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LIEUTENANT-GOVERNOR

Her Honour the Honourable Janet Austin, OBC

Second Session, 42nd Parliament

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Orders of the Day

Proceedings in the Douglas Fir Room

THURSDAY, NOVEMBER 25, 2021

The House met at 1:02 p.m.

[Mr. Speaker in the chair.]

Orders of the Day

Hon. L. Beare: In this main chamber, I call continued Committee of the Whole, Bill 28, Forest Amendment Act.

In Section A, Douglas Fir Room, I call continued Committee of the Whole, Bill 22, FOIPPA amendment act.

[1:05 p.m.]

Committee of the Whole House

BILL 28 — FOREST AMENDMENT ACT, 2021
(continued)

The House in Committee of the Whole (Section B) on Bill 28; N. Letnick in the chair.

The committee met at 1:06 p.m.

On clause 18 *(continued)*.

The Chair: Just a note for all the members in the chamber: don't leave. We have quorum — just.

Member for Nechako Lakes, on clause 18.

J. Rustad: On 18 — that's what I was hoping you'd say.

I think I remember last time we were talking about this special purpose area. There's a lot more to be said about the special purpose area, I think, when we get to section 62 or something like that. So I think, for now, I don't have any other questions on this, except….

Well, I shall wait till we get to 19 to ask.

Clause 18 approved.

On clause 19.

J. Rustad: In 19, it delegates powers through the chief forester in writing. And I'm just wondering: these special purpose areas — are they going to be designated by the minister or by the chief forester or by the chief forester's office and designated to somebody else?

Hon. K. Conroy: They're designated by order-in-council.

J. Rustad: Perhaps the minister could describe the process in which an area would be determined as to whether it should be designated as a special purpose area.

Hon. K. Conroy: Mr. Chair, I just want to make sure I introduce my staff that's with me, first. I've got Melissa Sanderson, the assistant deputy minister of forest policy and Indigenous relations; then Peter Jacobsen, the executive director of compensation and business analysis; Tim Bogle, the director of compensation and business analysis; Lesley Scowcroft, our director of legislation; and Ryan Munroe, the senior legislative analyst.

[1:10 p.m.]

The member knows the special purpose area — all of the questions that the member is referring to are contained in clause 62. This clause, clause 19 — all it is, is adding a new section that allows the chief forester to delegate powers and duties under the act to ministry employees.

J. Rustad: Hon. Chair, you mentioned quorum. I don't think we actually have quorum at the moment.

The Chair: Thank you. We have quorum now.

J. Rustad: The reason for asking the previous question is that obviously, as areas get designated, as we get into that…. Maybe there's a better section to be asking this question. Maybe we should wait until we get to 62 with regards to it. But I'm just curious in terms of that, when I saw the authority of the chief forester's office…. Maybe I should just ask: what role does the chief forester's office play in this designation?

Hon. K. Conroy: The roles and responsibilities of the chief forester around the special purpose areas are all contained in clause 62, so I'm not sure if the member caught that last time.

As a result of these amendments, the chief forester…. It will give her an expanded range of authority respecting special purpose areas and forest inventory requirements — and can delegate this authority to ministry employees to ensure efficiency.

J. Rustad: With respect to the special purpose areas and the authorities given to the chief forester's office, is the chief forester's office being required to undertake supply reviews or any other sorts of components associated with that? I'm just trying to understand. Maybe that should be in 62 as well, but because the chief forester's office is mentioned here, I thought I would ask these questions.

Hon. K. Conroy: The roles and responsibilities that the chief forester has for special purpose areas are all covered under clause 62.

Clauses 19 to 23 inclusive approved.

The Chair: Does the member for Nechako Lakes have a specific clause he's looking for?

J. Rustad: Keep going.

The Chair: Keep going.

Clauses 24 to 34 inclusive approved.

On clause 35.

The Chair: On 35, Nechako Lakes.

J. Rustad: We were on such a good roll here.

[1:15 p.m.]

The Chair: May I humbly request that if you do have a whole series, next time, just let us know what they are, and we can skip them. Thank you.

J. Rustad: I very much enjoy seeing the role of the Chair extended to its fullest extent. You're doing such a great job, hon. Chair. I really do appreciate it.

In any case, sorry to the audience in the gallery here. We do have some questions that we do need to ask on this bill as we move forward on it. But I do appreciate the humour associated with it.

On clause 35, it says: "In this section and in sections 63 to 63.05." Can the minister provide exactly what these definitions are about in terms of combining annual allowable cut and base-level annual cut?

The Chair: Just to note that introductions today were the longest in our history, at 52 minutes. Just a little trivia for a future Trivial Pursuit game.

Hon. K. Conroy: Thank you for the trivia. Very important.

This clause ensures that the meaning of words and expressions necessary for the efficient functioning of the amended forest licence reduction model are clear, thereby making these provisions more accessible and transparent.

J. Rustad: Sorry I wasn't clear with my question the first time around. What I'm asking about or what I'm curious about is: has the minister determined what a base-level annual allowable cut will be on the landscape? As well, if the minister could explain the necessity for doing a combined annual allowable cut, as opposed to how that would work with individual annual allowable cuts that have been allocated by the minister.

Hon. K. Conroy: For base-level AAC, it's an amount below which no licence will be reduced. The new definition enables different base levels for different timber supply areas. The current definition only permits a single prescribed base-level AAC, which is set at 10,001 cubic metres. This change will allow greater customization and reductions for licences. Setting different base levels will enable government to support its goals for a diverse and competitive forest sector by protecting those licence holders with smaller volumes.

[1:20 p.m.]

The combined AAC and combined AAC reduction are the total AAC and the total AAC reduction for a group of licences, which support the new rules for how to distribute reductions to a group of licences as if the group were a single licence.

J. Rustad: Perhaps the minister could explain…. I understand the base level. It was talking about 10,000 cubic metres. And the point of asking the question was for the potential variability that you might have from one supply area to another and how that treats all companies in the province fairly and equally.

Hon. K. Conroy: Different TSAs have different operating environments, and it may make sense to have different base levels based on the circumstances around those environments.

J. Rustad: I understand the rationale the minister has given. I'm just wondering if there are any potential ramifications of not treating all companies that operate in the province equally.

Hon. K. Conroy: Circumstances are different across the province, and this clause reflects that.

J. Rustad: In terms of the combined annual allowable cut, there is a wide variety of variation out on the landscape with companies that may have amalgamated cut, companies that may have partial control or other companies that have cuts. How will it be determined that the annual allowable cut for various entities should be combined?

[1:25 p.m.]

Hon. K. Conroy: By enabling the grouping of licences and their associated volumes held by the same or related persons, it ensures that the AAC reduction model is proportionate. So those with more volume in the same timber supply areas will carry a greater proportion of the reduction than those with less.

The Chair: Member on 35.

J. Rustad: Thank you, hon. Chair. I know we're wandering into section 37 in terms of those questions. Maybe I should wait till 37. If it's appropriate for me to wait for 37 for this question, I will do that, but I'll ask it here, associated with this. And I can re-ask it two sections down the road here, if you'd like.

What I'm wondering about is when you have a licence that may be a portion. For example, you might have three companies that share a third interest in a particular

licence. I'm just wondering how that gets amalgamated with…. Each of those three companies may also have licences within a particular area. So I'm just wondering at what level it's determined that it needs to be amalgamated with a particular company.

Like I say, if that's better asked under 37, let me know, and I can re-ask the question under 37.

Hon. K. Conroy: All this section does is set out the definitions, so that would be a better question under a different clause.

Clause 35 approved.

On clause 36.

J. Rustad: Under section 36, it says: "If the allowable annual cut determined for a timber supply area is reduced under section 8 for any reason, other than a reduction in the area of land in the timber supply area, the minister may reduce the allowable annual cuts of the licences in the timber supply area." I'm curious as to why that excludes a land disposition within a supply area.

[1:30 p.m.]

Hon. K. Conroy: This is 100 percent consistent with the existing clause in the Forest Act, so this doesn't need to change.

J. Rustad: It is put in as text in here, as opposed to just being referenced to the original Forest Act. I'm curious, because, obviously, a volume is reduced in an area.

There are only two ways volume can be reduced within a supply area: either there's a determination by the chief forester and a timber supply review that there is less volume in an area because of reduction from pests or fire or other types of things that happen, in terms of volume available; or the area of a supply area is reduced, which has an impact, obviously, on the timber supply within an area. I'm wondering why this excludes an area reduction.

The other reason, of course, for asking that is that special purpose areas are defined as an area that will be extracted out of a timber supply area, which obviously will have an impact on the available timber that needs to be attributed to the various licensees.

I'm wondering why this excludes area. It doesn't seem to make sense to me. Please help me understand what is trying to be done here or why that is included in here.

[1:35 p.m.]

Hon. K. Conroy: There's no intention to make significant changes to section 8. The amendments were drafted to align with the current framework. A reduction in the area of land is not a section 8 decision, and it is not part of the AAC determination process. So for industry, this is business as usual.

J. Rustad: I think I understand what the minister is saying. A reduction of land would lead to a reduction of volume, but it's not until we determine the reduction of volume that it gets calculated through to reduction of costs.

[1:40 p.m.]

That's fine. It's not the land itself that triggers it; it's once the volume is determined in terms of the reduction, I suppose, that triggers these measures.

I'm good with 36 at this point.

Clause 36 approved.

On clause 37.

J. Rustad: Sorry, I've been just dealing with…. There was an active shooter in one of my communities. Fortunately, they have apprehended the person. Just one of those little things that's going on outside of the Legislature.

In clause 37, it goes through…. Once again, this is the issue of combining the licences. So I'll re-ask the question around licences that are held by more than one individual. How are they attributed — to a combining? Or are they left separate?

Hon. K. Conroy: Enabling the grouping of licences — and their associated volumes, held by the same or related persons — ensures that the AAC reduction model is proportionate. Those with more volume in the same timber supply area would carry a greater proportion of the reduction than those with less volume. As staff are fond of saying, everybody doesn't get the same haircut. If you've got more, you get a greater haircut; if you've got less, you get less. It works well.

J. Rustad: The forest sector, unfortunately, doesn't have a lot of hair left to cut. Regardless of that, my question is around…. You do have cases where you have licences that are held by different companies that are at arm's length and that share an interest within a particular supply cell. If they're treated separately, as a separate entity, that's fine. But at what threshold are those considered to be part of a larger entity?

I'll give you an example. If the minister had one licence and, as opposition critic, I had another licence and, as the Third Party, they had a licence that all three of us had an equal interest in, how would those end up being accounted for? Would that be a separate licence? Would the one-third portion be combined with the minister's? How would that look?

That's what I'm trying to determine: in this situation, what would happen on a landscape? It's easy if Canfor has got three licences. They're obviously combined as one licence and thought of that way. But when there are interactions between other companies and how those interactions work on the landscape, it can kind of confuse the

situation, which is why I'm trying to determine how that would be handled.

[1:45 p.m.]

Hon. K. Conroy: It's based on who actually holds the licence. In reference to the member's example, if three separate people held a licence, that licence would be…. There would be a joint partnership agreement. So the joint partnership agreement would hold the licence.

J. Rustad: The joint partnership agreement would hold the licence, but obviously, that's not arm's length if it's individual A and individual B and an individual C that are part of that license. This is why I'm asking about it, because the combining of licences is when it's…. If the minister held a licence, and the minister's husband or child or nephew or relation held a licence, that's not necessarily at arm's length. They would end up being combined.

That's my understanding of what it says in this act. If that's not the case, that's fine. That's why I'm wondering.

You could be in a situation where companies decide they want to form third parties to hold licences — to share those licences, to share the ownership of those licences — to be able to have wood that is not necessarily combined together with their original licence. You might end up in those situations on a landscape, which is why I'm asking how those situations would be handled.

If I understand the minister correctly, I think what the minister has said is that it would be a separate entity, even though the individual owners that are associated with that third party would or could potentially also have other licences. It would still be considered a third party or not combined.

That's the question that I'm trying to get to, because we could end up seeing companies on the landscape saying: "Oh, I know how we can get around some rules. Let's just do a whole bunch of deals and shuffle things around so that you end up with 30 licences on an area through transactions as opposed to two licences on an area."

[1:50 p.m. - 1:55 p.m.]

Hon. K. Conroy: The minister has the authority to consider these issues and make groupings. The framework also requires that notice be served on group licence holders, and it provides also for reconsiderations. If a licence holder feels the grouping is inaccurate, they can appeal that and provide information as to why they feel it's inaccurate. Then it requires the minister to provide written reasons for why the determination was confirmed or reversed.

J. Rustad: One of the questions that comes to mind with this…. The minister has said a number of times that the higher the volume, the larger the haircut. But when we go through and we look at the formula…. I've got a question as to why the multiple formulas, but we'll get to that in a minute.

Maybe the minister can help me understand. If we've got somebody that's got one million cubic metres and somebody that's got 100,000 cubic metres and there is a 20 percent reduction and the base level is 10,000 cubic metres, there would still be a 20 percent reduction, whether you had one million or whether you had 100,000, because both would still be above the 10,000 cubic metre limit.

I'm just wondering how the minister describes that as being an equal haircut. When it's a 20 percent reduction, it's a 20 percent reduction to the volume. It's an equal reduction to both in terms of the percentage of loss.

Hon. K. Conroy: The rule for groupings is about the base level AAC and making sure people are not subdividing licences to evade this fair approach.

J. Rustad: Sorry, but that wasn't the question I asked. The minister described that those that have more get a larger haircut than those that have less. Excluding the base level, a 20 percent reduction is still a 20 percent reduction. If it isn't that, I'd like to know. If it is that, I'm fine. I just want to make sure that I understand that if somebody's got one million cubic metres and somebody's got 600,000 cubic metres and somebody's got 100,000 cubic metres, they're all going to be reduced by 20 percent, assuming the base level stays at 10,000 cubic metres.

[2:00 p.m.]

Hon. K. Conroy: Yes, that's accurate.

J. Rustad: I just needed to make sure that was clear, because my perspective of a larger haircut is somebody getting 25 percent and somebody only getting 15 percent. I wanted to make sure that was what the minister was saying.

In the rest of section 37, there are four sets of formulas which are identical in terms of formulas. Could the minister explain how the interaction between each of these formulas is to be applied?

[2:05 p.m.]

[S. Chandra Herbert in the chair.]

Hon. K. Conroy: The same formula is applied through multiple steps to ensure the reduction is distributed fairly. So for equation 1, it's in relation to the grouped licences. Equation 2 is there because there could be some remainder of AAC because of the base levels. So that equation…. We'll deal with that under equation 2. Equation 3 — we now have to assign AAC to each licence within that group. Then equation 4 distributes anything that's left, any of the remainder that needs to be distributed.

J. Rustad: As I think about that, I think that makes sense to me. I'm a little confused about the remainder and how, exactly, a remainder ends up being determined, because if there's a percentage reduction, I'm not sure how you get a remainder. But I'm certainly not going to be stumped on that. I don't think it's that big an issue to spend time on.

I do wonder, in terms of the allocation, or as it gets distributed, historically there has been an amount of volume that has not been distributed within timber supply areas. It's kept in reserve within the Ministry of Forests.

I'm just wondering, when there are reductions in areas, whether or not any of that reserve within the Ministry of Forests would be first call for those reductions, or whether or not that would be distributed, any reductions, including what might be left in reserve that is unallocated within the ministry.

[2:10 p.m.]

Hon. K. Conroy: The forest service reserve would be reduced proportionately if there is an AAC reduction.

J. Rustad: I think I understand that.

I request a short recess.

The Chair: This committee will be in recess. Thank you.

The committee recessed from 2:12 p.m. to 2:21 p.m.

[S. Chandra Herbert in the chair.]

Clauses 37 to 45 inclusive approved.

On clause 46.

J. Rustad: We got on another good roll there.

On clause 46, we're talking about the forest inventories. I see there's a definition of "recreation resource" and "visual resource" as part of the inventories that need to be collected.

Historically I've been involved in overseeing visual quality objectives and setting this out and laying this on the landscape and also recreational areas on the landscape in terms of laying them out where they are. I'm kind of wondering why those need to be identified as part of an inventory as opposed to a feature that's within an inventory.

[2:25 p.m.]

Hon. K. Conroy: These definitions support the new requirements regarding forest inventories that are being introduced by this bill. With the recreation resources, they provide information about the other ways humans use the landscape, and it informs decision-making regarding retention, or buffers, and mitigation of impact to other users.

The visual resources — this provides information about scenic areas and viewscapes that are valued by the public and informs decision-making regarding retention and timber supply.

J. Rustad: In terms of recreation, there are official recreation areas such as trails and hiking paths, these type of things. Of course, there are many unofficial recreation utilizations of areas. Some people go into areas for back-country skiing. They go into areas using their snowmobile, or whatever the case may be.

At what level are we talking about, in terms of recreational opportunities within an inventory that need to be identified and, as the minister said, potentially buffered to prevent the degradation of those recreation areas? Obviously, if there are people's walking paths or whatever else that may go through an area, if they get a lot of those sort of things out there, it could end up taking over an entire area that's required to be inventoried, if you're talking about a woodlot licence or a community forest, these types of things.

I'm wondering what level of the inventory or what level of recreation is considered that needs to be part of an inventory.

[2:30 p.m.]

Hon. K. Conroy: Inventories must include sufficient information about a forest resource — for example, a recreation resource — to allow a professional forester to assess impacts that the following would have on forest resources: timber harvesting; road construction; use, maintenance and deactivation of roads; wildfire; disease; and insect infestation.

J. Rustad: I understand that in terms of the values and components that need to be looked at in terms of the interim. What I'm wondering about is when it comes to recreation, there are a lot of different levels of recreation, whether it's official trails for, you know, a snowmobile club or, for example, the community forest in Burns Lake that's got mountain bike trails, etc. It's all part of how it does its business and is identified.

Then there are lots of unofficial utilizations of trails, and I'm just wondering if there is a definition that the minister can provide as to what constitutes a recreational area.

Hon. K. Conroy: The recreation resource, actually, has the same meaning as it does in the FRPA bill. It includes "a recreation feature, a scenic or wilderness feature or setting that has recreational significance or value, or a recreation facility." Also, a recreation feature means "a biological, physical, cultural or historic feature that has recreational significance or value."

J. Rustad: We, through closure, forced through Bill 23, which, of course, has the definitions of forest landscape

areas. In in those definitions are community values and First Nations values. Are inventories required to line up and match with those values that will be identified as part of a forest landscape plan?

[2:35 p.m. - 2:40 p.m.]

Hon. K. Conroy: The inventory will be to the standard of a forestry professional and will support decisions about the management of resources and values under FRPA and the forest landscape plans. This information will allow us to make more informed decisions. It's actually something…. We don't have the ability, right now, to get that information to make those informed decisions. This clause will help us to be able to do that.

J. Rustad: I think what the minister is trying to say is that the inventory will drive the FLA, not FLA drive the inventory — FLA being the forest landscape areas. Or forest landscape plans, I should say, FLPs. Okay. If that's the relationship, that's fine.

It says here: "In this section, 'pre-existing licence' means a licence that is in effect on January 1, 2022." Then the holder of a licence, on January 1, 2022, "must prepare an inventory of each forest resource by no later than 2 years after the date the area-based licence is entered into."

I guess the question I've got around there is the pre-existing inventories. If an inventory was done 20 years ago or four years ago or ten years ago, whatever the number may be, is there still a requirement to do a new inventory? Or is this just saying that an inventory has to be in place from an existing time frame?

[2:45 p.m.]

Hon. K. Conroy: This provides that the holder of an area-based licence entered into after January 1, 2022, must prepare a forest inventory that is up to the new standards no later than two years after the date the licence is entered into. There's a two-year grace period.

It also provides that pre-existing community forest agreements — so First Nations woodland licences and woodlot licences — have to prepare an inventory of forest resources no later than January 1, 2026. That's a four-year grace period, and they have to prepare that inventory up to the current standards.

J. Rustad: I just to make sure I heard the minister correctly. Did the minister say for new licences that is what's required, or for pre-existing licences that is what's required?

For example, the minister talks about a woodlot licence — for a pre-existing woodlot licence, must prepare an inventory no later than January 1, 2026. But if an inventory has already been done — let's say it was done in 2018 — does it have to be redone? At what point can historic inventories be utilized to meet this requirement?

Hon. K. Conroy: The first clause that I read out was for new holders, and the second one was for pre-existing. Regardless, they all have to make sure that they do their inventory up to the current standards. So for the pre-existing, that's a four-year grace period. I think that's sufficient.

[2:50 p.m.]

J. Rustad: If I heard that right, the hundreds of woodlot licence owners around the province are going to be required to do a new inventory, regardless of whether they have done a previous inventory, at a cost of — whatever it is — probably $35,000 to do a new inventory, not to mention the challenge of finding professionals that are available to be able to do that kind of inventory work when there's lots of other inventory work that is going to need to be done around the province. If I can ask the minister to confirm that is the case.

[2:55 p.m.]

Hon. K. Conroy: To the member's question, you can use existing inventory, but this may need to be updated to the new standards. Updates are often done after significant events such as wildfires.

To the member's question, this is about transparency. This is about ensuring that government has the information it needs about what the forest inventory is on Crown land. This is, I think, what people are asking government — to have that information. We don't have the ability to do that now. This gives us the ability to do that, and it is forest practice standards.

J. Rustad: I'm a little frustrated with the minister's answer. I understand the need to report this out to the ministry, to collect the data to get it in there. We'll get into that.

What I'm asking is a really simple question. Do existing woodlot licence owners, community forest owners and other area-based tenures…? Are they required to do a new inventory because of this act, or is there existing inventory enough that can be turned over to the chief forester's office as required by this act?

Hon. K. Conroy: I don't know why the answer I gave isn't explanatory. You can use existing inventories, but you may need to update. It depends on the circumstances. Some people might need to update. Some people might not. Some people might have already provided that information, but this will make it a requirement.

So they may need to. They can use existing inventories, but they may need to update so that they update to the new standards.

J. Rustad: To paraphrase what the minister said, this act does not put in a new requirement to do inventory. The inventory is based on other information, whether it needs to be updated or not. Which is fine. That's all I'm trying to

understand with this, in terms of the dates and in terms of that requirement.

Moving on. "The chief forester may specify information that must be included in an inventory of a resource area." Other than the obvious things that go in, I'm wondering what other information the chief forester may require.

[3:00 p.m.]

[N. Letnick in the chair.]

Hon. K. Conroy: The examples…. The chief forester may ask for information about things like stand height, stand age, site index. This gives the chief forester flexibility so that she can acquire the information that she needs.

[3:05 p.m.]

J. Rustad: With the requirement…. If inventories need to be updated around this and then, let's say, a licence holder does a new inventory and then their land base or a portion of their land base is taken away under a special purpose area, will they be compensated for that requirement, for collecting and gathering this information as part of compensation associated with a loss of their tenure or a portion of their tenure?

I'll ask that question. If the minister wants…. One other question under that section that I would like to ask is also in terms of the data that's required to be submitted. It says that the information and records "under this section must be submitted in the form and manner specified by the chief forester."

There are, obviously, different types of data sets and different types of formats for creating the data and utilizing the data. I'm just wondering if the chief forester is going to set some sort of standardized format for the data to be retrieved in. And if the format…. If it's a paper copy, that's fine, because then, obviously, it gets inputted into a new system. But if it's digital, that could get pretty complex. That's why I'm asking about that as well.

[3:10 p.m.]

Hon. K. Conroy: Stumpage reflects the inventory cost and will be considered as part of the compensation framework.

In answer to the second question, the chief forester may request records in a standardized format, such as the existing provincial standards, and any professional forester would understand those standards. This is just part of doing business.

Clauses 46 to 61 inclusive approved.

On clause 62.

J. Rustad: With regards to the special purpose areas and the process here: for the record, I'd like to have the minister describe the reason for wanting to designate special purpose areas.

[3:15 p.m.]

Hon. K. Conroy: They established this new tool called the special purpose area, which will enable areas to be designated for specific purposes. This is not a carte blanche authority. These are enabling tools, and we intend to work with Indigenous nations, stakeholders and communities when using these tools.

The legislation does not require the government to use these tools. They're intended to provide flexibility to address different situations on the land base.

This tool builds on what is currently in the Forest Act. In the current framework, areas can be deleted or removed from a licence for an access purpose — for example, a right-of-way for a highway, or a non-timber production purpose, like a park or a conservancy. This is similar to what could be done under the current framework, but clarity is provided about the process to do these things.

The new legislation will also allow for tenure to be redistributed to support reconciliation with First Nations, support the market pricing system and support communities.

J. Rustad: I'm curious. To start off, there are many questions that I have under this, in terms of the special purpose area. Perhaps I'll start with this one. For volume or area that is designated as special purpose area for the purposes of transferring to B.C. Timber Sales, is the intent, then, to shore up B.C. Timber Sales in areas where they're less than 20 percent of the current AAC within a particular supply area?

[3:20 p.m.]

Hon. K. Conroy: Yes, it could be.

J. Rustad: In the areas where we have below 20 percent…. Maybe I should just do one clarification. Is it possible that special purpose areas could also be designated and transferred to B.C. Timber Sales in areas where B.C. Timber Sales already has 20 percent or more of the cut within a supply area?

Hon. K. Conroy: This is a tool, and we will use it where it would be needed.

J. Rustad: What I'm trying to understand is where it will be needed. Perhaps the minister could provide some definition of where it will be needed.

[3:25 p.m.]

Hon. K. Conroy: BCTS requires 20 percent of the AAC in the Interior and the coast to support the market pricing system. This will be a consideration of cabinet before using this tool.

J. Rustad: My understanding, in the briefing of this tool, is that the special purpose area could be used to target specific volumes, specific types of stands, whether that be a type of wood or value of wood that could be targeted as a special purpose area.

The concern I have is that if an area is added to B.C. Timber Sales, in terms of their volume, that area will not necessarily be representative of the cut or the profile within a supply area, which then could skew the results of B.C. Timber Sales. So this is why I'm asking the questions about the area that goes in or the area that could be designated under a special purpose area.

The question to the minister is: when special purpose areas are designed or laid out or considered, will they be reflective of the profile of a supply area when they are going into something like B.C. Timber Sales? Or will there be other factors that determine what the boundary of a special purpose area may be?

[3:30 p.m.]

Hon. K. Conroy: An analysis could be undertaken to determine what types and characteristics are needed to support BCTS and the market pricing system. A special purpose area may be used to fill a gap to ensure B.C. Timber Sales can sell across the profile.

J. Rustad: My concern is that you'll end up in a situation where desirable wood, high-value wood, will be targeted under a special purpose area, and if that high-value wood is then transferred into B.C. Timber Sales, it would skew the purpose of B.C. Timber Sales in terms of meeting market pricing — the market pricing system. I'm looking for an assurance from the minister that that scenario will not occur under the use of a special purpose area.

[3:35 p.m.]

Hon. K. Conroy: BCTS will focus on representativeness, as per their mandate.

J. Rustad: We could save a lot of time if the minister would actually answer a question. I asked whether or not that scenario is possible to be moved in and whether the minister would assure the House that a special purpose area will not be used to take high-value volume and move it into a B.C. Timber Sales without that consideration of the balance.

Hon. K. Conroy: BCTS's job is to sell representative timber, which is a mixture of high and low quality, to set a fair market price, a fair market standard, in B.C. This amendment does not change the mandate of B.C. Timber Sales.

[3:40 p.m.]

J. Rustad: I don't know why the minister can't just simply say, "No, it won't," as opposed to going through that, but that's fine. The minister can go through this, I suppose, in any way she wants to answer the questions. That's her prerogative.

In terms of defining a special purpose area for the rationale of treaty-related measures or other interim measures or economic measures for a First Nation, is the area that would be considered for a special purpose area…? Is that brought forward by a First Nation? Or is it determined by a First Nation of an interest they have and then brought forward by the ministry as to what might be available? I'm asking that specifically because I am interested in knowing the process by which a First Nation would be engaged in an area that might be identified as a special purpose area.

Hon. K. Conroy: Just to clarify, is the member asking about 182(2)(a) on page 25? I'm just trying to figure out where in the bill the member's….

J. Rustad: Under 182 on page 25, it does say: "treaty-related measures, interim measures or economic measures." "An area of Crown land may be designated as a special purpose area for any of the following first nation purposes."

I'm trying to determine what process would be done to identify a particular area, whether that's written by First Nations, whether it's written by government, or how that's done.

[3:45 p.m.]

Hon. K. Conroy: Treaty land disposal is set out in the treaty process, and the special purpose area would be used to set out a clear process for deleting the harvesting rights associated with the treaty land. And licensees would be compensated.

J. Rustad: I'm actually not talking about treaty land. The section talks about disposal of fee simple interest in Crown land to a First Nation for the purposes of treaty-related measures, interim measures or economic measures. I'm asking how that area would be identified, whether it is the First Nation that comes forward or whether it is the Crown that comes forward. What process would be undertaken?

[3:50 p.m. - 3:55 p.m.]

Hon. K. Conroy: We have government-to-government discussions with Indigenous nations, rights and title holders, right across the province. If an area is identified, this provides a tool to halt harvesting while discussions are underway. It's a transition tool, and it's a time for information to be gathered — information that's required to inform a cabinet decision.

J. Rustad: These special purpose areas have the potential to impact on area-based tenures such as a community forest, a tree farm licence or a woodlot. Where there is a significant impact, such as a woodlot or a community

forest, is there any intention or any consideration given to finding a different area for the woodlot or community forest, to keep them whole. or are they just going to be basically dissolved, gone or reduced to whatever size is remaining?

Hon. K. Conroy: As part of using this tool, that could be a consideration — what the member was referring to. It's really not one-size-fits-all. That's what's really good about introducing this special-purposes act, all these amendments. It respects that there are differences right across the province. It acknowledges that it's not one-size-fits-all. So it would give an opportunity to do as the member is suggesting. It could.

J. Rustad: My understanding is that this bill creates the opportunity for a special purpose area to be created, but it doesn't define the ability for the minister to take additional area to be able to be added to a woodlot licence or to a community forest, other than utilizing the area that is defined from the special purpose area.

If I understand what the minister has just said, it is possible that a special purpose area could be used to take away area from a woodlot licence or community area only to also be used to add area back into a community forest or woodlot area. I believe that's what the minister has just said with that. I guess that's the way it is. If that's not accurate, the minister can correct me as I go on to another question.

[4:00 p.m.]

There are many areas across this province that have significant archaeological values, archaeological concerns, for varying purposes. Is there a requirement for archaeological review assessments to be done prior to an area being designated as a special purpose area?

The Chair: Thank you, Member, for the question. While the minister is considering her answer, I am leaving now, to be replaced by the Deputy Speaker.

This is my opportunity to say thank you, Members, for a great committee stage and for a great 2021 in the chair with you and all the other members of the Legislative Assembly. It's been a privilege.

I wish you all a very good Christmas and a happy new year, and safe travels after today.

[S. Chandra Herbert in the chair.]

The Chair: I will take this opportunity to wish the same to the Assistant Deputy Speaker.

[4:05 p.m.]

Hon. K. Conroy: What the SPA does is it deletes a licensed area for a new purpose, and an archaeological assessment could be required for that new purpose.

J. Rustad: The purpose for asking that, of course, was with regards to stuff going in. But it's okay. We won't worry about going any further than that. We're running out of time, and at the rate the minister is answering, I might be lucky to get maybe two or three more questions in, even though they are relatively simple questions.

As we go through this section, which, of course, is about 30 pages long or thereabouts, there are a wide range of issues and questions and clarification that are needed associated with special permit areas. So what I maybe want to try to do on this — I might jump around a little bit — is to get to asking a couple questions on compensation relating to special purpose areas.

In particular, when it says here — the meaning on page 46 — on whether it's a forest licence or a tree farm licence, a woodlot licence, etc., there is a period of time, 15 years or 25 years, from the time the licence is signed. Of course, those licences are renewed every so often, so I just need to confirm that the date at which compensation would be considered with the amount of time left in the licence is from the date of the previous renewal and not the date of the original issuing of the licence.

Hon. K. Conroy: Could we just get a clarification on the section, please?

J. Rustad: As I mentioned, we're on section 62 still and on the bottom of page 46 of the bill, under 227, where it talks about the two licences.

[4:10 p.m.]

Hon. K. Conroy: This is actually an existing provision in the act. In relation to a licence, the deletion period is a specified period of time, during which a deletion or reduction that results in excess of 5 percent of the AAC at the beginning of the deletion period must be compensated. Essentially, the 5 percent acts as a threshold, above which compensation is owed. There is a separate 5 percent amount in relation to an access purpose and a separate 5 percent amount in relation to non-timber-harvesting purposes.

For forest licences, the deletion period is 15 years. For specified area-based tenures, tree farm licences, community forest agreements, First Nations woodland licences, the deletion period is 25 years. The deletions periods are calculated from the date of the original issuance of the licence and are not refreshed when the licence is replaced.

J. Rustad: In terms of the costs associated when we look at the meaning of net income…. This is referring to page 47. Where net income equals revenues minus costs, if the minister could just confirm that the costs are associated with wood that would be coming to market and not necessarily the historic costs associated with a particular — whether it's a tree farm licence or whether it is a forest volume-based licence or a woodlot licence.

[The bells were rung.]

Sorry. I got disrupted by the bells.

What I'm trying to ask is…. The formula that's laid out here is net income equals revenues minus costs. Is the cost component for what it would cost to take the wood through to sales, or does it also include historic costs such as inventory work or other types of things that would have been associated with maintaining the licence and making sure that you could be putting operational plans, etc., in place?

[4:15 p.m.]

Hon. K. Conroy: I was just trying to find the section, 228. It sets out a list of costs associated with the harvest and sale of the timber that will be taken into account for determining net income. So that's stumpage, overhead, constructing and deactivating roads, felling, yarding, loading, transporting, sorting and scaling timber, silviculture obligations, export and brokerage fees.

J. Rustad: I thank the minister for reading what was in the bill. The question that I had for the minister is whether or not any historic costs — for example, associated with getting wood to be able to be harvested….

Are there significant costs, whether it's doing archaeological overview assessments; whether it's putting operational plans in place, or whatever the predecessor of that was called; doing inventories and all of that kind of work that is required; whether it's a volume-based tenure or an area-based tenure, potentially; or otherwise?

I'm trying to get an understanding if we're talking about standing wood, going forward, that is compensated for and the costs associated with that, or whether it is including of all the costs that have led up to that point as well as the costs, going forward.

Hon. K. Conroy: Historic costs such as inventory and other forest management costs are recognized in the stumpage system.

J. Rustad: They're recognized where?

Hon. K. Conroy: In the stumpage system.

J. Rustad: Could the minister explain why the change to how licensees would be compensated? There was a previous way; this is obviously a new way. Can the minister explain why there was the shift?

[4:20 p.m. - 4:25 p.m.]

Hon. K. Conroy: Net income is the potential revenue that could be earned by selling harvested timber in the market minus the cost required to harvest and sell the timber and operate the tenure. It is a court-tested and widely accepted valuation method used by government in the majority of compensation entitlements.

In short, this is the potential revenue loss that a licence holder will forgo for the remaining term of their licence because of a reduction in harvesting rights or a modification to or cancellation of a cutting permit. The net income approach has been used since 1993. It's been the approved valuation framework by the majority of decisions in B.C. This has been done by policy. The amendments put these rules in legislation to ensure clarity, consistency and transparency.

J. Rustad: I thank the minister for that answer. I do have a question about the role of cabinet, if any, in those decisions. But we're at a place here on Bill 28…. We have very little time left, even to ask one question. I may not even get an answer because of the time remaining. If I'm correct, we're going to be cut off here in about three or four minutes, in terms of debate on this bill, because of the closure motion or the time allocation motion that has been put in place. That creates a big challenge, as we are a few pages into 50 pages or thereabouts just to one section of Bill 28. There are still, obviously, a lot of other sections in this bill to go for discussion.

Quite frankly, it's a shame that we're in this situation that such impactful legislation such as Bill 23 and Bill 28 have been rammed through this House without giving it the appropriate time to be able to debate this. I mean, Bill 28 was brought in just a week and a half ago and introduced into this Legislature — hardly given time to even read it before it came up to second reading for debate on this bill and discussion on this bill.

This is combined with so many of the other bills — Bill 23 as well as previous bills — the deferrals, all of this that the ministry has done on forestry and on the changes in forestry, making us the highest-cost producer in this province, and there has been no analysis. There has been no analysis in terms of Bill 28, in terms of this section that we're debating.

I am asking a question with regard to this. I suppose the minister can interfere if she'd like.

The Chair: I'm sorry, hon. Member. One second.

Hon. K. Conroy: I ask, point of order, if there was a question.

The Chair: Members have up to 15 minutes to deliver a question in this process.

J. Rustad: Thank you, Mr. Chair. I recognize I still have 12 minutes to get a question to the minister, and I will get a question to the minister if time is permitting me to get a question.

We're in a situation here where we're seeing these changes come in, this bill come in, Bill 23 come in, the

deferrals come in. All of this sort of stuff has thrown a tremendous amount of upheaval, with no analysis, no work that's been done in terms of what will happen to the sector.

I just got an email here from the Independent Wood Producers Association, which combines the doubling of the tariffs, combined with the deferrals and Bill 28 and other things, to say: "It's killed any opportunity for investment in value-added." These are not my words. These are the words of the people who actually produce these value-added products.

I know this government has had a priority that they wanted to see more value-added, and it's a shame to see this. We're in a situation here where we have an opportunity to debate Bill 28, and we had an opportunity to debate Bill 23, to be able to try to bring some clarity and some understanding in terms of what these bills are trying to do, other than the political line that comes out.

The unfortunate reality is when industry looks at this, they make decisions about where they're going to invest. We heard today that Interfor looked at all these things that are happening and said: "We're not investing in British Columbia. We have no interest in investing here. We're going to invest in other jurisdictions."

Interjections.

[4:30 p.m.]

J. Rustad: The minister can heckle and be disrespectful in this Legislature if she wants to during committee stage. That is not the practice of this thing, but the minister can go ahead and do that if she'd like. But the reality is that we've got tremendous challenges.

The Chair: Thank you, hon. Member.

J. Rustad: I have a lot more to be saying about this. Unfortunately, I'm being cut off by it because of closure.

The Chair: It being 4:30 p.m., pursuant to the time allocation motion adopted by the House on Tuesday, November 23, the committee will now proceed to final clause-by-clause consideration of Bill 28. In accordance with the time allocation motion, I will now put the question on the remaining clauses of the bill.

Members, a division on the remaining clauses and the title cannot be called, but in accordance with practice recommendation No. 1, members may indicate passage on division. With that, we shall proceed.

Clauses 62 and 63 approved on division.

Clauses 64 to 75 inclusive approved.

Title approved.

Hon. K. Conroy: I move that the committee rise and report completion of the bill without amendments.

Motion approved on division.

The committee rose at 4:32 p.m.

The House resumed; Mr. Speaker in the chair.

[4:35 p.m. - 4:40 p.m.]

Report and Third Reading of Bills

BILL 28 — FOREST AMENDMENT ACT, 2021

Bill 28, Forest Amendment Act, 2021, reported complete without amendment, read a third time and passed on the following division:

YEAS — 50

Alexis	Anderson	Bailey
Bains	Beare	Begg
Brar	Chandra Herbert	Chant
Chow	Conroy	Coulter
Cullen	Dean	D'Eith
Dix	Dykeman	Eby
Elmore	Farnworth	Fleming
Furstenau	Glumac	Greene
Heyman	Kahlon	Kang
Leonard	Lore	Ma
Malcolmson	Mark	Mercier
Osborne	Paddon	Popham
Rankin	Routledge	Routley
Russell	Sandhu	Sharma
Simons	Sims	A. Singh
R. Singh	Starchuk	Walker
Whiteside		Yao

NAYS — 23

Ashton	Banman	Bond
Cadieux	Clovechok	Davies
Doerkson	Halford	Kirkpatrick
Kyllo	Letnick	Merrifield
Milobar	Morris	Oakes
Rustad	Shypitka	Stewart
Stone	Sturdy	Tegart
Wat		Wilkinson

Reporting of Bills

BILL 22 — FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY AMENDMENT ACT, 2021

Bill 22, Freedom of Information and Protection of

Privacy Amendment Act, 2021, reported complete with amendments.

Mr. Speaker: When shall the bill be considered as reported?

Hon. M. Farnworth: Now.

[4:45 p.m.]

Third Reading of Bills

BILL 22 — FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY AMENDMENT ACT, 2021

Bill 22, Freedom of Information and Protection of Privacy Amendment Act, 2021, read a third time and passed on the following division:

YEAS — 49

Alexis	Anderson	Bailey
Bains	Beare	Begg
Brar	Chandra Herbert	Chant
Chow	Conroy	Coulter
Cullen	Dean	D'Eith
Dix	Dykeman	Eby
Elmore	Farnworth	Fleming
Glumac	Greene	Heyman
Kahlon	Kang	Leonard
Lore	Ma	Malcolmson
Mark	Mercier	Osborne
Paddon	Popham	Rankin
Routledge	Routley	Russell
Sandhu	Sharma	Simons
Sims	A. Singh	R. Singh
Starchuk	Walker	Whiteside
	Yao	

NAYS — 24

Ashton	Banman	Bond
Cadieux	Clovechok	Davies
Doerkson	Furstenau	Halford
Kirkpatrick	Kyllo	Letnick
Merrifield	Milobar	Morris
Oakes	Rustad	Shypitka
Stewart	Stone	Sturdy
Tegart	Wat	Wilkinson

Mr. Speaker: Members, just to let you know, Mr. Administrator is not in the precinct. He's on his way, so we'll be having a short recess, and as soon as he arrives, we will bring the members back.

The House recessed from 4:50 p.m. to 5:03 p.m.

[Mr. Speaker in the chair.]

His Honour the Administrator requested to attend the House, was admitted to the chamber and took his place in the chair.

[5:05 p.m.]

Royal Assent to Bills

Clerk of the Legislative Assembly:

Protected Areas of British Columbia Amendment Act, 2021

Human Rights Code Amendment Act, 2021

Access to Services (COVID-19) Act

Freedom of Information and Protection of Privacy Amendment Act, 2021

Forests Statutes Amendment Act, 2021

Environmental Management Amendment Act, 2021

Education Statutes Amendment Act, 2021

Municipal Affairs Statutes Amendment Act (No. 2), 2021

Election Amendment Act, 2021

Forest Amendment Act, 2021

Interpretation Amendment Act, 2021

Attorney General Statutes Amendment Act, 2021

In her Majesty's name, his Honour the Administrator doth assent to these acts.

Hon. R. Bauman (Administrator): If I may say a few words of welcome from my office of Chief Justice of British Columbia and Administrator for the province. It's good, if I may say, to be back. It is good to see all of you back.

I can see that you've been very, very busy — congratulations — and that's just as it should be. We face significant challenges these days, and it's good for all British Columbians to know that our Legislative Assembly is busy at work advancing the interests of British Columbians in these challenging times.

Thank you so much on behalf of the citizens of this province for the work that you do.

Some of these bills — I've read them in advance — are very important and meaningful in our work and journey towards reconciliation. In particular, in respect of that, I say thank you.

His Honour the Administrator retired from the chamber.

[5:10 p.m.]

[Mr. Speaker in the chair.]

Hon. M. Farnworth: I move that the House, at its rising, do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the government, that the public interest requires that the House shall meet or until the Speaker may be advised by the government that it is desired to prorogue the second session of the 42nd parliament of the province of British Columbia. The Speaker

shall give notice to all members that he is so satisfied or has been so advised, and thereupon the House shall meet at the time stated in such notice and, as the case may be, may transact its business as if it had been duly adjourned to that date and time.

That, by agreement of the Speaker and the House Leaders of each recognized caucus, the location of sittings and means of conducting sittings of this House may be altered if required due to an emergency situation or public health measures and that such agreement constitute the authorization of the House to proceed in the manner agreed to. The Speaker shall give notice to all members of the agreement and shall table it for it to be printed in the *Votes and Proceedings* of the House at the next sitting.

That in the event of the Speaker being unable to act owing to illness or other cause, the Deputy Speaker shall act in his stead for the purpose of this order. In the event that the Deputy Speaker being unable to act owing to illness or other cause, the Deputy Chair of the Committee of the Whole shall act in his stead for the purpose of this order. And in the event of the Deputy Chair of the Committee of the Whole being unable to act owing to illness or other cause, another member designated collectively by the House Leaders of each recognized caucus shall act in her stead for the purpose of this order.

Motion approved.

Hon. M. Farnworth: Before I do the final motion, just to remind all members to clean out your desks so that our hard-working staff do not have to do that. As our mothers said, clean up your room.

With that, hon. Speaker, I wish everybody a happy, healthy journey home. We will see you all in February. Happy holidays. Merry Christmas. Happy Hanukkah. Happy Diwali. Have a safe time.

Hon. M. Farnworth moved adjournment of the House.

Motion approved.

Mr. Speaker: I would also like to say to all members: thank you so much for your support and your cooperation.

I wish you all the best during the holiday season. Have a wonderful, safe journey back home. Have fun with your families. I'm looking forward to seeing you back in February. All the best.

This House stands adjourned now, until further notice.

The House adjourned at 5:13 p.m.

Proceedings in the Douglas Fir Room

Committee of the Whole House

BILL 22 — FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY AMENDMENT ACT, 2021
(continued)

The House in Committee of the Whole (Section A) on Bill 22; R. Leonard in the chair.

The committee met at 1:08 p.m.

On clause 21 as amended *(continued)*.

B. Banman: We have no further questions on this clause.

The Chair: Shall clause 21 as amended pass?
Division has been called.

[1:10 p.m. - 1:15 p.m.]

Clause 21 as amended approved on the following division:

YEAS — 7

Beare	Begg	Cullen
Eby	Greene	Paddon
	Sims	

NAYS — 4

Banman	Olsen	Stone
	Wilkinson	

Clauses 22 to 24 inclusive approved on division.

On clause 25.

B. Banman: Could the minister please explain what a privacy management program is.

Hon. L. Beare: A privacy management program ensures that public bodies have the necessary framework in place to meet their privacy obligations under the act.

B. Banman: What is the threshold for the commissioner to get involved when there is a privacy breach?

[1:20 p.m.]

Hon. L. Beare: Public bodies are required to notify the commissioner if a breach could reasonably be expected to result in significant harm, referred to in paragraph 36.3(2)(a): "notify an affected individual if the privacy

breach could reasonably be expected to result in significant harm to the individual, including identity theft" or significant harm. Then it outlines bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, negative impact on a credit score, or damage to, or loss of property.

These are the legal requirements that we laid out here. Public bodies are able to notify the commissioner of a breach at any point, and this has been the process that has been happening to date, which is now being formalized in legislation with mandatory reporting.

B. Banman: I'm sure the Minister will agree that this is probably one of the most important sections when it comes to preserving someone's privacy, and also their identity, when you start talking about harm to their credit scores and their identity being stolen. This is highly, highly sensitive, and highly important to, I think, all of us.

Will the minister confirm that before regulations come into place, there will be meaningful consultations done with the Privacy Commissioner prior to the regulations being brought forward, especially when it pertains to this clause — and to other clauses, as well, in fact?

[1:25 p.m. - 1:30 p.m.]

Hon. L. Beare: I agree it is an important piece of this legislation. It is important that we are protecting people's privacy, as we've been saying, all throughout this legislation. There are many important pieces in the legislation.

Currently there is no legislated requirement for public bodies to notify affected individuals or the commissioner in the event of a privacy breach. I outlined to the member that the current practice is to notify affected individuals and report privacy breaches to the commissioner when significant harm is expected to occur, but it hasn't been put into legislation before.

So we're doing that because we want to make sure that the current policy and practice that is out there is legislated and that the public will have increased and enhanced accountability and transparency of ministries and the public sector through this. As I have outlined in various areas of debate on this bill, any subsequent regulations are developed as part of a separate process and aren't part of the legislative amendments that we have before us today.

B. Banman: Respectfully, while it gave an answer, it didn't answer the direct question I asked, which was: will the commissioner actually be involved in part of that?

In the spirit of time, I'm going to go on to another concern that the Privacy Commissioner had. He states that 36.3(3) would not enable a public body to hold off on notifying affected individuals where disclosure of the breach would compromise a criminal investigation.

Through you to the minister, will she commit here and now, that oversight or this particular point, which I think is valid by the commissioner.... You know, there's no sense giving a criminal a heads-up if the act overlooks this one fact.

I think the Privacy Commissioner has brought up a good point, which is why, respectfully, I asked the question: will this minister please commit to consulting the Privacy Commissioner? Because, in his letter, he wanted to see draft regulations. I don't understand the hesitancy — why we would not have an expert involved in that.

Be that as it may, will this minister please give a guarantee that this vital point that the commissioner has pointed out — where sometimes, if they were to disclose the breach, it would compromise the criminal investigation — will somehow be written in or put in through regulation?

[1:35 p.m.]

Hon. L. Beare: Thank you to the member for raising the concern. I want to let the member and the entire House know that we take into consideration all feedback — from the member, from the commissioner, from everyone — when we're drafting regulations, which are part of a separate process and not part of the legislative amendments that we have before us today.

Clause 25 approved on division.

On clause 26.

B. Banman: Could the minister please walk the House through the decision-making process to come to the decision to remove the commissioner's general oversight power over data linking?

[1:40 p.m.]

Hon. L. Beare: The commissioner still has the power to comment on data-linking programs, which is outlined in 42(1)(f). The direct reference was removed because of amendments made to clause 38, and this is one of the items in the package that does respond directly to recommendations made by the commissioner.

B. Banman: Even though it's going to come up, this is one of those ones where there are multiple links to clauses. Clearly, the government must have had some concerns with regards to the commissioner's oversight and the power that the commissioner has with regards to that oversight.

I think we'll all agree that the Privacy Commissioner is an important safety valve. But what were the concerns of government with regards to the commissioner's power and oversight?

[1:45 p.m.]

Hon. L. Beare: As we've outlined in previous sections, the current definition of the data linking was too narrow and difficult to apply. So we broadened that definition, as

we've talked about before in previous sections, and added protections to the data-linking program. This amendment allows the commissioner to choose the programs that the commissioner would like to comment on, moving forward.

B. Banman: Now, part of me had wanted to ask whether or not this minister's decision to remove the commissioner's oversight on data linking had anything to do with the investigation into Cambridge Analytica, but I've got a hunch what the answer to that's going to be.

In the spirit of moving forward, in August 2019, the Auditor General of B.C. released a report, *The B.C. Government's Internal Directory Account Management*. The Auditor General said: "We also found that some of the government organizations that we audited are not consistently following the OCIO's key controls for restricting unauthorized access."

Could the minister please explain why removing oversight of the commissioner, when the Auditor General has a significant concern about key controls for restricting unauthorized access now that all records of the government can be linked…? It seems nonsensical to me. If I could get some kind of clarification as to why, it would be helpful.

[1:50 p.m.]

Hon. L. Beare: This bill, as we've outlined before, does not enable anything new in data linking specifically. The section we have before us now gives the commissioner the ability to comment on programs they choose. The member is referencing a report that is not about data linking. It's about government email access, and specifically, actually, contractor access. We've been through Public Accounts on that report and have already committed to implementing all the recommendations by December 31.

B. Banman: In January 2021 the Auditor General of B.C. released another report called *IT Asset Management in British Columbia Government*. To quote the Auditor General: "The following ministries did not manage IT assets in accordance with good cybersecurity practices, as they did not manage risk as expected: Ministry of Citizens' Services, with the exception of the OCIO; Ministry of Finance and related agencies (the B.C. Public Service Agency and government communications and public engagement); the Ministry of Health; and the natural resource ministries."

Can the minister explain to the public why it should trust the government that removing oversight of data linking by the commissioner has the public's privacy foremost in their mind, since the Auditor General went on to say: "The weaknesses in their practices could hinder their ability to protect their IT assets from cybersecurity threats"?

[1:55 p.m.]

Hon. L. Beare: The member is referencing, again, an Auditor General report that doesn't have anything to do with this section or data linking. These are entirely separate issues. This was about IT asset management and cybersecurity. The report and Public Accounts Committee did reference that it was every office except the OCIO. CIRMO is part of the OCIO, so there were no issues.

But again, it's not part of data linking and not part of this section. What the commissioner has here is the ability to comment on programs of their choosing in section 26.

B. Banman: I would respectfully say that the connection to this section would be that the data that is included in all of these IT assets is interrelated. And it could be that there is cross-information that could be, then, posed as a security…. I would say, in due respect to the minister, there is.

In the interest of time, I have no further questions on this section.

Clause 26 approved on division.

On clause 27.

B. Banman: I would ask, on this section: how does this change affect the legislation?

Hon. L. Beare: This amendment expands the grounds under which the commissioner may authorize a public body to disregard a request under section 5 or 29 of FOIPPA. The amendment permits the commissioner to authorize the head of a public body to disregard a request. This includes, but is not limited to, circumstances in which a request is frivolous or vexatious, for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, is excessively broad or repetitious or systematic.

So the commissioner remains the authorizing entity in this independent oversight and will continue to ensure that this provision is not misused.

B. Banman: Thank you. Under what criteria can the commissioner authorize the public body to disregard a request?

Hon. L. Beare: It's very clearly outlined in the act. The amendment expands the grounds under which the commissioner may authorize a public body to disregard a request under section 5 or 29 of FOIPPA.

We have here in front of us 43, the power to authorize a public body to disregard a request.

[2:00 p.m.]

> "If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 5 or 29, including because (a) the request is frivolous or vexatious, (b) the request is for a record that has been disclosed to the applicant

or that is accessible by the applicant from another source, or (c) responding to the request would unreasonably interfere with the operations of the public body because the request (i) is excessively broad, or (ii) is repetitious or systematic."

B. Banman: Is the commissioner made aware of all requests made to the public bodies, as described in section 43?

Hon. L. Beare: These requests have to be made directly to the commissioner.

B. Banman: At the risk of tiptoeing into the areas above and beyond again, can the minister please give this House an example of what "frivolous or vexatious" requests could be?

[2:05 p.m.]

Hon. L. Beare: In section 27, we do have the definition as "frivolous or vexatious" and also "repetitious or systematic." An example would be a decision that the commissioner made this year authorizing a school board to disregard a request that was deemed to interfere unreasonably with operations and limiting the requester to one request at a time. In that situation, it was a question of volume and interference of operations.

B. Banman: Thank you very much to the minister for the answer.

The next question I have is: could the minister please explain what the term "excessively broad" would be?

[2:10 p.m.]

Hon. L. Beare: This definition is obviously for the commissioner to determine, as he's adjudicating each individual case. An example we were thinking over on this side for the member would be a request, for example, that says: "All emails to government." That's a very broad, sweeping request.

B. Banman: The minister's spider senses must have been going off, because my next question was going to be: who gets to decide whether it's excessively broad? My same question would be for "frivolous" or "vexatious." Would the minister please confirm for me if the commissioner gets to make that call. I'm seeing some nods, so I'll take that as a yes.

The other question that I had is: because it could be deemed as excessively broad, and if a request is denied under section 43(b), will the public body inform the applicant where else they may find that information, versus stonewalling? In other words, will the government actually be helpful to people trying to get the information, or do they plan on just standing behind regulations to deny, deny, deny?

[2:15 p.m.]

Hon. L. Beare: Under this legislation in section 6, there is a duty to assist. As part of our current practice, we often refer applicants to where the records are, for example — a specific ministry, for example. We can refer them to open data, which is potentially where the information is. We do have staff that are available to assist applicants to narrow their requests. So we do provide that service.

B. Banman: Thank you to the minister. You know, this is the public's information, after all. They have a right to it, and they have a reasonable, I think, understanding to be helped through the system, especially when they don't understand it. Well, even some of us don't understand it.

Based on the minister's answer, this will be my last question for this section. As an example, would monthly requests for lists of briefing notes be considered repetitive or systematic? Would monthly requests for expense claims fall under these categories as well?

Hon. L. Beare: As part of our government's commitment to openness and transparency, we do release, already, expense reports and calendars, as the member said, proactively. They're listed in the 13 proactive disclosures we have, which I actually have read into this record, I believe, a couple of times over our debate.

Monthly briefing notes. Our current practice is to do that now as well — to release. I'm always looking for opportunities to expand this proactive disclosure list, because we are committed to making sure that our government is open and transparent.

Clauses 27 to 31 inclusive approved on division.

On clause 32.

[2:20 p.m.]

B. Banman: You knew it was too good to be true, right?

On clause 32, this does not provide the commissioner with the ability to review an application fee. Is that correct?

Hon. L. Beare: Yes, this amendment clarifies that an applicant may not request a commissioner review of an application fee charged for access to information requests.

B. Banman: I would say, then, that the commissioner has noted: "…troubled that there would be no ability…to waive an application fee if it is in the public interest." When one combines that with the letter that we received the other day from the Union of British Columbia Indian Chiefs saying that it will disproportionately affect them, especially when one considers that in order for them to establish land claims, etc., it will make it very difficult, did the minister consult with the commissioner on this section, and if so, what were the recommendations of the commissioner?

[2:25 p.m.]

Hon. L. Beare: The member and I have discussed, a number of times throughout this bill, how we have had consultation with the commissioner, and we were aware of the concerns in the commissioner's letter. I think it's important to restate that this amendment and this bill are only about enabling public bodies to charge the application fee. The policies and practices around the fee come through regulation, which is developed outside of this legislative process and not part of this legislative amendment package we have before us now.

But I do recognize and hear the member's concern, and we've heard from the commissioner. We value the input from the UBCIC, as well, and those are all taken into consideration when developing regulation.

B. Banman: That's refreshing to hear from the minister, and I appreciate that feedback. So I guess my next question that I have, then, with regards to this is that clearly, the commissioner is not in agreement with the government on this section, as stated out in his letter. He believes that there should be an oversight for fees if it is in the overall public interest.

When one considers, also, from the Union of British Columbia Indian Chiefs, that they have clearly demonstrated that this will put a financial hardship and actually put them at a disadvantage for proving what is right in what they believe is what rightfully establishes land claims, etc., will the minister confirm here today that, in the regulations, there will be the ability to waive the fee if it is in the public interest and/or a financial hardship?

Hon. L. Beare: Thank you to the member. As we've discussed a number of times, the regulation process is separate from the legislative process that we have before us now. I have confirmed and committed to the member that I do take all of this input into account when creating the regulations surrounding it.

I have also confirmed to the member, at various points throughout this bill, that information-sharing, in general, is a crucial element to being open and transparent for government and to have effective working relationships with partners — in particular, Indigenous partners and governments — which is why we have increased information-sharing as part of this bill, as well.

With that, Chair, I request a ten-minute recess.

The Chair: We will now recess for ten minutes.

The committee recessed from 2:29 p.m. to 2:38 p.m.

[D. Coulter in the chair.]

Clauses 32 to 35 inclusive approved on division.

Clause 36 negatived.

Clauses 37 to 40 inclusive approved on division.

On clause 41.

[2:40 p.m.]

T. Stone: Clause 41 adds a provision for severing information from records and some related requirements for consistency. It's the provision for severing information from records that we want to focus on for a few minutes here. The context that we want to focus on, from an access-to-information perspective, is the challenges that there have been in previous years and the challenges that are being encountered to this day in the public accessing information pertaining to wildfires and, in particular, the suppression of wildfires.

I have mentioned on numerous occasions in this building that it is not good enough for British Columbians in areas of the province that are ravaged by wildfires and, in many cases, who lose everything, against the backdrop of having really valid questions about the management of the suppression on the wildfire that impacted their community — and, as I said, in many cases their homes, their livelihood, their future — to not be able to get answers in a timely fashion or not be able to get answers at all, in many cases.

Far too often, what happens is that the wildfire season comes about, there are major wildfires in different parts of the province — they're getting more frequent and more severe, causing more damage — and there's an effort to put those fires out. We certainly, 100 percent, respect and appreciate the efforts of the men and women in the B.C. Wildfire Service that actually do the firefighting, but there are and there continue to be ever-increasing concerns from residents impacted that they can't get answers from government as to what actually happened in terms of the suppression of fire in their backyards.

Now I will speak to a very specific situation in my riding this past summer. I am getting to the relevance from an FOI perspective, in terms of this act, this Bill 22.

In my community, my constituency of Kamloops–South Thompson, as I think everyone here knows, we had the Whiterock Lake wildfire, which was one of the monster fires this past fire season that ravaged Monte Lake and Paxton Valley in my constituency. In fact, there are 32 families to this day that do not have homes.

There are very different accounts, depending on who you talk to — whether it's the B.C. Wildfire Service management, the B.C. government or the locals — as to what actually transpired, what actually happened in terms of the start of this Whiterock Lake fire, the spread of the fire and, very importantly, the suppression efforts that were applied to try to put that fire out.

In the context of very different stories and a whole bunch of people in Monte Lake and Paxton Valley — again, in my riding — that are very, very upset and, obviously, devastated at their losses, to then try to get

answers as to why this happened, what efforts were actually put on the fire to try and put it out…. The details are not forthcoming.

Now, I and my opposition colleagues have filed a number of FOI requests, wildfire-related, from this past season.

[2:45 p.m.]

You'll recall that the wildfires ravaged our communities. Lytton was many months ago, as were Monte Lake and Paxton Valley, as were the fires up in the Caribou, as were the fires in other parts of the province. It's many months later, and we have gone through this typical merry-go-round of trying to access information pertinent to the wildfires and the management of the wildfire effort, the suppression of these fires. I will read into the record my situation, the situation in my riding.

On August 16, we submitted several FOI requests for documents containing allocation by day of all resources on the White Rock Lake Fire. August 27, we got a fee-estimate letter back indicating that we needed to pay a $330 fee for information — frankly, information that should be public.

After requesting a public interest waiver, the fee is withdrawn. Throughout September, we get communication back from government saying multiple extensions in responding to our request are required. Then we're advised on October 1 that: "Although a search was conducted, no records were located. Your file is now closed."

We have since had even further back and forth with government. "You should ask for this type of document," or "you should maybe go over to this agency," or "you should collect information from these ten different agencies and then stitch it all together in your own time and your own resources." Well, the public doesn't have time and resources to do this. This information should be available to the public.

The context of the concern that I'm expressing — and you're going to hear the same concern expressed from a number of other opposition MLAs here today — is that, in relation to this section…. Again, it provides a provision for severing information from records. I am going to move an amendment to this section that provides for an amendment to this section that would basically say that "in no case, shall information relating to wildfire suppression be severed."

The consequence of what we're proposing here is…. We believe the public has a right to access information relating to the wildfires that ravage their communities and, God forbid, their homes. When British Columbians, whether it's the public, whether it's the media, whether it's other third-party stakeholders or whether it's the official opposition — whoever it is — request the information pertinent to these wildfires, this information should not come back severed.

This would be a tremendous gesture of good faith on the part of the government, a gesture of good faith to people in communities that, again, have been hit so hard with the impacts of wildfires. It would be a step towards these communities that would say: "We're going to ensure that an effort is made to make it easier to access the information that will give you some of the answers that you're looking for."

The White Rock Lake fire. As I said, there are many different accounts of what actually happened. I tend to put a lot of faith in the locals. And it's not one or two locals. I'm talking hundreds of locals that are all saying the same thing: the fire was allowed to burn for days on end before there were significant fire suppression efforts made.

I've cautioned those residents and said: "Before you get too far ahead of yourselves, before we get too strident in our communications on that, let's ask for answers." The problem is that we've asked for answers, and we can't get answers back, which builds distrust. It adds to people's anxiety and stress, and it's wrong. It's absolutely wrong.

With that, I'm not pleased to have to do this, but I feel, in the context of this bill that's in front of us here today…. It is deeply, deeply flawed, and we've canvassed it for quite some time now. We still have quite a ways to go.

There's one good thing that we could do. There's one positive outcome that we could work towards, and that would be to accept this amendment to clause 41 that would say no, you don't get to sever information and FOI responses as it relates to wildfire suppression.

[**CLAUSE 41, Sub B 1.3** *[by adding the underlined text as shown:]*
41 Section 71 is amended
(a) in subsection (1.1) (a) by striking out "section 33.1 or 33.2***" and substituting "***section 33***", and***
(b) by adding the following subsections:

(1.3) The head of a public body may sever from a record made available under this section any information the head of the public body would be entitled under Part 2 of this Act to refuse to disclose to an applicant <u>but in no case shall information relating to wildfire suppression be severed</u>.]

The Chair: Okay, Members. We'll take a short recess while the motion is circulated, so that folks have a chance to look at it. Let's say five minutes, and we'll come back at 2:55 then.

The committee recessed from 2:50 p.m. to 2:55 p.m.

[D. Coulter in the chair.]

On the amendment.

L. Doerkson: I just want to take a couple of minutes to speak in favour of the motion to clause 41. I think it goes without saying that the damage that was created from wildfire in the Cariboo-Chilcotin over this past year…. Also in 2017, of course, but specifically with respect to the damage that was done this year. We also filed a freedom-of-information request and were denied information. I can tell you that the letter that we received back simply said that there were no records on file.

Now, I can appreciate the suggestion that perhaps we

didn't ask in the right way or we didn't use the right words or we didn't use the right terms. But I can assure you that the people that lost homes, lost animals, the forest that was burnt — they have many questions. They do not take it lightly that either information is denied to them or that it's only provided in partial form.

I think it is important for a number of reasons that this information is shared. The biggest reason is that we have to do a better job, specifically, of fighting fire. We've had an awful tragedy in the Lower Mainland, and I can assure you that there will be questions about that as well. I think that we should be encouraging the sharing of this information. We should be encouraging the sharing of all of the information so that we can do better.

I honestly believe that when questions are not answered, and to the member's point from Kamloops, people fill in that information for themselves. Oftentimes, when they fill that in, it's wrong. But to the contrary of that, it's information that also may be right that the government should be hearing as well.

With respect to this motion, I am definitely in favour of it. The people of Flat Lake had many questions. The people of 100 Mile House had many questions about evacuations, when the city was not under an order of evacuation, for our long-term-care residents that were evacuated anyway — not once, but twice. The residents of 100 Mile in the South Cariboo want to know why so many controlled backburns were allegedly successful, according to B.C. Wildfire. But that the fire raged for weeks and weeks and weeks. They want to know why fires like Sucker Lake were not addressed and why they were left to burn.

These are valid questions. The taxpayers of this province absolutely are owed the answers, and I would encourage you to consider this motion that's before you today and vote in favour of it.

C. Oakes: I want to encourage all members of this House to consider voting in favour of this very important amendment.

Look, none of us could prepare ourselves for the devastation of our communities being impacted by, in my case, the 2017-2018 wildfires. Nobody could have strategically prepared you for the type of damage and the steps it takes to really help those communities and those individuals rebuild.

I come to this people's House because I have a genuine interest in trying to make things better. I am still working with constituents who were impacted by the Plateau fire, the largest fire in British Columbia's history. These people are still trying to rebuild their lives. They have lost their home. They have lost their livelihoods, and they are still in a process of trying to rebuild.

[3:00 p.m.]

Individual constituents in my community want to understand what happened in August of 2017. They want to understand when the incident command teams, when there was a changeover, and there was a switch….

We had days where there was some confusion. We had some back burns that went extraordinarily badly. We had fires where…. Individuals in Nazko had individual sprinklers on their homes, their own sprinklers that they put on their homes. Why those sprinklers were removed and why…. Because of removing those sprinklers, they lost everything.

I think it's critically important for us…. As we try to make things better in the province of British Columbia, as we start looking at increases in climate change and the impacts it has on people and their communities, information is critical. It's information for working with other ministries.

I can share with you that without the appropriate information, which is released through freedom of information, insurance claims become incredibly troublesome for individuals trying to fight with insurance companies to get the necessary response they need to rebuild.

I can share with you that it's difficult for people trying to look at getting permits, whether it's a trapper, whether it's a guide-outfitter. When your territory has been completely burnt out but you now have to have information to prove why you should be grandfathered for permits…. Working with other ministries, it's critically important to have that information.

Finally, information is incredibly critical to get access because…. Here's the thing. This information is about the impacts that happened at that moment. It's also critically important to have that information into the future. It's critically important to be releasing those freedom-of-information documents.

I can share with you that we have tried to get access to hydrology reports that were produced following the 2017 Plateau fire because it's had a significant impact now on collapsing roads. It's critically important for us now to understand what happened during the 2017-2018 wildfire season because the consequences are still happening on the ground today in our communities.

That information is critically important. We take that information. We go to Ottawa. In many instances, that's what we use to fight for disaster financial assistance and other layers. We have to thread the needle on explaining why we are putting applications in for insurance claims, for disaster financial assistance through the federal government, through so many other layers. If we do not have the information, it makes it critically hard for constituents and for communities to get the necessary resources they need to rebuild.

Look, I think it's a win-win for the government. We should all be on the same page on helping people rebuild their lives. I think this is one tool. By releasing the entire information…. Don't be scared of it. I think that information is powerful on how we can do a better job, be better

prepared in the future and help constituents in our communities, like Cariboo North, to rebuild their lives.

I want my constituents in Cariboo North….

I know that there are many of you that are still struggling from the 2017 wildfires. I want you to know that we're not going to forget about the challenges that you're facing, and I want you to know that we're not going to stop fighting to make sure that you get the resources that you need to help rebuild your life.

J. Tegart: I'm pleased to speak to the amendment today. I just want to share some stories of real people and how difficult it is to get information from government.

In 2017, the people of Pressy Lake were assured by B.C. Wildfire that their properties would be protected by pumps and sprinklers during the evacuation of the area. In fact, B.C. Wildfire had come in and knocked on their doors and asked where appropriate placement of pumps and sprinklers would work for the community.

It was that assurance that people needed to pack up what they could and to leave, as asked, through an evacuation order. They trusted what was said, what was going to be done, how their properties would be protected when there were no eyes on the ground.

[3:05 p.m.]

Imagine their surprise when they returned home to find their community burned to the ground and not a hose or a sprinkler to be found. When they began to make inquiries to government about what could have possibly happened, they were met with a bureaucratic nightmare: non-answers for weeks. Then they were told that in order to get information, they would have to file a freedom-of-information request.

These are people who had put their trust in B.C. Wildfire, obediently left their property, as they were asked, and left it in the hands of firefighters. It burned to the ground, and now they have to file an FOI. "What the heck is an FOI?" they asked. "How do you start? How do you do it?"

When government asks citizens to vacate, evacuate, and have no eyes on the ground, their expectation is that government will share with them what happened and why decisions were made while they were away. I don't think that's too much to ask.

These are people that put their trust in a government agency and are now asking questions about what could have possibly happened when they were away. Well, they sure knew what happened, because everything was burned to the ground. But what a shame that we as government, we as the people of the people's House, would not give full disclosure to people in times of emergency. I would suggest that it's pretty hard for us to debrief after such a significant event if government doesn't share information with the public so the public can make presentations to government about how to improve the system.

In 2021, my riding was pretty well on fire everywhere. We started south of Lytton. We went over to Lillooet. We were up Deadman Creek. We were at Logan Lake. We were outside of Ashcroft. People were evacuated. People were on evacuation notice. We heard a lot from government about people who didn't follow evacuation notices.

People in our area share information, and they share their experiences. People in Pressy Lake shared their experience with a lot of people in the area. If they couldn't get answers, how could people who are asked to be evacuated due to safety put their trust in a system that had not been reviewed appropriately and which seemed to not be open to share information?

My second story is of a young family on Highway 8, which no longer is even a highway after the last floods. They were a young family on Highway 8. The husband and father-in-law had stayed behind to protect the house, and that was a choice they made because they saw no support coming to help them. But after a week of protecting their home, B.C. Wildfire showed up and said that they were going to do a back burn. This young man begged them not to. He knew the valley. He knew the wind patterns. The back burn went horribly wrong.

[3:10 p.m.]

Imagine standing on the road as you watch a back burn lit by the very people who were to save your house. You spent a week there doing everything you could, and someone burned it down. Now they've got questions, lots of questions, about who made the decision, based on what. Of course, my constituent was told to file an FOI — no house, no livelihood, devastated, simply asking for some kind of common sense around what could have possibly happened and feeling absolutely blocked from information. I'm saying to you today that that has to change.

If we want people to actually listen and be safe and to have faith in what government is doing during emergencies, we need to share information in a way that is not bureaucratic, in a way that recognizes people's trauma, in a way that says: "We are willing to take a look, and we are willing to make the changes based on reviews that have been done with full disclosure." I can tell you, at this time, that is not possible. I am begging you to give serious consideration to this amendment.

B. Stewart: I, along with my colleagues, do have concerns — concerns about the fact that proactive open publishing of certain information, or making information that the public absolutely needs…. I think that the members from government certainly know the White Rock Lake fire, which not only impacted the previous speaker's riding, the two in Kamloops, the one in Shuswap, my riding. I have a number of properties that there's a lot of questions, a lot of speculation about what was going on.

I don't think that it's about finding fault so much. It's about knowing what could have been done differently. I know that one of the things that many of these people, like Neal Morgan, who lost his business, two homes and his property…. He lives on Beau Park Road, which is just

in the very north area of my riding, along with a whole section of people that are on the lower, down by the lake, where there was a back burn, which was intentional.

They want to know: what were the contingency lines? What was the plan? They want to know that it wasn't done on a whim, because the fire, the way it was intended, didn't burn in the right direction. It burnt down, and we lost 85 structures, or a portion of the 85 that were lost in that vicinity.

Things about special data — things like that. They're not the experts, but there are experts that should be looking at this. I think that they want to know what the fire analysts…. They want to know about the fire number, the radio logs — what was just going on. The story that I just heard from the member for Fraser-Nicola is unbelievable, to have somebody have to watch their house burn. Some of these people stayed behind. They fought. They had their own equipment. These people are not any different than the people that were forced to stay behind and try to protect their property.

By the way, stay and defend actually exists in Australia. I know it's different types of firefighting, but I think that the information…. The people — the thousands, tens of thousands — that have been impacted by these wildfires deserve to have some access, without this process that is going to not only cost more, but it sounds to me that the problem is that it's been growing.

What we're trying to do is find a way so that the people within the Ministry of Citizens' Services dealing with freedom of information can get that out the door in a timely manner and not make it so that it's burdensome. I would implore everybody here to consider the amendment.

[3:15 p.m. - 3:25 p.m.]

Hon. L. Beare: I want to thank all the members this afternoon for sharing how difficult this 2021 fire season has been for you, for your communities and for all the members of your communities who are impacted and who did lose homes and their livelihoods. I cannot imagine being asked to leave your home or seeing the smoke and the flames approaching your house. I know that the members are coming with the concerns of their communities and how incredibly difficult it has been for them — with heart — when bringing this amendment forward.

We've talked a number of times, in the broader House, about how 2021 has been another historic wildfire season. I want to thank the member for Kamloops–South Thompson and join him in his sincere thanks with my own, to the thousands of men and women who put themselves in harm's way — not only this year but last year, the year before, 2017 — to protect property, to protect people, to protect communities.

At our peak, we did have 3,600 personnel and 200 aircraft tackling the hundreds of wildfires that we had simultaneously going on in this province. I want to commend the members and their communities for demonstrating such tremendous resilience in the face of such adversity and the tremendous amount of support I'm seeing across the way from members to their communities, to each other, with government, and continuing to help. The province is still working hard to help people and help communities that were impacted by the wildfires. We're going to continue to keep working with all members in this House and with your communities.

I have said it before — I had the chance to say it to the member for Abbotsford South last week: my door is always open. Members, please come talk to me. My government's doors are open. Please talk to us and the ministers responsible, because we want to collaborate and work together and come to solutions.

As far as the amendment goes, I very much appreciate the intent and the spirit with which the member from Kamloops is bringing forward the proposal. I know the member knows that when I say this, I'm saying this with great sincerity. We have not yet had a chance, obviously, to assess the impacts of what this proposed amendment would be. There are impacts that would have to be assessed on individuals' privacies, impacts on how it would affect local governments, how it would affect Indigenous governments.

[3:30 p.m.]

On first glance, it would appear to be a duplication, potentially, of the intent of section 25, which is a section declaring that information must be disclosed if in the public interest. That's a perfect example of the way we need to take the proper time to assess an amendment such as this and give it its due consideration, which can't happen this afternoon, obviously. That's a whole process that it has to go through.

But I agree with the members. I believe, and I've said it a number of times in this debate, that rather than this specific amendment, there needs to be a culture of information-sharing. I've committed to finding more ways to proactively disclose information and to share information across governments. I think we need to have that nature of openness when we have these discussions.

I thank the member for the proposed amendment. We won't be able to support it today, but I truly value the spirit and the intent with which the amendment was brought. I will continue to find ways to openly share information across government. I truly thank the member for the intent of the amendment.

The Chair: Division has been called. We will ring the bells and take division.

[3:35 p.m.]

Amendment to clause 41 negatived on the following division:

YEAS — 4

Banman	Oakes	Olsen
	Stone	

NAYS — 7

Beare	Begg	Chow
Lore	Routley	Sandhu
	Yao	

Clauses 41 to 43 inclusive approved on division.

On clause 44.

[3:40 p.m.]

B. Banman: The minister called it a modest fee during the press conference: "It's a modest fee. Other jurisdictions have a fee between $5 and $50. I'm recommending a number right in the middle of that."

We just saw right now an amendment that was turned down about people that have lost everything. They lost everything in a fire, and they naturally want to have questions answered about what happened. I believe they have a right to have those questions answered. It's public record.

I want you to now imagine the kick in the teeth that says not only did the government people come in and you begged for them not to light the fire because it was going to end badly, but you watched them light the fire, and you watched the fire consume everything you own. Now you're being asked to pay a fee to try and find out the information as to why it was that the government came to the decision and why the government had no backup plan. It's insulting. As if losing everything wasn't bad enough, now you have to pay to figure out how that happened.

We've heard from the Union of British Columbia Indian Chiefs. We've heard from the commissioner that this effectively is a toll on the freedom-of-information highway. This coming from a government that's totally opposed to tolls. Yet in this case, this highway, it seems to be okay. It's sad.

We've heard members from within the other side, when they were in different positions in different governments, basically say the same thing — that by implementing a fee, it's paramount to being a form of blocking access to information that has already been paid for by the public. This information belongs to us all.

Based on the minister's own quote: "It's a modest fee. Other jurisdictions have a fee between $5 and $50. I'm recommending a number right in the middle of that." Can the minister please explain what she means by modest? Can she further explain how a fee of $25, which is right in the middle — actually, $27.50 lands right in the middle…. Can she explain what she means by that, and where did the minister get the $50 number that she's been repeating throughout the process?

[3:45 p.m.]

Hon. L. Beare: For the member, Alberta, if there is a reoccurring request, such as if there's a monthly request for, I don't know, expense accounts…. I don't know what they have for proactive disclosure, but if there's a reoccurring request in Alberta, those are $50. That's the $50 number we were talking to.

The fees were heavily, heavily canvassed in section 1, the very first clause of this bill. We did spend a great deal of time under that section talking about fees. I discussed how the fee is aligning us with half the other jurisdictions in Canada and how we very clearly talked about how a potential fee — at the will of this legislation, of course, which has the ability to create the fee — itself is decided through regulation and is not part of this legislative amendment process that we have before us here.

So I thank the member for the question.

B. Banman: It's pretty much what I expected from the minister. You know, the minister was happy to stand in front of the press gallery and repeat…. As a matter of fact, I saw a rather amusing little…. Modest fee, modest fee, modest fee — I'm sure to the minister's chagrin. I wouldn't want to be in that situation either, but those are the minister's words, not mine. I didn't make the words up — modest fee. Those are her direct words.

However, I'll move on. The minister has also said health authorities and universities asked the government to set this new tax on the truth. But professor Mark Mac Lean, who is an elected member of UBC's board of governors…. This is UBC. I can't imagine not consulting UBC. It's one of the most prestigious universities in the province.

His quote is: "Had this come to UBC's board of governors, I would have argued strongly against it. We have enough transparency issues as a public university. We don't need to add barriers to access to this information."

If UBC's board of governors were not consulted, within health authorities and universities, precisely who did make these recommendations, and were there recommendations on this specific application fee made prior to a cabinet decision on the application fee amendment or after?

[3:50 p.m.]

Hon. L. Beare: We have also heavily canvassed the consultation that we have had on this bill. So I know the member doesn't want me to talk about that again and read that into the record, because it has been well canvassed.

I have committed to the member to proactively release those consultations. We've discussed that earlier this week, I believe, and absolutely, I've committed to the member to releasing those consultations. I've also committed to the member that we are listening to all the feedback that we've been receiving around a potential fee. It's very important that organizations, like the member has been listing over the entire process of this bill, share that information with me and share their thoughts regarding a fee.

As I've said, the legislation permits the creation of the fee. A fee would be generated through the regulation pro-

cess, which is a separate process outside of this legislative amendment which we have before us today.

B. Banman: I appreciate her words. We've received an awful lot of feedback on this. Members of her own party have stated it other times prior to this — a hesitancy to do this. Actually, more than just a hesitancy — they were out-and-out against this.

I would encourage the minister to listen. I would encourage the minister to have a waiver for financial hardships that are in the public's good interests and to pay attention to the Privacy Commissioner and the Union of British Columbia Indian Chiefs.

Can the minister explain what is meant by "providing a copy"? Precisely, how does this differ from preparing or producing a record?

[3:55 p.m.]

Hon. L. Beare: Nothing has changed in section 75(1). For the member's question, producing a record could be, for example, pulling a record out of a database, and providing a copy literally is providing a copy of a record — so making a copy and making that available.

B. Banman: The minister said in an earlier section, however, that lists of minister's briefing notes are proactively released. I think the minister spoke in error. That does not appear to be the case.

Each month the opposition files a request to each ministry and the Premier's office for a list of ministerial briefing notes, issue notes and decision notes. That accounts for 25 requests. Access to the briefing notes on those lists — another 25 follow-up requests must be filed. Annually to get those simple things — which the minister, I think, said were proactively released — it adds up to 600 requests per year.

Under this new regime, to pay all of those application fees, it is now going to cost the taxpayers of British Columbia $15,000 a year just to allow members of the opposition to fill our fundamental role in holding government to account at the most basic level.

Does the minister believe that that aligns with the intent of the act — to block the opposition from filling its most fundamental role?

[4:00 p.m.]

Hon. L. Beare: My team behind me and I would like to apologize. I believe I did misspeak in my answer, without intent. We did say it was practice to release, not proactive. That's a very clear list of 13 proactive disclosures. I believe I did say that there was a practice to release the notes, and I believe we were wrong in that.

What I did intend to say, which I had gotten to in the second half in my statement, is that I'm considering new categories all the time on proactive release. And what I had intended to say in my answer was that this is an area that I would consider for future proactive release, so my apologies for misspeaking.

[M. Dykeman in the chair.]

B. Banman: Thank you for that clarification, Minister. I do appreciate it. We do appreciate it.

I want to go back to something for a minute. We had talked about copies and how that was done. Will there be any fees associated with the use of the secure file transfer service?

Hon. L. Beare: There is no charge for that now, and there are no plans to charge for that in the future.

B. Banman: Thank you to the minister for the answer.

In a situation where an applicant submits a request but the wording is not correct…. Oh, I don't know. Let's take wildfires, for instance, and fire logbooks, versus whatever the word may be, as an example. Or they ask for the wrong program area, or the wrong document type is requested. It ultimately must be withdrawn or results in a "no records" response before being resubmitted.

Will the fee be refunded or applied to the new request, or will they have to pay it twice? If requests are merged, will the application fees for the second, third and other subsequent merged requests be refunded?

Hon. L. Beare: Under this legislation in section 6, there is the duty to assist that we just recently went over with the member. So it's part of our current practice that we have now that applicants can work with the freedom-of-information office — to help be referred to where the records are, to refer requesters to open data sets which may potentially contain the information and to assist applicants to narrow the request to avoid a situation where, for any reason, multiple requests could be necessary. Ideally, we want to make sure that applicants are getting what they need in that first request.

[4:05 p.m.]

As I've said before, and as I know the member knows I'm going to answer, the legislation before us today gives the ability to create the fee. The details of the regulation are through the regulation process, which is separate from the legislation. But the member raises good points, and as I've said to the member all throughout this legislation, we are listening, and I thank the member for raising the concern.

B. Banman: Every now and again, the little guy gets one, so thank you for that. I think it's important that those fees, when it's multiple and broad like that, can actually be reassessed and that government has a duty to assist, as you've said.

In a situation, let's say, where the government fails to meet legislated due dates for requests…. If we don't hold up our end of the deal, are we going to refund the fees?

Will those fees that have been paid be refunded, if we can't follow and get our job done in the legislative due time?

Hon. L. Beare: As I just said with the previous answer, that is part of the regulation process, which is separate from the legislation which we have before us today. As I said in my previous answer to the member, I am listening, and I will consider these concerns and the concerns the member raised before. They will be considered as part of this process.

B. Banman: When I asked the question a couple of moments ago, I only got half an answer. The part that was not answered was…. I will repeat it for the minister. The minister had said in an earlier section that lists of the minister's briefing notes are proactively released. She was gracious enough to say that she misspoke. We all do it. Part of the question was…. She answered the first part of that question. The second part, however, I did not hear an answer for, so I'm going to say it again.

To pay all of the fees, as opposition, if we file those requests…. That was the original statement. To pay all the application fees, it will now cost the taxpayers $15,000. It's not the opposition's money. It's going to come directly out of the taxpayers. The taxpayers are going to have to pay $15,000 just to allow members of the opposition to fulfil our fundamental role in holding government to account, which is our job and our duty on behalf of the taxpayers of British Columbia. It's going to cost $15,000 to hold the government to account at the most basic level.

Those are the lists that the minister was talking about that were already proactively released. Does the minister believe that that aligns with the intent of the act to block the opposition from filling its most fundamental role?

[4:10 p.m.]

Hon. L. Beare: Yes, I believe I did answer the question for the member. The member is raising a very specific concern around the briefing notes, as a good example. I appreciate the member's concern. I don't agree with the rest of the statements in his question there, but I appreciate the concern and have committed to the member that I would take a look at things like the briefing notes for a proactive disclosure moving forward.

The Chair: Shall clause 44 pass?
Division has been called.

[4:15 p.m.]

Clause 44 approved on the following division:

YEAS — 7

Bains	Beare	Begg
D'Eith	Glumac	Sharma
	Starchuk	

NAYS — 4

Banman	Furstenau	Kirkpatrick
	Stone	

Clause 45 approved on division.

On clause 46.

T. Stone: This section 46 expands the basis on which entities may be added to the all-important schedule 2 of the act. I guess I have a couple of questions here.

First off, I just was wondering if the minister can provide an example…. Well, actually, let me back up. Part of what is happening in this section here is that section 76.1 of the act is amended. Part of that amendment is adding the following paragraph, which is: "(iv) if the minister responsible for this Act determines that it would be in the public interest to add the agency, board, commission, corporation, office or other body to Schedule 2."

[4:20 p.m.]

With that in mind, I'm wondering if the minister could provide an example of the public interest that would kick in the minister's decision or a subsequent minister's decision to add an agency, a board, a commission, a corporation, an officer or other body to schedule 2.

[4:25 p.m.]

Hon. L. Beare: My team came up with a great example, actually, I think. A perfect example would be Swans Pub here in downtown Victoria. It's owned by UVic,. so it could be added because it's named under the act, but that may not be under the public interest.

T. Stone: Okay. I'm not really sure what that's got to do with the question. I was looking for an example of what would be deemed to be in the public interest related to this provision that would thus enable the government to add an additional entity to schedule 2. I'm not really clear on how Swans Pub, owned by UVic, I think…. Is that what the minister said? But fair enough. I'll move on, though.

Earlier this year the government brought forward legislation which was passed by the Legislative Assembly to create InBC, investment in British Columbia. This is, as the minister knows well, a $500 million entity that will now be responsible for $500 million of taxpayers' money. I refer to it as a high-risk venture capital scheme. I think it's going to be an abysmal failure, but we had that debate as part of that bill.

I'm curious as to why, when we consider the public interest and the dozens and dozens of entities and public bodies which are already part of and included in schedule 2 of the FOIPPA act, including the B.C. Investment Management Corp., which manages, like, literally billions of dollars of pension funds…. Not to mention all kinds of other fairly large public bodies and entities.

When you look at the list here, you have everything from the B.C. Safety Authority and the Securities Commission to the British Columbia Transit Corp. and B.C. Utilities Commission. That's a big one. You've got the Coast Mountain Bus Co. Ltd. the Columbia Basin Trust, Columbia Power Corp. I could continue on here. The Credit Union Deposit Insurance Corp. of British Columbia…. Again, it's an extensive list of public entities or public bodies which are currently captured within schedule 2 of the FOIPPA act.

[4:30 p.m.]

I think the ideal would have been that when the government brought forward the legislation which created InBC, that high-risk venture capital scheme…. We asked these questions at the time. The ideal would have been to have, as a consequential amendment as part of that legislation, the addition of InBC to schedule 2 of the FOIPPA act, but the government chose not to do that.

The Chair: Sorry to interrupt, member. We are at 4:30 now.

It being 4:30 p.m., pursuant to the time allocation motion adopted by the House on Tuesday, November 23, the committee will now proceed to a finalized clause-by-clause consideration of Bill 22. So in accordance with the time allocation motion, I will now put the question on all remaining clauses of the bill.

Members, a division on the remaining clauses and title cannot be called, but in accordance with practice recommendation 1, members may indicate passage on division.

With that, we will proceed.

Clauses 46 and 47 approved on division.

On clause 48.

The Chair: On clause 48, Members, pursuant to the time allocation motion adopted by the House on Tuesday, November 23, the amendment to clause 48 on the order paper in the name of the Minister of Citizens' Services is deemed adopted.

[**CLAUSE 48,** ***by deleting the text shown as struck out and adding the underlined text as shown:***
Schedule 1 is amended
(a) by repealing the definition of **"aboriginal government"** ***and substituting the following:***
"Indigenous governing entity" means an Indigenous entity that exercises governmental functions, and includes but is not limited to an Indigenous governing body as defined in the *Declaration on the Rights of Indigenous Peoples Act*; **,**
(b) by repealing the definition of **"access",**
(c) in the definition of **"agency"** ***by striking out*** "for the purposes of sections 33.2 (d) and 36.1 (3) (b) (i)***" and substituting*** "for the purposes of section 33 (2) (k)***", and by striking out*** "data-linking initiative***" and substituting*** "data-linking program***",***
(d) by repealing the definitions of **"data linking"** ***and*** **"data-linking initiative"** ***and substituting the following:***
"common key" means information about an identifiable individual that is common to 2 or more data sets;
"data-linking" means the linking, temporarily or permanently, of 2 or more data sets using one or more common keys;
"data-linking program" means a program of a public body that involves data-linking if at least one data set in the custody or under the control of a public body is linked with a data set in the custody or under the control of one or more other public bodies or agencies without the consent of the individuals whose personal information is contained in the data set;
"data set" means an aggregation of information that contains personal information; **,**
(e) in the definition of **"health care body"** ***by repealing paragraph (b),***
(f) by adding the following definition:
"Indigenous peoples" has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*; **,**
(g) by repealing the definition of **"intimate partner"** ***and substituting the following:***
"intimate partner" means, with respect to an individual, any of the following:
(a) an individual who is or was a spouse, dating partner or sexual partner of the individual;
(b) an individual who is or was in a relationship with the individual that is similar to a relationship described in paragraph (a); ***, and***
(g.1) in paragraph (a) of the definition of "public body" by striking out "government of British Columbia,"***and substituting*** "government of British Columbia, including, for certainty, the Office of the Premier,"***, and***
(h) by repealing the definition of **"social media site".**]

Amendment adopted.

Clause 48 as amended approved on division.

Clauses 49 to 74 inclusive approved on division.

Title approved on division.

[The bells were rung.]

Hon. L. Beare: I move that the committee rise and report the bill complete with amendment.

Motion approved on division.

The committee rose at 4:34 p.m.

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