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## MEMORANDUM

**FROM:** Honourable Nathan Cooper, MLA  
Speaker of the Legislative Assembly  
325 Legislature Building

**Date:** November 30, 2020  
**Telephone:** (780) 427-2464

**TO:** Mr. David Hanson, MLA  
Chair, Standing Committee on Resource Stewardship  
503F Legislature Building

**VIA EMAIL:**  
[RSCommittee.Admin@assembly.ab.ca](mailto:RSCommittee.Admin@assembly.ab.ca)

Dear Mr. Hanson:

**RE:** Standing Committee on Resource Stewardship review of the *Public Interest (Whistleblower Protection) Act*

Further to the letter from the Standing Committee on Resource Stewardship (the "Committee"), dated October 26, 2020, I am pleased to provide the attached comments with respect to the Committee's review of the *Public Interest Disclosure (Whistleblower Protection) Act* (the "Act").

I would also like to note that I am not making any specific recommendations, but instead raising issues based on my experience with the Act for the Committee's consideration. I trust that the attached comments will be of use.

Please extend my thanks to Members of the Committee for their diligent work in reviewing the *Public Interest Disclosure (Whistleblower Protection) Act*.

Sincerely,



Honourable Nathan Cooper, MLA  
Speaker of the Legislative Assembly  
Member for Olds-Didsbury-Three Hills

*Enclosure*

c: Shannon Dean, QC, Clerk of the Legislative Assembly

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**Standing Committee on Resource Stewardship**  
**Review of the *Public Interest Disclosure (Whistleblower Protection) Act*\***  
 Enclosure to letter of Speaker Cooper, dated November 30, 2020

	Citation	Description	Comments
<b>1</b>	Section 22(5)(c)	If the Public Interest Commissioner believes that an office of the Legislature or an office of a Member of the Assembly has not appropriately followed up on the Commissioner's recommendations, the Commissioner may make a report to the Speaker, who shall lay a copy before the Assembly for <i>review, referral to a committee or other action as the Assembly considers appropriate.</i>	Although the Act is clear that the Speaker must lay a report of the Public Interest Commissioner before the Assembly in certain circumstances, it does not set out the mechanism for such reports to be reviewed. The Committee may wish to consider making recommendations to clarify this process, such as requiring the Government to bring forward a motion within a set period of time to refer a report to a committee of the Legislative Assembly for review, as is required under section 5(4) of the <i>Property Rights Advocate Act</i> and section 6(4) of the <i>Advocate for Persons with Disabilities Act</i> .
	Section 26(5)	If the Public Interest Commissioner finds that a reprisal has been taken, directed or counselled, the Commissioner must make a report to the Speaker, who shall lay a copy before the Assembly for <i>review, referral to a committee or other action as the Assembly considers appropriate.</i>	

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\* Note: Recommendations to amend the Act may require changes to the protocol entered into pursuant to Part 1.1 of the Act respecting the Public Interest Commissioner's exercise of powers and performance of duties in relation to the Assembly, its Members and the offices of Members of the Assembly.

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	Citation	Description	Comments
2	Section 23(1)(a)-(c)	<p>If the subject-matter of an investigation by the Public Interest Commissioner involves the chief officer or the designated officer, the report must be provided</p> <ul style="list-style-type: none"> <li>(a) in the case of a department, to the Clerk of Executive Council,</li> <li>(b) in the case of the Office of the Premier or an office of a minister, to the Premier,</li> <li>(c) in the case of a public entity, to the minister responsible, if any, and to the board of directors or the designed head.</li> </ul>	<p>In contrast to the process set out in clauses (a)-(c), the Committee may wish to consider whether the process for a report involving the chief officer or the designated officer of an office of the Legislature or an office of a Member under clause (d) should continue to be tabled as a public record in the Assembly. As an alternative, the report could instead be submitted directly to a committee of the Assembly for review and to make recommendations.</p>
Section 23(1)(d)	<p>If the subject-matter of an investigation by the Public Interest Commissioner involves the chief officer or the designated officer of an office of the Legislature or an office of a Member of the Assembly, the Commissioner must make a report to the Speaker, <i>who shall lay a copy before the Assembly</i> for review, referral to a committee or other action as the Assembly considers appropriate.</p>		
3	Part 6	Office of the Public Interest Commissioner	<p>The Committee may wish to consult with the Public Interest Commissioner on the appointment process set out in Part 6 of the Act, particularly as it relates to holding the positions of both the Public Interest Commissioner and the Ombudsman.</p>