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Tuesday 26 February 2013

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Mardi 26 février 2013

**Standing Committee on
Estimates**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ESTIMATESCOMITÉ PERMANENT DES
BUDGETS DES DÉPENSES

Tuesday 26 February 2013

Mardi 26 février 2013

The committee met at 0903 in room 151.

ELECTION OF CHAIR

The Clerk Pro Tem (Mr. Katch Koch): Good morning, honourable members. Welcome to the Standing Committee on Estimates. My name is Katch Koch. I'm the Clerk of your committee.

It is my duty to call upon you to elect a Chair. Pursuant to standing order 117(c) and the sessional paper that was tabled in the House on November 24, 2011, the Chair of the Standing Committee on Estimates must be a member of the third party. Are there any nominations? Mr. Natyshak?

Mr. Taras Natyshak: I nominate Michael Prue.

The Clerk Pro Tem (Mr. Katch Koch): Mr. Prue, do you accept the nomination?

Mr. Michael Prue: With pleasure, and thanks to my nominator.

The Clerk Pro Tem (Mr. Katch Koch): Okay. Are there further nominations?

There being no further nominations, I declare the nominations closed and Mr. Prue duly elected Chair of the committee.

Mr. Prue, I ask you to take the chair, please.

ELECTION OF VICE-CHAIR

The Chair (Mr. Michael Prue): The second item on the agenda is the election of a Vice-Chair. I understand, Mr. Flynn, you have a nomination.

Mr. Kevin Daniel Flynn: I do have a nomination. I move that Mr. Natyshak be appointed Vice-Chair of the committee.

The Chair (Mr. Michael Prue): Mr. Natyshak, do you accept?

Mr. Taras Natyshak: I do, with thanks to my nominator.

Mr. Kevin Daniel Flynn: It's the least I could do.

The Chair (Mr. Michael Prue): I don't think there will be any further nominations. I'll move that nominations be closed and declare that Mr. Natyshak be appointed Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Michael Prue): The next item of business, number 3, is the appointment of a subcommittee on committee business, and I understand, Mr. Harris, you have a motion.

Mr. Michael Harris: I do have a motion.

I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Crack, Mr. Leone, Mr. Natyshak; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Michael Prue): You have a motion moved by Mr. Harris, is there any discussion on the motion? Are you ready to vote?

All those in favour of the motion? Opposed? That's carried.

COMMITTEE BUSINESS

The Chair (Mr. Michael Prue): We are now into other business. The main item of business here will be to discuss—or to receive, I guess—documentation from the Ministry of Health. All members have before them a copy of certain documents from the Ministry of Health related to questions that were asked of this committee prior to prorogation. They were provided, so you have those. These, I am given to understand from the Clerk, are noncontentious. The Clerk also has some information I would like him to relate, and then we need to have a discussion on what to do with the other documents.

First of all, can I have a motion to receive these ones that we've received?

Mr. Kevin Daniel Flynn: So moved.

The Chair (Mr. Michael Prue): Moved by Mr. Flynn. Any discussion on that? Okay.

All those in favour? That's carried.

The next set of documentation may be sensitive, and it is the Clerk's suggestion, and I concur with him, that we go into closed session to discuss the remaining documents. Can we have a motion to that effect?

Mr. Kevin Daniel Flynn: So moved.

The Chair (Mr. Michael Prue): Moved by Mr. Flynn. Any discussion?

Seeing none, all those in favour? Opposed? That's carried.

We're now going into closed session to discuss the remaining documents.

The committee continued in closed session from 0910 to 1615.

The Chair (Mr. Michael Prue): I put the gavel down. The meeting is resumed. We are now back out of camera—out of being in camera; I'd better be specific here—and we are in open session.

The time now is for motions and public discussion. I would recognize Mr. Harris.

Mr. Michael Harris: I'd like to table a motion.

The Chair (Mr. Michael Prue): You have to read it into the record.

Mr. Michael Harris: Okay.

That the documents produced to the committee from the Ministry of Health, with the exception of those identified by the ministry as sensitive and delivered to committee in sealed envelopes, be exhibited as public documents forthwith;

That a copy of the documents deemed sensitive be reviewed by the Ministry of Health's freedom of information and personal privacy act officer and that information of a personal nature contained in these documents be redacted using the generally accepted definitions of personal information contained in the FIPPA by Wednesday, March 6, 2013;

That, by noon on Wednesday, March 6, 2013, the Ministry of Health's FIPPA officer shall produce the copy of those documents to the Legislative Assembly's FOI coordinator, who shall then examine and compare the redacted documents to the original unredacted documents, provide a report to the Clerk of the Committee by Thursday, March 14, 2013, and that that report clearly note whether or not the ministry complied with the committee's order;

That, in the event of an adverse opinion reached by the assembly's FIPPA officer over that of the ministry's FIPPA officer, the document in question where an adverse opinion has been rendered shall be exhibited as a public document;

That the estimates committee shall meet again on March 20, 2013, at its regular time to receive the remaining documents.

The Chair (Mr. Michael Prue): Discussion? Mr. Bisson and then Mr. Mauro.

Mr. Gilles Bisson: Thank you. I'm a bit uncomfortable on this and I just want to lay out the reasons why succinctly. One is that there is a right by committees and by this House to be able to request documents from whomever as it deals with the business of a committee. Clearly in this case there was a motion that was put forward in order to be able to ask for documents, and those documents must be provided. That's the first part.

The second part is that the argument here somewhat is that there should be some redaction of the documents.

That is somehow difficult, in my view, because we all of a sudden get into a situation where—that, to me, is a bit problematic because if the committee starts getting into the business of redacting its documents as we're making requests, we're setting a precedent, and I don't like the idea of the precedent of a committee getting documents that are being redacted by whomever. There's a clear right on the part of members to ask for documents. Those documents should be provided, and then I think it's up to members to figure out themselves what is proper and what's not proper as far as releasing. If there's private and confidential information, such as a person's bank account or SIN number or whatever it might be, I would fully expect that members don't release that kind of information. That's normally, I think, the way that things should go. But if we start getting into the business of limiting what documents and how documents are released to committee, you're setting a precedent, and it's a precedent that will have to be followed in the future.

The Chair (Mr. Michael Prue): Mr. Mauro.

Mr. Bill Mauro: Just a first, process question: Is there a limit on the number of rounds you can speak in this committee?

The Chair (Mr. Michael Prue): No, there is not.

Mr. Bill Mauro: A question on the motion, the last paragraph, speaking to the date of March 20: Are we able to actually have a date in there? We can't meet again, as I understand it, until 12 sessional days after the budget has been tabled. Does that paragraph need to be reworded to reflect that reality?

1630

The Chair (Mr. Michael Prue): The committee can meet if there is business before the committee. This would be ongoing business, so this would be the only thing we could meet on. We couldn't meet on the new budget or anything—

Mr. Bill Mauro: Well, what it is that we would do if we met when the—

Interjection: Well, we would bring you the documents—

The Chair (Mr. Michael Prue): This motion says just to receive the documents.

Mr. Bill Mauro: To receive the documents.

The Chair (Mr. Michael Prue): Yes.

Mr. Bill Mauro: I want to thank the member from the official opposition and their members for the motion. It is close to the comments that I was going to make. There's been a few comments made in here today about precedents. It would seem to me that where the third party is interested in going would not be a precedent, insofar as that historically I think committees of this Legislature—and some of you in this place have a lot more time here than me; some not as much—I think historically I would be correct in saying that it's not unusual for committees to request documents and that they would come redacted, and that personal information, commercially sensitive information, private personal information would not be included. So it wouldn't seem to me that this would be particularly precedent-setting.

I was also going to say in open session pretty much what's contained in here; that is, why would we not go at this in two phases, and that's kind of what you're suggesting. Let's get the documents—and let's be clear, understanding the Speaker's ruling and understanding the commitment that many of our members and the Premier herself have made publicly in the Legislature to all documents coming forth to the committee, that clearly we're saying "Fine," but historically a lot of that information has been redacted. So the Conservative motion speaks directly to that. Let's get it first. Then let's let the privacy officer at the Ministry of Health take out—why would I want to see somebody's social insurance number? Why do I want that? Why do I want to see somebody's bank account number? There are some things that are so obviously not necessary to be contained in the documents that we're going to receive. The argument that, "Well, we know better and we're not going to do anything with it"—why would you want it in the first place? There are some things that I would say obviously have no need to come to us in the first instance.

When you receive the package, I think the motion speaks to where I would probably have wanted us to go, and that is, let the people responsible for that kind of legislation deal with it. I suppose at some point, if you're still not satisfied, the committee could always ask for more. But at first blush, I'm sure there's going to be more debate on this. I appreciate what's come before us. Thank you, Mr. Chair.

The Chair (Mr. Michael Prue): Mr. Leone.

Mr. Rob Leone: I actually appreciate the remarks Mr. Mauro just made. I'm particularly hesitant when it comes to SIN numbers, credit cards, bank statements—and not just the statements there but the bank account numbers. Just to know that that kind of information could actually leave the confines of this committee is dangerous. And I do want to make clear that we're talking about the freedom of information and personal privacy act provisions that have been flagged as sensitive. We're not talking about the sub judice rule; we're not talking about things that might be subject to solicitor-client privilege, as the Speaker has ruled that is permissible for us to receive documents in the manner that would require us to do.

I appreciate Mr. Bisson's point that we don't want to place restrictions on members in terms of the documents that they receive; I agree with that. I don't think that having a conversation about how that information is released prejudices that perspective that members are entitled to information. And Mr. Mauro is correct: We can change our mind a little later if we decide that what's come forward, what's been redacted, we do need to examine further.

So I'm interested in getting the documents that haven't been flagged as sensitive today. I want to see them; they will be public, from that perspective. Then once it's been vetted by the appropriate people, from the minister's office—and it has to be said that it's just not the minister's office that's going to do the flagging; it's also going to be the assembly's freedom of information and

personal privacy act officer who will also get a chance to review. They're going to compare notes. Where there is a discrepancy, those documents are going to be public.

So that is what's contained within this motion. I would rather have us access some documents today, start reviewing them and receiving what can be released at a later time debated going forward. I do want to say to my colleague Mr. Harris's motion that I hope this committee would consider it. I think that it strikes the appropriate balance with respect to what this committee needs to do in terms of its work, and that we can start getting the answers to questions that we've had lingering here for several months.

The Chair (Mr. Michael Prue): Okay. Before I go to Mr. Wilson and then to Mr. Crack, just what you've stated—I think the intent of the motion—and I want everybody to read and understand—is that "the documents produced to the committee from the Ministry of Health, with the exception of those identified by the ministry as sensitive and delivered to committee in sealed envelopes, be exhibited as public documents forthwith."

What this is saying is that only certain documents would be released publicly; the others would be held for the public. But what this also says, as I'm reading it—and I want to make sure—is that the members would be entitled to all documents. It's not that you would be reviewing some of them; you would be reviewing all of them. But those that are out in the public, that the Clerk is required by law to exhibit as public documents—this would allow you to see them all, but only allow certain ones to be available to the public at this time.

I just wanted to make sure, because that isn't what you said, and I want to make sure you understand the intent of the motion.

Mr. Rob Leone: That's not how I read it.

The Chair (Mr. Michael Prue): That's exactly how that's read.

Interjections.

Mr. Michael Harris: Well, it says "with the exception of those identified by the ministry as sensitive."

The Chair (Mr. Michael Prue): Yes—"and delivered to committee in sealed envelopes." So the committee would get those in sealed envelopes, and then the others would be "exhibited as public documents." As the Clerk nods, that's the way it reads.

Mr. Kevin Daniel Flynn: But the personal stuff would not be—

The Chair (Mr. Michael Prue): The personal stuff would not be made public, but would be made available to the nine members of this committee.

Mr. Kevin Daniel Flynn: Okay. That's not how I'm reading this, then. It's the second paragraph that we need explained by the mover, maybe.

Interjection.

Mr. Michael Harris: It would be released—that's why we would come back on the 20th, after those—to the assembly's FOI coordinator—

The Chair (Mr. Michael Prue): To release those documents to the public.

Mr. Michael Harris: That have been redacted.

The Chair (Mr. Michael Prue): Yes.

Mr. Michael Harris: That's correct.

The Chair (Mr. Michael Prue): All right. I just want people to understand, because this is complex. I don't want people voting on something they don't understand.

Interjection.

Mr. Grant Crack: Explain it again, Mr. Chair, please.

The Chair (Mr. Michael Prue): My reading—and the Clerk is indicating to me that he agrees—is that the documents that were produced to the committee—those that are in the possession now of the Clerk—“from the Ministry of Health, with the exception of those identified by the ministry as sensitive and delivered to committee in sealed envelopes”—so the committee would get those—that those documents, save and except those that are sensitive and in sealed envelopes, “be exhibited as public documents forthwith.”

So we would get all the public documents, and we would get an envelope—

Mr. Michael Harris: The sensitive ones.

The Chair (Mr. Michael Prue): —of sensitive ones to the nine people in this committee. Then, on March 20, after people have looked through and determined which ones can be redacted or which ones ought not to see the light of—

Mr. Michael Harris: What parts should be redacted.

The Chair (Mr. Michael Prue): Yes—should not see the light of day, then we would make that determination as a committee on the 20th. This is what this reads.

Mr. Kevin Daniel Flynn: I need to move, then, Mr. Harris, to explain the second paragraph when it's his turn to speak, if you would.

The Chair (Mr. Michael Prue): All right. I don't have him down to speak. I have, first of all, Mr. Wilson and then I have Mr. Crack.

Mr. Wilson.

Mr. Jim Wilson: As House leader of the official opposition, we drafted this for committee members' consideration—to put it in layman's terms—to make sure there was a double check of the documents before they were all just put out in the public domain and that somebody innocent wasn't going to have personal, sensitive information out there. Your examples, Mr. Mauro, are bang on: SIN number and that. You're still going to get the names, you're still going to get all the documents, and you're going to use your best judgment, as a committee of sober second thought, as to what really should be released and what shouldn't be.

1640

It doesn't exempt commercially sensitive information; I think somebody was under the impression on the Liberal side that maybe it does. It's meant to be in the judgment of the FIPPA officers both of the assembly and of—not the minister's office. The FIPPA officer at the Ministry of Health, as in all ministries, is a separate and independent individual from the minister's office. The minister will also have a ministerial assistant keeping an

eye on all of this, but whatever is released is done by the FIPPA officer separate from the politicians and their staff.

So it's just meant to be a safeguard; it's not meant to be trickery of any type or anything. Obviously the intent of the opposition here, the PCs, and I think all of us here in the room, is to have transparency. We just didn't want some innocent people who had nothing to do with any wrongdoings at eHealth getting caught just because we did a document dump in the public without actually looking at the documents.

Mr. Chairman, I do agree with your interpretation. This was also drafted in conjunction with the Legislative Assembly's Clerk's office.

The Chair (Mr. Michael Prue): Mr. Crack.

Mr. Grant Crack: I just want to bring to the committee's attention that the request has been made to the Ministry of Health concerning the redaction, but in fact, this would be done by the freedom of information coordinator through eHealth. My concerns are with the actual timeline: one week by the time the request is made. I would, if possible, amend the motion to put the date—instead of March 6, perhaps once we return from March break would be more reasonable. There's a number of documents there, and I think it would be fair to the organization to allow them time to do a thorough job in what we're requesting.

The Chair (Mr. Michael Prue): Well, if you make the motion—could you name a specific date to amend the motion? I'll deal with your amendment; you have the floor.

Mr. Grant Crack: How about the Wednesday after the March break? Does anybody have that date?

Interjections.

The Chair (Mr. Michael Prue): The Wednesday after is the 20th, which is the date in this motion that we would be returning. You would have to move two amendments.

Mr. Grant Crack: So I'll amend the date to the 20th, and then perhaps the committee could meet again on the 27th. That would be my motion. It would give everyone a week.

Mr. Jim Wilson: So March 6th would be replaced by the 20th?

The Chair (Mr. Michael Prue): Okay, just so everybody is clear, the motion made by Mr. Crack is to change the March 6th date to March 20th. You would have to also change the Thursday, March 14th date to Thursday, March 21st, and then you would have to change the March 20th date to March 27th.

Mr. Grant Crack: Right.

The Chair (Mr. Michael Prue): That's the amendment that's on the floor now. Any discussion on the amendment? Mr. Harris.

Mr. Michael Harris: Yes, we're all likely to say no to that. I mean, these documents, we asked for these back in—

Mr. Rob Leone: August.

Mr. Michael Harris: August—they've had them clearly long enough. It's now February. They've had

plenty of time to identify which ones are sensitive or not, so we won't be supporting that amendment.

The Chair (Mr. Michael Prue): Further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: That's kind of a shame, actually, because I thought we were going down the same road there; I thought we were going to agree on something, which really hasn't happened much around here.

I like the substance. I think it's a well-drafted motion. I think we've got the same interests at heart here, but I don't want it to turn into a discussion as to whether you can meet a deadline or not. It seems to me that what Mr. Crack was saying was that that timeline might be tight.

It seems to me, by supporting the motion, we could move forward with all the interests that you've put into the motion, which I think suits the sort of discussion we had before you came in, Mr. Wilson, about these types of issues. How do we allow the process to move forward and how do we produce all the documents but make sure we safeguard individuals was exactly what we were talking about in camera. I would hate to see this fail because a deadline couldn't be met.

For the sake of a week or for the sake of two weeks, we could actually agree on everything. At the end of the day, I would find this supportable if we were able to change those deadlines, because the information we have is that by changing it to the 20th, the 21st and the 27th, there's a level of confidence that those deadlines can be met. The same can't be said for the 6th, the 14th and the 20th.

The Chair (Mr. Michael Prue): Mr. Natyshak, then Mr. Leone.

Mr. Taras Natyshak: Just on the motion that's proposing an extension: I would imagine, again clearly indicated through the memo from the ministry, that they have already identified the areas of concern. They know where they're at, probably page-specific, and we're just talking about literally blacking out some of those tidbits of personal information. It doesn't seem like that onerous of a task, considering that they have already identified where they exist. So I would think that the motion probably is a little bit far-reaching, and we should be able to deliver those—

Mr. Michael Harris: The amendment.

Mr. Taras Natyshak: Yes, the amendment to the motion is a little bit too far-reaching, and we should be able to deliver those documents in a timely manner, even if they are redacted.

The Chair (Mr. Michael Prue): Mr. Leone and then Mr. Crack.

Mr. Rob Leone: Mr. Natyshak took the words basically right out of my mouth. I think that this is exactly right. They are flagged documents. I believe the ministry said there are 90 boxes available that weren't identified as sensitive and 10 that were, and so those documents have already been pulled. Therefore, part of the hard work has already been done. I don't see a problem with the deadlines and the dates as proposed in the original

motion, and so I concur with my colleagues Mr. Harris and Mr. Natyshak on perhaps not needing the extension.

The Chair (Mr. Michael Prue): Mr. Crack.

Mr. Grant Crack: Mr. Chair, I can understand the position of the opposition and the third party. However, it's not the Ministry of Health that will be redacting these; it's going to be eHealth, so by the time the request is made, the freedom of information and personal privacy act officer for eHealth will be the one to do this.

I know we've requested documents as a government in the past. We want to ensure that we can meet these deadlines, these timelines. We think it's reasonable, and I'd ask for some reconsideration on this, in all fairness to those who would have to do the work.

The Chair (Mr. Michael Prue): I don't want to enter into the debate here, but I would remind the member that if you look at the letter from Deb Matthews dated September 20, 2012, if you look at the penultimate paragraph, that being the second-last paragraph, it says quite clearly that the documents that we have or that the Clerk has at this time are not from eHealth, that eHealth will respond to the committee directly—they need 420 person-days to do that—and that it will require the production of thousands of documents and that it will not be possible to complete such an extensive search and review in the short time frame that has been provided.

So when the documents were forthcoming in September, they did not include—read this.

Interjections.

The Chair (Mr. Michael Prue): Some of the ones that you received this morning were from eHealth. Those are the ones they were willing to give. The bulk of them and any—they have not been received and may not be, unless the committee asks for them.

Perhaps, Clerk, if you would be so kind, because you have seen the sealed envelopes—and I'm trying to read here what has actually been produced and who has produced it. You have seen it. Would you please elucidate for the members of the committee and those watching on television here who are trying to understand this exactly what you have and who gave it to us?

The Clerk Pro Tem (Mr. Katch Koch): Okay, Chair.

The box of documents that we received from eHealth—approximately 1,700 pages. In that box, we have two sealed envelopes. They are approximately an inch and a half thick. They are sealed. I don't know what they are. Those are the sensitive documents identified by eHealth: two envelopes.

1650

The Chair (Mr. Michael Prue): A question?

Mr. Gilles Bisson: Approximately how many docs—so there are 1,700 documents—

The Clerk Pro Tem (Mr. Katch Koch): Approximately.

Mr. Gilles Bisson: —and not all of the documents are in a sealed envelope, or all of them?

The Clerk Pro Tem (Mr. Katch Koch): No, not all of them.

Mr. Gilles Bisson: So how many documents are not in the sealed envelope? Documents, plural. Half? One third?

The Clerk Pro Tem (Mr. Katch Koch): Probably two thirds.

Mr. Gilles Bisson: So two thirds are not sealed; one third is sealed in two separate envelopes.

The Clerk Pro Tem (Mr. Katch Koch): Correct.

Mr. Gilles Bisson: Any idea why they put it in two separate envelopes?

The Clerk Pro Tem (Mr. Katch Koch): Just the size of the envelope, I think. They can only stuff so much in it.

Mr. Gilles Bisson: The size of the envelope—that's all I'm asking. Okay. Very good; thank you.

Just one last thing, Chair: If this motion was not moved or it was defeated, the documents would be released to the committee and would not be released to the public, right? We can move that the documents be released to the committee.

The Chair (Mr. Michael Prue): I think the documents must be released to the committee. If there was no motion—

Mr. Gilles Bisson: That's not my question. My question is: If this motion is not accepted and we revert back to releasing the documents, you release the documents to the committee; they're not posted up on the website.

The Clerk Pro Tem (Mr. Katch Koch): If the committee instructs me not to exhibit the documents, then they would not be available to the public. They would only be available to committee members.

Mr. Gilles Bisson: That's what we should do.

The Chair (Mr. Michael Prue): Okay. I don't see any other hands up, so we have an amendment—

Mr. Michael Harris: I'm going to call the question on the amendment.

The Chair (Mr. Michael Prue): No, you don't have to; I didn't have anyone else who had their hand up.

Not seeing anyone else's hand up, we have an amendment which has been moved by Mr. Crack to change the dates. So everyone is clear: the March 6th date would now read March the 20th; the March 14th date would now read March 21st; and the March 20th date would now read March 27th. That is the amendment.

All those in favour of the amendment? All those opposed?

Again, I have to vote on the tie; I am not going to vote for that. I think I should state a reason: I think that the documents are already identified in two sealed envelopes, and it will be a very simple matter for people to redact that which needs to be redacted. They don't have to search for them; they just have to go through two envelopes and take out what's necessary. So I am voting no. The amendment fails.

We're back to the main motion. Any further discussion on the main motion?

Mr. Taras Natyshak: Just one point of clarification, Chair: If you can tell me—or through the Clerk—that at the end of this committee the entirety of the documents

will be delivered to myself and to all the members, in full.

The Chair (Mr. Michael Prue): That is the intent of this motion.

Mr. Taras Natyshak: And then the process explained throughout this motion will happen throughout the later dates.

Mr. Michael Harris: Right.

Mr. Taras Natyshak: Very good.

The Chair (Mr. Michael Prue): Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair. My question is for the Chair or the Clerk. I'm just trying to get a bit of sense of things historically at estimates. Keeping in mind the very clear direction from the Speaker and the Premier, who have very publicly articulated our government's commitment to supply all documents requested by committees in an unfettered manner as completely and transparently as possible—that's always been the capacity of a committee. My question to the Clerk would be: Historically, having always had that authority, has it been the norm that the estimates committee, or other standing committees of the Legislative Assembly, have generally received documents that they've requested where personal information, commercially sensitive information and solicitor-client privilege have been redacted?

The Clerk Pro Tem (Mr. Katch Koch): I'm just going with memory here. I have seen some documents filed with the committee that contain personal information. In that case, what would normally happen is, we would contact the person who had filed the information and ask them, "Is that really what you wanted to do?"

Mr. Bill Mauro: So sometimes you've received them with—are you telling me, then, that many times you have received them redacted?

The Clerk Pro Tem (Mr. Katch Koch): Redacted, or without the personal information on them.

Mr. Bill Mauro: Right.

The Clerk Pro Tem (Mr. Katch Koch): We have received information in all shapes and forms. Sometimes people would submit information with personal information on it, not realizing that this is going to become an exhibit and it's going to be out there for public consumption. We bring it to their attention in case it was an oversight and we give them an opportunity to—

Mr. Bill Mauro: So if I was to ask you to—as this motion reads, every member of this committee will receive all of the documents completely unredacted, and once reviewed by two levels of freedom-of-information officers, what can go public will then be decided. But all committee members will have completely unredacted information. Correct? That's what this motion will do?

The Clerk Pro Tem (Mr. Katch Koch): That is the intent of the motion.

Mr. Bill Mauro: And if I was to ask you personally to not have my copy of the documents come to me that way, if I could ask you for a copy of documents that didn't contain people's personal information, that wouldn't be a challenge, I'm guessing, for you. You would be providing a copy to people who wanted access to people's personal

information—not that they wanted access to it, but that they wanted fully unredacted documents—and if I wanted you to provide documents to me that did not contain people’s personal information or those things generally considered to be not necessary for the committee to do its business, at least at first blush, is that something you could do?

The Chair (Mr. Michael Prue): Well, first of all, the Clerk is put in an impossible situation. The motion says that all members of the committee would get the information. You would get the information in the same way that the other members got it, which I assume would be in a sealed envelope. There would be a sealed envelope of those documents which could be sensitive. You do not have to open it.

Mr. Michael Harris: Just don’t open it up.

Mr. Bill Mauro: Well, easy to say.

The Chair (Mr. Michael Prue): But he cannot say that you will be treated differently than the other members. He can’t say that.

Mr. Bill Mauro: Sorry. I couldn’t hear you, Mr. Chair.

The Chair (Mr. Michael Prue): The Clerk cannot treat you differently than he treats the other members of the committee. If the motion is passed, then all members would receive the documents, including those that are sensitive, which would be contained in a sealed envelope, and the members can do with them as they wish. If you don’t want to—

Mr. Bill Mauro: Well, I understand that—

The Chair (Mr. Michael Prue): If you want to destroy it—

Mr. Bill Mauro: Mr. Chair, I understand that, the point being, obviously, when it comes to public perception, we would have all received the documents. I don’t want somebody’s social insurance number. I don’t want somebody’s bank account. I don’t want whatever has generally been personal information that historically the committee members have not needed. I don’t want it.

If this is the first time this has been asked—I don’t know. I’m not trying to put the Clerk or the Chair in a difficult spot. I don’t see it as somehow being an unfriendly amendment here. I’m just looking for some capacity to—your motion is going to go forward; you’re going to get exactly what you want. The committee is going to get their information. I’m simply asking a question: if the copies of the documents that come to me could come to me historically how they flow to people, without personal information. For those things that have already been deemed sensitive, it’s not going to be precluding me from being able to do my work here at this committee. So it’s a pretty straightforward question.

The Chair (Mr. Michael Prue): Well, I mean, I’ve tried to answer this, and the Clerk did as well.

Mr. Bill Mauro: Well, I’m just asking him to give me a copy that’s redacted, that’s all.

Mr. Michael Harris: We’ll eventually do that.

Mr. Bill Mauro: Yes. The “eventually” is the part I’ve got a concern with.

Interjection.

The Chair (Mr. Michael Prue): Are you in a position to tell him how you’re going to give them differently than the other members?

Mr. Bill Mauro: Well, I may not be the only member that’s interested in that.

Interjection.

The Chair (Mr. Michael Prue): You don’t want to receive those documents?

1700

Mr. Bill Mauro: No, I didn’t say that. I said I’m not concerned with whether they’re in a sealed envelope or not; I’m concerned with whether or not they come to me in an unredacted form.

Information that historically would be considered not necessary for the committee to conduct its business, that being personal information, solicitor-client privilege, commercially sensitive—I don’t particularly feel I’m going to need that. I don’t want access to it to conduct my business here at committee. So I’m simply asking for my copy—I don’t see this as an onerous discussion or an onerous task, and I don’t feel like I’m asking to be treated differently—I just want my copy to be in the form that I’ve requested.

Mr. Michael Harris: So, a proposed amendment to exclude Mr. Mauro from the documents?

Mr. Bill Mauro: To take the documents in the form that would traditionally be treated by committee.

The Chair (Mr. Michael Prue): The motion says that it’s delivered to the committee. If you want to be treated differently, if you make a motion, then make the motion that you want to be treated in a way that the other committee members are not.

Mr. Bill Mauro: I make a motion that I would like my copy of the documents to come to me redacted as per the traditions of the committee Clerk or the FIPPA officers or whoever it is who would normally make those decisions. I’m not interested in people’s personal information. I’m not interested in commercially sensitive information. I’m not interested in solicitor-client privilege information. I don’t see how any of that is going to help me do my work here in committee.

The Chair (Mr. Michael Prue): All right; I’m very happy with that. But that would require you getting your copy later than other members.

Mr. Bill Mauro: I’m fine with that.

The Chair (Mr. Michael Prue): Okay. You are making a motion that you receive your documents redacted, understanding that you may not get them until March 20th or—it might be as late as March 20th.

Mr. Bill Mauro: And still well before the committee sits to deal with these issues. Absolutely.

The Chair (Mr. Michael Prue): All right. So that’s the request of one member. Is there anyone else who wants theirs done that way as well? Anyone else who wants it done that way?

We have a motion from Mr. Mauro that he not receive his documents the same way as the other committee members, but that he receives his redacted at a later time—sometime between March 6th and March 20th.

Interjection.

The Chair (Mr. Michael Prue): Pardon?

Mr. Taras Natyshak: Can I speak to that motion?

The Chair (Mr. Michael Prue): You can speak to it, yes.

Mr. Taras Natyshak: I don't quite understand the nature—I think Mr. Mauro's attempting to protect himself from the full scope of the information. If he doesn't believe that he needs to review the entirety of the documents that are involved and that he couldn't contain himself with that amount of information, possibly, then, he should recuse himself from the committee.

If you don't think you can do the job with the information that's being presented, then let's find someone who can do the full scope of the job, because that's what people are asking us to do: Take the information that's involved, govern ourselves accordingly as honourable members and make competent decisions. You can't simply ask for half-truths. Please consider the ramifications here. We need you to read the full scope.

The Chair (Mr. Michael Prue): Mr. Bisson.

Mr. Gilles Bisson: I just want to say, there are not two classes of members on committee. All members are full members of committee, and we should all be treated in the same way.

Mr. Bill Mauro: Recorded vote.

The Chair (Mr. Michael Prue): All right.

Mr. Kevin Daniel Flynn: This is on Bill's motion?

The Chair (Mr. Michael Prue): This is only on his amendment that he receive his documents in a different manner later.

On a recorded vote.

Ayes

Crack, Dhillon, Flynn, Mauro.

Nays

Harris, Leone, Natyshak, Nicholls.

The Chair (Mr. Michael Prue): It's a tie vote again. I'm sorry. Yes, everybody makes me earn my money here, I'm sure.

This is difficult, but I find it very difficult to separate one member out from the rest of the committee—that one member should be treated in a different way, even though he requests that different treatment, and even though it is to his disadvantage. I cannot countenance that; I cannot agree that members—we are all honourable members, we are all elected to do the same job, and we all have the same rights and privileges. We also have the same obligations, and so I can't support that.

So the amendment is defeated.

Mr. Michael Harris: I'd like to call the complete question on the original motion.

Mr. Kevin Daniel Flynn: I have a question for the Clerk.

The Chair (Mr. Michael Prue): A question for the Clerk.

Mr. Kevin Daniel Flynn: My understanding is that the Legislature sent us away with very specific instructions, and that was to bring the information back, or receive the information, seven sessional days after the first meeting of the estimates committee. Is that accurate?

The Clerk Pro Tem (Mr. Katch Koch): This is the motion that carried in the House on February 20. On page 2 of the motion, after the reappointment of standing committees, the membership of standing committees, it says: "Notwithstanding the prorogation of the House, the following motions for the production of documents passed by a committee in the first session of the 40th Parliament that had remained outstanding at the date of prorogation shall be dealt with under the 'Terms' outlined further below...."

I'm just going to skip the ones pertaining to the Standing Committee on Public Accounts. Here it says: "July 19, 2012, committee Hansard page 289, motion by MPP Michael Harris, Standing Committee on Estimates...."

Further down, under the terms, it says: "The order shall be deemed to be made on the first day the committee meets in the second session...." Second bullet: "The time period for compliance with any such order shall be deemed to be seven sessional days from the first day the committee meets...."

Mr. Kevin Daniel Flynn: So what would that translate into?

Mr. Gilles Bisson: In seven days from today.

The Clerk of the Committee (Mr. Katch Koch): From today, yes.

It would take us to the 18th of March—Monday, 18th of March.

Mr. Kevin Daniel Flynn: Okay. Now, that's an order from the House. The committee is going to consider an alternate motion from Mr. Harris that, previous to the previous discussion, I had some sympathy with. What is the power of the committee to override the instructions from the House?

Mr. Gilles Bisson: Zero.

The Chair (Mr. Michael Prue): I heard from one of the MPPs "Zero," and that is correct. The committee cannot override the intent of the House.

Mr. Kevin Daniel Flynn: Okay, and that was Mr. Harris's motion.

Mr. Gilles Bisson: No.

Interjection: Originally, yes.

Mr. Kevin Daniel Flynn: Originally. So it looks like—have we been told the date is March 18?

The Clerk of the Committee (Mr. Katch Koch): Seven sessional days from today would be the 18th of March.

Mr. Kevin Daniel Flynn: So the 6th, the 20th, the 14th, the 21st, the 27th—how does that tie into the instructions of the House? It seems to me that we can comply with what Mr. Harris is trying to do with his motion today and comply with the House if we change the dates to something more reasonable. Then the debate begins to be about the substance of the issue and not the dates and deadlines and whether deadlines can be met.

The Chair (Mr. Michael Prue): Again, we have some interpretation here. My understanding of the order of the House is that the ministry would have complied by releasing the documents to the members as of today, or within seven days of today—if that is the ability of the Clerk's department—to make sure that everybody gets those documents. That was the order: that this committee gets it. This motion speaks directly and almost exclusively to which documents would be relayed to the public.

1710

Mr. Kevin Daniel Flynn: I understand that—

The Chair (Mr. Michael Prue): It doesn't in any way fetter the rights of this committee to get the documents today, which was the intent of the order of the House, and it would be in compliance.

What would not be in compliance is the posting on the public domain that would, in fact, I guess—it could be two days out, or maybe not, because I don't think the House dealt with that.

Mr. Kevin Daniel Flynn: Okay, well, explain this to me, then, Mr. Chair or Mr. Clerk: The House has said we have up until the 18th of March to receive the documents; the motion says we have up until the 6th. They can't both be true.

The Chair (Mr. Michael Prue): The House said “no later than the 18th.”

Mr. Kevin Daniel Flynn: Right.

The Chair (Mr. Michael Prue): So this would be in compliance. It's before the 18th.

Mr. Kevin Daniel Flynn: Right. Let's say that the advice that we're getting is that the deadlines would be problematic and the information comes in—instead of on the 6th, it's available on the 10th or the 12th. It still complies with the order of the House. What does it mean to the work of the committee?

The Chair (Mr. Michael Prue): I'm not sure I understand “What does it mean?”

Mr. Kevin Daniel Flynn: I'm saying, if we don't meet—

The Chair (Mr. Michael Prue): The committee has to get the documents.

Mr. Kevin Daniel Flynn: I think what I'm hearing from our side is that the 6th of March could be problematic, and it would be a lot better if it was at a later date. The committee has already said, “Well, they should be able to do it.” So we passed that. Assuming this passes, Mr. Chair, you've got one that says it has to be here by the 6th of March; you've got another that says it has to be here by the 18th of March. Which one has precedence?

The Chair (Mr. Michael Prue): We already have those documents in our hands.

Mr. Kevin Daniel Flynn: Right.

Interjection.

Mr. Kevin Daniel Flynn: No, we don't.

The Chair (Mr. Michael Prue): The rest of them are in his office. The ministry has complied. The ministry complied in September.

Mr. Kevin Daniel Flynn: Where—

The Chair (Mr. Michael Prue): The ministry complied in September. Compliance has been met on all

phases. The only question is—they must be released to this committee no longer than the 18th of March, as I'm given to understand, and they will be released, according to the Clerk, within a matter of days.

Mr. Kevin Daniel Flynn: Okay. My understanding is that there are still some more documents to come.

Mr. Michael Harris: In addition to the—

Mr. Kevin Daniel Flynn: Yes. They will be here by the deadline.

Mr. Gilles Bisson: There are more documents?

The Chair (Mr. Michael Prue): If there are more documents to come, I'm sure that the Clerk will advise us upon receipt.

Mr. Michael Harris: We've not been advised. Unless you got information from the Clerk—

Mr. Gilles Bisson: Chair?

Mr. Kevin Daniel Flynn: It will be here by the 18th. It will meet the deadline.

The Chair (Mr. Michael Prue): A question: Mr. Bisson.

Mr. Gilles Bisson: Is the government now advising us that there are more documents to come that have not yet been given to the Clerk as per the request from estimates prior to prorogation? Is that what you're saying?

Mr. Kevin Daniel Flynn: No.

Mr. Taras Natyshak: What did you just say?

Mr. Gilles Bisson: Well, that's what I heard.

Mr. Kevin Daniel Flynn: What has been asked for has been given. There are more documents to come, as I understand it.

Interjections.

Mr. Gilles Bisson: Whoa, hang on a second. Hold it. I want to make sure that I understand. There was a request made by this committee for documents. I was under the understanding that all the documents were being released. You're now telling me there are more?

Mr. Taras Natyshak: As you understand it.

Mr. Gilles Bisson: That's what I'm hearing. If that's the case, Speaker, that's pretty serious.

The Chair (Mr. Michael Prue): I'm not the Speaker. I do not have that wisdom. I am the Chair of this committee.

If that is true, there still can be compliance up until the 18th. If they are received, there can still be compliance. I am surprised if there are additional documents, because I thought they were all here, but if there are additional documents, then the government could bring them forward, under the order of the House, until the 18th.

Mr. Gilles Bisson: Well, I want to be clear. I'm understanding the government to say there are more documents that will be released before that deadline.

Mr. Kevin Daniel Flynn: No, that's not what I'm saying. I'm saying that we have until the 18th to release all the documents. All the documents that have been asked for have been given to the Clerk at this point in time.

There's still time left in the deadline, so if there are more documents that need to be forthcoming, we would have up until the 18th to bring them forward, obviously.

Mr. Gilles Bisson: All the more reason I wouldn't want to redact any of these documents now.

The Chair (Mr. Michael Prue): Okay, we have a motion made by Mr. Harris. I have Mr. Harris's explanation as to what it means. I have the House leader of the Conservatives signifying that my interpretation is what their intent was, so I think it's quite clear that that's what the intent is. It's the ordinary reading, to me, as well. We have Mr. Harris's motion. Anybody want a recorded vote?

Mr. Kevin Daniel Flynn: Yes.

Mr. Michael Harris: We're going to call for a five-minute recess.

Mr. Gilles Bisson: Just before you do, can I ask a question? I want to make clear: Are there or are there not more documents that are expected to be released as a result of this motion? I've heard two different things now. Yes or no? I need to know from the government. Are there more documents expected to be released from the Ministry of Health as a result of the main motion—

Mr. Kevin Daniel Flynn: Not that I'm aware of, any more than you're aware of.

Mr. Gilles Bisson: Not that you're aware of. I've heard that three times in the House. Okay; it's good.

The Chair (Mr. Michael Prue): Mr. Natyshak, and then we're going to—if you have a very brief question, because I'm going to cut questions—

Interjection.

The Chair (Mr. Michael Prue): Okay. We have a request. It is in order; it's always in order in committee. There has been a request for a five-minute recess before we vote on this matter, and it will be a recorded vote. Please be back here at, according to my watch, 5:22.

The committee recessed from 1716 to 1721.

The Chair (Mr. Michael Prue): We are back, and we're now going to have a recorded vote.

Interjection.

The Chair (Mr. Michael Prue): No, you can't. We're in a recorded vote. If you don't like your motion, you have to vote against it. If you want to do something else, you're going to have to vote against your own motion.

All right. We're in a recorded vote; that's all that's allowed at this point.

Ayes

Crack, Dhillon, Flynn.

Nays

Harris, Leone, Mauro, Natyshak, Nicholls.

The Chair (Mr. Michael Prue): You can't vote twice.
Interjections.

The Chair (Mr. Michael Prue): No, I'm not allowing you to vote twice.

Interjection.

The Chair (Mr. Michael Prue): Just for the record, it was five to three against. The motion fails.

All right, any further discussion? We're back to square one. Any further discussion?

No further discussion; then, just for the record, that would mean that the Clerk's department would release the documents according to the wishes of the House.

I have been advised by the Clerk—it's very sage advice—that in the absence of any motion and because the committee could not deal with the item, we are going to refer this matter back to the Clerk's department, and the Clerk will distribute the information as the Clerk sees fit.

Interjections.

The Chair (Mr. Michael Prue): Okay. Anything that is filed with the committee, the members will get it. Okay?

Mr. Gilles Bisson: That's right.-

The Chair (Mr. Michael Prue): That's just for the record so I've said it right. Anything filed with the committee, the members will get it, and the Clerk's department—

Mr. Michael Harris: Can we make a motion then to solidify that?

The Chair (Mr. Michael Prue): Well, no; that's what's happening. There was no motion. I asked if there was anything else. There was no indication that anyone wanted to make a motion. So, I have to conclude this—

Mr. Michael Harris: A motion to table the documents immediately forthwith.

The Chair (Mr. Michael Prue): No, that's what the Clerk is going to do.

Mr. Michael Harris: Okay.

The Chair (Mr. Michael Prue): All right. Any other business?

No other business; the meeting is adjourned, and we'll resume again at some point, at the call of the Chair.

The committee adjourned at 1725.

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STANDING COMMITTEE ON ESTIMATES

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Mr. Michael Prue (Beaches–East York ND)

Vice-Chair / Vice-Président

Mr. Taras Natyshak (Essex ND)

Mr. Grant Crack (Glengarry–Prescott–Russell L)

Mr. Kim Craiton (Niagara Falls L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Michael Harris (Kitchener–Conestoga PC)

Mr. Rob Leone (Cambridge PC)

Mr. Bill Mauro (Thunder Bay–Atikokan L)

Mr. Taras Natyshak (Essex ND)

Mr. Rick Nicholls (Chatham–Kent–Essex PC)

Mr. Michael Prue (Beaches–East York ND)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Also taking part / Autres participants et participantes

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

Mr. Jim Wilson (Simcoe–Grey PC)

Clerk pro tem / Greffier par intérim

Mr. Katch Koch

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