as I understand Ms DeLong's comment – and this is a fine direction for the committee to go if this is what they want to do – essentially you'd be talking about eliminating that section. Would that not be the import of what you're saying? If it's already reportable and you want to take out the offence, then why would you have something in there, as I understand it? Whereas Dr. Brown's recommendation would be to still make it an offence to be con-

tracted to the government, if you will, and to lobby on the same issue, it's just that there'd be an exemption that you don't violate that section if you're part of a multistakeholder committee appointed by the minister or the government or something like that.

Perhaps my understanding is incorrect there, but that's where I see you going. There are options.

11:45

Dr. Brown: Well, just to complicate things further, Mr. Reynold's comments have twigged another possible solution here. In addition to the proposal that I made in my motion, it seems to me that there might be room here to provide something along the lines of what the Conflicts of Interest Act provides for; that is, we could have, perhaps, a two-pronged test. If the Ethics Commissioner found that there was no conflict of interest generated by the appointment of somebody for a purpose like providing advice on grizzly bears, and it was deemed to be in the public interest, then perhaps we could have the Ethics Commissioner have the ability to provide an exemption in cases like that where it was in the public interest and where it would not be unseemly, I guess.

Mr. Elsalhy: Dr. Brown, would the Ethics Commissioner have the mandate and jurisdiction over this? My understanding, however limited, is that the Ethics Commissioner looks at MLAs and ministers and government. If this is pertaining to the environmental group that Alana was talking about, would the Ethics Commissioner have jurisdiction over this?

The Chair: Well, they'll have jurisdiction over this act.

Dr. Brown: He's going to administer this act.

The Chair: For anyone falling within this legislation, obviously the Ethics Commissioner then would have that ability. The issue and the question would be: do we keep this legislation in but allow for an exemption by the Ethics Commissioner?

Mr. Elsalhy: Then I have another question or complication to add. We're talking about the prohibition that you cannot sit on those committees or task forces and receive an honorarium while at the same time lobbying.

Dr. Brown: Correct.

Mr. Elsalhy: Can we actually reverse it and say that it would be discouraged or frowned upon that you continue to lobby while serving on that committee or task force? Just reverse it and say, you know: for the period that you're serving on that task force or committee or commission, you cease from lobbying, you stop lobbying, and then you can resume when you're done.

The Chair: Part of the problem is that that's their job.

Mr. Elsalhy: But if it's an organizational lobbyist who's within that organization, surely they can pause for that short period of time and find someone else to do it in their place?

Mr. Marz: I think if we leave this as an offence instead of a reportable item, we're going to have a difficult time accessing that expertise that we want to have join us on committees from time to time and getting that expert advice. I think we should keep it at, you know: as long as the public is aware who is doing it and why and it's reportable, we can look at it and monitor it for the period of time up

until the first review of this bill. When it comes up for review, if there's any fine tuning further at that point on this particular item, we can do it at that time. I think it's going to be too restrictive to attract the type of expertise we need from time to time on these committees to leave it in the offence category.

The Chair: Okay. Bridget.

Ms Pastoor: Yes. I wonder if I might just get a qualification from Justice. What types of problems had been discussed prior to the drawing up of this bill? Why was this even on the table? I mean, obviously there was a problem, or it wouldn't have come forward to have us discuss it. What exactly was that problem, and how was this based on that? If there's an offence to go with it, it would seem to be that it would've been a big problem. I don't know just who would answer that, but maybe Dr. Brown because you worked on part of that inquiry.

Dr. Brown: I think the answer is that there was an instance which came to light where an individual who was a lobbyist for an organization was retained by a minister under a contract, and it was deemed to perhaps be an inappropriate conflict of interest. I think that's where it came from.

Ms Pastoor: So mainly, if I'm understanding it, and even the way I described it, it really tends to be more of an integrity, conflict-of-interest problem. A person's integrity and the conflict of interest would override some of the behaviours.

Dr. Brown: Well, the issue would be that if you were giving advice to the minister, it might be somehow flavoured by the fact that you were also lobbying on behalf of an organization. I think the distinction has to be made where that conflict of interest, as I said, on a multistakeholder advisory group is a deliberate one. I mean, you're choosing an individual for their particular expertise and their point of view.

I would say that we need to have some sort of an exemption in there, the exemption of the multistakeholder advisory group at the minimum, but also, perhaps, to give the Ethics Commissioner some further discretion to say: "Look. This is something that's appropriate in the circumstances, and it should be allowed. Therefore, I'm going to give my okay, my blessing for it."

Ms Pastoor: There would be a difference between somebody that sat on a multistakeholder committee where, in fact, their advice and their conversations are disseminated within a large group as opposed to somebody actually sitting down one-to-one with the minister saying: "Here's where it's at. You're paying me for my advice, but by the way, my other employer is telling me to say this."

Dr. Brown: Right. I'm sure the Ethics Commissioner could make that distinction and say, "Look, this is not an appropriate retainer for you to take with the government in view of the fact that you're lobbying on behalf of a certain organization."

The Chair: Neil, did you have a motion, then, regarding an exclusion? If so, do want to read that over again?

Dr. Brown: Sure. I'll rescind my previous motion with respect to it, and I'll modify it. My suggestion and my motion, Mr. Chairman, would be that

we provide a blanket exemption for anyone who is appointed to a ministerial multistakeholder advisory committee and that we also

include an exemption which could be granted by the Ethics Commissioner in circumstances that he deemed appropriate.

Ms Pastoor: What about your disclosure?

Dr. Brown: The disclosure, I think, is taken care of, but it's certainly implicit in my motion that you would have to disclose in its entirety any contracts with the government as part of your registration as a lobbyist.

The Chair: The motion is before us. Just for clarification, Dr. Brown, when you say multistakeholder, if a minister just wanted to contract with this individual to provide him with advice . . .

Dr. Brown: Then he would have to get the approval of the Ethics Commissioner.

The Chair: Okay.

Karen, any questions regarding that motion? More work for the Ethics Commissioner.

Ms South: For the registrar, yes.

The Chair: For the registrar, yes.
Okay. Rob, is that . . .

Mr. Reynolds: Sure. Yes. Someone was giving me a phone message outside.

The Chair: This is regarding the clarification.

Mr. Reynolds: Yes.

The Chair: Okay. All those in favour of the motion? Opposed? Unanimous.
Okay, that's page 7.

Ms DeLong: I have a motion. I don't see it on this list, but I would like to make a motion that in terms of the administrative fees they be waived for applications that are filled in on the Net. If you register on paper, yes, there would be a small fee, but if you register on the Web, then there are no registration fees.

11:55

Dr. Massolin: Sorry, Mr. Chair. I just wanted to point out to the hon. member that this issue is indicated on page 8, under 2.6 Administrative Burden. Perhaps you might want to consider it there.

Ms DeLong: We're there right now. We're on to 8.

The Chair: Regarding the public office holder, do we need additional clarification there? Have we discussed that?

Dr. Massolin: Thanks, Mr. Chair. I was just going to point out that, yes, that second major consideration about the honoraria and the board I think we've taken care of, obviously. I don't know if you wanted to consider anything else that I've written there. You know, there's this general issue of whether or not the term "public office holder" should be clarified.

The Chair: I think we discussed that at length earlier, about 45 minutes ago. Any other questions regarding that?

Dr. Brown: No. My suggestion was that we defer that discussion until we see who is on that list of public entities.

The Chair: Okay.

Phil, can we bring this 2.5 back, then, to the next meeting, when we see that list?

Dr. Massolin: Yes, definitely.

The Chair: Okay. Item 2.6, reporting requirements, undue administrative burden on their respective organizations. We did receive some clarification from Karen that it could take up to half an hour, probably no more than half an hour, for the first-time submission. Any adjacent submissions, I guess, obviously wouldn't have to go through the whole thing again because it would just be a change of what you might be lobbying for.

Ms DeLong: In terms of the fees is that motion on the table right now?

The Chair: Would you like to make a motion regarding fees?

Ms DeLong: Yes.

The Chair: Just prior to the motion on the fees, Philip, what are the issues related to the fees?

Dr. Massolin: Well, I would refer the committee to filing document if you have it. On page 7 we have a cross-jurisdictional comparison with respect to the fees, and you can see in that document that the fees vary in the different jurisdictions. You can see, for instance, that in Ontario if you file through the Internet the fee is zero. There are similar sorts of provisions in Quebec and federally. Paper filing costs more. That varies fairly widely across the jurisdictions. But, obviously, there's a distinction between Internet and paper filing. You can see the numbers for yourself. I don't know how much further you want me to take this.

The Chair: What are the committee's thoughts regarding fees? David.

Mr. Coutts: Mr. Chairman, thank you. Maybe this question is for the Ethics Commissioner's office on what the registrar would be doing. When you file online, obviously, you have to handle it once it gets into the registrar's office, or you can file by paper out of your home or at some government office or something like that and send it in by mail. What are the differences, whether it's online or whether it's paper, once it gets into the registrar's office? I understand that the fee was probably put in place to cover some costs on the administrative side. I assume that that's what it is, and if it's not that way, I'm sure somebody at the table will tell me. If we've got the same kinds of costs once it gets into the registrar's office, I would have a difficult time exempting Internet kind of filing. Maybe the purpose of the registrar's office could help me with that.

Ms South: I'm not actually certain how they process the paper copies in other jurisdictions. My understanding is that compliance is 98, 99 per cent electronic. I would assume that the registrar would have to physically input the information into the registry system because it would have to be searchable, so it could not, I don't think, be simply scanned in.

As to why there are no fees or fees imposed, I am not really certain on the rationale. My guess would be that there are no fees to encourage compliance.

Mr. Coutts: Thank you very much.

Mr. VanderBurg: Well, you know, I used to chair a committee reviewing the fees and charges for the province of Alberta, and there were many fees that we had that had actually cost us more to administer than what we collected. In this case, especially with a new bill which I don't care for to begin with, if we're going to have a new bill and encourage people to register, I agree with Alana that the online registration fee should be waived.

Again, another job that I'm into right now is looking at the archives and storage of our paper in this government, the thousands and thousands of tonnes of paper that we have to store for, in some cases, like vital statistics, up to 120 years. I think that whatever we can do to encourage electronic filing will make it easier down the road.

So I agree with Alana in this case, that if we're going to talk about online fees, we should waive them. There's a reason the other jurisdictions have done that.

The Chair: Do you want to make a distinction between online and/or paper?

Mr. VanderBurg: It's a good way to encourage people.

The Chair: There is a distinction, for example, in Ontario: zero for the Internet and \$150 on paper.

Ms Barnsley: Just a point of clarification again. This might be one of those areas where the committee wants to consider whether this is something that would go directly in the act or whether this is something that would be a recommendation for regulations. There is a regulation-making power to deal with fees, and it permits that fees could be waived in certain circumstances. The committee could either suggest that this goes directly in the bill or recommend it for regulation.

The Chair: Well, I think that's a good point. If that's the consensus of the committee, then we could make a recommendation that the regulation look at not having a fee for Internet subscription.

Dr. Massolin: Yeah. Just one further point of clarification to add to Alice's comment, and that is that in other jurisdictions they do it by regulation. Just so the committee knows.

Ms DeLong: Okay. I'll just amend my motion. As a committee we recommend that
the fees be waived for online registration through regulation.

The Chair: Okay. We're not talking about paper, so there may be a charge for a paper registration.

Mr. VanderBurg: Once again, Mr. Chairman, the paper charge would be reflected in the earning decision, which we follow ourselves through government, that no fee can exceed the cost of administering the paperwork so that it doesn't in turn become a tax. Our departments are all guided by that, so we can't arbitrarily say that it's \$150 knowing that it costs us only \$55 per application.

The Chair: Right. Do you want that reflected in the motion?

Mr. VanderBurg: It's a governing rule, and all of us abide by that because otherwise it's a tax. The conversation just happened.

The Chair: Bridget?

Ms Pastoor: Well, yes. I just wanted to make a couple of comments. I certainly agree that it is an incentive for people to use the Internet. However, they do have a difference between consultant lobbyists and in-house lobbyists for profit. Both of those groups can write these expenses off as business expenses. Not-for-profits would not be able to. When the registration is done online, we're assuming that it totally remains paperless, that at no point is it downloaded onto hard copy. Is that correct? When I register online with you, you do not download it onto hard copy. It's all kept paperless. Is that correct?

Ms South: I have no knowledge of whether they actually print it off anywhere. I would think you'd want it in the electronic format because you want to do the searches.

12:05

Ms Pastoor: Right. I understand that, but there's a big difference if you have to start downloading hard copy. There's a different cost if it stays paperless.

The Chair: No more questions?

All in favour of the motion? Unanimous.

Ms DeLong: Do we have time for another motion?

The Chair: Well, we're past our allotted time. Members can stay for a little longer if they like. Alana has another issue. I just wanted to know if you want to deal with the issue of fines, and then we'll leave this meeting.

Ms DeLong: Actually, it's part of this one. It's part of 2.6.

The Chair: Okay. Alana, what is it?

Ms DeLong: One of the things that was also mentioned by several people that came forward was the added complication in terms of future plans for lobbying. You know, there were also questions about whether we even have a right to ask that, in terms of what individuals are planning on doing rather than, essentially, what they're doing. I would like to make a motion that that part of the reporting be removed.

The Chair: Well, I think we'll bring that one back to the next meeting because I think there will be more discussion on that. So if you can make a point of that, Philip, to add that.

Dr. Massolin: It's certainly here under the anticipatory filing. I think that's what Ms DeLong is referring to.

The Chair: That'll take, I think, some time for discussion. We'll bring that back at next week's meeting if the committee is in consensus with bringing that back because there might be some lengthy discussion on that.

Dr. Brown: I would have some comments to make on that, Mr. Chairman.

The Chair: So we better bring that one back.

If we're in agreement, let's move on to the fines section. If we can deal with that and come to some consensus or a motion on that and then move forward. I think we'll just ask Phil or the staff here

to sort of give us a rundown on what's coming back to the next meeting, and then we'll move on.

Phil, do you have some information regarding the fines?

Dr. Massolin: I didn't include it in this document, but it's available on pages 10 and 11 of the cross-jurisdictional analysis of Bill 1. This is something that was distributed for an earlier meeting, so I didn't include it in this list of issues.

The Chair: Some of us don't have that here, so can you just read us off what's listed on there?

Dr. Massolin: There is quite a lot here. I don't know how you want to go through it.

Mr. VanderBurg: Is it just one page?

Dr. Massolin: It's two pages, 10 and 11. Can we copy it quickly? We could, you know, highlight certain points here that the committee might especially want to consider first, if you'd like us to do that.

The Chair: Sure.

Dr. Massolin: I'll ask Heather – she's done work on this – to speak to those points.

Ms Close: The first thing I want to point out: under the row that addresses Newfoundland, there's one addition here that wasn't in the previous version of this document that you received. I've added other disciplinary measures, and it was pointed out to me that this was something that was missed previously. So there is a slight change here to what you have from the previous meeting.

I think Joan may be able to provide further input on this, but I think the point to make would be that with respect to the administrative penalty set at \$25,000, Alberta is right in line with other jurisdictions. It's the second and subsequent offence that is a bit higher.

Mr. Elsalhy: I'm not sure who to address this question to, but is there anything in this proposed act that offers the registrar or whoever is administering the act the opportunity to waive a fine or to reduce a fine? Let me actually give you an example. Let's say that it's a nonprofit, and let's say that we didn't exempt nonprofits. You know, due to some minor error they messed up, and they didn't report the way we want them to or on time. Now there's a fine that is assessed, and they're required to pay 50 grand. Is there any mechanism for them to appeal somewhere or to some person or some entity? "We didn't mean to. Can you please take it away?"

Dr. Brown: I can answer that. First of all, you have to remember that these are maximums, so there's some discretion there, some judicial discretion being exercised. You have to believe that the registrar – if it's something that's inadvertent or if, you know, it's a nonprofit organization's or volunteer organization's first offence, they're not going to be unduly harsh. The second provision is that in the draft legislation there's also an appeal to a provincial court judge, so I don't think that we've got a difficulty with the fact that there's a maximum. I think the maximum is appropriate. There may be instances where somebody is receiving large sums of money to lobby on behalf of a particular entity. It could be the nuclear industry or the pharmaceutical industry or anything else. So I don't have any problem with the maximum of \$25,000. There will be discretion exercised in the appropriate cases.

The Chair: Richard.

12:15

Mr. Marz: Yeah. Alberta has one thing in there that is a big deterrent in addition to the fines, and that's that the registrar may prohibit the offender from lobbying for up to two years. No other has that, and I think that's a good deterrent in itself.

As far as the offences, \$50,000 and for a subsequent offence \$200,000, I would sooner see us look at some of the other jurisdictions: \$25,000 and maybe for a subsequent offence \$100,000. With the prohibition of lobbying for two years I think that would be more than adequate. I would be prepared to make a motion to that effect.

The Chair: Your motion is that a first offence would be . . .

Mr. Marz: First offence: \$25,000.

The Chair: Maximum \$25,000?

Mr. Marz: Yeah, first offence maximum. I don't think we need to put a minimum because it would be at the discretion of whoever is enforcing the act. Second offence: \$100,000. That would fall in line with Newfoundland and Nova Scotia.

The Chair: So that would be the maximum again.

Mr. Marz: Yeah, maximum.

The Chair: Okay. Then the administrative penalty stays the same, I guess, at \$25,000. Again, that's the maximum?

Mr. Marz: Yeah, that's the maximum. I think that especially for larger organizations the biggest deterrent would be the prohibition from lobbying.

The Chair: I think I like that. Again, I agree with: the registrar may prohibit the offender from lobbying for up to two years.

A motion on the floor. Bridget.

Ms Pastoor: Yes. I support that because \$100,000 is chump change to some of the big organizations that may be caught doing this sort of stuff. I think that being prohibited from lobbying – unfortunately, it might be just that particular person, and they would then substitute another person, which could probably be discussed at some point. I think that that deterrent would hit them much stronger than \$100,000, that is just probably their coffee money.

The Chair: Okay. Any other questions on the motion? Mo.

Mr. Elsalhy: Yes. Richard, why are you recommending that we reduce it from the suggested maximums here of \$50,000 and \$200,000 to \$25,000 and \$100,000? Are you approaching it from a consistency standpoint, so that we're consistent with other jurisdictions?

Mr. Marz: Well, if I may, Mr. Chair, to Mr. Elsalhy. One of the things we heard from many groups was about ours being so out of line in maximum penalties with others that it would be a deterrent to some of our medium-sized to smaller operations from even wanting to lobby at all for fear that they would be slapped with that type of a penalty inadvertently. Whether they would or not, if it's in the act, it certainly is an eye-opener. Rather than lobbying, they'd err on the side of not lobbying at all, and I don't think that that's what we want to do: turn Albertans off from approaching government.

Dr. Brown: Well, just in response to that, \$100,000 or \$200,000 is still a lot of money. I think the committee ought to bear in mind the fact that this is a discretionary thing. I mean, we have to trust the people that we're putting in these positions to make a reasoned judgment. If they don't make one, then they've got the appeal process, and hopefully there's a judge sitting on the bench that has, you know, common sense. I'm not in favour of reducing the maximums. I think that there are instances in which it's conceivable – and I don't know if it's ever been levied in Canada. If there was a subsequent offence that warranted it, maybe \$100,000 is not enough. Maybe \$200,000 is an appropriate amount. With respect, Mr. Marz, I disagree, and I'm not in favour of the motion.

The Chair: Okay. The motion is on the floor. All in favour? Opposed, if any? Carried.

Okay. Committee members, we'll just continue with the agenda, and we'll be brief.

Dr. Brown: Mr. Chairman, I just want to point out that there are a number of us that do have a committee meeting at 12:30, so I'm going to have to leave now.

The Chair: That's fine.

I'd like to get clarification on what the staff will be bringing back for us at the next meeting just so that we have a clear understanding, if Philip's got some of that down.

Dr. Massolin: I don't really have it down in digestible form.

The Chair: We didn't get to Alana's motion, and we didn't get to 2.7 and I think some clarification on 2.6, is it?

Dr. Massolin: Oh, yes. I recorded that; that's for sure. There are two basic aspects that we didn't get to. One of them is the anticipatory filing issue, and the other one was the last provision here, 2.7, reverse onus. So in terms of the list here, those are the ones we haven't dealt with.

The Chair: Okay. That'll come back to the next meeting.

Anything else? Committee members, anything else that you want on the agenda for the next meeting? Okay.

Mr. Reynolds: Just to clarify. I'll be working with Justice and Mr. Pagano, who couldn't be here today, to see if there are amendments that could come forward and back to the committee next meeting. Mr. Chair, you had indicated earlier in the meeting that you were going to provide some direction with respect to Bill 2. I realize time is short. I realize members have other commitments. I'm just wondering what, in fact, you would be looking for on Bill 2 by the 18th?

The Chair: Okay. First of all, we'll just go back to Bill 1 and the issues related to the website location and what it actually looks like on the website. I think we were talking about it.

Mr. Elsalhy: The screen shots.

The Chair: The screen shots. If that can come back as well.

Bill 2. I think one of the major issues there was the six months to one year and for whom? I think that's probably the only issue that we have to deal with there. Is there any other from the committee members regarding Bill 2?

Mr. Reynolds: Is that the cooling-off period that you're referring to for former ministers or the inclusion of it for senior policy officials?

The Chair: Both.

Mr. Elsalhy: How long and who it applies to.

Mr. Reynolds: I see.

The Chair: I think that's it for Bill 2.

Dr. Massolin: Sorry. Just on Bill 1 again. One other thing we'll provide to you is the list of provincial entities, right?

The Chair: Yes, please.

Okay. I think that'll cover about three hours at our next meeting as well. Then we'll start looking at, obviously, draft reports.

Any other business from members? If not, I remind members that the next meeting is on the 9th of October, next Tuesday, at 10 a.m. Any concerns with that time at all?

Mr. VanderBurg: Yeah. I won't be here.

The Chair: You won't be here, George? Okay. I think it's from 10 till 1.

Mr. VanderBurg: Oh, 10 till 1. Maybe I can make that. I have to be back by a quarter to 3.

The Chair: Yeah, we'll be done at 1.

Could I get a motion to adjourn?

Mr. Marz: I'll move that.

The Chair: Okay. All in favour?

[The committee adjourned at 12:24 p.m.]

