

Third Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Dennis Smook
Constituency of La Vérendrye

Vol. LXXV No. 6 - 6 p.m., Wednesday, April 14, 2021

ISSN 1708-668X

MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

Member	Constituency	Political Affiliation
ADAMS, Danielle	Thompson	NDP
ALTOMARE, Nello	Transcona	NDP
ASAGWARA, Uzoma	Union Station	NDP
BRAR, Diljeet	Burrows	NDP
BUSHIE, Ian	Keewatinook	NDP
CLARKE, Eileen, Hon.	Agassiz	PC
COX, Cathy, Hon.	Kildonan-River East	PC
CULLEN, Cliff, Hon.	Spruce Woods	PC
DRIEDGER, Myrna, Hon.	Roblin	PC
EICHLER, Ralph, Hon.	Lakeside	PC
EWASKO, Wayne, Hon.	Lac du Bonnet	PC
FIELDING, Scott, Hon.	Kirkfield Park	PC
FONTAINE, Nahanni	St. Johns	NDP
FRIESEN, Cameron, Hon.	Morden-Winkler	PC
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin, Hon.	Steinbach	PC
GORDON, Audrey, Hon.	Southdale	PC
GUENTER, Josh	Borderland	PC
GUILLEMARD, Sarah, Hon.	Fort Richmond	PC
HELWER, Reg, Hon.	Brandon West	PC
ISLEIFSON, Len	Brandon East	PC
JOHNSON, Derek, Hon.	Interlake-Gimli	PC
JOHNSTON, Scott	Assiniboia	PC
KINEW, Wab	Fort Rouge	NDP
LAGASSÉ, Bob	Dawson Trail	PC
LAGIMODIERE, Alan	Selkirk	PC
LAMONT, Dougald	St. Boniface	Lib.
LAMOUREUX, Cindy	Tyndall Park	Lib.
LATHLIN, Amanda	The Pas-Kameesak	NDP
LINDSEY, Tom	Flin Flon	NDP
MALOWAY, Jim	Elmwood	NDP
MARCELINO, Malaya	Notre Dame	NDP
MARTIN, Shannon	McPhillips	PC
MICHALESKI, Brad	Dauphin	PC
MICKLEFIELD, Andrew	Rossmere	PC
MORLEY-LECOMTE, Janice	Seine River	PC
MOSES, Jamie	St. Vital	NDP
NAYLOR, Lisa	Woleseley	NDP
NESBITT, Greg	Riding Mountain	PC
PALLISTER, Brian, Hon.	Fort Whyte	PC
PEDERSEN, Blaine, Hon.	Midland	PC
PIWNIUK, Doyle	Turtle Mountain	PC
REYES, Jon	Waverley	PC
SALA, Adrien	St. James	NDP
SANDHU, Mintu	The Maples	NDP
SCHULER, Ron, Hon.	Springfield-Ritchot	PC
SMITH, Andrew	Lagimodière	PC
SMITH, Bernadette	Point Douglas	NDP
SMOOK, Dennis	La Vérendrye	PC
SQUIRES, Rochelle, Hon.	Riel	PC
STEFANSON, Heather, Hon.	Tuxedo	PC
TEITSMA, James	Radisson	PC
WASYLIW, Mark	Fort Garry	NDP
WHARTON, Jeff, Hon.	Red River North	PC
WIEBE, Matt	Concordia	NDP
WISHART, Ian	Portage la Prairie	PC
WOWCHUK, Rick	Swan River	PC

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Wednesday, April 14, 2021

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Dennis Smook
(La Vérendrye)**

**VICE-CHAIRPERSON – Mr. Brad Michaleski
(Dauphin)**

ATTENDANCE – 6 QUORUM – 4

Members of the Committee present:

Hon. Mr. Goertzen, Hon. Mrs. Stefanson

*MLA Asagwara, Ms. Marcelino,
Messrs. Michaleski, Smook*

APPEARING:

Mr. Dougald Lamont, MLA for St. Boniface

PUBLIC PRESENTERS:

*Bill 29 – The Reducing Red Tape and Improving
Services Act, 2020*

*Mr. Philip Halprin, private citizen
Mrs. Brenda Halprin, private citizen
Ms. Molly McCracken, Canadian Centre for
Policy Alternatives*

*Bill 32 – The Election Financing Amendment
and Elections Amendment Act (Government
Advertising)*

*Mr. Kevin Rebeck, Manitoba Federation of
Labour*

*Bill 49 – The Freedom of Information and
Protection of Privacy Amendment Act*

*Ms. Bridget Whipple, Manitoba Nurses Union
Mr. Kevin Walby, Centre for Access to
Information and Justice, University of Winnipeg
Shawna Finnegan, private citizen*

*Bill 54 – The Personal Health Information
Amendment Act*

Shawna Finnegan, private citizen

WRITTEN SUBMISSIONS:

*Bill 29 – The Reducing Red Tape and Improving
Services Act, 2020*

Leanne Fenez, private citizen

*Bill 32 – The Election Financing Amendment
and Elections Amendment Act (Government
Advertising)*

*Darryl Harrison, Winnipeg Construction
Association*

*Bill 49 – The Freedom of Information and
Protection of Privacy Amendment Act*

*Denys Volkov, Association of Manitoba
Municipalities*

MATTERS UNDER CONSIDERATION:

*Bill 21 – The Conflict of Interest (Members and
Ministers) and Related Amendments Act*

*Bill 29 – The Reducing Red Tape and Improving
Services Act, 2020*

*Bill 32 – The Election Financing Amendment
and Elections Amendment Act (Government
Advertising)*

*Bill 49 – The Freedom of Information and
Protection of Privacy Amendment Act*

*Bill 52 – The Minor Amendments and Corrections
Act, 2021*

*Bill 54 – The Personal Health Information
Amendment Act*

* * *

Clerk Assistant (Ms. Katerina Tefft): Good evening. Will the Standing Committee on Legislative Affairs please come to order.

Our first item of business is the election of a Chairperson.

Are there any nominations?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): It would be my honour to nominate the honourable member for La Vérendrye, Dennis Smook.

Clerk Assistant: Mr. Smook has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Smook, will you please take the Chair.

Mr. Chairperson: Our next item of business is the election of a Vice-Chairperson.

Are there any nominations?

Mr. Goertzen: I believe that a fine person to nominate for this distinguished position would be the honourable member for Dauphin, Brad Michaleski.

Mr. Chairperson: Mr. Michaleski has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Michaleski is elected Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 21, The Conflict of Interest (Members and Ministers) and Related Amendments Act; Bill 29, The Reducing Red Tape and Improving Services Act, 2020; Bill 32, The Election Financing Amendment and Elections Amendment Act (Government Advertising); Bill 49, The Freedom of Information and Protection of Privacy Amendment Act; Bill 52, The Minor Amendments and Corrections Act, 2021; Bill 54, The Personal Health Information Amendment Act.

I would like to inform all in attendance of the provisions and our rules guarding the hour of adjournment. A standing committee meeting is to consider a bill must not sit past midnight to hear public presentations or to consider clause by clause of a bill, except by unanimous consent of the committee.

Written submissions from the following persons have been received and distributed to committee members: Mr. Darryl Harrison, Winnipeg Construction Association; Denys Volkov, Association of Manitoba Municipalities; Leanne Fenez, private citizen.

Does the committee agree to have these documents appear in the Hansard transcription—transcript of this meeting? Agreed? *[Agreed]*

Public presentation guidelines: prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in a committee. In accordance with our rules, a time limit of 10 minutes has been allotted for

presentations with another five minutes allowed for questions from committee members.

If a presenter is not in attendance when his name is—when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters list.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. This is the signal for the Hansard recorder to turn the mics on and off.

Also, if any presenter has any written materials for distribution to the committee, please send the file by email to the moderator, who will distribute it to all committee members.

Thank you for your patience.

We will now proceed with public presentations.

We have received a request from presenter Molly McCracken who is first on the presenters list that she be allowed to instead present last night—last tonight.

Is that agreed? *[interjection]* Yes, that she be allowed of—instead present last tonight. *[interjection]* Yes. Is that agreed? *[Agreed]*

Bill 29—The Reducing Red Tape and Improving Services Act, 2020

Mr. Chairperson: I will—we will start this evening with Bill 29, The Reducing Red Tape and Improving Services Act, 2020.

Our first presenter is Molly McCracken, but she requested to be last.

Our next presenter is Philip Halprin—Philip Halprin.

I would ask the moderator to invite Mr. Halprin in. And I ask the moderator to ask them into the meeting.

Please unmute yourself, and turn your video on.

Floor Comment: I still don't see me.

Mr. Chairperson: Mr. Halprin, could you turn your video on?

Floor Comment: Mute. Start video. There I am, hopeful that you can all hear me. This is the first time I've used this machine.

Mr. Chairperson: Yes, Mr. Halprin, you may proceed when you are ready.

Mr. Philip Halprin (Private Citizen): Okay. I am a father, a substitute decision-maker for our daughter, a CPA and a CA in Manitoba. And I just wanted to talk about the components that relate to the vulnerable persons act.

Now, I look at this as a piece of human rights legislation, rather than simply vulnerable persons. And I'm concerned that we're taking rights away from people, not just vulnerable people.

And what the recommendations are doing is to remove the requirement that there be a hearing before a person's rights to make decisions about their money and where they'll live, what will happen. And I'm very concerned about that because while there are some vulnerable people that it's certainly clear that it would not be required, the legislation does not limit itself just to vulnerable people and it would apply to all of us in the room. And if a person was not aware, not informed, not invited to hear, they can have rights taken away from them, property taken away from them, without being informed until after the fact.

One of the purposes of the hearing, when they have hearings, is to confirm that the vulnerable person has received notice. Without having a hearing, the responsibility for that starts and ends with one social worker, who may choose to do what they wish. And if someone has not received notice, that social worker is in a very powerful position. Without there being a hearing, without—to ask the social worker, the complete safety of the individuals is lost.

The hearings also let the vulnerable person know that the Province respects them, listens to them. The—it also educates the SDM—substitute decision-maker—that they have responsibilities both for care of the vulnerable person, and that they have to report to the vulnerable person's office with a financial report, at least yearly. There is a chance that people can learn some of their responsibilities that way.

I just look at—and I think that taking away the requirement that there be a hearing will run roughshod over human rights. And I'm concerned about that because I just don't see the savings when—and the results of reducing the red—any reductions to red tape from this.

* (18:10)

I'd estimate that savings in dollars will amount to about \$100,000 a year, which is something but it's

not an outstanding amount. And the reductions of vulnerable—the commissioner of vulnerable peoples will still have to write a report almost identical to what is prepared now in order to be able to make their own informed decisions. So there's almost no savings in the government employee time because the employees will be doing the work of the hearing panel.

Anyways, I think that's about what I had to think of and to say so far.

Are there any questions?

Mr. Chairperson: Thank you for your presentation, Mr. Halprin.

Do members of the committee have any questions for the presenter?

Ms. Malaya Marcelino (Notre Dame): Thank you for your presentation submission to our committee, Mr. Halprin.

A member of our caucus spoke to a father with a child with autism and he also has raised similar concerns. He pointed out that the proposed changes refer to as, quote, agreement amongst the parties, end quote, but it's often anything but that, and that a lot of times families aren't even sure of the process.

He also pointed out that there are cases that come where there is no family. And in that case, agreement means agreement of overworked case managers and the state, and he feels that the panel plays an important human role in adjudicating.

Does this express how you feel and your family feels? *[interjection]*

Mr. Chairperson: Mr. Halprin, you have to wait until I recognize you.

Mr. Halprin: I'm sorry. It does cover a lot of my thoughts, but the concern I have is that the legislation itself is not limited to just vulnerable persons, and I can foresee a way that one corrupt social worker—and that's all it would take, would be one—would be able to take control of most of the money and cause potential imprisonment for many of the citizens of Manitoba. Absolutely ridiculous.

Mr. Chairperson: Mrs. Stefanson, did you have a question? Was your hand up before?

The Honourable Mr.—sorry—Goertzen.

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Thank you, Mr. Chair. We've only known each other for 40 years. I can understand how you'd forget.

Thank you, Mr. Halprin, for presenting here this evening. You raise some points that are important and I will bring these back to the Department of Families, who brought forward these amendments within the bills.

My understanding, in discussing this with them, is that this isn't about saving money, but that there were a number of hearings where there was no objection and that having these hearings where there were no objections wasn't so much costing money but there was a lot of time involved that others felt that, you know, wasn't that well spent and that they'd put some checks within the legislation that if there were objections after a hearing, within a certain period of time, that that could then be—go back to be adjudicated.

So I think those are valuable points that you've raised and that I will assure you that I will bring back and raise with the Department of Families to ensure that those are considered, if not in legislation, then certainly in policy consideration. So I appreciate you bringing those forward this evening.

Mr. Chairperson: Mr. Halprin, did you have a response for Minister Goertzen?

Mr. Halprin: I understand that many of the hearings are—known what the results should be, and that's a good thing. It's just to lose the opportunity to educate people and to let them know that they are heard, and to let people know that their needs are considered is important. And I also am, again, flying off the handle, related to human rights rather than just vulnerable people. Thank you.

Mr. Chairperson: Our time for questions has now expired.

We will now move on to the next presenter.

I will now call on Brenda Halprin, and ask the moderator to invite them into the meeting. If Brenda Halprin could unmute herself and turn your video on.

Floor Comment: I don't know if anyone can hear me.

Mr. Chairperson: Could you turn your video on, Ms. Halprin?

Floor Comment: Yes, there I am. Hang on. Okay, can you hear me?

Mr. Chairperson: Yes, we can hear you, and we can see you, so you may now proceed with your presentation.

Mrs. Brenda Halprin (Private Citizen): Okay, thank you so much for the opportunity to speak to all of you. I do want to speak to the proposed amendment to the current vulnerable persons legislation. And the proposed amendment, as I understand it, is to not send every single substitute decision-maker application to a hearing panel. Currently, the legislation does state that every application needs to go to a hearing panel.

I want to tell you a little bit about myself. Of course, my name's Brenda. I am a mother of two kids on the autism spectrum. Our daughter Melanie is a vulnerable person. And I, along with my husband Phil, who spoke earlier, are her joint substitute decision-makers.

I am also a member of the hearing panel roster for the Vulnerable Persons Commissioner's office for the last eight years. I have sat on well over 500 hearing panels for substitute decision-maker applications, and I have presided over a great deal of them in the last seven years. And I want you all to know that I have been on both sides of the hearing panel process, so I do feel I have a lot of experience, over 25 years, navigating social services, medical and education for our daughter.

I have had the experience of meeting hundreds of vulnerable people in Manitoba and their families. So we would like you all to consider, you know, some really important points. The hearing panels are really important for watching the interactions of vulnerable people and their proposed decision makers. This legislation was created to protect the most vulnerable citizens in Manitoba. And they are often people that are non-verbal who cannot speak for themselves, and they really do deserve the process of, you know, an objective panel to vet their proposed decision makers.

You know, it's—even for loving families where the vulnerable person has lived in the home their entire lives, you know, on paper, families can look really good with no objections to it. But let's face it, nobody knows what's going on in somebody else's home, okay? And I think our most vulnerable, that are non-verbal, really deserve, you know, that extra look into what's going on.

* (18:20)

During the hearing panels, a lot of education takes place. Right now, the law states in Manitoba that no rights will be taken away from anyone in Manitoba unless it's absolutely necessary, now or in the foreseeable future. So I'd like to say that, you know, many proposed substitute decision-makers really don't

understand and they're applying for all kinds of, you know, decision-making rights that aren't necessarily, you know, needed right at the time. And the hearing-panel process is definitely that opportunity for them to get some education as to which powers under personal care should be, you know, appointed to them and which powers under property.

You know, we've been pursuing this for some time since we've become aware of the proposed amendments to the vulnerable persons act, and we've been told on many of occasions that community-service workers would have the opportunity to send what we're calling a straight-forward, maybe no-objection application to a hearing panel, or families could have that opportunity.

And I do think it's really important to note that, you know, in the community-service workers' area, these folks—many of them are trying to do the best they can, but they are—have heavy, heavy caseloads. And it's really hard for many hearing-panel members to imagine that they're going to be looking for extra work, you know asking it to go to a hearing panel.

In my experience, which is quite, quite vast in this area, you know, many community-service workers don't even read the file before the hearing and they very often are only meeting the vulnerable person for the first time at the hearing panel. And family members, you know, asking them to, you know, suggest to go to a hearing panel, I can tell you from first-hand experience: we're exhausted. And you know, a lot of vulnerable people, they're up all night; they require 24-7 care; and looking for something that we might perceive as another added stress is not something that we want to happen.

And I—it's important to know that, so many times, by the end of the hearing panel, by the end of the hearing, the proposed substitute decision-makers say, I didn't understand before, but now I do understand.

In closing, in my experience as a mother and a member of the hearing-panel roster, I'd like to leave you all to think about this: if it was your adult child or someone you loved, would you want only one person to decide where your decision-making rights are going to go, without the proper vetting of information-gathering of the proposed decision-makers?

And again, you know, we're hearing it's not about saving the government money; but whatever the reasons are for proposing this particular change to the VPA, is it really in the best interest of vulnerable people in Manitoba? We don't believe that only one

person should make a decision who will be a decision-maker off a written application. This is an extremely important proposal to these amendments that you'll all be voting on, and we are asking you all to really think about this very very seriously.

I'd also like to mention that there are other hearing-panel members that really wanted to speak at this public committee. A few months ago we were given a bill number to register with the provincial Clerk's office. And a few of us did that, only to find out late this afternoon that the bill that we registered for was, indeed, the wrong bill number, and we just got in under the wire.

So, I want to thank you all for listening. And, again, thank you for the opportunity to listen to how we feel about these proposed—this particular proposed change.

Mr. Chairperson: Thank you for your presentation, Mrs. Halprin.

Do any of the—any members of the committee have any questions for the presenter?

Ms. Marcelino: Thank you, Ms. Halprin, for coming out tonight and sharing your thoughts about the proposed amendment to the vulnerable persons act.

I just wanted to let you know that our disabilities critic for the NDP, Danielle Adams, did hear a lot from community advocates such as yourself, and we did write a letter to the minister urging her to repeal that amendment.

Is that what you would like this committee to decide on, to repeal those amendment changes?

And I was also wanting to know if you had any experience of other vulnerable persons who don't have families or advocates and what happens to them if they weren't able to have a hearing?

Mrs. Halprin: Yes, thank you.

Yes, we would like that this particular proposed amendment to not send every substitute decision-maker to a hearing panel to be repealed. Very, very much so. There are two other proposed amendments to the vulnerable persons act regarding the length of term someone is appointed for and regarding the length of term that the Public Guardian and Trustee's office is appointed for.

And in my experience with vulnerable people that don't have a family member and it looks straight-forward on an application, one particular family—young man, no biological family involvement at all.

And it was to go into the Public Guardian and Trustee's office. And you know, some folks have had such a rough life, with nobody advocating for them, and I left that particular hearing feeling like this young man has fallen through every crack in the system and if the commission—the Vulnerable Persons Commissioner was to make that decision, because no one will object. It looks completely straight-forward on an application. And it's straight-forward in the hearing panel process.

But I just thought, where is his human rights? Doesn't he have the right for someone to just take a look at this and hear it in addition to what's been written on paper?

Thank you.

Mr. Goertzen: Thank you, Brenda, and I'll make the same commitment that I made to your husband, Philip, about raising your concerns also, to the Minister of Families (Ms. Squires) so that she can, you know, hear them as well.

But I have a question for you: where there's—in your experience, which has been vast, as you've described—where there have been hearings where there are not objections for a substitute decision-maker, how often in those hearings have you seen something other than what was being proposed come out of those hearings, when there weren't objections going in?

Mrs. Halprin: I have seen it.

It is a small portion of those hearings, and yet, I would have to say, if it didn't go to a hearing panel, you know, it could very well just get approved by the commissioner.

And you know, the—let's say the Public Guardian and Trustee could be, you know, appointed, or someone who maybe doesn't have the vulnerable person's best interests at heart.

Thank you.

Mr. Chairperson: Are there any other questions for this presenter? Seems no further questions.

**Bill 32—The Election Financing Amendment
and Elections Amendment Act
(Government Advertising)**

Mr. Chairperson: We will now proceed to the next bill on our agenda, here, Bill 32—The Election Financing Amendment and Elections Amendment Act (Government Advertising).

* (18:30)

Our first presenter is Kevin Rebeck, Manitoba Federation of Labour. I will now call on Mr. Rebeck and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Rebeck, you may proceed with your presentation.

Mr. Kevin Rebeck (Manitoba Federation of Labour): Thank you, Chair, members of the committee and other speakers.

Before I begin, I'd just like to acknowledge and thank the staff of the legislative committees. I've been making several presentations the last few days and I know they're working hard behind the scenes in challenging times to have these meetings go smoothly, arranging them, providing support, giving notice, making evening calls and working hard on all of our behalf. So a thank-you to Tim, Katerina and the rest of the Leg. staff for your work and help. It's very much appreciated.

Bill 32: The Manitoba Federation of Labour is Manitoba's central labour body made up of 30 affiliated unions and representing the interests of more than 100,000 unionized workers in our province. We play a lead role in advocating for the rights and interests of working families, including workplace safety and health, good jobs and strong public services.

I'm here tonight to speak in favour of this bill, as it will provide needed clarity to government officials, Crown corporations and agencies and the public about what types of information could be communicated during the lead up to elections in Manitoba, known commonly as the advertising blackout.

While the principle of limiting government's advertising to lessen a governing party's ability to leverage its resources prior to election is a sound and democratic one, the MFL has had trouble in the past with receiving vital information around workplace safety and health and other areas due to confusion about what's allowed under the current government advertising blackout rules.

This bill's proposed changes would provide greater clarity around what kind of information can be shared with the public during the pre-election period. We think the government's taking the right step in explicitly clarifying that communication, such as advertising or publishing information about public health or safety matters, requests for proposals or

tenders and government's employment are allowed to continue.

This eliminates the need to demonstrate this information is required to be disclosed and will ensure a smoother process for accessing government information. It will also make things easier for the staff who are responsible for preparing and delivering these communications.

We also support exempting advertising and publicizing ongoing programs from the blackout rules, as members of the public should be able—still be able to access necessary program information regardless of where our province is in the election cycle.

As section 2(5) of the bill sets out, the government will develop and issue guidelines to assist departments and agencies in determining if information is subject to restrictions under the act. I'd like to offer that the MFL would be happy to work with government on determining the information that would be relevant to exempt from the restrictions dealing with workplace safety and health and services that workers would require unimpeded access to.

The changes proposed in this bill will be good for the public and for stakeholder organizations as they'll ensure better access to important information and programs in the lead up to an election. We appreciate the government bringing this bill forward.

Thank you.

Mr. Chairperson: Thank you for your presentation, Mr. Rebeck.

Do members of the committee—the Honourable Mr. Goertzen.

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Thank you, Mr. Rebeck. It's a pleasure to see you again today virtually on the screen, but you're coming through clear on the screen and so is your message about the bill. And I can tell you that, you know, as elected individuals, this has been a struggle, this particular piece of legislation.

I would say graciously that the former administration, the former NDP government, I believe, brought this legislation in with all the right intentions, but sometimes things don't work as well as we as legislators intend. And so I think everybody recognized in all political parties and those in the media and otherwise that it wasn't operating properly and certainly not perfectly, so this is an attempt to make it much better.

And we will take you up, I think, on your offer for consultation as some of the more detailed parts of the bill get written up for distribution and public understanding.

But, certainly, the bill is one that is—has all the right intentions of ensuring that elections are held fairly, which I think all of us agree upon. And I'm sure that there will be other opportunities to review how the changes to the act are operating to ensure that we all operate under those principles.

So thank you for your presentation and your offer for help.

Mr. Chairperson: Mr. Rebeck, do you have any comments for Minister Goertzen?

Mr. Rebeck: No, thank you, Minister. And we are happy to work together with you on it.

Mr. Chairperson: Ms. Marcelino? Nothing?

Mr. Lamont, did you have a question?

Mr. Dougald Lamont (St. Boniface): Yes, I'd appreciate that. Yes, just—thank you very much, Mr. Rebeck.

I'm just wondering—I—clearly, there have been issues around this, but I just don't know if you had any thoughts about—actually about fixed-date elections. Because this is one of the challenges around this is that we're now—seem to be—I don't—we now seem to have a law that suggests that we have fixed-date elections, but it appears to us in this bill that you could have almost a snap election, and right after a budget. So I don't know if you have any strong points of view about that, one way or the other.

Mr. Rebeck: Yes, well, I think—I mean I think the changes to this bill on putting some clarity to what can be out is a positive thing.

As far as fixed-date elections go, I think it's helpful for democracy if people know when the election is and that we can all count on the elections taking place when the public understands they are, and that they're set and adhered to.

Mr. Chairperson: Any further questions for Mr. Rebeck?

Seeing as none, thank you for your presentation, Mr. Rebeck.

This concludes the list of presenters for Bill 32.

Bill 49—The Freedom of Information and Protection of Privacy Amendment Act

Mr. Chairperson: We will now move on to Bill 49—The Freedom of Information and Protection of Privacy Amendment Act.

I will now call on Norman Rosenbaum, private citizen. Mr. Rosenbaum, are you there? I would ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on. *[interjection]*

Mr. Rosenbaum does not seem to be present, so we will drop his name to the bottom of the list, and when we're concluded with the rest of the presentations for this bill, we will then recall him—sorry—when all the presenters, we'll call him at the end.

I will now call on Bridget Whipple and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Ms. Whipple, please proceed with your presentation.

Ms. Bridget Whipple (Manitoba Nurses Union): Thank you, Mr. Chair. Good evening, committee members.

It's an honour to be here tonight and have the privilege of providing comments on behalf of the Manitoba Nurses Union. MNU represents over 12,000 hard-working nurses in Manitoba. The decisions and policies of government and public bodies, such as regional health authorities, greatly affect the daily lives of these nurses.

Therefore, access to the information forming the basis of these decisions is of critical importance to our members. They look to us to stay informed on the functioning of our health-care system and the decisions being made by health-system leaders. It's for this reason I'm here to speak about The Freedom of Information and Protection of Privacy Amendment Act.

In January, 2016, ahead of the—sorry—in January 2016, ahead of the Manitoba general election, the Progressive Conservatives that now form our government issued a plan wherein they made commitments that, if elected, they would run an open and accessible government. To quote from Premier Pallister's message in the Open Government initiative document, quote, open, accessible and ethical government is what Manitobans expect; we believe, is what they deserve. End quote.

Furthermore, in a specific section of that document dedicated to accessible government the following statement was made: Government rightly, and legitimately, collects information to make decisions. But information that is collected by the government and which is not personal or confidential, should be made much more accessible to Manitobans.

Despite these unambiguously worded, strong commitments, we are here today to discuss a bill that would achieve the exact opposite and diminishes the right of Manitobans to access information from their government. Rather than take meaningful steps to enhance access and make much-needed improvements to the current proactive disclosure portal, this government is seeking to pass legislation that extends the time frame for public bodies to respond to FIPPA requests by 50 per cent. It also creates an additional mechanism for public bodies to stop the clock on requests, lengthening the time involved to access the requested information. And, finally, it adds a significant number of grounds for which public bodies can dismiss or refuse requests, and places additional restrictions on the types of information that can be requested.

* (18:40)

I'll now turn my attention to addressing these specific issues. It is extremely disappointing to see that this bill will extend the time limits for public bodies to respond to requests by a significant amount, 50 per cent to be precise. The 30-day time limit in the current FIPPA act is consistent with the time limits that most other provinces have put in place in their respective access to information access to information legislation. However, the amendments this bill would make to section 11(1) would give Manitoba the unfortunate distinction of having the lengthiest response timelines in Canada.

This bill will also extend the timelines on the frequently used provision in 15(1) that allows public bodies an extension on requests they claim involve a large number of records. This relatively unfettered right to issue an extension for an additional 30 days in the current FIPPA act is routinely used by many public bodies. In many cases applicants often witness the issuance of an extension, meaning a response will not be provided for up to 60 days. With the proposed amendments that length of time will increase to 90 days, or three months.

Additionally, the bill makes amendments to section 16(1) that allows a public body longer to transfer a request to another public body. Under the

current FIPPA act, the public body has seven days to transfer the request to another, however this bill would extend that to 10 days. Therefore, in the case of a transfer of a request, the applicant may be facing a wait of up to 100 days for a response.

It's our opinion that these new time frames are unacceptable and an entirely—entirely incongruent with this government's previous promises. They evidenced that responsiveness to Manitobans is of far less importance in this government than previously and prominently claimed. They demonstrate a troubling disrespect for the right of Manitobans to request and receive answers, information and transparency from their government and public bodies.

An additional point of concern connected to the issue of length and timelines, is the addition of section 12.1, 1 through 5, which creates a new way for public bodies to stop the clock on requests. I will start with an example exists in the current FIPPA act. Under the current legislation, if a public body decides that an applicant must pay fees for a request, they issue an estimate of cost to the applicant. This is generally put into the mail and then takes some time to reach the applicant. Once received, the applicant has 30 days to get payment to the public body.

Of note here is that under section 82(4), the issuance of an estimate of costs suspends the time limit placed on public body to respond until the applicant's reply is provided to them. Therefore, the public body could wait until close to the end of the current initial 30-day time limit to issue the estimate of cost to the applicant. At that time, the clock would stop until the applicant receives the estimate and responds that they would like to receive—proceed, which generally means a cheque is in the hand of the public body.

Of course, then the public body can decide to issue an extension under 15(1). This process already results in lengthy delays in receiving a response, which will undoubtedly be worsened by the new time limits of 45 days.

I'll provide—sorry, I provide this example to illustrate our concern with the ability of a public body to potentially use the issuance of fee requests as a delay tactic, given it's impact on stopping the clock. Unfortunately, this bill creates an additional mechanism for stopping the clock through the addition of sections 12.1, 1 through 5. These sections will allow a public body to suspend the time limit for response by issuing a written request to an applicant for, quote,

additional information in relation to an application. End quote.

However, in our experience, there is no need to pursue a formal process involving a written request to the applicant. I found that brief phone calls with FIPPA co-ordinators is quite sufficient to clear up any questions the public body may have. Such calls are also a great way to demonstrate to applicants that the public body is sincerely attempting to fulfill their duty to assist. It's our fear that any new mechanism for stopping the clock could be misused by public bodies seeking to further delay issuing responses to applicants.

In addition to the changes put forth in this legislation that will lengthen the response time for applicants to receive information, there are changes to section 13 and the addition of section 13(1.1) which will broaden the grounds under which the public body can disregard requests. Section 13(1) includes new language allowing public bodies to disregard requests that, quote, amount to an abuse of the right to make a request, end quote, which can rest on a number of grounds now including the public body deems the request to be, quote, need—not need in good faith. End quote. This is very broad and would largely rest on a public body's assumptions regarding the intent of an applicant. This is very troubling.

Also of concern is the additional provision that a public body deciding to disregard a request on the grounds that it is not made in good faith or would unreasonably interfere with our operations would now be able to take into account the following: (a) the number of requests made by the same applicant, or (b) whether the request is reasonably related to requests that have been made by two or more applicants who are associated within the meaning of the regulations.

What presumptions and assumptions shall be made in identifying or determining when different applicants are associated? This provision creates an opportunity for abuse—basically, to disregard the requests of applicants suspected to be associated. And it's usually problematic, that the supposed association of individual applicants could undermine their innate rights to make requests. Under these amendments, applicants deemed to be associated for the government regulation can be treated in a clearly discriminatory fashion.

Finally, this bill creates an additional type of discretionary exception regarding labour relations

information. We often make requests to health authorities for information on things like nurse overtime hours, vacancy rates, safety issues, agency nurse usage, emergency department volumes and even the number of employer investigations into certain types of matters. The language contained in 29.1, regarding the right to refuse requests that could, quote, reasonably be expected to—harm the competitive position or interfere with contractual or other negotiations of the public body as an employer, end quote, is very concerning.

The language is broad, and likely to be broadly applied. It will limit our ability to inform ourselves and our members in areas of significant meaning and relevance to their profession and work environment. On many occasions, the information we receive is unflattering to health-care employers, but refusal on the general grounds that it may make contract negotiations more difficult for them is simply not justifiable rationale.

In conclusion, this bill is disappointing for many reasons, not least of which is the significantly extended timeframes for responding to requests; the creation of a new mechanism for stopping the clock; the inclusion of new language allowing for requests to be considered for dismissal based on who the applicants associate with; and the addition of broad powers to refuse disclosure of information a public body claims may interfere in some way with their position at bargaining.

The bill appears specifically designed to reduce disclosure of information that helps Manitobans make educated assessments of their government. These amendments make it easier to suppress information for the purposes of avoiding accountability. It is especially upsetting to see this bill put forth by a government that once promised the creation of open and accessible government. That was the promise made, and it is no less than what Manitobans deserve. However, it is the exact opposite of what will—they will get if this bill passes in its current form.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Thank you, Ms. Whipple, for your presentation tonight, and then also, please, by extension, thank you for the service of your members during the past year, in particular, but—of course, at all

times, but really during this past year, it's been highlighted.

So, on this bill there are other provisions, of course, within it that provide for proactive disclosure—things that have never been proactively disclosed on a regular basis before. So I think that that's important to note.

The issue about extensions is a real one, that you raise, and during the presentations and consultations on the review of FIPPA, there were two sort of aspects that were raised. One is that there were some that felt that the overwhelming number of requests was putting an undue strain on the system, generally—not just government, but other entities outside of government. And then others, of course, were looking for more proactive disclosure, and that is partly addressed in this bill.

So I think the hope is that the extended upfront time will reduce the number of requests for extension, and by doing that, they'll actually increase how quickly the information is being released.

But I would offer you this: because we are always looking at other things to proactively disclose—and some of those are now contained within this bill—if there are things that you routinely or your organization routinely requests, maybe perhaps provide that to our office and that can be considered for future proactive disclosure. So, things that wouldn't always have to routinely be asked for, then, if they're being asked for and disclosed anyway, there's been a lot of advancement on that.

So I'll leave that as an offer for you to consider when you have time, which I know is very scarce for you in your profession these days.

So, thank you, again.

Ms. Whipple: Yes, thank you, Minister Goertzen, and I do very much appreciate your comments.

* (18:50)

I guess my concern with regards—I just want to speak specifically to your discussion over the logic behind the extension on the time limits. I would hope—absolutely, I would hope that, certainly, if these time limits are going to 45 days, that we won't see the same frequency of extensions that we currently do, because the reality is, in a great many number of cases we are seeing an extension almost always on our requests, which, as I mentioned in the presentation, at the current moment means you're looking at at least a 60-day timeframe for a response.

I also just want to kind of bring up something that was raised by the Ombudsman back mid-last year when they did an audit of Manitoba Finance, Crown Services, Executive Council. They basically pointed out in their five recommendations—recommendation No. 2 was essentially a straight-forward recommendation to hire more staff to handle these requests.

And, you know, I—in my own experience working with these FIPPA co-ordinators, they are wonderful, professional people and they're very good at what they do. But I—my feeling is that they are probably under-resourced. And so, I think that part of the issue here is to actually hire more staff to perform this role in the various institutions and departments rather than just extending the timeframe through which they can respond to these requests.

Thank you.

Ms. Malaya Marcelino (Notre Dame): I just wanted to thank you, Ms. Whipple, for your presentation, and certainly, our caucus—our NDP caucus shares many of the same concerns that you've outlined today.

I was just wondering if you could—I don't mean to put you on the spot, but I was just wondering if you could give us an example of some FIPPA'd information that your organization tried to access that was used to serve, you know, your members or to the health-care system. Why is this so important?

Mr. Chairperson: Ms. Whipple, you have 30 seconds for a response.

Ms. Whipple: So, I mean, there's—as I had mentioned in the presentation, there is a number of workforce-type questions that we ask around vacancies, agency nurse usage. These types of information are valuable to us and our members because, of course, it gives them a sense of the situation that they're facing, the work environment that they're in. Obviously, you know, when vacancies are high, they're going to be asked to do a lot of voluntary overtime and quite possibly be mandated as well. So these are some of the questions that we like to ask.

We have also—

Mr. Chairperson: Time for questions has expired.

Thank for your presentation.

Mr. Goertzen: Could I ask for leave for the presenter just to conclude her comments?

Mr. Chairperson: It has been brought to the attention of the Chair that the—leave for the presenter to conclude her comments. All in favour? *[Agreed]*

Ms. Whipple: Thank you, Minister Goertzen and committee members.

I just wanted to add that we have—in the past, we've also asked for information around security resources, for example, at some of the health-care facilities. We know that some of our facilities that—across the province—there's been issues, obviously, with violence in health care, but some of our facilities are more hard-hit than others. So we have asked for those types of information as well. Because, obviously, the physical security of our members and their peace of mind regarding security resource availability at their sites is of concern to them as well.

Thank you.

Mr. Chairperson: Thank you for your presentation. I will now call on the next presenter.

I will now call on Kevin Walby and ask the moderator to invite them into the meeting.

Mr. Walby, please unmute yourself and turn your video on.

Mr. Walby, you may proceed with your presentation.

Mr. Kevin Walby (Centre for Access to Information and Justice, University of Winnipeg): Thank you very much for your time this evening.

I'm representing the Centre for Access to Information and Justice at the University of Winnipeg. At the centre we study freedom of information in Canada and internationally and we use freedom of information requests for research.

I think that FOI, or freedom of information, is fundamental to transparency, to democracy and to justice itself. Access to information is a big part of access to justice, and freedom of information, it applies across the whole of government. It's important for understanding the machinations of all elements of government and it plays a role in ensuring that other laws are working well, as well as playing a role ensuring that abuses of power are not occurring.

As a user of freedom of information and someone who studies these laws comparatively in international perspective, I think there's three basic elements to freedom of information: time to disclosure, depth of disclosure and politicization of exemptions. And I think that in all ways, Bill 49 is a step backward.

I think—I've looked at the amendment and these are regressive changes being proposed. So I'm going to elaborate a little bit how these changes undermine

the right of access for Manitobans, and I'm also going to elaborate how these changes undermine the right of access for specific groups in Manitoba. I think there are changes that undermine the right of access for researchers, for journalists, for the opposition and for organized labour in the province.

So, I'll speak to some of these changes now. Section 13.1, I believe, is really against research uses of freedom of information. Section 13.1(a) changes the word incomprehensible, for instance, to trivial. Incomprehensible means cannot be understood. However, trivial refers to a value judgment about the merit of the request. The desired outcome or the public body and the applicant might be at odds, but with this change alone the public body will have much more power to block the access of researchers, including academics but also union researchers.

Section 13.1(c) has likewise been reworded in a way that allows the public body to make a value judgment, states that the public body can disregard a request on the grounds that it is an abuse of process or not made in good faith. That is a subjective value judgment. Leaving the decision up to the public body in this way is concerning, especially considering that the ombudsperson cannot enforce its decisions in Manitoba like the information privacy commissioners in other jurisdictions can.

With 13.1, exemptions are overbroad, subjective and I would suggest unconvincing to a reasonable exercising of the right to information. Given the change to 13.1.1 as well, we could imagine having to repeat the same request to several agencies and being denied on the grounds that it is, quote, unduly systematic, or making several requests to one agency and being denied on the same grounds, or that some requests might be considered interfering with the operations of the public body.

The whole point of FOI is to allow citizens to see what is happening in government. Construing that as interference, I think, is an attack on democracy itself.

There are also various changes that extend the time limits from 30 to 45 days. I think that this will really have an undue impact on journalists, as well as the opposition, as well as lawyers in Manitoba. For them, it's not as much depth as it is time to disclosure and it's the time on the original request, it's also the time of the extensions.

In 2020, the ombudsperson issued a report based in part on interviews with FOI officers, flagged this as an issue to correct and what they were asking for was

more resources so that they could abide by the letter of the law and the spirit of the law. They weren't asking for extensions or stall tactics to be baked right into the law.

I would add that, internationally, 10 to 25 days for original initial response is common. So we're getting further away from the best practices and benchmarks here.

Sections 29.1 and 29.2, I feel, are against organized labour in the province. These sections on labour relations and workplace investigations are, I feel, in relation to the use of FOI by labour organizations. The government knows unions are a major user of FOI so they can learn about the conditions of their members' employment, but 29.1 and 29.2 create a loophole, in the sense that labour relations information is defined in an overbroad matter-manner.

* (19:00)

I would ask, is it not enough to exempt information based on this ongoing information investigation clause and third-party information clause that the law already contains? The exemption for ongoing investigations is well established. It is a global benchmark. And that's all that is required here. This language is intended, I think, to hamstring the ability of unions and workers to know about the conditions of their own labour. The ability to scrutinize how government is run is part and parcel of why we have FOI laws. This amendment appears to place this right in jeopardy.

Now, there are a number of other changes that promise some kind of transparency, but I don't think it's quite as open as it may seem. For example, there's some material on proactive disclosure in section 76; however, it's limited record types are being proposed here, and anyone who's read the literature on open government and proactive disclosure knows that what's actually being called for is citizen-driven identification of records. Proactive disclosure is not supposed to be kind of like a trickle of information. It's supposed to be open government. So what's being changed here is the bare minimum that can be done to bring Manitoba freedom of information into the 21st century. It's just not enough.

There's also the change regarding material that will be available after being stored for 100 years. This is 76.1.1. All of that information is going to be already archived or destroyed. So I'm—I find that that change is disingenuous in terms of providing access.

I think that we're also missing some of the important elements that need to be addressed with freedom of information in the province. Some of these issues, I know, are better addressed at policy and administrative levels, but what I have in mind is the digitization of freedom of information. Provinces across Canada are moving toward digitization. Across the world, freedom of information is being digitized, and this law doesn't address it.

The expansion of ombudsperson powers also needs to be addressed in Manitoba. We are lacking in this province. We are behind other provinces in Canada. The Ombudsman Act must be updated as part of any updating of freedom of information law in this province. Unless the ombudsman gains real enforcement power, public bodies will simply apply these new, over-broad sections that I've mentioned in a way that undermines, rather than champions, freedom of information.

I would bring up the ombudsperson report, again, from June 2020: 78 per cent of requests were not addressed within the given time limits. The ombudsperson noted there's not enough communication, there's not enough documentation, and what they called for was more funding, more resources, not meddling in the law to hollow it out.

These points were raised in that report. They're also raised in a letter sent today from the ombudsperson to honourable Minister Pedersen. And that letter is available on the website of the Manitoba ombudsperson. These calls have not been heeded.

Finally, section 98(1) calls for a review every 10 years. A review of this law every 10 years is a death blow to freedom of information in Manitoba. It's an overly long period, especially given technological change and digitization in the freedom of information space, and especially given how far behind we already are compared to other jurisdictions. I would suggest three to five years, given how central freedom of information law is to transparency, democracy and justice in Canada—

Mr. Chairperson: Mr. Walby, your time for presentation has expired. I thank you for your presentation.

Do members of the committee have questions for the presenter?

Ms. Marcelino: Mr. Walby, my name is Malaya Marcelino. I'm the critic for Legislative and Public Affairs. I was just wondering if you could be my new best friend.

Your notes on this is very, very helpful, and I'm hoping to be able to reach out to you before our chance to debate again in third reading on this very bill.

I was wondering if you could expand a little bit on the part where you said that 78 per cent of requests are not addressed within the time limit.

What kind of impact do you think that this bill will have on the requests?

Mr. Walby: So my understanding is that time to disclosure is a really crucial factor for journalists, for opposition members and for lawyers, all of whom are frequent users of FIPPA law. And by adding that extension in for time to initial response and adding time in in terms of the extensions, we're looking now at months before any information would be disclosed on these requests, which means the window of opportunity for lawyers, for journalists, for the opposition, will effectively close before the records are disclosed.

And for some lawyers, this means that their clients might be deported. It means they might be in jail if they don't have access to those records. So it is a matter of fundamental justice.

Mr. Chairperson: Do any other members of the committee—

The Honourable Mr. Goertzen.

Mr. Goertzen: Thank you, Mr. Walby, for your presentation. Thank you for being here. I wish you well on your new best friendship with the member for Notre Dame (Ms. Marcelino).

I am—I appreciated very much, you know, your comments, and it is a challenge. When the act was under review, there were, you know, really two different, sort of, themes that emerged, one, of course, being, you know, more access to information, more proactive disclosures. Some of that's addressed in here. I know you don't feel it goes far enough.

And then the issue of, you know, trying to ensure that the system sustains itself, and you speak to the report in 2020, so this has been a long-standing issues that are trying to be addressed here.

But I do want to say I took to heart your comment about the review happening after 10 years, and I think that that is actually a very valid point, that that is probably too long when looking at legislation where things are changing and it's difficult to determine always what the consequences will be. Everybody

goes into legislation with the best intentions, but sometimes there are unintended consequences.

So, you know, in part because of your comments and others that I've heard previous to today, we'll be amending that to bring it down to five years. So I thank you for bringing that forward.

Mr. Walby: Thank you for your comments.

Mr. Dougald Lamont (St. Boniface): Thank you very much. That was a really great presentation, especially—you raise some really important concerns about access to justice as well.

Could you just expand on how you see the role of the Ombudsman could be improved in this. You said legislation and resources, but you specifically said legislation, so could you just talk about what might be needed or send me an email perhaps or draft me some legislation?

Mr. Chairperson: Mr. Walby, you have one minute for a response.

Mr. Walby: So for listeners in the public, Manitoba is way behind in terms of the powers of this person in their office. The information privacy commissioners in other provinces have more order-making power and their orders are more binding. In Manitoba, the order-making powers and the investigative powers of our ombudsperson, they're there in the ombudsperson act, but they're limited; they're not binding; they're not enforceable.

So, any public body can essentially ignore them, and that's just not acceptable because it means that we can develop cultures of secrecy, cultures of obfuscation within public administration that does a disservice to citizens and actually does a disservice to good government.

Mr. Chairperson: Thank you for your presentation, Mr. Walby.

We will now move on to our next presenter. I will now call on Shawna Finnegan, private citizen, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Shawna Finnegan, please proceed with your presentation.

* (19:10)

Shawna Finnegan (Private Citizen): My name is Shawna Finnegan. My pronouns are they and them, and I am a citizen of Manitoba.

This is my first presentation to this Legislative Affairs standing committee and my fourth presentation to committees over the past ten days of this Third session of the 42nd Legislature.

I am presenting before you today because of my grave concern about the 19 mystery bills that the PC government tabled and passed through first reading late last year with no text. I'm shocked by the tabling of so many bills without text, and as a private citizen, that I have not been provided with adequate time to review and consider the impacts of the proposed legislation.

Over the past few weeks, I have spoken with members of my family, my friends and my community about the potential impacts of these bills, and the more that I learn about them, the more it seems to me to be very clear that the PC government is eroding the human rights of all Manitobans and placing even greater burdens on individuals and communities that have been hit hardest by the COVID-19 pandemic.

I want to start by stating that I greatly appreciate and whole-heartedly agree with the statements made by Bridget Whipple and Kevin Walby in their presentations, which provide levels of analyses that I couldn't possibly manage to do in my consideration of the 19 mystery bills.

With that said, I want to look at a few specific clauses that stood out to me as I was reading, including the fact that an extension of timelines for public bodies to respond could mean an applicant could wait up to 100 days for a response. This is truly unacceptable.

Looking at clause 2, which amends subsection 1.1 of The Freedom of Information and Protection of Privacy Act, I can see that there is a suggestion to replace personal information with individual's address, telephone, or facsimile number, or email address.

This proposed amendment seems to suggest that unless someone is able to provide a physical address, they cannot request information under the act, which would discriminate against people who are houseless and/or who do not have a fixed address. And as it stated, 100 days is a long time. Someone may move in that period of time.

Looking at clause 7, which adds text after section 12 regarding additional information, I know that requests from the head should be provided in writing and the applicant has 30 days to provide additional information and, if not, the application may

be considered abandoned. This suggests to me that the PC government believes that the applicant has more capacity to respond within 30 days than the head of a public body.

Turning now to clause 8 and the replacement of subsection 13.1, I want to echo what the previous presenters have stated regarding the subjective nature of the wording and the fact that the head of a public body has a great deal of leeway to decide what they might consider to be trivial or not in good faith.

Looking at clause 14, with text that adds to section 29.1, I'm also reflecting on the suggested amendment that the information may be refused in the case that it harms the competitive position or interferes with the contractual, or other negotiations of a public body, or that it results in a significant financial loss or gain to the public body as an employer.

These exceptions suggest to me that bad public relations is a justification not to provide information, which again, is not acceptable.

Looking now at clause 21 related to notifying individuals of a privacy breach, I can see that there is text here that suggests that a breach—that the head of a public body has custody or control over personal information and must notify individuals about a privacy breach—relating to the information if, after considering the relevant factors prescribed, the breach could reasonably be expected to create a real risk of significant harm to the individual.

My question is, how does the head of a public body determine what is a real risk of significant harm to the individual and how could they possibly understand the risk when they are, in fact, not that individual?

I would suggest that there should not be any kind of stipulation about considering a real request. If there has been a privacy breach the applicant, the individual, deserves to know that.

Regarding the notice requirements—41.1—notice to the individual must (a) be given as soon as practicable after the privacy breach becomes known to the head of the public body. This seems unusual to me to not have a specific time limit, considering how many other time limits there are in the proposed bill, as well as the act, and to—just to give a lot of leeway in terms of when the head of a public body might actually have to notify an applicant about the privacy breach.

Now, I'm going to look at the clause relating to disclosure to prevent risk or harm, that is, 55(3.1). The 'ombudsman' may disclose information to any person if they reasonably believe that the disclosure is necessary to prevent or lessen a risk of serious harm to the health or safety of the individual the information is about or another individual.

Again, I think this wording is really vague, and I would ask how that assessment would actually be made.

Finally, I want to consider the fact that there are types of information that are going to be made available without application for access, and the fact that the minister responsible for the act can direct education bodies, government agencies and health-care bodies to make additional categories of records available.

Based on my limited understanding and what I've heard here this evening, it seems to be obvious that resources are a serious concern when it comes to being able to respond to freedom of information requests. And requiring education bodies and health-care bodies in particular to make additional records available without also providing them with additional resources, particularly in the context of a pandemic, seems to me to be a huge requirement without, you know, subsequent resources being allocated.

So, I want to conclude my presentation today by asking the standing committee and by asking Honourable Mr. Goertzen to delay the passage of any proposed legislation until further consultation can take place.

Thank you for your time.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Goertzen: Thank you very much for your presentation here this evening. It is appreciated by the committee members. You made a number of points, and I won't be able to, clearly, cover all of them, but I just wanted to clarify on the issue of the home address.

I think the intention there is to expand it to ensure that there are other options other than just a home address or a home phone number, so emails or other ways. So, far from trying to limit the accessibility by having a specific delineation on how a person has to show that they have a particular residence or residential phone number, there are other things that are

being allowed to be used. So I think it has the opposite intent from what you described.

In terms of the the time of the bill, you know, we've had some of these discussions before, previously, in—under another administration, bills were historically introduced in the spring session, which routinely began in April or May and then were required to be passed in June. And so, far from there being less time for bills to be debated, there has probably been a few times in the Manitoba history that there's been more time for debate.

Now, one could argue that that still isn't enough, and that's a fair argument to make, but it certainly isn't a correct argument to say that somehow, there's less time now than there has been before because of the early start of the spring session and because we historically have started in March, there has been considerably much more time for debate on bills in the spring.

Added to that, of course, we were hoping to have this bill distributed several months ago. That was denied by the Liberal Party, didn't allow that to happen for reasons that they could explain if they chose.

But also, I would say, on this particular piece of legislation, it was out for broad consultation on the issue of FIPPA now for a couple of years, I believe, was when consultations began, as required by the legislation.

So, few bills have had as much public opportunity for discourse as this one.

So I do appreciate the concerns, and concerns are always valid and should be brought here, but the issue of time I'm not sure quite strikes as part of those concerns.

But again, thank you for your time. We made note of some of the concerns that—some of them can, I think, be dealt with in policy as well. So, thank you for that.

Mr. Chairperson: Shawna Finnegan, do you have a response for Minister Goertzen?

* (19:20)

S. Finnegan: Yes, thank you very much. With regards to the change from replacing personal information with individual's address, telephone, or facsimile, perhaps it can be made clear that any of those are possible. In the legislation it's quite unclear, and it could just be a matter of changing the grammar—where

a comma is—but from my perspective it seems that it's the address and one of the three others. So just a note there.

With regards to the timing of the bills, I want to say that there is also the importance of considering that there are 19 bills here, and these bills are long. So while in your perspective it may be that there is more time, I think it's also important to consider that there isn't one, or two, or five bills. There are 19 bills, and they make substantive changes to very important acts. And as a private citizen who has tried to wade through these bills, it's very difficult with the time provided to have a real analysis.

So, while I appreciate that consultations have taken place, it seems to me, based on reading the bill and hearing from other presenters, that those consultations were insufficient, and that if concerns were raised in those consultations that members of Parliament were not—I'm sorry—members of the Legislative Assembly were not considering those in developing this bill. Thank you.

Mr. Chairperson: Are there any further questions?

Ms. Marcelino: Hi, Shawna Finnegan. I just wanted to sincerely thank you for your obvious commitment to the broader community and for your participation in today's committee meeting and to the democratic process that you're really trying to show and uphold by participating yourself in, well, virtually today. Thanks so much.

Mr. Chairperson: Shawna Finnegan, you have 20 seconds for a response if you wish to respond.

S. Finnegan: Thanks very much for your comments, and I just want to say again how much I appreciate the previous presentations by members of the community here today. I found those really valuable. Thank you, again.

Mr. Chairperson: Time for questions has expired. We will now move on to the next bill.

Bill 54—The Personal Health Information Amendment Act

Mr. Chairperson: We will now move on to Bill 54, The Personal Health Information Amendment Act.

And I will now call on Mr. Norman Rosenbaum. He is not here, so he will be moved to the bottom of the list.

I will now call on Shawna Finnegan and ask the moderator to invite them into the meeting.

Shawna, if you could please unmute yourself and turn your video on.

Shawna Finnegan, you may proceed with your presentation.

Shawna Finnegan (Private Citizen): Thank you very much.

I don't have a lot to say on this bill. As I said, I have really struggled to be able to do the necessary analysis and research to be able to look at these bills. But I wanted to flag a few clauses that really stood out to me as causing concern, and some of them are the same that are in the FIPPA, The Freedom of Information and Protection of Privacy Act.

So, the first is around a person's request for personal health information may be considered abandoned if, on request, they fail to provide information necessary to process the request. It's not clear to me what information is needed to be provided and whether or not that would be a significant obstacle to requesting information.

So, for example, I had my wallet stolen a few months ago and so I didn't have any mandated ID. I don't have a driver's licence because I don't drive. And so my question is, if I wanted to have information—private information about my personal health—and I didn't have a form of photo ID—I'm also considering the recent, you know, lockdown has made it quite impossible to get new ID—does that mean that I failed to provide information necessary to process the request, and thus cannot get that information?

The next clause that I'm concerned about is regards to, again, the people being notified if there's a real risk if they will be significantly harmed as a result of privacy breach. I don't think there should be a concern about a real risk. I think it should be: if there is a privacy breach, that person who is affected is informed. I don't think there should be an exception for that and I don't think it should be up to the head of a public body to make that decision.

Finally, with regards to the clause relating to a trustee can use personal information in the course of educating employees, agents, students and health professionals to provide health care. It doesn't seem to me to be obvious that it's possible for an individual patient to opt out of this, that it would be possible for me, for example, to say I don't want my personal health information to be provided to a student—say, a medical student who I may remember from when I was a student, and I don't want them to know all of my personal information. This addition provided by the

bill seems unnecessary, and I would ask what is the justification.

And I believe that covers it, as that was all the amount of research I was able to do in the time provided.

Thank you so much for your consideration.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Heather Stefanson (Minister of Health and Seniors Care): Thank you, Shawna Finnegan, for your presentation tonight. I think you brought forward some good points.

I think it's important overall to know and understand that these amendments actually strengthen the protection for all of the areas that you're talking about for the individual. So you should be reassured by that.

So, really appreciate your presentation and for you taking the time and coming out to committee tonight.

Mr. Chairperson: Are there any other questions for the presenter?

Floor Comment: Can I respond? Sorry, can I respond to Stefanson.

Mr. Chairperson: Oh, sorry. Shawna Finnegan, a response?

S. Finnegan: Just a quick question, and I don't know if it's possible to answer this right now, but I want to understand what exactly about the fact that more of my personal information can be shared with more people actually protects my privacy.

Mrs. Stefanson: Yes, again, this is not really the time for question and answer, but certainly we're happy to get you a further briefing if you'd like, more information on this bill. We'd be happy to prepare that for you.

I don't want to get this into a question and answer, because it's not really the appropriate way for a committee, but, again, happy to extend that to you.

S. Finnegan: I just want to flag—as much as I would really appreciate that information being sent to me personally, I think, going along with the comments made on FIPPA, I think that information should be publicly available online.

Mr. Chairperson: Do we have any further questions?

MLA Uzoma Asagwara (Union Station): Hi, thank you. Can everybody hear me? Okay, great.

Shawna Finnegan, thank you so much for your presentation. I know that you've attended other committees as well. On Monday evening I did see you attend and present there. Thank you so much for your commitment to making sure that we're hearing your concerns. And you've brought some really important ideas to the forefront here.

I'm wondering if you could expand a bit on your concerns around the time allotted for review. I know that that's an issue for another piece of legislation—FIPPA legislation, but I'm wondering if you could share your thoughts on the time being extended for review from five years to 10.

S. Finnegan: Thanks very much for that question.

I think it's really hard with the time that we've got to consider this, what are the implications, but I think, as the presenter on the—one of the presenters on the FIPPA bill stated, I think, especially considering the time we're in now and the fact that we're in, really, an age of digitalization, the fact that we would wait 10 years to update this seems quite unreasonable.

Mr. Chairperson: Are there any—oh.

MLA Asagwara: Thank you, and I appreciate that response, Shawna.

* (19:30)

Another question that I have for you is in regards to the comments that you just made in terms of your personal—someone's personal information identifiers potentially being shared without their permission to, lets—and you gave the example of medical students, I believe, if I heard that correctly.

Can you articulate why that would be a concern for you and potentially other folks?

S. Finnegan: That's a great question.

I think there are a lot of reasons. I think that—I think first and foremost the fact that the people who are listed, for example, that this information could be shared with—employees, agents, students, health professionals—they are, at the end, individual people and they have their own considerations, their own biases.

And although they may have, you know, a commitment to keep that information private, that doesn't mean that they should be able to have that level of information about whoever sort of crosses their path.

I don't want to share any personal information about myself in this context, but I can imagine a lot of scenarios in which private health information is—should be kept quite private and that the individual should be able to say to any of their health-care providers: I don't want this information to go beyond the absolute necessary number of people that have this information.

And from what I can understand from this bill, there's no recourse, there is no way for me as an individual patient to say, no, I don't want a medical student to be accessing this information.

Thank you.

Mr. Chairperson: Thank you for your presentation.

**Bill 29—The Reducing Red Tape and
Improving Services Act, 2020**
(Continued)

Mr. Chairperson: We will now move on to—or, back to Bill 29, The Reducing Red Tape and Improving Services Act, 2020.

And I will now call on Molly McCracken, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Molly McCracken, you may proceed with your presentation.

Ms. Molly McCracken (Canadian Centre for Policy Alternatives): Good evening, honourable committee members. I am speaking to you on behalf of the Canadian Centre for Policy Alternatives, an independent charitable research institute active nationally since 1980, and in Manitoba since 1997.

I am also representing Make Poverty History Manitoba, which is a big-tent non-partisan coalition working to end poverty in Manitoba via public policy. I'm a member of the steering committee.

We are speaking today on the importance of the poverty reduction and social inclusion act and against repealing subsections 3, 4 and 5(3) of The Poverty Reduction Strategy Act, the requirement that the committee responsible for monitoring the Poverty Reduction Strategy is to meet four times a year and the minister's annual report is no longer automatically referred to the Legislative Assembly's Standing Committee on Social and Economic Development.

This—in the context of 12 years of research and evidence on reducing and ending poverty, particularly the comprehensive report, The View From Here,

Manitobans called for a renewed poverty reduction strategy endorsed by over 100 groups with 50 recommendations for action.

We were also part of the group that called for the poverty reduction legislation to be created back in 2009. It was subsequently introduced. We are pleased that the high-level ministerial committee exists with stipulations to meet four times a year and include community representation.

We know that there are many priorities facing ministers, and quarterly meetings to ensure the strategy gets regular attention and action at the highest level is important. More accountability and more collaboration is needed, not less.

The Manitoba government's current Poverty Reduction Strategy, and I quote from the website Pathways to a Better Future, is an inclusive outcome-driven strategy that takes a whole-of-government approach and is grounded in the understanding that reducing poverty is a shared responsibility. It is particularly important that ministries work across departments using a comprehensive approach to address poverty.

For example, I note the Education Minister just recently is going to strike a task force on poverty and education, taking this issue as an example of socio-economic impacts on educational outcomes. There are many ministries involved. There is the Ministry of Families, which includes housing and child welfare; ministry of health; Indigenous and northern affairs; growth, enterprise and trade; and of course, Education.

Ministry—the ministerial committee responsible for monitoring the Poverty Reduction Strategy should be involved in the task force on education and poverty, and this should be connected to the overall Poverty Reduction Strategy and act, and leadership of the highest level is needed to ensure issues of poverty and education, for one example, are addressed and included and progress made in the Poverty Reduction Strategy.

Poverty is a very urgent issue. The latest data that's included in the 2021 budget shows that child poverty is up 9.9 per cent from 2018 to 2019, the latest year data is available. It is the second worst in Canada and we need our governments to do more on this and to do more to bring down rates.

In response to what I anticipate, which are familiar talking points from government on the record on child poverty, I wish to note that Manitoba's

Pathways to a Better Future strategy, the provincial government aimed to reduce child poverty by 20 per cent by 2025, relative to a 2015 baseline, which is the year prior to the federal Canada Child Benefit and the introduction of the Rent Assist program.

Poverty rates subsequently did decline in 2016 and '17. And when the poverty reduction plan was introduced in 2017, Stats Canada baseline data couldn't be set at '17; instead 2015 was set. And this—some of us to question, was this to show progress and make the province look more favourable.

Regardless of what baseline year, any person, any Manitoban, any child living in poverty is one too many. And to achieve a Manitoba without poverty, we need leadership and collaboration at the highest level. We know governments operate in silos and legislation requiring this committee to meet is intended to break down these silos and foster innovation and collaboration across departments.

Recent polling by Probe Research found that the vast majority of Manitobans, over 90 per cent, agree that the current government support programs fall short of providing money needed for a family of four to get by or survive; 76 per cent want the Province to provide more resources to people living in poverty. And this was done by Probe Research with the Social Planning Council on behalf of Campaign 2000.

And this Campaign 2000 agrees that we need to put poverty elimination at the forefront of all policies and programs. And in their latest report released last December, they note that accountability targets and timelines are essential and also agree with our call today that the Manitoba government must immediately rescind the proposed Bill 29 stipulations, to remove the requirement for this committee to meet and to commit to full accountability and community oversight over the Poverty Reduction Strategy.

In addition to this, immediately revise the Poverty Reduction Strategy, committing a bold target and timeline with a comprehensive reduction strategy to reduce poverty, such as reducing child poverty by 50 per cent by 2025. And addition to this, meaningful consultation and engagement with communities most affected by poverty and ensure leadership from these communities are involved in the solution.

Thank you so much for your time this evening. That concludes my presentation.

Mr. Chairperson: Thank you for your presentation, Ms. McCracken.

Do members of the committee have questions for the presenter?

Ms. Malaya Marcelino (Notre Dame): Hi, Ms. McCracken, and thank you very much for your time today and your presentation to the committee.

I just wanted to ask if, in your research, you know of any other jurisdictions in Canada where less public reporting or less public accountability has led to better outcomes in reducing poverty?

Ms. McCracken: Well, certainly, there are jurisdictions across Canada that have poverty reduction acts and strategies, and these all have various requirements. We can also look internationally. There's some jurisdictions such as Scotland, for example, that has a very robust accountability measure.

So, yes, I think obviously an issue like poverty can fall off the radar so easily when other issues comes to the fore. So we need this regular accountability and meeting so that things do not drift and that we stay on task and keep driving forward to make progress on ending poverty.

Mr. Chairperson: Are there—the Honourable Mr. Goertzen.

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Thank you, Ms. McCracken, for your presentation this evening. I'm glad we were able to make the schedule work for you.

* (19:40)

I think we just might have a slightly different view on the issue of the mandating of the number of times a committee meets. I think from my perspective—and having been co-chair of that committee, along with Minister Stefanson, who's with us at committee tonight as well—I know from those experiences how seriously the issue is taken.

And I don't think that a government that needs to mandate itself to meet on an issue is proof that they take it seriously. I would suggest that's proof that they don't take it seriously enough, if they have to legislate themselves to meet on an issue as important as poverty.

And I would use the example of the relatively newly formed—although it's been around now for a while—the Gender-Based Violence Committee of Cabinet, which doesn't have a mandated number of times it needs to meet, but it's certainly a very robust committee that is involved in a number of different

initiatives. And it doesn't meet because it has to. It meets because it knows it's important to meet.

So, again, I'm not—you know, I don't have objections to what you're generally saying about its importance. I just don't think a legislated mandate to meet is proof that you take it seriously. I think that's actually—might be evidence you don't take it seriously enough.

But thank you again for your presentation this evening and for other things that you were doing in terms of your work life and highlighting important issues to society and Canada, generally.

Ms. McCracken: Thank you, Mr. Goertzen. It would be helpful if we could have information about how often the committee has met. And I know I could direct that to the Minister of Families (Ms. Squires), but that would be helpful to give us assurance that the group is meeting and that progress is being met—being made.

Mr. Chairperson: Are there any further questions for Ms. McCracken?

Seeing as no further questions, we will now move on to Bill 49.

I will call upon Norman Rosenbaum. Is Norman Rosenbaum available? Mr. Rosenbaum is not present.

Also, Mr. Rosenbaum's name is on for Bills 52 and 54. Mr. Rosenbaum will be dropped from the presenter's list, and we will now continue—this concludes the list of presenters I have before me.

* * *

Mr. Chairperson: In what order does the committee wish to proceed with clause-by-clause consideration of the bills?

Mr. Goertzen: I would propose, that if it's the will of the committee, to proceed numerically, from lowest to highest.

Mr. Chairperson: Is that agreed upon? *[Agreed]*

It has been proposed that we will proceed with the bills numerically from the lowest to the highest.

Bill 21—The Conflict of Interest (Members and Ministers) and Related Amendments Act

Mr. Chairperson: We will now proceed with clause-by-clause of Bill 21. Sorry—yes, 21.

Does the minister responsible for Bill 21 have an opening statement.

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Thank you, Mr. Chairperson. Just briefly, I know that there weren't presenters on this bill tonight, but I don't think that that diminishes its importance, both to the public and to members of this Assembly, who are most directly impacted by the conflict of interest bill. All of us, you know, I think, get elected with the intention of doing not only our best work for our constituents, but doing it in a way which is free from real or perceived conflict.

There's been a feeling for quite a long time that the conflict of interest rules in Manitoba are among the weakest in Canada. This bill helps to address that, partly with the advice of Mr. Jeffrey Schnoor, who has worked with—as our Conflict of Interest Commissioner—now will become Manitoba's first ethics commissioner.

The bill has a number of different things that are important, not the least of which are the disclosure of sources of income, assets, interests and liabilities worth more than \$5,000. For members, the requirement is to disclose all government—directorships in various organizations, legal proceedings that are against another member, and any supports—or against a member, and any supports payments that are in arrears. There's a provision to ensure that all gifts that are over \$250 are not able to be accepted; a small exception for diplomatic gifts that are often presented in a diplomatic meeting.

And these are, again, I think important governing principles for members of the legislature. So while they may not always engage the public in a process like this in committee, they do become important to members of the public when they think that something has gone awry and they have concerns and then want to take a complaint previously to the Court of Queen's Bench and now to the ethics commissioner.

And so I think that these are improvements, but it's a bill that's not static and it should always be reviewed. All of us as MLAs have an inherent interest in this that we need to continue to watch as it goes forward.

Thank you very much, Mr. Chairperson.

Mr. Chairperson: We thank the minister for his statement.

Does the critic from the official opposition have an opening statement?

Ms. Malaya Marcelino (Notre Dame): This bill implements many of the 84 recommendations of the

Conflict of Interest Commissioner, Jeffrey Schnoor, but not all of them. We have a few concerns with what the government did not choose to implement in this bill.

The commissioner recommended that ministers not be allowed to hold securities, stocks, futures or commodities that are not publicly traded unless those financial holdings are subject to strict scrutiny, including following the commissioner's direction and only with their explicit written approval.

The Pallister government chose not to enact this clause and we know that the Premier (Mr. Pallister) holds untraded stock in his own insurance company. Instead, the government has allowed for the holding of untraded companies and, in fact, allowed a minister to carry on active business so long as the holdings of the company are held in trust. The commissioner says the problem with these arrangements is that the minister still knows they are a beneficial owner and therefore a conflict can still arise.

The commissioner also recommended including all members of Treasury Board as ministers for the purpose of conflict of interest. This bill does not do that, which is concerning, because Treasury Board members are privy to some of the most sensitive information in government, including government contracts and awards. By ignoring that recommendation, backbench MLAs appointed to Treasury Board are not held to a higher standard of accountability, and that's a mistake.

The commissioner recommended that ministers with grounds to believe that they have a conflict of interest in a matter requiring the minister's decisions should ask the Premier to appoint another minister to perform the minister's duties in the matter, and we don't see this provision implemented in the legislation.

And this provision could have prevented the situation the Finance Minister is currently in where he has an interest in a business involved in a serious labour complaint. Instead, he remains the authority for the department and has deferred the matter to staff. It's very difficult for staff to do their job dispassionately when they know their decision directly impacts their boss.

This bill also includes some provisions with regard to the post-employment of senior civil servants. And monitoring post-employment conflicts is challenging, and what we don't want to see is a revolving door where those of private sector expertise are parachuted into senior government positions and

encouraged to deregulate and privatize, and then are rewarded on the back end for anything they made happen for the private sector. And we are concerned that this bill doesn't do enough to prevent this.

While updating conflict of interest legislation is important, it's tough to trust the bill on increasing accountability from this government when they continue to introduce bill after bill that reduces their own personal accountability and removes oversight over government.

Manitobans deserve better.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for that statement.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where numbers may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Shall clause 1 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

* (19:50)

The floor is open for questions. [*interjection*]

Mr. Chairperson: Oh, I have to recognize you.

Ms. Marcelino: The commissioner recommended including all members of Treasury Board as ministers for the purpose of conflict of interest, and this bill does not do that. The Treasury Board members are privy to some of the most sensitive information in government, including government contracts and awards. By ignoring that recommendation, backbench MLAs appointed to Treasury Board are not held to a higher standard of accountability.

Why didn't the minister include the recommendation in this act?

Mr. Goertzen: You know, I listened to the member's opening statement, which was filled with a series of mistruths, innuendos, probably a sprinkling of conspiracies as well, Madam—or Mr. Chairperson, and

I think that that doesn't bode well for a bill like this. This is the kind of bill where we need to ensure that all members can look at it respectfully, can follow it to the best of their abilities, and throwing around insinuations without any evidence and throwing around conflict as though it was something that didn't have to be in any way substantiated with anything that resembles truth, I don't think is a good way for this bill to be started off, and I would hope that the member would reconsider her statement and perhaps put an apology on the record for the litany of accusations that are unfounded that she put on the record in her opening statement.

Ms. Marcelino: Well, thank you for your comments.

Mr. Chairperson: Are there any more questions?

Hearing no further questions, clause 1—pass.

Shall clause 2 through 5 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no. The floor is open for—
[*interjection*]

Clause 2—pass; clause 3—pass; clause 4—pass; clause 5—pass; clauses 6 and 7—pass; clause 8—pass; clause 9—pass; clause 10—pass; clause 11—pass; clause 12—pass; clauses 13 through 15—pass; clause 16—pass; clauses 17 and 18—pass; clause 19—pass; clauses 20 and 21—pass; clauses 22 and 23—pass; clause 24—pass; clause 25—pass; clauses 26 and 27—pass; clause 28—pass; clauses 29 and 30—pass; clauses 31 and 32—pass.

An Honourable Member: I'm sorry.

Mr. Chairperson: Shall clauses 33 and 34 pass?

An Honourable Member: Pass.

An Honourable Member: Sorry, Mr. Chair. I meant to—

Mr. Chairperson: Yes, Ms. Marcelino?

Ms. Marcelino: Sorry, Mr. Chair. I have two questions for clause 2. Would it be possible to ask my questions for clause 2?

Mr. Chairperson: Is there leave to revert back to clause 2?

Mr. Goertzen: I'll deny leave at this point, but I would ask the member to ask for her leave again when we get to the title of the bill.

Mr. Chairperson: Leave has been denied.

Clauses 31 and 32—pass; clauses 33 and 34—pass; clauses 35 through 37—pass; clauses 38 through 40—pass; clauses 41 and 42—pass; clause 43—pass; clauses 44 and 45—pass; clauses 46 through 48—pass; clauses 49 and 50—pass; clause 51—pass; clauses 52 and 53—pass; clause 54—pass; clauses 55 and 56—pass; clauses 57 and 58—pass; clauses 59 and 60—pass; clause 61—pass; clauses 62 and 63—pass; clauses 64 and 65—pass; clause 66—pass; clauses 67 and 68—pass; clauses 69 through 71—pass; enacting clause—pass.

Shall the title pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no. Floor is open to questions.

Ms. Marcelino: So, the commissioner recommended that a minister who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the minister's decisions should ask the Premier (Mr. Pallister) to appoint another minister to perform the minister's duties in the matter for the purpose of making the decision. And that's a direct quote from his recommendations.

I don't see this provision implemented in the legislation. And certainly, declarations of conflict and our process of recusal needs to be improved. So why did the minister not include this as part of this bill?

* (20:00)

Mr. Goertzen: This bill advances conflict of interest in the province of Manitoba significantly. For many years, it languished under a former administration. We saw a number of different situations happen, some were quite public and dramatic, such as free Jets tickets being taken by Cabinet ministers and other members of the former government.

We saw the need to undertake a significant rewrite of the legislation. I'm sure that this is an iterative process and there will be other changes that will happen down the road, but these are significant changes at this point and there will be opportunity, I'm sure, for members to discuss other changes in the future.

Ms. Marcelino: The commissioner also recommended that ministers not be allowed to hold securities, stocks, features or commodities that are not publicly traded, and this means that the commissioner recommended that ministers not own businesses unless those business dealings are holdings that are

very tightly scrutinized and contained by the Conflict of Interest Commissioner.

The minister has also not enacted this clause. In fact, it allows a minister to carry on active business so long as the holdings of the company are held in trust. This, according to the commissioner, is a huge problem because with blind trusts, he says, they are often not blind at all. The minister still knows he or she is the beneficial owner and therefore the possibility of a conflict of interest can still arise. That's his quote from his recommendations.

Why did the minister choose not to include the commissioner's recommendation?

Mr. Goertzen: Again, I have great respect for the commissioner and the work that, you know, he has done on this regard and in others in the province of Manitoba. These are significant, significant changes to conflict of interest legislation, governing all members in the House and members of Executive Council. This is not a forever piece of legislation that'll never change. In fact, it should always be being reviewed and suggestions should be coming forward either from commissioner, members of the public or members of the Assembly.

So I'm sure that there'll be many opportunities to review the legislation. These are significant steps and changes already that members will have to customize themselves to, but I have no doubt that there will be other members and other make-ups of the Assembly that will review this legislation and propose changes as it goes forward.

Mr. Chairperson: Are there any further questions? Seeing no further questions—

Title—pass. Bill be reported.

**Bill 29—The Reducing Red Tape and
Improving Services Act, 2020**
(Continued)

Mr. Chairperson: We will now move on to Bill 29, The Reducing Red Tape and Improving Services Act, 2020.

Does the minister responsible for Bill 29 have an opening statement?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Only to say I know that there was three presenters on this bill, and in particular, you know, Philip and Brenda Halprin brought forward, I think, you know, important points that we are going

to ensure are shared with the Department of Families for further consideration.

There are other parts of this bill that weren't referenced by any presenters this evening, and those include approving the process and improving the process for getting pharmaceuticals onto the formulary. And I know in my former position as minister of Health, and the current Minister of Health, who's on this committee—that's an important process for many Manitoba families, and for too long, it's been a fairly slow process. It may never be as fast as some who are waiting for certain drugs to be listed would like, but it is important to see that improvement made.

And so, there are other improvements that are within this bill that weren't highlighted by presenters, but I wanted to highlight that one in particular. And there will be further comments, I'm sure, at third reading.

Mr. Chairperson: Does the—oh, sorry. We thank the minister for his statement.

Does the critic from the official opposition have an opening statement?

Ms. Malaya Marcelino (Notre Dame): Bill 29 is another omnibus bill that lumps together various bills that realistically have nothing to do with each other, in an attempt to avoid individual scrutiny of the changes being made. This is the fifth red-tape omnibus bill released within the past five years.

And we know and Manitobans have come to learn that red tape is simply a guise for more cuts, more erasures of important regulations that protect consumers and our environment and more privatization of important government assets.

And that's exactly what this bill does; it repeals The Government Air Service Act in recognition that they have privatized essential air services people rely on, such as Lifeflight air ambulance.

This is unfortunate. Other air services, such as the general transportation program, the fire suppression program and aerial photography have all been privatized by repealing this act as well.

This bill also repeals The New Home Warranty Act, and this bill was passed in 2013 to protect homeowners by strengthening consumer protection for buyers of new homes by ensuring that these homes are covered by a warranty.

The Pallister government delayed proclamation but said that they were going to go ahead with this,

and now they have slipped the repeal of the legislation into this omnibus legislation. It's clear that this prioritized profits over protecting people.

And this bill also reduces accountability by removing the requirement for the minister to report on adult literacy and for the poverty reduction strategy committee to meet four times a year, meaning that now, there is no minimum number of meetings per year.

Finally, this bill also weakens protections that protect our lakes, rivers and streams; nutrient runoff can be detrimental to the health of our waterways as they contain high levels of nitrates and phosphorous, which can cause algae blooms Manitobans are all too familiar with.

In simplest terms, this—changes to this act disrupt the ability of government to investigate the full scope of activity in the creation, transportation, sale and spread of manure. And by restricting what government can investigate and what industry's accountable for, that limits accountability on the part of applicators.

I'd like to thank all of the presenters for providing their valuable input and participating in the democratic process, and I hope that the minister listens to the suggestions and feedback that those on the committee provide and removes negative changes outlined in this bill.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for her statement.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

Clauses 1 and 2—pass; clauses 3 through 6—pass; clauses 7 through 9—pass; clauses 10 and 11—pass; clauses 12 through 15—pass; clause 16—pass; clauses 17 through 19—pass; clause 20—pass.

Shall clauses 21 and 22 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Shall clause 21 pass?

Some Honourable Members: Pass.

An Honourable Member: I would like to request a recorded vote for clause 21.

Mr. Chairperson: Shall clause 21 pass?

Some Honourable Members: Pass.

Mr. Chairperson: Clause 21 is—

An Honourable Member: This is the vote that I'd like to record.

An Honourable Member: Say, no. Say, no.

Mr. Chairperson: I hear a no?

An Honourable Member: No, yes.

* (20:10)

Voice Vote

Mr. Chairperson: All those in favour of clause 21 pass, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Recorded Vote

An Honourable Member: A recorded vote, Mr. Chair.

Mr. Chairperson: A recorded vote has been requested.

For the information of the members of the committee, recorded voice votes will take place in a similar way to those in the Chamber.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 2.

Mr. Chairperson: Clause 21 is accordingly passed.

* * *

Mr. Chairperson: Clause 22—pass; clause 23—pass; clauses 24 and 25—pass; clauses 26 through 28—pass; clauses 29 and 30—pass.

Shall clause 31 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Mr. Goertzen: Only to say, Mr. Chairperson, that, you know, I was intrigued and very interested in the comments by the presenters, the Halprins, this evening.

This bill, I think, or this portion of the bill would otherwise come into effect on royal assent, which would be expected to be some time in the next six to eight weeks, I suppose. I think it would be wise to amend the enacting clause so that it would come into effect on royal assent to provide greater time for the Department of Families to consider some of the concerns that were raised by committee members and perhaps others that weren't able to make presentations.

So while there isn't, I understand, the opportunity to do that tonight, by legal counsel we will bring forward that amendment at report stage.

Mr. Chairperson: Shall clause 23 pass? *[interjection]* Oh, sorry. Shall clause 31 pass?

Ms. Marcelino: I just wanted to clarify what the minister just said. So would you be ruling—would you be clarifying that amendment in time for proclamation?

Mr. Goertzen: Yes, thank you for that. I think I actually misspoke, my staff informed me, and that's probably a product of my age, so I understand why there needs to be a clarification.

So, this portion of the bill, I think is intended to come into effect on royal assent, but I'm posing to bring an amendment at report stage to change it, to come into effect on proclamation, which will then give it time for the Department of Families to consider some of the concerns that were raised by those who presented tonight and those who otherwise maybe didn't have the opportunity to present because of a potential glitch that was identified by the presenters.

Mr. Chairperson: Are there any further questions?

Shall clause 31 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: Clause—I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of the clause, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Recorded Vote

An Honourable Member: A recorded vote, please, Mr. Chair.

Mr. Chairperson: A recorded vote has been requested.

For the information of all members of the committee, recorded votes will take place in a similar way to those in the Chamber.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 2.

Mr. Chairperson: Clause 31 is accordingly passed.

* * *

Mr. Chairperson: Clause 32—pass; clause 33—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 32—The Election Financing Amendment and Elections Amendment Act (Government Advertising)

(Continued)

Mr. Chairperson: We will now move on to Bill 32 clause-by-clause.

Does the minister responsible for Bill 32 have an opening statement?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): In addition to the comments said at second reading, and then we had at third reading, just want to say that I think that this is another one of those bills where all of us MLAs, as elected officials, have a stake in. All of us believe and want to have free and fair elections. And the ability to have a fair election is somewhat dependent on the government not being able to use government resources to alter the otherwise natural result of the election, but also, there is requirement for government to still function as a government in the important ways that citizens would expect the government to function, whether that's providing public health information or continuing on with hiring or tendering processes that might be in

place or programs or activities that need to continue to happen.

So we believe this bill strikes the right balance, but understanding that balance can sometimes change over time for a variety of different factors, and I'm sure this bill will be revisited in the future—this legislation, as it should—as all pieces of legislation that touch upon our election process should always be reviewed. But I believe it is—puts us in a much better place given the concerns that we've heard from—whether it's the labour federation today, previously from the construction association, by members of the media, in fact, by members of the opposition. So I think that everybody has a stake in improving this legislation.

Mr. Chairperson: We thank the minister for his statement.

Does the critic from the official opposition have an opening statement?

* (20:20)

Ms. Malaya Marcelino (Notre Dame): We know Manitobans value the principles of democracy and they expect their elected officials to uphold the principles of free and fair elections. Fixed election dates keep our government accountable and a black-out on government advertising leading up to provincial elections is an integral part of our democratic process.

Bill 32 shortens the advertising restriction period for a fixed date election from 90 days to 60 days. It also amends restrictions on advertising before a vote on a referendum, shortening the restriction period from 90 to 60 days as well.

The bill also gives the Pallister government the ability to make budget or throne speech announcements before and during the election period. Under Bill 32, government is free to do unlimited advertising of a budget or throne speech right up until election day. This means the Pallister government can now drop a budget or a throne speech and immediately call an election, during which it can spend an unlimited amount of government money blitzing the province with advertising, including TV ads, billboards, and direct mailers to Manitobans, all on the government dime. This makes a mockery of limits on government advertising.

The legislation gets around the use of government resources to advertise and make announcements on other matters simply by shifting the costs onto the

government party. This allows ministers to make government announcements using party staff and money so long as government itself doesn't support the announcement during the blackout.

This bill would also gut our fixed date election laws. The act allows for snap elections to be called, as long as the government restricts advertising for 32 days. With this amendment, the Premier (Mr. Pallister) is effectively admitting that he is not going to honour fixed-date elections.

Manitobans should be able to make informed choices on election day without being hounded by government advertising for weeks and months prior. We will not support this government in its attempt to create loopholes to influence our elections and to make it easier to disregard fixed date election law.

I'd like to thank all of the presenters for providing their valuable input on Bill 32, and I hope that the minister will withdraw this bill immediately and stop trying to change our election laws to benefit their own party.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for her statement.

During the consideration of the bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions, or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 and 2—pass; clause 3—pass; clauses 4 through 6—pass; clauses 7 and 8—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 49—The Freedom of Information and Protection of Privacy Amendment Act
(*Continued*)

Mr. Chairperson: Does the minister responsible for Bill 49 have an opening statement?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Yes. I want to thank those who made presentations. I also want to thank the Ombudsman, both for the letter that she sent, but I also had the opportunity to meet with her and her staff several days ago.

So, I indicated that we will be amending the provision that would otherwise have required a 10-year review of this legislation, amending it to be a five-year review.

In addition, following the discussions with the Ombudsman, whose comments I took, you know, very seriously, we will amend the appeal—I'm sorry—the extension clause so there's an initial 45 days to fulfil an applicant's request. There was then going to be another 45 days; we will be amending that down to 30 days from the proposed 45 days, and I want to thank the Ombudsman for her input and her comments into the legislation, along with other presenters.

Mr. Chairperson: We thank the minister for his statement.

Does the critic from the official opposition have an opening statement?

Ms. Malaya Marcelino (Notre Dame): Manitobans have a right to access information—

Mr. Chairperson: Sorry, Ms. Marcelino, I had my mic off.

Ms. Marcelino: Manitobans have a right to access information and deserve to get responses in a timely manner, but unfortunately this bill changes many of the rules regarding freedom of information requests which will greatly impact access to critical public information.

This bill gives this government more power to disregard requests based on whether the request is excessively broad or incomprehensible or otherwise not made in good faith—and those are in quotes. This bill also requests to be—this bill also allows requests to be disregarded due to the, quote, number of requests made by the same applicant, end quote, and the body's own interpretation of, quote, frivolous and, quote, vexatious.

We have real concerns about such broad language being used that expands government's power to refuse requests.

This bill extends the period in which bodies have to respond from 30 days to 45 days, and this makes it the least responsive system in the country. Transfer of requests has also been increased to 10 days from seven, meaning the total turnaround time could be upwards of 100 days people are waiting for answers.

BC—British Columbia is currently reviewing their FIPPA system to make it more timely. I recently spoke to the BC MLA for Vancouver-Kensington,

Mable Elmore, and as a chairwoman of the committee of legislative affairs, she has told me that BC's FIPPA system being very laggardly, they are working to transform and improve FIPPA legislation.

This bill also allows an extension based on the number of requests made by the applicant—by two or more applicants who are associated within the meaning of the regulations, or for exceptional circumstances. Additionally, extensions could be made so that bodies can seek legal advice. This will extend to litigation, as well, not just solicitor-client privilege, which means it's not just legal advice that's protected, but a legal proceeding being discussed.

This bill will put Manitoba at the back of the nation when it comes to FIPPA response times. All other jurisdictions, including the federal government, are at 30 days. These changes are unnecessary and will hurt Manitobans, who have a right to access information in a timely fashion.

I'd like to thank all of the presenters for providing their valuable input and participating in the democratic process, and I hope that the minister listens to the suggestions and feedback of—that Manitobans have provided and withdraws this bill.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for her statement.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

Clauses 1 and 2—pass.

Shall clauses 3 through 5 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

All those in favour—oh, the floor is open for questions.

Ms. Marcelino: Even if BC counts business days, that's still less days than the 45 days that the minister is proposing and passing this would make Manitoba

the worst jurisdiction in Canada for response times to FIPPA requests.

Why is the minister proposing this regressive amendment?

Mr. Goertzen: I've indicated to the member that there'll be an amendment forthcoming on one of the time provisions.

I would also say to her that the steps that this government is taking on proactive disclosure, I believe, is an important step toward transparency, things being disclosed that were never proactively disclosed by the former NDP administration.

While I recognize that there is a fine balance to play here between ensuring that the system is maintained and can be sustained and providing timely, open information, we believe this is the right balance.

* (20:30)

Mr. Chairperson: Are there any further questions?

Shall clauses 3 through—*[interjection]*

Clause 3—pass; clause 4—pass.

Shall clause 5 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 5, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Recorded Vote

Ms. Marcelino: I request a recorded vote.

Mr. Chairperson: A recorded vote is requested.

For the information of all members of the committee, recorded votes will take place in a similar way to those in the Chamber.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 2.

Mr. Chairperson: Clause 5 is accordingly passed.

* * *

Mr. Chairperson: Shall clauses 6 and 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Clause 6—pass.

Shall clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no. The floor is open for questions.

Ms. Marcelino: This clause puts a greater onus on the applicant to provide the necessary information that the co-ordinator sees fit, but many applicants might not know what is needed and failure to provide will result in a—will result in a request being dismissed, and this puts a greater onus on the applicant, rather than the coordinator's duty to support.

Why is the minister making it easier to dismiss a request for information?

Mr. Goertzen: There is a requirement to have more certainty when an applicant doesn't respond for more information. To have someone not respond and have the application essentially go into limbo puts an undue burden onto the system.

Mr. Chairperson: Are there any further questions?

Shall clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 7, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 7 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 8 and 9 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions—oh, sorry.

Shall clause 8 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is accordingly open for questions.

Ms. Marcelino: There are already provisions for frivolous and vexatious requests in the current act, so why does the minister feel that all these extra provisions are necessary?

Mr. Goertzen: Sadly, it's necessary because there are some organizations and entities that, unfortunately, you know, are using the freedom of information process inappropriately, and it's preventing other individuals or organizations who are trying to access information from doing so in a proper and a timely way.

Mr. Chairperson: Are there any further questions?

Shall clause 8 pass?

Some Honourable Members: Pass.

Mr. Chairperson: Clause 8 is—

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of the clause 8, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 8 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 9 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

An Honourable Member: I said no first.

Mr. Chairperson: The Honourable Mr. Goertzen.

Mr. Goertzen: I have an amendment for the committee, Mr. Chairperson.

I move

THAT Clause 9 of the Bill be amended by striking out clause (a).

Motion presented.

Mr. Chairperson: The amendment is in order. The floor is now open for questions.

Mr. Goertzen: Not a comment, but a—sorry, not a question but a comment.

This will leave the extension period at 30 days as opposed to the previously proposed 45 days.

Mr. Chairperson: Are there any further questions?

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Amendment—pass; clause 9 as amended—pass.

Shall clause 10 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Ms. Marcelino?

Ms. Marcelino: I don't have—

Mr. Chairperson: No questions?

Ms. Marcelino: No, I don't have a question on this.

Mr. Chairperson: All those in—oh. Shall clause 10 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: Clause—all those in favour of clause 10, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 10 is accordingly passed.

An Honourable Member: A recorded vote, Mr. Chair.

Mr. Chairperson: I heard—for a recorded vote on clause 10.

All those in favour of clause 10, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Recorded Vote

An Honourable Member: A recorded vote, Mr. Chair.

Mr. Chairperson: A recorded vote has been requested.

For the information of all members of the committee, recorded votes will take place in a similar way to those in the Chamber.

* (20:40)

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 2.

Mr. Chairperson: Clause 10 is accordingly passed

* * *

Mr. Chairperson: Clause 11—pass.

Shall clauses 12 and 13 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: Clause 12—pass.

Shall clause 13 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Ms. Marcelino: The proposed amendment broadly expands exemptions to not just solicitor-client privilege, but all legal privilege.

Would records be refused if it's something that may be considered to go to legal proceeding?

Mr. Goertzen: Those would be dependent upon the circumstances and freedom of information officers would make that determination on a case-by-case basis.

Mr. Chairperson: The honourable—no questions?

Shall clause 13 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of the clause, please say aye.

Some Honourable Members: Aye.

Mc. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 13 is accordingly passed.

* * *

Mr. Chairperson: Clause 14—pass; clause 15—pass; clause 16—pass; clauses 17 through 18—pass; clause 19—pass; clauses 20 and 21—pass; clauses 22 through 26—pass; clauses 27 through 30—pass; clauses 31 and 32—pass; clauses 33 through 35—pass; clauses 36 and 37—pass; clauses 38 through 40—pass; clause 41—pass; clause 42—pass.

Shall clauses 43 through 45 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Shall clause 43 pass?

An Honourable Member: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Mr. Goertzen: Mr. Chairperson, I have an amendment for the committee.

I move

THAT Clause 43 of the Bill be amended by replacing the proposed subsection 98(1) with the following:

Review of the act within five years

98(1) The responsible minister must undertake a comprehensive review of the operation of this Act, which involves public presentations—sorry, public representations, within five years after the day on which this section comes into force.

Mr. Chairperson: It has been moved by the Honourable Mr. Goertzen

THAT Clause 43 of the Bill be amended by replacing the proposed subsection 98(1) with the following:

Review of Act within five years

98(1) The responsible minister must undertake a comprehensive review of the operation of this Act, which involves public representations, within five years after the day on which this section comes into force.

Mr. Chairperson: The amendment is in order. The floor is open for questions.

Mr. Goertzen: Mr. Chairperson, this—response to a concern that was raised by a presenter and also by the Ombudsman that the 10-year proposed review provision was too long. We took those recommendations to heart, we're a listening government and we're responding to those concerns.

Mr. Chairperson: Any other questions? The committee—is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Amendment—pass; clause 43 as amended—pass; clause 44—pass; clause 45—pass; enacting clause—pass; title—pass. Bill, as amended, be reported.

Bill 52—The Minor Amendments and Corrections Act, 2021

Mr. Chairperson: Bill 52. Does the minister responsible for Bill 52 have an opening statement?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): This will surprise the committee, but I do not.

Mr. Chairperson: We thank the minister for his statement.

Does the critic from the official opposition have an opening statement?

Ms. Malaya Marcelino (Notre Dame): No.

Mr. Chairperson: We thank the minister for her statement.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 and 2—pass; clauses 3 and 4—pass; clause 5—pass; clauses 6 through 8—pass; clauses 9 and 10—pass; clauses 11 through 13—pass; clause 14—pass; clause 15—pass; clause 16—pass; clauses 17 through 19—pass; clauses 20 and 21—pass; clauses 22 and 23—pass; clauses 24 through 26—pass; clauses 27 and 28—pass; clauses 29 through 31—pass; clauses 32 through 34—pass; clause 35—pass; enacting clause—pass; title—pass. Bill be reported.

* (20:50)

**Bill 54—The Personal Health Information
Amendment Act
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 54 have an opening statement?

Hon. Heather Stefanson (Minister of Health and Seniors Care): I do, Mr. Chair.

Just very briefly, Bill 54 will update PHIA to implement recommendations that came out of the most recent statutory review of the act. The bill will help us continue to ensure that personal health information and its confidentiality is protected so that Manitobans are not afraid to seek their health care or to disclose sensitive information to health professionals and other trustees.

They will also enable the streamlining of requests for access to personal health information for the purposes of health research, and provide trustees of personal health information with additional tools to manage requests for access to personal health information.

I know our presenter earlier did raise a concern; I just wanted to reassure that presenter with respect to

the personal health information that is disclosed for research purposes. It does not disclose the specific name or—it's very minimal information that is disclosed, and the names and so on are not disclosed as part of that, so it is fairly private. And I just wanted to reassure the presenter of that.

I think also based on feedback from the presenter tonight—presenter Shawna Finnegan—based on the feedback from them as well as the Ombudsman, in relation to the proposed 10-year timeframe for the next review of the act, I'll be making a motion to amend that provision in the bill to reduce the timeframe for the next review of the act; similar to what was proposed by the other—by the previous minister with respect to Bill 49, the FIPPA legislation.

Mr. Chairperson: We thank the minister for her statement.

Does the critic from the official opposition have an opening statement?

MLA Uzoma Asagwara (Union Station): This bill amends The Personal Health Information Act, with one of the changes allowing the government to more easily abandon requests. Some of the changes in this bill are concerning repeats of several problematic provisions we saw in Bill 49 which amends FIPPA.

This bill allows the government to consider requests abandoned if, in the opinion of coordinators, a person fails to provide information necessary to process the request. Co-ordinators have a duty to assist and, just like with FIPPA, this provision seems intent on pushing responsibility the other way onto the applicant. This is an unfair burden to place on people, especially when many Manitobans are vulnerable people.

We have a real concern that this department is giving itself any room to close a request submitted in good faith. And again, like with Bill 49, the Pallister government is also stating a right to disregard. It's an attempt to broaden the power of the government to reject an application. Provisions already exist in this regard but the government seems set on giving new provisions to frustrate disclosure, which will most certainly end up in the—in complaints coming before the ombudsperson.

This bill increases the timeline for review, from once every five years to once every 10—although the minister has just indicated that they may be bringing forward an amendment to that to, in fact, reflect five years. It's not clear, however, why five years was too short a time when this was brought forward and so

hopefully the minister can elaborate on why that was brought forward initially, but also I'll just seek some clarification on the amendment the minister has indicated will be coming forward.

I would like to thank all the presenters for providing their valuable input and for participating in the democratic process. Some very important pieces of information and concerns were brought forward and it's incredibly important that citizens have the opportunity to have their voices heard on these matters.

I hope the minister listens to the suggestions and feedback that Manitobans provide and removes the concerning amendments laid out in this bill.

Mr. Chairperson: We thank the member for that statement.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 through 4—pass; clause 5—pass; clauses 6 and 7—pass; clause 8—pass; clauses 9 through 11—pass; clauses 12 and 13—pass; clauses 14 through 16—pass; clauses 17 and 18—pass.

Shall clauses 19 through 22 pass?

Some Honourable Members: Pass.

Mr. Chairperson: MLA Asagwara, did you say something? We thought we heard something there.

Clauses 19 through 22—pass; clause 23—pass; clauses 24 through 26—pass; clauses 27 through 30—pass; clause 31—pass.

Shall clauses 32 and 33 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Clause 32—pass.

Shall clause 33 pass?

Some Honourable Members: No.

Mr. Chairperson: I hear a no. The floor is open to— for questions or amendments.

Mrs. Stefanson: I move

THAT Clause 33 of the Bill be amended by replacing the proposed subsection 67(1) with the following:

Review of the act within five years

67(1) The minister must undertake a comprehensive review of the operation of this Act, which involves public representations, within five years after the day on which this section comes into force.

Mr. Chairperson: It has been moved by the Honourable Mrs. Stefanson

THAT Clause 33 of—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense? Dispense.

The amendment is in order. The floor is open for questions.

MLA Asagwara: Can the minister clarify why the decision was made to bring the amendment forward? [*interjection*]

Mr. Chairperson: The Honourable Mrs. Stefanson.

Mrs. Stefanson: Oh, sorry, sorry, Mr. Chair, I should know that by now.

This was brought forward as a result of discussions with the ombudsperson or Ombudsman, as well as, obviously, we heard the presenter tonight. And there was a question of the presenter tonight, and so, you know, we're listening to presenters and we felt that this—and the ombudsman—and felt that this was appropriate to bring this forward.

MLA Asagwara: I'd just like to say that that's a good thing. It's a good thing. I'm glad to see that, and I'm glad to see that, you know, the minister brought that forward.

And I'd again just like to reiterate, you know, my thanks to folks who do show up at committee and who bring their concerns forward. And I'd like to thank Shawna Finnegan for raising this concern and articulating very well why the previous clause was problematic.

Mr. Chairperson: Are there any further questions?

Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Shall clause 33 pass as amended? [interjection] Yes. Shall 30—shall clause 33 as amended pass? Clause 33—[interjection]

My mistake, sorry.

The question before the committee is as follows.

Amendment—pass; clause 33 as amended—pass; clauses 34 and 35—pass; enacting clause—pass; title—pass. Bill, as amended, be reported.

The hour being 9:02, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 9:02 p.m.

WRITTEN SUBMISSIONS

Re: Bill 29

While Bill 29 proposes changes to several areas and Acts, my specific feedback and concerns are specific to the changes contemplated surrounding the vulnerable persons living with a mental disability act. (VPA)

It is my understanding that the intent of the changes proposed in Bill 29 would have the following impacts on the process by which Substitute Decision Makers were appointed under the VPA.

- the commissioner may appoint a substitute decision maker without referring the matter to a hearing panel if all interested parties agree and are given the opportunity to make representations to the commissioner;
- the maximum term for renewing the appointment of a substitute decision maker other than the Public Guardian and Trustee is increased from 5 to 10 years;
- the maximum term for extending an emergency appointment or variation is increased from 30 to 60 days.

Based on the above assumptions, I have several concerns that I wish to share with the members of the Standing Committee reviewing this Bill:

- The decision and process to remove someone's decision making power is of deep significance and importance and should only be contemplated following the most rigorous due process and review. This Bill contemplates the removal of aspects of this due process and leaves vulnerable adults more vulnerable. The idea that a hearing panel might be eliminated removes the important protection

provided to those that may not be able to fully appreciate the proposed change in their legal decision making powers.

- While it's acknowledged that many Manitobans living with an intellectual disability may have experienced impacts and barriers throughout their lives, they, like all of us, continue to grow and develop skills. Decision making is a muscle and requires education, experience and exposure along with repetitive practice to develop. Many people with disabilities have experienced a lifetime of others making decisions for them and may not have the same experience as others in this area. With focused attention, these skills can develop, meaning that people who may have required support for decision making could be more independent in the future. Suggesting that a Substitute Decision Maker could be appointed for up to a decade, denies this development and growth. Focus must be placed on developing skills and helping people be less dependent on decision making supports not on creating ways to extend these appointments.
- Last year the Minister of Families appointed a Task Force to review the Vulnerable Persons Act. The work of that Task Force was to make recommendations for changes to the VPA and/or the processes related to the Act to the Minister in six months' time. Nine specific areas were outlined including Substitute Decision Making, Supported Decision Making and the Role of the Vulnerable Persons Office. The Task Force is set to provide its recommendations in a few short weeks. Task force members have diligently worked within a short time frame to engage with stakeholders, review best practice research and develop recommendations. The changes outlined in Bill 29 have not been informed by this work and could (or quite likely are) in conflict with the changes proposed to the VPA. I remain perplexed on why these changes would be proposed with no stakeholder engagement in the midst of a larger review of the VPA. I strongly request that the VPA Task Force be allowed to fulfill its mandate prior to any changes being made to the VPA.

Respectfully submitted,

Leanne Fenez

Re: Bill 32

Representing the two undersigned construction associations, we would like to begin by thanking the

Provincial Government for undertaking these much-needed amendments to The Election Financing Act.

In 2016, the Winnipeg Construction Association raised concerns about differing interpretations of The Election Financing Act and in 2018 the WCA shared these concerns with Michael Green, of Green and Dixon Barristers and Solicitors who was commissioned to report to government on this issue.

Our concerns began when we heard mixed messages from government staff regarding their interpretation of subsection 92(1) which deals with restrictions on Government advertising.

We witnessed examples of some departments or Crown agencies interpreting the "advertising" clause to mean a suspension of construction tendering of previously announced projects or communicating on projects already out for tender out of fear of violating the Act.

This has unnecessarily delayed progress on critical infrastructure projects like hospital emergency renovations, schools and bridges. The language around this clause in the Act was very poorly crafted and these amendments seek to remedy this issue.

The amendment explicitly exempt advertisements that 'solicits proposals or tenders for a contract' from the advertising ban. This addition to sub-section 92(2) will provide clarity to provincial staff that tendering for construction projects can continue during an election 'black out' period.

Our organisations are supportive of this amendment and commend the Provincial Government for making amendments to The Election Financing Act a priority.

Best regards,

Ron Hambley

Winnipeg Construction Association

Submitted by Darryl Harrison

Re: Bill 49

To Whom It May Concern,

On behalf of the Association of Manitoba Municipalities (AMM), which represents Manitoba's 137 municipalities, I am writing to provide some comments regarding Bill 49: The Freedom of Information and Protection of Privacy Amendment Act.

Since the last review of FIPPA was undertaken in 2004, the AMM welcomed the 2017 provincial review of this legislation and provided a formal submission

that outlined how municipalities have been responding to a significant increase of FIPPA requests in recent years which has led to increased staff time, copying, computer charges, and legal costs. The AMM also supports the intent of this legislation to promote openness, accountability and transparency in public administration, including municipal decision-making processes.

On April 9, 2021, the AMM met with departmental staff to discuss municipal concerns and better understand how Bill 49 impacts municipalities. The AMM welcomes provisions that extend time for responding to access requests to 45 days from 30 days as well as the period for extensions permitted under the Act to 45 days. The AMM also supports Section 13(1) which grants authority to the head of a public body (i.e., municipal administrator) to disregard certain requests under particular circumstances—this provision should help municipalities manage excessive requests. While we appreciate that municipal administrators will be granted greater authority to make these decisions based on their discretion, it is vital that this section be further clarified so that all administrators are able to exercise this right in confidence. To this end, we strongly encourage the Province to develop a tailored FAQ for municipalities to explain these provisions and legislation overall as well as identify a provincial point of contact in case administrators have any questions when responding to requests.

Additionally, the AMM welcomes the enabling authority granted to municipal administrators that allows them to possibly require an applicant to pay fees provided for in the regulations as per Section 82(1). However, further clarity is also required regarding how and when these fees may be charged. Moreover, fees for administrative tasks have remained unchanged for many years and thus also require modernization.

Given current administrative burdens resulting from this legislation and additional fiscal pressures due to the ongoing COVID-19 pandemic, the AMM continues to urge the Province to consider implementing a modest application fee for multiple or concurrent requests. Since there is currently no limit on the number of requests an applicant may make, a modest application fee on multiple or concurrent requests may help prevent trivial, frivolous or vexatious requests. In closing, thank you for the opportunity to provide these brief comments.

Sincerely,

Denys Volkov

Executive Director

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.manitoba.ca/legislature/hansard/hansard.html>