



Standing Committee on Resource Stewardship

Final Report

Review of the *Public Interest Disclosure (Whistleblower Protection) Act*

Thirtieth Legislature
Second Session
June 2021



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STANDING COMMITTEE ON RESOURCE STEWARDSHIP

June 2021

**To the Honourable Nathan Cooper
Speaker of the Legislative Assembly
of the Province of Alberta**

I have the honour of submitting, on behalf of the Standing Committee on Resource Stewardship, the Committee's final report on the review of the *Public Interest Disclosure (Whistleblower Protection) Act*.

Sincerely,

[original signed]

David B. Hanson, MLA
Chair, Standing Committee
on Resource Stewardship

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MEMBERS OF THE STANDING COMMITTEE ON RESOURCE STEWARDSHIP
30th Legislature, Second Session

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Calgary-McCall (NDP)

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Calgary-Falconridge (UC)

* Committee Member from October 20, 2020, until February 25, 2021

† Committee Member from October 20, 2020

‡ Committee Member from February 25, 2021

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** Committee Member until October 20, 2020

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††† Substitution for Whitney Issik on April 28, 2021

‡‡ Substitution for Pat Rehn on January 13, 2021

§§§ Substitution for Tanya Fir on January 13, 2021 and for Searle Turton on April 28, 2021

**** Substitution for Kathleen Ganley on October 26, 2020 and February 4, 2021

†††† Substitution for Shane Getson on July 7, 2020 and for Tanya Fir on February 4, 2021

1.0 EXECUTIVE SUMMARY

During its deliberations on June 11, 2021, the Standing Committee on Resource Stewardship made the following recommendations, including proposed amendments to the *Public Interest Disclosure (Whistleblower Protection) Act*, S.A. 2012, c. P-39.5 (the “Act”) and the *Public Interest Disclosure (Whistleblower Protection) Regulation*, Alta. Reg. 71/2013 (the “Regulation”), where necessary, to implement the recommendations.

1. That the Act be amended in section 1(g) to expand the definition of “employee” to include regulated members of the College of Physicians and Surgeons of Alberta, including physicians, medical residents, and medical students, who provide services to a regional health authority.
2. That the Regulation be amended in section 5(1) to permit a chief officer to extend a time limit, provided that the overall time period for investigation and the provision of a report is not extended for more than 60 business days.
3. That the Regulation in section 2(1)(b) be amended to include all subsidiary health corporations under the *Regional Health Authorities Act*.
4. That the following entities be prescribed by regulation as service providers pursuant to section 4.2 of the Act:
 - 1) nursing homes under contract with a regional health authority under the *Nursing Homes Act*;
 - 2) home care service providers under contract with a regional health authority in accordance with the *Co-ordinated Home Care Program Regulation*;
 - 3) operators of supportive living accommodations licensed under the *Supportive Living Accommodation Licensing Act*;
 - 4) management bodies established under the *Alberta Housing Act*.
5. That the Act be amended to remove references to “in good faith” from sections 1(f), 19(1)(d), 24(1), and 27.
6. That the Act be amended to include the following:
 - a. a requirement on the Public Interest Commissioner, a designated officer, or any other person to keep confidential, unless otherwise required by law or necessary to carry out the purposes of the Act, the identity of a person who
 - i. has made a disclosure of a wrongdoing,
 - ii. is the subject of a disclosure of wrongdoing, or
 - iii. has participated in an investigation of a wrongdoing;
 - b. a prohibition on the Public Interest Commissioner, a designated officer, or any other person from disclosing, unless otherwise required by law or necessary to carry out the purposes of the Act, information that might reveal the identity of a person who
 - i. has made a disclosure of a wrongdoing,
 - ii. is the subject of a disclosure of wrongdoing, or

- iii. has participated in an investigation of a wrongdoing;
 - c. a provision similar to the *Public Interest Disclosure Act* (Australia), by which, except under specific circumstances, it is an offence to disclose the identity of a person who
 - i. has made a disclosure of wrongdoing,
 - ii. is the subject of a disclosure of wrongdoing, or
 - iii. has participated in an investigation of a wrongdoing.
- 7. That the Government of Alberta, in co-operation with the Public Interest Commissioner, conduct a survey of employees, as defined in section 1(g)(i) and (iii) of the Act, within two years of the Chair presenting the Committee's report to the Assembly or when the Act is amended, whichever is earlier, to
 - i. inform and educate employees of the provisions of the Act and the process by which disclosures of wrongdoing may be made,
 - ii. assess the extent to which wrongdoings are being encountered by employees in the workplace that are not disclosed, and
 - iii. collect information on the reasons why employees are not making disclosures of wrongdoing and their opinions on possible amendments to the Act that would encourage them to make such disclosures.
- 8. That the Act be amended to expand the prohibition against reprisals in part 4 of the Act to include former employees who make a disclosure of wrongdoing or seek advice in accordance with the Act.
- 9. That the Act be amended to expand the prohibition on reprisals in part 4 of the Act to include an employee that is suspected of making a disclosure of wrongdoing.
- 10. That the Act be amended to provide that a complaint of reprisal by an employee under the Act is considered to be substantiated unless sufficient evidence to the contrary is provided to the Commissioner as part of an investigation under section 26 of the Act.

2.0 COMMITTEE MANDATE

Pursuant to Government Motion 22, agreed to on June 15, 2020, the Legislative Assembly referred the *Public Interest Disclosure (Whistleblower Protection) Act* to the Standing Committee on Resource Stewardship, which was deemed the special committee of the Assembly for the purpose of conducting a comprehensive review pursuant to section 37 of the Act.

Section 37 mandates the scope of the Committee's review with respect to the *Public Interest Disclosure (Whistleblower Protection) Act*:

Within 2 years after this Act comes into force and every 5 years after that, a special committee established by the Legislative Assembly must begin a comprehensive review of this Act and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

The Committee began its review of the Act on July 7, 2020.

3.0 INTRODUCTION

The *Public Interest Disclosure (Whistleblower Protection) Act* facilitates the disclosure and investigation of wrongdoing and protects employees who make those disclosures from reprisal. The Act applies to departments, offices of the Legislature, and the public entities prescribed in the regulations.

The *Public Interest Disclosure (Whistleblower Protection) Act* was enacted in 2012, and all parts were proclaimed in force by June 1, 2013.

This report is the result of the Standing Committee on Resource Stewardship's review of the Act, which began in July 2020. It contains the 10 recommendations that were agreed to during the Committee's deliberations. For a complete record of the Committee's deliberations please consult the transcripts of the Committee's meetings, which are posted online at assembly.ab.ca.

4.0 ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the useful contributions of the individuals and organizations who provided written submissions and/or appeared before the Committee.

The Committee also wishes to acknowledge the valuable assistance of the technical support staff and Legislative Assembly Office support staff.

Technical Support Staff

Office of the Public Interest Commissioner

Ms Marianne Ryan, Public Interest Commissioner, Ombudsman

Mr. Peter Sherstan, Deputy Public Interest Commissioner, Deputy Ombudsman

Mr. Chris Ewaniuk, Manager, Office of the Public Interest Commissioner

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Janet Schwegel, Director of Parliamentary Programs

Amanda LeBlanc, Deputy Editor of *Alberta Hansard*

Hansard staff

Security staff

5.0 CONSULTATION AND REVIEW PROCESS

The Committee's review of the *Public Interest Disclosure (Whistleblower Protection) Act* involved a series of meetings that were broadcast on Alberta Assembly TV and streamed live on the Legislative Assembly website. These meetings took place on July 7 and October 26, 2020, and January 13, February 4, April 28, and June 11, 2021.

As part of the review process the Committee received a background briefing on the *Public Interest Disclosure (Whistleblower Protection) Act* from officials from the Office of the Public Interest Commissioner on October 26, 2020.

The Committee invited written submissions from a number of identified stakeholders and advertised for written submissions from the public on its website and through social media and other web-based initiatives. Stakeholders included public entities, a postsecondary institution, a financial institution, an Officer of the Legislature, and the Speaker of the Legislative Assembly of Alberta.

The Committee received 12 written submissions from identified stakeholders and 13 written submissions from members of the public. On February 4, 2021, the Committee heard presentations from invited stakeholders. On April 28, 2021, the Public Interest Commissioner presented a report on the recommendations of other stakeholders. Appendices A and B contain a list of the individuals and organizations that provided written submissions and oral presentations to the Committee.

The Committee met on June 11, 2021, to deliberate on the issues and proposals arising from the written submissions and oral presentations. Representatives from the Office of the Public Interest Commissioner attended the meetings and supported the Committee by providing technical expertise.

This report is the result of the Committee's deliberations and contains its 10 recommendations in relation to the Act.

6.0 COMMITTEE RECOMMENDATIONS ON THE *PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT*

6.1 Including Physicians, Medical Residents, and Medical Students in the Definition of “Employee”

Currently section 1(g) of the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act) defines “employee” to mean

as the context requires,

- (i) an individual employed by a department, a public entity, an office or a prescribed service provider,
- (ii) an individual who has suffered a reprisal and is no longer employed by a department, a public entity, an office or a prescribed service provider, or
- (iii) an individual or person or an individual or person within a class of individuals or persons, prescribed in the regulations as an individual or person to be treated as an employee for the purpose of this Act or a provision of this Act.

Section 1(2)(b) of the *Public Interest Disclosure (Whistleblower Protection) Regulation* (the “Regulation,” “R”) further defines “employee” as

- (i) an individual employed by, or who has suffered a reprisal and is no longer employed by, a public entity designated under section 2(1), or
- (ii) an individual who holds or who has held, has suffered a reprisal and no longer holds,
 - (A) an appointment as medical staff,
 - (B) an appointment as professional staff, or
 - (C) privileges with a public entity designated in section 2 of Schedule 1.

“Medical staff” means “a physician appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients” (R. s. 1(2)(c)). “Professional staff” means “a health practitioner, other than a physician, who is regulated under a health profession statute and has been appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients (R. s. 1(2)(d)). Please note that the Act currently applies to the following public entities in the health sector: a regional health authority under the *Regional Health Authorities Act*, Calgary Laboratory Services Ltd., CapitalCare Group Inc., Carewest, Covenant Health, and Lamont Health Care Centre (R Sch 1 s. 2(a-d)).

In her submission the Public Interest Commissioner recommended that physicians be included as prescribed service providers captured under the Act given annual government spending on physician compensation. One stakeholder, in his submission to the Committee, agreed that the inclusion of physicians under the Act is warranted.

The Committee considered the recommendation to include physicians, medical residents, and medical students who provide services to a regional health authority under the Act. The Committee noted that physicians have been top of mind during the COVID-19 pandemic and that inclusion under the Act is an appropriate measure in the circumstances.

Therefore, the Committee recommends:

- 1. That the Act be amended in section 1(g) to expand the definition of “employee” to include regulated members of the College of Physicians and Surgeons of Alberta,**

including physicians, medical residents, and medical students, who provide services to a regional health authority.

6.2 Extension of Time Limits for Investigations

Currently section 5(1) of the Regulation provides that:

A chief officer may extend a time limit referred to in section 3(7), (8), 4(1) or 4(1.1), provided that the overall time period for investigation and the provision of a report is not extended for more than 30 business days.

In a submission to the Committee a stakeholder recommended that the timelines permitted for investigations under the Act be extended from 120 to 180 business days. The Public Interest Commissioner supported this recommendation. According to the Commissioner it takes considerable time to analyze records, conduct investigative interviews, and determine questions of law. Multiple parties are involved with investigations. Procedural fairness affords the alleged wrongdoer the right to respond to the allegations and provide additional information for consideration. The process may take several weeks and often requires an extension past the initial 120-day period.

In its deliberations the Committee noted the support of the Public Interest Commissioner for the recommendation. Since requests for extensions occur frequently, the Committee suggested that this change would make the investigation process more efficient.

Therefore, the Committee recommends:

2. **That the *Public Interest Disclosure (Whistleblower Protection) Regulation* be amended in section 5(1) to permit a chief officer to extend a time limit, provided that the overall time period for investigation and the provision of a report is not extended for more than 60 business days.**

6.3 Including All Subsidiary Health Corporations

As noted above, section 2 of Schedule 1 to the Regulation currently states:

The following are designated as public entities in the health sector to which the Act applies:

- (a) for greater clarity, a regional health authority under the *Regional Health Authorities Act*;
- (b) the following subsidiary health corporations under the *Regional Health Authorities Act*:
 - (i) Calgary Laboratory Services Ltd.;
 - (ii) CapitalCare Group Inc.;
 - (iii) Carewest;
- (c) Covenant Health;
- (d) Lamont Health Care Centre.

In her submission to the Committee the Public Interest Commissioner recommended that all subsidiary health corporations be subject to the Act. The Commissioner noted that there have been name changes to subsidiary health corporations since the Regulation came into force in 2013, but the Regulation has not been amended to reflect these changes. The Commissioner argues that by including all subsidiary

corporations under the Act, without naming individual entities, employees would enjoy the same protections as those of the regional health authority, which would be consistent with the spirit of the Act.

In its discussion of the issue the Committee agreed with the rationale of the Commissioner. The Committee therefore recommends:

- 3. That the Regulation in section 2(1)(b) be amended to include all subsidiary health corporations under the *Regional Health Authorities Act*.**

6.4 Defining Prescribed Service Providers

The Act applies to departments, offices, public entities, and prescribed service providers, subject to the regulations. However, as of yet, there are no regulations with respect to prescribed service providers.

In her submission to the Committee the Public Interest Commissioner noted that many privately-owned organizations that deliver government services and receive public funds are not captured under the Act. Examples include continuing care, services to seniors, management bodies of housing accommodations, childcare service providers, supportive living accommodations, long-term care facilities, and home-care service providers. Since Government funds are provided to these organizations, in the view of the Commissioner, citizens of Alberta should expect some accountability for the use of those funds. As a solution the Commissioner recommended defining these organizations as prescribed service providers under the Act.

In its discussion of the issue the Committee agreed with the rationale of the Commissioner. The Committee therefore recommends:

- 4. That the following entities be prescribed by regulation as service providers pursuant to section 4.2 of the Act:**
 - 1) nursing homes under contract with a regional health authority under the *Nursing Homes Act*;**
 - 2) home care service providers under contract with a regional health authority in accordance with the *Co-ordinated Home Care Program Regulation*;**
 - 3) operators of supportive living accommodations licensed under the *Supportive Living Accommodation Licensing Act*;**
 - 4) management bodies established under the *Alberta Housing Act*.**

6.5 Removing References to “Good Faith”

The Committee received a number of submissions recommending that the term “good faith” be removed from the Act, including from the Public Interest Commissioner. In her submission the Commissioner recommended that “good faith” be removed from the Act because it is challenging to define and has no technical or statutory meaning; nor is there case law establishing a context for good faith in public interest disclosures. The Commissioner reported that in the normal course of reviewing and investigating disclosures, the Office of the Public Interest Commissioner presumes good faith in the absence of clear evidence of malice. Since its inception the Office of the Public Interest Commissioner has never declined to investigate a disclosure based on the absence of good faith.

In its discussion of the issue the Committee noted that the Act penalizes individuals who make false or misleading statements, obstruct an investigation, and/or destroy, falsify, or conceal information. The Committee agreed that an absence of good faith should not hinder an investigation. In the view of the Committee disclosures of wrongdoing should be assessed on merit not motivation.

The Committee therefore recommends:

- 5. That the Act be amended to remove references to “in good faith” from sections 1(f), 19(1)(d), 24(1), and 27.**

6.6 Requirements to Keep Identities Confidential

In her submission the Public Interest Commissioner made recommendations to make confidentiality explicit rather than implicit in the Act. The submission noted that the Commissioner and individuals employed by the Office of the Public Interest Commissioner must take an oath not to disclose any information received under the Act, except as provided in the Act. However, conditions under which the disclosure of information may be made are not stated. Under section 5(1) of the Act public entities are required to create procedures consistent with the Act respecting the confidentiality of information collected. The Act is silent on the Commissioner’s obligation.

In addition, the Commissioner noted that a person accused of wrongdoing can suffer irreparable harm if their identity and the nature of the allegation against them becomes generally known even if ultimately an investigation does not support the allegation. The Commissioner therefore advocated for protecting the identity of those accused of wrongdoing.

The Commissioner noted that the public interest disclosure legislation in other jurisdictions such as Nova Scotia, Newfoundland and Labrador, Nunavut, Manitoba, Quebec, New Brunswick, Canada, and Australia contain provisions to protect the identity of whistleblowers, witnesses, and the accused.

It is also the Commissioner’s position that it should be an offence to reveal the identity of whistleblowers, witnesses, and the accused.

In submissions a number of stakeholders also raised concerns about damage to an individual’s reputation in the event of a disclosure.

During its deliberations Committee supported improving protections with respect to confidentiality that are afforded to individuals who make disclosures, who are accused of wrongdoing, and who participate in an investigation of wrongdoing. The Committee therefore recommends:

6. That the Act be amended to include the following:

- a. a requirement on the Public Interest Commissioner, a designated officer, or any other person to keep confidential, unless otherwise required by law or necessary to carry out the purposes of the Act, the identity of a person who**
 - i. has made a disclosure of a wrongdoing,**
 - ii. is the subject of a disclosure of wrongdoing, or**
 - iii. has participated in an investigation of a wrongdoing;**
- b. a prohibition on the Public Interest Commissioner, a designated officer, or any other person from disclosing, unless otherwise required by law or necessary to carry out the purposes of the Act, information that might reveal the identity of a person who**
 - i. has made a disclosure of a wrongdoing,**
 - ii. is the subject of a disclosure of wrongdoing, or**

- iii. has participated in an investigation of a wrongdoing;
- c. a provision similar to the *Public Interest Disclosure Act* (Australia), by which, except under specific circumstances, it is an offence to disclose the identity of a person who
 - i. has made a disclosure of wrongdoing,
 - ii. is the subject of a disclosure of wrongdoing, or
 - iii. has participated in an investigation of a wrongdoing.

6.7 Survey of Employees

During its deliberations the Committee discussed the need to survey employees about the Act. They suggested that a survey be conducted only once within two years of the Chair presenting the Committee's report to the Assembly or when the Act is amended, whichever is earlier. Such a survey may reveal the extent to which employees understand the processes for making disclosures permitted by the Act, potential barriers to making disclosures, and the protections afforded by the Act. Committee members expressed the view that the results of the survey would help inform future recommendations to change the Act.

The Committee therefore recommends:

7. That the Government of Alberta, in co-operation with the Public Interest Commissioner, conduct a survey of employees, as defined in section 1(g)(i) and (iii) of the Act, within two years of the Chair presenting the Committee's report to the Assembly or when the Act is amended, whichever is earlier, to
 - i. inform and educate employees of the provisions of the Act and the process by which disclosures of wrongdoing may be made,
 - ii. assess the extent to which wrongdoings are being encountered by employees in the workplace that are not disclosed, and
 - iii. collect information on the reasons why employees are not making disclosures of wrongdoing and their opinions on possible amendments to the Act that would encourage them to make such disclosures.

6.8 Protecting Former Employees Against Reprisals

Part 4 of the Act includes protections against reprisal. Currently the Act limits protection from reprisal to an "employee" and limits what constitutes a reprisal to adverse employment action within the workplace.

In her submission the Public Interest Commissioner noted that the definition of "employee" does not include an individual who was employed at the time the alleged wrongdoing occurred but is no longer an employee. In the Commissioner's view, individuals who leave employment within the public service may have more confidence to report wrongdoing when they are no longer in that environment. However, the protection provisions of the Act would not apply in that scenario. Reprisal protections cease when an individual leaves his or her employment within the public service and do not apply to members of the public. Further, the definition of "reprisal" is limited to adverse employment action within the current work

environment. However, the Commissioner argues that an individual can be the victim of a reprisal even if they are not employed in the public service.

During its deliberations the Committee agreed with the rationale of the Commissioner, noting that former employees who disclose potential wrongdoing may be vulnerable in a number of ways: blacklisted from future employment opportunities, given poor references, publicly criticized, ridiculed, discredited, or sued.

The Committee therefore recommends:

- 8. That the Act be amended to expand the prohibition against reprisals in part 4 of the Act to include former employees who make a disclosure of wrongdoing or seek advice in accordance with the Act.**

6.9 Protecting Employees Suspected of Whistleblowing from Reprisal

Section 24 of the Act protects employees when they undertake a protected activity. Section 24(1) states:

This section applies to an employee or a prescribed service provider who has, in good faith,

- (a) requested advice about making a disclosure as described in section 8 or, in the case of an employee of a prescribed service provider, the regulations made under Part 1.2, whether or not the employee made a disclosure,
- (b) made a disclosure under this Act,
- (c) co-operated in an investigation under this Act,
- (d) declined to participate in a wrongdoing, or
- (e) done anything in accordance with this Act.

In her submission the Public Interest Commissioner notes that the Act does not protect persons suspected of making a disclosure. The Act only protects employees when they undertake a protected activity described in section 24. According to the Commissioner the Office of the Public Interest Commissioner has encountered circumstances where an employer has assumed an employee was the whistleblower, when in fact he or she was not. Had the employer taken reprisal action against the employee on the false belief they were the whistleblower, the protection provisions of the Act would not have applied.

During its deliberations the Committee agreed that this is a significant deficiency in the Act. The Committee therefore recommends:

- 9. That the Act be amended to expand the prohibition on reprisals in part 4 of the Act to include an employee that is suspected of making a disclosure of wrongdoing.**

6.10 Complaints of Reprisal

Stakeholders suggested that mechanisms to redress reprisals need to be strengthened in the Act and expressed the concern that investigating complaints of reprisal are unlikely to result in redress because the employer holds all the information and can make excuses for the reprisal.

During its deliberations the Committee agreed with this concern. By considering a complaint of reprisal as substantiated unless evidence to the contrary is provided to the Commissioner, the employer is required to prove that its actions were not a reprisal for the disclosure of a wrongdoing. The Committee focused on the example of a whistleblower being terminated from their job and reasoned that evidence of such a wrongful dismissal likely would reside with the employer. In the view of the Committee if a terminated employee makes a complaint of reprisal, it should be considered substantiated unless proved to the contrary. The Act should require that the employer provide evidence setting out the reasons for dismissal because the terminated employee is not in a position to do so. Such a requirement would encourage employers to be vigilant in their record-keeping and in their decisions about whether or not to terminate employees because of suspected whistleblowing.

The Committee therefore recommends:

- 10. That the Act be amended to provide that a complaint of reprisal by an employee under the Act is considered to be substantiated unless sufficient evidence to the contrary is provided to the Commissioner as part of an investigation under section 26 of the Act.**

APPENDICES

Appendix A: Written Submissions to the Committee

Name	Organization
Kevin Griffiths	Safety Codes Council
Lorraine Sheremeta	Out-of-country Health Services Committee and Appeal Panel
Dr. Annette Trimbee	MacEwan University
David Goldie	Alberta Energy Regulator
Marianne Ryan, Public Interest Commissioner	Office of the Public Interest Commissioner
Stuart McKellar	ATB Financial
Shan Rupnarain	Alberta Medical Association
Brent Rathgeber	Alberta Insurance Council
David Weyant, Board Chair	Alberta Health Services
Mac Hickley	Alberta Professional Planners Institute
The Honourable Nathan Cooper, Speaker	Legislative Assembly of Alberta
David Hutton, Whistleblower Protection Advocate, Senior Fellow	Centre for Free Expression, Ryerson University
John Knoll	Private Citizen
Ruben Johnson	Private Citizen
Joan Glover	Private Citizen
Tara Deleeuw	Private Citizen
Michael Zuk	Private Citizen
Alexandria Ouslis-D'atri	Private Citizen
Dallas Ebert	Private Citizen
Hunter Hart	Private Citizen
Carla Dickhaut	Private Citizen
Madhawa Alahakoon	Private Citizen
James Beaton	Private Citizen
Dr. John T. Huang	Private Citizen
Professor Cameron J. Hutchison	Private Citizen

Appendix B: Oral Presentations to the Committee

Name	Organization
Marianne Ryan, Public Interest Commissioner Chris Ewaniuk, Manager	Office of the Public Interest Commissioner
Andrea Beckwith-Ferraton, Chief Ethics and Compliance Officer	Alberta Health Services
Lyle Mittelsteadt, Former Assistant Executive Director, Professional Affairs	Alberta Medical Association
John T. Huang, Fellow, Royal College of Physicians and Surgeons of Canada	--
Ian Bron, Senior Fellow David Hutton, Senior Fellow	Centre for Free Expression, Ryerson University
Cameron J. Hutchison, Associate Professor, Faculty of Law, University of Alberta	--
Mac Hickley, President	Alberta Professional Planners Institute

Appendix C: Minority Report

Appendix to the Report of the Standing Committee on Resource Stewardship

Review of the PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT

Joe Ceci
MLA Calgary-Buffalo

Richard Feehan
MLA Edmonton-Rutherford

Kathleen Ganley
MLA Calgary-Mountain View

Lorne Dach
MLA Edmonton-McClung

The Legislative Assembly tasked the Standing Committee on Resource Stewardship on June 15, 2020, through Government Motion 22 to review the Public Interest Disclosure (Whistleblower Protection) Act.

During the review process, the committee heard a wide range of opinions on the Act and received a lot of valuable advice that would be worth for the government to review. The review showed that the changes made in 2017 were important and strengthened the Act. However, we found a number of areas where the act could be improved going forward.

We support the recommendations made in this report and think that these recommendations would be improvements to the act. However, we believe that the committee's recommendations could be strengthened further.

One recommendation, we would have liked to see in the final report is

“That the Standing Committee on Resource Stewardship recommend that the Public Interest Disclosure (Whistleblower Protection) Act be amended to expand the protection for employees from reprisal to include instances of a disclosure of wrongdoing that is not made in strict compliance with the requirements of the Act, including who the wrongdoing must be reported to by the employee, the form in which the employee must make a disclosure and whether the employee has specifically referenced the Act when making a disclosure.”

While an adequate process for disclosures is important, we heard clearly that currently not all employees always know the exact process. This could lead to situation where employees are not granted protections despite being deserving of them. Coming forward with information that can fall under the whistleblower protection is a brave thing to do and can be very stressful for employees. This recommendation could help employees come forward with information and ensure them that they would be protected.

We also would like to see the committee ask the government to continuously update the committee on its progress on implementing the recommendations made by the committee. Further, we provide their analysis on international best practices as to how these recommendations should be implemented. We are of the opinion that this would have strengthened the implementation process and helped ensure that Albertans could see meaningful progress before the next review of the act.