



First Session, 39th Parliament

OFFICIAL REPORT OF
**DEBATES OF THE
LEGISLATIVE ASSEMBLY**
(HANSARD)

Tuesday, November 17, 2009

Morning Sitting

Volume 8, Number 3

THE HONOURABLE BILL BARISOFF, SPEAKER

ISSN 0709-1281

PROVINCE OF BRITISH COLUMBIA
(Entered Confederation July 20, 1871)

LIEUTENANT-GOVERNOR
His Honour the Honourable Steven L. Point, OBC

FIRST SESSION, 39TH PARLIAMENT

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TUESDAY, NOVEMBER 17, 2009

The House met at 10:03 a.m.

[Mr. Speaker in the chair.]

Prayers.

Tabling Documents

Mr. Speaker: Hon. Members, I have the honour to present the Auditor General's report 4, 2009-2010, *British Columbia Crown Corporations Executive Compensation Arrangements: A Work in Progress*.

Orders of the Day

Hon. M. de Jong: In Committee A, I call Committee of Supply — for the information of members, the continuing estimates of the Ministry of Environment — and in this chamber, continued committee stage debate on Bill 19, Lobbyists Registration Amendment Act.

[1005]

Committee of the Whole House

BILL 19 — LOBBYISTS REGISTRATION AMENDMENT ACT, 2009 (continued)

The House in Committee of the Whole (Section B) on Bill 19; C. Trevena in the chair.

The committee met at 10:06 a.m.

On section 2 (continued).

L. Krog: To the Attorney General: I received yesterday, as did he, a letter from the Lobbyist Registrar, Mr. Loukidelis, indicating his concerns around the committee stage debate respecting the definition of a hundred hours of preparation. I'm just wondering if the Attorney General has any comment on that this morning. Is this something that can be addressed by way of regulation if the bill passes?

Hon. M. de Jong: I might reintroduce to the House, to my immediate right, Carol Anne Rolf, who is here to assist us in consideration of the legislation.

The member is correct. I think we've both got copies of the same letter. The short answer is yes.

I have not had an opportunity to speak directly with the registrar, Privacy Commissioner Mr. Loukidelis. I think we can try to address the concerns he has raised. I should note that in the exchange we had several days ago, I referred to a regulation that exists in Alberta. That clearly is

a regulation that he is uncomfortable with insofar as it is clear about the question of preparation time.

What I think I would like to do is probably bring some people together to sit down with the conflict commissioner, maybe someone from the non-profit world, societal world, maybe a couple of consultant lobbyists and, obviously, people from the Attorney General's ministry so that there can be some practical input around what the regulation that helps define the hundred hours actually looks like.

L. Krog: I appreciate the Attorney General's comments, because I think Mr. Loukidelis is very clear. He does recite in his letter: "It is my very strong view that not including preparation time in the calculation would be overly restrictive and would drive a large hole through this aspect of the legislation."

I think particularly so when he goes on to reference what would be seen as non-profits in terms of legislation but, in fact, represent what I would call very organized and powerful interests in British Columbia, including such groups as the, as he said himself, Canadian Bankers Association or the Insurance Bureau — people who have access to significant funds to manage their affairs.

I do have some concerns as well about a specific provision under section 2 under the definition of "lobby" and under (v) where it talks about: "the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity."

It is for that reason that I would propose an amendment to that specific section, a copy of which I have available. To try and expedite matters this morning, there are two other proposed amendments, which I would ask to be delivered to the Clerk and to the Attorney General as well.

[1010]

I move:

[Section 2

(b) in the definition of "lobby",

(iii) by adding "contribution" after "any contract, grant" to clause (v),

to read:

"lobby", subject to section 2 (2), means,

(a) in relation to a lobbyist, to communicate with a public office holder in an attempt to influence

v) the awarding, amendment or termination of any contract, grant, contribution or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,]

On the amendment.

L. Krog: The reason for that is because I think it broadens to include things that might otherwise slip through the net of the legislation, and I certainly appreciate.... I'm sure that's not the government's intention. It is to be, in fact, a broad piece of legislation.

By adding "contribution," I think it ensures that any benefit that flows from government.... When you use

the term "contribution" it extends it and completes it. I hesitate to use the term "tightens the noose," so to speak. I would therefore move that amendment.

Hon. M. de Jong: I think I need to know more about.... I understand the intent of the amendment, but in practical terms, what type of benefit might the member be thinking of that would be captured by "contribution" and not one of the other terms that exists there?

L. Krog: I appreciate the term "financial benefit," but a contribution, I think, if you will, would extend to any direct monetary grant that isn't a grant in the traditional sense. I think "grant" may well, in fact, have a fairly specific meaning for legislative purposes, whereas "contribution" simply means that government has provided money to an entity. It may not constitute a grant, it may not be covered by "contract," and it arguably might be a financial benefit.

But "financial benefit," it seems to me, is used in the terms of the context of this legislation to describe something that may or may not be that direct and clear. I think "contribution" simply enhances the legislation.

Hon. M. de Jong: The roles are momentarily reversed as I ask the questions and the member endeavours to provide the answer. I know the member's not being mischievous here, nor am I. The hon. member also appreciates the anxiety that legislative drafters feel when confronted by language or the addition of language, the effects of which may be unclear.

I'll ask.... The examples the member offered in support of the amendment would, on the surface, all seem to be captured by the language that is presently included within the section. Again, if there's something specific that the member has in mind that he thinks wouldn't be, I'm interested to hear that.

But I'm a little reluctant, on the strength of the argument that's been advanced thus far, to inject the term without having had an opportunity to consider any unintended consequences, just on the floor of the Legislature.

L. Krog: I appreciate his comments this morning. Conscious as I am of the time and the other amendments I wish to propose, I don't wish to belabour the point. I think the position is a reasonable one.

Amendment negatived.

L. Krog: Will there be public records of lobbyists' expenses? And if this doesn't exist, how will the public even know whether it's being abused?

[1015]

Hon. M. de Jong: The question I thought I heard was: will there be a public record of lobbyists' expenses? Is that the...? I'm not sure I follow.

The construct of the legislation is to provide a registry that would be accessible by the public to determine who is engaged in the activity of lobbying as defined by the act. I don't think the act contemplates measuring or quantifying the value of that activity. But I may misunderstand the question.

L. Krog: We're going to have a lobbyist registry. We're having significant regulation and orders-in-council passed with respect to it.

I'm just wondering. Is it contemplated that there will be some record of lobbyists' expenses? In other words, will they have to file and disclose? I mean, if an organization spends a million dollars lobbying the provincial government, it's all well and good that it's registered. But if an organization spends \$5,000, I think there is a qualitative and quantitative difference between those lobbying efforts. I'm just wondering if there's a record that will be publicly available that will disclose that kind of information.

Hon. M. de Jong: Clearly, there are different.... Well, they're not different categories. I don't want to use that term because there are only two categories of lobbyists. But there are different magnitudes of lobbying activity, as the member has described. I think that's a fact.

The registry as presently envisaged does not contemplate including quantifications or estimates of the value of the work or the value of the activity, though I am reminded by staff that under section 8 the regulatory power created as it relates to the returns is broad enough that that could be considered and could be added. The authority to do that exists. It is not contemplated at this time.

L. Krog: I appreciate the reference to section 8 of the act, which talks about in particular under (e) "a summary of the business or activities of the client or organization." That may, in fact, potentially allow for this capturing. I don't want to belabour the point under this section, but I certainly wish to return to it generally.

The former language where it talks about (iii) "the making or amendment of any regulation as defined in the *Regulation Act* or any order in council" now talks about "the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation."

I'm just wondering. Does this have the effect of removing changes to orders-in-council from the scope of lobbying, and if so, why? Or is, in fact, this new language broader and better?

[1020]

Hon. M. de Jong: As I understand it, the hon. member's question relates to the absence of the term "order-in-council." I am going forward on the assumption that....

I'm advised that, generally speaking, the term "regulation" is broad enough to capture primary and secondary — all forms of secondary legislation.

L. Krog: With respect to the definition on the bottom of page 2 of the bill, it's adding the following definition: "designated filer" means (a) a consultant lobbyist, or (b) in the case of an organization that has an in-house lobbyist, (i) the most senior officer of the organization who receives payment for performing his or her functions." If there is no senior lobbyist who receives payment, it's the most senior in-house lobbyist.

My concern in that section is that, while it stipulates that a consultant lobbyist must always file in the case of organizations using an in-house lobbyist, only one in-house lobbyist must file, and this will be the most senior officer. Does this, in fact, allow a lobbyist to hide behind the designated filer?

For example, you've got, you know, John Smith at Hill Knowlton, but he's not the most senior officer at that organization. Can he hide behind the designated filer so the public won't know he's doing the lobbying work? In other words, will the effect of this actually really disclose who's doing the lobbying, as opposed to simply the name of the designated filer?

Hon. M. de Jong: The short answer is no. Although there is a designated filer, he or she must file, listing all of the individuals engaged in the lobbyist activity. So there's no opportunity to hide behind the designated filer.

L. Krog: I take it for purposes of public disclosure, then, that what the Attorney General is saying is that the designated filer has to list everybody who's lobbying on that file or lobbying the government on that issue. But it doesn't, in fact.... There is no requirement, as I understand it, to designate how much. So in other words, Jim and Mary spend ten minutes on the file, and John spends seven days on the file. We have no idea of the proportion. In other words, who's actually doing the work?

It's like in a film production. You've got everybody from the caterer up to the producer listed, but we really don't know, in terms of contribution, who did what in terms of hours.

Hon. M. de Jong: That's probably a good analogy, because the requirement.... I mean, everyone's got to be in the credits. The best boy and the grip, perhaps, perform different roles than the producer. But the idea is that corporately, if I can use that term for the moment, the obligation exists to list each individual.

At this point, it's not contemplated that there would be an assignment of or an allocation of duties — who spent the most time. But anyone involved would have to be listed. I have the member's point that, obviously,

within a larger organization, different people would be involved to different extents.

L. Krog: It's a very quick question. The use of the term "affiliate" means a corporation that's affiliated with another corporation within the meaning given by the Business Corporations Act, etc.

Is the Attorney General satisfied that this legislation will, in fact, cover literally everyone by the use of that term?

[1025]

Hon. M. de Jong: The short answer is yes. We purposely selected the term "affiliate," which is a defined term under the Business Corporations Act, and replaced the undefined term "subsidiary," which was less clear. So we think we've met the objective of casting the net appropriately by drawing on the defined Business Corporations Act term.

Section 2 approved.

On section 3.

L. Krog: Section 3, as I read it, is consequential to the amendment of "in-house lobbyist," and it appears to expand the definition. I'm just wondering if the Attorney General can explain to the House: what's the expansion in terms of people who are now covered who weren't formerly covered by this?

Hon. M. de Jong: We're dealing with the section that lays out who is excluded from the definition. I think it's fair to say, or I hope, this section is clear. I'm not sure, in fact, that there's an expansion per se, but I hope it's clearer in terms of who is not to be considered an in-house lobbyist. Obviously, MLAs or ministers and their staffs are listed.

The member obviously has read and sees a listing and may have questions about one of the specific subsections between (a) and (e). I hope it's clearer. I'm not sure I would apply the term in practice of it being a significant expansion.

Section 3 approved.

On section 4.

L. Krog: Just so I'm clear on this one. We're now adding Members of the Legislative Assembly of another province or territory or persons on the staff of any of those members, and I'm just wondering: why are we excluding MLAs from outside of the province?

Hon. M. de Jong: I may not be answering the member's question. The change here was merely to add territories. Extraprovincial MLAs were always captured

by the exclusion. Now, the member may also have a question about why that is so, but I want to make clear that that's not a change. The change is to include territorial representatives.

L. Krog: I appreciate the Attorney General's answer. But, for example, I throw out the recent purchase by Quebec power of New Brunswick's electricity-generating facilities, which is a pretty significant shift in the delivery of a public service essentially. I'm just wondering: what is the principle behind excluding members of the Legislative Assembly of a province or a territory in general? I mean, what's the public benefit of that section?

[1030]

Hon. M. de Jong: I think the general principle is that governments and members of legislative assemblies should be able to speak with one another and, in so doing, not fall into the category of being a lobbyist. There is an assumption, I think, that elected representatives will always be in a position where they are wanting to advocate on behalf of the constituents that elected them. I think that's the general principle that's reflected here.

Section 4 approved.

On section 5.

L. Krog: As I understand it, this section will prohibit the practice of lobbying, holding contracts for providing paid advice in relation to the same matter. I'm just wondering. Can the Attorney General explain the effect of this section, and again, what's the reason for it?

Hon. M. de Jong: Two-part question. The section is designed to ensure that there is a specific prohibition against lobbying at the same time that a lobbyist or any person associated with that lobbyist holds a contract for providing paid advice to government in relation to the same matter.

The rationale is to ensure that a lobbyist is not in a position where they have either a real or perceived conflict of interest between their objectives as a lobbyist and the duty they may owe as a contracting partner with government.

L. Krog: Part of section 5 includes an exemption from the contracting prohibition, where "the registrar is satisfied that it is in the public interest" to exempt a person from the prohibition. I'm just wondering if the Attorney General can give us an example of what the government is contemplating would be in the public interest such that you would want to provide that exemption or such that there would be an expectation that the registrar would in fact provide an exemption.

Hon. M. de Jong: I'm not contemplating anything specifically, but when I was confronted by the section

and asked the same question and tried to answer it myself, it occurred to me that a possible scenario goes like this.

If a recognized health expert is involved in lobbying activity at a level that requires registration under the act or is that covered by the act and something akin to an emergency were to arise where the government felt that that was the person who needed to be brought on board to help manage the situation, in those circumstances there is a mechanism provided that would allow for the exemption.

Again, I want to emphasize to the member that at this stage of the game I don't have a specific scenario or situation in mind. This is there for the circumstance that we can't contemplate at the moment.

L. Krog: Then is this simply a piece that's been brought in from the Alberta legislation, with great respect, without much thought given to it, simply because it was part of a larger comprehensive legislative package? The question any judge would ask if ever confronted with the section is: what was the intent of the Legislature? Why was it done? Again, I'm asking: is there some reason for including this section?

[1035]

If it's just because it's part of the legislative package, that, in and of itself, is an answer. But I guess I'm doing my duty in trying to inquire as to what the reason is for this section.

Hon. M. de Jong: It does mirror provisions in the Alberta legislative package, but I'm satisfied that there is a rational explanation for why it could serve a useful purpose.

Sections 5 and 6 approved.

On section 7.

L. Krog: My understanding of this section — I just need to confirm this with the Attorney General — is that it simplifies and amends the periods of time in which returns must be filed. Again, it's a ten-day provision.

I'm wondering if the Attorney General contemplated any different times. Why have we stuck with ten days? Does it seem reasonable? What's the legislative experience in other jurisdictions, given that we regard lobbying as important enough to be the subject of a specific statute?

Hon. M. de Jong: The determination was made that ten was, and remains, reasonable. It certainly mirrors Alberta and — I'm just now advised — equates with the federal legislation, which is also ten days.

Section 7 approved.

On section 8.

L. Krog: Further to the earlier exchange this morning respecting a listing, potentially, of the kinds of expenses that lobbyists would have, section 4 is amended by section 8, saying: "(1) Each return filed under section 3 must include the following information...." It's the names, the address, the date on which the undertaking was made, the name of each individual engaged as a consultant lobbyist, "a summary of the business or activities of the client or organization... particulars to identify the subject matter," etc.

It's fairly general but not terribly specific. Again, I come back to my point that if you're spending a million dollars on it, as opposed to \$10,000 on it, the average person on the street would say that this is a big difference. I'm in there asking for minor regulatory change; I'm in there asking for a piece of legislation. The cost equated with lobbying for one, as opposed to lobbying for the other, will be significantly different.

I'm just wondering if the Attorney General is contemplating requiring any form of summary that would detail the kinds of expenses that are being made by lobbyists during the course of their duties. It seems to me that that would provide a much fuller disclosure to the public of what lobbying is about and what kind of money is involved. The public can then reflect accordingly on the potential results that the lobbying produces.

Hon. M. de Jong: In fairness, I'm not, at the moment, but I'm interested in what the member has to say. I will say this in response. Money is one measure. I think he would probably agree, however, that at times even that can be misleading. The well-placed meeting between the right individuals at the right time can potentially be, or be seen to be, as influential as the expenditure of vast sums of money.

I have the member's point. I don't want to be coy. At the moment I'm not contemplating regulations that would require the disclosure or quantifications of amounts, but I'm obviously interested in the member's rationale for how that would provide a better product.

[1040]

L. Krog: I appreciate the Attorney General's comments. Given that the point of this legislation is to ensure transparency around lobbying — to increase or enhance public trust in government and how it operates, and to hopefully, arguably, legitimize lobbying in the kindest and generous sense of the term, as opposed to the common suggestion that it is just this horrible activity whereby people buy favours from government as opposed to educating politicians around issues — it seems to me that the Attorney General has acknowledged what many people already accept.

It's that, you know, a good friend of someone in the government who has some powerful influence, who has some particular experience, some sway, some public stature may, in fact, be able to significantly influence government.

I don't mean it in an untoward way, but just in a general sense, as the Attorney General used it. But surely, on the other side of this, if you are spending significant amounts of money in your lobbying efforts, that, in order to achieve the goal of the legislation, is equally as important as listing the individuals involved.

It's kind of like acknowledging that somebody has had some training to participate in something, as opposed to spending a lifetime training. It's different. If you are spending significant amounts of money, I think that is what the public wants to know. It's not just who is doing it. The public wants to know: how much are they spending to do it?

To use an example, where the government grants a significant licence to allow the operation of a multi-faceted resort that may be involved in a billion-dollar development, surely the public has a right to know how much money was spent in lobbying for that outcome.

That seems to me, if it's not included in the legislation specifically or by way of regulation, then all we are doing with this bill is.... Yes, it's a step forward. I will acknowledge that. But it ultimately will raise more questions about the same loophole issue which was the public criticism of the previous bill: no ability to enforce. Well, if you're not going to disclose fully, and you're only stripping off two of the seven veils, yes, you can argue that it's progress, but it's not sufficient.

I want to hear from the Attorney General that he will look very seriously at this, because it seems to me that it is that kind of expenditure that the public has an interest in knowing and that the public, arguably, has a right to know.

Hon. M. de Jong: As always, I appreciate the member's commentary, and I do give serious thought to the suggestions that arise here. Though it does seem to me, however, that the construct that the member is developing around the reporting requirements might be something akin to — I don't mean this in a mischievous way — third-party reporting around a political campaign.

In the example he used, obviously the proponents of a project of that magnitude will be involved in all sorts of public information, public lobbying, trying to advance their position through a variety of different approval processes and reviews. What I think I'm hearing from the member is a suggestion that, insofar as that will involve publicly elected officials, there be a detailed accounting of those expenditures going far beyond merely recording the fact that lobbying activities are taking place.

I have to tell the member at this point that I am hesitant about that and have not embarked upon this with that kind of model in mind. I don't want to leave the impression that: "Oh, we'll go away and think about it." I'm a little hesitant about the kind of model that I'm hearing the member describe here.

[1045]

L. Krog: This section also provides a definition of "former public office holder." That means:

"... (a) a former member of the Executive Council and any individual formerly employed in the former member's former office, (b) any individual who (i) formerly occupied a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title, or (ii) formerly occupied the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or (c) any individual who formerly occupied a prescribed position in a Provincial entity."

You could argue that that's relatively clear, although when it uses the term "or another title..." I guess I'm looking for some definition of what's contemplated by the term "or another title."

Hon. M. de Jong: Our apologies to the member for the delay. The point here is that we wanted to be clear that one can't avoid the provisions of the act simply by changing the name of the position — so trying to think about how that might be done. The point is that a senior executive position in the ministry, a deputy minister... You couldn't avoid the provisions of the section simply by renaming the position.

Ultimately, the registrar will have the ability to provide guidance either through a broader interpretative bulletin or on a case-by-case basis where people need to seek advice on what their obligations are.

But that was the objective — to ensure that people weren't avoiding the provisions of the act by cleverly coming up with a new name for their position.

L. Krog: It makes reference in sub (c) to "any individual who formerly occupied a prescribed position in a Provincial entity." I recall, as this was nearly two weeks ago when we first reviewed this bill in committee stage, that when you go to the definition of a provincial entity, that means a prescribed provincial entity. I talked about, as I recall, various possible things that would be covered.

I'm just wondering, now that we're talking about a prescribed position in a provincial entity... Now, the provincial entity is going to be prescribed by the government. The Attorney General was of some assistance in responding to those things, and I believe that the Alberta statute has a long, long list. I'm just wondering: what are the prescribed positions that the government is contemplating covering?

[1050]

I presume it would include, you know, the CEO of an organization, but does it include the treasurer, the secretary, a director? Who's going to be included, and what has the Attorney General thought about?

Hon. M. de Jong: The analogy is a good one. We talked about prescribed provincial entities. There will, similarly, need to be a regulation that lists what those prescribed positions are within those. Presumably, that

will be contained within the same regulation so it's easily cross-referenced.

L. Krog: I appreciate that, but as the Attorney General appreciates, from the perspective of the opposition, we're being asked to approve a bill that gives a carte blanche to the government to determine what provincial entities are. The government could choose to list B.C. Hydro and call it a day. That's within the government's — or cabinet's, the Lieutenant-Governor-in-Council's — ability under this legislation.

At some point in the future, obviously, the opposition, the public are going to raise questions around why certain other provincial entities aren't covered. I guess I've got to ask the Attorney General today: what sort of positions is he contemplating should be covered when we talk about the term "prescribed position"? Is it just the top dog, or does it go further down the chain?

It seems to me that the director of finance for B.C. Hydro... If for some reason we cover B.C. Ferries, does it include all the executive officers? Does it include the senior captain of the fleet? In other words, what is the Attorney General thinking about when we use the term "prescribed position"?

Hon. M. de Jong: I think it's a fair question. I think the short answer is that a CEO and a senior executive team would logically be captured by the provisions. That would need to be clarified in the regulation itself.

I suppose, to a limited extent, it might be influenced by the nature of the entity we're dealing with and the makeup of the entity we're dealing with, but the CEO and senior executive would seem to me to be comparable to a deputy minister and the senior management team within a ministry.

L. Krog: One of the positions I'm contemplating is, in the broadest sense, the person in charge of purchasing for a Crown corporation, who may be responsible for the letting of contracts involving tens of millions or even, arguably, hundreds of millions or certainly hundreds of thousands of dollars. I mean the whole range — the person who decides how many widgets we buy this year and where we get our paper supply and how many trucks we buy or lease from a given entity. Is the Attorney General contemplating including someone like that?

It seems to me that someone who moves out of a Crown corporation or the provincial government who's had responsibilities in that area, who has intimate knowledge of the needs of government, who knows all the players... By the players, I mean the career public servants in that ministry or Crown corporation.

That person is in a position of significant authority and power, and I guess that's the kind of person that I would think should be covered by a prescribed position.

I'm just wondering what the Attorney General has to say in response to the example that I've just used.

[1055]

Hon. M. de Jong: I think that in certain cases they may be.

Beyond that, I also want to highlight for the member — and I think he probably knows this — that because we are dealing with former senior employees, in addition to their obligations as they may or may not exist under this act, which is to be named as part of a registration process if that is required, they are also governed by post-employment restrictions on activities. The two operate together, and in many instances, those senior officials are precluded for a period of time from engaging in any of that activity whether or not they are registered or listed.

Sections 8 to 10 inclusive approved.

On section 11.

L. Krog: This is a pretty substantive section of the bill. This is the one that essentially gives the registrar the authority to investigate, which didn't formally exist — which was one of the major public criticisms of the legislation.

Is this specific provision specifically modelled on the Alberta statute, the federal statute, other statutes, or is this a made-in-B.C. solution?

Hon. M. de Jong: It really draws on two models, specifically the sections of the Alberta act — section 15 of that act. But beyond that, it does draw on — and as we go through them, I may make reference to where some of the language comes from — a variety of provincial statutes where similar language is employed in terms of providing the power, mechanisms and means by which information can be utilized, obtained and exchanged — so some existing British Columbia legislation and the Alberta act.

L. Krog: Dealing with it specifically, 7.1(2) talks about the registrar having the ability: "may refuse to investigate" or cease investigation if "the matter is minor or trivial" — not unreasonable. But then: "(c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose...."

Given that the registrar, under sub (3), "must not impose an administrative penalty if more than 2 years have passed since the date of the contravention," and given how difficult it may be to find a contravention, I'm just wondering: is this section contemplating, then, that there's going to be a two-year limit on it, so that it would serve no useful purpose?

Is that what we're pointing at, or are we still expecting the registrar to investigate and provide a public report

and say: "This was the wrong thing to do, but we can't impose any penalty"? In other words, what's the function of giving the registrar that discretion to back away from an investigation if we've already got, essentially, what amounts to a two-year limitation period on it?

[1100]

Hon. M. de Jong: I think the question related to the interplay between 7.1(2)(c) and the two-year limitation period provided for in what will be section 10 of the act. My initial response would be that the section we're dealing with provides the registrar with an option that goes beyond the two-year limitation period, but obviously, the remedies available to the registrar to pursue that matter are limited by the two-year limitation.

I think the member's question was: is the two-year limitation period an absolute bar to an investigation? I'm not sure that it is, although the two-year limitation period obviously limits the options available to the registrar.

[L. Reid in the chair.]

L. Krog: That comment sort of flows into the subsection 7.1(3)(a), which says:

"If the registrar discovers that (a) the subject matter of an investigation under this section is also the subject matter of an investigation to determine whether an offence under an enactment of British Columbia or Canada has been committed, or (b) a charge has been laid with respect to that subject matter, the registrar must immediately suspend" — and it's "must"; it's mandatory — "his or her investigation and may not continue until the other investigation has been completed, the charge has been withdrawn or a final verdict has been rendered in respect of the charge."

I guess that when we come up against the administrative penalty aspect of it, this is a concern I have. Perhaps I've missed something.

If the contravention, it appears on the face of it to the registrar, occurred a year ago and the registrar commences an investigation because he or she has been advised of this.... They then discover that there's a police investigation. The police investigation takes 13 months, and the conclusion of it is that the police decide it's not worth pursuing. The registrar, however, is satisfied, on the basis of the work that they have done and the evidence from the police investigation, that in fact it would be appropriate.

But the way I read these sections — and sub (2), providing that you can't impose an administrative penalty if more than two years have passed — at that 25th month, when the registrar is free to go back and complete his or her investigation, quite frankly, if no charge has been laid through the RCMP investigation or another authority, then the perpetrator, if you will, is off scot-free. That's the way I read these sections. If I'm wrong, I'd love to hear the Attorney General correct me.

Hon. M. de Jong: In the example that the member has given, my view and the intention is that the registrar,

having commenced the investigation within the two-year period, would pick up his or her tools, continue and, if a determination were made warranting the application of an administrative penalty, would be in a position to do so.

The member may have been paraphrasing, though, when he said "may only impose the administrative penalty within the 24-month period." I'm wondering. He can help me by pointing out where he is drawing that from.

[1105]

L. Krog: I'm going to the bottom of page 8 of the bill, "Hearing and administrative penalty." It talks about: "Despite subsection (2), the registrar must not impose an administrative penalty if more than 2 years have passed since the date of the contravention."

My simple reading of that is that that's the date the wrong deed occurred.

Hon. M. de Jong: I think the member is right. I'm not sure that's satisfactory. There is potentially some limitation on the ability to impose administrative penalties beyond the two-year period. I don't have a conclusive answer for the member on that point, but I think he has identified an issue.

L. Krog: I appreciate the Attorney General's comments on this, because in order for this act to be effective, it has to be enforceable. It's not as if we have a police force out there monitoring this in the traditional sense. Police drive through a neighbourhood. They see somebody in the middle of a B and E. They're likely to get caught. We don't have that mechanism with this legislation.

Mr. Loukidelis, the present officeholder, will investigate if someone presents information to him. Properly speaking, I think, he has an obligation or a duty, if he sees it as something very serious and criminal in nature, to literally report it to the police. So he does his investigation.

[1110]

Given how long police take to investigate what would fall under — I don't know that it's an accurate term — the commercial crime division of the RCMP, where it's complex.... They're underfunded, it's difficult to investigate, and it's hard to get people to produce paper. It seems to me that that is a fairly significant weakness in this.

On one hand, we don't want to stop a higher authority like the police and the Crown prosecutors from going after individuals in those serious cases, but at the same time, it seems to me that there is a potential for a significant loophole with respect to this legislation allowing for two years since the date of the contravention, because it often takes such a long time for it to come to light that someone's been doing it.

As we well know from the previous public cases involving this issue, the limitation period was clearly past with respect to allegations made about Mr. Kinsella, for instance. Whether or not he had done anything wrong is an entirely separate issue. The fact was that that was the reality. The six months had passed. We've now extended it to two years, which is, certainly, obviously going to capture more potential cases.

It still leaves open that almost likelihood that in the serious cases, if the police don't move expeditiously and Mr. Loukidelis isn't on their tail, protecting the public interest, we may see investigations drag out. The potential perpetrator.... Because of the complexity of the case, the expense and the cost, the police say: "Forget it." Going back on Mr. Loukidelis's desk, and he's left with a two-year limitation under 7.2(3) that says he can't do anything or that he can't impose an administrative penalty.

I guess my next question is: flowing from that, is there anything in this statute or in the existing Lobbyists Registration Act or anything in this bill which, in the Attorney General's mind, would stop Mr. Loukidelis from, at least at that point, deciding to continue with his investigation, coming to his conclusions, issuing a report and saying, "You've been a very naughty boy, but I can't do anything to you," so that at least it would provide a discouragement to others from doing the same kind of thing?

Hon. M. de Jong: No, there's not any limitation on the ability of the registrar to complete his or her work, to issue the report and issue the finding. I'm trying to ascertain the authority for the proposition that there is a standard two-year limitation around the application of the administrative penalty that we're talking about here. To answer the member's question specifically, there is nothing whatsoever to preclude the completion of the work and the issuance of the report and the findings.

L. Krog: Dealing with 7.2(2), again, it says: "(b) may impose an administrative penalty of not more than \$25,000...." I'm just wondering: what's the source of the \$25,000? Is that consistent with federal or other provincial legislation, the Alberta legislation? Is it, in the Attorney General's mind, a reasonable penalty?

Hon. M. de Jong: It is consistent with the maximum provided for in Alberta, which is the two lobbyist registration regime that is most similar. Is it reasonable? Well, there's discretionary authority, obviously, on the part of the registrar. Is it possible that a circumstance might arise where one concludes that \$25,000 is inadequate to send the appropriate message? I suppose.

I am reminded, of course, with respect to administrative penalties, that the threshold is the balance of probabilities. It's a lower threshold than in other matters, in criminal

investigations. We think it's sufficient to send an important message, but ultimately, it will be for the registrar to use the discretionary authority that the section provides in terms of the levying of sanction and penalty.

L. Krog: Dealing with 7.5, on the bottom of page 9, this is the provision that allows the registrar to "make an order requiring a person to do either or both of the following: (a) attend, in person or by electronic means, before the registrar to answer questions on oath or affirmation, or in any other manner; (b) produce for the registrar a record in the custody...of the person," etc.

[1115]

It then gives provision for the registrar to apply to the Supreme Court for an order directing that a person comply, etc. Are the provisions in that section, 7.5, if I can call it that, consistent with other administrative tribunals across the province? Is the language fairly standard? If not, is there a difference? What is the difference, and if so, why?

Hon. M. de Jong: I'll try to reference the comparable British Columbia acts. For subsections (1) and (2), the member would find similar language in the Freedom of Information and Protection of Privacy Act. For subsection (4), the member would find similar provisions in the FOI legislation again, the Coroners Act, the ombudsperson act and the Representative for Children and Youth Act.

We have drawn on language from a range of statutes that include those similar powers. The other act that I see referenced with respect to subsection (5) is the Forest and Range Practices Act.

L. Krog: Again, on this particular aspect of it, 7.5. It talks about, in sub (4): "A person subject to an order under subsection (1) or (2) has the same privileges in relation to giving evidence to the registrar as the person would have with respect to a proceeding in a court." I take it that that's essentially in reference to the Canada Evidence Act? Is that against self-incrimination? Is that what it's designed to do?

Hon. M. de Jong: I am advised that it's actually a little broader than merely the Canada Evidence Act, because it seeks to codify, if you will, some of the common-law protections. Again, very similar provisions exist in the Coroners Act, the Representative for Children and Youth Act and the FOI Protection of Privacy Act.

L. Krog: With reference to 7.7, that talks about: "The registrar may direct that all or part of the information or a record received under section 7.1, 7.2, 7.3 or 7.5 be received in confidence to the exclusion of any other person, on terms the registrar considers necessary, if the registrar believes that the nature of the information or

record requires that direction to ensure the proper administration of this Act."

I guess the question is: what's the reason for this section? What's the situation that the legislation is contemplating where it would be appropriate to do this — in other words, to keep it secret?

[1120]

Hon. M. de Jong: The first thing I can advise the member of is that the Alberta legislation, I am told, specifically requires that investigations and the materials received be conducted in their entirety in private. We didn't want that blanket restriction to exist as it relates to materials and investigations undertaken by the registrar in British Columbia.

We did, however, want to create a mechanism that could be invoked, where the registrar deemed it necessary or appropriate, to designate a document or designate evidence taken to be received in confidence. What might be covered by that? I'm hesitant to speculate for fear of trying to influence what might come in the future.

One can imagine the receipt of, perhaps, commercial proprietary information, the substance of which is not relevant to the investigation, the existence of which might be very relevant to the investigation. So the mechanism has been created here by which the B.C. registrar can so designate.

The language is taken from the Administrative Tribunals Act, so there is similar language on the books in British Columbia. I think it's section 42 of the Administrative Tribunals Act, so the language exists elsewhere statutorily. I wanted to point out the distinction between what exists here and Alberta because much of the act is drawn directly from Alberta. This provision is not.

L. Krog: My thanks to the Attorney General, and I compliment the government for taking a step beyond the Alberta legislation. It's a good step.

With respect to 7.8, though, this is the requirement that the registrar must make a report of his findings, conclusions, etc. Then in sub (2) it says: "If the registrar considers it to be in the public interest, the registrar may include in a report details of any payment received, disbursement made or expense incurred by an individual named in a return filed under section 3 in respect of any communication or meeting referred to in the definition of 'lobby' in section 1 (1)."

I come back to my previous comments about whether the government is contemplating any regulation that would require the disclosure, because it seems to me that there is a bit of an inconsistency here. On the one hand, we're saying that the registrar, if he or she believes it to be in the public interest, can go ahead and disclose the \$10,000 or the million dollars that I used as examples earlier today — may disclose that — so the public gets the full and true picture of what was involved in this particular incident.

I suggest to the Attorney General that on one hand, it's being contemplated, and on the other hand, it's very clearly laid out in the legislation that the registrar can do that. I just think that it makes sense that the government contemplate regulation that in fact will have potentially the same effect.

I think it would have a salutary effect on enforcing compliance with the legislation and might, indeed, on the other hand, have the effect of limiting what can often be ridiculous expenditures by powerful interests to persuade governments to do things. When I talk about powerful interests, I'm not referring just to the business community; I'm referring to the broad spectrum of organizations that want government to do something.

[1125]

The other provision is that the registrar "must deliver to the Speaker of the Legislative Assembly each report made under this section." I take it that what we're contemplating is that if the registrar does 30 investigations in a year, they will be tabled separately and individually, as opposed to one annual report. Is that the general view?

Hon. M. de Jong: Yes.

L. Krog: I take it that the point of that is just to ensure that the public is made aware of this through the offices of the Legislative Assembly so that there is a clear public record, so that people know what's happened, so that it provides that kind of — how shall I say? — public exposure necessary to enforce compliance.

Hon. M. de Jong: Yes, and it is also consistent with the practice that has developed around reports from legislative officers.

L. Krog: Referring to section 7.92. It refers to a protocol. "If the registrar considers there is evidence of an offence against an enactment...the registrar may disclose to the Assistant Deputy Attorney General, Criminal Justice Branch, information relating to the commission of the alleged offence."

Obviously, the specific provision, as I recall, is that it's the Assistant Deputy Attorney General who is responsible for the appointment of independent prosecutors. The Attorney General is confirming what I've just said.

I'm just wondering: is there a particular protocol contemplated once the Assistant Deputy Attorney General is given that information, or will it be treated the same way now? In other words, he may well report to the Attorney General. He may well seek specific direction relating to a prosecution from the Attorney General, which has to be published in the *Gazette*. In other words, is there anything different contemplated in the existing practice?

Hon. M. de Jong: I think the best way I can answer is by suggesting what I believe would occur under these

new provisions, given the roles of the people involved. The registrar, we've talked about. The provision exists under sub (6) for her or him to report to the Assistant Deputy Attorney General, and I think the member will know and appreciate that that was a deliberate choice, as opposed to the Attorney General, occupying a political office.

What I think would follow is that the Assistant Deputy Attorney General, criminal justice branch, would make a quick determination but in the vast majority of the cases would then decide which investigating authority the matter should be passed along to — for example, the police — and would then relay the information for investigation.

I don't want to suggest that by virtue of this section, the Assistant Deputy Attorney General, criminal justice branch, is attracting any investigative role or investigative authority. That is not the intention of the section.

Sections 11 and 12 approved.

On section 13.

[1130]

L. Krog: This section, on the reading of it, clarifies that registration, completion or termination dates must be publicly available. Public office holders are not required to inspect that registry. The first clause removes the reference to the entire registry, and it replaces it with a clause that states the public will have access to registration, completion and termination dates.

Is the effect of this section to in fact limit the information that is now available under this statute, or is it to expand it? In other words, is the public only entitled to see parts of the registry as a result of this?

Hon. M. de Jong: Dealing with (b), which I think is what the member is referring to... No, the intention is to enhance the notion of transparency. For example, registries in other jurisdictions could be searched under active or inactive registration. I can think of circumstances in which this would be relevant and when the public may be interested to know when that transition takes place. So the short answer to the member's question is no. Actually, the intention here is to provide some expanded transparency and information.

L. Krog: I'd be satisfied with a nod from the Attorney General. As I understand it now, the entire return is public. This is simply expanding what is going to be contained in the return.

The second part of this section is the one that causes the opposition the greatest trouble. That adds the subsection: "(2) For greater certainty, nothing in this Act requires a public office holder to verify whether any person who is or may be lobbying the public office holder has acted in accordance with this Act."

The Attorney General will no doubt recall that in the previous session, the Leader of the Opposition introduced the Lobbyist Registry Reform Act. It specifically provided that officeholders were obligated to verify that a lobbyist was in fact registered and to ascertain the intended outcome of the communication. In other words, there was an onus on public officials. If you've made it to them and into their office and you're communicating with them, you would be required, as that public official, to verify whether or not you're in fact being lobbied.

It's the opposition's belief that that would significantly enhance compliance with the statute and would not be an onerous obligation on public office holders. It would restore public confidence in government generally, let alone this government, that it would not provide any significant expense. That, it seems to me, could be covered by a fairly simple form, if necessary, that persons would have to complete before approaching a public office holder.

It could literally be a checklist, but it would almost guarantee that no one is going to try and lobby without, in fact, complying with the act. Surely, compliance with the law is something the Attorney General is interested in, as is every member of this assembly. We're sworn to uphold the law and the dignity of Her Majesty. From the opposition's perspective, if you have a requirement that the public office holder has to take steps to verify, then you will in fact ensure compliance. You will raise — how shall I say this? — the level of trust and transparency all at the same time.

[1135]

It is for that very reason — the Clerk and the Attorney General both have a copy of this amendment now — that I would move to amend section 13(c) by removing subsection (2) and replacing it in its entirety.

[Section 13 (c)]

To remove subsection 2:

(2) ~~For greater certainty, nothing in this Act requires a public office holder to verify whether any person who is or may be lobbying the public office holder has acted in accordance with this Act.~~

And replace with the following:

(2) Having regard to the public expectation that public office holders perform their duties in a manner that affirms the integrity and dignity of public office, public office holders who

(a) receive communication that constitutes lobbying within the meaning of section 1, or

(b) attend a meeting arranged by a lobbyist within the meaning of section 1,

are obligated to verify that the lobbyist is registered and to ascertain the intended outcome of any communication that constitutes lobbying.]

I would so move.

On the amendment.

Hon. M. de Jong: We've partly had this discussion. Certainly, the hon. member raised it during the course

of second reading debate. I understand the attractiveness of what is being attempted by virtue of the amendment that's being proposed.

I should say that the section we're debating is there because the government and I wanted it to be clear where the obligation lay. I think the past act and other acts have largely been silent on this.

Here is the difficulty as I see it, and it relates to the workability of what the member purports to suggest by virtue of the amendment. He is suggesting that the publicly elected official is going to, in an individual way, become the regulator and be responsible for ensuring that others have complied. In the scenario they, if we just look at the amendment as proposed "are obligated to verify that the lobbyist is registered."

Well, that's probably not so difficult in the course of the meeting that might take place. Go on line and check the registry. The elected official says: "I see, Mr. Smith, that we're about to have this meeting and you're not registered." Mr. Smith says: "I'm not required to be." What responsibility does that elected official now have, when four months later it turns out that Mr. Smith is wrong and should have been registered?

In the case of in-house lobbyists, we've spent some time discussing the 100-hour rule and the need to develop some regulations around how that is calculated. The member, I think, with all of the best intentions around enhancing the effectiveness and compliance in the act, purports to impose an obligation on the part of the individual representing the state to verify things that are unverifiable.

Where does that questionnaire end? Is 100 hours of your year involved? "I don't think so," says Mr. Smith. Well, where does that leave the publicly elected official? In my respectful submission, it leaves him or her in an untenable position.

Whilst the theory and the intention are noble, the workability and the practicality of it are not. It exposes publicly elected officials to a liability. That's fine — making people responsible. But they are not in a position, in my respectful submission, to satisfy themselves in a meaningful and timely way. Nor, quite frankly, should they, in my view, be put in that position where they are now substituting themselves as regulator for the role that we have assigned to the registrar.

[1140]

I know the member and I have a difference of opinion on this. I'm not going to change his mind, and he's not going to change mine. But I did want the act to be clear.

I understand that the member suggests it should be a dual responsibility. I'm not satisfied that there is a practical, workable and fair way to do that. That's why the subsection exists as it does here and why I am obviously not favourably disposed to the amendment.

Amendment negated on division.

Sections 13 and 14 approved.

On section 15.

L. Krog: Specifically, this section makes some what I will call administrative amendments. One in particular that I'm concerned about is that it adds the following subsection: "(6) A prosecution for an offence under this section must not be commenced more than 2 years after the date on which the...offence occurred."

What we are saying very clearly is that if someone can manage to keep their illegal activities under this act secret for two years, then essentially they escape. I think that's a very clear reading. I don't think there's much question around the meaning of that section, but I want to relate it back to what I raised earlier.

Does the Attorney General, again, believe that if the offence occurred over two years ago and is not brought to the attention of the registrar until 2½ years after the contravention, the registrar is still entitled to investigate, the registrar is still entitled to issue a report, and the registrar is still entitled to make findings even though he or she will have no ability to impose a penalty?

Hon. M. de Jong: I have the member's point, and the answer is the same. There's nothing to preclude the completion of the report and issuance of the finding, but the member is correct about the clear limitations placed around the commencement of a prosecution.

L. Krog: I've referenced these points earlier in the debate today. It's the concern of the opposition that we don't have the police force that I talked about earlier doing this work in a specific way. It's not an area that's — how shall I say? — very much in the public eye unless the opposition is raising it on a constant basis or groups who feel they've been aggrieved by a legislative change raise the issue.

It strikes the opposition that, in fact, a two-year limitation for prosecution is not particularly reasonable having regard to the nature of the activities that this act is supposed to regulate, which the lobbyist registration and the amendments are supposed to regulate.

Our position would be that imposing that two-year limitation is not reasonable in the circumstances and is not going to encourage compliance with the statute when, in fact, we should be encouraging compliance, particularly given that, on one hand, we are in this section allowing for a fine of not more than \$25,000 and for a second or subsequent offence a fine up to \$100,000.

[1145]

So on one hand, we're trying to drive home the message that if you breach this act on a second offence.... You could have been fined \$25,000 in the first; we're going to fine you four times as much on the second offence.

So the message from the Legislature is that this is serious, and you shouldn't do it.

But the flip side is: "Oh, by the way, if you can manage to keep it secret for a couple of years, you get off scot-free." That's simply not acceptable from our perspective. I would therefore move the amendment, which I've already provided to the Clerk and to the Attorney General.

[Section 15 — to remove subsection (d)(6)

(6) A prosecution for an offence under this section must not be commenced more than 2 years after the date on which the alleged offence occurred]

On the amendment.

Hon. M. de Jong: I won't belabour the point, because I think the member has made clear what his and the opposition's view on this would be, except to put on the record that consistent with other statutory instruments, the government is prepared to proceed at this time on the basis of the two-year limitation period.

I should point out, though — and I'm sure this is not what the member would intend — that my expectation or my belief is that if the amendment he is proposing were to be adopted, the effect would be to return us to a six-month limitation. I rather suspect that's not what he has in mind.

Amendment negated on division.

Section 15 approved.

On section 16.

L. Krog: This section provides that "A person subject to administrative penalty under this Act must not be prosecuted under this Act for an offence in respect of the same incident that gave rise to the administrative penalty."

Just so I'm clear and the public understands, if Mr. Loukidelis does his investigation, completes it and fines you, then you can't be prosecuted under this act for an offence in respect of the same incident that gave rise to the administrative penalty. In other words, the police can't turn around and then charge you, and the Crown prosecute you.

Hon. M. de Jong: I think the member has the section right in terms of how it would operate.

L. Krog: Although I appreciate that this is a fairly standard approach to these things, I guess one of the concerns I have is that if the intent is to discourage breaches of the act, it places the registrar in a somewhat difficult position of having to — given the two-year problem that we discussed earlier — encourage them to come to a decision fairly quickly. If this looks like something that

should be prosecuted, as opposed to me as the registrar simply determining that this person be fined, then he or she — the registrar — has to come to a determination pretty quickly whether it's a serious matter.

In fact, it may have the effect.... If the police forces aren't perceived to or don't in practice move quickly on these matters, it's going to ensure that we're imposing administrative penalties only when we should probably be prosecuting in order to drive home the message.

That's a concern I raised with the Attorney General around this and this particular provision — again, understanding that it's a relatively common thing. No one should be required to face double jeopardy, but it is an issue if you're going to encourage effectiveness with the act.

[1150]

Hon. M. de Jong: I have the member's point, and I think it is something that we will need to track to ensure that prosecutions are not being compromised by virtue of the limitation requirements. So I have the member's point.

Sections 16 to 21 inclusive approved.

Title approved.

Hon. M. de Jong: I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 11:51 a.m.

The House resumed; Mr. Speaker in the chair.

Report and Third Reading of Bills

BILL 19 — LOBBYISTS REGISTRATION AMENDMENT ACT, 2009

Bill 19, Lobbyists Registration Amendment Act, 2009, reported complete without amendment, read a third time and passed.

Committee of Supply (Section A), having reported resolutions, was granted leave to sit again.

Hon. M. de Jong moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until 1:30 this afternoon.

The House adjourned at 11:54 a.m.

PROCEEDINGS IN THE DOUGLAS FIR ROOM

Committee of Supply

ESTIMATES: MINISTRY OF ENVIRONMENT (continued)

The House in Committee of Supply (Section A); H. Bloy in the chair.

The committee met at 10:10 a.m.

On Vote 26: ministry operations, \$146,521,000 (continued).

Hon. B. Penner: Yesterday the member for Maple Ridge–Pitt Meadows had a question around the marbled murrelet and recovery strategies. We followed up to get some more information on that issue.

I'm advised that significant investments in habitat and population analysis will ensure that the most up-to-date information is available for informing the ranking of the marbled murrelet in the B.C. conservation framework.

The government has recently announced additional protection for coastal old-growth habitats, including marbled murrelet nesting habitat under the coast land use decision. Additional amounts of coastal old-growth habitat will be protected as a result of B.C.'s ecosystem-based management regimes, which have not yet been calculated but will likely be significant.

The draft marbled murrelet recovery strategy, which recommends protection of 70 percent of remaining nesting habitat, represents science advice to governments but does not include socioeconomic factors in its recommendations.

So there have been a number of initiatives taken on the marbled murrelet, and there's more work to be done.

S. Fraser: I'm just going to have a follow-up question to my question yesterday to the minister about a very questionable and discredited plan to build a bear high school on Grouse Mountain that the ministry had set aside \$400,000 for, against its own staff's advice and independent experts' advice and every bear expert in the world that I'm aware of, including those on his own staff.

The minister gave a long and rambling answer that I found disquieting, but I don't have time to address those issues, so I'm going to go right to the meat of this.

The minister went as far as to say that the district of North Van should be allowed the autonomy to make the decision on this great project that he's supporting, surprisingly. The district of North Van met last night as we were here. They decided, in a resounding decision, to

not support this experiment, for all the right reasons. There were also questions about political impropriety at the meeting.

So two parts to this question — noting how long the minister takes to respond, I'll keep it down to one question with two parts.

Will the \$400,000 plus interest that has been set aside for five years for this experiment.... In the face of big cutbacks on Bear Aware programs and no funding to the existing accredited bear rehab facilities, will that money now be put to the appropriate use — go to those accredited bear rehab facilities that are doing the good work of the ministry that the minister should be doing? Will that also be split with the ministry's own staff, so they can actually do their Bear Aware programs in the face of cutbacks and actually do the work to prevent orphaned bears?

Will the minister agree to request the Office of the Auditor General to review the ministry and the minister's office's handling of this questionable and untendered contract?

[1015]

Hon. B. Penner: It's regrettable that the member has put so much effort into undermining a project which is intended to improve the success and the odds for orphaned bear cubs. He seems to be taking considerable delight in the challenges that have been encountered in getting this pilot program launched.

His motivation is questionable, particularly since this project is outside of his constituency. However....

S. Fraser: A point of privilege.

Point of Order

The Chair: Member for Alberni–Pacific Rim on a point of order.

S. Fraser: A point of order, thank you.

I reserve the right to.... The minister questioned my integrity. I believe that requires an apology.

The Chair: Member, I'm going to ask the Minister of Environment to continue. I heard a discussion based on facts. If I heard wrong, I'd further consider it.

Debate Continued

Hon. B. Penner: Clearly, as I indicated yesterday, for this project to proceed we needed the support from the district of North Van council. We are awaiting official word of what the district of North Van council has said. I understand that there was a meeting held yesterday. The member, as I noted, has spent some time there in North Vancouver, so he may have more details at this moment

than we do, but we're waiting to hear officially from the district of North Van council.

If the council is not supporting this project, then I expect that the pilot project will not go ahead. That will be disappointing for those who were looking forward to an opportunity to provide a greater-sized area for orphaned black bear cubs to become familiar with the outdoors before being fully released into the wild.

There are a number of volunteer facilities today that try their best to look after orphaned black bear cubs, and it is challenging. I think I've been to three out of four of the facilities. I know they do the best with what they have, but it's a challenge because they don't have a lot of space for these bear cubs. Certainly, they're located at low elevation and not in the mountains.

That said, if that is the outcome for this proposal — to try and increase the chances of bears getting acclimatized before full release to the wild — then the ministry will look to see where those funds can go.

Our preference would be for Bear Aware programs to try and reduce the incidence of conflict. We've already been quite successful in that regard. I noted earlier that in the last three years there have been 50 percent fewer black bears that have had to be put down by conservation officers due to conflict than there were in the last three years of the NDP government. We want to continue to work on that record, to improve that and to look at other measures we can take.

[1020]

There is not \$400,000 remaining, however, as \$40,000, or thereabouts, was spent out of that initial funding for a report that was prepared by Mr. Christopher Parker. That report provided advice to government on a range of issues and initiatives, and the ministry is reviewing those recommendations. It did deal with an earlier proposal that had been put forward by Dr. Ken Macquisten with respect to the bear rehabilitation idea on Fromme Mountain.

That was before some of the details had been provided. There was additional information, and the proposal had changed over time during consultation with the Ministry of Environment. But Mr. Parker's report also dealt with a number of other issues, as the member will be aware, and the ministry will have the benefit of those recommendations for our future consideration.

M. Sather: The minister will be aware of an issue on the North Alouette River in Maple Ridge where water was illegally diverted from the river in early June by the Aquilini Investment Group for a cranberry operation. The conservation officer service has investigated, and personnel from the ministry said that recommendations are being forwarded to the Attorney General's office with regard to the possibility of charges.

When will those recommendations go forth to the Attorney General's office, and will the minister commit,

whether or not charges are laid, that the recommendations, the outcome of this investigation will be made public?

Hon. B. Penner: I'm advised, in response to concerns that were raised in the area of the North Alouette River that the member refers to, that the Ministry of Environment staff did attend and perform an on-site investigation. I think that was in June of 2009.

[1025]

Subsequent to that, the ministry did issue an order requiring that the operator cease any water withdrawals from that equipment that was found there during our inspection. The conservation officer service was called in for an investigation. I'm advised that the CEIU, the commercial environmental investigations unit, which was established about three years ago, is handling that investigation on behalf of the Ministry of Environment.

In due course a report to Crown counsel will likely be forwarded. I am not going to speculate about what the recommendations will be to Crown counsel, but the process that will be followed will be the same for any investigation. Whether or not charges are approved by Crown counsel, the same process will apply afterwards to whether or not that information is available through freedom of information.

R. Fleming: I wanted to ask a number of questions, and perhaps it's to the Minister of State for Climate Action, about a number of government programs and the targets government is trying to fulfil that are required of it in legislation.

Just a couple of questions for that minister, maybe at the outset, to ask if he can confirm here in this committee today that government intends to keep its commitment to have a carbon-neutral public sector by 2010.

Hon. B. Penner: My colleague the Minister for Climate Action will be answering in a moment.

I just wanted to start by acknowledging that there have been, in this division as with others, some budget changes from what was the case a year ago. We've looked to achieve some efficiencies. Most reductions in funding that you'll find under this budget topic were found in the areas of contracting and consulting services as well as advertising, as we've had to tighten our belts due to the decrease in revenues to government generally.

[1030]

We do remain focused on our targets and commitments, and that's demonstrated by the appointment of the Minister of State for Climate Action.

Hon. J. Yap: The commitment is to achieve public sector carbon neutrality by 2010. That has not changed.

R. Fleming: Okay, so the minister is using the definition in Bill 44. This contradicts the statement made by the minister of state earlier on the public record that 2012 was the date for a carbon-neutral public sector. I'm wondering if the minister of state could describe if he conferred with the Minister of Environment on whether the target date was going to be shifting, in providing the answer that he just previously did, and reconfirming that 2010 is the date.

Hon. J. Yap: The member is referring to a misstatement on my part a few months ago with respect to the date when a carbon-neutral public sector would be achieved. That has not changed. It's in legislation, and that is the year 2010.

R. Fleming: Just a question for the minister — a favour to ask him, actually, in this process. If he could outline the specific regulations that government has since drafted in respect to Bill 44 and table them or supply them to the opposition at some point in time after estimates are over, that would be appreciated.

Hon. J. Yap: We would be glad to provide a briefing on the regulations in respect to this bill to the member opposite.

R. Fleming: Can the minister tell us what the public sector's total emissions will be this year?

[1035]

Hon. J. Yap: All parts of the public sector are taking action to reduce their emissions, and 2010 will be the first year when the broader public sector will be reporting out on its emissions.

R. Fleming: I want to ask the minister, then, in light of that response, to explain. If government is obligated to be carbon-neutral by the 2010 calendar year, is it the case that government today doesn't actually know what its total emissions are until the end of 2010? In other words, next year the requirement becomes effective in law, but is he saying here today that the government actually won't know the emissions levels that inform the basis of that law until the following year?

[1040]

Hon. J. Yap: If I could just back up in regards to the previous question on regulations under the Greenhouse Gas Reduction Targets Act, 2007. There are two regulations that are now public. Those are the carbon-neutral government regulation and the emission offsets regulation, which are in the public domain.

With respect to carbon-neutral government, this is of course a way for the province to show leadership in taking action on climate change. The task at hand is to, first

of all, measure emissions, to reduce emissions and then offset to achieve our targets. That work is underway, and as I said, 2010 will be the first year when we will be reporting out.

R. Fleming: The question wasn't just on the reporting out. I'm wondering if the minister could come back to part of the question that I just asked, which is around the law coming into effect in 2010 but when the accounting and assessment....

I didn't hear an answer that government knows what its total emissions are right now. Therefore, it doesn't know what balance of emission reductions and offsets to calculate to charge all public sector entities that are going to comply with the law.

So I wanted to ask him: will the reconciling of whatever carbon offset purchases or calculated emission reductions per entity are accomplished in 2010 be paid for, in some cases — in the case of offsets — in the 2011 fiscal year?

Hon. J. Yap: The measurements of emissions in the public sector are underway right now. The first report, as I mentioned, will be for the year 2010. We're not waiting until 2010 to take action. Action is being taken, has been taken through the public sector energy conservation agreement with B.C. Hydro. We've made significant investments throughout the public sector to help with conservation and reduction of emissions.

For example, we've made investments in Advanced Education totalling \$9.7 million; Education, \$2.2 million; Health, \$10.7 million; Forests and Housing, specifically, \$3 million; Public Safety and Solicitor General, \$132,000; and the list goes on, for a total of \$26 million just for the '08-09 year.

[1045]

These investments will result, are resulting, in reduction of emissions, and these are being tracked. As I said, for the year 2010 we'll be providing the first report.

R. Fleming: I appreciate the minister's response. I think he probably also appreciates that elsewhere in other ministries, in terms of coordinating his mandate, we've seen the left hand not being in sync with what the right hand is doing — school districts, for example. We've canvassed this elsewhere, so I'm not going to pursue it now, but there's a \$110 million annual facilities grant fund that has been cancelled by this government midway through the fiscal year.

We know that in district after district there are projects that were aimed at reducing energy consumption, installing efficient fixtures and heating systems, that are not going to be pursued by districts. And school districts will, instead of reducing their emission levels, be purchasing offsets to continue consuming more energy and creating more emissions in the atmosphere.

That's unfortunate. I realize that government is a large creature and that coordination has to occur, and I think it speaks to the general concern that the secretariat, which has been moved around several times in just a short space of time, doesn't have that overarching coordination.

The question I want to ask — building on the minister's last answer, because he has acknowledged that government hasn't measured its total emissions yet — is how that squares with the Pacific Carbon Trust. Information gleaned from their publications suggests that they are already budgeting 700,000 tonnes in offsets that are "primarily for the public sector" that it intends to begin purchasing.

So my question is: where did that figure come from — the 700,000 tonnes that is primarily reserved for public sector entities to buy — and what does that 700,000 tonnes represent? What does it represent in terms of total public sector emissions? Is it 10 percent, 20 percent, 50 percent, etc.?

[1050]

Hon. J. Yap: I'd like to first of all start out by clarifying and correcting the member's comments with regard to the secretariat. From the very outset, government intended for the climate action secretariat to be a part of government within the Ministry of Environment. It started out attached to the Premier's office and was transferred from there to the Ministry of Environment, where it is. In fact, the Minister of State for Climate Action was created to bring even more focus and work with the secretariat to move forward our government's agenda on climate action.

With respect to the Pacific Carbon Trust, this is a Crown corporation that was set up by government to manage the government's and public sector's offsets. The figure that the member mentions is the estimate by the Pacific Carbon Trust with respect to the offsets that they will need to provide for the public sector.

We're not waiting for 2010 to start down this path in offsetting emissions. In fact, the member I'm sure knows that all government travel now is offset through the Pacific Carbon Trust.

R. Fleming: I'm still waiting for an answer from the minister on what percentage of total public sector emissions 700,000 tonnes represents. So if he knows that — to answer that question.

I wanted to ask the minister, though, if he has a concern about the 700,000 tonnes annually that are reserved for the public sector by the Pacific Carbon Trust when the entity has only sourced, so far, 300,000 tonnes for delivery over the next five years. This suggests that, in the next 18 months, it needs to source hundreds of thousands of additional tonnes that need to be identified as offsets somewhere else in the public sector or in the economy.

This all has to be deliverable for the 2010 calendar year — as the minister says yes — and nobody on this side is suggesting we should delay. In fact, we feel that we should be doing more. We feel that we should be perhaps not looking so strongly at offsets but striking a balance closer to absolute reductions in emissions.

But having said that, if the minister could provide an answer on what percentage the 700,000 is of the total tonnes emitted by the public sector and where the Pacific Carbon Trust expects to source the hundreds of thousands of tonnes that have not been identified yet — and achieve this by the 2010 calendar year.

[1055]

[J. McIntyre in the chair.]

Hon. J. Yap: The 700,000 tonnes is a planning estimate that the Pacific Carbon Trust is working with. The exact percentage of emissions that will need to be offset, of course, will not be known. We're working to reduce emissions. You know, on that point, we agree with the member that it's preferable to have actual reductions in emissions. What you're not able to reduce, you offset.

The 700,000 tonnes, we believe, is a reasonable planning estimate. It will be a challenge for the Pacific Carbon Trust to get to the offsets, but work is well underway. Pacific Carbon Trust has recently issued its first open call for offsets, and our understanding is that the response has been quite positive.

Are we confident that Pacific Carbon Trust will be able to offset at the 700,000-tonne level? Yes, we are. We're in close contact with the Pacific Carbon Trust, and we're confident they will be able to provide the offsets that are needed for the year 2010.

R. Fleming: The question, then, that I would ask the minister... He's expressed his confidence that this is a good planning estimate, and that's fair. He hasn't answered the question about what percentage of public sector emissions the 700,000 tonnes represents. I've asked him twice now, so if he could comment on that.

Then he stated that he just agreed with us that it's preferable to absolutely reduce emission levels, rather than engage in offsets that continue to add greenhouse gases to the atmosphere. Now, I know that discussion happens at the western climate initiative, and I presume that the minister of state is the lead political representative for this government at those tables. There is a discussion there, a very earnest one, about what the right balance is.

I would again ask him: since this government has put a tonnage figure on the Pacific Carbon Trust and on how much it hopes to offset from the public sector, what is that balance? What is being achieved through

emission reductions versus offsets being purchased to continue current status quo practices in government?

[1100]

Hon. J. Yap: First of all, with respect to WCI, the western climate initiative, our participation is in fact as Canadian co-chair of WCI, and we're very active with the western climate initiative. One of the principles consistent with WCI that we're following is that we'll first of all measure and then reduce our emissions wherever possible and offset the balance.

Clearly, the amount that we would be required to offset will depend on things like technology improvement and, on that front, technology improvement also on the investments that we've made to reduce emissions.

I've alluded to some of them in my previous answers, but just to share with the member, we've taken a number of steps — for example, implemented advanced power management, including auto sleep mode during off-hours, which saves more than ten million kilowatt hours of electricity annually. This is in the public sector. We've supported ministries in the purchase of multifunction devices to replace single-purpose printers, photocopiers and fax machines.

And this is important. We've supported the procurement of hybrid vehicles in terms of fleet management — the first jurisdiction in North America that we're aware of that has mandated this — bringing the total up to 21 percent. That's 21 percent of government's light vehicle fleet that are hybrid vehicles, giving our province one of the largest hybrid fleets in North America.

All of these steps and others will help the public sector reduce emissions. What we need to offset will then be offset.

[1105]

The western climate initiative, of course, also has the mandate to bring in place a cap-and-trade system, and we're well on our way in designing a cap-and-trade system for implementation by 2012. Of course, the member opposite may be aware of it, and we note that the opposition had actually voted against the cap-and-trade. But we're proceeding, through WCI, with implementation of a cap-and-trade system.

R. Fleming: I wanted to ask the minister less about his co-chairing of the WCI and more about his opinion on what the right balance is about offsets and emission reductions. He's mentioned some steps that have been taken, and that's good. I think he's aware that the public sector in total is responsible for about 1 percent of the total of British Columbia's emissions. We really need to be talking about other areas of the economy as well.

What I would like to maybe ask the minister about, while we're on this topic, is how carbon offsets are going

to be charged back within the public sector. Is it going to be a global amount that is purchased centrally somewhere by government, or is it going to be within ministries, for example? We'll use the examples of ministries for now and maybe leave the SUCH sector out of it. If he could explain how that's going to work.

[1110]

[H. Bloy in the chair.]

**Point of Order
(Chair's Ruling)**

The Chair: Before I recognize the member, I'd like the House to know that I have reviewed remarks that were made this morning, and I'm going to ask the minister to withdraw his remarks questioning the motivation of any member of this House.

Minister, withdraw your remarks.

Hon. B. Penner: So done.

Debate Continued

[J. McIntyre in the chair.]

Hon. J. Yap: The ministries will be expected to manage their operations as they do now, and with respect to emissions, there are elements that would be within their control. For example, travel is a good one, where we've mandated that we rationalize travel to reduce emissions. We're tracking the travel that government undertakes. So that's an example where we're seeing reductions in travel, and as I had said earlier, the government's travel is carbon-neutral.

It's important that the offsets stand the test of quality and be of high integrity. That's why we have the Pacific Carbon Trust which has a mandate to invest in quality, high-integrity offsets. We know that as we move forward what we foresee will be ministries tracking their operations, tracking their emissions, offsetting, but the actual purchase of offsets will be handled centrally by government through the Pacific Carbon Trust.

R. Fleming: The minister of state mentioned that carbon offsets and carbon neutrality requirements in the legislation will be managed by ministers of each ministry. I just wanted to ask a further question on that in terms of accountability. How will those ministers be held accountable for emission calculations that are established and neutrality requirements that must be achieved?

Let's just take the Minister of Advanced Education as an example — a number of institutions there, probably a balance of emission reductions being achieved at some institutions and offsets being purchased. However, once the overall amount is calculated for that entire ministry,

what accountability mechanisms are there in place if they fail to comply?

[1115]

Hon. J. Yap: Government will be reporting emissions reduction and offsets publicly starting in 2010. Ministries will be accountable, and the reporting will be public and transparent. As well, government will be putting together verification procedures through the work of the Ministry of Citizens' Services to ensure that the information is verified as it's reported out.

R. Fleming: In terms of expanding the scope of inclusion of the public sector in the legislative requirements and making them accountable in the reporting entity that the minister just described, I wonder how the minister of state would propose to include the B.C. ferry corporation, because B.C. is a signatory with the state of Washington and the state of California on a statement and an agreement — a memorandum — between those three jurisdictions which obliges this government to stick to a number of commitments around air quality and emission reductions.

It includes, very explicitly, ferry emissions. All three jurisdictions have ferry systems of some kind. This is a memorandum of June 2007. What is interesting and what has come to light again, because of the governance review of TransLink and B.C. Ferries by the comptroller general, is that B.C. Ferries does not need to calculate its carbon emissions or to participate in carbon-neutral legislation, which we've been discussing this morning.

The marine sector is a huge contributor to B.C.'s total emissions. I think 65 million tonnes come from the marine industry, and B.C. Ferries is a major player and emitter within that sector. So I would ask the minister....

His colleague the Minister of Transportation has a report on her desk recommending some changes to B.C. Ferries. I wonder if he will participate, now that the review has been tabled, in looking to include B.C. Ferries — perhaps this was an oversight in the first place — as a public sector entity and oblige it to meet the legislative requirements that are required of everybody else, whether they're hospitals or school districts or universities.

[1120]

Hon. J. Yap: First off, B.C. Ferries is not a public service organization by definition. So in terms of carbon-neutral government, carbon-neutral public sector are not included in that definition. However, B.C. Ferries does pay carbon tax. As it fuels its ships, it pays carbon tax and, through the carbon tax, participates in the climate action that we've introduced.

As far as the transportation sector, it is an important contributor, a major contributor, to emissions. Our over-

all plan includes initiatives for reducing emissions in all sectors, including the transportation sector. But to answer the member's question, B.C. Ferries is not included in carbon-neutral public sector.

R. Fleming: I appreciate the minister's answer, and maybe I'll ask him just one more question on his ability to pursue it with his colleagues, with his government.

I quoted wrong the emissions for the marine sector. I quoted B.C.'s overall tonnage, but nevertheless, what is important here is that the marine industry is approximately 4 percent of total emissions in British Columbia. So it is significant, and of that 4 percent total, B.C. Ferries is the most significant consumer of bunker fuel and of producing emissions on our coast.

The minister is technically correct. B.C. Ferries is not a Crown corporation, so it doesn't have the same obligations as B.C. Hydro. But surely there's an opportunity here, given that the only shareholder for B.C. Ferries is the people of British Columbia, the government of British Columbia. We are the only shareholder. Also, B.C. Ferries is under contract exclusively with the province of British Columbia.

Surely there's a means here — and I'd ask the minister to consider it and give comments — to tie to the contract-for-service requirements with B.C. Ferries to meet the same obligations under law that every other Crown corporation and Crown entity and public sector organization has to fulfil.

Would the minister not agree that there's some logic to that, and what are his thoughts on pursuing it in the future, given how significant a source of emissions this is in British Columbia?

[1125]

Hon. J. Yap: We would take the member's suggestion under advisement. However, the climate action plan of government is comprehensive and includes steps to address emissions in the transportation sector — as I mentioned, an important sector in terms of carbon emissions. For example, one of the initiatives is to green B.C.'s ports. That's one initiative to reduce carbon emissions in the marine sector.

There is, as the member noted, a review by government of the governance. As I said, we'll take his suggestion under advisement.

R. Fleming: I want to ask a couple questions about the climate secretariat itself. The Minister of Environment earlier this morning alluded to the budget cuts that have happened there and suggested the way that government is achieving reductions there. I think its budget has gone from approximately \$15 million last year to \$7 million this year. The Minister of Environment outlined that things like travel, contracts to external contractors and

other areas are responsible for the majority of the cuts in the secretariat's budget.

I don't know what the FTE numbers are in the secretariat and what they were, and I don't even want to ask because we don't have ten minutes to hear that answer.

Given that there are savings trying to be achieved across the secretariat, I want to ask the minister very specifically if he can confirm and give details on expenses that the climate action secretariat may be incurring in relation to hosting the 2010 Vancouver and Whistler Olympic Games.

Are there expense items in the budget related to the games? Are there hosting activities or marketing activities being paid out of the climate secretariat?

Hon. J. Yap: There are no planned expenditures for hosting activities during the 2010 games as far as the climate action secretariat is concerned.

R. Fleming: Are there any expenses at all that are from the climate action secretariat to any aspect of the 2010 Olympic Games — marketing, advertising, purchasing of supplies, participation or disseminating information to visitors about the climate action secretariat?

[1130]

Hon. J. Yap: We have a great story to tell here in British Columbia, and the 2010 games will allow us that opportunity. In the area of climate action, we expect that there will be some communication materials that are already pre-existing that we will make available as part of the 2010 experience. But in terms of any specific budgeting, there are no planned expenditures.

R. Fleming: Has there been money expended in this regard already? Is there an estimate of how much might be in the current fiscal year, in this budget?

Hon. J. Yap: The secretariat provided advice to VANOC so that we could host the greenest, most sustainable Olympic Games in British Columbia in 2010, but I reiterate again that there are no planned expenditures for any hosting activities during the 2010 games.

R. Fleming: One of the things that... I think that B.C.'s total electricity sales are something like \$5 billion annually. That's a tremendous amount of energy, obviously, consumed — and natural gas consumed in the home as well. We had a program of sorts that funded retrofits called LiveSmart — the purchase of energy-efficient appliances, home heating systems and a number of things that qualified for rebates. Last year was the budget year it was announced; this was the budget year that it was terminated.

I want to ask the minister a couple of questions about that, because he has suggested elsewhere that recessions aren't good times to invest in retrofits and home renovations that would achieve energy savings and also comply and go some way to the climate action plan of government. I thought it was an odd statement for the person who is supposed to defend the climate action plan to his colleagues and to government and in the public. That system, LiveSmart, is no longer here.

I want to ask the minister this question. Immediately after LiveSmart was cancelled, energy audit orders dropped by 25 percent — that's what most companies were reporting — 50 percent in some cases. So 25 to 50 percent of calls and prebooked energy audits were cancelled by companies that conduct those audits.

[1135]

I want to ask the minister if there is any reconsideration for LiveSmart to be sustainably funded and brought back — and enhanced, quite frankly. At \$60 million total budget over three years.... It was cancelled in this fiscal year. Yet we can have a \$600 million roof replacement for B.C. Place, which was totally unbudgeted, suddenly crop up in this same fiscal year. You know, I really don't understand how government is making these decisions through some kind of lens of climate change when these kinds of things happen, when these kinds of fiscal priorities are stated, as they have been this year.

The question for the minister is: what is he doing to bring back LiveSmart? Is he talking to all the contractors and others who established their businesses, quite frankly, and responded to market demand, which is positive, for rebates, for installations and for energy savings? What is he going to do to revive that program and expand it?

Hon. B. Penner: Just to note that this program is actually operated and funded out of the Ministry of Energy, Mines and Petroleum Resources. The member may wish to take his questions up during the budget estimates for that ministry, which funded the LiveSmart program. But I will note here that the member is incorrect in his characterization that the program is cancelled. In fact, the government is living up to the budget that was established for the LiveSmart program of \$60 million.

What we announced through the Minister of Energy, Mines and Petroleum Resources this summer was that enough people had subscribed to that program that it looks like that \$60 million will be fully subscribed. In fact, 40,000 people took up the initial assessment.

The member should know that in order to qualify for the LiveSmart funding, there are two steps. The first is that you have to get the initial assessment, the initial audit. If people had already done that, then they are still

entitled, even today, to apply for the balance of the funds that are remaining.

[H. Bloy in the chair.]

According to the information we have, 14,525 efficiency retrofits have already been completed, but there are additional people, as I noted, that had the assessments done, which is a key component to qualifying for the funding. If those people complete their upgrades, as recommended from the initial audit or assessment, then they are still eligible to receive the LiveSmart funding rebates. We anticipate that there'll be another 15,000 or so retrofits undertaken under the LiveSmart program over the next 18 months.

That funding is still there. What we announced was that the \$60 million budget that had been announced is being honoured by government, but because of the numbers of people taking it up, it was now projected to be fully subscribed. But the government is honouring the commitment to fund the upgrades to those people who had taken the time to get the initial assessment work completed or undertaken.

[1140]

Now, in order to qualify for the funding, they'll have to actually follow through and make the upgrades that were identified as a part of that initial assessment or audit. The Minister of Energy, Mines and Petroleum Resources has already publicly stated that this is one program that, should revenues recover to government, he would like to see continued even further, but that will be a matter for future consideration.

R. Fleming: So 40,000 audits completed; 14,000 retrofits accomplished. There are 1.75 million private dwelling units in B.C. The whole point of LiveSmart was to see what the takeup rate, the public interest, was in a pilot program.

Because the pilot program was successful, because there was interest in this, government cancelled it at exactly the same time that unemployment in B.C. was reaching 8 percent or 9 percent. Most of the new ranks of the unemployed — where do they come from? The construction sector.

This was a perfect opportunity to keep people in work — who are being paid social benefits, by the way; it is a cost to government — who could have been supplying renovations and continuing work under programs like this. But not just this program. This is just one. Commercial buildings, government buildings. There's a whole number of other areas where this large sector in terms of its total emissions — residential and commercial buildings — could be engaged in the province's strategy.

I think it's lamentable that that is how it happened. I know a number of people who contacted me who had

booked energy audits — because they were well subscribed — in late August and September of this year who, because they couldn't get the energy audit accomplished before government suddenly cancelled the LiveSmart program on August 16, are now excluded from making those renovations. Some of them had already purchased equipment and secured lines of credit to do that.

I want to ask this question, though, about LiveSmart, and I ask the minister to be very specific in his response to confirm this information. The '08-09 *Public Accounts*, which we received in July, detail an expense by the Ministry of Environment — not Energy and Mines — for LiveSmart B.C. advertising. Environment is listed as the lead ministry, with public affairs bureau and various partners as well.

It details payments to Wasserman and Partners, Vizeum Canada and various others in excess of \$7 million to advertise the LiveSmart program. It's an advertising budget — \$7 million. That's a large percentage on a \$60 million program, which is now gone, by the way. This advertising occurred between September '08 and March 2009 — March 2009 because the Election Act would have prohibited advertising beyond that date.

We spent \$7 million during those eight months advertising a program that was then cancelled in August '09, two months after the election. Can the minister confirm that this actually occurred, that money was spent in this regard to advertise this program, only for it to be cancelled two months after the election?

[1145]

Hon. B. Penner: I'd like to correct the member on a couple of points. One, that he continues to contribute to the misunderstanding of how the LiveSmart home energy efficiency program operates. People were never eligible to receive funding under that program if they did not first of all initiate a home energy audit or assessment. That was a key precondition for qualifying for the program.

I remember a few months ago seeing some people commenting in the media and saying that now they've spent all this money upgrading their home and they're going to be out because they were expecting to get the rebate. Here they've gone and spent all the money expecting that they'll get the rebate.

If they hadn't first of all arranged to have the home energy audit or assessment completed, they never were going to receive any rebate money under the program, because first of all, you had to start by measuring or assessing your home to identify those areas that needed improvement. The program remains in place today for those people who have completed the home energy audit or assessment.

Now, the member has said that a number of people didn't have time to get the assessments done. I'm told that

there was more than a year that people had from when the program was announced to make arrangements to have someone come and undertake the assessment of their home.

Once the assessment is completed, people have an additional period of time to get the work done. That's why over the next 18 months or so from today, we're expecting still another 15,000 individuals will undertake the work to renovate their homes and apply and be eligible to receive funding, in terms of a rebate, under the money that's been budgeted for the LiveSmart home efficiency program. The government put \$60 million on the table, and that money was not taken off the table. It was fully committed.

But LiveSmart B.C. is much more than the LiveSmart B.C. home energy efficiency program. LiveSmart B.C. is the broader program within government to drive climate action change and to achieve emission reductions.

So if the member goes to the website, you'll see that there's a LiveSmart B.C. website today. It's still there, and it's part of the broader messaging of government to encourage individuals, businesses, institutions, other organizations and government to continue to look for ways to reduce emissions as part of our climate action plan.

The LiveSmart B.C. initiative is much broader than just the home efficiency program, but obviously the home efficiency program was something that was responded to well by the public.

L. Popham: I've been reviewing the climate action secretariat mandate which says it will drive change to B.C.'s greenhouse gas emission reduction targets by reducing the emissions from transportation. Part of the mandate is to do this by having strategic partnerships.

I think there's been one strategic partnership that's been critically left out of this, and that's the partnership with agriculture. The emissions that are caused by transporting food products into our province with our imports create a huge carbon footprint. When you look at the amount of transportation emissions coming through to our province, a lot of it is from agricultural products.

[1150]

I'm asking the minister to acknowledge the fact that the strategic partnership with agriculture is missing. I would like the climate change secretariat budget to include funding the Buy B.C. program or the food miles program with the Ministry of Agriculture.

The Chair: Noting the time, is it possible that the minister could respond in writing to this? Minister, noting the hour, and we have votes to call.

Hon. J. Yap: I want to start off by thanking the member for her question — it's appreciated — and just point out that agriculture as a sector accounts for 4 percent of the emissions in total for our province. I would refer her to page 43 of our climate action plan, which details the climate action plan with respect to agriculture.

If she would like further dialogue on the specific issues that she raised, I would be happy to do that off line.

Vote 26: ministry operations, \$146,521,000 — approved.

Hon. B. Penner: Three additional votes, but first, I see the member for Maple Ridge–Pitt Meadows....

The Chair: Minister, can you please read the votes.

Hon. B. Penner: I'll talk to him afterwards, then. I have some more facts on the marbled murrelet habitat — 400,000 hectares protected.

Vote 27: climate action secretariat, \$7,132,000 — approved.

Vote 28: environmental assessment, \$9,396,000 — approved.

ESTIMATES:
OTHER APPROPRIATIONS

Vote 49: Environmental Appeal Board and Forest Appeals Commission, \$2,091,000 — approved.

Hon. B. Penner: I move that the committee report the budget estimates complete, report resolutions and seek leave to sit again.

Motion approved.

The committee rose at 11:53 a.m.

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Published by British Columbia Hansard Services,
and printed under the authority of the Speaker.

Printing Agent
Crown Publications, Queen's Printer for British Columbia
563 Superior St., Victoria, B.C. V8W 9V7
Toll-Free: 1-800-663-6105 Telephone: (250) 387-6409
Fax: (250) 387-1120 E-mail: crown@crownpub.bc.ca

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