



Legislative Assembly of Alberta

The 27th Legislature
Fourth Session

Standing Committee
on
Legislative Offices

Wednesday, November 16, 2011
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The 27th Legislature
Fourth Session**

Standing Committee on Legislative Offices

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Standing Committee on Legislative Offices

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8:33 a.m. Wednesday, November 16, 2011

[Mr. Mitzel in the chair]

The Chair: Good morning, everyone. I'd like to welcome everyone – all the members of this committee, support staff, and guests – to the meeting and ask that everyone introduce themselves for the record.

My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm the chair of this committee.

Mr. Lund: Ty Lund, MLA for Rocky Mountain House.

Mr. Marz: Richard Marz, Olds-Didsbury-Three Hills.

Mr. Lindsay: Good morning. Fred Lindsay, Stony Plain.

Ms Smart: Joanne Smart, senior counsel to the Alberta Ombudsman.

Mr. Hourihan: Peter Hourihan, Alberta Ombudsman.

Ms Richford: Suzanne Richford, from Alberta Ombudsman.

Mr. Hinman: Paul Hinman, MLA for Calgary-Glenmore.

Mr. MacDonald: Good morning. Hugh MacDonald, Edmonton-Gold Bar.

Dr. Brown: I'm Neil Brown, MLA for Calgary-Nose Hill.

Mr. Blackett: Good morning. Lindsay Blackett, MLA for Calgary-North West.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Well, thank you.

The officers' annual reports, business plans, and budget materials were posted on the internal committee website last Wednesday.

A few reminders for everyone. The microphone consoles are operated by *Hansard*. Please keep your BlackBerrys off the table as they interfere with the audio feed.

The committee is hosting lunch today as well for the officers and their staff who are attending today's meeting.

With that, we have a full schedule today, so I'll move to the business at hand. First off is the agenda. Would someone please move the agenda for the November 16, 2011, meeting of the Standing Committee on Leg. Offices? Moved by Mr. Lindsay. Are there any additions to the agenda? Seeing none, all in favour? That is carried.

The next item is adoption of the minutes. Moved by Mr. Blackett that the minutes of the October 26, 2011, meeting of the Standing Committee on Leg. Offices be approved as distributed. Any errors or omissions? Seeing none, all in favour? Opposed? That's carried.

This brings us to the review of the 2012-13 budget estimates, business plans, and 2010-11 annual reports. We'll be reviewing all of these estimates for the officers of the Legislature, starting with the office of the Ombudsman. This is the first time that this committee will have the previous year's annual reports of the officers available for review in conjunction with the budget estimates.

Before I begin, I'd like to point out that decisions on the budget estimates will be made once all the officers have been heard. This has been incorporated into our agenda as item 4(f).

With that, I'd like to officially welcome Mr. Hourihan, who took office as Ombudsman in October, to his first meeting of the Legislative Offices Committee.

We have one other item of business for the office of the Ombudsman, so I adjusted our presentation for the annual report and the budget estimates to be limited to about 35 minutes, leaving 15 minutes for questions by the committee and the final 10 minutes to deal with the delegation of authority.

Mr. Hourihan, the floor is yours. You can start now.

Office of the Ombudsman

Mr. Hourihan: Thank you. Good morning. We've been introduced, but I'd like to introduce us again. Joanne Smart is our legal counsel for the office, on my left. On my right is Suzanne Richford, our director of corporate services. They're here to give me some support, and I will defer to them if there are some details or questions or concerns about specifics that I'm not completely comfortable with just yet.

I do understand that this is the first time doing the annual report and the budget at the same time, so thank you for the opportunity to do that here this morning. I'll endeavour to keep my comments fairly brief and concise and to minimize any repetition between the two presentations, but there will be some just for clarity.

I do have a PowerPoint presentation. There are a few slides. I realize it's kind of in an awkward spot for a few of you, so I apologize for that. A quick overview of the presentation is there. I'm going to just talk very briefly about some of those things: our organizational chart, our business plan update, the workload, our own-motion investigation update, a couple of featured cases or ongoing initiatives, and any discussion and questions. Feel free to interrupt me at any point if there are specific things, and I will certainly leave significant time at the end for questions.

Our organizational chart. As you're aware, there are 25 established positions in the Alberta Ombudsman office. I've asked that some of those be blacked out, or greyed out. The reason I did that is that those are vacancies that we currently have. I just highlight those because it will make more sense as we go along as to where we're at in our year and in our future planning.

The management of our offices. With the full complement the current management team would consist of myself, the Ombudsman; the Deputy Ombudsman, which, of course, is vacant right now; our director of corporate services; and our senior legal counsel. In addition to that, we have 15 investigators and complaint analyst positions, 13 investigators and two on the complaint analyst side of the fence, and six administrative support positions.

Of those positions our Calgary office has eight representatives: two administrative staff, and the rest are investigators and a team leader. As I said, we have eight current vacancies, including the Deputy Ombudsman, four investigators, and three administrative staff. That's a significant amount, and when I talk about the budget presentation, or when I provide that, I'm going to discuss some plans for recruiting staff to fill four of these eight positions as fast as we can – I'm just going into the human resources process at this particular time – by the end of this fiscal year and then continuing on from there.

8:40

Our business plan update is, unfortunately, very, very brief. The business plan for the Ombudsman office expired in March 2011, and at that particular point in time the former Ombudsman had announced his retirement and was waiting for his position to be filled, eventually by me, I guess. The Deputy Ombudsman retired in early 2011 as well. A decision was made in the office to wait

until my appointment to commence work on a new business plan. I arrived on the 17th of October. It wasn't feasible to get it going from then until now, and it has not been done for this particular year.

Early in my tenure I'm looking at, you know, what we're going to do in the future and getting my feet solid on the ground within the office. We're going to be reviewing structure. I'm planning a strategy session late in the fiscal year, early in the calendar year coming, with a view to having a new, revised business plan in place within six to seven months. Inclusive in this analysis will be an examination of the annual report to ensure that it meets the needs and expectations of the various readers. We're going to be heavily involved in this in addition to filling those vacancies and getting moving in a variety of areas.

Workload in the office. As you can see, I've got representation there for '08-09, '09-10, and '10-11, and our oral complaints have dropped, as you can see, from 4,600 down to just over 4,000. That's a drop of just under 6 per cent, or 5.9, I think, somewhere in there. Written complaints have been dropping as well and, additionally, formal investigations. The alternate complaints resolution has dropped a little bit. Those numbers are smaller, so those are a little less descriptive. On a positive note, our files that have been carried forward are dropping a significant amount as well, indicating that we're getting moving on some that there have been delays on.

In terms of the decreases in complaints, both oral and written, quite frankly, I can't provide you with a credible perspective in this respect. We know they're dropping. It could be due to improved efficiencies with different departments, agencies, commissions, and that sort of thing, where they have eliminated some things. For example, in the Solicitor General's department our numbers have dropped there about 8 per cent. You know, we're getting less in that specific department. It could be because their processes are being tightened up or that the fairness has been increased in those areas.

However, it could be because people aren't aware of our office and aren't calling in as much as they ought to and as much as we'd like to see. That is one of my concerns. I can tell you that this kind of phenomenon is going on across the country in various ombudsmen offices where there are decreases. I've only been a month, but I haven't seen any sort of perspective from some of those offices that narrow it down to a specific one or two reasons.

I can say that we're looking at why. I believe we want to increase the focus on our office and the awareness across Alberta and want to move forward in some planning when we do our strategies and planning for the next year. That's going to be a significant front-end consideration as to how we're going to do that. Clearly, we're going to be focusing on that area to understand and to try to get a better perspective on the reasons why they're dropping, either through feedback mechanisms or just a little bit more thorough research on our part.

Just a quick update on our own-motion investigation update. I realize this was in the past. The out-of-country health services program, titled Prescription for Fairness, report was released in late May 2009. There were 53 recommendations, and I bring this up because the final recommendation has been implemented. The amendments came into force on August 1, 2011, to finalize that 53rd recommendation. The primary amendment was the change to require a doctor or dentist to make application for funding on behalf of the patient rather than the patient making the application himself or herself. It was important for improving efficiency and the quality of information being submitted to the committee. We're going to continue to work with the committees and panels, seeking some clarity of process and effectiveness and efficiencies

for Albertans. This will be important as we move forward to make sure that we stay on top of these. Right now we're waiting for just a few of the colleges, but we'll be working on that, and I'll be talking about that a little bit later.

A couple of featured cases I'd just like to highlight a bit: the health profession college and Alberta Health Services as well as the local authorities pension plan.

The health profession college and Alberta Health Services: this was a very lengthy and complex investigation. The college had not properly established its bylaws, policies, standards of practice, or code of ethics, and there was generally an overall lack of transparency in the business of the college. Forty-six recommendations were provided to the college, aimed at making the administration more administratively fair. Thirteen recommendations were made to Alberta Health Services, aimed at improving its oversight of the health profession colleges.

In terms of the local authorities pension plan the provincial board that administers the pensions of some 200,000 former public service employees was involved. The complaint focused on an appeal decision regarding the reduction of pension benefits. It was found that this appeal process and the appeal decision were administratively unfair. There were inadequate reasons provided, and it was a complicated decision-making process. This resulted in the issuance of an addendum to the decision and the local authorities pension plan reviewing its entire process to address identified problem areas. Things are moving along quite well with both of those.

Our ongoing initiatives: the Out-of-country Health Services Committee and appeal panel, the health profession colleges, and the Alberta Human Rights Commission. We are continuing to investigate new complaints against the committee and appeal panel for the out-of-country health services. We have 14 current, active files, 11 at the appeal panel level and three with the committee. We're working with both authorities to continue implementing recommendations from our own motion, the Prescription for Fairness report.

The Health Professions Act: 24 of 28 colleges' schedules are now in force. We're still waiting for four – acupuncturists, midwives, naturopaths, and paramedics – and we're working in that area. We investigate complaints regarding registration, discipline, and complaint-handling processes by the various health profession colleges. The number of investigations involving the colleges continues to increase. They can be complex, and they can be time consuming. It's not particularly unpredictable that they would be on the rise as more and more are included and as we move forward in this particular area.

In terms of the Alberta Human Rights Commission this matter is ongoing in terms of jurisdictional issues. We've made some headway moving the files along; however, not quickly enough. We continue dialogue with the commission regarding the investigation process and resolving some older files. These discussions have been somewhat stalled as of late, and they need to be moved along. I'll be endeavouring to do just that in the very near future as we progress and as I get settled and understand the issues. I will be moving that along as best I can.

That really highlights what I wanted to highlight in the annual report. I can go to discussion or questions or concerns now, or I can wait till the end.

The Chair: Have you got anything else with regard to your budget submission as well? Perhaps do the budget submission, and then we'll take the questions on it. I think I've noticed that people have been jotting down questions to handle. We'll take them all at once. Okay?

Mr. Hourihan: Absolutely.

Our budget submission. From our operations summary, as you can see there, we're in a bit of a holding pattern because of vacancies, retirements, expired business plans, and as a result we've got a significant budget surplus forecasted. From June 2010 to now the office has experienced nine employee terminations, and with the exception of my position none of them have been filled. These terminations included, of course, Mr. Gord Button, who announced his retirement last November, November 2010, which was going to be effective August 2011. As you're aware, I got here on October 17 of this year. The Deputy Ombudsman, as was indicated earlier, retired in February 2011 and also has not been replaced.

8:50

Joanne Smart, our legal counsel, was the acting deputy for the period when the deputy wasn't here and, as well, was the Acting Ombudsman for the period while Gord was gone and I didn't get here, so too many roles were placed on her shoulders.

In addition to the Deputy Ombudsman, as I said earlier, we have four investigator and three administrative support staff positions that are vacant. Two are retirements, two were transferred to other government of Alberta ministries, and four other departures. As I said, we're going to recruit two investigators and two administrative support staff by March 31, 2012, and we're going to focus on further decreasing the vacancies from there.

Given the above and the vacancy pattern that we've had, as I said, the office has been in a bit of a holding pattern for quite some time now, and we need to move forward from that. The remaining staff that stayed behind focused on the casework, and there was no real opportunity for strategic development and planning and process in that regard for a future focus.

I think that for a good reason at a particular point in time in there – I know that when the Deputy Ombudsman retired, Mr. Button didn't particularly want to fill the position really quickly if he was going to be replaced fairly soon. He wanted to leave it to me, who was eventually chosen, and that may have taken a little longer than anticipated. That's part of the reason why that happened. Other reasons for it are not well known by me. As I said, some moved on, and some departed, just retirements and that sort of thing, but we are going to move forward on that.

The 2011-12 budget surplus: it's forecasted right now to be at \$242,600, or just under 12 per cent, 11.9 per cent, of our budget. As 86 per cent of our budget is for personnel, the staff vacancies that I mentioned contribute significantly to that surplus. That accounts for the large surplus specifically.

Under the supplies and services category I would like to point out that there are a couple of areas of forecasted overexpenditures on our supplies and services for '11-12.

The advertising budget is for both recruitment and overall advertising. We didn't budget for recruiting advertising in the current budget due to the government of Alberta hiring freeze. However, as we will be recruiting for positions for replacements by March 31, this line item will be overextended and over-expended. Advertisements in the *Edmonton Journal* or the *Calgary Herald* are approximately \$2,000 a day. We're going to move forward in the processes. We do have the ability to do that right now, but it will affect that area.

Also, another increase. As our legal counsel was the Acting Deputy Ombudsman and the Acting Ombudsman for a significant amount of time, we were contracting some of our legal services, a significant amount of our legal services, to a third party for logistical and common-sense purposes, I guess, so that there weren't too many roles that flowed into one position. This was not

in the original budget. As I indicated, because of the vacancies we did have the ability to do that.

The Calgary office's two administrative staff – and there were only two – terminated in the spring of 2011. Again, due to the transition of the office we contracted with a temporary services agency to provide the administrative support. As with the other couple of items, that was not planned for in our original budget. So those are those increases.

Computer hardware and software requirements: less than \$5,000 per item. We're less than budgeted for the last couple of fiscal years, so this is compensated for in the above overages.

Our operational priorities. From now until March 31, 2013, so a year and several months out, it's going to consist of completing our business planning process for the 2012-2015 time period within the next six to seven months. We're going to be reviewing our organizational structure of the office to make sure it's as effective and efficient as can be. We're going to, as I said, recruit two investigators and two administrative support staff by the end of March coming and recruit a Deputy Ombudsman position and an investigator early in 2012-13.

When the vacant positions are filled and the incumbents are trained, which takes some time, we'd like to focus on some systemic investigations – we've talked about that before, and the office has talked about that over the past few years – on the own motions. The last own motion was in May 2009, Prescription for Fairness, and we'll be looking at areas when they surface, looking at those systemic investigations and looking to help from an administrative fairness perspective from a broader level.

This will all lead to a review of the annual report format as well and an update of its presentation. We want to make sure that it is answering the questions that the reader will have. We think that it's time that we update that.

In the 2012-13 budget estimate we're requesting consideration for a total budget increase of 4 per cent over 2011-12. This is comprised of the personnel increase of 6 per cent. However, the supplies and services budget is going to be reduced by 4 per cent. The last budget increase was 3 per cent in 2009-10. In '10-11 we reduced the budget by just under 1 per cent, .8 per cent, and in '11-12 we remained equal to the '10-11 budget. However, in 2012 there were salary increases, and the budget absorbed these increases without additional funding with our personnel vacancies. Of course, that's not as obvious as it might otherwise be if we were full.

From a personnel perspective, as with our '09-10 and '10-11 budget the 2011-12 budget provided for 25 funded FTEs. We're forecasting our actual FTEs to be 19.15 for this particular fiscal year. The 5.85 variance from budget to actual accounts for the significant surplus in personnel as each FTE on average is budgeted at approximately \$99,000 for all related personnel costs.

Consistent with all of the government of Alberta, staff received lump-sum payment awards, performance merit increases ranging from 3 to 5 per cent, and we had three position reclassifications, for a total of approximately \$200,000 for the office. This reduced the potential surplus as the personnel budget had not been increased since 2009-10, and the existing budget had to absorb those particular increases. Again, I'd like to note that the employee salaries have increased since 2009-10 without a corresponding budget increase.

On April 1, 2012, all staff will receive a cost-of-living increase of 4 per cent. This follows the agreement between the AUPE and the government of Alberta. In addition, staff are also eligible for performance merit increases ranging from 3 to 5 per cent, so in theory the salary budget should be increased by 3 to 5 per cent to

accommodate the 2011-12 salary increases and another 7 to 9 per cent for the cost-of-living and merit increases for 2012-2013.

We're not in a position to get back to 25 full positions at this particular time. We don't think it's prudent in terms of operational and for purposes of training and those kinds of things. We want to do it in a proper sense: get it done well, move forward as we can, and give you the best information we can there.

We've decided and looked at requesting funding for 23 FTEs for the 2012-13 year to keep the budget request at a reasonable level. The budget would increase by 10 per cent if funding was sought for 25 FTEs, and we don't feel that that's particularly appropriate for us at this time. We believe 23 FTEs for 2012-13 will be reasonable to cover our workload and as well give us a chance to train the investigators and to a lesser degree the administrative staff that we're going to be hiring on as well as the Deputy Ombudsman. You know, we feel that this will be acceptable for one fiscal year, and we'll need to look at staffing our complement of 25 people as we move forward in future, subsequent years.

On the supplies and services side of the fence all line items have remained equal to the 2011-12 budget with the exception of technology services and materials and supplies. In regard to technology services we don't employ any information technology specialists, and our IT services are contracted out. This contract amount equates to approximately one salaried employee, but we receive many specialized services within the contract.

On the case tracker system that we lease from B.C., from the ombudsman's office there, we were advised that the fees will be rising by approximately 10 per cent next year. Even with this increase it remains cost-beneficial for us to lease their system. We are going to be looking – in fact, we have a couple of people travelling out to B.C. next week – to have discussions with them about the particular program, the tracker system, and have a look at it. We are, you know, prudently going to look at whether or not it is the best system for us to be employing, or are there more cost-beneficial alternatives to that by doing something on our own? Those are technology-based questions, and they're going to be included in what we're going to be looking at in terms of our strategic discussions and more tactical discussions as well late this fiscal year, early in the calendar year.

9:00

In terms of desktop and network support services and website hosting services the materials and supplies budget has decreased as we've discontinued a couple of legal subscriptions, and some computer hardware, software, and equipment prices have decreased. So we've managed to save some there.

That concludes the presentation part. I can turn back to you, Mr. Chairman, for any questions or concerns.

The Chair: Well, thank you very much, Mr. Hourihan.

Just to note, Ms Notley and Mr. Quest have joined our committee as well.

Are there any questions?

Mr. Blackett: Well, I have two questions. First, you talked about the reductions in complaints over the last three years and not having some real reasons for that, looking at the possibility of the departments having improved their processes, that that may have had something to do with it. But there you've got a shortage of personnel. I know I've had constituents who have come to me, and I refer them often to the Ombudsman when it's appropriate. But I've had a couple come back to me and say that the response time was inordinately long, and some others have just said that they

wouldn't bother going through the process because of that. So could that not have something to do with why you're not seeing as many complaints? If you're in Calgary and you're short two administrative people – and I assume they're part of that intake, that they're going to take telephone calls and inquiries. So if there are not people to be able to do that – they're just temporary workers; they're not as skilled as the usual workers – that may have some impact on that one.

The second question or comment would be on the Human Rights Commission. A lot of time has been spent – and I had responsibility for that for a period of time, so I've been well aware of the situation vis-à-vis the chief commissioner and the previous Ombudsman. One of the areas I couldn't understand is in terms of jurisdiction. Who has ultimately the final say on a decision, whether we're going to have a judicial review as the final arbiter. I'm not so sure it wasn't more of a personality piece as opposed to the positions.

I know you've only been in the position for a month, but I would encourage you to do that. There are some cases that have been there for over 10 years. There's been some progress on them. But I think that for the greater good of Albertans we need to have a meeting of the minds to come to a resolution for that so everybody can feel confident in how that process will work.

Mr. Hourihan: Yes. I'd like to respond to both of those. I'm in agreement with you, actually. On the first one, your comment about delays within our own office, there may be. As I said, I can't give a real credible response to that, and I wouldn't want to eliminate anything. We have been short-staffed. We want to get that back to a more productive level. If there have been delays or inefficiencies in our office, I want to look at those and minimize those to the extent possible and move forward. I want people to be aware of our office. You know, I guess what I want to do is increase our workload so that we can fight to decrease our workload. That's an important point. We want people to be responsive to us, and we're going to be looking at all of those particular areas. So your point is well taken, and I agree.

On the second one, about the Human Rights Commission, I couldn't agree more. We do have to move this forward. We don't want people to be waiting 10 years, as you say, for any particular closure or finality of things. We want to move that along. It's very high on my agenda. It's just a matter of getting my feet solid on the ground so that I can speak more reasonably to it. If there are, you know, collateral issues, then maybe we can get past that and do it in a fairly timely fashion, timely from now forward.

Mr. Blackett: Thank you.

The Chair: Mr. Lund.

Mr. Lund: Thank you. And thank you very much for the overview. I was looking at your business plan. It was interesting what Mr. Blackett said about the amount of time it takes to resolve an issue. I look at the targets, and I see: 90 per cent of telephone inquiries, respond within four hours. Last year 95 per cent of those were actually dealt with within two hours and 100 per cent within four. Then there's an even larger category further down. But I see that all of the targets were exceeded, which is great news. I'm wondering: for this coming year are those targets remaining the same, or are you going to try to speed up the decisions even more? I would think that 90 per cent of the telephone inquiries being 100 per cent handled within four hours is pretty admirable. It would seem that those are very good.

On the more complex files, while the amount of time that it's taken was less than what the target was, I'm wondering what – I

can't find anywhere in here the new targets. Have they changed, or are you holding them pretty much the same?

Mr. Hourihan: Well, I don't want to answer that with a non-answer, but I'm not completely sure of what we want our targets to be. I want to look at, as you say, those front-end targets. The intake and the front-end response has been very, very good, and there have been certain goals and significant goals achieved in that regard. So we also want to now look further into the complaint and look at any opportunity to reduce delays, longer term delays. We still want to maintain an extremely high level of efficiency at the front end for intake. We don't want people to be frustrated by calling our office and having to wait several days to get a response. We don't want that at all.

Some delays are inevitable, and some delays are wasteful. We want to make sure that we're getting rid of those, whether it be in our office or somewhere else, eliminate those. Where there are delays that are pertinent for good reason – research, legal, or otherwise – if we can explain that, at least we can go back to complainants or offices and explain why credibly.

Mr. Lund: Thank you.

The Chair: Mr. MacDonald.

Mr. MacDonald: Yes. Thank you very much for your information this morning. I'm referring to budget by object of expenditure. It is indicated in here that the forecast for 2011-12 for contract services will be \$125,000, and you're estimating it to be \$80,000 next year. You mentioned that you were contracting out for extra legal services. Is that the reason for the \$45,000 difference between what's anticipated this year and next year?

Mr. Hourihan: Largely, yes, just about completely.

Ms Richford: And the temporary services.

Mr. Hourihan: Yeah. That and the temporary services for the administrative staff in Calgary, which is significantly lower in terms of, you know, an hourly cost. But the vast majority of that \$45,000 is, yes, legal services.

Mr. MacDonald: Okay. Thank you.

The Chair: Dr. Brown.

Dr. Brown: Thank you, Mr. Chairman. I've got a couple of questions. One of them just occurred to me when you had that organizational chart on there. Why is the general counsel shown above the Deputy Ombudsman on the chart?

Mr. Hourihan: I'm not sure why it's shown above there. We're going to be looking at the entire structure. The director of corporate services, the senior counsel, and the Deputy Ombudsman all report directly to me, and then everybody else . . .

Dr. Brown: I understand that, but generally in an organizational chart the 2-IC is shown next to the Ombudsman.

It's a small point, but I think it's important for, you know, perception of the responsibilities accorded to the Deputy Ombudsman, and I would suggest that you should probably change that.

Mr. Hourihan: I agree.

Dr. Brown: The second question I had was regarding your comments about systemic investigations. I just pulled up the functions and duties of the Ombudsman under the Ombudsman Act, and I would challenge the ambit of what you are portraying as a systemic investigation, the reason being that if you look at the functions under the Ombudsman Act, it relates to investigations of decisions or recommendations made, "including any recommendation made to a Minister," et cetera, et cetera.

Then subsection (2) of section 12 talks about that the Ombudsman may make an investigation either on a complaint made or on their own motion "notwithstanding that the complaint may not on its face be against a decision, recommendation, act." The thrust, I would suggest, is that the involvement of the Ombudsman is animated by a particular grievance, by some sort of decision, recommendation, or complaint. So a systemic investigation to me implies quite a different role. I wonder if you could respond to that in terms of your plans to conduct systemic investigations.

9:10

Mr. Hourihan: Well, I refer to the word "systemic" in terms of my own motion reviews that can take place. Yeah, they are predicated on complaints. It would be more along the lines of, you know, when we have a series of them that are particularly similar coming from a particular area that's causing a significant amount of discourse or grievance-related complaints coming in. We can have a look in just a little broader perspective to try and eliminate and help departments come to better policies, better decision-making in that regard. In terms of systemic that's kind of what I'm referring to.

The Chair: Ms Notley.

Ms Notley: Thank you. Well, I guess my question is somewhat related to that, but I'll just start by reviewing it from my experience prior to being elected, within the legal system in terms of in front of a number of different administrative tribunals. The way you're using systemic investigation completely aligns with the way the act contemplates it. It, in fact, is exactly the kind of thing where you see a plethora of complaints on one particular issue that would generate a larger investigation to determine whether or not there are some underlying reasons for why there are so many complaints generated. So I don't actually see that there is any inconsistency between the way the term has been used and the way the act is written and, certainly, the way I've seen it done in other administrative settings.

Having said that, my recollection of previous reports is that we would have a more detailed breakdown in terms of where the complaints are coming from. Maybe I missed it, but I was flipping through it, and I didn't see in this report a discussion of the problem areas and the stats around the types of complaints and the source of the complaints. It would seem to me that that would be a critical piece of information for us to have. Did I miss it?

Mr. Hourihan: I'm going to defer to our corporate . . . [interjection]

Ms Richford: I think Mr. Lund just said that it's on page 13.

Ms Notley: Oh, I see. It's along the side there.

Mr. Hourihan: We're going to be looking at the entire annual report as we move forward with some of the more strategic side of what we're going to do and look at the report to see where we can

improve its effectiveness in a variety of ways. You know, notes are taken. We're looking for ways to better inform the reader.

Ms Notley: Yeah, because I have to say that what I see on page 13 is remarkably inadequate in terms of describing the type of investigations and complaints you're dealing with. I see that we've got a breakdown of percentages between different ministries, but we're not hearing whether – I'd like to see how many investigations occurred. I'd like to see a breakdown of the type. You know, you've got your later description of the investigations on the basis of the procedural or the administrative guidelines, I think is how you refer to them. I'd like to see how many of those tie into each of the ministries where we're seeing the kinds of problems and also have a sense of the resolution rate and the supported versus unsupported within each of these areas. I would want to see a great deal more information than simply the percentage breakdown that we have written along the side of page 13.

Mr. Hourihan: Point taken. We are looking for feedback on these. We want the annual report to be something that's picked up, read, and examined, not just glanced at and put on the corner of a desk. We want to serve a purpose.

The Chair: Thank you.
Mr. Hinman.

Mr. Hinman: Thank you. Well, thank you for your work. As an MLA it's often frustrating when people come into our office and we make a referral: well, you need to go to the Ombudsman. One of the things that, I guess, I've been observing – and on page 19, your administrative fairness guidelines, number 4 is adequate reasons. You know, that we've had various reasons on why cases are going down or whatever, but I want to look at the problems and ask you the question. My understanding with the people that come into my office that I refer, that they need to talk to the Ombudsman is that they're not ever given reasons. They're just rejected. They don't know why the files are closed. They say: well, it's protected. Do you have any comment on that?

I guess what I want to look at is whether you give recommendations back to the ministers that say: look; if you were to answer these things, it would reduce our caseload. I don't know whether legal counsel or who might answer this because of your short time in there, but are there any recommendations that you have that we could put forward to try and reduce the cases because people received adequate reasons and realized why the decisions were made?

Most people that come in are just frustrated. They have no idea. They're not told why. Would you mind commenting on that, please?

Mr. Hourihan: I'll turn it over to Joanne in a second. One of my concerns is that at the Ombudsman level when someone does come into our office, you know, we recognize that they're at their wits' end, or they're frustrated to no end for whatever reason – rightly, wrongly, or indifferently – as to why they're there. The last thing that they need is any more of that frustration caused by us. So I want to just say upfront that we want to eliminate those areas, and those are some of the critical pieces that I want to look at over the ensuing weeks and months.

I'm going to defer to Joanne on that on the broader perspective for a more historic sense because I'm just not quite capable of answering it yet.

Ms Smart: Yeah. I think you've picked up on one of the very common complaints that we receive from people, and that is that they just haven't been given adequate reasons for why the decision was made, why their funding was turned down, why they're not receiving the benefits they thought they were entitled to. That tends to be a very common focus of our investigations as we go forward. Generally, the recommendation that comes out of those investigations is: "Department, you need to give this person a better explanation. We're not saying that your decision was right or wrong, but you need to give a more thorough explanation." That often will come about in terms of being an addendum to the decision or rewrite of the decision to give them a fuller explanation of why the decision was made. It is a very common complaint that we have.

Mr. Hinman: Just to follow up on that, though then, would you say that with the different ministries you're working with, they're taking that to heart? Would you say that there is an improvement of people being given reasons and, therefore, possibly reducing the workload on your office?

Ms Smart: I would suggest that we have made a lot of headway with a lot of the authorities that we deal with in terms of adequacy of reasons and just generally their decision-making process and the fairness of that. You know, obviously, we still continue to deal with that issue and kind of work through it. I find, particularly with the more significant boards, commissions, the more significant decision-makers, that we've made some good headway. But it continues to be an issue. Let's put it that way.

Mr. Hinman: Thank you.

The Chair: Thank you.

We'll have one more question because we do have the other point to deal with as well. Mr. Lindsay.

Mr. Lindsay: Thank you, Chair. As a follow-up to Ms Notley's question, the Alberta Solicitor General and Minister of Public Security had the largest number of written complaints, so it would be helpful to me if we had more information as to whether those complaints involve public security, policing, corrections, gaming, liquor, horseracing, or others. You know, I think more detail would certainly be helpful to understand where the complaints are coming from and what we can do to address them.

Mr. Hourihan: Thank you.

The Chair: Well, thank you very much.

We'll move on to number (iii), the request for the committee's consent to the Ombudsman delegating his authority to staff in his office. Members should have a copy of the correspondence from Mr. Hourihan and the relevant excerpt from the Ombudsman Act. For the committee's information this provision in the Ombudsman Act is unique and does not exist in the enabling statutes of the other four officers. The committee approved a similar request from the previous Ombudsman in January 2007. The committee's consent in this respect, while necessitated by the act, is largely considered to be a formality.

We have Mr. Reynolds here, who is the Law Clerk and director of interparliamentary relations, in attendance to respond to any questions the committee may have on this.

Mr. Reynolds, I don't know if you wanted to make a point on this or not.

9:20

Mr. Reynolds: Mr. Chair, I think you've wrapped that up quite extensively, but I'd be in violation of my professional oath if I didn't add a few words anyway. Yes. The requirement in section 27 is unique to the Ombudsman Act. I think it's a function of the Ombudsman Act being the first independent officer legislation. I think it's a relic of its time, and at some point if the legislation was reviewed, I would imagine that this would be a provision that would be perhaps taken out. In any event, this provision just allows for the delegation by the Ombudsman of certain functions except the ability to write a report or to further subdelegate.

The Chair: Are there any questions for Mr. Reynolds?

Mr. Lindsay: Well, just out of curiosity, you mentioned that the last request came in 2007, so this is not an annual request that has to be made?

The Chair: No, I don't believe so. I don't believe it was required prior to that. Then in 2007 I think Mr. Button, who was the previous Ombudsman, had made that request.

Is that correct, Mr. Reynolds?

Mr. Reynolds: I don't know. Mrs. Sawchuk is signalling, and I'm not sure what she's going to add here.

Mrs. Sawchuk: Mr. Chair, in 2007, when that issue came before the committee, we had done a historical search and discovered that the consents had not been . . .

Mr. Reynolds: I don't think that's quite – I think there had been consents. I think they had been intermittent, perhaps, over the years, but there definitely had been consents given.

I think, Mr. Lindsay, what this is an empowering, if you will, delegation that allows the Ombudsman to delegate. It doesn't provide for every single time he wants to delegate something, that he has to come back to the committee. I think that would probably be a waste of the committee's time and would be probably inefficient for the operation of the Ombudsman's office. This is an empowering delegation that would allow him to delegate certain activities in writing, but it has to be passed by the committee.

Mr. Lindsay: Sometime in the future if we appoint a new Ombudsman, then we would expect that recommendation to come forward again?

Mr. Reynolds: That's a good question. Yes, I would imagine that that would be the case unless the legislation is changed in the interim.

Mr. Lindsay: Okay. Thank you.

The Chair: Just a question that I have, Mr. Reynolds, with that. If the legislation was changed – and I'm just hypothetically saying this – would that then make it fall more in line with the powers of the other four officers?

Mr. Reynolds: Well, of course, it would depend on the change. I would imagine if there was to be a change in the legislation, it would be to bring it more in line with the other officers' legislation whereby you don't need the authorization of the committee to delegate a power.

The Chair: Okay. Thank you.
Any other questions, then?

If not, is someone prepared to make that motion? Mr. Lindsay moves that

the Standing Committee on Leg. Offices provide approval to the Ombudsman to make written delegations of his powers under the Ombudsman Act in accordance with section 27 of the act to persons or classes of persons holding offices under the Ombudsman provided that the Ombudsman shall not delegate this power of delegation or the power to make any report under the act.

Is that clear?

I'll call the question if there are no other comments on it. All in favour? Opposed? That is carried.

Well, I'd like to thank, Mr. Hourihan, you and your staff for attending today, and we hope you'll be joining us at noon for lunch. For your information the committee decisions on budget submissions will be sent out by the end of the week.

Thank you.

Mr. Hourihan: Thank you, Mr. Chair. I hope I didn't cause any confusion by being new and not being able to answer any questions.

Thank you.

The Chair: Okay. We'll take a couple of minutes here. Our next officer is here at 9:30.

[The committee adjourned from 9:25 a.m. to 9:30 a.m.]

The Chair: Good morning. I'd like to welcome our Information and Privacy Commissioner and his staff.

The documents that were posted on the internal website are the 2010-2011 annual report, the OIPC cover letter to the committee, the OIPC 2012-2013 budget submission, and the OIPC budget plan for 2012 to 2015.

We'll go around the table and introduce ourselves for the record. Then, Mr. Work, you can proceed with your presentation. My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm the chair of this committee.

Mr. Lund: Ty Lund, MLA for Rocky Mountain House.

Mr. Lindsay: Good morning. Fred Lindsay, Stony Plain

Ms Check: Donna Check, director of HR and finance, office of the Information and Privacy Commissioner.

Ms Furtak: Sophia Furtak, manager of finance, office of the Information and Privacy Commissioner.

Mr. Work: Frank Work, Information and Privacy Commissioner.

Mr. Wood: Wayne Wood, director of communications, office of the Information and Privacy Commissioner.

Mr. Quest: Good morning. Dave Quest, Strathcona.

Mr. Hinman: Good morning. Paul Hinman, MLA for Calgary-Glenmore.

Mr. MacDonald: Good morning. Hugh MacDonald, Edmonton-Gold Bar.

Ms Notley: Good morning. Rachel Notley, Edmonton-Strathcona.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Mr. Blackett: Good morning. Lindsay Blackett, Calgary-North West.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Thank you.

I'd ask that the last 20 minutes or so be left for questions to the committee. Please proceed.

Office of the Information and Privacy Commissioner

Mr. Work: Thank you, Mr. Chairman. I do have a brief presentation. I know there are some new committee members, so the initial part, the overview of the office, might be a little redundant for some of you who have heard me do this again and again, but it may be helpful for some of the new people.

The office of the Information and Privacy Commissioner is responsible for administering three pieces of legislation. The first and the most senior one is the Freedom of Information and Protection of Privacy Act. FOIP, as it's fondly referred to, deals with the collection, use, and disclosure of personal information by public bodies, and it also deals with the individual's right to request access to information in the custody or under the control of public bodies. Public bodies are government of Alberta entities, municipalities, universities, schools, hospitals, police services, and so on.

The act applies to, as I said, both access and privacy aspects of those public bodies. The role of the commissioner in administering that act: well, there's a long, long list of things the commissioner is supposed to do under section 53. Fundamentally there's an education function. Secondly – and this is certainly not in order of importance – people have the right to complain to the commissioner's office. They can complain either that they did not get access to records to which they should have gotten access, or they can complain that public bodies are collecting, using, or disclosing personal information improperly.

The first recourse when we get a complaint or a request for review is always to try to mediate that with whichever public body, ministry, municipality is involved. We're successful in mediating a resolution over 9 times out of 10. The 1 time out of 10 that we're not able to mediate a resolution, the issue will go to an inquiry. Under the FOIP Act in Alberta the commissioner or designate – I have several adjudicators – will hear the matter in a quasi-judicial forum and can issue a binding order flowing from that.

As I said, there are various other responsibilities under the act: to comment publicly on government programs, to educate and inform the public, things like that as well.

The second piece of legislation that we administer is the Health Information Act. The Health Information Act fundamentally provides what are called health care custodians with a framework which allows them to collect, use, and disclose health information within what you might call an arena. If you're a health care provider, you're allowed access to this arena, this informational arena, and once inside the informational arena the patient information of Albertans flows fairly readily within the arena.

For Albertans once their information goes into the arena, their ability to control its movement is limited. This is done to enable Alberta Netcare, formerly Alberta Wellnet, which is our electronic health record. You may be interested to know that, far and away, Alberta has the most advanced provincial electronic health record in the country, and there are currently probably over 20,000 health care workers who have access to Alberta Netcare.

Where am I going with this? Well, as you can imagine, since Albertans don't have complete personal control over their health information once it's inside the arena, their recourse, if they feel something has gone wrong or that their information isn't being

handled appropriately, is to the commissioner's office. Again, they can make complaints to us about how their information is handled, and they can ask us to review the practices of health care custodians with respect to their information.

The challenging, I guess, part of that responsibility is that we are also increasingly the police with respect to health information. As you can imagine, with a large number of people using health information, despite anyone's best efforts sometimes people don't obey the rules. At that point it's my office that investigates and, if necessary, prosecutes individuals who have not followed the rules. We have made it known, and we have in fact vigorously prosecuted anyone that misuses their right to access Albertans' health information. It's becoming an increasingly challenging responsibility, but I think it's absolutely one of the things that you have to guarantee Albertans. In exchange for the right to use their health information, you have to guarantee them strict enforcement, and we certainly try to do that.

We also perform an education function.

The next slide just gives you some idea of the new people that are being added as custodians. As you can see, it covers a wide range of health care professions. Eventually the numbers of registered users of Netcare will be well in excess of 50,000. We're not there yet. As I say, the responsibility is tremendous, and I think it's very important to Albertans to have this facility available.

Finally, the Personal Information Protection Act. The acronym is PIPA. Everything has an acronym in this world. Interestingly, Alberta is one of three provinces that has seen fit to enact a Personal Information Protection Act. The PIPA applies to the private sector. You can see that their business is trade unions, partnerships, and so on. The only other provinces that have seen fit to enact private-sector privacy legislation are British Columbia, whose legislation very closely mirrors ours – in fact, they were drafted in concert, which I think was a very intelligent move on the part of both provinces to give businesses some consistency – and Quebec.

The collection, use, and disclosure of personal information in the private sector for the rest of Canada is governed by the federal law, the Personal Information Protection and Electronic Documents Act – the acronym for that one is PIPEDA – and that's administered by the federal Privacy Commissioner in Ottawa. It's a very typically Canadian solution. Since it's a shared jurisdiction federally and provincially, provinces can opt out by enacting their own substantially similar legislation, and as I said, that's what Alberta, British Columbia, and Quebec have done.

9:40

This is a busy world, as you can imagine. The expression that's popular now is big data. If you think about big data – Facebook, MySpace, Google, all of the other massive databases that are now being assembled about individuals – there's a lot to look at there. Big data in some ways makes our lives a lot easier and a lot more convenient. You know, you can communicate with all your, quote, unquote, friends on Facebook. You can keep all of your personal information on what is called the cloud. Businesses you have dealings with can keep a database on you, which can make your life a lot easier. They know their customers; they know their clients. Businesses use the information to try to tailor goods and services to us. But at the same time they can also use that information against our interests. They don't always do it deliberately. Well, sometimes they do do it deliberately. It's the way of the world, big data.

In that respect, again, it's the same scheme as for the other two pieces of legislation. There are rules in the act, and my office

receives complaints as to whether or not a business has broken those rules in terms of handling their personal information. The process is the same. We have investigators who investigate and try to mediate a resolution between the business and the individual. Where that's not possible, where the parties can't agree, the matter goes to an inquiry, and a binding order can be issued. Interestingly – and I've always been quite proud of this – Alberta is the only province in Canada that has mandatory breach notification. In fact, it's probably the only jurisdiction in the western world that has mandatory breach notification to a commissioner.

About 46 states in the United States have mandatory breach notification, but that just means that if a business loses my personal information, the business has to tell me. In Alberta the model is that if a business loses my personal information, they have to tell the commissioner. The commissioner can tell the business what to do about it, like how to notify, when to notify, and so on and so forth. Given the complexity of information systems I think that is the way to go, having a regulator like the commissioner notified. Then, as I say, we investigate, and we can tell organizations what they should do about the breach.

Breaches happen more and more often. In some cases it's because organizations are sloppy or careless. In some cases it's because of things you've probably heard about: viruses, hacking, attacks, and so on. Dealing with breaches is an increasingly complex process, and I'm going to talk a little bit more about that in a moment.

I think I've covered this slide with the mandate on it under the different statutory headings.

I'll talk a little bit about the annual report 2010-2011. I'll give you some numbers. Over the past four years you can see the number of cases opened under the three statutes. Year to date it is 825. We've got a quarter left, so I would imagine we'll be on track in the 1,300 range by the end of March.

There was one thing I neglected to tell you. As I said, under all three of these statutes most of the caseload is either complaints or requests for review. You know, if someone feels that an organization, whether it's government or private sector, is not doing what they're supposed to under the act, they complain to us or ask us to review. In the case of the Health Information Act most of our files are with respect to what are called privacy impact assessments. That's another thing that's unique to Alberta. Many jurisdictions in Canada do have health information acts because they're all building electronic health records and they need enabling legislation to facilitate the building of those records.

The Health Information Act in Alberta is the only piece of legislation in Alberta that requires privacy impact assessments to be prepared before electronic health records are fired off. I think that's a very important, very powerful provision, and I've always been quite proud of the fact that Alberta saw fit to go this way. I think it gives patients in Alberta, people whose health care information is in the electronic databases some assurance that the due diligence has been done. By filing a privacy impact assessment with my office, I think it gives some additional assurance that the system is capable and competent and as secure as possible. A lot of our HIA numbers are not complaints; they're privacy impact assessment files.

As I said, if we can't reach a resolution through mediation and negotiation, the matter goes to inquiry, and a binding order is issued. I'll give you some numbers here about the number of orders we've issued. Again we're probably on track to issue about 60. Orders are complicated, as you might imagine. The process of holding an inquiry and issuing an order is a quasi-judicial process. It means that the parties appear before the commissioner. Of course, they have the rules of fairness, and fair procedures apply.

The proceedings, therefore, do have a very legal bent. The orders as issued are a legal product, and they're subject to judicial review by the courts if one of the parties is not satisfied with the order.

The judicial review numbers, you can see, are increasing. Well, if you want, you can ask me what I attribute that to, and I'll try to answer it. Suffice it to say that the numbers are increasing on judicial reviews. My office has to – well, we don't have to. We can choose not to show up in court and not defend the order, in which case it just falls to the two parties to argue it out in front of the judge, but often we do find it necessary to go to court along with the two parties and argue why we interpreted the act that way or, in our view, try to defend the legislation.

Just as a sidelight, we have one very significant case involving the private-sector privacy act and the Alberta Teachers' Association. The Alberta Court of Appeal issued a ruling in that judicial review that I believe does serious damage to the Personal Information Protection Act as a result. It was a 2 to 1 decision. The dissenting decision was very strong. On that basis and for other reasons, I sought leave to appeal that decision to the Supreme Court of Canada, and leave to appeal was granted. That has been heard. We're waiting for a decision.

Now, we have another decision involving the Personal Information Protection Act. We'll call that the Leon's Furniture case. Again, I think the court seriously went awry on their interpretation of the act, and I think it has some very serious implications for that piece of legislation. So I've sought leave to appeal that decision as well, and we're waiting to hear whether or not the Supreme Court will hear it.

I mentioned earlier that Alberta is the only jurisdiction in Canada with mandatory breach notification to the commissioner, and I've got some numbers for you there. You can see 2010-2011 has been very busy, and 2011-2012 appears to be even busier.

9:50

There are two factors at work there, I think. One is that organizations are becoming aware of the fact that they have to notify in Alberta. Interestingly, of course, the way the world works – right? – information isn't confined to filing cabinets or even wires anymore. Information goes like rain or clouds. It goes wherever it will go. As a result, we get a lot of organizations outside of Alberta but which do business in Alberta having to notify us of breaches. For example, we were notified of the massive Sony PlayStation breach earlier this year involving tens of millions of customers' information that was hacked out of the Sony PlayStation database.

Mandatory breach notification. If you think about what you've read in the paper or heard in the media about breaches of information, they can be incredibly complex. I mean, this Sony PlayStation one was a very complex, highly technical hack. Other times it's as simple as someone losing a laptop or a memory stick with a bunch of files on it. But all of these breach notifications require investigation, and they require a decision on the part of my office as to whether or not the organization has to report the breach to the affected parties and also the form in which they have to notify. As I said, while I think this is a very forward-thinking approach on the part of Alberta, it also means it's a lot of work for my office, and with this increasing caseload we're getting buried.

The thing about breach notifications, as you can imagine, is that they have to be dealt with quickly. There is no point telling someone three months later that their information was lost. If the loss is going to be harmful to people, you've got to tell them quickly. As a result, when we get breach notifications in, all the other regular files have to be put on hold so that we can deal with the breach notification right away, and that has, as you can

imagine, resourcing implications, which I will mention to you shortly.

Budget. The office of the Information and Privacy Commissioner, I'm pleased to say, has managed to operate for three fiscal years with basically the same budget; however, as I've said, the applications for judicial review seem to be on the increase. The mandatory breach notification provision has resulted in a greatly increased workload for the office, and of course there are the astounding changes to technology that we're all witnessing. As well, there will be a new commissioner shortly, who may or may not want to make some changes to the office.

Our budget request. I guess the highlight is that I'm asking for an increase of \$579,000, which is a 10 per cent increase. Salary costs and employer contributions make up the bulk of our budget, about 80 per cent. As you can imagine, for an office of this kind we're very labour intensive. Costs increase, of course, whenever a government negotiates settlement with either its union or its management workers. Salaries go up or benefits go up. In the past we've been able to fund those increases through people leaving the office on maternity leave – parental leave, I guess, is a better word – or unfilled positions. We've been able to move that money to cover those increases, but the fact is that they still exist.

The increase for personnel costs comes down to \$555,000; \$347,000 of that is required to fund the payroll at April 1, 2012, salary levels. This is because there has been negotiated across government a 4 per cent general increase for government employees. Also, merit increases as a matter of government policy were reinstated effective April 1, 2011, and there was no additional funding awarded to deal with those merit increases. So that's \$347,600 to basically keep up with government commitments to the public service. Similarly, employer contributions for benefits have increased with a new health spending account of \$950 per employee effective April 1, 2012.

Finally – again, I'm breaking down that \$555,000 – the remainder of that \$207,400 is for two new positions that I'm proposing for the private-sector privacy act. As I said, the PIPA amendments that came into effect in May 2010 included this mandatory breach notification. We've had 110 reports since May 2010 compared with 15 before the amendments came into effect. That's a 633 per cent increase.

I don't want to drag you into too much legal complexity, but what happens when there is a breach notification to the office is that, basically, the decision has to be whether the breach presents a real risk of significant harm. That's the test: real risk of significant harm to individuals. If we determine that there is a real risk of significant harm, we will require the organization to notify people, and then we'll tell them how to do that and what the content of the notification would be. Out of the cases we've had, you can see that 60 times we determined there was a real risk of harm. In 30 cases we decided that there was no real risk of significant harm, and therefore the organization would not have to notify.

As an aside, let me point out to you the advantage of this system to businesses. As I said, in the United States 46 states have mandatory breach notification, but the rule there is: if you lose, you notify. There is no intermediary. There's no decision made: no ifs, ands, or buts. In those 46 states and a number of the European community countries if you lose it, you report. That's it.

In Alberta if you lose it, you don't necessarily report. There is a regulator there to decide whether or not there's a real risk of significant harm. In these numbers there were 30 businesses in Alberta that occasioned breaches or losses which they were not required to report because we discovered that there was not a real risk of significant harm. I think that's good for business. I think it's good for the public. If you're constantly getting barraged with

these notices of loss, you're going to start sort of thinking of them as just another form of spam whereas if you get a solid notice, a thorough notice telling you exactly what's happened and what to do about it as best we can, I think you as a consumer are better served.

Again, you know, I very much like the approach that Alberta has taken on this; however, as I said, it's resource intensive. It requires work and investigation, and a decision has to be written. Because of the nature of breach notification that has to take priority over our other files. Quite frankly, the other files are starting to stack up like cordwood. We just don't have enough bodies to handle both the increasing number of breach notifications and what you might call the normal caseload.

The main causes of losses, you might be interested to know, are – and again, you know, I've expressed my frustration with this over and over again. A lot of the losses are still very low tech. People lose stuff, you know. We're human beings and we're goofy and we're clumsy. We lose our iPhones. We lose our binders. We lose our briefing notes. We lose our computers. Unfortunately, because of the way of the world when you lose one of these things, it has the capacity to contain a lot, a lot, a lot of personal information.

10:00

I honestly don't know how to drive home to organizations, including government and health care providers, the fact that if you're going to put personal information on a portable, whether it's a memory stick or an iPhone or a BlackBerry or a laptop, you have to encrypt it. I run out of adjectives to express my frustration over the apparent inability of organizations to grasp this fact for stolen or lost laptops and other memory devices.

Stolen servers. People do break into offices, and they steal computers. Again, encryption is the easiest and best protection that can be afforded. Despite the fact that they happen so often, you would think that those are the no-brainers. The tougher ones, of course, are IT system glitches or sophisticated attacks, where either a system is infected with some kind of virus that will cause the system to disclose information or someone hacks into a system and takes information. That was the Sony PlayStation case. Those are harder to protect against.

The standard in Alberta as in most other jurisdictions is a standard of reasonableness. An organization has to take reasonable care. You don't have to be perfect; you have to be reasonable. We do our best to inform organizations as to what that standard of reasonableness is. For example, as I just said to you, we have for several years now told organizations in Alberta that the reasonable security standard for portable devices is encryption. If you don't encrypt, you haven't met the standard and are in breach of the law.

Some of the other losses: unencrypted USB media storage sticks, e-mail, and fax transmissions. People still insist on faxing health information and credit information to the wrong place, and interestingly enough they often manage to fax it to a media outlet like a newspaper. It's sort of like shooting yourself in both feet, I suppose, if you do that. With fax transmission the good news is that it's usually only one or two people involved, but that doesn't make the victims feel any better. So a breach notification is becoming the way of the world.

Interestingly, I was at an international conference a while ago, and a number of European countries actually expressed some interest in the way we're doing it in Alberta with respect to mandatory breach notification to a regulator. I've read since then in the media that this is something the European community is seriously looking at.

Of course, the best solution is prevention, not enforcement. We do as much outreach as we can on breach notification requirements. A large part of that is the decisions we issue on breach notification. We do issue a fairly thorough written decision, and we do make it public. Some businesses don't like the fact that we make their accident public, but really, given the complexity of the information age, one of the best ways of informing other businesses about what the pitfalls are is by pointing out the mistakes that others have made.

This really isn't intended to be a shaming exercise or, you know, an intent to embarrass anybody. In terms of informing businesses, the best way is to say: "Well, look what happened over here. You know, here are the things that they didn't think of. Here are the things that they did wrong. As a result, there was a breach." As the slide says, organizations are only beginning to understand this obligation. Again some numbers for you there: in '10-11 about five breach reports a month, and now we're up to almost 10.

Back to the budget, back to some numbers, details of a supplies and services increase. We're requesting a small increase in supplies and services of \$14,000, which is 1.2 per cent of our budget. This is for operational travel, advertising for public notices. We have had some complex cases go to inquiry where we've had to notify a wide range of Albertans that a matter is being inquired into. The rules of natural justice and procedural fairness require that affected parties be notified, and it costs money to run ads in the papers or otherwise notify people. As I said, it's not a huge increase. That \$29,500; we believe that we can cover \$15,500 of it out of our existing budget due to reduced technology maintenance costs, for example. We've done some things to streamline that. But we still need another \$14,000 there.

The next slide, equipment purchases increase. The Auditor General has been doing a lot of work on disaster recovery. One of the things that we have discussed with the Auditor General is the need for disaster recovery hardware for our office. This is, of course, in case our system goes down or is hacked or is otherwise destroyed. What we're doing currently is that we just run a backup tape, and then we try to store it off premises so that at least we have our basic file load somewhere, but this is becoming a less satisfactory recovery mechanism.

Opportunities and challenges. Well, the information age continues to sweep us along in its path. Organizations are increasingly collecting and sharing personal information through electronic means. Memory is cheaper and cheaper. As you all probably know, you can get many, many gigabytes of memory on your little hand-held device. You can get, you know, 16 gigabytes and up on a memory stick. I noticed in a store the other day that you can buy an external hard drive that contains a teraflop, that can hold a teraflop of information. A teraflop is a device a little bit bigger than, say, an iPhone. A teraflop of information would just about be what the Ministry of Alberta Health and Wellness has on the entire Netcare database. So it's possible to have that much information on a tiny device like that.

You probably recall not too long ago the WikiLeaks – I don't know what to call it – phenomenon, for want of a better word, where an individual with a security clearance went into a U.S. defence agency and drained a staggering amount of classified information and walked out. That kind of encapsulates the challenges. The software is available, the hardware with staggering amounts of capacity to contain information is there, and of course organizations are availing themselves of the ability to build these databases and use them. As I said, you know, I'm not tearing out my hair and saying: woe is us. It's the way of the world. In some ways it does make our lives a lot better, a lot more con-

venient, a lot easier, but the risks are significant, and the risks increase.

10:10

There is money in information. I remember one of the first losses we experienced. The Edmonton Police Service found bags of paper in a hotel room where crystal meth pushers were congregating. At that time, as I said, it was bags of paper. One of the investigating officers told me that just a simple credit card statement with a full credit card number on it and expiry date – and this was about 10 years ago – was worth \$25 on the street. Now, if you can walk out of any agency with a gigabyte of either customer information or members of the public information, the ability to use that information either to harm the individuals or to make money – and that money often goes to fuel other crimes – is staggering. And catching them, you know, when you can take a little memory stick the size of your pinky that has 16 gigabytes, is pretty hard. You know, you can't frisk people every time they leave an office where there's information stored.

You can have the best security measures you can find, and the other good rule is to not collect information you don't need because if you don't have it, it's not a liability. But the fact is that we still have a huge job to do in terms of informing organizations of the hazards, trying to get them to comply with security standards, and informing Albertans about what they can do to protect themselves. As the information age surges forward, I don't imagine those responsibilities will become any less onerous.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Work. Before we get going on questions, I'd like to just apologize for the movement of members back and forth. We do have concurrent meetings going on, and a couple of members are obliged to be in a couple of other meetings at different times. That was the reason for that. I just wanted to let you know that. Thank you for your presentation.

Mr. Work: Thank you. I'm glad I wasn't boring people.

The Chair: No. Anything but.
Any questions?

Mr. MacDonald: I have one at the moment regarding the significant increase in the number of judicial reviews. We see that between 2008-09 and 2011-12 it's more than doubled. Could you explain, please, briefly why that is occurring?

Mr. Work: I'm not entirely sure. Let me approach it this way. A lot of the judicial reviews, I would think about half of them, are probably coming from the private sector. When the private-sector privacy act rolled out – I forget how many years ago now – about six years ago, there was a very collegial honeymoon period. Businesses fully supported the act, by the way. I mean, it wouldn't have happened if the Chambers of Commerce and a lot of other business organizations hadn't supported a made-in-Alberta act. There was a period of educating them about the act, you know, making them aware of their obligations. Businesses did, I thought, a really outstanding job of taking on their new responsibilities. You know, the legislation looked great on paper, and who could argue with the principles?

What's happening now, though, is that we're getting down to the nitty-gritty, the details of enforcement, and we're finding some things that businesses don't feel they should have to do, or they don't feel that the act should take them there. I don't think it's because of the way we're interpreting the act. I think we're inter-

preting the act in the way that the Legislative Assembly intended it to be interpreted.

I'll give you a couple of examples. Canada Safeway took us to court in a case. They caught a shoplifter in one of their stores, you know, and I believe the person was charged, but in addition Safeway phoned this person's employer and said: we just caught one of your employees shoplifting here. We said that they shouldn't have done that. I mean, it's perfectly legitimate to enforce the law – they were shoplifting, and they were charged – but you don't have to phone their employer, their mother, their father, their aunt, their children and tell them about it. Safeway thought that that was actually a Charter breach. They took us to court on the basis that that was a breach of their Charter rights, and the court disagreed and upheld our decision.

That gives you an idea of the kind of thing. We're not going to court over nitpicky things. I hate to use the expression, but we're now seeing where the rubber hits the road. While businesses welcomed this initially, they're now seeing, you know, the actual specific implications it might have for them, and in some cases they want to contest that, which is legitimate in our system.

The Leon's Furniture case that we're seeking leave to appeal on: when someone would come and pick up a piece of furniture they bought, Leon's would write the licence plate number down, and I think they were also taking the driver's licence number. That was in order to make sure that the person who bought the couch was the person picking it up. Understandable, but we said that they shouldn't be writing that down because it was a breach of the act.

This gets really technical but really interesting. The reason they took us to judicial review and the reason we argued it is over whether or not a licence plate number identifies a person. What the Alberta court says is: "Well, no. Of course it doesn't. It just identifies a car." I mean, you can see the logic of that. But here's the trick, and here's why I feel we have to go to the Supreme Court. If your licence plate number does not in any sense identify you as an individual, your Internet address does not identify you as an individual, right? They're kind of similar, right? Your Internet address basically identifies your computer; your licence plate number identifies your car.

But if you think about all of the stuff you do on your Internet address, you will understand how much your Internet address is about you. The websites you visit, the places you surf, the e-mail you send, the groups you join online, the books you read at Amazon: all of that stuff is not necessarily attributable to Frank Work, but it is attributable to an Internet address. So even though, you know, it seems silly fighting over whether or not a licence plate is personally identifiable information, to the extent that a licence plate is like an Internet address, it has very serious implications.

That probably took far too long, Mr. MacDonald – and I apologize – but these are the kinds of judicial review cases that we're getting in the private sector.

10:20

The other cases, probably half, are coming from government entities – the government of Alberta, some police services, some municipalities, some from universities – and they usually have to do with access to information, where we've ordered documents to be disclosed given a certain interpretation of that act and the public body disagrees with the way in which we've applied that section. Why it's increasing I don't know. I don't think we're interpreting the act a lot differently than we were 15 years ago, when it first came into force. I mean, we try to maintain con-

sistency with our previous decisions, but we are being challenged more often on our application of decisions.

I will say that I think one of the factors that's getting more judicial reviews on the public bodies side is that we have gotten some judicial decisions, and it's like a snowball effect. We've had some judicial decisions that have totally taken what we thought to be the correct understanding of the act and turned it on its head.

For example, we had a decision a couple of years ago about who has to notify affected parties. If I go to the department of the environment and I ask for all of the people who have water wells – I want their names or their legal descriptions. The department says: "No. We're not going to give that out." It comes to my office for review. We decide: "Okay. Since all of these water well owners are affected, we'd better notify them." That, for example, could be appealed for judicial review where some of the parties say: "Well, you didn't notify us. You should have notified us." Then, for example, what the courts might do is say: "Okay. It's not actually the commissioner that should be notifying. You've got it wrong, Commissioner. You shouldn't notify; it should be the public body."

That overturns our previous understanding of the legislation, which in turn generates more judicial reviews because now that previous line of thinking has been changed, which means that the other cases that depended on that are now also called into question, so there are now grounds for judicial review of those. Like I said, in a lot of cases it's a snowball effect.

I have to say that I don't think we're getting terribly consistent decisions out of the courts on judicial review. In fairness to the courts, it's very complex legislation. But there's a reason why I feel I have to go to the Supreme Court in these cases.

The Chair: Mr. Quest.

Mr. Quest: Well, thank you, Mr. Chair. Just looking at page 8, the budget request you're talking about, specifically the cost of staff, which represents most of it, looking at the amount requested, we've got \$207,000 for these two new full-time equivalents for PIPA, \$347,600 for salary and wage. I'm going to assume increases. That looks like about a 9 per cent increase. Am I reading that right?

Ms Furtak: That's correct.

Mr. Quest: Okay. Well, just a supplementary to that. My understanding was that the negotiated contract, at least with AUPE, was somewhere in the 4 per cent range. I'm just wondering: why the difference?

Ms Check: The increase is also merit increases. Management gets traditionally a 3 per cent merit increase, and opted out and excluded is 4 per cent. So those increases have been reinstated as well.

Ms Furtak: We're also going back to the 2009-2010 budget years, where we haven't had any increases. We've always relied on parental leaves or vacant positions to cover us. At a fully staffed level at these April 1, 2012, levels we do need the entire \$347,600 just to meet the payroll.

Mr. Quest: Okay. Thank you.

Mr. Hinman: Well, I'd like to thank you for your passionate expertise on the privacy act. I guess my question is concerning PIPA and what the precedent is. As an MLA the people that come into my office, one of the most frustrating things that they're

dealing with is that the ministry has information, they've made a decision on them, but they don't know why or what it is, whether it's complaint driven, whether it's a professional that has had their licence temporarily suspended, whether it's a parent where someone has said something about their child, all of these other areas where we have a bit of a conflict.

Is there a precedent in the order of why information is protected? Would you say that too often these government bodies make decisions, pull accreditation or other things, and don't give an explanation why? Does the individual – on page 3, you know, under PIPA it says, "Provides individuals with the opportunity to request access to their own personal information." When they don't get it and so much is blacked out, could you comment a little bit on that and what your thoughts are on how we would help accommodate citizens getting the information on what's actually recorded?

Mr. Work: Okay. Yeah. As you say, Mr. Hinman, it's an increasingly regulated world, and there are an increasing number of boards and agencies that make decisions that affect us. The general rule – and it's not exclusive to access to information, I mean – is that any body that makes a decision affecting someone else's rights or entitlements has to follow a fair procedure, and they have to give a reasonable decision, usually in writing. That's not something I administer. I mean, that's something that whether you're the WCB or whether you're an agency in government that decides on AISH payments, there are these fundamental rules of natural justice that require a fair procedure and a reasonable decision.

Now, in a lot of cases you can appeal those decisions. Certainly, the Ombudsman has a huge role in that. If you feel that an internal government of Alberta body has not treated you fairly in the decision they've made, the Ombudsman is probably the most efficient and inexpensive route to go. Alternatively, these bodies can be taken to court, and the courts are very, very zealous about making sure that you have been given fair procedure when your issue was dealt with. So there are two.

The third one is the freedom of information act, where you can request the records that pertain to that decision. Now, of course, under FOIP all you can get is the records. I have no ability as commissioner to tell a public body that they made the wrong decision or they shouldn't have taken this away. But, yeah, your recourse is to ask for the records, and a lot of people do. In fact, I would think that most of the cases, most of the complaints we get about access, you know, failure to grant access to information, are usually the kind of people you're talking about, people who just want to know what happened to them in this process.

Most public bodies are pretty good in this regard. That's not usually where we have the struggles. Most public bodies are pretty good about providing records to individuals. You know, the exceptions can be things like if somebody else's personal information is involved, then you have to sever; if it's solicitor-client privilege, you don't give out that information; so on and so forth. But for the most part they're pretty good, I would say.

The hopeful thing for the future, I think, is this concept of open government. You know, as you can see from just looking at my budget numbers this morning, getting people access to their information through this mechanism of applying for it and then, if they don't get it, coming to my office is a very labour-intensive process. Being a labour-intensive process, it's an expensive process. To the extent that governments are able to find ways to make that information routinely available without even having to go through the process, people like your constituents are going to be better served.

I will say, for example – let me think of some of those that have done a good job – the Workers' Compensation Board. Now if you want your file, when you walk into the WCB and ask for your file, they don't even put you through the FOIP process initially. They just have a system set up where they get it to you, and that's great.

10:30

In the department of the environment several years ago there was a lot of interest in, you know, where they shut down a gas station or a facility like that and they remediate the site. There was a huge demand for those site remediation reports, and it was choking the system. Everyone was making FOIP applications to Environment for them. Their people were bogged down. The ones that came to us on review: our system was getting clogged with these. So several years ago Environment just said: "Look, you know what? You can certainly ask for it under FOIP if you want, but we're just going to make these routinely available. You come in. You ask for it. We're going to have it ready for you. We won't even put you through the system." I think that's just the way we have to go.

As you can see, our processes are expensive, and they really should be a last resort. You have to have them; don't get me wrong. You absolutely have to have a legal right to request information, but before you get to that right, if you can obtain it in a routine way or better yet – for example, I'm very hopeful of Alberta Health and Wellness with respect to the provincial electronic health record, Netcare. I can't commit them to any dates, but it's possible that within maybe five years they will have a patient portal where patients will be able to go online – of course, it's going to have to be a secure portal – and be able to look at what the doctor can currently look at in Netcare. I think that will be a tremendous thing for people generally because we'll be able to get away from some of these expensive systems of finding the record, of them photocopying it, handing it over, the appeal coming to us, and so on.

I mean, you still need to have the appeal mechanism – don't get me wrong – but I'm hopeful that as governments become technologically and mentally more attuned to routine disclosure and proactive disclosure, people will be better informed, and governments will make better decisions. You know, hopefully, it will reduce some costs.

That was a really long answer. I see I got to use up all my time.

Mr. Hinman: Could I just quickly follow up on that?

The Chair: Yes. Go ahead, Mr. Hinman.

Mr. Hinman: In a specific case, with no identities or whatever, a health care practitioner who provides services for senior care facilities went around travelling, then all of a sudden had her accreditation revoked. It was gone, and she tried to get at why, and there is no answer. I've personally written a letter to the minister, and I've got no real answer back. I don't know if this person has ever contacted you. I wanted to try and get a hold of the individual before today. Do they not have a right, even though they don't need to know the name of the facility or an individual, to hear, "Look, these are the complaints that have been lodged against you"? But to have that complete no disclosure, just "Oh, we're revoking your licence to practise" – she's been out now three months with no work and no resolution. It's just astounding to me that they don't know why. It just seems like there's a collusion. "Well, we don't want this person in our facility, so we can do it in-house." That is my own personal view of that. How do we get that information quickly, and does she have a right to get that information quickly?

Mr. Work: The best advice I could give to that person is that I'm afraid I think they're going to need a lawyer, and they're going to have to look at the process of the agency that made the decision. I think they're going to have to have a look at how that agency made that decision, and they're probably going to need legal help.

Mr. Hinman: Do they have a right, though, to that file?

Mr. Work: Without knowing more about what the agency is and whether they fall under PIPA or FOIP or HIA, I'm not able to say.

Mr. Hinman: Okay. Thanks.

The Chair: Thank you.

Ms Notley.

Ms Notley: Thank you. I have a couple of questions just arising from the annual report that are not dissimilar from what I was asking the Ombudsman, who was here before. The first one is just for my clarification because I must be misinterpreting. I'm looking at your list of cases opened for the '10-11 fiscal year on page 32. I'm looking particularly at FOIP. Just for my own clarification, there's reference to 107 complaints and then to 132 requests for a review. My understanding was always that you couldn't actually get to a review until you'd first had a complaint. I'm just wondering if I'm misunderstanding what one of those descriptions is.

Mr. Work: You're correct. For the most part you can't get to an inquiry before you lodge a complaint, but the commissioner has the discretion, where two parties come in and it's obvious that they're simply never going to agree or it's obvious that the difference is largely a legal one, to fast-track the case right into inquiry. I think that probably explains that discrepancy. So sometimes we won't try to mediate if we get a complaint. It's very rare, but occasionally I'll send it right to inquiry.

Ms Notley: Yeah. I mean, it looks like it's almost 25 occasions.

Mr. Work: Let me make sure that I'm looking in the right place. On page 32 the table, the third line, complaints?

Ms Notley: Yes, complaints under FOIP. Then I was looking at requests for review under FOIP as well, which is 132.

Mr. Work: Yeah. Complaints tend to be about whether or not you got the documents you requested on an access request. A request for review can also be a decision of a public body on an informational issue. There might not have been an access request. A public body might have – what did we have? The city of Edmonton development bylaw officers, I think they call them, went out and investigated a situation with a couple of neighbours and took a bunch of notes, and we got a complaint from one of the neighbours that this person had collected too much information and then had told someone else about the situation between these neighbours. So that's a request for review, not a complaint. It's a slightly different animal.

Ms Notley: All right. Okay.

Mr. Work: We should define these better. I'm glad you pointed that out. I think I'll suggest for the next person that maybe these terms should be better defined.

Ms Notley: Thanks. That's helpful.

On page 56 there are different ones, but I'm looking, for instance, just at appendix B. The same would apply, I suppose, to

appendix A as well, with the cases that were opened. Yes, they would. Again, I'm just looking at FOIP in this case, where it breaks it down by organization. Of course, the single biggest organization is government ministries, which appears to take up almost half of the files opened or files closed. I'm wondering if we can have more information in terms of how that breaks down within government ministries.

Mr. Work: By department, that kind of thing?

Ms Notley: Exactly. It would seem to me, you know, that that covers almost half of your work in that area. If there are particular ministries that are consistently the subject of complaints, that's something that we ought to know.

Mr. Work: Yeah. A good point. Yes, that can be done. There's no reason why we can't do that, but Service Alberta also keeps those kinds of numbers because they're the government department responsible for the implementation of the FOIP Act. I think Service Alberta also keeps a running tally of what departments are getting what kind of traffic. There's no reason why that couldn't be presented in this annual report as well with the understanding that we'll have to qualify it. Not all departments that have a heavy caseload have a heavy caseload because they're doing anything wrong. Sometimes you just have a heavy caseload because you're the Workers' Compensation Board or providing social services, and that attracts more traffic.

10:40

Ms Notley: It would still, I think, give us a sense of where work could be done.

I appreciate that Service Alberta does that, but I suspect that I probably have more interaction with FOIP and your office just through being on this committee than the majority of Albertans. If people don't know to look there or if they forget to look there, then it's not something that sort of jumps out at them.

Mr. Work: That number can be broken down, as you say.

Ms Notley: The final question I had – and I may have just missed it because I was flipping through here somewhat frantically in a last-minute kind of way – was on whether there's anything in here about sort of the timelines for resolution from complaint to investigation to resolution or an order being written, that kind of stuff. We've had discussions in the past about concerns around the timelines. I may have missed it, though.

Mr. Work: Yeah, we do have those numbers, and we do make them public from time to time. I don't recall if they're in there or not.

Ms Notley: It seems to me they've been in previous reports.

Mr. Work: Yeah. We think they might be in the specific FOIP overview. Maybe in the interests of time I can have someone get back to Ms Notley on that. They should be there if they're not there, or they could be there if they're not there.

Ms Notley: I'd say that, yeah, they should be because I think that's been kind of a long-standing topic of conversation.

Mr. Work: Yeah. And the timelines aren't atrocious. In fact, in the Canadian Newspaper Association survey that came out in September, in Alberta, you know, government entities didn't do too badly, B. It's not an A, but it's not a C either. Most government departments get an initial 30 days. They can take another 30, and

most of them are about 80 per cent compliant within the 60. But, yeah, that information should be in the report, too.

The Chair: Are there any other questions? If not, thank you very much, Commissioner Work and your staff, for your presentation. We hope you and your staff will be able to join us at noon as well.

For your information the committee's decisions on the officers' budgets will be sent out by the end of the week. Before we break, on behalf of the committee I'd like to offer our sincere appreciation to you for the work you've undertaken as Information and Privacy Commissioner during the past nine-plus years and to wish you all the very best in your future endeavours.

With that, we'll take a 10-minute break. I've talked to the Auditor General's office. He's going to be here earlier. He'll be here before 11, so we'll take a 10-minute break and be back here at 10:51.

[The committee adjourned from 10:44 a.m. to 10:53 a.m.]

The Chair: Good morning, everyone. Welcome to our meeting. We are reconvening here. Thank you very much for coming earlier so that we're able to start a little bit earlier. I think it's everybody's hope that we'll be able to finish earlier in the day, because we've got a long day here.

Anyway, before we start, we'll go around the table and introduce ourselves for the record, and then you can proceed with your presentation. My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm the chair of the committee.

Mr. Marz: I'm Richard Marz, MLA, Olds-Didsbury-Three Hills.

Mr. Lindsay: Good morning. Fred Lindsay, MLA, Stony Plain.

Ms Eng: Loulou Eng, OAG, senior financial officer.

Mr. Olson: Jeff Olson, Assistant Auditor General, OAG.

Mr. Saher: Good morning, everyone. Merwan Saher, Auditor General.

Mr. Quest: Good morning. Dave Quest, MLA, Strathcona.

Mr. Hinman: Paul Hinman, MLA, Calgary-Glenmore. Good morning.

Mr. MacDonald: Good morning. Hugh MacDonald, Edmonton-Gold Bar.

Ms Notley: Good morning. Rachel Notley, Edmonton-Strathcona.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Mr. Blackett: Good morning. Lindsay Blackett, Calgary-North West.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Thank you. All of the documents were posted on the internal committee website: the OAG results for 2010-11 as well as the business plan for 2012-15 and the budget for 2012-13.

Mr. Saher, I'd ask you to proceed.

Office of the Auditor General

Mr. Saher: Thank you very much, Mr. Chairman. I'm going to ask Jeff Olson, on my left, to make our presentation this morning. Then we'll be happy to answer all of the questions that you have for us.

Mr. Olson: Thank you, Merwan. Mr. Chairman, committee members, in your package you have our results analysis to March 2011, business plan 2012-15, and our fiscal year 2012-13 budget request. As you know, this year is a little different. This year the legislative committee approved that all legislative offices, us included, will be discussing our March 2011 results, in your package, prior to next year's budget request. In our view, this is an improvement in the accountability cycle. It allows committee members to be better informed when you review our business plan and our budget request, so we welcome that.

We've handed out a short slide presentation, that I'd like to go through with you now. I welcome your questions at any time during the presentations or at the end.

Okay. Slide 2. I have an agenda that will guide us through the information and the presentation. It's broken into three parts, again: fiscal year 2011 results, business plan 2012-15, and our budget request. At the same time, I want to link some of my comments to the current year as we go through each section because we believe it is necessary information in presenting our budgetary request.

On the next slide, starting with agenda 1, are our 2011 results. It is a pie chart that you've got there, if I could refer you to that. This graphic has two important factors that really drive our past year, 2011; our current year; and our future year, our budget for next year. The first factor is that the major patterns of our spending are people costs. The reality is that as a professional auditing office salary and benefits plus professional service contracts for agents in temporary services represent about 90 per cent of our operating expenditure. The second factor would be that any government decision on salary and benefits for the public service would have a direct impact on our budget request.

On to the next slide. You can see that for 2010-11, over a year ago, we had a no-increase budget over the previous year. We were able to in fact meet that budgetary target because the government had implemented a salary freeze for the public service. In fact, we were able to return about \$590,000 that year, about 2.5 per cent, to the Legislative Assembly. This was due in no small part to the salary freeze, both merit and growth, on our staff. What also contributed to that surplus was that we operated with two fewer Assistant Auditors General in that year. In fact, we are still operating with two less Assistant Auditors General, and we intend to maintain that structure going forward.

Our current year was to be the third year of no increase – that's where we are in the budget now – but this summer the government announced the reinstatement of in-range adjustments for the public service, effective the first of this year. This and other factors we discussed with you in October made the budgetary target unachievable for us, and we required a supplementary estimate. We received approval from you in October.

Our cost profile you can see from the previous year, from the past, and the current year very much can be held steady with a salary freeze; otherwise, it is driven by compensation increases.

The next two slides, 5 and 6, apprise you of our work output. These are the major systems audits for the fiscal year 2010-11. These reports were provided to you, actually, the Standing Committee on Legislative Offices, and to the Assembly in October 2010 and April 2011. These large systems audits, both new and follow-up audits, are provided for your information, and we can discuss them in more detail if required. The important thing though, I think, is that the accumulated cost of these systems audits accounts for about 20 per cent of our operating costs. On slide 5 you can see the ones for October 2010. I'm not going to read them out because they're plain and easy to read as they are.

Next, slide 6: the most visible part of our output is these two public audit reports delivered in October 2010 and in April 2011.

11:00

Just as significant, though, are the almost 200 recurring risk-based assurance audits, both financial and nonfinancial. These audits serve all Albertans by providing independent assessments to help the Legislative Assembly hold government accountable. This accounts for the lion's share of our operating expenses, or about 80 per cent.

If I could move on to the second item in our agenda presentation, and that's our business plan for 2012-2015. Last year, as you can see on slide 7, we added a vision statement, which is something we did not have before, adding value through expert auditing. We also changed our mission to better reflect our work in keeping government accountable and the need for us to be accountable to the Legislature and ultimately to all Albertans. Our office has also had strong values. We now have four that we feel are necessary for a strong organization to thrive: values of respect, trust, teamwork, and growth of the individual.

The next slide, slide 8, putting it all together. We believe this business plan continues to guide us in meeting our mandate and in demonstrating that our work is relevant, reliable, and that the work is done at a reasonable cost. Business plans change as risk and opportunities are identified. We've identified on page 4 of the business plan considerations, both risks and opportunities. If the business plan does not change or evolve – and I'm sure you know this – to meet these risks or in some cases, viewed from the other side of the coin, the opportunities, it loses its value as a strategic document.

Slide 9 lists two priority initiatives. They are discussed in more detail in our business plan, but I'd like to highlight them here. We will continue doing these in 2012-2013.

The first one is an independent peer review. We will continue to execute our plan to be ready for an independent peer review by July 2013. This review will be commissioned to provide conclusions on whether we do relevant, reliable work at a reasonable cost and will be made public.

The second item is staff development. As we reported in our March 2011 results analysis, a staff survey in 2010 identified that we did not meet our target of 85 per cent of employees expressing satisfaction working for the office. In fact, it was 67 per cent. Staff morale will climb if we can improve our performance management process and internal communications and ensure compensation is competitive. These are at the heart of improving our work performance and our efforts to retain quality staff.

On slide 10 and, in fact, the next two slides we have eight external performance measures with results provided in the slides. Relevance is important, and you can see that we have five measures, actually, listed there. The one I would like to have you focus on is 1(e). This one has been discussed before, and I think it is a bit of an issue for us. It's in fiscal 2009. We introduced a new performance measure, the percentage of Members of the Legislative Assembly who believe our work is valuable.

In May 2011 a second survey was completed that reported on this question as well as others. We had a low response rate. It was only 23 out of 83 MLAs, or 28 per cent. Obviously, we're considering whether valid satisfaction conclusions can be drawn from this response. What the respondents did do, however, is provide us with some useful information. We had an area where we asked for some details of comments that they made, and they ranked in order of importance certain areas of audit focus for us. They were health service delivery, governance and ethics, investments and finance, environment, energy, wellness initiatives, education,

children and families, and seniors. It sounds like a lot, but when you put it into priority, it does give you a focus.

On the next slide you can see our two other priority initiative areas. A common observation there would be that more work is needed here to identify either more or better suited measures. Currently we are actually doing an internal risk management review to determine not only external, the ones that you would look at, but internal ones to help us do our business better. These measures are reliability and work done at a reasonable cost. You can see at 2(a) that we are still subject to an Institute of Chartered Accountants review. It's not as extensive as the one that we intend to do with the peer review. That's done every three years, and the next one will be done in 2012-2013. Staff turnover rate, 3(a), is a cost driver, and we target it to be under 20 per cent on average over all staff categories, and 3(b) is under development.

Now turning to our third agenda presentation, our budget request, for the 2012-2013 fiscal year we are requesting \$25,650,000. This represents a 7.6 per cent increase, or a \$1.8 million increase, over the 2011-2012 budget. This is in keeping with the fact that the government has committed to a 4 per cent increase to salary ranges, and the continuation last year, April 1, 2011, of the merit and growth increases for the public service accounts for 3 per cent. So just like last year, the current year that we're in, and next year for Budget 2012-2013 government salary settlements impact our cost profile.

Also on this slide you can see that we deferred our capital investment needs of \$5,000 to meet this current year's unbudgeted salary increase. The details on the increase that we are requesting are on the next slide. If I could ask you to turn to the next slide.

Obviously, we're going to start off with the increase to our salary and wages of 7.7 per cent, or \$990,000. It's all in accordance with corporate human resources directions to be applied to all public service employees. We have applied these directions to our cost, and they're broken down as – and we wanted to give you a little more detail here – 3 per cent, or \$390,000, relating to a 4 per cent general increase to salary ranges effective April 1, 2012; 2.4 per cent, about \$305,000, relating to in-range adjustments reinstated this current year, April 1, 2011; and \$295,000 relating to student growth adjustments that we have with our students that are employed. We have about 40 per cent of our staff that are at the student level.

The second item there – it's sort of the tail on the dog, but it's also seen some increases – is employer contributions increases of \$515,000. Now, that's a 20 per cent increase, and it's driven by, of course, salary base increases, various employer rate increases, especially for pension plans, but principally what's new here and is part of the bigger increase is the government-announced health spending account. It works out to about \$950 annual benefit per employee, and that's effective April 1, 2012.

A couple of other items I'd like to point out. We have a 13 per cent increase in temporary staff services due to a shift of performance measures work. This was a government decision made to move it up from later on in the fall to a June 30 deadline for ministry and annual reports. That created a cost pressure for us.

We have one other item there, and that's an increase in our capital investment of about a hundred thousand dollars as a result of postponing several network storage purchases in 2011-2012. These initiatives can no longer be delayed if we are to maintain our IT infrastructure. It's important to us because, let's face it, we go out there and look at departments' IT infrastructures and comment on them. We need this structure for us to be at par with the rest of government. Then net cost increases in miscellaneous, for a total of \$1,805,000.

On the next slide, in the current year output for that year, there are a number of upcoming system audits I'd like to bring to your attention, and these are stand-alone system audits. As mentioned, we commit about 20 per cent of our total resources to stand-alone system audits. At any point and at any time during the year we have an active inventory of stand-alone system audits, which are prioritized and will likely be done, but it can change as circumstances or events change.

These two slides provide you with what we are currently viewing as upcoming, stand-alone major system audits. There are a couple of knowledge of business audits – aboriginal programs and Alberta's current health and wellness system – bridge safety; safety of dams; control systems at the office of the Public Trustee; crossgovernment IT project management; and a drinking water follow-up.

On the next slide, almost the last one, number 15, there's another set of stand-alone audits: First Nations development fund grants, food safety follow-up, management systems to support achieving Health's five-year action plan, occupational health and safety follow-up, primary care networks, prioritizing and managing Alberta's infrastructure needs, and a water supply follow-up.

Finally, I want to inform you that the next public report from the Auditor General will be tabled in the Assembly next Tuesday, November 22.

I'll stop there and will take your questions.

11:10

The Chair: Well, thank you very much.

Any questions?

Dr. Brown: I'd like to get a little bit more detail about the salary and wage increase that you're asking for here. I am new to this committee. CHR, you said, is . . .

Mr. Olson: Corporate human resources. It's for the whole public service.

Dr. Brown: Okay. How are those recommendations for changes implemented? Is that through some sort of collective bargaining process? How are these increases imposed? You talk about a 4 per cent general increase in the salary ranges. How does that come about?

Mr. Olson: I'm not an expert on this. We are, basically, the tail on the dog on these settlements. A lot of it, I know, is driven by discussions with government and dealing with the unions. When they make a settlement, that has an impact on the rest of government, and that includes the non-union employees. That's a government-wide decision.

Dr. Brown: So it's reflective of what was achieved in collective bargaining in another group.

Mr. Olson: Yes. For the province.

Dr. Brown: Yeah. Okay. Then the 2.4 per cent increase in addition to that: is that strictly going up a scale of increasing seniority?

Mr. Olson: That's a good question. In a lot of cases in departments, the way it's written in the regulations that corporate human resources has, if you've had satisfactory performance, you get up to 3 per cent. In our office I know we very much require that that 3 per cent – I don't know what the word would be. We try to make sure that if you receive that 3 per cent, it has been a fully satisfactory performance. Let's say that.

Dr. Brown: I'm not quite understanding. Is that some sort of a merit increase, or is it strictly sort of a step seniority thing? You know, when a teacher goes from one year to the next, they automatically get a pay increase because of their seniority. Is it more in the nature of merit, then, and if so, are there people that don't get an increase and some that get more? Is that sort of the mean?

Mr. Olson: I would say that it would be safe to assume that it parallels what the union does. You've got that correct. It is a step-by-step process. But it isn't an automatic. It requires satisfactory performance. There is that condition on there.

Dr. Brown: Okay.

Mr. Saher: I would just like to supplement. One way of viewing that in a professional office is if I just take the group of managers that we have, audit managers. A person will qualify as a professional accountant and then if their performance is satisfactory be considered to be moved into a manager level. At the bottom of that level, one is a relatively inexperienced audit manager. Through time one's experience grows; one's ability to contribute and manage audit risk grows.

In our office that 2.4 per cent is not automatic. It's highly correlated with growth in performance. But there is a presumption that with the passage of time good managers will in fact become more productive, more skilled at doing audits and therefore validly entitled to a merit increase.

Dr. Brown: Mr. Chairman, if I could, I have another question regarding the student growth adjustments. It shows this as being incremental and, you know, an additional 2.3 per cent. If I heard you correctly, you said that something like 40 per cent of your staff are students. Is that what I heard?

Mr. Olson: Thirty to 40 per cent, yes.

Dr. Brown: Thirty to 40 per cent. So if that is part of your workforce personnel, I don't understand why this is in addition. If you're adding all of these up to salaries and wages going up 7.7 per cent and 30 to 40 per cent of them are students, why is this additional? Do you follow what I'm getting at? I mean, you're adding this on to the 3.0 and the 2.4. Are you saying that the students do not get the in-range adjustments nor the 4 per cent general increases? I don't understand why the student number is broken out and additional or incremental to the overall increases of 3 and 2.4.

Mr. Olson: Yeah. What we wanted to do was provide you with as much detail as possible and show you that we are a little bit unique. That student growth does represent a large portion of our workforce. This is not unusual. I mean, there are these growth categories in government. For example, there is the human resource category, human resource 1, 2, and so forth. These students not only receive a certain amount for the 4 per cent, the 3 per cent, but they also received quite a large increase in a level – it's almost like moving to a full new level – to be competitive with private industry. These students have a rapid growth in experience and value, so that's why we've separated that up from the other group. The other group has a standard increase.

Dr. Brown: I understand. I think I'm getting your concept there. You're saying, you know, that as you work your way through the student process, you become more qualified as an accountant.

Mr. Olson: Yeah. That's right.

Dr. Brown: But is there any portion of that which is also related to the increase in numbers, or is it strictly additional qualification and seniority?

Mr. Olson: Basically, we ran the numbers, the increases, against a snapshot of what we've got and moved them up a year to get the exact number that that would require. Obviously, some are coming in, and some are actually leaving. We have that high turnover. So this is an actual number – I think you basically have the gist of it – of seeing those students grow. That's why we separated that out, because they are a large component of our office.

Dr. Brown: What's the period of apprenticeship as a student typically?

Mr. Saher: It's 30 months. Thirty months is the period in which the academic training is to be accomplished through a series of modules which the students sit and are examined on. It's a 30-month period of apprenticeship, if you will.

I'd just like to make the point, just to supplement what my colleague Jeff has said, that students in this growth class were entitled to increases in that pay notwithstanding a freeze. The student categories in government have always been excluded from any freeze in their salary just simply on the logic that to freeze a student's salary would not make business sense. Students would simply go elsewhere.

The Chair: Next is Mr. Marz on this point and then Mr. Hinman.

Mr. Marz: Yeah. Just continuing on the 2.4 per cent, what percentage of your employees would have gotten that 2.4 per cent for satisfactory performance?

Mr. Olson: I'm sorry if this might confuse you a bit, but the 2.4 per cent is a result of – what we're talking about is a 3 per cent in these steps. Now, your first question is: well, why the heck is it 2.4? The reason why is because we run against our turnover. We have a 20 per cent turnover in our office. We actually benefited from the fact that sometimes the higher-ups leave, and then we can get a cheaper workforce in, too, so that's why it's a little bit less.

To answer your question on the 3 per cent, if they have unsatisfactory performance, they will go, but in most cases, I would say 80 to 90 per cent, it's very seldom that they would get an increase. What we have is a performance evaluation system, and if they're not making satisfactory performance, we will release them.

Mr. Marz: So 90 per cent did get the so-called bonus or whatever?

Mr. Olson: If not more than that, yes.

11:20

Mr. Saher: In fact, if I could just add something that may be useful – I hope it will be useful – as we look at the various categories of staff, we have relatively few at this time who are at the top of the range. If you're at the top of the range, then you would only be entitled to that amount that we show as 4 per cent, the general increase. Those that are within the range: in most of our categories we have more people at the lower and middle portions of the ranges, and through staff management most of them are in fact performing better and entitled to a merit increase.

Mr. Marz: My memory goes back only so far, but I believe the intent of this originally was to recognize excellence, not just

satisfactory performance. It's my belief that your normal increases, which would come under that 4 per cent general increase in salary under that overall 3 per cent, would be for satisfaction. If you're not performing satisfactorily, you probably shouldn't even be there. If you're performing at a level of excellence, that's where that smaller percentage would be recognized as an incentive for others to also perform maybe above and beyond. I'm seeing that we're using the term "satisfactory performance," and there's no recognition for anybody that's performing above satisfactory performance.

Mr. Olson: Just to clarify, one of the items that was taken, was stopped, and is no longer there and is not in our budget or in any department's budget is the bonus scheme, which was put in place for that excellence. Right now the only items that we're talking about are the ones that are provided to the whole public service, and that is a 4 per cent – some called it COLA before – growth, and then there are these steps that recognize seniority. So those are the two pieces, no different than in the public service.

But you also mentioned about "They shouldn't be there," and we do do that. We do release people, and we've done that in the last little while for a number of people that did not make that satisfactory category.

Mr. Marz: My point was that satisfactory work should be recognized in your cost-of-living increases and that sort of thing; excellence should be rewarded above and beyond. I don't believe that in any organization you can say, "90 per cent of my staff has hit that excellence rate" because there's always that very small percentage that is quite above the average.

Mr. Saher: Mr. Chairman, could I just add something there? That 2.4 is an averaged number. We use the concept of rewarding people for increased performance. I don't call it, necessarily, satisfactory performance. I view it as being increased performance in terms of a professional who is maturing, growing, and able to provide better value to the organization.

Within that 2.4 we have people who will receive more, people who will receive at that average, and people who will receive nothing. The nothing, as you pointed out earlier, is an indication of a problem, and we deal with problems. But I want to make the point that in our office as a professional office it's quite normal, expected, by comparison with the public accounting firms. We would expect our managerial staff, our managers, to grow, contribute more to the organization, and that is worth more.

Mr. Hinman: I guess I almost want to help you answer that question because I think what they're missing is that many of your employees are not at that top level of payment yet. They're progressing, and I think you reiterated that, that that's where that 2.4 per cent is because of increased capacity and competence that they've learned.

First of all, I want to thank you very much for your passion in your work. I apologize that we as MLAs didn't have a better than 23 per cent return on your survey, but I think that publicly I will say that no news is good news and that we're grateful for the work and see the value in your office and what you provide not only to the Legislature but to Albertans as a whole on whether or not we're getting value for our government and how we're spending tax dollars.

The area that I wanted to – there are two, I guess, so maybe I'll come around a second time. A 67 per cent staff satisfaction was somewhat surprising to me. I guess my question is: where do you feel the root of that problem is? Is it in frustration because you can't perform your jobs because of roadblocks, too much work, or

is it people just finding they don't like it? I guess I'm concerned that that high level of satisfaction isn't there within your office. Is it because of external reasons or internal? Where would you look at that problem coming from?

Mr. Saher: I think the root cause is work not being challenging enough. People don't write that in a survey, and often that's because sometimes the right questions are not asked. We've taken a view strategically that the answer to the office's success is what I personally call pushing work down; in other words, making sure that these very bright students who join the office are challenged from day one with, you know, tasks that are appropriate to young students and that as their competence grows, they are challenged with more demanding work. I believe that that's at the root of the issue of satisfaction.

Without a doubt, internal communication always, always features people when they complete surveys in some organizations. I will admit that in our office part of the, if you will, discontent was inadequate communication of what the office is trying to do. Some of the processes were not working as well as they could work, so we have put in place a program of what we call push-down, trying to make sure the people are challenged to the highest level. It may seem a simple proposition to execute that, but I can assure you it's not as simple as it seems. We certainly know what we want to do, and I believe that, well, the proof will be in the pudding. I think that in future surveys I would expect the satisfaction rate to go up, and if it isn't, we'll bear down on it again. Why? Is it something that we as an organization have to do differently?

Mr. Hinman: The other area. You said that 80 per cent of your work is on those 200-plus follow-ups. I guess that every time you put out a new report, it always frustrates me how many times you say that you've made these recommendations and that there's been no action taken. Nobody ever likes to point fingers at everybody else, but I guess my blunt question is: is government failing to act and therefore it's increasing your size, that you have to go back and keep checking up on these things because we're not responding to your recommendations and therefore you're just doing the same work over again that shouldn't need to be done?

Mr. Saher: First, on a point of clarification, the 80 per cent that Jeff referred to is that 80 per cent of our costs go into doing financial statements and reviews of performance measures. Only 20 per cent goes into the systems audits. So just a point of clarification.

Now, with respect to this 20 per cent and "Is the government listening to the Auditor General's office?" when I became the Auditor General we had a very large backlog of outstanding recommendations to government. In part that was because we as an office had not devoted time to going back and doing follow-ups, and in part it was because the government wasn't ready for a follow-up. In October 2010 we had over 300 outstanding recommendations. A year later that number – and it's a number you'll be able to see in our forthcoming report – is down to approximately 240. We've put more recommendations into the government, but notwithstanding that, we've gotten from over 300 down to 240, and the goal is to get to something in the order of 150.

The government does respond. It takes time to implement some of our recommendations. We believe that our job isn't done until the follow-up is in fact executed. If on a follow-up the right action is not being taken, we will repeat recommendations. Really, the thing that we have at our disposal is to judge from our point of

view the rate of progress and, if we find it to be unsatisfactory, to repeat a recommendation.

11:30

Mr. Hinman: Thank you.

The Chair: Dr. Brown.

Dr. Brown: Thank you, Mr. Chairman. The other area that I'd like to ask about is the employer contributions. You know, the projected change from the 2011-12 budget is quite an astounding number, 20.3 per cent. I get the incremental part of that, that arises from the salary base increase and the concomitant increase in the employer contributions, but what I don't understand is that if the salaries and wages are going up by 7.7 per cent, one would think that the contributions from the employer's side of it would sort of be in that same ballpark of 7.7 per cent. Now we've got something that's almost three times that.

I guess, you know, when I look at the number of factors that you've got under the footnotes there, again, we have things like the CHR announced health spending account and pension plans and whatnot. Is there an increment of that that arises from some sort of a shortfall in a defined benefits pension plan, or is there some other factor that you'd like to comment on as to why that 20.3 per cent is so far above the 7.7?

Mr. Olson: Well, you've brought up another good question here. One of the things – and this is not unique for this year – with the pension plans in particular is to try and make sure that the liability and the payments are there. They've seen fairly large increases. For example, the increases have gone from 10.5 per cent to 11.16 per cent just in this last year. Now, that doesn't sound like much, but you realize that that could be 5 to 10 per cent – I don't have a calculator on me – just for that one component.

One of the things that really impacts this line here and really creates the 20.3 per cent is a brand new item, and that's the health spending account item. That has been costed out to about \$950 per employee. That didn't exist at all in the previous year, and it's now part of this budget as part of the public service.

Dr. Brown: Again, is that arising out of correlation with some other negotiated collective bargaining?

Mr. Olson: That's correct. It's part of the public service agreements.

Mr. Hinman: Just to follow up on that, do you have a rough percentage of what that \$950 per employee is out of that \$515,000 so that you're looking for that 20 per cent increase?

Mr. Olson: It's about \$900,000. No, that's not right. We can provide you with that later, that percentage.

Mr. Hinman: I'm sure I could flip through and find it. How many employees do you have now?

Mr. Olson: About 139, 140.

Mr. Hinman: A hundred and forty. So it's about \$140,000, then.

Mr. Olson: Times \$950. What does that work out to?

Mr. Hinman: To \$140,000, so it's only 25 per cent or so of the increase, then.

Mr. Olson: Yeah.

Mr. Hinman: Okay.

The Chair: Mr. Quest.

Mr. Quest: Thank you, Mr. Chair. I'm just looking at these systems audits. I know from the time I was in Public Accounts that I'm still a little bit confused about the exact mandate and who does what with respect to these audits.

I'm looking at bridge safety and safety of dams, for example, coming up. How do you decide what you're going to do a systems audit on? I ask that question because I don't know if it's a revolving thing over a period of time, that you come back to certain things. With things like bridge safety and safety of dams does the Department of Infrastructure not do their own systems audits or their own inspections? Is there not duplication there? I'm a bit confused as to why we do these.

Mr. Saher: Okay. Well, let me, first, get back to the Auditor General Act. When we talk about systems audits, we're referring to sections of the act which give us the systems audit mandate. That mandate is to examine and bring to the Legislature's attention where management control systems designed to achieve economy and efficiency in government operations either don't exist or are inadequate.

Then a very important section is for us to look in at the government's systems to ensure government has processes to know whether it is effective or not. So, yes, if I go to bridges, the government has programs designed to ensure cost-effective maintenance of bridges. Our job and our mandate is to look in at the government's systems and take a view on whether or not they're adequate or could be improved.

Certainly – and this is very important – the Auditor General Act is not a substitute. The staff of the Auditor General's office is not a substitute for management action. Our job is to look in at how management runs its business, how management has processes, systems to assess its effectiveness. Then our mandate is to look in and comment on how good those systems are.

For example, bridge safety. Why would we pick bridge safety? At the highest level we sort of have three categories of potential systems audit work. This is in our business plan. Systems that are to do with governance and ethical behaviour would be ones that we would be inclined to want to look at. Safety and welfare of Albertans is another category of potential systems audits, and security and use of the province's resources. So bridge safety came into our inventory of potential audits, rose to the top, and that's why we're executing it.

You know, a key in that audit will be the information that the Department of Transportation, in this case, uses to execute its program of bridge maintenance. What's the quality of the information? Are they acting on their information? As a result, can Albertans be assured that the bridges that they drive over are, in fact, safe to drive over?

Mr. Quest: Okay. Thanks.

The Chair: Thank you.

Mr. Hinman: I have just the one on the bridges.

The Chair: On this point?

Mr. Hinman: Yes.

The Chair: Go ahead.

Mr. Hinman: Interesting that you bring that up. I thank Mr. Quest for bringing it up because it was one on my mind. Do these things come up because of the failures that we've seen in the U.S. and in Quebec and other places? So you think: well, gosh, governments have failed in these other areas; let's make sure that Alberta is up. When you say that they come up, how?

Mr. Saher: Well, bridge safety came up simply through our knowledge of business, of the activities of the Department of Transportation. A while back we identified their systems to maintain the structural integrity of bridges. Without a doubt, I can tell you that the events in Quebec helped us with our decision to escalate it to the top.

Dr. Brown: I guess just a follow-up question to the previous one on the employer contributions. I understand that part of that is arising out of the pension plan. You said additional contributions and whatnot. I'd like to know where the concept of a defined benefits pension plan arises from. Is it strictly a creature of the collective bargaining process, or is it enshrined in some regulation or legislation?

I'd also like to ask you whether or not you believe that it's within the ambit of the Auditor General's office to look at the sustainability of these types of defined benefits plans, the assumption of risk on the rate of return to be assumed by the taxpayers of Alberta when all of the private-sector industry, even the largest employers, have gone way beyond defined benefits programs and are into defined contributions. I just don't believe this is sustainable. So I'd like to know where this concept comes from. How did we get there, and how do we get out of it? Number two, is this something that your department would have within your sphere of influence to look at?

11:40

Mr. Saher: Okay. So the first question: where do defined benefits pension plans come from? I'm afraid I'm not an expert on the history of defined benefits pension plans. I mean, they have been around for a long time. I don't know about the history of the government of Alberta deciding to bring that form of pension compensation into play. I don't know the history of that. I'm very well aware of the debate today in the private sector and also in the public sector on the sustainability of such plans. We're, I think, well versed in some of the thinking that has occurred. You know, are they sustainable? If a view is taken that they're not sustainable, many corporations are gradually moving themselves to defined contribution plans.

Turning to the second part of the question, it's definitely within the Auditor General's mandate to look at it, and we would look at it from a systems point of view. Where are the government's systems to examine the sustainability of the pension plans that the government is a sponsor of? I'd like you to know that we've already started thinking of that. We as an office don't just jump into an audit immediately. It takes time to work out the best approach. But I want you to know that we take the sustainability of the pension plans that the government is involved in seriously, and we intend to do work in that area. It will be focused on the government's systems to make assessments itself as to the sustainability of these plans. Part of all of that is that the discount rates that are used to estimate the liabilities are a critical feature. It's also something that we would like to look into and take a view on.

Dr. Brown: Thank you.

The Chair: Are there any further questions?

Seeing none, we'll thank you, Mr. Saher, and your staff for the presentation. We hope you and your staff will be able to join us for lunch at noon.

For your information the committee's decisions on the officers' budgets will be sent out by the end of the week.

We'll break now for lunch, and we'll be back here by 1 o'clock sharp.

[The committee adjourned from 11:42 a.m. to 1 p.m.]

The Chair: We're now back on the record. We'll call the meeting to order.

Before we begin, again this afternoon I'd ask that we all go around the table and introduce ourselves for the record. My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm chair of this committee.

Mr. Lund: Ty Lund, MLA for Rocky Mountain House.

Mr. Lindsay: Good afternoon. Fred Lindsay, MLA, Stony Plain.

Mr. Resler: Glen Resler, chief administrative officer, office of the Ethics Commissioner.

Mr. Wilkinson: Hello. Neil Wilkinson, Ethics Commissioner.

Mr. Odsen: Good afternoon. Brad Odsen, general counsel to the office of the Ethics Commissioner and lobbyist registrar.

Mr. Hinman: Good afternoon. Paul Hinman, MLA for Calgary-Glenmore.

Mr. MacDonald: Good afternoon, everyone. Hugh MacDonald, Edmonton-Gold Bar.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Mr. Blackett: Good afternoon. Lindsay Blackett, Calgary-North West.

Mr. Marz: Richard Marz, MLA, Olds-Didsbury-Three Hills.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Well, thank you very much, and welcome, commissioner and your staff, to the meeting here. Everyone has seen the draft documents posted on the internal website: the draft 2010-2011 annual report, the OEC 2012-2013 budget submissions as well as the OEC 2011-2013 business plan.

Before you start, I'd just ask that the last 15, 20 minutes be reserved for questions from the committee. As well, we do have a couple of members who will be joining us in a few moments. With that, you can proceed. Thank you.

Office of the Ethics Commissioner

Mr. Wilkinson: Okay. Well, thank you very much, Mr. Chairman and members of the committee. It's certainly my pleasure to be here. With me today is Glen Resler, our chief administrative officer, and to my right, Brad Odsen, QC, our Lobbyists Act registrar and, as he mentioned, general counsel. If it pleases the committee, what we would like to do is start with a brief overview of our 2010-11 annual report, open the floor to questions at that time, and proceed with our budget presentation for 2012-13.

As we look at the 2010-11 year in review, we would say that it certainly was a year of stability for our office. Firstly, under the

Lobbyists Act legislation the lobbyists registry completed its full year of operation, as you know, and system users identified several items for improvement, and changes were made to the system to enhance its functionality. We have found that lobbyists are aware of the legislation, its requirements, and are in compliance. This has resulted in a decrease, that you see in the report, in the number of presentations delivered to user groups over the year.

Requests for information on obligations under the act and registration requirements have although remained stable. We received over 4,200 telephone and e-mail inquiries during the year under review. By March 31 we had 117 organizational lobbyists registered and posted on the website, a 6 per cent increase over last year, and 212 consultant lobbyist registrations, an increase of 36 per cent. In addition, the website continues to receive a high volume of activity, clearly demonstrating, we think, the public's desire to know who is engaging in lobbying activities in Alberta.

A request for investigation under the Lobbyists Act was received regarding allegations involving a consultant firm registered under the Lobbyists Act to ensure that the firm was in compliance with section 6 of the act. In October of 2010 I submitted my report to the Speaker stating that there was no breach of the act and the firm was not lobbying the government on the same subject matter on which they held a contract to provide advice to the government.

In anticipation of the legislative review of the Lobbyists Act just completed by this committee, Brad held two workshops with organizational and consultant lobbyists to discuss the act and to consider what improvements could be made to the legislation and also the registry system itself. I've got to tell you that we are very happy with the response from the lobbying community to the act and the registry as well, and we feel that Brad's day-to-day interaction with lobbyists, media, government officials, and other users of the registry provides a very personal touch that certainly reflects on the registry's success.

Now, if I may, I'll go on to the conflicts of interest legislation. We're pleased to say, as we do every year and as every commissioner has said, that all Members of the Legislative Assembly and senior officials complied with their obligations to file disclosure statements within the appropriate timelines. A total of 165 disclosure meetings were held with members and senior officials to discuss their financial disclosures and specific sections as well of the Conflicts of Interest Act to answer any questions that had arisen.

There was a 5 per cent increase over last year in the number of requests from members and senior officials for advice. The majority of the requests pertained to advice on gifts, outside activities of members, employment, activities of family members. To assist members a guide was developed on gift acceptance and disclosure. As you know, it provides detailed information on the legislation, its exemptions, and also provides examples, which indeed, too, was well received by the people that we gave it to. As noted in our annual report, we received 30 requests for investigations: 23 of these were nonjurisdictional, and seven complaints related to MLAs. None of these fell under the Conflicts of Interest Act; therefore, no investigations were warranted.

We did receive a request for a review of a ruling by a department deputy head under the code of conduct and ethics for the public service. This was the first request received under this code. An investigation was conducted, and recommendations were provided to the minister as required.

Two requests were received by our office to review a decision made by a board chair under the Public Agencies Governance Act

and agency code of conduct. Prior to commencing the review, permission to proceed was requested from both parties involved in the decision with the knowledge that our advice was not binding on either agency. We are pleased that the recommendations provided were accepted in both instances.

We previously discussed our responsibility under the Alberta Public Agencies Governance Act and regulations. The act, as you know, has never been proclaimed, and without proclamation our office does not have the authority to provide formal advice and assistance to agencies regarding conflict of interest. As a result, we did meet with the Agency Governance Secretariat and agreed that all references to our office under agency codes and conduct are to be removed. We will, however, as we always have, not just to this group but to the public as well, continue to provide informal confidential advice on conflict of interest matters to chairs of public agencies.

During our previous discussion on public disclosures the committee identified a concern regarding the display of members' rural addresses. We reviewed the disclosure and the relevant legislation and made changes to this year's public disclosure forms to ensure consistency of reporting between rural and urban MLAs. In compliance with current legislation we will not be disclosing addresses that can identify a member's personal residence.

Finally, under the financial statement of operations for the year ended March 31, 2011, our office was under budget by \$173,000. The main variances in actual cost of budget were due to the following. One, we did not require external legal, investigative, and communication services to complete investigation reviews under the Conflicts of Interest Act, resulting in a surplus of \$111,000. In subsequent budgets this funding request has been reduced by \$55,000 as a result of our having in-house general counsel, Brad Odsen. An IT hardware replacement was delayed. The cost of the hardware and associated labour cost resulted in a saving of \$31,000. Other savings consisted of no advertising requirements, as there were no staff vacancies, which accounted for \$4,700. Lower than expected travel costs accounted for \$8,000.

Now, members of the committee, Mr. Chair, that ends my annual report presentation. We would be pleased to answer any questions you might have prior to moving on to our 2012-13 budget presentation.

1:10

The Chair: Thank you. We'll do it a little differently than we have with the others, but that's fine.

Mr. Lund, you have a comment or question?

Mr. Lund: Well, thank you very much for that overview. I'm looking at page 9 in your annual report where you talk about senior officials. I'm curious who all was brought into the net with that title, senior officials. I guess what I'm thinking of is agencies and boards that have substantial authority, that could be assessing rates, could be doing other things like that. Are they all included? I'm thinking of, like, the NRCB, the ERCB, the Utilities Commission. The list probably goes beyond that, but I am thinking of those because they have major impact.

Mr. Wilkinson: Yes. I believe they are included. The list of senior officials is determined by the government and has been consistent from year to year. It does include some senior political people as well in the Premier's office. It includes all deputy ministers and includes chairs of the agencies you talked about and some others. It also includes in some cases such as workers'

compensation all of the board members as well. We could certainly get you a complete list.

Mr. Lund: I would appreciate that.

Mr. Wilkinson: We'd be happy to do that, Mr. Lund.

Mr. Lund: I guess it would be my thinking that in some of those agencies like the NRCB, the ERCB, and the Utilities Commission it should be broader than just the chair. Anybody that has a vote on major items should be included.

Mr. Wilkinson: In those cases I believe it does include everybody.

Mr. Lund: Okay. If we could get the list, I would appreciate it.

Mr. Wilkinson: Yeah. When it comes to the Alberta Gaming and Liquor Commission, for instance, it doesn't include the board chair. It used to, but the board chair is not full-time now, so under the rules that drops the board chair off, but the president and CEO are still included.

We don't determine the list. The list comes to us. But I understand, Mr. Lund, that one of the rules regarding this is that they have to be full-time.

Mr. Hinman: Following up on that, because sometimes there's a little bit of confusion, that list you'll provide to all of the committee members or to the chair?

Mr. Wilkinson: Yes. Thank you. We'll be happy to do that.

The Chair: Yeah. If it's sent to the clerk, she can distribute it.

Any other questions with regard to this part of the presentation? Seeing none, we'll move on.

Just a note that Ms Notley has joined us as well as Mr. Quest.

Mr. Wilkinson: Thank you, Mr. Chair. Welcome, Ms Notley, and welcome, Mr. Quest.

Mr. Chair, members of the committee, to continue, our objective for the 2012-13 budget was to hold the line in expenses wherever possible. If we take a look at personnel, we were impacted by the staffing settlements this last year. Those increases were absorbed within the budget. No supplementary funding was requested. As you know, we did not appear before you for that recently. Therefore, when we look at our 2012-13 salary budget against the 2011-12 budget, we are showing the impact of two years' increases.

We're a small office, as you know, just four people. We have no vacancies, and all of our staff are eligible for merit increases within their pay grades. So for these reasons our salaries are showing an increase of 10.5 per cent for in-range merit increases and cost-of-living adjustments in compliance with the staff agreements.

A comparable increase occurs in employer contributions as they are directly related to salaries with the addition of a new health spending account that commences April 1, 2012, with an impact of up to \$3,800 for all our staff.

There is minimal change to the supplies and services budget. IT contracts will increase slightly, and hosting will decrease as a result of a one-time funding request last year to host the national lobbyist registrars' conference.

As a side note I would like to extend my thanks to the committee for, number one, allowing us to host that conference and, number two, for allowing us to use this room. It was much superior to any hotel room that we would have had access to.

Thanks to Duncan as well. I don't know if Duncan is in this room or behind me. If he's not, please pass that on to him. He provided us with great support and was always on the job. That was appreciated as well, as we were of the then Premier Ed Stelmach for being our guest speaker during our dinner at Government House. The Lobbyists Act, as you know, was his first piece of legislation, introduced by him, and certainly he was very well received by the group.

Lastly, the Conflicts of Interest Act is scheduled for its mandated legislative review, commencing in 2012. We do not anticipate at this time any funding requirements resulting from that review.

Our overall funding request for 2012-13 is \$940,000, an increase of 6.2 per cent.

Now I'd be happy to open up the floor again, Mr. Chair, to any questions that you might have, and we'll do our best to answer them.

The Chair: Okay. Anyone have any questions with regard to this? Dr. Brown.

Dr. Brown: Mr. Chair, thank you. I just would like to pass on my compliments for the way in which the Ethics Commissioner's office is operated. I think you do a tremendous job with very limited resources. You are very efficient in the way you conduct your business. Particular compliments to Mr. Odsen because what I hear is nothing but good things about the lobbyist registry. I mean, when we first implemented the lobbyist registry, there was a concern that we were generating a lot of red tape for businesses and that business would generally not be receptive to the whole idea. But I think that it has worked extremely well, and I think a lot of the credit goes to your office, Mr. Commissioner, for the way that you've dealt with private business and attempted to educate business as to how the lobbyist registry operates and attempted to use education rather than coercion as a method of achieving our objectives in making sure that there is openness and transparency. My congratulations.

Also, just one final comment and a compliment with respect to the booklet that you put out at the most recent meeting that I was at, which is very helpful. I found the informative booklet regarding gifting very useful and very informative. Thank you for the way that you conduct your office. I think it's to be commended.

Mr. Wilkinson: Well, thank you very much, Dr. Brown.

Mr. Chair, if I may respond, I want to thank you so much. Your comments regarding Brad certainly are very well placed. He's done an outstanding job. I also want to give credit to Glen Resler, on my left here. He's very helpful to all of us behind the scenes. He's worked for 4 out of 5 of the officers of the Legislature, so he knows it all, and it has certainly been very beneficial to both of us. We have a receptionist, Louise Read, who understands and performs very well. She beats almost all of us in in the morning although Glen sometimes tries to beat her record. I'm blessed with an excellent staff.

The Chair: Well, thank you.

Any other questions? No, I guess not.

Thank you. Are you going to continue with the business plan, then? Are we finished here, then?

Mr. Wilkinson: Yeah, that's it.

The Chair: Well, that was short and sweet. That was very good.

Mr. Hinman: Off the record I'll just ask him if he knows if it's ethical to have a Scottish wedding in a farmyard.

The Chair: There's nothing off the record when your mike is on.

Mr. Wilkinson: As long as the land is not provided by the Crown, you're okay.

The Chair: Mr. Wilkinson, thank you so much to you and your staff for your presentation. For your information the committee decisions on the officers' budgets will be sent out by the end of this week.

We'll take about a 10-minute break here now, I think. We'll have everything ready for us for our next one.

Mr. Wilkinson: Thank you, Mr. Chair. Thank you, everyone.

[The committee adjourned from 1:19 p.m. to 1:28 p.m.]

The Chair: Well, good afternoon. I'd like to welcome the Chief Electoral Officer and his staff to our meeting today.

Documents for this meeting have been posted on the internal committee website: the 2010 annual report, the OCEO 2012-2013 budget submission as well as the OCEO 2012-2015 service plan.

We're going to go around the table and introduce ourselves for the record, and then you'll be able to proceed with your presentation.

My name is Len Mitzel. I'm the MLA for Cypress-Medicine Hat, and I'm the chair of this committee.

Mr. Lund: Good afternoon. I'm Ty Lund, MLA, Rocky Mountain House.

Mr. Marz: Richard Marz, MLA, Olds-Didsbury-Three Hills.

Mr. Lindsay: Good afternoon. Fred Lindsay, MLA, Stony Plain.

Mr. Westwater: Good afternoon, Mr. Chairman and members of the committee. Drew Westwater, director of operations and communications with Elections Alberta.

Ms McKee-Jeske: Good afternoon. I'm Lori McKee-Jeske. I'm the Deputy Chief Electoral Officer.

Mr. Fjeldheim: Good afternoon. Brian Fjeldheim, Chief Electoral Officer.

Mr. Rhamey: Good afternoon. My name is C.J. Rhamey. I'm the director of election finances, Elections Alberta.

Mr. Quest: Hi. Dave Quest, MLA for Strathcona.

Mr. Hinman: Good afternoon. Paul Hinman, MLA for Calgary-Glenmore.

Ms Notley: Rachel Notley, MLA, Edmonton-Strathcona.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Mr. Blackett: Lindsay Blackett, Calgary-North West.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Well, thank you very much.

I'd ask that the last 15 to 20 minutes be set aside for questions from the committee. You may proceed.

Office of the Chief Electoral Officer

Mr. Fjeldheim: Thank you very much, Mr. Chairman, members of the committee. Thank you for inviting us today, and thank you for the invitation earlier to join you for lunch.

We plan to provide you with an update on the past year's activities and to update you on the implementation of the plans we presented to you last year along with a budget forecast for the year. We also plan to provide you with our plans for the upcoming year and our budget request to support those plans. Today's presentation will mirror last year's since we were planning to be election ready in this fiscal year, as we are for the upcoming fiscal year. The budget is also essentially a repetition of last year's request, with reductions due to the enumeration. I plan to focus mainly on changes from last year to this year.

We plan to provide you with highlights from the 2010 annual report, which reports on activities under the Election Finances and Contributions Disclosure Act. While the report may seem a bit dated, the committee will recall that financial statements for the 2010 calendar year are not due in our office until March 31, 2011, with a period of review and clarification following that. We plan to provide you with highlights of our service plan, with a focus on planned outreach and communications strategies. At the same time we will share the performance measures and our assessment of the past year's activities.

Last December the Legislative Assembly approved the names and boundaries of the 87 electoral divisions which will come into effect at the next provincial general election. We concluded a very busy year supporting the Electoral Boundaries Commission by providing resources through the Legislative Assembly Office for purposes of the Assembly's debate on the boundaries. Maps and online resources were finalized, with five updated names and 20 updated numbers assigned to the approved electoral divisions.

The map and list of electors review conducted by returning officers was well under way when we last met. Thirty-four returning officers had completed their work, and the balance concluded their review by March 2011 as planned. Although we explored the option of partnering with municipalities for joint enumeration activities, we were unable to proceed with that initiative. A number of municipalities conduct an online census, and there was insufficient time to revise their data collection tools to accommodate the collection of elector data. One large centre – that was Edmonton – decided not to conduct a census in 2011. Through our research, though, we found that the cost savings were negligible given the duplicated administrative costs and the additional fees to the front-line workers.

At the same time we were preparing for the enumeration, we hosted a two-day conference of Canadian election officials in May on a cost-recovery basis. Another jurisdiction was unable to hold the event as planned, and after 40 years and some discussion with our colleagues I did not want the conference to miss a year. We had election officials from most Canadian jurisdictions attend to share experiences, best practices, and future plans. Major discussion topics were e-voting research, possible uses of social media outreach activities, meaningful criteria for performance reviews, and innovative approaches for managing polling day activities.

Polling subdivision maps of the new electoral division boundaries and the lists based on those polling subdivisions were distributed to political parties in July 2011. Redistribution of electors became a real challenge in situations where only a mailing address was contained in the register. We need a spot on the ground to define a person's polling subdivision, and a mailing address – rural routes, PO box numbers, general deliveries, and so on – does not provide this. For this reason, we stressed the necessity of

collecting physical addresses during the enumeration period. This will assist us in providing information on where to vote to rural electors. This is what that looks like when it will be sent out. It's general delivery, but then on the front it will show the NW 22-84-12 west of the sixth meridian. Maintaining the accuracy of this link between physical and mailing addresses will be a challenge over time since there is no permanent connection between those two things.

1:35

In preparing for the enumeration, we developed a customized approach to specific areas. In postsecondary institutions I met with the university students' association and the postsecondary institution students' association in advance to collect input on the best means to reach students who are ordinarily resident on campus. With their assistance and the assistance of faculty administrators in 33 postsecondary institutions we notified students in residence that an enumeration booth was available through the enumeration period for those students who were unavailable to receive an enumerator at their door. The booth, which was staffed by students and managed by the local returning officers, enumerated students who were ordinarily resident at the postsecondary institution and provided information regarding voting options to students who were ordinarily resident elsewhere.

This is the poster that was designed for use in postsecondary institutions to assist students in applying the legislation concerning ordinary residence to their individual situations and to assist them in determining where they should be included on the list of electors. We were very pleased with the result of the pilot and received positive feedback from both students and administrators.

In Slave Lake we targeted places that are normally regarded as temporary lodgings such as campgrounds and motels and so on. We collected information from electors displaced by the fire for inclusion at the elector's place of ordinary residence. Elector data from Elections Canada was also included in recognition of the fact that some electors have taken up temporary residence outside of Slave Lake. With this approach electors will be placed on the list and can vote at their place of ordinary residence whether or not they have been rebuilt by election day.

We contracted an aboriginal liaison individual to assist us in developing an outreach strategy to facilitate the enumeration on Indian reserves. I contacted 56 Indian reserves by mail and followed up with phone calls. This met with limited success. In some cases our aboriginal liaison accompanied returning officers to the Indian reserves to solicit their support in allowing access and selecting enumerators. Where entry was permitted, the enumeration was conducted. Unfortunately, this was not a success in all cases. In fact, we were unable to gain access to 17 Indian reserves in the province.

To facilitate access to multifamily residences, we contacted the Canadian Condominium Institute of Alberta, the Calgary residential association, and the Edmonton Apartment Association in advance to advise them of the enumeration dates and process. Returning officers contacted building managers and owners where possible, and enumerators followed up by posting notices of the dates and times they planned to visit individual buildings. Through this three-tiered approach we did our best to facilitate access to these buildings, not always successfully, I'm afraid.

In preparing for the enumeration, we provided all 87 returning officers with a two-day training session in July 2011 and with the necessary resources for training enumerators, which returning officers did in early August. Here's a picture of one of our Edmonton training sessions. Returning officers had staff complements of between 70 and 120, so considerable focus was placed on the

recruitment, training, and management of enumerators and data entry operators.

In preparing for the enumeration, we worked with occupational health and safety to identify and mitigate the risks associated with possible workplace violence and working alone. Returning officers and enumerators provided input into these OH and S policies, which identified risks of falling, dog bites, vehicle incidents, and violence from residents. Through this process it became apparent that the OH and S concerns and requirements may be a factor in deciding whether to conduct a door-to-door enumeration in the future. Fortunately, we had no what I would call major incidents, but we did have 21 dog bites and 16 falls, resulting in 37 WCB, Workers' Compensation Board, claims filed across the province.

Returning officers received necessary supplies in early August, including prepopulated enumeration records containing elector information that was held in our register of electors at that time. The enumeration ran from August 26 to September 19, and we worked very hard to engage electors in the process. Notice was sent to all households in the province, and radio ads ran.

[The enumeration radio advertisement was played]

You may recall hearing that public awareness message on the radio. Did any of you hear that public message on the radio? Thank you. Excellent. Enumerators placed signs in neighbourhoods that we were enumerating, and that's a picture of the signs that we had. This is the card that was sent out across the province as well.

Police chiefs across Alberta were notified. Enumerators wore a prominent, uniquely numbered, eye-catching identification badge like so – they went across the province – and they carried these yellow binders like so.

In spite of our efforts to notify and engage Albertans, we faced more challenges during this enumeration than we have faced in any similar event in which I have ever been involved. Many, many enumerators, thousands of enumerators in fact, did an excellent job of collecting elector information across the province despite difficult circumstances. In some cases, though, returning officers identified concerns with enumerator staff that I certainly have never heard of before.

Returning officers used to report that two or three enumerators would quit after their training session, after beginning the job. This time many returning officers reported that 10 or 15 enumerators would quit after they had received training, with one returning officer reporting that she had 23 enumerators quit. That's about a third of the workforce that she had.

This placed a lot of pressure on returning officers, who had to recruit, train, and deploy replacement enumerators within a fairly constrictive time frame. We assisted them in the recruitment by providing a notice that could be dropped in mailboxes or handed out in high-traffic areas, outside grocery stores and so on, to try to get people to assist in helping enumerate these things, and we highlighted the areas in need of staff.

We were very pleased to see returning officers helping each other in this regard, superenumerators I would call them, who really got in and really went at it, who sometimes finished their job in one electoral division and then helped out someone in a neighbouring electoral division.

Returning officers used to report that one or two enumerators would sometimes what we call overstate the amount of work completed. This time almost every returning officer reported that five to 10 enumerators confirmed that they were concluding the work and everything was going fine, then to reveal at the end of the enumeration that they had not even started. We used to approve

extensions in a handful of polling subdivisions across the province. This time extensions were approved in 348 polling subdivisions because these were unenumerated or underenumerated.

You may recall that we also experienced the loss of three binders containing elector information. One was in Calgary-Greenway; that was left on a C-Train by the enumerator. One was in Edmonton-Strathcona; that was left on a doorstep by the enumerator. One was in Lesser Slave Lake; that was stolen among other items from a vehicle. Regrettably, the enumerators did not understand the severity of the loss and did not report it to the returning officers and our office on a timely basis. Two ex-RCMP members were hired to try to recover the binders, but those efforts have been unsuccessful to date. As a result, letters were sent to 534 addresses, 1,165 electors, to advise them of the loss of personal information: their names and addresses and in some cases telephone numbers and birthdates. We have paid for a credit monitoring service for those electors in fear of identity theft; 88 have requested this service. The risk tolerance for loss of personal information is such that providing over 6,300 enumerators with personal information and a licence to collect more of the same may not be a viable option in the future.

1:45

We're completing a formal review of the process and the results achieved, but I can tell you that this is the most difficult by far – by far the most difficult – enumeration I have ever experienced. Anecdotally we heard that residents overall and those in multifamily residences in particular are simply refusing to answer the door. Some that answered their doors refused to provide information, stating that they were not planning to participate in electoral activities. We had enumerators who were pushed, verbally abused, sworn at, ordered off properties. Again, I am most thankful that no one was severely hurt through the process.

In the future I think it's necessary to examine the means by which we update the lists of electors and our stakeholders' expectations of accuracy. As you may know, we are now one of the few provinces still enumerating. We can make adjustments to the administrative process to accommodate the reduced quality in the list, but we need to have a discussion on the need for accuracy on the list used for campaign purposes. Obviously, the legislation contemplates the use of lists for both administration and campaign purposes.

Overall, we had targeted a 90 per cent coverage rate but achieved an 85 per cent coverage; that is, we contacted electors at 85 per cent of the residences in the province. We did not include elector information for those residents we were unable to contact. We have 2,066,000 electors on the list. We expect that it's short by approximately 15 per cent, or 367,000 electors. Lori will talk more about this later. In addition, there were 112 polling subdivisions, 27,973 residences, that were not enumerated at all. For those the existing registry information was included on the list.

In some cases lists are extremely complete and current. Calgary-Hawkwood produced the best results, an average rate of 99.2 per cent versus the provincial average of 85 per cent. There were 20 electoral divisions that attained the target of 90 per cent coverage, 29 that reached 85 per cent, and 18 that reached 80 per cent. There was one that had a coverage rate of 50 per cent or less and 19 with a coverage rate between – well, it says 51 to 79. It's actually 61 to 79 per cent. We will and are definitely focusing our attention on those electoral divisions and will improve them. The list is currently much better than it was pre-enumeration. Our survey suggests it was 55 per cent correct overall based on the elector data contained in July 2011. Following our enumeration we believe the list is 85 per cent accurate.

As you may recall, we have an agreement in place to exchange elector data with Elections Canada. Their list used at the May 2011 election required approximately 5 per cent of electors to be sworn in and is currently expected to be approximately 80 per cent accurate, with 80 per cent of electors on the list at the current address. We plan to use their information in tandem with motor vehicle updates to verify addresses for no-contact electors in order to increase the coverage of our list of electors. At this point we have identified approximately 150,000 no-contact electors that could be included following appropriate validation. Obviously, we hope to increase that number as well.

We released the postenumeration list last month to fulfill our commitment for distribution in October. That commitment had been made to allow stakeholders to prepare for a possible fall election. We plan to release a further update as early as possible in 2012, which will incorporate those no-contact electors whose residential addresses can be confirmed in the upcoming weeks.

Once the data collection was completed, approximately 700 data entry operators worked from home via secure Internet connections to update the data. We had a call centre that ran seven days a week from 8 a.m. to 9 p.m. to support the data entry, and it went flawlessly following our move to an independent server. We had over 1 million hits per day for over a week, a higher volume of traffic than we've ever experienced, including on past election days. Your support of our move to the independent server allowed us to support this initiative and will allow us to reliably support voters, candidates, parties, and the media during the upcoming election.

As the enumeration and data entry concluded, we conducted election training sessions for returning officers, their election clerks, and their administrative assistants in preparation for a possible fall election. The two-day sessions provided key election staff with all the information needed to manage an election and provided the administrative assistants with hands-on access to ACES, our comprehensive election management system.

Returning officers left the training session with a pre-election shipment containing all the necessary supplies and forms to begin office operations in the first five days following the issue of the writs of election. Our objective is to deliver supplies and furniture within two to three days of the writs being issued. So pre-election kits contain the special ballots and candidate nomination papers, that may be required before the main shipment arrives, along with the telephones so that installation can begin as soon as possible.

Throughout the past year we have integrated 66,955 additions to the list received through Voterlink, our online voter registration system. Of these, 52,180 were received since lists were provided to political parties in July as a result of public awareness of the enumeration. Voterlink use continues to increase, and we will continue to expand our communications relating to this option for electors to update their elector records on a real-time basis from the comfort of their own homes 24/7.

That concludes my presentation. I'm sure there will be some questions later. Thank you.

The Chair: Thank you very much. We do have a couple of questions. It sounds like you've been working very hard.

Dr. Brown.

Dr. Brown: Thank you, Mr. Chairman. Well, a very interesting summary of the difficulties involved and the logistical and societal challenges that are involved in making an enumeration. It's quite mind boggling when you think about the difficulties that you've encountered. I wonder whether or not you have any thoughts

about the alternatives to this. You said that we are one of the few jurisdictions still conducting enumerations, and I wonder whether or not you had some thoughts regarding the responsibility of electors as citizens to get themselves registered.

Perhaps it's time to recognize that the citizenry has not only rights but also responsibilities – and one of those would be to get yourself on the electors list – and perhaps to consider some changes whereby you had an obligation to get on that register of electors before a writ of dissolution is issued and an election is called and only allow those individuals that are registered at the time that the election is called to participate in that democratic process. I know that in the United States they do require people to be registered in order to vote in an election, and the onus is placed not only on the electors but on the political parties who wish to obtain the participation of those people in the process.

I wonder if you had any thoughts, sir, about the possible alternatives, if we go away from the enumeration, in terms of how we would accomplish, you know, getting people to accept more personal responsibility to get themselves on the list.

1:55

Mr. Fjeldheim: Well, in Canada the idea of the enumeration has been state driven since Confederation, and right across the country there were enumerations conducted. In those places that do not have a nation-wide enumeration, there are target enumerations where people still go out and knock on doors. I do feel after this experience that it is something that certainly needs to be examined. In Calgary-Glenmore for a by-election some time ago a mail-out enumeration was conducted, and that had a very good success rate. So I think that is certainly one option.

I think that it would be appropriate to review the door-to-door process. The legislation now is such that it's not absolutely necessary to go door to door. It is at the discretion of the Chief Electoral Officer. Having said that, in 2004 we conducted an enumeration, and we had some problems but certainly not as we experienced this enumeration. I think that would be something worth while looking at. I think all options need to be looked at as to: what is the best way to do this in the future?

Administratively, as you, I think, all know, the municipalities do not have a list of electors, and still people, obviously, vote and elect people to those positions. I think a review has to be done as to what is really needed and what is really wanted in conducting elections and campaigns in Alberta.

The Chair: Mr. Blackett.

Mr. Blackett: Yeah. A couple of things. Thank you for what you do. It's not an easy task in changing times. I know that in my constituency of Calgary-North West there was a lot of confusion during the federal election when we had provincial enumerators out there contacting people. Could that have had something to do with some of the problems, just the timing piece?

Secondly, I'm heartened to hear about the number of 99.2 for Calgary-Hawkwood because that is part of Calgary-North West as it stands now. Last election we had, I think, almost 5,000 voters that had to be registered on election day, so obviously getting to those and making sure they don't have to go through that process again is something near and dear. I hope that Calgary-North West has a similar high number because most of the new people, the people that were missed, were in that constituency, not in the Hawkwood part, which is a little bit more established.

You said that partners have received information on the voters list and that there'll be an update in 2012. I assume that the

average person or any of those constituency associations will not be able to have access to that until the election period.

Mr. Fjeldheim: All right. First of all, the timing. Yeah, I believe the timing did have some effect, but that would not be the main problem. Calgary, for example, has a municipal census every year. They don't ask, obviously, the same things we do. We're looking at working together with them. Having said that, that has not proven to be successful. There was a leadership contest going on at that time, and people were wondering, "Why are you gathering names for this?" and so on. So there were some questions regarding that as well.

Years ago in legislation we would enumerate every year from September 15 to 30 except in an election year. That was the tradition. When it became the responsibility of the Chief Electoral Officer to set the time, I decided August 26 to September 19, very similar dates to what we had this time. That proved to be successful. That is why I stuck with those dates. I want a time when there is as much light as possible, where those people can still get out there. I know that people are sometimes still on holidays and students have not registered yet and so on. That's why I extended it to the 19th of September. We used to have two weeks; now we have three weeks. So I don't think changing that timing would have helped.

The polling day registration. The idea is that if you get on the list, then you don't have to go through this. Obviously, what we're going to be looking at is to make sure that we have enough people at the registration table on polling day so that we will not have lineups there either. That's the fallback in that regard.

I'm sorry. Your third question? I just have 2012 written down here.

Mr. Blackett: It was just on the voters list. You had mentioned that there was one available now to the stakeholders.

Mr. Fjeldheim: Yeah. That's by legislation. That goes out to political parties. We got that out. Our commitment was the end of October because, obviously, there was talk of a fall election. Now that we'll be working on this, we'll want to get a new list out, that will be available to parties, so we can run our poll books early in the new year. Obviously, we don't know when an election might be, but it's going to be sometime next year. We want to be prepared for that.

Again, we're working – I think "frantically" might be the right word – to get this list in as good a shape as we can because, of course, it takes time to run that list, and we have to get this information in and get it processed and so on.

Mr. Blackett: Thank you.

The Chair: Ms Notley.

Ms Notley: Yeah. I have a whole schvack of questions, actually. Just on that voters list, are the voters lists available or not?

Mr. Fjeldheim: Yes, they are.

Ms Notley: They are available?

Mr. Fjeldheim: Yes, they are.

Ms Notley: Okay. So parties just make a request.

Mr. Fjeldheim: That's correct. October 12 the letter was sent out regarding that.

Ms Notley: All right. I've got a whole bunch of questions arising from your presentation. I'm wondering if I could start by asking: can you provide the committee with the names of the ridings that were in the groups of 84 per cent and below and break it down by which group, which ridings, were enumerated within those percentage groups that you told the committee?

Mr. Fjeldheim: We're still doing the data on that.

Ms Notley: Well, presumably, if you've got the number of ridings in them, you know what their names are.

Mr. Fjeldheim: Yeah. We haven't integrated those last 150,000, but as soon as we have, yes, we can certainly do that.

Ms Notley: I mean, if you've got Calgary-Greenway and Calgary-Hawkwood and you know the numbers of ridings, presumably you know what their names are. When can we get that?

Mr. Fjeldheim: What we have now you can get right away.

Ms Notley: Can you give it through the clerk to all members? When?

Mr. Fjeldheim: Next week, I suppose.

Ms Notley: Really? Next week? Do you not have it now?

The Chair: I'm sorry. I'm missing it. What are we asking for?

Ms Notley: I'm asking for – was it slide 20?

Mr. MacDonald: Slide 20 right here. Enumeration results.

The Chair: Oh, I see. Yes. Okay.

Ms Notley: I want the names of the ridings in each of those categories. Okay. So we'll get that.

Mr. Fjeldheim: We're still working on this stuff. We brought those today so that we could give you an idea of where we're at.

Mr. Hinman: That's all we want, what you have to date.

Mr. Fjeldheim: We're still working on it, but we'll give you that information.

Ms Notley: Since you have the number in each category, I assume you have the names. Right. Okay. So if we could get those.

Then compared to the enumeration last time on a per-riding basis – the ridings, of course, are presumably roughly the same size that they were last time, and that's why we added the extra seats. Is that correct?

Mr. Fjeldheim: Yeah.

Ms Notley: So what is the percentage of enumeration relative to the last time we had enumeration completed?

Mr. Fjeldheim: We were about 90 last time. This time we're at 85 per cent.

Another item is that on polling day in '04 – I guess I refer to the last time we did a full enumeration – our swear-ins were very low. From that, we felt we had a very good count. But this count is not a good count.

Ms Notley: Which one? This one?

Mr. Fjeldheim: I'm being brutally frank here.

Ms Notley: No, that's my question. Yeah.

Mr. Fjeldheim: Yeah. This count. This one that we just completed.

Ms Notley: What did we pay the enumerators last time versus what we're paying them this time?

Mr. Fjeldheim: In '08 at the target it was the same. In '04 it was 56 cents a name. This time it was a dollar a name. When you went to the door you had that preprinted list. If you had two names on there and if you confirmed that, then you would get \$2.

2:05

Ms Notley: Right. So in terms of the difficulty you were having – it appeared fairly early and fairly clearly that you were having difficulty in terms of keeping quality enumerators – was there any consideration given to revising the way you paid them?

Mr. Fjeldheim: Well, I would first of all say that I think we kept the quality enumerators.

The second part is that, no, there was no provision to increase the pay at that time.

Ms Notley: Okay. Could you let us know what percentage of multi-unit residences you were unable to get access to?

Mr. Fjeldheim: No. We don't have that information, but I can tell you anecdotally: extremely difficult. Extremely difficult. Obviously, I know what the legislation says and you know what the legislation says about getting into multi-unit residential. It was just extremely difficult.

Ms Notley: I'm a little concerned about the problem with that, which, of course, is only going to grow as one hopes eventually we will ultimately move towards smart urban growth in this province, so the number of multi-unit residences is going to increase. So I'm a little concerned that I'm hearing that laid out as sort of a rationale for maybe why enumeration doesn't work as opposed to having you come to us with a plan for actually enforcing the legislation, to which you are accountable, obviously, and more importantly the managers of these buildings and the owners of these buildings are accountable to.

You know, my personal experience is that it's a big problem. I represent an urban riding, and I am very concerned that what I see is you coming here with sort of the capitulation to a chronic problem of people not following our electoral legislation versus coming to us with a clearly thought-out plan to fix the fact that we've got all these people not following the legislation.

Mr. Fjeldheim: Yeah. Well, we're certainly going to be looking at that and, of course, enforcing that legislation. We've done a great deal in our attempts at education and making these people aware of that. Of course, we had a hotline that residents could phone, and we would be contacting these managers of these multi-unit residential buildings.

In future I think you would need to include in a budget – because I certainly understand what you're saying. If someone is not obeying the law, we have to do everything we can to make sure that they do obey the law. We would have to put something in place whereby in each electoral division you would have a team of individuals, law enforcement people, who would be called in to enforce that legislation. And, in effect, in some cases you would require those people to travel around with enumerators.

Ms Notley: Well, I'm just a little concerned because we're about four to six months away from an election, and I'm surprised that we don't have a budget before us today to pay the cost of that. Not only is there the opportunity for you to very aggressively correct the clear deficits in the election list, which as we run elections now means that we have a very compromised system that we appear to be subjected to on the horizon, but also we have the need to enforce that during the campaign because there's another part to campaigning. I believe your statement was that it's not your office's job to increase electoral participation; instead, it's the political parties' job to increase electoral participation. But if you can't even get people to follow the law when you're enumerating, how in heaven's name are the parties going to get people to follow the law when they're trying to do the campaigning?

Mr. Fjeldheim: We have it planned as in '04. I can't speak for '08. I think it was handled the same way. If candidates are having trouble, then you contact us, and then we get in contact with the apartment building managers.

Ms Notley: Yeah, but clearly it hasn't worked.

Mr. Fjeldheim: And as Lori has pointed out to me here, too, we did get into a number of buildings, but we still did not get a response from individuals in the buildings.

Ms Notley: That's true, but that's not what you're telling us.

Mr. Fjeldheim: So it is not just that we didn't get into the buildings.

Ms Notley: I know, but you are telling us that you had a very significant problem getting into buildings.

Mr. Fjeldheim: We had a significant problem getting into buildings, and once we got . . .

Ms Notley: And that education didn't work because you had a lot of buildings that still wouldn't give you access. So I'm just really concerned. This is the last chance we're going to have to talk about this.

I mean, you very clearly explained to us that there is a significant number of people – as you know, demographically the majority of opposition seats right now in the province are in the centre of urban cores, so it has a disproportionate effect on them.

Mr. Fjeldheim: Well, actually, I don't know that.

Ms Notley: Well, it's the case. We can go through a map if you like. Either way, it disproportionately affects them. So we have a clear number of people not following our election laws, and you're not coming to us with a plan to fix that, and we are three to six months away from an election.

The Chair: Mr. MacDonald.

Mr. MacDonald: Yes. Thank you. I listened to those questions with interest.

I will start, I guess, Mr. Chairman, by saying that after your presentation I'm pleased to learn that Alberta cats are not nearly as aggressive as Alberta dogs, with their 21 bites or attacks. There are no cat incidents at all.

I would really appreciate, as Ms Notley has requested, the enumeration results on slide 20, where you gave us a breakdown. I believe you said that Calgary-Hawkwood was successful with a 99 per cent compliance rate.

Mr. Fjeldheim: Yeah.

Mr. MacDonald: Am I to understand that the one constituency with less than 50 per cent or around 50 per cent is Lesser Slave Lake?

Mr. Fjeldheim: No. Grande Prairie-Wapiti.

Mr. MacDonald: Grande Prairie-Wapiti. Could you please explain to us what the difference was in the process of enumeration in Grande Prairie-Wapiti when you compare it to Calgary-Hawkwood. What happened?

Mr. Fjeldheim: The management of enumerators is crucial in conducting an enumeration. When that management gets away on you, then there are problems. In Grande Prairie-Wapiti the returning officer had problems finding sufficient enumerators. Try as we might, and with all of the help that we could be, we still had trouble getting sufficient numbers of enumerators. And trying to get enumerators to help out from other electoral divisions, of course, in an area like that is more difficult. It's more remote. That, in a nutshell, was the problem.

Mr. MacDonald: Okay. Now, you have a constituency on the old map, for instance, both constituencies around Medicine Hat, where there was about a 30 per cent voter turnout rate. In Fort McMurray there was a 19 per cent voter turnout rate in the last election, in 2008. I believe there is a link between voter turnout at an election and the validity, or accuracy, of that list. That's why I would be at this point very anxious to receive the details on a constituency basis, the enumeration results from slide 20.

I know it's cumbersome, and I know it's hard to do, but I really think we need to have an enumeration every four-year cycle. The list has to be updated if we are to reverse the trend of lower and lower and lower voter participation in a provincial general election. I think your office can play a key role in reversing that trend. It's a troublesome trend.

Mr. Fjeldheim: Right.

The Chair: It seems that perhaps the cats don't bite, but it's hard herding them.

Mr. Hinman: Well, first of all, thank you very much for your work and your efforts. I guess my question is going back to the enumerators. Obviously, you have some super enumerators.

Mr. Fjeldheim: Yes.

Mr. Hinman: I guess I'm wondering about Grande Prairie-Wapiti. Knowing the area, wages are more. Do you need more flexibility to offer more money? Do you need to have a better reward incentive for areas where people go out? Is there some way, I guess, to meet the market needs by having more flexibility to adjust and – I don't know – reward in these areas where it is low? I'm just throwing out a few ideas and questions.

2:15

Mr. Fjeldheim: When people come to the door, they're not answering their door. They don't care whether you're getting a dollar a name or \$10 a name. They're not answering.

As for the idea of flexibility I'm quite comfortable working under a regulation, because I heard so many stories from returning officers, legitimate stories. I would say: "Look. I want to be a nice guy. I want to pay this person another 50 bucks. I can't because everyone has got a story." This enumerator did all this work, and

they went the extra mile. I can't say: "Oh, well, you did a good job. I'm going to pay you extra. But you just did a regular job, so you just get this." I don't want to be in that position. I don't want to be in that subjective position to do that. I'm not sure that throwing more money at this would make it happen.

As I said before, you know, you can give people more mileage, I suppose. But, again, if they drive into that yard or if they knock on that door – and that's the incentive we have here. I believe census Canada pays by the hour. I think that's a pit to do that. We give a basic fee, and then they get so much per name. These people tried hard, obviously, to get these names and so on. But, again, we had so many quit. They get frustrated. In rural areas there are more steel gates than ever before in Alberta. You just can't get in.

I appreciate what the member says in terms of apartment buildings. Yes, it is our job to get in. It's our job to get you in during a campaign. We'll do everything we can, but we're not talking about 10 or 20 buildings here. We're talking about thousands of buildings.

The Chair: I guess this segues into your budgets for the upcoming year, then, correct?

Oh, you had another comment? Okay. One more comment, then, from Ms Notley.

Ms Notley: We're talking about, you said, thousands. I'm just wondering: have any charges been laid under the act?

Mr. Fjeldheim: No.

Ms Notley: Are any planned?

Mr. Fjeldheim: Not at this time.

Ms Notley: So we have nameless numbers of apartments, multi-unit residences . . .

Mr. Fjeldheim: I'm talking duplexes and fourplexes and so on.

Ms Notley: . . . that are prohibiting access as required under the act, and there are no plans to lay charges?

Mr. Fjeldheim: Not at this time.

Mr. MacDonald: What would the fine be if charges were laid and I was found guilty of managing or owning an apartment building with 24 units in it and I did not allow the enumerator access to the residence? What's the fine in the act?

Mr. Fjeldheim: I don't know the answer to that. I see people looking here.

Also, in many cases – I want to clarify a little – we can't get a hold of the apartment owner or manager. You know, it's not like they're all living there or anything like that.

The Chair: Mr. Quest.

Mr. Quest: Thank you, Mr. Chair. Well, you obviously had a lot of issues with respect to the hiring and training of the enumerators. I can see the frustration when you've got a superstar in Calgary-Hawkwood and probably someone that's not in Grande Prairie-Wapiti. You know, there's always going to be turnover. I understand the frustration of people getting out there and the steel gates and that kind of thing, but you had mentioned that you had quite a few quitting during or right after their training . . .

Mr. Fjeldheim: Right.

Mr. Quest: . . . which, of course, is pretty expensive. Obviously, something happened in that training process that really turned them off. What do you think happened there, and what are you planning to do to change it?

Mr. Fjeldheim: Again, it wasn't immediately after the training but after their first day or two, when they got out there and found out what they actually had to do. Actually, you do have to drive around. Actually, you do have to walk. Again, when people are not responding to you, you get frustrated after a while because you get the basic fee of \$120 and then this idea of a dollar a name. That sounds pretty good until people don't answer the door and you don't get a response.

Mr. Quest: Okay. Well, you are very probably going to have to do this again, I suppose. At this point I guess what I'm asking is: what are you thinking of changing?

Mr. Fjeldheim: Well, the one thing I would change is that we ask these returning officers to manage, you know, 70, 80, 90 people. When I sit here and tell you that, you think: "Are you kidding me? Somebody manages 70 or 80 people? How can you do that?" Well, in days gone by when you had two or three quit, you could do that. If you phoned everybody once and said, "How's it going?" they would say, "Yeah, I'm doing fine; I'm about a third done or a half done." Okay. That's what would be happening.

This time we experienced that the people we did get – because it's harder to hire people than it used to be, first of all, and we just didn't get that same response. What I would do next time is that I would hire what I call enumerator managers. So for every 10 or 15 enumerators you've got, you have a manager who reports to the returning officer. Instead of this returning officer trying to look after 80 people, they look after six or eight people, who each look after 10 or 15 people. Putting in what I call another management level may help, but it is still very difficult to hire people, quality people, in Alberta to do this work.

Mr. Quest: It sounds like you need a group trip to Hawaii for the top 10 performers or something like that, a motivator of some kind.

The Chair: Okay. Let's move on to the budget, then. Thanks.

Mr. Fjeldheim: Oh, the budget instead of the annual report. Okay. Slide 36. Our budget request may seem familiar to many of you. It's essentially the same budget that you approved last year, with a few revisions. We are requesting that \$20.7 million be approved for our office. The total can be broken down into four main activities: \$14.8 million to fund the provincial general election if held in the next fiscal year. Of this, \$10.7 million, or 72 per cent, will be incurred directly as fees and expenses prescribed by the regulation. The other \$4.1 million of the election budget is for other associated costs, including freight and postage for bulk mail-outs and special ballots, telephone costs, contract services for printing, call centre and other support staff, technology services, remaining supplies and materials. And \$4.7 million to fund our ongoing annual operations, \$754,000 to fund our register enhancement initiative, and \$516,000 to fund potential by-elections.

Last year's approved budget was \$25.7 million. This year's budget request is reduced by approximately \$5 million due to the completion of the enumeration after including sufficient funds for register enhancement. This represents a net decrease of \$6.8 million; \$150,000 decrease to materials and supplies to reflect

prepurchase of election supplies; an 18.7 per cent increase to fees and expenses for election officers, for a net increase of \$1.7 million. Most of this was already approved during the supplementary funding meeting we had last month. An additional 4 per cent is requested for election workers, to reflect next year's approved increase to salaries in the public service; a \$120,000 increase to salaries and employer contributions, to reflect general manpower adjustments throughout the public service; and a \$110,000 increase to legal services and third-party advertising.

If an election is held in this fiscal year, we expect to spend the \$25.7 million approved by this committee and the Legislative Assembly. If an election is not held in this fiscal year, we expect to surplus \$12.5 million of the \$13.2 million budgeted for a general election. The \$700,000 difference will be spent on early preparations, including \$135,000 for returning officer honoraria; \$120,000 for returning officer, election clerk, and administrative assistant election training; \$150,000 for materials; \$120,000 for prepaid special ballot envelopes; \$100,000 for contracted services; and \$75,000 for wage staff.

Our budget target for '13-14, the postelection year, drops slightly from the last year's projection of \$5,480,000. Increases to amortization and by-elections are offset by decreases in contract services, technical services, general materials and supplies, and planned capital investment.

Thank you.

2:25

The Chair: Questions? Mr. MacDonald.

Mr. MacDonald: Yes. Thank you very much for that. You noted \$120,000 for prepaid special ballot envelopes. You'll have to forgive me. I don't recall that being used in any previous election. It may have been. How does that system work, and why would you budget \$120,000? Do you anticipate there will be 60,000 or, to be precise, 54,000 special ballots?

Mr. Fjeldheim: I'm going to let Lori answer that.

Those envelopes were not used previously. Of course, this will increase the efficiency in getting these out. They used to be sent out by regular mail, so we're putting more money towards that to get the ballot out quicker.

Do you have anything to add, Lori?

Ms McKee-Jeske: That's it, unless there are more questions. No.

Mr. MacDonald: Do you think you'll need 54,000 of them?

Ms McKee-Jeske: No. They come at a range of costs depending on whether the special ballots are going to western Canada, the rest of Canada, or internationally. I think the range in price – I'm looking at Drew; he dealt with Canada Post – was somewhere in the neighbourhood of \$8 for kind of the western Canada version up to, I'm going to say, about \$20 to go internationally, depending on the destination.

This was to specifically address the issue of people not receiving special ballots in time during the 2008 election to mark them and get them back to returning officers to be counted. This way we are guaranteed that regardless of where the ballot is going, it should arrive in the hands of the voter within a three- to four-day period.

Mr. MacDonald: Could you walk me through this process, please? I apply. Hypothetically the election is held on April 4 or whatever, March 4. I'm retired. I'm living in Arizona. I contact

my local returning officer or I contact your office, and I initiate this process.

Ms McKee-Jeske: Right.

Mr. MacDonald: Okay. Then you send me the ballot, and the return envelope is paid for by the taxpayers of Alberta.

Ms McKee-Jeske: I'm sorry. No. The ballot that is sent out to you is the prepaid portion. That's the part that will cost \$120,000 based on this year's budget request. What it means is that when you're in Arizona, instead of getting the ballot in about two weeks' time, you will receive it in about three days' time. We did have evidence last election that, particularly going into the U.S. and some other destinations, the special ballots would take two weeks or longer to reach their destination. The returning office, which is the office that will receive your request, will then send out your special ballot package in that prepaid envelope and get it to you in a couple of days. It's still up to the voter to choose the appropriate means of return, and that would be paid for by the voter.

Mr. MacDonald: That vote will be in the special ballot section of the official results, correct?

Ms McKee-Jeske: Yes.

Mr. MacDonald: Yeah. Is there a time frame? They have to be there by election day.

Ms McKee-Jeske: By the close of polls. Exactly. Yes.

Mr. MacDonald: Thank you very much.

The Chair: Thank you.

Mr. Blackett: Is there no way that they can make provisions for people who know they're going to be away for a certain period, to be able to get that ballot or have them access it or put some of the onus on them? Or are we restricted by the writ period, that they can only access that ballot at that particular time? Because if they know they're going to be away from December to April, and they know the election is most likely going to be called then, if they had a chance to be able to make arrangements for that themselves, then we could defray a lot of that cost and also get some participation, I would think.

Mr. Fjeldheim: It is governed by writ day. If they are going to be away, we need that request in writing or by phone or whatever. But if they leave that request with someone, that individual could bring it in to the returning officer's office: Mary and John Doe wish this to be sent to Phoenix, Arizona. They can hand that in to the returning officer. But, no, the ballots do not go out from the returning officer until the election has been called.

Mr. MacDonald: They can request that by e-mail as well, correct?

Mr. Fjeldheim: By e-mail as well, yeah.

The Chair: Okay. Any other questions regarding the budget?

Ms Notley: Well, I guess that my question goes back to my line of questioning previously. You note a reduction premised on the notion that enumeration is complete, yet it appears to me that enumeration is truly not complete.

Mr. Fjeldheim: No, it is not.

Ms Notley: How does your budget request reflect the fact that there's a lot more work to be done and, I would suggest, perhaps some enforcement work to be done?

Mr. Fjeldheim: Okay. Thank you. We have \$754,000 for register enhancement included in the budget.

Ms Notley: I was just looking at that. It's a bit confusing because we don't have copies of your slides. Which one was it? Maybe the next one, where it talked about reductions. Was it the next slide, maybe 37? Right. A \$6.8 million reduction for the completion of the enumeration: that was confusing to me.

Mr. Fjeldheim: I'm sorry?

Ms Notley: I'm looking for an explanation of the two slides because right there we're talking about – what are we stopping funding?

Mr. Fjeldheim: I'm going to ask C.J. to answer that.

Mr. Rhamey: The \$6.8 million is the net reduction. As you will recall, in our budget last year we had \$7.5 million for the enumeration. We've identified \$754,000 to keep in the budget, so we're netting that off. That's where that money is coming from. If you add \$0.7 million to \$6.8 million, that is the \$7.5 million. We realize that there's some more work to be done.

Ms Notley: Based on the conversation that we've had, do you really believe that you can make an effective effort at fixing the problem with \$700,000 given that the \$6.8 million expenditure thus far has resulted in the unsatisfactory results we have so far and given, you know, the law of declining returns? To improve the list or to get people to follow the law who have voluntarily chosen not to, there's a different process involved with getting to that point. Do you really think that the \$700,000 is an adequate amount to bring the status out there in line with the Election Act?

Mr. Fjeldheim: Yes, I do. We're looking at information from Elections Canada. I believe I mentioned that. We're looking at driver's licence information to verify addressing of some of these no-contacts. We're looking at a mail-out, as was used previously in those polling subdivisions where we fell short of our contact necessary. I believe that with that we will be able to certainly make a dent in this. We're still going to be and we are presently at just over 2 million electors on the list now. We believe that those 2 million is a good count, and that's an accurate count. It's these others that we're missing, about 350,000, that are the problem. Yes, I do feel that that amount is sufficient.

The Chair: Okay. Well, thank you very much.

Are there any other comments or questions, then, with regard to this presentation today?

Mr. Fjeldheim: Excuse me, Mr. Chairman. I appreciate that time is moving on, but Lori has a short presentation on what we plan to do in the coming year that may answer some more of your questions.

The Chair: Okay. Please go ahead.

2:35

Ms McKee-Jeske: Yes. Thank you for the opportunity to provide a very quick overview of the upcoming year's activities. Our major focus for the upcoming year is going to be election

readiness. As you can see from this shot of our warehouse, our preparations are well under way at this stage of the game.

We'll be undertaking a number of activities to ensure that we are prepared for the election. We'll be assisting returning officers in locating office space and office furniture, and we'll work to facilitate the timely delivery of office furniture and supplies to them. We'll be working with Telus to make all the advance preparations to ensure that phones and Internet service can be up and running within 48 hours of the writs of election being issued. We'll conduct training for the returning officer advisers who will be in place to provide support to returning officers across the province and who will be our assistants in the field to ensure that all the milestones are met. We're going to be assisting returning officers in identifying polling places so that they can be finalized in the first five days of the election period and advertised on a timely basis, and of course we will be making our final preparations to support campaign workers' access to multifamily residences.

Some additional preparations include the review of our forms, guides, and training sessions to ensure clarity in the direction that we provide to our election officers and other participants, particularly with respect to new procedures that result from recent legislative change.

We'll be finalizing our communications plan for the election, and that includes a generic mail-out to each residence in the province which provides election dates, voting opportunities, and so on. That goes out in the first week of the election period. A customized mail-out will be sent to each residence in the register that has a physical address component – and that provides information on where to vote – in the first two weeks of the election period.

Radio ads will be available, and they'll provide some general information as well as contact information for individuals to follow up where necessary. We'll have online support through our website that will allow users to access general information and to determine where to vote and if they are, in fact, registered and on the list at their current address. The call centre support we provide will have similar information but for those electors who prefer to contact us by telephone. In addition, we'll have newspaper advertisements providing proclamation information, polling place locations, candidate official agent information, and so on in response to the statutory requirements for newspaper advertising.

We plan to establish redundancy in Internet service. We've had a few outages recently due to hardware failure that would have caused significant disruptions had it happened on polling day, so we're planning for the installation of a backup Internet service provider to be prepared for any outages during mission-critical points in the election period.

In addition, we'll make appropriate arrangements to conduct a Senate nominee election if we are directed to do so. That entails training, development, and delivery; resource development; and review and implementation of an appropriate fee structure.

We expect our returning officers to have their offices up and running by day 2, which is a really tall order, so we place a great deal of emphasis on pre-election preparations. We need them to be prepared well in advance, to have necessary information available early in the election period. That key information we need to get out there is the returning officers' contact information; locations of advance polls, mobile polls, polling day polls; means for obtaining candidate nomination papers; and means for accessing special ballots.

As Brian mentioned earlier, we have some work to do to enhance the quality of the list of electors. We're currently looking at different options that include matching no-contact electors with

the motor vehicle files that we have access to along with other data sources, also matching our no-contact electors with Elections Canada data, which was refreshed following the federal election this year. Of course, matching those no-contact electors will allow us to accurately reinstate those electors whose current address can be verified with the data that we have access to.

Based on the success of our matching exercises, then, we would conduct a type of target enumeration in an attempt to further increase the quality of the list in those underenumerated areas. The target, as Brian mentioned, could be conducted by mail. This approach was piloted for the Calgary-Glenmore by-election back in 2009 and had considerable success. Alternatively the target could be done by dropping notices door to door in those areas where available addressing does not have both a physical and a mail component, so those addresses that are more difficult to reach by mail.

Once we have integrated available elector data to increase the coverage rate to an acceptable point, we will prepare our election resources, including the preprinted poll books, lists of electors, and the reference lists that we need in order to streamline the voting process.

We'll be recruiting two returning officers, one in Edmonton-Highlands-Norwood and one in Calgary-South East, along with six election clerks across the province to replace returning officers and election clerks who have resigned since the enumeration. They will require orientation to do their jobs and some training to manage the election. In addition, we plan to provide a one-day refresher training session to all of our returning officers in early 2012.

At the same time we're going to continue our work on the preregistration of constituency associations. Approximately 370 constituency associations will be deregistered when the old electoral division boundaries are replaced by the new ones. Parties have begun submitting applications for preregistration now on the new boundaries, those boundaries that will come into effect with the issuance of the writs of election.

Prior to the election we're going to be in touch with research companies to advise them of the new legislation regarding the publication of surveys. The new rules govern the transmission of election survey results and require additional reporting on request of sponsors' information, of survey timelines, and of methodology for the surveys. The new rules also prohibit the transmission of new election survey results on polling day. To date we've submitted information to MRIA, the Marketing Research and Intelligence Association, which has put information on its website and has e-mailed the link to members and friends of MRIA's Alberta chapter.

In addition, we're going to contact advertisers that work in Alberta to notify them of the new legislation regarding third-party advertising, which requires any individual, group, or corporation that plans to spend a thousand dollars or more on election advertising to register with our office and to file financial statements. That legislation also defines eligible contributors and establishes a contribution limit and disclosure rules for all contributions over \$375.

News releases have gone out regarding the new legislation, and political parties have been notified. Our future communications will target the agencies that provide survey and advertising services as we broaden the distribution of that message.

We've offered to attend upcoming meetings of the Alberta Urban Municipalities Association and the Alberta Association of Municipal Districts and Counties to address the topic of prohibited political contributions with their members. To date we've notified

those agencies and all political parties, constituency associations, and municipalities in follow-up to concerns received by our office.

Looking back, we had a busy year, and we'll conclude a formal review of the processes that we followed and the resources that we've produced. We will review our procedures and tools for mapping, enumeration, updating the register through enumeration and other means. We'll review our approach to recruitment and training of returning officers and election clerks, and we'll conduct a review of returning officers' performance in the areas of redistribution and enumerations. These assessments will help us to prepare appropriately for future events.

I hope that was a useful overview of our planned activities for the upcoming year. Thank you.

The Chair: Thank you very much.

Mr. MacDonald has a question.

Mr. MacDonald: Yes. Thank you very much, Mr. Chairman. I'm pleased to hear that there's going to be further training for returning officers and deputy returning officers because the conduct at one specific polling station in Edmonton-Gold Bar in the last election, in my view and in the view of many others, was totally unlawful.

However, that being said, I would appreciate a further explanation, please. You talked about the preregistration of constituency associations, both new ones, I guess, Calgary-Hawkwood and Calgary-Greenway or whatever they're called. I should know – but I apologize; I do not – how does all this work between now and the writ? If you could walk me through that, I would be grateful.

2:45

Mr. Fjeldheim: I'm going to ask C.J. to walk you through that.

Mr. MacDonald: Thanks. For fundraising for the candidates and all that kind of information.

Mr. Rhamey: Okay. In general, we sent a memo out to all the current constituency associations, that I will refer to as CAs, for all of the political parties. We've identified that the process as of the date of writ is that the current CAs will be deregistered. The new CAs of the parties will be activated. In an effort to expedite the processes, we've sent information out, financial reporting, that is required for the current CAs. Only the current CAs are active right now until the date of writ. Effective the day of writ the new CAs will become active.

We have to have a process so that we can track the financial assets currently in the CAs so that we can transfer that money. They will have the option of transferring their resources to the party or to the new CA, but we have to transfer it. From an accountability perspective if there is \$10 in the current CA, we have to be able to say where that \$10 went; \$5 might have gone to the registered party, and \$5 might have gone to the new CA. So we have to be able to say: "You started off with \$10. Where did the money go?" We can track it for accountability.

Regarding what you had asked about campaigning and receipts and things like that, only the current CAs are active right now. They can accept contributions. It's business as usual.

Effective the date of writ the new CAs will be able to accept contributions, anybody that is currently set up. We will be doing the paper registration on it, but they will not be active and cannot do anything until the date of writ.

Mr. MacDonald: To be specific here, if the Progressive Conservative candidate or the Wildrose candidate or the New

Democrat candidate or the Alberta Liberal candidate in the new constituencies of Calgary-Greenway or Edmonton-South West were to hold a fundraiser, what happens to that money? Does it go into Edmonton-Whitemud, or does it go into Mr. Lindsay's neighbouring constituency?

Mr. Rhamey: The current CAs can have fundraising activities.

Mr. MacDonald: Okay.

Mr. Rhamey: The new CAs don't exist yet.

Mr. MacDonald: Okay. Thanks a lot for that. I appreciate your patience with me.

The Chair: Thank you very much.

I don't see any other questions, so I'd like to thank the Chief Electoral Officer and his staff for their presentation today. For your information the committee decisions on the officers' budgets will be sent out by the end of this week.

Mr. Fjeldheim: Fine. Thank you.

The Chair: Thank you very much.

We'll just pause for a moment here, and then we'll get into the motions that we have to do.

Okay. This takes us to item 4(f), decisions on the officers' 2012-13 budget submissions, and the motions that we have to do. I would suggest that we pass the motions – and they have to be separate motions – in the order of the presentations that we received.

We'll start with the office of the Ombudsman. The 2011-12 approved budget was \$2,888,000. The 2012-13 budget estimate that we'll be voting on is \$3,011,000. I'll open up the floor for discussion on this. Any questions? When we spoke on this, he talked about the amount – and I don't have the numbers in front of me – but it's about a 200-and-some-thousand-dollar increase. Right?

An Hon. Member: It's \$127,000.

The Chair: I'm sorry. My math isn't very good right now.

Mr. Lund: I'll move that we adopt this.

The Chair: Mr. Lund moves that

the Standing Committee on Legislative Offices approve the 2012-13 budget estimates of the office of the Ombudsman in the amount of \$3,011,000.

Any questions?

Mr. Lindsay: Mr. Chairman, do we actually approve the budget, or do we make recommendations to them?

The Chair: We approve the budget, and that whole recommendation, as we approved it, then goes to the Legislature. It goes to the Speaker.

Mr. Lindsay: Okay.

The Chair: Any other questions on this? All in favour? Opposed? That is carried.

The next one is the Information and Privacy Commissioner. The budget estimate was for \$6,288,000. This is an increase of approximately \$500,000. Any discussion on this?

Dr. Brown: I think there's quite a compelling case made for the fact that we live in an increasingly complex world with what the commissioner called big data. There's a lot of changing tech-

nology, a lot of off-site storage of all kinds of personal information. I believe they've made a very strong case for the fact that there are some exceptional circumstances here in Alberta, things like the Health Information Act, which has different and more extensive provisions than other jurisdictions, the requirement for breach notifications, which require a lot more auditing and enforcement. So I would be inclined to approve the request as presented by the commissioner.

The Chair: Is that a motion, Dr. Brown?

Dr. Brown: Yeah, that's a motion.

The Chair: Moved by Dr. Brown that the Standing Committee on Legislative Offices approve the 2012-13 budget estimates of the office of the Information and Privacy Commissioner in the amount of \$6,288,000. Any questions?

Mr. Marz: Just a comment in addition to Dr. Brown's most eloquent case in support of that. All of these departments are locked into pretty much, with their employees, the increases other departments in government have gotten on their salaries as well as on their benefits packages, so I believe that under those circumstances it's justifiable.

The Chair: Mr. Lindsay.

Mr. Lindsay: Well, thank you, Chair. There was a compelling case made, but I really struggle with it when you look at a 10 per cent increase in budget over the last year. Looking at the projected revenues that the government has coming in over the next 12 months, I would be reluctant to approve any budget increase over 5 per cent.

Mr. Lund: My comments were somewhat the same as Mr. Lindsay's.

The Chair: Well, one of the points to remember is that it was including two new positions as well.

Mr. Blackett: I just echo Dr. Brown's comments. I understand that 10 per cent is high, but there's no other area in Alberta that is growing as high as information technology. In 2009 Alberta created between 11,000 and 13,000 jobs in information and communication technology. That goes across health care, oil and gas. It goes across a whole multitude of different sectors.

As a government we're responsible for regulation. We have to monitor that, and we have to keep on top of that. If we lose sight of that, then our protection of privacy and a whole lot of other things becomes at risk. If we're willing to do that, fine. I say that it's a good use of investment, a half million dollars to protect what could be a lot more valuable than that. It's a small price to pay.

The Chair: Any other questions?

2:55

Mr. Hinman: I just do want to say that I think we're definitely in a time of fiscal restraint. I would want to echo those members on the committee that this isn't one of those areas. They're overwhelmed with the amount of work and the difficulties in protecting information and data, and I would not want to be skimming on this when you look at the job that they have to do.

Like I say, again, as Mr. Marz has pointed out, I think half of this or more is, in fact, already tied in because of the way that we – how would I say it? The negotiations within government

employees are all tied together, and there is no real option to say: well, you shouldn't get the employee raise, but here's the money for the technology that you need. The fact, again, is that this is an area where they need two new employees. They're overwhelmed. I think you need to look at it on a case-by-case basis. I would say that they presented a very good case for the need for these funds, so I would hope that we'll pass this as they requested.

The Chair: Thank you.

Mr. MacDonald, and then I'll call the question. You had a comment?

Mr. MacDonald: Yes. I would just agree with Mr. Lindsay and Mr. Lund.

The Chair: Okay. Thank you.

I will call the question, then. All those in favour of the motion as proposed by Dr. Brown, raise your hand, I guess. Those opposed? The motion is carried.

This takes us to the office of the Auditor General. The 2012-2013 budget estimate is \$25,650,000. I'll open the floor for discussion on this.

Mr. Quest: Just some comments, I think, Mr. Chair. Again, when we're talking about these increases, I believe it was the Auditor General's department where we had a bit of a discussion on these 3 per cent merit increases in addition to the 4 per cent AUPE. Certainly, we didn't have enough time today to have some good discussion about how those decisions are arrived at with respect to these merit bonuses, but it's a concern. Then, also, the number of students that are employed: you can see where that office is becoming a bit of a training ground.

Some of these other systems audits – bridges and dams and things like that – we had some good discussion about.

Again, this has nothing to do with supporting the motion for the increase, but I'd certainly like to be on the record as requesting a further meeting, where we can maybe discuss some of these expenditures, because I'd just like to know a little bit more, especially on things like these merit bonuses. I still don't understand what they're really based on.

The Chair: I know we have to pass the budget today, and I agree with you. But we do have opportunities at any time when we have Leg. Offices Committee meetings to talk to the Auditor General and to have him come and have a good discussion with us. That's certainly a good item to do in the future.

Mr. Lund: I guess I missed this portion of the meeting. What's the \$975,000 that was approved back on October 13?

The Chair: I'm trying to remember. It was supplementary estimates that he requested, and I believe it was an initial pay increase that had been mandated, that was retroactive to January 1.

Mr. Hinman: Because of the AUPE's agreement that was signed.

The Chair: Yeah, because of the agreement that this government made with regard to the senior staff.

Mr. Lund: Okay. This came up in the other meeting that I was attending.

The Chair: This \$975,000 is included in that \$25 million, then.

Mr. Lund: Well, yeah. It looks like it was added to the '11-12 budget, so the increase is in there.

The Chair: So you add that, and then you come up to here. That's right.

Mr. Hinman: I guess I just wanted to comment because I had some side conversations with the Auditor General. Again, I think it's terminology that we're getting confused on. When you say merit or competency, what these people are doing is moving up, you know, in a six-month period. Where they're more capable, they can take on more. So they're being moved from their pay level to a new pay level not because of merit of work that they've done but because of actual competency or training that they've gone out and received, I guess a new level of training. I think that we get mixed up in this, but I think what's most important that we need to look at when we have our offices of the commissioners come in is to realize that when government signs its contracts, whether it's AUPE or whether it's the teachers, that they're working with right now, it has a domino effect. They're all tied in. All of a sudden at this point to want to chop off the tail of the dog that's left the kennel or whatever, I just have to wonder: what are we thinking?

You know, right now they're negotiating with the Teachers' Association, and it's a major negotiation that's going to have a domino effect. When the nose comes out, we've got to start to say: "You know what? We're not going to let this one out." Here we are at the last of the effect. They come in at the end of the year saying: well, we need this money because you just made this negotiation with AUPE, and all of our contracts are linked to that. I think, like I said, we've got to cut it off before it starts, not here at the end, where this isn't the tail that's wagging the dog.

The Chair: Are you prepared to make the motion?

Mr. Hinman: I'm prepared to make the motion.

The Chair: Mr. Lund, please. If you had a comment, just quickly.

Mr. Lund: Only to explain what we learned in the other meeting, that, in fact, all of these offices are in a lag. The increase occurred a year ago, and we always follow. We don't lead. We're one year behind.

The Chair: Okay.

Moved by Mr. Hinman that
the Standing Committee on Legislative Offices approve the
2012-2013 budget estimates of the office of the Auditor General
in the amount of \$25,650,000.

All in favour? Opposed? That motion is carried.

This takes us to the office of the Ethics Commissioner, a 2012-2013 budget estimate of \$940,000. Any discussion on this? If not, is someone prepared to make a motion on this?

Moved by Dr. Brown that
we approve the office of the Ethics Commissioner's budget
estimates of \$940,000.

Any questions? All in favour? Opposed? That is carried.

This takes us to the Chief Electoral Officer's 2012-2013 budget estimates of \$20,690,000. Any comments, any questions on this? We did have quite a lively discussion with the Chief Electoral Officer.

Mr. Lund moves that
the Standing Committee on Legislative Offices approve the
2012-2013 budget estimates of the office of the Chief Electoral
Officer in the amount of \$20,690,000.

Any questions? Ms Notley.

Ms Notley: Well, as I imagine you would anticipate, I have a few comments on this. I have some real issues with confidence in the degree to which the budget that's been presented to this committee can do the job that this office is primarily designed to do, which is to administer an election. I have a multiplicity of concerns, most of which I think were covered in the questions that I asked. I'm not in a position to offer up a change to the budget because, of course, you rely on the officer to come with a proposal to deal with the broad-ranging deficits that were reported to us today.

What appeared to happen was, you know, that there was a good, forthright presentation by the officer, which I appreciated, about the impediments that he was up against. Unfortunately, it seemed to sort of then deteriorate into: well, this is why we should think about us doing less in the future because it seems so hard to do it right when we try. I'm very concerned that that's the approach taken by someone who has been charged by this Legislature to ensure the health and vibrancy of the democracy we have in this province.

I cannot vote in favour of this budget because I simply am not confident that it includes the tools necessary to ensure that we have a properly administered election in the next year.

3:05

The Chair: Any other comments, discussion? I'm going to call the question. All in favour? Opposed? That motion is carried.

I'd like to mention as well, though, that just from your comments, Ms Notley, that might be a very good item to have after the election and prior to his budget meeting next November, to have a good in-depth discussion when a person can spend perhaps a couple, three hours talking about what worked, what didn't work, and what he plans to do on this, but I'm saying after the next election.

Ms Notley: A little bit frustrating.

The Chair: Well, I know.

Mr. Marz: Just a general comment going forward from here. It was raised with the Auditor General, and I'm sure it applies in a very similar way right across all government departments. That's the extra increase that you get in-year, that 2.4 per cent for incentive. I don't know about the private sector, but I would be hard-pressed to believe that 90 per cent of the employees get an extraordinary automatic – when it's 90 per cent, I'm inclined to say automatic – bonus on top of a raise that everybody gets, when I think it should be for recognition of excellence. It's something I think we as government should be looking at going forward or making recommendations on, to give this a second look. If that's what it was intended for, once it's evolved or devolved to 90 percentile getting it, I don't think it's doing what it was intended to do.

The Chair: Great.

Any other items for discussion?

Seeing none, the date of the next meeting will be at the call of the chair.

Motion to adjourn? Moved by Mr. Lindsay that we adjourn. All in favour? It is carried. Thank you very much.

[The committee adjourned at 3:07 p.m.]

