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Stopping Secret, Unethical Lobbying

How Unregulated and Weakly Regulated Lobbying Activities Facilitate Secret, Unethical and Undemocratic Interference, Including Foreign Interference, in Alberta Politics, and How to Prevent These Activities

Submission to the Standing Committee on Alberta's Economic Future for its Review of the *Lobbyists Act*

(August 2026)

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1 Summary of How Unregulated and Weakly Regulated Lobbying Activities Facilitate Secret, Unethical and Undemocratic Interference

There are significant loopholes and flaws in several Alberta laws, and laws across Canada, that have made it legal to date to secretly, unethically and undemocratically interfere in Canadian politics, especially given that enforcement of many of the laws is ineffective. The loopholes are in the elections, political finance, lobbying, ethics, anti-money laundering and border security laws, including loopholes that allow for anonymous, secret online disinformation and misinformation campaigns.

One area in which there are significant loopholes is that many lobbying activities are completely unregulated, and all existing regulations of lobbying activities, and related political ethics rules, are weak and allow for secret, unethical and undemocratic influence in elections and political policy-making processes across Canada.[1]

According to a national survey conducted in January 2025, more than 80 percent of Canadian voters are concerned about secret, unethical lobbying. Click here to see the survey results.

This submission details the loopholes in Alberta's lobbying law and related political ethics law, and sets out proposals for key changes to close these loopholes that the Standing Committee on Alberta's Economic Future (the "Committee") should strongly recommend in its final report, including calling on all Alberta parties to work together to make the changes as soon as possible.

Because many lobbying activities are unregulated, or existing regulations for lobbying and related political ethics standards have loopholes, no government agency or official has any power to track, monitor, investigate, prosecute or penalize many unethical and undemocratic interference, including foreign interference, activities that are allowed to be done in secret. This will remain impossible as long as these loopholes and flaws in the laws exist and enforcement remains ineffective.

The extensive evidence of how the loopholes and weak enforcement systems in Canada's key democracy laws have been exploited by Canadians and Canadian businesses and organizations to secretly, undemocratically and unethically interfere

[1] For details see the PhD thesis of Democracy Watch's Co-founder Duff Conacher, which details in Chapters 4 the loopholes in Canada's political ethics and lobbying rules that allow for secret, undemocratic and unethical influence in federal politics, including by foreign governments and entities and their proxies, and which sets out in Chapter 7 workable, best-practice recommendations for closing these loopholes. Click here to see the thesis on the University of Ottawa's uO Research site.

in Canadian politics over the past few decades makes it clear not only that foreign governments and entities have also likely been exploiting these loopholes and weak systems through proxies and intermediaries, but also makes it clear that the only way to stop undue influence and foreign interference in Canadian political processes, including through disinformation, is to close these loopholes and correct these flaws to prevent it.

Undue influence and foreign interference activities will only be effectively prevented if changes are made to all of Canada's key democracy laws to prohibit and penalize all secretive, undemocratic and unethical ways of interfering in and influencing political processes across Canada, and if changes are made to ensure the enforcement of all these laws is fully independent, effective, well-resourced, transparent, timely and accountable.

As in so many areas of public policy, an ounce of prevention in the area of foreign interference is worth a pound of cure. If loopholes are left open or flaws left uncorrected in any law that foreign governments, entities and individuals can exploit to have secret, undemocratic or unethical influence over contestants, candidates, riding associations, party leaders, politicians, and public officials, those loopholes and flaws will likely be exploited. And if enforcement is tainted by political influence and is ineffective, secretive, underfunded, delayed and unaccountable, they will likely be exploited more.

Even if all the loopholes are closed and all the flaws corrected, if the enforcement system is ineffective then likely violators will be let off the hook. A weak enforcement agency that lacks funding and resources will likely only catch a foreign agent violating a law years after they have influenced a political process, and then the agency will likely keep the violation secret, and likely no penalty will be imposed.

In other words, changes must be made to effectively prevent foreign interference activities, and if those changes are not made then the activities will not only occur, but also activities will only be caught long after the interference has occurred, and the process that follows will take years more, with often no one being held accountable.

Part 2 of this submission sets out how the three principles of the Supreme Court of Canada's egalitarian model provides a perfect framework upon which the Committee should base all of their recommendations for changes to key Alberta political process laws. If the rules in every area of Alberta politics are changed to comply with the three principles (and, again, enforcement is strict and strong), undue, unethical and undemocratic influence, and foreign interference, will be effectively prevented because it will be clearly illegal for anyone, or any entity, to secretly, unethically or undemocratically interfere in or influence any Alberta political process, including through misleading voters with disinformation or misinformation.

In other words, all political processes will be effectively required to offer a substantively equal opportunity for substantively equal participation and influence in the process, and all participation will be effectively required to be honest, ethical, transparent, representative and democratic.

In addition, using the three principles of the Supreme Court's egalitarian model as the basis for the Special Committee's recommendations will ensure that the changes that the Committee recommends will comply with Canada's *Constitution*, as the Court's model was developed through court rulings concerning sections 2 and 3 of the *Charter*.

Part 3 of this submission sets out how the rules, and lack of rules, for lobbying activities, and related political ethics rules, violate one or more of the three principles of the Court's egalitarian model. Part 4 sets out the proposals for key changes needed to lobbying and related political ethics rules to comply with all the principles of the Court's egalitarian model and, thereby, to effectively prevent foreign interference.

2 The Supreme Court of Canada's Egalitarian Model

In its 1997 ruling in the case *Libman v. Quebec*, the Supreme Court ruled for the first time since the *Charter* was enacted in 1982 on the issue of statutory restrictions on political spending, specifically in that case on spending during a referendum campaign period. Mr. Libman challenged the very restrictive statutory provisions in Quebec's *Referendum Act* that allowed only minimal spending by individuals or groups that did not become affiliated organizations of official, registered yes or no "national committees" in any referendum. Only spending up to $600 in expenses for travelling and up to $600 total for events were allowed. The Supreme Court overturned the Québec courts' rulings that the restrictive provisions infringed freedom of expression but were justifiable as a reasonable limit under section 1 of the *Charter*, and instead found that the limits were unreasonably low and, therefore violated the section 1 requirement that restrictions only "minimally impair" *Charter* rights.[2]

In *Libman*, the Supreme Court first set out key factors and principles that form the basis of what came to be called the "egalitarian model" for political processes. One of the factors established by the Court is that the rules and practices in each process are assessed based on the system itself, not based on outcomes that result

[2] *Libman v. Quebec (Attorney General)*, 1997 CanLII 326 (SCC), [1997] 3 SCR 569, paras. 74-77 ("*Libman*").

from the system, such as the result of an election.[3] The first key principle is that the system should uphold, as much as possible, while taking into account "a broad range of social factors"[4] and also practical considerations to ensure effective representation,[5] the fundamental democratic equality principle of one person, one vote[6] so as to ensure that, again as much as practically possible, every voter has a close to substantively equal opportunity to participate in, or influence, the electoral system or the government public policy-making system.[7]

The second key principle is that the public must perceive, and have confidence in, the fairness and integrity of every aspect of the system. To express this in reverse, every aspect of the system must appear to be fair and to have integrity, and actually be fair and have integrity, in order for the public to have confidence in the system.[8]

And the third key principle is that limits on spending cannot be so low as to prohibit expression and participation in the election at a level that is meaningful nor to prohibit the flow of adequate information for voters to make informed decisions[9] and, by extension, information provided to voters must be required to be accurate or they will not be able to make informed decisions.

As is clear from the above, ensuring rules for all political processes comply with these three principles will ensure that all political processes will be effectively required to offer a substantively equal opportunity for substantively equal participation and influence in the process, and all participation will be effectively required to be honest, ethical, transparent, representative and democratic. This will actually prevent foreign interference. In contrast, half-measures that leave open loopholes and flaws will facilitate ongoing secret, unethical and undemocratic foreign interference activities.

Extending the egalitarian model's principles into the area of lobbying regulation, the following principles for lobbyists who give the gifts or favours, and for the lobbying system overall, align with the key principles of the Supreme Court's egalitarian model:

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[3] *Harper v. Canada (Attorney General)*, [2004] 1 SCR 827, 2004 SCC 33 (CanLII), paras. 64 and 95-99 ("*Harper*"). *Figueroa v. Canada (Attorney General)*, [2003] 1 SCR 912, 2003 SCC 37 (CanLII), para. 29.
[4] *Figueroa v. Canada (Attorney General)*, [2003] 1 SCR 912, 2003 SCC 37 (CanLII), paras. 24 and 108 ("*Figueroa*"), citing *Reference re Prov. Electoral Boundaries (Sask.)*, 1991 CanLII 61 (SCC), [1991] 2 SCR 158, pp. 181 and 184.
[5] *Reference re: Prov. Electoral Boundaries*, paras. 170, 183-85 and 188.
[6] *Libman*, paras. 41, 47 and 61; *Harper*, paras. 61-63.
[7] *Reference re: Prov. Electoral Boundaries*, pp. 183; *Harper*, para. 73.
[8] *Harper*, paras. 23-24, 63, 79, 82-83, 91-92, 97, 99, 101-104, 108-109, 120, 122, 142 and 146; *Libman,* paras. 41, 52 and 84.
[9] *Libman*, para. 41; *Harper*, paras. 15, 61-63 and 67-70.

1. Overall, the rule that should apply to all political situations and processes is that lobbyists are prohibited from doing or proposing anything that places any public official in an apparent of conflict of interest, and from lobbying in any way that is improper (so that the public can have full confidence in the appearance of, and actual, fairness and integrity of all processes);
2. Comprehensive, loophole-free requirements to require registration of, and public disclosure of, all lobbying and lobbying spending and sources of funding (to inform voters), and;
3. Relative, substantive equality of opportunity for relative equality of participation and influence in the government and political decision-making system, based on actual level of voter support (with no more than a 5-10 percent variation in the equality of opportunity and influence).

As detailed in Part 3 below, the current Alberta lobbying and political ethics rules do not comply with any of these principles and, as a result, secret, unethical lobbying is allowed, including by "proxy" lobbyists for foreign governments, entities and individuals.

3 How Lobbying Statutory Rules Violate the Three Principles of the Egalitarian Model and Facilitate Secret, Unethical and Undemocratic Foreign Interference

Lobbying public office holders (meaning not only politicians but also political staff and appointees, and government employees) is based on the historical right granted to barons by the English King John in the *Magna Carta* of 1215 – which at the time was a limited right to petition the King for redress.[10] Over the next 450 years, the right expanded to become, in chapter 5 of the English *Bill of Rights* of 1689 which states: "Right to petition: That it is the Right of the Subjects to petition the King and all Commitments and Prosecutions for such Petitioning are Illegall (*sic*)."[11]

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[10] "English Translation of Magna Carta" British Library, online: <http://www.bl.uk/magna-carta/articles/magna-carta-english-translation#sthash.tOfR7yfx.dpuf> as cited in "Rights of Assembly and Petition" online: *CRS Annotated Constitution*, Legal Information Institute, Cornell University School of Law <https://www.law.cornell.edu/anncon/html/amdt1efrag7_user.html#amdt1e_hd17>. Clause 61 of the original Magna Carta, 1215 version, stated: "If we, our chief justice, our officials, or any of our servants offend in any respect against any man, or transgress any of the articles of the peace or of this security, and the offence is made known to four of the said twenty-five barons, they shall come to us - or in our absence from the kingdom to the chief justice - to declare it and claim immediate redress [English translation of Latin original]." While this clause only gave the right to petition to 25 barons, it was the first written expression of the right.

[11] *Bill of Rights [1688]* online: The National Archives <http://www.legislation.gov.uk/aep/WillandMarSess2/1/2/introduction> as cited in "Rights of Assembly and Petition" online: *CRS Annotated Constitution*, Legal Information Institute, Cornell University School of Law <https://www.law.cornell.edu/anncon/html/amdt1efrag7_user.html#amdt1e_hd17>.

Canadian courts have ruled that the *Magna Carta* and the *Bill of Rights* are not Canadian constitutional documents,[12] including in the context of a challenge to a prosecution under the federal *Lobbying Act*.[13] However, the fact that the preamble to Canada's *Constitution Act, 1867* states that Canada was established "with a Constitution similar in Principle to that of the United Kingdom" means the rights set out in these documents were inherited into Canadian law.[14] As well, several Canadian statutes have explicitly enacted many of these historical rights into Canadian law. For example, the Preamble in the federal Canadian *Lobbying Act* states that "free and open access to government is an important matter of public interest" and that "lobbying public office holders is a legitimate activity."[15]

The initial legal restrictions on lobbying were only aimed at preventing outright bribery – criminal prohibitions on corruptly giving a benefit of any kind in respect of an action or decision by a public office holder. These restrictions date back to the oldest ethics and legal codes that have been discovered. For example, taking a bribe was prohibited in the codification of Babylonian law by King Hammurabi around 1754 BC.[16] The enactment of disclosure requirements for lobbyists, and ethics codes that restrict ways lobbyists have used to gain favour from public office holders, has only happened in the past few decades in Canada and elsewhere. Beyond the disclosure requirements, these rules also aim in some cases to prohibit gifts or favours of any kind from lobbyists that create a conflict of interest for the office holder.

The federal Canadian *Lobbying Act* states in its preamble that "it is desirable that public office holders and the public be able to know who is engaged in lobbying activities"[17] while the objectives of the federal *Lobbyists' Code of Conduct* that was enacted pursuant to the *Act* include "to foster transparent and ethical lobbying of federal officials" and "that officials and the public should be able to know who is carrying out lobbying activities.[18]

While the Supreme Court of Canada has not ruled on the issue, the Ontario Superior Court has held that a statutory requirement to disclose lobbying activities

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[12] For an example of a Canadian court ruling on the Magna Carta and Bill of Rights, see *R. v. Jebbett*, 2003 BCCA 69 (CanLII), <https://canlii.ca/t/5dnn>.
[13] *R. v. Carroll*, 2016 ONCJ 213 (CanLII), <https://canlii.ca/t/gpjb9>, paras. 2-8 (hereinafter "*R v. Carroll* (2016)"), affirmed in *R. v. Carroll*, 2017 ONSC 2261 (CanLII), <https://canlii.ca/t/h36jj>, paras. 2, 6, 10-15 (hereinafter "*R v. Carroll* (2017)").
[14] *Constitution Act, 1867* 30 & 31 Victoria, c.3 (U.K.).
[15] *Lobbying Act*, R.S.C., (1985) c.44 (4th Suppl.).
[16] Philip M. Nichols and Diana C. Robertson, *Thinking About Bribery: Neuroscience, Moral Cognition and the Psychology of Bribery* (Cambridge: Cambridge University Press: 2017) 1 (hereinafter "Nichols and Robertson, *Thinking About Bribery*").
[17] *Lobbying Act*, *supra*.
[18] Commissioner of Lobbying, *Lobbyists' Code of Conduct*, online: <https://lobbycanada.gc.ca/en/rules/the-lobbyists-code-of-conduct/lobbyists-code-of-conduct-2015/> (hereinafter "*Lobbyists' Code* (2015)").

does not violate the section 2(b) Canadian *Charter* right to freedom of expression, as it "is intended to ensure transparency and openness, allowing the public to know the identity of the paid lobbyists who are communicating with public office holders and which interests these lobbyists represent."[19] In other words, the statutes and codes, and courts interpreting them in rulings, draw a line between legitimate lobbying which is covered by the rights to free expression and free association (when done transparently and ethically) and illegitimate lobbying which is done secretly and includes gifts and/or favours that cause conflicts of interest. These legal lines, and the principles upon which they are based, align with the key facets and principles of the Supreme Court's egalitarian model.

As noted above, federal Canadian lobbyists are regulated by the *Lobbying Act*[20] in terms of disclosure of their activities, and similar disclosure laws have been enacted in all 10 Canadian provinces, and in the Yukon Territory, and at the municipal level in Toronto and Ottawa, so only the Northwest Territories and Nunavut do not have laws along with almost all municipalities.[21]

Provisions in lobbying laws or separate codes that regulate the ethics and integrity of lobbying activities exist at the federal level in the *Lobbyists' Code* which was first enacted in 1997,[22] with an amended version coming into force on December 1, 2015,[23] and further amended version coming into force on July 1, 2023,[24] and in the lobbying laws in B.C., Ontario, Quebec and Saskatchewan, and in Ottawa's and Toronto's lobbying codes in their city by-laws.

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[19] *R v. Carroll* (2016), *supra*, paras. 2, 9-40 (esp. 39), affirmed in *R v. Carroll* (2017), *supra*, paras. 2 and 16-19.
[20] *Lobbying Act*, *supra*.
[21] The laws in the provinces and Yukon Territory, in alphabetical order, are as follows: Alberta – *Lobbyists Act*, SA 2007, c L-20.5; B.C. – *Lobbyists Transparency Act* [SBC 2001], ch. 42; Manitoba - *The Lobbyists Registration Act*, CCSM c L178; Newfoundland and Labrador - *Lobbyists Registration Act*, SNL2004, c. L-24.1; New Brunswick – *Lobbyists' Registration Act*, 2014, c. 11; Nova Scotia - *Lobbyists' Registration Act*, 2001, c. 34; Ontario - *Lobbyists' Registration Act*, 1998, S.O. 1998, c. 27, Sched.; Prince Edward Island (P.E.I.) - *Lobbyists Registration Act*, c. L-16.1; Quebec – *Lobbying Transparency and Ethics Act*, CQLR, c. T-11.011; Saskatchewan, *Lobbyists Act*, SS 2014, c. L-27.01; Yukon Territory - *Lobbyists Registration Act*, SY 2018, C. 13. City of Ottawa, Lobbyist Registry (By-law No. 2012-309), online: <https://ottawa.ca/en/living-ottawa/laws-licences-and-permits/laws/laws-z/lobbyist-registry-law-no-2012-309#section-fe5987f1-f0e9-43d7-9eeb-c06f77e756ab> (hereinafter "Ottawa by-law"). City of Toronto, Toronto Municipal Code, Chapter 140: Lobbying, online: <https://www.toronto.ca/legdocs/municode/1184_140.pdf> (hereinafter "Toronto by-law"). See also Office of the Commissioner of Lobbying of Canada, *Improving the Lobbying Act: Preliminary recommendations*, (February 2021), online: <https://lobbycanada.gc.ca/en/reports-and-publications/improving-the-lobbying-act-preliminary-recommendations/> (hereinafter "*Improving the Lobbying Act*").
[22] Registrar of Lobbying, *Lobbyists' Code of Conduct*, (1997), online: <https://web.archive.org/web/20170823151218/https://lobbycanada.gc.ca/eic/site/012.nsf/eng/01195.html/>.
[23] *Lobbyists' Code* (2015), *supra*.
[24] Commissioner of Lobbying, *Lobbyists' Code of Conduct*, online: <https://lobbycanada.gc.ca/en/rules/the-lobbyists-code-of-conduct/> (hereinafter "*Lobbyists' Code* (2023)").

As detailed below, due to loopholes in the rules that allow for secret, unethical lobbying, Alberta's lobbying law does not comply in several ways in all three areas of the extended egalitarian model summarized above.

3.1 How Lack of Regulation Allows for Secret Lobbying, Which Facilitates Secret Foreign Interference Through "Proxy" Lobbyists

Alberta's lobbying law does not comply with the egalitarian model's principle of ensuring voters have adequate information to make decisions about political processes because it does not require all lobbying to be registered and disclosed. Generally, Alberta's *Lobbyists Act* requires registration by anyone paid as a consultant on contract by any entity to communicate with a public office holder in respect of their decisions concerning making, developing or amending of legislative proposals, bills or resolutions, regulations, policies or programs; the awarding of grants, contributions or other financial benefits, including by appealing to the public to contact the office holder, and; (for consultant lobbyists only) the awarding of a government contract and arranging meetings for others to lobby. The requirement to register and disclose lobbying activities applies unless the communication is in an open forum that is publicly recorded with the identities of all the participants and details of the discussions publicly disclosed, such as testimony before a parliamentary committee or a public consultation meeting.

However, there are many secret lobbying loopholes in the law. The first loophole is that a person is only required to register as a lobbyist if they are paid for their lobbying (defined broadly to cover various forms of payment, compensation and other considerations). This loophole allows a lobbyist to arrange with a client to be paid for strategic advice, while lobbying for their client for free, unregistered. This loophole also allows retired executives of businesses, unions and other organizations, who may have extensive, good relations with government officials or other public office holders, and who may still be receiving a pension or other retirement benefits from their former employer, to lobby for their former employer without registering. This loophole exists in all lobbying laws across Canada except in Ottawa's and Toronto's lobbying by-laws under which voluntary lobbying activities are also required to be registered and disclosed publicly.[25]

The second secret lobbying loophole is that an employee who is lobbying for a business is not required to be listed in the federal Registry of Lobbyists if they lobby less than a specific length of time. As a result, the public cannot access key information concerning the extent and nature of the some lobbying activities. This loophole exists in some form in the lobbying laws across Canada, except in Ottawa's by-law which requires all lobbying to be registered no matter how much time it

[25] Ottawa by-law, *supra*, section 1. Toronto by-law, *supra*, Article IV. See laws across Canada, *supra*.

takes,[26] and in Toronto's by-law but it has the significant exception that a not-for-profit corporation is not required to register any of its lobbying activities unless it hires a consultant lobbyist to represent it or if it is lobbying for grant application, award or other financial benefit (unless it is a not-for-profit community service organization and then it is also exempt from this financial benefit registration requirement).[27]

Alberta also has a significant exception that amounts to a loophole as it does not lobbying by an organization to be registered and disclosed if its employees, officers or directors individually or collectively lobby less than 50 hours a year. B.C. has a similarly significant exception that amounts to a loophole because 50 hours is a lot of lobbying time. B.C. requires all lobbying to be registered and disclosed, with an exception for lobbying by a business or organization with fewer than six employees who collectively lobby less than 50 hours a year (unless the organization's primary purpose is to represent its members or to promote or oppose issues, and then it is required to register all of its lobbying).[28]

Quebec also has a distinct threshold that requires registration of all lobbying by an executive or director or lobbying about anything that would have a significant impact on the business or organization, as well as all lobbying about anything for which the officers, directors or employees lobby a total of 12 days or more over a fiscal year,[29] with lobbying by non-profit citizen organizations (other than unions and professional or management associations) exempted from the requirement to register.[30]

Under the federal *Lobbying Act*, for citizen organizations like unions and non-profit advocacy groups, if the combined time spent lobbying by employees crosses the 20 percent threshold (calculated as if they were one person), then not only is the organization required to register, but also all the employees involved in lobbying are required to be identified in the organization's registration.[31] That is how the calculation concerning both business or organization employees, officers and directors that are required to be listed as lobbyists in a lobbying registration is also done for the purpose of the thresholds in almost all jurisdictions across Canada, with a few provinces not including lobbying time by officers and directors who are not compensated in the calculation.[32]

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[26] Ottawa by-law, *supra*, section 1.
[27] Toronto by-law, *supra*, ss. 140-1, 140-27, 140-11.
[28] See Alberta law, *supra*, subsection 1(h). See B.C. law, *supra*, subsection 1(4). *Improving the Lobbying Act*, *supra*, pp. 4-5.
[29] Commissaire au lobbyisme du Québec, Avis no. 2005-07, (June 30, 2005), online: <https://lobbyisme.quebec/wp-content/uploads/2021/07/Avis_2005_07.pdf>, p. 2.
[30] *Lobbying Transparency and Ethics Act Exclusions Regulation*, CLQR, chapter T-11.011, r. 1, subsection 1(11).
[31] *Lobbying Act*, *supra*, clause 7(3)(f).
[32] See laws across Canada, *supra*: Alberta (clause 1(1)(h)); B.C. (1(40(b)(i)) – unless the organization falls within the exemption); Manitoba (subsections 1(2) and (3)); Newfoundland and Labrador (clause

While it could be viewed as a third loophole if the objective is to ensure the public knows about absolutely all lobbying, given they are intergovernmental communications as opposed to lobbying as it is usually defined, the federal *Act* does not require registration or disclosure of communications by the following people when they are acting in their official role: members of a provincial legislature, municipal council, *Indian Act* band council or indigenous people's government or their staff; or by provincial, municipal, band council or indigenous government employees; or by diplomatic representatives of foreign governments or United Nations agencies or other international organizations recognized by Parliament.[33] This same exemption applies in every jurisdiction across Canada.[34] However, government officials in Canada should be at least required to disclose each communication occurrence, the identity of the representative of the other government or international organization, and the general subject matter of each communication, to uphold the public's right to know whether their government is under pressure from another government concerning anything at any particular time.

Another part of the threshold for registering lobbying is whether a "public office holder" is being lobbied, and the definition in the federal *Lobbying Act* is fairly comprehensive as it includes all federal MPs and senators, their staff, Cabinet ministers and their staff and appointees, and all government employees.[35] The definitions in lobbying laws across Canada are essentially the same covering politicians, their staff and government employees.[36]

As well, the office of the federal Commissioner of Lobbying has concluded that the definition of public office holder does include employees of the caucus research bureaus for officially recognized parties in the House of Commons. In effect, staff of these bureaus are working for a party as Parliament defines and recognizes parties (i.e. only parties with 12 or more MPs in the House are recognized and received funding for a research bureau). [37] This should be specifically spelled out in all provincial and territorial laws to prevent this from being a secret lobbying loophole.

6(1)(b) – but only employees' lobbying time is counted)); New Brunswick (subsections 9(a) and (b) and 14(a) and (b) and Regulation 2017-11); Nova Scotia (clauses 6(1)(a) and (b)); Ontario (subsections 5(7) and 6(5)); P.E.I. (subsections 6(1) and 7(1)); Saskatchewan (clause 2(1)(h)) and the Yukon (subsection 12(3)). In Ontario, P.E.I., Saskatchewan and the Yukon, time spent lobbying by officers/directors who are not compensated is not included in calculation.

[33] *Lobbying Act*, *supra*, section 4(1).

[34] See laws across Canada, *supra*.

[35] *Lobbying Act*, *supra*, subsection 2(1) "public office holder".

[36] See laws across Canada, *supra*.

[37] R. Paul Wilson, "The work of Canadian political staffers in parliamentary caucus research offices," (July 5, 2020) Vol. 63-3 *Canadian Public Administration* 498.

However, the fourth loophole is that the definition of "office holder" does not include other political party officials at the federal level[38] or in any jurisdiction in Canada.[39] As a result, lobbying of these people is not required to be disclosed. This secret lobbying loophole is significant because these people are in regular contact with senior politicians and staff in each party, and so they can easily and regularly pass on communications they have received from lobbyists.

Another part of the threshold for registering lobbying is the topic of the lobbying, and several loopholes exist in the laws across Canada. The fifth secret lobbying loophole is that lobbying by any person or entity of an enforcement agency concerning the enforcement of a law that applies to the person or entity is not required to be registered.[40] This loophole allows for secret lobbying by, for example, businesses concerning inspections, audits and other enforcement actions by regulatory agencies. This loophole exists in lobbying laws across Canada.[41]

The sixth loophole is that the delay in requiring registration of some lobbying denies voters key, real-time information. The federal and Alberta's *Act* requires consultant lobbyists to register within 10 days of beginning to lobby, but gives business and organization in-house lobbyists two months to register their lobbying, which can hide lobbying through a whole policy-making process. In contrast, the by-law in Ottawa requires all lobbyists to register within 15 days (subsection 6(1)) while Toronto's by-law requires registration before lobbying begins (subsections 140-14B and 140-21B).

The seventh loophole is that not all lobbying communications are required to be disclosed in the federal Registry. Lobbyists are only required to disclose each month in the Registry their communications with "designated public office holders" that are oral, pre-arranged and (with one exception for communications concerning financial benefits) initiated by the lobbyist.[42] This means that almost all

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[38] Commissioner of Lobbying, "Application of the Lobbying Act to political parties," (May 11, 2022), online: <https://lobbycanada.gc.ca/en/rules/the-lobbying-act/advice-and-interpretation-lobbying-act/application-of-the-lobbying-act-to-political-parties/>.
[39] See laws across Canada, *supra*.
[40] *Lobbying Act*, *supra*, clause 4(2)(b).
[41] See laws across Canada, *supra*.
[42] *Lobbying Act*, *supra*, subsections 5(3) to 5(4.3), and 7(4) to 7(4.4). *Lobbyists Registration Regulations* (SOR/2008-116), sections 6-7 and 9-10. See also: Commissioner of Lobbying, "Communicating with designated federal public office holders," (May 11, 2022), online: <https://lobbycanada.gc.ca/en/rules/the-lobbying-act/advice-and-interpretation-lobbying-act/communicating-with-designated-public-office-holders/>. Commissioner of Lobbying, "Interpretation of "Comparable rank" for designated public offices," (May 11, 2022), online: <https://lobbycanada.gc.ca/en/rules/the-lobbying-act/advice-and-interpretation-lobbying-act/interpretation-of-comparable-rank-for-designated-public-offices/> (hereinafter "Commissioner of Lobbying, "Comparable rank" bulletin (May 11, 2022)"). Commissioner of Lobbying, "Acting appointments in designated public office holder positions," (May 11, 2022), online: <https://lobbycanada.gc.ca/en/rules/the-lobbying-act/advice-and-interpretation-lobbying-act/acting-appointments-in-designated-public-office-holder-positions/> (hereinafter "Commissioner of Lobbying, "Acting DPOH" bulletin (May 11, 2022)").

communications initiated by a public office holder do not have to be disclosed publicly.[43] As well, for a business, industry association, union or other type of organization, only the senior officer registers and is listed in those monthly communications registrations, even if the senior officer does not even participate in the communication.[44]

The eighth loophole is that, unlike the rules in Alberta's election law that require disclosure of the source(s) of funding of $250 or more to a third party (individual and interest group), businesses and organizations (including industry associations) and individuals who lobby in Alberta are only required under Schedule 1, clause 2(d)(ii) and Schedule 2, subsection 2(d) of the *Lobbyists Act* to disclose who contributed $1,000 or more during the previous to funding only their lobbying activities . The law in B.C., and in Newfoundland and Labrador (clauses 5(4)(g) and (h) and 6(4)(f) and (g)) also require disclosure in the lobbying return of any individual or entity that contributed $1,000 or more to pay for the lobbying activities of a consultant lobbyist's client, or to pay for the lobbying activities of an individual, business or organization. The laws in Nova Scotia (clauses 5(4)(g) and (h) and 6(4)(h) and (i)), Ontario (clauses 4(4)(7) and (8) and 5(3)(7) and (8)), P.E.I. (clauses 4(4)(g) and (h) and 6(4)(h) and (i)) and Saskatchewan ((clauses 8(1)(d)(i) and (ii) and 6(4)(h) and (i)) require disclosure of any individual or entity that contributes more than $750 to lobbying activities.

All funders of a lobbying effort should be disclosed – a $1,000 disclosure threshold makes it very easy for a main funder (including a foreign government, entity or individual) to secretly provide significant amounts of money through proxies who each provide up to $999 to a lobbying effort. This facilitates secret undue influence and foreign interference.

The ninth loophole is that how cash-strapped citizen groups are compared to the lobbying efforts of big businesses cannot be determined because, also unlike the rules in Alberta's election law that require disclosure of third-party (individual and interest group) spending on advertising and other activities in the pre-election and election periods, Alberta lobbyists are not required to disclose the amount they spend on lobbying, including on fees for consultant lobbyists, for or against any specific change to government decision-making. In contrast, the U.S. federal law requires registered lobbyists to disclose how much is being spent on a lobbying effort, including the amount spent on fees for consultant lobbyists and, if it is a coalition lobbying, the amount that each member of the coalition has donated to the lobbying effort, as well as a semi-annual disclosure of the amount donated to candidates and political committees (which are roughly equivalent to third parties in

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[43] *Lobbyists Registration Regulations* (SOR/2008-116), sections 6 and 9.
[44] *Lobbying Act*, *supra*, subsections 7(4) to 7(4.4). *Lobbyists Registration Regulations* (SOR/2008-116), sections 9-10.

Canada).[45] The B.C. lobbying law requires lobbyists to disclose donations to parties, candidates and third parties (clause 4.2(2)(f)), but not spending on lobbying efforts.

The related tenth secret lobbying loophole, is that Alberta consultant lobbyists are not required to disclosed how much they make in fees for any lobbying effort, and overall annually, and so the public cannot determine how valuable lobbyists are perceived to be by their clients, especially lobbyists who are former ministers, top government officials or their staff. In contrast, Quebec's law requires consultant lobbyists to disclose the range of compensation they have received for their lobbying, from less than $10,000, from $10,000 to $50,000, from $50,000 to $100,000 and $100,000 or more (subsection 9(9)).

All of these 10 secret lobbying loopholes make it easy not only for lobbyists to have secret, undue influence in Alberta politics, but also make it easy for foreign governments, entities and individuals to use "proxies" in Alberta to secretly interfere in and influence political processes.

3.2 How Lack of Regulation Allows for Unethical Lobbying, Which Facilitates Unethical Foreign Interference Through "Proxy" Lobbyists

The second general area of the federal Canadian lobbying system that does not comply with the egalitarian model is that the ethics rules for lobbyists, politicians, their staff and government employees allow for avenues of secret, unethical influence that hide key information from voters, which justifiably undermines the public's confidence in the integrity of public processes.

The first area of concern is that if person raises money to explore becoming a nomination contestant or party leadership contestant, and then does not register as a contestant, or if a person wins a nomination contest and then decides not to register as a candidate, the contributors of the money are not required to be disclosed, including if the person receives money, property, use of property, services or other benefits (including a job offer) to not run for whatever reason (such as to give someone else a better chance of winning). This is a problem particularly if the person exploring running or making the decision not to run is a sitting member of the legislature and/or a Cabinet minister, and it is unclear whether the conflict of interest law's gift rules cover such contributions, gifts or other offerings and prohibit or, at least, require them to be disclosed publicly. It is also unclear whether the section 119 prohibition on bribery in the *Criminal Code* would apply, as it only applies to actions of a member "in their official capacity" and it is unclear in law whether a member exploring running in a nomination or leadership contest, or deciding not to

[45] Craig Holman and William Luneburg, "Lobbying and transparency: A comparative analysis of regulatory reform," (2012), Vol. 1(1), *Interest Groups and Advocacy* 75 at 83-84 and 87-88.

run as a candidate, is an action undertaken in their official capacity as an member of a legislature.

A second, related gap in Canadian law that opens politicians across Canada up to being bribed is that it is unclear exactly when a successful candidate becomes a member of a legislature or, in the term used in the *Criminal Code*, an "official" who holds an office.[46] When a legislature is dissolved for an election, members cease being members and, if they are running for re-election again, become candidates soon after dissolution or, in the case of a fixed election date, will likely have been confirmed as the candidate for their electoral district association (EDA) some time before dissolution. After the election, candidates cease being candidates but, if they have won, are not yet members of the legislature. While, for example, the *Parliament of Canada Act* specifies that members begin being paid as an MP from election day on, and the *CEA* specifies that the election results are confirmed when the writ for each returned by the returning officer for each EDA to the Chief Electoral Officer (CEO), and the *House of Commons Procedure and Practice* book states that the CEO provides the final, certified list of MPs to the Clerk of the House, and that MPs have a right to take their seat and vote in the House after they take their oath, none of these documents state plainly exactly when a person who won election becomes an MP.[47] The *Parliament of Canada Act* is silent on the definition of an MP.

Let's assume that there is, in law, at least some time period, perhaps between election day and the day the results are confirmed and certified by the CEO and sent to the Clerk of the House, during which everyone knows that a person has been elected as a member of a legislature but they have not yet taken office. During this period the person can be offered, and can accept, bribes that are not covered by the anti-bribery, anti-corruption provisions in sections 119, 121 and 122 in the *Criminal Code*, nor by sections 41 to 41.5 of, for example, the *Parliament of Canada Act*, as those provisions only apply to people who have taken office. A similar gap exists for members of legislatures across Canada, including for senators, as there is a time period between the announcement by the Prime Minister that s/he has appointed someone to the Senate and the Senator taking their oath of office and seat in the Senate, and it is unclear if the anti-bribery provisions in the *Criminal Code* and in section 16 of the *Parliament of Canada Act* apply during that time period.

These gaps do not comply with the egalitarian model because they allow for unlimited gifts and favours to someone who will likely be a public office holder. Whatever this time period is currently, it should be eliminated, and these laws changed, to make it clear that it is illegal to give any gift, benefit or advantage or do any favour to anyone who, based on the initial election results, could become a

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[46] *Criminal Code*, section 118, definition of "official".
[47] Andre Barnes, *When Does an Elected Candidate Become a Member of the House of Commons?* (Ottawa: Library of Parliament, February 2010), online: <https://publications.gc.ca/collections/collection_2015/bdp-lop/eb/YM32-5-2010-07-eng.pdf>.

member of a legislature, and illegal for the potential members to solicit or accept any gift, benefit, advantage or favour.

The third area of concern is that Alberta's *Conflicts of Interest Act* (*COIA*) has another, very significant loophole. The loophole allows an MLA to be in a significant financial conflict of interest, and take part in decisions that advance their own, their family's, friends' or associates' financial interests, and still be considered to be fulfilling their obligations required by the law. The loophole is in the definition of "private interest" in section 1 which says an MLA cannot have a private interest when deciding or acting on a matter that applies generally or affects them in a similar way as a broad class of the public is affected. Political ethics laws across Canada have the same loophole.

This means when participating in a discussion, debate, vote or decision-making process to change any of the federal government's laws, policies, taxes or subsidies, or spending, granting or service programs, that apply generally or affect a broad class of the public (which almost all of them do), ministers, their staff, top government officials and MLAs and their staff are all allowed to have a financial, social or political conflict of interest and still participate in the decision-making process. In other words, the rules only apply to decision-making processes that make very specific decisions, such as handing out a government contract.

Overall, 99 percent of decision-making processes that MLAs (including the Premier and Cabinet ministers) participate in apply generally or affect a broad class of the public, and only one percent are specific decisions. As a result, it really doesn't matter that the Alberta *COIA* prohibits MLAs in section 2 from being in a conflict of interest, because that standard also does not apply to 99 percent of the decisions and actions by MLAs.

The only political ethics standard that is actually effective is to require all public office holders/officials to recuse (i.e. remove) themselves from any decision-making process if they are in an actual, perceived or potential conflict of interest because of their private or financial interests. This is the rule set out in the federal *Directive on Conflict of Interest* that applies to all federal government employees, and in B.C.'s *Standards of Conduct for Political Staff* which applies to ministerial staff. This standard should apply to everyone in every politician, political staff and public official position.

A fourth area of concern is that the rules in the conflict of interest laws across Canada do not cover the staff of MLAs who are not the Premier or a Cabinet minister. As a result, staff: are allowed to receive unlimited gifts and hospitality from lobbyists and others; are not required to disclose any private interests they or their family members or friends have; are allowed to further the private interests (even specific private interests) of themselves, their family and friends and lobbyists who

have done favours for them and; overall are allowed to act unethically in secret. While MLAs remain the ultimate decision-makers on positions they take on policies and other matters, it is not difficult to see how their decision-making could be distorted by their staff advocating positions that further their own or others' private interests. The simple solution is to extend the current ethics rules to cover staff of MLAs.

Anyone who questions whether these gifts and favours can influence a politician's or public official's decision-making is essentially saying that these people are not human. Click here to see a summary of the clinical studies conducted worldwide that show that even small gifts and favours influence the decisions of the recipients, and larger gifts and favours have more influence.

A fifth area of concern is that under clause 121(1)(b) of the *Criminal Code* it is legal for the head of a government institution to approve in writing a person or entity that has "dealings of any kind with the government" giving, with respect to those dealings, a commission, reward, benefit or advantage directly or indirectly to a government official or employee, or to a member of their family, or to anyone else for the benefit of the official or employee, and clause 121(1)(c) allows the head to approve in writing the official or employee etc. receiving the commission etc.[48]

Concerning cooling-off time periods that prohibit lobbying by former politicians, political staff and public officials after they leave office, setting a blanket time period is arbitrary because different office holders have different levels of inside knowledge and relationships with different government institutions and, as a result, different potential levels of undue influence as a lobbyist depending on which institution is being lobbied. While it is difficult to determine in some cases whether a relationship or connection has created an appearance of a conflict of interest, cooling-off time periods should be set based on a full assessment of the inside knowledge and relationships of the person leaving office, and then be on a sliding scale of one to multiple years depending on these factors, and which political party is in power, and other key factors that cause apparent conflicts of interest.

Beyond the issue of how long cooling-off periods should be for former politicians, Cabinet staff and other appointed federal public officials (to varying degrees), and the rules that apply to government employees, the federal *Lobbyists' Code* sets out ethics rules that apply to all federal registered lobbyists that are essentially the flipside of the rules that address giving gifts/benefits/advantages to MPs and Cabinet MPs.[49] While not a statute, the *Lobbyists' Code* is legally binding and applies to anyone who should be[50] or is registered as a lobbyist under the

[48] *Criminal Code*, *supra*.
[49] *Lobbyists' Code*, *supra*.
[50] *Makhija v Canada (Attorney General)*, 2010 FC 141 at paragraph 18.

federal *Lobbying Act*. It is important to note this because, as summarized above, loopholes allow for lobbying without registering, which means that lobbyists whose activities fit within those loopholes are exempt from the *Code*'s rules[51] and can lobby unethically in secret.

Unfortunately, the federal *Act* and *Lobbyists' Code* together allow lobbyists to secretly fundraise and campaign for, or assist politicians and parties in other ways, and then lobby them right afterwards or soon afterwards. Lobbyists can do this with nomination contestants, election candidates, electoral district associations (EDAs), MPs, Senators, party leaders and Cabinet ministers and parties. The Commissioner of Lobbying is also allowed to secretly reduce the time period during which a lobbyist is prohibited from lobbying after doing favours for a policy-maker. Click here to see details about these loopholes in the *Act* and *Code*. All of these loopholes facilitate secret, unethical foreign interference using lobbyists as "proxies".

Alberta is just as wide open as the federal level to unethical lobbying first because no ethical lobbying provisions apply to people who are required to register as a lobbyist, and loopholes in the registration rules mean that someone can lobby without registering, and therefore they are also allowed to lobby in unethical ways. While the federal *Code* is weak, there are no similar prohibitions in Alberta's *Act* on lobbyists misleading office holders and/or the public, nor on lobbyists secretly fundraising, campaigning, event organizing or doing other favours for politicians and public officials while they are lobbying them. These are significant loopholes that allows for unethical lobbying that violates every principle of the Supreme Court of Canada's egalitarian model.

In addition, the provisions in Alberta's COIA concerning gifts have been weakened in recent years to allow unethical gift-giving.

The aim in B.C. should be to close all the loopholes that allow for secret lobbying and unethical influence activities by lobbyists, including by enacting ethics rules for lobbyists as part of the *Act*.

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[51] *Lobbying Act*, *supra*. See a summary of the loopholes in Democracy Watch, Op-ed: Before making any other changes, make the 5-year ban on federal lobbying an actual ban, and make it fair, and strengthen enforcement, (May 6, 2016), online: <http://democracywatch.ca/before-making-any-other-changes-make-the-5-year-ban-on-federal-lobbying-an-actual-ban-and-make-it-fair-and-strengthen-enforcement/>.

4 How to Make Lobbying Rules Egalitarian and Prevent Foreign Interference by Third-Party "Proxy" Lobbyists

Part 3 above provides details concerning how and why almost lobbying rules in almost all jurisdictions across Canada, and related political ethics rules, do not comply with the three key principles of the egalitarian model of ensuring, in all political processes: close to equal opportunity for close to equal participation and influence; the appearance of, and actual integrity, of the process, and; adequate information for voters to make informed choices, all of which facilitates foreign interference.

All of these loopholes and flaws make it easy for foreign governments, entities and individuals to use "proxy" lobbyists to interfere in and influence elections and political policy-making processes across Canada. Listed below are key changes needed to make Alberta's lobbying rules, and related ethics rules, egalitarian for all political processes and, thereby, to prevent foreign interference in Alberta politics using third-party "proxies". Given the details set out above in Part 3, only a summary of the reasons for each proposed change is set out below, other than for some proposed changes which are addressed in more detail:

Political Ethics Measures

1. Current rules should be changed in the *Criminal Code*, legislature act, and ethics laws, codes and directives to prohibit giving or promising to give anything more than one very low-value gift (including travel), courtesy, hospitality, benefit or advantage to anyone who (based on the initial election results) could become an MLA, and to prohibit the potential MLA from soliciting or accepting any gift, benefit, advantage or favour or promise to give to or do anything for them. No more than a combined total of $30 should be allowed from everyone (as a combined total) who is connected to the same business, organization, family or lobbying effort) or doing or promising to do any favour should be prohibited. These rules should apply to gifts etc. even from a relative or a friend if the relative or friend is lobbying or will be lobbying the government, and it should also apply to prohibit inheritances if the person who made the testamentary gift is connected with an ongoing lobbying effort that is happening or will happen while the politician or public official is in office.
2. Current rules should be changed in the legislature law and conflict of interest law to require potential MLAs to disclose to the Conflict of Interest Commissioner all gifts, benefits etc. received (or promised to be given) within 30 days of receiving them or the promise to give them. The Commissioner should be empowered and required to audit gifts regularly to ensure compliance with the rules. The Commissioner should also be required to disclose within 30 days in an online, searchable database the total number of gifts given to each politician and official, the value of the

gifts, and the sources by category (lobbyist/lobbying firm, community organization, business/organization/family connected to a lobbying effort, relative connected to lobbying effort, friend connected to lobbying effort).

3. All existing rules in the conflict of interest law should be extended to cover all staff of an MLA, and should apply from when they are offered the staff position, with the rules adapted as applicable and, unless otherwise specified, all of the changes proposed in the proposals through the rest of this chapter that cover "public officials" should cover the staff of MLAs. As well, any ethics codes should be enacted as statutes to ensure they are enforceable (which has been an issue before the courts – see *Peet v. Canada (Attorney General) (T.D.)*, 1994 CanLII 3484 (FC), [1994] 3 FC 128) to ensure a full public debate of any changes instead of allowing the current secretive processes for making changes.
4. The *Criminal Code* section 121(1)(b) and (c), and the conflict of interest law, codes and directives, should all be changed to prohibit giving or promising to give to all politicians and public officials (combined with their staff) anything more than one very low-value gift or benefit (including sponsored travel or a sponsored intern) or courtesy or hospitality each year (no more than $30 each year should be allowed from everyone (as a combined total) who is connected to the same business, organization, family or lobbying effort). This rule should apply to gifts, courtesy or hospitality even from a relative or a friend if the relative or friend is lobbying or has dealings (or has lobbied or had dealings recently, or will soon in the future) with the government, and it should also apply to prohibit inheritances if the person who made the testamentary gift is connected with a lobbying effort that is happening or has happened while the politician or public official was in office. The election law should also be changed to lower the donation limit to $75 annually, an amount that the average voter can afford, to prevent donations by lobbyists being used as a means of undue influence.
5. The conflict of interest law, codes and directives should be changed to require all MLAs and public officials to disclose to the Conflict of Interest Commissioner (all gifts or benefits received (or promised to be given – including sponsored travel) within 30 days of receiving them or the promise to give them. The Commissioner should be empowered and required to audit gifts regularly to ensure compliance with the rules. The Commissioner should also be required to disclose within 30 days in an online, searchable database the total number of gifts given to each politician and official, the value of the gifts, and the sources by category (lobbyist/lobbying firm, community organization, business/organization/family connected to a lobbying effort, relative connected to lobbying effort, friend connected to lobbying effort).

6. The rules for Cabinet ministers and their staff and appointees should prohibit all outside activities. The rules for MLAs should prohibit outside work and jobs, and for their staff, and government employees, other activities should be allowed only if they don't create an apparent conflict of interest. The only exception for all politicians and Cabinet staff should be work required to be done to remain qualified as a professional. All offers of another job or outside work should be required to be disclosed to the Conflict of Interest Commissioner within one week after an offer is received.
7. The rules for Cabinet minsters, Cabinet appointees and MLAs should prohibit all investments except in government bonds and guaranteed investment certificates that are not connected to any business or organization. The rules for Cabinet staff and MLA staff should, like for government employees, only allow investments in businesses that do not create an apparent conflict of interest, with full disclosure. The only exception for all politicians and public officials should be if their family owns a business or farm, and that should be disclosed publicly.
8. The rules for all MLAs and public officials should prohibit them from participating in a policy-making process if they have an apparent conflict of interest (and the rules should make it clear that an apparent conflict exists whether or not they know about the conflict, and whether or not the interest aligns with the public interest), with the only exception being if they are participating in process concerning a law, regulation, code, policy etc. that applies to themselves in the same way as it applies to a broad group of people, and does not apply in any way that especially furthers the specific financial, social or political interests of themselves, their family, their close friends or associates or entities to which these people have direct connections. An example of when the exception would apply is if a politician or public official is considering changes to general rules for income taxes, pensions, social welfare benefits or other general financial rules that apply to themselves, their family, friends or associations in the same way as they apply to many or all Canadians.
9. The conflict of interest law should be specifically clarified to ensure that it applies to political and social conflicts of interest, not just financial interests.
10. The conflict of interest law should also be changed to cover conflicts of interest caused by the interests of more of their family members (e.g. their parents, grandparents, aunts and uncles, and their siblings' families), with public disclosure of the main interests of those members.
11. The conflict of interest law and code for public officials should be changed to cover conflicts of interest caused by the interests of their friends, with all required to disclose a list of friends and their main interests to the Ethics

Commissioner, Senate Ethics Officer or, for government employees, their deputy head.

12. The rules for politicians and public officials and their immediate families should be changed to lower the threshold for requiring disclosure to assets and liabilities worth $1,000 or more (including cryptocurrencies, NFTs and other digital/intangible assets) with the disclosure document filed with whomever enforces the rules that apply to them. Still, assets and liabilities worth more than $10,000, and all assets and liabilities that create an apparent conflict of interest, of all politicians and public officials and their extended family members should be disclosed publicly. As well, the connections of politicians and public officials and their immediate family members to charities, businesses and other organizations that can benefit from donations, grants and loans should be disclosed to whomever enforces their ethics rules.

13. The rules for politicians and public officials should be changed to require public disclosure at the time, and within one week in a searchable online database, every time they recuse themselves from a policy-making process because of a real or apparent conflict of interest.

Lobbying Transparency and Ethics Measures

14. Pass a law requiring that all government institutions consult with the public before making any significant decision, including providing at least 60 days for the public to make a submission to the government, consulting with experts, and undertaking study circles or citizen assembly processes, with results of all consultations reported publicly, so that the influence of lobbyists is decreased.

15. The lobbying law should be changed to require that every communication in respect of each political and government decision-making and policy-making process be disclosed in the Registry of Lobbyists, including unpaid communications of any kind about any decision, arranging meetings, and communications with and through senior officials of political parties including their caucus research bureaus. The only exception should be if a voter signs on to an interest group's petition or letter-writing initiative, as the group would disclose the initiative on behalf of everyone who signs.

16. The lobbying law should be changed to require that politicians and public officials, including staff of MPs and Senators, and senior officials of political parties, and staff in party caucus research bureaus, disclose every communication in respect of each political and government decision-making and policy-making process.

17. The lobbying law should be changed to make it clear that the assumption of the Registrar is that lobbying communications with lower-level public officials are passed onto the deputy minister or minister, unless the lower-

level official has been delegated in writing complete control and discretion concerning the decision-making or policy-making process.

18. The lobbying law should be changed to require lobbyists to disclose in the online public registry how much is being spent on a lobbying effort, including the amount spent on fees for consultant lobbyists, and the amount spent on gifts and hospitality and which public officials were offered or given any gift or hospitality. If it is a coalition lobbying, the amount that each member of the coalition has donated to the lobbying effort should be disclosed. If a business or organization has received funding from another organization, it should be required to disclose that funding.

19. The lobbying law should be changed to require consultant lobbyists to disclose in a separate listing in the online public registry how much their fees received from each lobbying effort they assisted. Businesses and organizations should be required to disclose how much they pay each staff person involved in lobbying. This information will inform the public and media whether former politicians and public officials have higher market value than other lobbyists.

20. The lobbying law should be changed to require lobbyists to disclose in the public online registry every quarter how much they have donated, granted, loaned and fundraised for each political party, electoral district association (EDA), candidate, nomination contestant and/or party leadership contestant, and also to charities, business and other organizations that are connected to politicians, public officials and their families. For a business or organization, this would require disclosing how much its lobbyists, executives and family members have contributed in any of those ways, and also its employees if they have been asked in any way to donate. As well, details concerning gift and other benefits given to politicians and other public officials should be disclosed in these quarterly reports.

21. The lobbying law should be changed to prohibit lobbyists (and lobbying businesses and organizations) from donating, granting or loaning to charities, business and other organizations that are connected to politicians, public officials and their families if they are lobbying the politician or official and their contribution will, therefore, create an apparent conflict of interest.

22. The lobbying law should be changed to require lobbyists to disclose in the public online registry every quarter how much they have worked or volunteered for each political party, EDA, candidate, nomination contestant and/or party leadership contestant. For a business or organization, this would require disclosing how much its lobbyists, executives and family members have worked and volunteered, and also its employees if they have been asked in any way to do work or volunteer.

23. The lobbying law should be changed to require that the Registrar to re-work the online public registry so that an online search can easily produce a full report of the identity of each lobbyist involved in the lobbying effort, and the spending (including on fees for consultant lobbyists and staff salaries), donations, grants, loans and fundraising connected to the effort, and past volunteering or work by any lobbyists involved for political parties, EDAs, contestants and candidates, and government institutions. The Registrar should also be required to allow the registry to be searched by every field so that overall statistics can be easily found concerning total spending, fees, salaries, donations, grants, loans, volunteering and work and former work with the government.
24. The lobbying law should be changed to prohibit lobbyists from knowingly misrepresenting facts, omitting important details or presenting information that is misleading or false when they lobby officials, or in grassroots lobbying appeals to the public, or in any public communications or advertising related to a lobby effort or lobbying an official;
25. To inform the setting of the length of cooling-off periods during which a public official is prohibited from lobbying after leaving office, a comprehensive study should be conducted by a fully independent commission of the number of registered lobbyists each year for the past decade who were formerly a politician or formerly worked for a government politician or as a public official or volunteered at a senior level or worked for a political party, EDA, contestant or candidate (on a campaign or between elections in any role, including fundraising), and to compare their fees and salaries based on which role they had in their past government or political volunteer or work, and with other lobbyists who do not have that volunteer or work experience. The study should also take into account the difficulty of establishing whether lobbyists' past assistance to policy-makers, connections and relationships produce desired results, given that policy-makers can help individuals, businesses and organizations in many cases as much through inaction as through actions.
26. Based on the comprehensive study of the market and influence value of lobbyists who have former work experience as a politician or public official (including participants in employee exchange positions between the government and the private sector through Interchange Canada) and/or former volunteer or work experience with parties, EDAs, etc., a sliding scale of cooling-off periods should be set for former politicians and public officials taking into account their connections with whomever is still working in government and/or political parties and the positions and policy-making powers those people have, and the relationships those people have with others who have policy-making powers. To ensure that the Registrar does not grant favours in setting cooling-off periods, the lobbying

law should be changed to set specific time periods for each type of relationship/connection. The study suggested above in proposal #25 should also be used to inform setting a sliding scale of cooling-off periods prohibiting people from lobbying after assisting parties, EDAs, candidates or contestants.

27. The lobbying law should be changed to prohibit, during a cooling-off period, not only lobbying but also advising anyone or any entity that is lobbying.
28. The lobbying law should be changed to require lobbyists to disclose to any politician or public official they are lobbying the identities of others who may become involved in the policy-making process and have a conflict of interest because the lobbyist has assisted them (or their party) directly or indirectly in the past.
29. It should be made clear in the lobbying law that if a person does any of the activities listed in the law that mean they have a cooling-off period that prohibits them from lobbying whichever person or entity they assisted (and everyone who works for that person or entity), the prohibition applies whether or not the person was a registered lobbyist when they did the activities.
30. The lobbying law should state clearly that if a person assists party headquarters or a party overall in any way, the person should be prohibited from lobbying every MP and Senator in the party, and their staff, and all party officials, for the duration of their cooling-off period. As well, as proposed above in proposal #17 above, it should be made clear in the lobbying law that lobbying a lower-level politician or public official is considered to be lobbying a higher-level person unless the lower-level person has full decision-making power concerning the lobbying issue.

If all of the above changes are not made, it will remain easy for Alberta lobbyists, and foreign governments, entities and individuals using “proxy” lobbyists, to secretly and unethically interfere in and influence elections and political policy-making processes through the secret fundraising, campaigning those “proxies” do for politicians, party leaders and parties, and the unethical gifts and favours they give to politicians and public officials.

However, again, even if all the changes listed above are made to close all the loopholes and correct all the flaws in the regulation of lobbying activities and related political ethics rules, if enforcement is tainted by political influence and is ineffective, secretive, underfunded, delayed and unaccountable, then likely violators will be let off the hook. The lobbying enforcement agency must be fully independent, well-resourced and required to be transparent and rule on all situations it becomes aware of alleging violations of the law in a timely manner, with any member of the public

allowed to challenge rulings in court for errors of fact, law, jurisdiction or failure to comply with the principles of natural justice. Click here to see a detailed DWatch policy paper on how to ensure effective enforcement of key democratic good government laws.