



Legislative Assembly of Alberta

The 27th Legislature
Second Session

Standing Committee
on
Legislative Offices

Friday, November 20, 2009
8:38 a.m.

Transcript No. 27-2-6

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Standing Committee on Legislative Offices

Mitzel, Len, Cypress-Medicine Hat (PC), Chair
Lund, Ty, Rocky Mountain House (PC), Deputy Chair
Bhullar, Manmeet Singh, Calgary-Montrose (PC)
Blakeman, Laurie, Edmonton-Centre (AL)
Campbell, Robin, West Yellowhead (PC)
Horne, Fred, Edmonton-Rutherford (PC)
Lukaszuk, Thomas A., Edmonton-Castle Downs (PC)
MacDonald, Hugh, Edmonton-Gold Bar (AL)
Marz, Richard, Olds-Didsbury-Three Hills (PC)
Notley, Rachel, Edmonton-Strathcona (ND)
Rogers, George, Leduc-Beaumont-Devon (PC)

Support Staff

W.J. David McNeil	Clerk
Louise J. Kamuchik	Clerk Assistant/Director of House Services
Micheline S. Gravel	Clerk of <i>Journals</i> /Table Research
Robert H. Reynolds, QC	Senior Parliamentary Counsel
Shannon Dean	Senior Parliamentary Counsel
Corinne Dacyshyn	Committee Clerk
Erin Norton	Committee Clerk
Jody Rempel	Committee Clerk
Karen Sawchuk	Committee Clerk
Rhonda Sorensen	Manager of Communications Services
Melanie Friesacher	Communications Consultant
Tracey Sales	Communications Consultant
Philip Massolin	Committee Research Co-ordinator
Stephanie LeBlanc	Legal Research Officer
Diana Staley	Research Officer
Rachel Stein	Research Officer
Liz Sim	Managing Editor of <i>Alberta Hansard</i>

Standing Committee on Legislative Offices

Participants

Office of the Auditor General.	LO-119
Fred Dunn, Auditor General	
Jeff Olson, Chief Administrative Officer	
Office of the Ethics Commissioner.	LO-129
Neil Wilkinson, Ethics Commissioner	
Brad Odsen, QC, General Counsel and Registrar	
Karen South, Senior Administrator	
Office of the Chief Electoral Officer	LO-134
Lori McKee-Jeske, Deputy Chief Electoral Officer	
C.J. Rhamey, Director, Election Finances	
Office of the Information and Privacy Commissioner	LO-141
Frank Work, Information and Privacy Commissioner	
Sophia Furtak, Manager of Finance	
Wayne Wood, Director of Communications	
Office of the Ombudsman	LO-147
Pam McHugh, Deputy Ombudsman	
Glen Resler, Director, Corporate Services	

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[Mr. Mitzel in the chair]

The Chair: Good morning, ladies and gentlemen, everyone. I'd like to welcome everyone, the support staff and our guests, to the meeting.

To start the meeting, we'll have everyone introduce themselves for the record. I'm Len Mitzel. I chair this committee and am from Cypress-Medicine Hat.

Mr. Lund: Ty Lund, MLA of the most beautiful constituency in Alberta, Rocky Mountain House.

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

Mr. Campbell: Robin Campbell, West Yellowhead.

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Ms Blakeman: Laurie Blakeman, and I just want to draw everyone's attention out that window. Is that not the most amazing and fabulous constituency of Edmonton-Centre? I welcome everyone to it at 8:30 a.m.

Mr. Olson: Jeff Olson, CAO, Auditor General's office.

Mr. Dunn: Fred Dunn, Auditor General.

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

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Thank you very much. A couple of members will be joining us very shortly.

The officers' budget materials were posted on the internal website last Friday.

A few reminders. The microphone consoles are operated by *Hansard*. Please keep your BlackBerrys off the tables as they interfere with the audio feed. The committee is hosting lunch today for the officers and their staff who are attending today's meeting.

With that, we'll move on to the business at hand. On the agenda I'd like to give notice, first off, that I'll be raising an issue with regard to attendance at the 2009 CCOLA conference under item 5, other business.

Another point. The committee clerk has advised that the minutes from our last meeting were not circulated in advance of this meeting, so this item will be removed from the agenda.

Number 2 on the agenda. Could I have a motion, please, to approve the agenda as amended? Moved by Mr. Campbell. All in favour? Opposed? That's carried.

The next item was the adoption of the minutes. That has been removed from the agenda.

Item 4, the 2010-2011 budget estimates and the business plans. We'll be receiving these budget estimates and business plans from the officers today starting with the Auditor General. Before I begin, I'd like to mention that in previous years the committee has waited to pass motions on the budgets until all of the officers have made their presentations. This has worked well during the past, and I think it's been incorporated into our agenda again.

With that, I would like to welcome the Auditor General and the CAO to the meeting. Gentlemen, we'd like you to keep your

presentation to 40 minutes or so. That'll provide sufficient time for us to ask questions at the end. Thank you. Please proceed.

Office of the Auditor General

Mr. Dunn: Thank you, Mr. Chairman. Similar to prior years we hope to be less than 40 minutes. We expect that you've all received the package that we sent down previously. It's similar to prior years. It's a three-part package which contains our business plan, the office budget, and then the presentation to this committee. It's the third part that we'll start with, so the back end of this, which has the slides in it. We will go through that presentation first, and then after that we'll be open for questions regarding the budget estimate and the business plan that we have.

I'm going to turn it over right now to Jeff Olson, who will take you through those slides. So if you've got the third part of that presentation, over to you, Jeff.

Mr. Olson: Okay. Thank you, Fred. Yes. There are about 12 slides there, and I have a short presentation with these slides. We welcome your questions during the presentation on any of the information we've provided you with.

On slide 2, our mission has not changed. It is anchored in our legislation within the Auditor General Act, and that is to identify opportunities and propose solutions for the improved use of public resources, help to improve and provide assurance on performance reporting, both financial and nonfinancial.

On to the next slide. In fact, on the next three slides I'd like to highlight some of the significant challenges facing the office. The first one, and in the nearer term, significant opportunities and challenges of this office must recognize and respond to the fiscal challenges facing the province and this government. Our number one priority will be to respond to MLAs' and Albertans' expectations of our audits to ensure that there is efficient and proper use of resources by government departments, boards, and agencies, and also advise the Public Accounts Committee on matters reported by the office, including government-wide issues.

On the next slide, slide 4, our next challenge and opportunity to this office. In some part operationally we've benefited by a slowed down economy. In fact, overall our turnover rate has dropped from 22 per cent in '07-08 down to 14 per cent in this current year. But in the subset of other staff that are experienced, our managers and newly qualified CAs, it is still not surprising that we have about a 30 per cent turnover. Therefore, the challenge must be that we continue our efforts to retain these professionals as they are the future of this office.

Then on to the next slide, slide 5. One of the other significant challenges and opportunities we have is keeping pace with changes in our environment. This office must be ready to respond to those changes, and there is a cost to that, be it the revision of programs like Alberta Health Services, be it an increased emphasis on control testing to manage risk in the stewardship of government and public resources, or be it the continuous changes to our accounting profession that new standards such as CAS, Canadian auditing standards, or IFRS, international financial reporting standards, bring. Please note that although these changes – and I'm talking about these particular standard changes – must be planned and dealt with, we do not believe that they are significant, as some others in our profession would say. This comment comes within the context of government agencies and departments. Sometimes it gets overplayed by auditors on this account. Our base is we believe it's manageable.

Turning to the next slide, slide 6, we talk about our core busi-

nesses. Our core businesses, as you know from previous reports, are the assurance work and our systems work: our attest audits, with their focus on internal controls and risks, and systems audits, that help us identify opportunities and propose solutions for the improved use of public resources.

We are targeting our office resources at the high 70s for assurance work and the low 20s for systems work. In fact, this is shown in the next slide, slide 7. As you can see when you look at the slide, which includes both operating and capital expenditures, our actual expenditures have been tracking closer to the high 70s for assurance auditing and the low 20s for systems auditing. We, of course, will endeavour to increase our system work by becoming more efficient in how we do our attest audits over the next couple of years.

8:45

For the next year we are proposing a no-increase budget over the previous year, and in fact it's a little bit less. It's about \$55,000 less. This respects the fiscal challenges facing the province, which includes the public service. For the 2010-2011 year we are requesting \$23.165 million, which can be broken down into \$23.015 million for operating and \$150,000 for capital.

On to the next slide: really, how we're going to go about doing that and the actions we are going to take. We believe we can do this no-increase budget because we're going to initiate a staff salary freeze, as announced by government, for the next two fiscal years for management and opted-out staff.

We believe we're also going to get better pricing on contracts due to the fiscal situation in the province. In fact, we've had a couple of instances – I'll just use a couple, children and family services authorities – where we were able to negotiate just recently a 9 per cent decrease for about \$33,000 on that contract alone. So we hope to keep working hard at that.

The third point there is less staff turnover. Less staff turnover means retaining high-quality staff, resulting in efficiencies and effectiveness.

Then number 4. We talked about this initiative last year in our budget in those discussions, and we're happy to report that this office worked closely with the Treasury Board department at focusing audit work on key performance measures, resulting in efficiency gains there.

Number 5. Actually, it's not on that slide, but one thing I'd like to mention is one decision we made this fiscal year that has helped out on our bottom line and will help out in the next year. Our increase for management staff was held on average to 5.5 per cent whereas typically across government increases were for management at 7.3, which is the merit plus the COLA of 4.3. So we've tried to be a little prudent on that basis.

Slide 9. We've just handed out a piece of paper on our revenue. It's a small amount. We'd like to have a little discussion with you on this. We actually brought it to your attention last year at the last budget discussions. This revenue, recognized by this office, is not used to offset our expenses but flows through to overall government revenues, so from our perspective it is only an administrative item that has to be tracked and reconciled. We've actually provided the deputy minister of finance with our revenue billing list, which accounts for about \$2.3 million in revenue in the 2010-2011 budget. We have asked him to review it to see if it makes sense to continue this practice. The policy and the regulations for this practice and any changes must be made by this committee. We would like to take some time, maybe at the end of this presentation, and talk about it with you. So if I could just leave that for now and move on to the next slide.

Slide 10. Some of you may have heard of these items at the Public Accounts meeting on Monday, November 18. Some of the highlights for the next year and what we're going to be using our money for in the upcoming reporting system audits would be the April 2010 report system audits. We'll be doing one on land titles, mortgage fraud vulnerability, with the Service Alberta department; workplace health and safety, and that's with the Employment and Immigration department; water quantity, Environment; oversight of financial institutions, Finance and Enterprise; Public Security peace officer program, the Solicitor General and Public Security; school P3s with Education.

Then the next slide, the last slide. For October 2010 reporting we're hoping to do system audits on capital planning – and that's a follow up with Treasury Board – protecting information assets, a follow-up, again, with Service Alberta; monitoring daycare and day home services, Children and Youth Services; infrastructure federal stimulus funding will be looked at at Infrastructure; and, of course, H1N1, infection control, and drug costs, Health and Wellness. I think that's it.

I'll open it for any questions. Fred, if you want to make any comments on the revenue sheets that we passed out.

Mr. Dunn: I think we'll wait until we have some questions, and I'll lead you through the discussion around revenue on: should we continue that practice?

The Chair: Ms Blakeman.

Ms Blakeman: Thank you very much. I did have two questions. I wonder what your percentage of, I'm assuming, union but perhaps it's more accurate to say nonmanagement, non opted-out staff is when you reference that part of the way you're being able to hold the line is by initiating a staff salary freeze for management and opted-out staff, appearing on slide 8 of your 2010-2011 budget. Are you able to tell me that?

Mr. Olson: I don't have the exact number with me, but I would think through all the levels of management, from the executive manager to senior manager to manager level, and the opted out will be guided by that. I'd say that that's probably 30 per cent.

Ms Blakeman: I'm sorry. That are not? Just identify what you've given me.

Mr. Olson: Just reverse it. Seventy per cent would be non. Again, I'd have to confirm that number with you back to the committee.

Ms Blakeman: So 30 per cent can be held to a salary freeze, but 70 per cent cannot.

Mr. Olson: I'd have to confirm those numbers for you. I'm sorry.

Ms Blakeman: Okay. I'll let you get back with that through the clerk and the chairperson.

The second connected piece to that is: how will these restrictions affect your succession planning aside from the Auditor General? There had been a campaign that you'd been following for a number of years to try and put that succession planning in place, and I'm just wondering how this strategy is going to affect that.

Mr. Dunn: Maybe I'll go back to your earlier one. Recognizing what we are facing, starting last year, it was my personal decision to be tough on salaries. We started last year, and we held back, and

yes, I was not too popular. But back to your point. The nature of our office is essentially professional practitioners growing in their career, and we have a competitive marketplace, where those individuals, especially once they get their designation, become both extremely valuable and portable, and they become desirable to other employers. That's why at the very high level, what we call our level 3/4, and our early manager level we have a hard time retaining them because the private sector and the public sector wants to hire them, and they offer substantially more.

We took a strategy some years ago – you might remember, Laurie – of build from within versus hire from without. It was a very appropriate strategy. It worked well, especially during the booming time, because we were hiring anywhere from 15 to 20 students from universities and then developing them through their designations: chartered accountants, CMAs, and on occasion the CGA.

It's going to be tough, no ifs, ands, or buts. It was tough last year. Some people, as I said, were not very happy. We started with some levels where we did some freezes, and that's based upon a proper performance evaluation, a proper perspective as to value to the office and to the public sector. I would expect that this year we're going to have to be exceedingly judicious in ensuring that for those that are the most valuable to the office today and its future, their performance can have some recognition for a salary increase, but it also means that in order to stay flat in total, some other salaries will have to be removed. There will have to be some turnover, possibly not voluntary, that takes place, and some of that has happened already.

We will have to just redeploy salaries within the context of that one pool or envelope within those that are the most valuable. What you do not do in the short term is jeopardize the future in two years for that department. But I believe you're all familiar with this. In any business organization and any department you're going to have to do the very same thing. Thus, there may be some individuals who have been there and have not performed as well as you might be able to get younger ones to grow to perform. You may have to make those changes. So it's going to be difficult, Laurie.

8:55

Ms Blakeman: That does affect your succession planning, doesn't it?

Mr. Dunn: Not at the most senior level. At the most senior level – and I'm certainly familiar with this from my private-sector days – they are at a position where there may be fewer opportunities externally than for the younger ones. What they stay for is, of course, the enjoyment of the work, the credibility and personal satisfaction that they get but also the pension entitlements and that, which might lock them in a little more than younger people. It's the younger people you have to be very conscious of. So it'll be easier to hold the line at the top than it will at the middle.

Ms Blakeman: Okay. Thank you.

The Chair: Thank you. For the record Mr. Bhullar and Mr. Horne, committee members, have also joined our meeting this morning.

Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. Gentlemen, let me start off by applauding the tone of your presentation, particularly in light of our fiscal situation. I'm very pleased that you're not seeking an increase, as a matter of fact even more pleased that you're looking at a modest reduction.

I would have two questions. Number one, you talk about your upcoming reporting, the October 2010. I'm just wondering. Just for my benefit – and I apologize if I should have been more aware of

this. The reason for deciding to focus on the H1N1: is that because of – I'm thinking from my accounting background – the materiality, the size of the cost to the government and, of course, all that goes with that?

My second question – and I realize you mentioned that we might get into this in more detail at the end of the presentation – is on the whole idea of the fee revenue. My concern is how that might tax your limited staff resources, particularly following the discussion you just had with Ms Blakeman.

Mr. Dunn: Okay. I'll deal with the matters that we're going to do in Health and Wellness, and we discussed this at Public Accounts on Wednesday. Health and Wellness was a very difficult audit last year with the restructuring and the amalgamation of the 16 entities, and a disproportionately large portion of our work last year was just dealing with the accounting, getting all the accounting straightened out. We have worked closely with Alberta Health and Alberta Health Services about areas that we could look at from the performance auditing that could bring value to them.

H1N1 is the most current exposure to the planning for emergency, and we thought that it would be a very valuable type of audit from a lessons learned perspective. We have agreed with Alberta Health Services that we're going to wait – I've mentioned about three segments – until the reporting has come out. Alberta Health Services is also internally going to be looking at that whole process/program and also seeing if they can establish ways in the future for better communication, better deployment, that type of thing.

George, what would we want to look at? You recognize that the pandemic planning goes back to the old RHAs. The old RHAs don't exist, and now we have a centralized group. To the extent that those former plans were in place, were understood, and could have been deployed or were deployed, we want to look at: what sort of consistency was there between the urbans and rurals and that type of thing? It's the whole planning and the communication of the planning.

Then the implementation segment of the three sections that I see, the implementation of: what changes did you have to make during the process? There's supply management, where you're going to get your supply of the vaccines at the time, et cetera, to meet your plan, so the whole implementation and the flexibility and then the communication challenge within that.

Finally, which I think is the most important piece of it, the reporting. How much did it cost? Could we have done it better, more effectively? What was the spoilage, and, the really important part, what was the effect? Did we actually gain some sort of improvements here? Did people actually avoid the flu, and were the results of Alberta equal to or better than other jurisdictions?

I did mention to the Public Accounts Committee, just to repeat myself here a bit, that I did ask my colleagues across the country if they would want to join in this. The only one that had an immediate interest, because she has received some challenge about this, was the federal Auditor General. But remember, that's the supply. They're the procurement and then supplying down to the different jurisdictions.

Other provincial Auditors General have other challenging issues on their plate right now. You're familiar with what's happening in Ontario with electronic health records and that, so they've got some other matters that they're looking at. Other provincial Auditors General have done infection control and other audits of that nature, and they feel that the recommendations made as a result of that, planning for infection control and hospital-acquired diseases, that type of thing, are valid for the H1N1 programs in their jurisdictions. So we may be the first ones to look at that.

The other one, on the revenue . . .

The Chair: Well, we'll probably wait on that.

He wants to go into that in detail. Can we hold that till then?

Mr. Rogers: Okay. That's fine.

The Chair: Mr. Lund.

Mr. Lund: Well, thank you, Mr. Chairman. Gentlemen, I'm really, really pleased with the comments that I'm hearing this morning. Obviously, you're really looking into the future and how the office can accommodate what is expected of them in both the terms of the budget and the quality of the work that you're doing, and that's by looking forward and how you can manage the people with the skills that you need in your department, so I want to applaud you for that.

I wonder if you could help me with these systems audits. Particularly where I'm looking is the workplace health and safety. As you know, we have a regulatory reform committee, and I happen to be chair of it. Robin Campbell is also a member of that committee. One of the things that we hear just over and over is that for all of the regulations, it seems like, if all else fails, the departments will use the idea that it's for health and safety. I'm really curious: with the systems audit you're going to do, what exactly does this mean as far as workplace safety?

Mr. Dunn: Okay. You're maybe more familiar than others with the department. This project has been on our plans for a while, and we want to look into that. We want to look at the effectiveness of the program. That's essentially what we're looking at for any department or regulator as they have a process or a program in place to accomplish objectives. We want to see the effectiveness of the accomplishment of those objectives and, with the expansion across Alberta in the last number of years, with construction, et cetera, how they are positioned to be able to handle their responsibility around workplace safety: the monitoring and then, in turn, from the monitoring, the enforcement of those regulations and the expectations that are to be achieved.

Actually, very honestly, we're well under way on this work right now. We'll work with the department but also the Workers' Compensation Board to see how those things mesh together to properly recognize, motivate, incent, compensate employers for good safety practices: the training of employees; the monitoring of the effectiveness of the training; if there is a mishap, what happens; the investigation of the mishap and then the follow-up on that; and then the sharing of the lessons learned. It's well under way, and we expect to be reporting through to the department probably in January. You know the process: management letters and that. From that management letter we expect that this should make its way into our April public report.

Mr. Lund: Well, thank you for that. I guess, personally, I've had some difficulty with and really, really question some of the things that they're requiring. I'll never forget when there was a batch of them that came out. Dr. Taylor was here from Cypress-Medicine Hat. He's in the construction business. I'll never forget his comment: oh, so we're going to start legislating common sense. That comment has always stuck with me because for some of these things, really, no matter what you do, there are people that are going to make mistakes and do some silly things and that on the work site. So there's that one.

Now, the infrastructure stimulus funding. I assume that that's going to incorporate some of the federal as well as the provincial?

9:05

Mr. Dunn: Exactly. Actually, we have three infrastructure-related projects. You're familiar from your background with the planning and prioritizing of infrastructure projects in the province of Alberta. We're looking at that, and that's a follow-up audit on something we reported on, I believe, in 2006. We're also going to look at P3s and the application of the process and programs that Alberta developed, and we're looking at that in conjunction with the first set of schools that were developed and reported under that P3 program.

The federal stimulus one was a result of an inquiry from the federal Auditor General, who wanted to know how many provinces – so I agreed on behalf of Alberta that we would be one of the jurisdictions; I think there are five of us altogether – will look at the effectiveness of the federal program as it was spent down into the provinces. First of all, it's important for Alberta to get recognized for what it's doing well, but also we were doing those other two programs anyway, so to incorporate the request from the federal response there on the application of the federal infrastructure spending down into Alberta – there's much more stimulus, but infrastructure spending – we thought it would be fairly easy for us to effectively carry out that audit and report collegially with our colleagues across the country.

Hugh MacDonald from Public Accounts recognizes that we've started these what are known as collaborative audits, and the first one that we have participated in was on electronic health records. We are the first jurisdiction to report. The other jurisdictions are now starting to report. You've heard about the Ontario report, and then the others will start to report in early 2010 and collaboratively across the country. A multijurisdictional comparison will be provided by the federal Auditor General, and I expect that it's in their April 2010 report.

Mr. Lund: That sounds good.

Is the federal Auditor General then going to accept your work and will not be over duplicating?

Mr. Dunn: Exactly.

Mr. Lund: Oh, super. Thank you.

The Chair: Just a comment to follow up, if I may, on that with regard to the federal stimulus funding for infrastructure. Are you going to be recognizing, as well, the Alberta partnership that's involved in a whole lot of those?

Mr. Dunn: Oh, yes. Picking up on where Mr. Lund was going, the idea is that we will look at their criteria – very honestly, we will have more criteria underneath that – to ensure that whatever was reported back on the infrastructure funding from the feds did get applied in Alberta. I see this as a very low-risk type of audit because with the amount of capital spending there was in Alberta, the likelihood of any federal infrastructure dollars going into other programs is exceedingly remote. It will just be making sure that the compliance with the stipulations is properly reported.

The Chair: Thank you.

Mr. MacDonald.

Mr. MacDonald: Yes. Thank you. Good morning. My first question centres around the value-for-money audits that the government is currently doing. Is the office of the Auditor General involved in that in any way, or is that the chief internal audit function of Treasury Board?

Mr. Dunn: You're going to have to help me out on that. I'm not familiar with exactly what value-for-money audits the province is doing. Are you talking about department program examination, program evaluation?

Mr. MacDonald: Yes.

Mr. Dunn: If they're doing that, we certainly encourage them to do that. Is our office involved in that at this point? No.

Mr. MacDonald: No. Okay. So whatever is reported in the second-quarter update as far as value-for-money audits, whatever is going on internally, the office of the Auditor General is not involved.

Mr. Dunn: We haven't participated, but we'll certainly be interested in the reporting.

Mr. MacDonald: Okay. Thank you.

My next question is regarding your April 2010 and October 2010 audits. There doesn't seem to be a topic that would be directly related to Advanced Education and Technology, but in your schedule of output costs by ministry, page 4, schedule 1 of your 2010-11 budget, the largest amount forecast to be spent when you combine assurance auditing and systems auditing is for Advanced Education and Technology. It looks to be a pattern from 2009's actuals. It's much larger even than Health and Wellness. I can understand why you would have sort of a megabudget for Health and Wellness. Why is the budget so large for Advanced Education and Technology?

Mr. Dunn: Very good question. First of all, you've got to recognize that it contains all the postsecondary institutions of Alberta. You have your four historic universities plus the two new universities, then all the colleges and technical institutions. We have looked at trying to do as little as possible in all audits but also where we can bring a cross-sector focus to certain of the challenges that the individual entities are facing within the sector.

By way of example, we have concentrated on information technology and controls. When you have 20 different entities with different interpretations around information technology, et cetera, that they should be following, we felt the department could benefit and the province as a whole benefit if there were more commonality and compatibility amongst that, in an alliance with the department's strategy about Campus Alberta. So we looked at information technology controls through all of them.

We also looked at investment management. All of these organizations have endowment funds. Looking at the effectiveness of the management of those endowment funds, could there be, again, some benefits obtained by using a government-centralized source, possibly AIMCo, as an adviser or administrator of that? We've looked at all of that.

Within the larger units we've also looked at some of the other risks which are facing those units because they're under great challenge right now for cost pressures. On their ability to sustain and maintain their controls, we've commented on certain of those organizations where there are some very difficult control matters especially in the areas of research. Can they sustain the controls around research to continue the funding in research and to comply with their funding organizations' expectations on research?

You're right. It is large, but it reflects the composition of the group.

Mr. MacDonald: Now, I also read in your general business plan

where there's a comment regarding the expectations of governing boards and board practices and how that continues to grow. It seems to be a habit or a trend of this government to shift more and more public dollars from ministries into agencies, boards, and commissions. I'm of the opinion that you don't have the resources, through my time on Public Accounts, to accurately follow the agencies, boards, and commissions that we have created through legislation. Would you comment on that, please?

Mr. Dunn: Mr. MacDonald obviously is aware of one of the biggest issues that we have facing us. Often it's said: how does your budget compare to other budgets? That's not the comparison. It's the mandate and scope which is the comparison. Alberta's Auditor General is the only province where we audit all the postsecondaries and we audit all the health authorities. If you were to compare the size of the office in Alberta and its budget with Ontario, yeah, we're larger. How could that possibly be? Ontario's Auditor General does not audit postsecondary education and has only just recently received the authority to go into hospitals. It doesn't audit a hospital program or process, that type of thing.

If some of you are looking at me a little bit strangely, it is through the legislation of the office of the Auditor General in Alberta that we are mandated to go in and audit those every year. That's the assurance and attest. It is challenging because, as Mr. MacDonald alluded to, you have diversity in interpretation as to good governance practices, compensation arrangements, et cetera. You get that diversity. What we try to do by going to all the different organizations is make sure that the public policy of Alberta, the departmental expectations, et cetera, are understood appropriately and applied and then, of course, issue challenges where we see that there is a noncompliance with those expectations. That is one of the biggest challenges that face Jeff and myself.

9:15

Although our people only travel in Alberta, we have to travel all of Alberta. Whether it be Medicine Hat College or it happens to be Grande Prairie or it happens to be a health authority, what used to be Palliser, we've got to go to all of them and handle all of them and handle every children and family service organization, every persons with developmental disabilities organization. I've mentioned two public accounts. There are 183 entities.

Every Crown corporation, every subsidiary of the Crown corporations, we have to do the annual audit. The vast majority are March: 138 out of the 183 – and I know that because I get these statements coming across my desk – are March 31. It really challenges us to be effective at times in the year and to make sure we can get it all completed because under legislation it's all expected to be rolled up and reported for the province on a fairly early reporting time frame, by June 30. That is, Mr. MacDonald, very much a challenge. And it's expected at each of the boards, since we're the legislated or mandated auditor, that we will do the audit to the expectations that they see and be efficient and effective but also of service to them. So we have a lot of demands placed upon us.

Mr. MacDonald: Thank you.

If I could get back on the list, Mr. Chair.

The Chair: Yes. Thank you.

Mr. Marz: If I could just go back to the Health and Wellness systems audit, particularly H1N1, I'm pleased that there's going to be an objective look at this program and what worked well and what could have worked better. But I'm particularly interested in how we

compare to other provinces. If I heard you right – and correct me if I'm wrong – other provinces aren't doing an audit. How do we get a fair comparison between Alberta's program and other provinces if they're not having that same objective look at theirs? What are we comparing to?

Mr. Dunn: Thank you for the question. Like I say, we will not have a collaborative audit with other Auditors General, but each province will be reporting. That is exactly the question we're going to be asking the Alberta Health Services: how are you able to compare your results? How do you know that the information you're getting from B.C., Saskatchewan, or others is comparable? Without giving away, I think, anything which is confidential, Alberta Health Services is going to be examining this whole process themselves. We're going to be following behind them. We'll probably commence this after they've done their public reporting in April, with the expectation that we can have this all finished in the summertime, just to see: how did they get that information, and is it comparable, and is it appropriate to make the comparisons, whatever it is that they draw out in their reporting? That will be one of the questions that we'll be asking and following up.

The Chair: Mr. Horne.

Mr. Horne: Thank you, Mr. Chair, and my apologies for coming in late this morning.

Good morning, Mr. Dunn. I have two questions, and I'll endeavour to be brief. The first one relates to the audit you're going to conduct on H1N1. I certainly, you know, join with everyone on the government side in welcoming that. My concern, I guess, has to do with how you are going to propose to assess the clinical effectiveness of the program. I can certainly understand questions around what the status was of pandemic planning, to what extent those plans were successfully deployed, and your interest in reporting, which, I think, is a matter of great public interest. But I guess the part I fail to see is how you would propose to render an opinion from an epidemiological standpoint as to whether the program was effective in averting the incidence and the spread of H1N1.

Mr. Dunn: Okay. When we've gone into these I'll call them nontraditional financial statement type audits, obviously we engage outside expertise. Whether it was seniors' care or whether it was mental health or whatever it is, we engage outside expertise. We work very carefully to avoid any conflict of interest. As I just mentioned, the Alberta Health Services has internally struck a group that will be looking at that same program, and they expect that they will also be engaging some outside expertise to be able to provide that type of assessment. We will look also to see if that type of a skill set can be obtained from another jurisdiction at a reasonable price to allow us to be able to the extent we can to provide some sort of conclusion around the effectiveness of the program.

Mr. Horne: Well, thank you. You know, it's a very interesting approach, and it's new, as you've suggested. I guess that, with respect, I'd say that it's potentially a severe limitation to what a report might be able to offer. You know, I'd encourage you to look at the Public Health Agency of Canada and other public health organizations which would have the capacity to suggest that effectiveness both in Alberta and in the context of how it was dealt with nationally.

Mr. Dunn: Exactly. Thank you.

Mr. Horne: Thank you very much. I guess the other thing I just wanted to ask about – and Mr. MacDonald kind of touched on this – was the question of, you know, not so much the mandate but the scope of what you're asked to do by the Assembly. I just wondered if you had any comment on the Alberta Public Agencies Governance Act, which was passed by the Assembly earlier this year, not yet proclaimed but, really, I think as the sponsor of the bill, does a lot to assist you in things like clarifying roles and mandates of agencies, boards, and commissions, establishing clear ministerial accountability and a reporting structure in terms of whether those entities are achieving their set outcomes. My hope would be that that would provide some relief for you and perhaps translate into some lesser demand on the resources of your office. But I'd be interested to hear what you think.

Mr. Dunn: I'm not sure I could accept the final conclusion, but I liked everything else up to that final point there.

We certainly have had a theme over the last five years around good governance and appropriate and ethical behaviour. We started out some years ago, you might remember, on selecting, evaluating, and training boards of directors. Following our report, which was accepted, you ended up with the McCrank-Hohol report on public agencies and that.

We also have looked at the effectiveness of audit committees and went through various presentations from a number of groups around the effectiveness of their audit committee. We looked at the effectiveness of internal audit within the public-sector boards and agencies, because internal audit provides the information to audit committees and provides it to boards, to then see if there is good, effective governance there.

Yes, I was challenged by certain organizations that what we were doing by those audits was possibly changing the relationship between what they perceived as a board of directors and their autonomy and the government itself. I always felt – I believe it would be very hard for me ever to change my mind – that all those boards and agencies are responsible to the minister, and the minister is responsible to the Legislative Assembly. I always felt that there was a connection there. The further away you got from the government, though, sometimes that connection was not always properly, from my perception, appreciated or understood.

Through the act that you're referencing, I believe that there will be a stronger understanding that these are public-sector dollars. Whether or not you end up being self-sustaining, a bank, or you end up being a regulator that receives its funding from the private sector – the ERCB or, obviously, you might remember the Alberta Securities Commission – even though those dollars are generated through the course of your conduct, you are part of the public sector, and you are responsible to the minister that oversees that organization or entity.

Back to you. Yes, I think that will help in clarifying that reporting responsibility.

Mr. Horne: Thank you.

The Chair: Mr. Bhullar.

9:25

Mr. Bhullar: Thank you. Good morning. A comment that I hear from various entities is that what the government and the ministries require is often the same information, however in a different format than what the auditor and your office require. So I guess my question is: for the sake of efficiency and to help these various agencies with their obligations to report to ministries as well as to

yourself, is there a way to better streamline the questions you're asking with the questions the ministries are asking?

Mr. Dunn: We certainly try that. The other day I met with Minister Horner, and that was along the same lines as to: do we have a continuous and the same impression? As we explained, in response to your question, obviously on the financial statements we're governed first and foremost by the professional standards, those standards that are set out by the standard setter in Canada. From the professional standards are what are expected from the central agencies – Finance and Enterprise, Treasury Board – as to policy, as to format and completeness of the statement, including things like compensation disclosure. So we start with those two overriding. Then you get to different organizations, and you start with – those of you who've had departmental experience, sometimes the department would like further information that goes beyond the numbers and the Treasury Board directives, et cetera. They want some other information.

It's that third category which can add some complexity as to why we're doing this, the frequency with which we do it, the accuracy or materiality of how we report that. We do try to work with the departments wherever we can to (a) first of all, understand why they want that information and then (b) to the extent of our having experience across the whole of the sector, work with them as to: can it even be gathered and reported? Then, continuing on thereafter, is to say, "Do you really need it? Are you making decisions from it, or is it just that you've started into a pattern of asking for this?" and recognizing the cost at the entity level to try to sustain that reporting.

So, yes, we do work carefully on that, but if the department believes that they wish to receive the detail that they think it's important for them to be able to make decisions from such as full-time equivalence, the effectiveness of students that are at the entity, if they believe that's important, then of course we take that message back to the entity that we're auditing and say: the department needs it, and here's the frequency of the reporting that they need. So we do carry down the department's understanding or requests to those entities.

It may appear, back to your question, like we're asking for it, but it really is from having worked with the department, the explanation they've given to us as to why it's important for them to receive whatever is the requested information in a format and in a time frame that they expect. We accept that it's the department's decision and authority to ask for it if they want it. We just help those organizations to be able to get their information flow such that they can fulfill the department's request.

Mr. Bhullar: Well, you know, as I said, this is an area where I've heard many stories from many different entities saying: hey, we're more than happy to provide this information; it's just that we end up providing it a few different times with a few different tweaks, and the amount of manpower that's required really is a very significant burden. So I'm glad to hear your remarks. This is an area where I would encourage as much, I guess, for lack of a better word, co-operation as possible, just so these entities at the end of the day – if they're public dollars that they're funded with, then it's in all of our interests to have some streamlining.

One other quick question. In comparison to other provinces and, in particular, actually, the federal government, I'm told we are the most audited province.

Mr. Dunn: Okay. Well, as I just mentioned before, you are the most audited by the Auditor General because of the legislation and the mandate. In all other jurisdictions the entities end up being

audited but not necessarily by the Auditor General. So if you look at the organizations that I referenced in Ontario, all of those universities are audited, but they're audited by the private sector, and they pay for it themselves. Thus the funding or the revenue stream of that university must pay for its audit costs. In this case, as you're aware, when we get into revenue, we don't charge. So those entities in Alberta, if they seem to imply that they're the most audited, they're not audited at a cost. The cost comes from the central government. It comes through exactly what we're doing right now. The budget of this office absorbs all those costs.

Mr. Bhullar: Now, following on that train of thought, is it correct that the federal Auditor General has about 30-some per cent of her recommendations actually followed up on by the federal government, whereas here I think we are . . .

Mr. MacDonald: 77 per cent.

Mr. Bhullar: We're 77, or she's 77?

Mr. Dunn: Well, actually, the federal Auditor General – and those who have served on Public Accounts have heard me mention this before – has a performance report that's very similar to ours. She does an annual performance report. I believe the last performance reporting – that's the blue-cover ones that come out there – show that approximately 40 per cent were accepted. Of course, when you accept it, then you have to act on it.

In Alberta we use categorization, classification ones, where we number them. We ask the government to accept the numbered ones, and we track all the numbered recommendations by way of the government's acceptance of that. So, yes, in the report we handed out in the previous year it was 95 per cent; last year it was 77 per cent. But we do not accept the classification in the government's responses of "under review," "accepted in principle," or "outside the purview of the Auditor General," whatever that terminology is or means. We don't accept those as accepted because what we're looking for, actually, at the end of the day is action to implement. That's the value. As much as it means that auditors across the country are issuing recommendations, some of that is of interest to media and others like that, but to me the importance is the number that get implemented. If it gets implemented, you presumably solve the problem. That's the important point.

Mr. Bhullar: It's nice to see that our numbers are higher than other levels of government.

The Chair: We have two more people on the list, and then I want to make sure that we have enough time to actually go through the revenue document that was also presented.

Mr. MacDonald.

Mr. MacDonald: Thank you. You list some significant opportunities and challenges in your general business plan. One, of course, is the 2008 reorganization or consolidation of the regional health authorities into Alberta Health Services. Certainly, your office now audits the entire system, so given that you're anticipating spending \$3.8 million on these necessary and needed audits, how is the consolidation from the nine RHAs and the other entities into one Alberta Health Services Board – how is that consolidated audit going to look? When I look at an annual report of Alberta Health and Wellness – I have two volumes now; I have one for the ministry, or the department, and then I have a separate one that lists all the nine RHAs and where they spent their money. What am I going to look at next year I guess is the easiest way of . . .

Mr. Dunn: Well, you will receive an Alberta Health Services consolidated financial statement. That's all of it put together at one time. No ifs, ands, or buts, this was a big challenge for the organization. I was with them yesterday at their audit and finance committee for the morning. Yes, they are working very hard at bringing this all together, but at the end of the day the hospitals are where they are, the activities are still where they always were. They're just bringing it together for financial reporting, and they have yet to establish their general ledger. It's been rather difficult because remember that there was inconsistency in the underlying platforms, ways in which things were being done; the people and the processes were not consistent across the province.

So they are working to develop that consistency and compatibility and able to report that, and it's their challenge that by March 31, 2010, it will be in place and we can audit all of that. But you will get a financial statement for Alberta Health Services: the traditional balance sheet, income statement, and cash flow and all that and with all the notes and disclosures. You'll have that. Then, of course, there will be the ministry, which adds the department on. There will still be a ministry consolidated statement.

9:35

You know, some people kind of dismiss the bookkeeping, the accounting, keeping the numbers in order. This is a very difficult task, and I'm not trying to say that it's all auditing. No. They have a very difficult management task. As a consequence of the restructuring there was a loss of previous senior financial people, so the continuity of knowledge is different. But they're also trying to bring about, as it's been publicly related, some efficiency and some economy: things that we have commented on before and, I must admit, expressed some personal frustration, where I saw large urban and some of the rural groups that were not learning from each other and weren't working together. You'd have one put in Oracle, and one would put in some other system. Why? Why wouldn't you put in the same system and work and learn from each other?

This, I believe, is going to be effective, and as Dr. Duckett has reported publicly, they're talking about economies, very large and effective economies on just common procurement, just drug costs, just buying it consistently amongst themselves, and common inventory management and that type of thing.

Mr. MacDonald: I have a follow-up to that, Mr. Chairman. With this new consolidated reporting there will be no way for taxpayers or Alberta citizens to determine where the money is being spent, in which region. For instance, I can go through and see on a per capita basis what's spent in the Capital health region, formerly, and what's spent in Calgary. If there's a deficit in Calgary, I can determine that very quickly. With this new consolidation taxpayers are going to have very little, if any, access to that information. Correct?

Mr. Dunn: I'm not going to agree with that, but I'm not yet convinced as to exactly how it's going to look either. The organizations themselves are trying to follow an efficient and effective thought process, and they want to follow – the terminology that they are using is activity-based accounting. That activity-based accounting wasn't taking place in the other rurals. They are trying to do that, so they expect that there will be activity-based costing coming out of – as I say, the hospitals are where they are, and the practitioners are where they are. They're going to try to do that to the extent to which it is (a) reported or (b) audited. I can't comment on that, but you can certainly ask Alberta Health Services.

Mr. MacDonald: Thank you very much.

The Chair: Ms Blakeman.

Ms Blakeman: Thanks. I have a question when we get into your actual business plan. But in the meantime, given that I'm sure if government members wanted to do it, they could change the legislation about the scope of what you have to cover, what would be the anticipated effect of doing some of these additional entity audits, say, every second year? Have you considered that? For example, if half the universities were done one year and the other half were done the other, or if half the agencies, boards, and commissions were done one year and half of them were done the other year, have you considered what the anticipated effect of that could be?

Mr. Dunn: Yeah. Those organizations would be upset. They expect to have an annual audit. Whether you want to call it Canadian tradition or just accountability tradition, after an entity has completed its fiscal year, it will present the results of its activity through audited financial information. So if what you're saying is that we should go to biennial audits of entities – entities are not struck that way. They normally act in such a way that they're going to have to report to the other stakeholders. So if you think of the postsecondaries, obviously to the minister, first and foremost, but they've got students, they've got faculty, they've got other donors, et cetera, who expect that there will be a reporting and that that reporting will be audited on an annual basis.

Ms Blakeman: I guess what I'm pursuing is the risk. What's the risk if they're not done every year?

Mr. Dunn: Well, the risk is like any other organization that is audited in the private sector. The risk is that you don't get timely information and feedback.

Ms Blakeman: So management tools, decision-making.

Mr. Dunn: If you've got a problem, it will just get worse, and it's not properly reported. You don't communicate. You will all appreciate this; this is the world you live in: timely communication is expected. So it's not only just audited annual statements. Those of you who are familiar with the public companies in the private sector, they expect quarterly statements, not so much audited, but they expect very comprehensive quarterly reports. Many of the Alberta organizations are looking at that. Obviously, ATB has just recently issued its second quarter. So they expect timely and accurate reporting.

Ms Blakeman: So we could have you do less auditing and authorize, as other provinces do, that the entities pay for their own audits through the private sector. But ultimately that costs the treasury because at some point all those universities have to come up with the extra money, or those agencies, boards, and commissions have to come up with the extra money, which is probably going to come from government.

Mr. Dunn: Well, Jeff is anxious to kind of share in the good comments here. We engage, as you've seen from our detail, about \$5.5 million, \$6 million of private-sector assistance, so we can tell you what the rates are.

Okay. Jeff, what's the difference between our internal costs, being a public-sector entity, versus the private sector? What's the difference?

Mr. Olson: I mean, they range, basically, from the level of personnel that is used, of course. You know, for the higher level partners it's quite different. On average for us to do an audit, it's 20 to 30 per cent more cost-effective than having an external auditor do it.

Mr. Dunn: Twenty to 30 per cent lower rates. It's more effective. And I come from the private sector.

Ms Blakeman: Thank you for sharing that.

The Chair: Okay. Thank you. I think that quite nicely segues almost into this discussion on potential revenue. Were you going to make some comments, Mr. Dunn, on this matter?

Mr. Dunn: Yes. This has been a historic practice of the office. Again, we have struggled as to exactly what was trying to be achieved here. First of all, we understand that there is some challenge on government-owned commercial business organizations. The easiest one to pick on is the Alberta Treasury Branches. It clearly competes with other privately owned banks. Thus, for purposes of comparability and to address the challenge that that organization must pay for all of its costs, not receive government subsidization, you should charge those organizations a fair, competitive fee.

So things like Alberta Treasury Branches and, possibly, the WCB. We've also had those that sustain their own source of funding. The Alberta Securities Commission, ERCB, and we run into one which is a bit of an anomaly, like the Alberta Gaming and Liquor Commission: they receive all of their funding from external sources, non public-sector dollars, if you think of it as taxpayers' dollars that don't go out to them. You end up with some quasi ones, ones such as Alberta Agriculture Financial Services. That one receives some grants but also has a whole banking operation because it makes loans, which those of you who are in the farming community rely on. It does insurance and receives premiums and all that. So we run into the challenge: who should we be charging a fee to, and do we properly understand the purpose of it?

Other ones I've looked at and said that I think this is really just money going around in a circle. When you look at the pension funds in an organization like APS, the Alberta Pensions Services organization, any monies that we charge to them gets allocated back into the pension pools and comes out of those pools and takes away assets and moves them back over to Finance and Enterprise, so really all you're doing is moving slight amounts, mind you. You're moving down those assets which should be there earning interest to pay the liability. So to the extent that we charge them fees, we increase their deficiencies. It goes around in a circle.

So why are we doing this? As you can see, it's a long list of little numbers. With long lists of little numbers come people keeping track of time and trying to angle into these rates and how much really does a level 3 in our office cost and all that sort of stuff. I've used the term: it's just round dollars. It goes around in circles. As you say, it does impact our budget, as you know. You vote the total cost. This number comes down at the bottom, and it goes over to Finance and Enterprise. That's why I check with the deputy minister, because that would be revenue that Finance and Enterprise would not receive. But it's essentially a revenue that comes from the various controlled entities that we charge this fee to. This was probably discussed back in the early to mid-90s, doing some of this, and we've fallen into a habit and a practice of doing this activity.

9:45

The Chair: Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. That answers my question, Mr. Dunn. Thank you. It would seem to me, then, that based on your answer and, certainly, the nature of the entities that you're auditing, it would be desirable for us to continue this practice. My first thought was that, challenged as you are, maybe we should be looking to get out of those, but I certainly wouldn't be recommending that at this stage.

Thank you.

Mr. Horne: Actually, my question is not specific to this chart, Mr. Chair, so if you want to put me on the list for later, that's fine.

The Chair: Mr. MacDonald, you had a comment on this?

Mr. MacDonald: Yes. Now, I'm looking at this, and your revenue recognized in 2009-10 is going to be, like, \$650,000. You're leaving off all the Health and Wellness audits that you did previously as well as the pension plans, and I would assume that's because of AIMCo, correct?

Mr. Olson: If I could clarify that, what you have there is that the 2008-2009 is the most complete list, where you have a full year of what transpired, and it ties into our financial statements at over \$3 million. The one that you're looking at, 2009-2010, is as of November 10, 2009. Really, for some of those organizations like the ones you mentioned, the pension plans and that, the fee hasn't been determined or received or whatever, so it hasn't come into play on this sheet. We're predicting, though, that when all that gets done, for this 2009-2010 it'll be something over \$2 million. So it's a snapshot as of a certain date. To get more of a feel, really, of what the dollars are, you have to look at the 2008-2009 less what the Health and Wellness piece is because they are no longer, as you stated, charged or billed.

Mr. MacDonald: So you will be expected to operate your office with \$1 million less in revenue?

Mr. Dunn: I need to clarify. This doesn't affect the budget. When you vote, you vote on the total of our costs. This revenue does not come to our office. It doesn't offset our costs. It doesn't do that. It goes to Finance and Enterprise. It does not affect the operation of our office.

Mr. MacDonald: Gotcha. Okay. Thank you.

Mr. Dunn: Just picking up on the one on Health and Wellness. When we addressed this briefly with this committee last year, I proposed that we were not going to charge Health and Wellness. Historically we had charged the regions because certain of the regions had not engaged the Auditor General; they'd engaged another organization. Because of the noncomparability with an RHA having their own external auditor and having to pay for it and the office of the Auditor General if it did not charge, there was going to be inconsistency. So we only charged the RHAs in order to make them consistent with those that engaged their own external service provider. When it all came together, I said: why should we be increasing Alberta Health Services' costs? It was, as I say, a very large number. We would have billed them over \$2 million last year. Why did we need to increase the Alberta Health Services deficit with a cost over to Finance and Enterprise? We agreed with Finance and Enterprise not to charge them.

The Chair: Mr. MacDonald.

Mr. MacDonald: Yes. One final, quick question. Under Advanced Education and Technology the University Technologies International Inc. project was ceased. That's a corporate or a commercial enterprise spun out of the University of Calgary, is it not?

Mr. Dunn: Correct. Yeah. That was Calgary's way of commercializing research. They had set up a commercial business enterprise to market, to try to commercialize the research done by various professors and look to obtain revenue. Since it was a business entity, it ended up with a charge. The University of Alberta hasn't done it that way, so we don't charge.

Mr. MacDonald: Okay. Thanks.

The Chair: Mr. Horne, you said on an unrelated item. That's fine. If there are no other questions with regard to the revenue here, we can move on to that.

Mr. Horne: Okay. Thank you, Mr. Chair. I don't want to belabour the point, Mr. Dunn, but I want to understand. We talked earlier about the impact or potential impact of the Alberta Public Agencies Governance Act. Two things. One is in reply to Ms Blakeman's question. At some appropriate point in the future I'd be interested in seeing the calculation that determines that the cost is 20 to 30 per cent less to have your office perform the audit. I'm not asking you to lay that out for us now, but that would be helpful to me in the future, particularly if you can confirm whether we're talking about identical audit plans for these entities or whether or not, perhaps, they differ.

I guess that just in terms of the act, you know, as the person that sponsored the bill, I did look at some of your previous reports, and I recognize that many of the things that are now enshrined in legislation were actually things that you had very appropriately, in my view, recommended in management letters to these entities over the years. We talked about some of them earlier: the clarification of roles and responsibilities, the principle of ministerial accountability, the requirement or necessity to look at things like code of conduct. I guess what I don't understand is, with those things now enshrined in legislation, how that would not assist you. In fact, in the law there is a mechanism to determine compliance with that legislation through government. How would that not sort of lessen the burden on your office going forward with respect to the scope of the audit that you need to perform?

Mr. Dunn: Well, I certainly hope it will lessen it. You know the proverbial saying: proof in the pudding. Let's see them implement it. That's all we will be doing now through the legislation. It's just like any other piece of legislation. Do they respect it, understand it, and comply with it? That's all we do: audit against it for compliance with it. We will be doing that very same thing. What you're saying: I hope that's right. If they all do that, it will make the organizations, in my opinion, better governed and lessen problems.

Mr. Horne: Thank you.

The Chair: Thank you very much.

Are there any other questions for the Auditor General?

Ms Blakeman: Well, was the Auditor General planning on going through his business plan, or have we had your presentation?

Mr. Dunn: We've had our presentation. We've taken it as read. If you have any questions, we'll certainly be willing to answer any questions.

Ms Blakeman: Okay. On page 8 of the business plan I'm looking at performance measure 3(f), in which the pass rate of students in professional accounting programs compared to the national average rate in the last actual was below the national average, at 63 per cent, and of course your goals are to exceed the national average. I'm wondering: what do you attribute this to, and how do you plan to achieve your goals?

Mr. Dunn: Okay. It's the first time we ever fell, I believe, below the national average. It comes from two sources. I'll try to be very careful in my words here. When the economy was very, very hot and there were lots of opportunities for university graduates, we had difficulty recruiting top graduates. We recruited very honourable people and people who were looking to continue their career, but many of them were not as strong in the English language as others in the past, so we've had a challenge within our office to improve language skills as well as accounting and auditing skills. We provide extra training in these areas because we don't believe it's the students' lack of knowledge but how they communicate that knowledge and experience. Also, we try to guide them in their career paths as much as possible. Some challenge the exams maybe too soon than they really were prepared for. This year we should have 17 or 18, and we expect that it'll be a very good test as to what we've done in our English as a second language training and things like that to handle that, to improve that.

Ms Blakeman: Okay. So you identified some of the areas for improvement, and you've put plans in place that are hopefully going to help you with that improvement, and now we just wait to see whether you were successful.

Thank you.

The Chair: Are there any other questions?

Okay. Then, I'd like to thank Mr. Dunn and Mr. Olson for your presentation and also your answers, and I thank the committee for their questions. The committee decisions on the officers' budgets will be sent out within the next week. Thank you very much.

We'll take a break here, and we'll reconvene at about 10:05.

[The committee adjourned from 9:55 a.m. to 10:05 a.m.]

The Chair: Well, ladies and gentlemen, I think we'll reconvene and welcome Mr. Wilkinson, Mr. Odsen, and Ms South to our meeting. We're going to go around the table and introduce ourselves for the record. I'm Len Mitzel from Cypress-Medicine Hat. I chair the committee.

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

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

Mr. Campbell: Robin Campbell, West Yellowhead.

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Ms Blakeman: Laurie Blakeman. I'd like to welcome you all to my fabulous constituency of Edmonton-Centre.

Ms South: Karen South, senior administrator, office of the Ethics Commissioner.

Mr. Wilkinson: Neil Wilkinson, Ethics Commissioner.

Mr. Odsen: Brad Odsen, general counsel to the office of the Ethics Commissioner and Lobbyists Act registrar.

Mr. Horne: Fred Horne, MLA, Edmonton-Rutherford. Good morning.

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

Mr. Bhullar: Manmeet Bhullar, Calgary-Montrose. Good morning.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: As I said, good morning. I guess we'll get started. Please proceed with your presentation. We'll ask, perhaps, to try and leave 20 minutes or so for questions and answers at the end. I'll turn it over to you.

Office of the Ethics Commissioner

Mr. Wilkinson: Sure. All right. Thank you, Mr. Chair and members of the Legislative Offices Committee. It's a pleasure to be here this morning to give you a presentation and also to answer any of your questions.

You know, in thinking back, I was here last year at this time, one day after I was brought into office, so it's a bit of an anniversary for me. It was very meaningful then, particularly because of the people who were there. The job has been really very meaningful to me as well throughout the year. It's certainly an honour and a pleasure to be able to serve the members of the Legislature, to help administer acts, to work with these fine people, to work with you and the senior officials and beyond that. So thank you very much for that.

Our team is different from the team you saw last year, and our team will be different when we come to see you next year. Noela Inions, QC, was here last year. Remember, she was registrar, but her secondment came to an end on March 31. Brad told me as he went through the books of the lobbyists registry that she, working along with Karen, had brought the registry forward, the website and the accompanying materials, to about 80 per cent completion.

Then Brad joined us, also a QC, on May 4 of 2009. By the end of June he had fully completed the work on the website and began testing during the months of July and August. We were certainly very pleased when he came to us the middle of August and said that the website would be completed and up and going by the end of September, which, really, in many ways was ahead of time. So on September 28 the act, the amendment, and the regulations were proclaimed. The website was up and running and, of course, is still running and doing quite well. According to the records in our office it came in under budget and also ahead of many expectations as far as time is concerned as well.

But every IT project, you know, does have its glitches, has its little ins and outs, any one you've been involved in. They always have, and this one is no exception, particularly for the week of November 4. Brad has worked extremely hard along with the developer and along with people using the website to make sure that those were resolved very, very quickly, and he certainly has done that.

In addition to bringing the website up to date, I should say that Brad has been speaking about the act and about the operation of the registry as well. At the rate of about four presentations on average per week, the total so far now is about 28, and they're ongoing, I want you to know. He will be speaking to the chamber of commerce and their members in Fort McMurray next week. The attendees so far have been around 500, and of course that will continue to climb as well.

Now, since the inception of the office of the Ethics Commissioner, going right back to Karen, who was there before the first Ethics Commissioner, we've always had the attitude that we were here to help. Brad, of course, willingly took on that approach, and it's one of his guiding principles as well. Since early September, because of people just wanting to register and comply with the law, plus the few other little glitches that we've had, he has been averaging 20 phone calls a day and about 15 e-mails per day as well. Each telephone call has taken about 10 to 15 minutes. It's from lobbyists, and it's from others just seeking information on the act. But from our observations we want you to know that he's dealt with all of them personally, dealt with all of them directly, and satisfied them extremely well, given them a high level of personal service. If you've received any feedback, we'd love to hear it, but certainly what I've received is that they haven't seen a registry in the past that has been up and running so easily, so quickly, with so few glitches and such good feedback from the people that are using it.

Quickly, I've got just four e-mails from customers of the lobbyists registry that I'll just read to you. The first is from the Enmax Corporation:

Hi, Brad. I'm very sorry we were not able to meet with you when you attended Enmax in September and briefed us on the AB Lobbyists [registry] requirements but everyone was very pleased and thankful you were able to do so.

From the Alberta Chamber of Resources:

I . . . wanted to thank you again for spending the time with us yesterday afternoon talking about The Lobbyist Act and the [registry] process. I came away with a greater understanding of the Act than I had prior to the discussion – certainly the "light bulb" was turned on for me.

This is from the Motor Dealers' Association: "Perfect, thank you for your assistance every step of the way, Brad."

Lastly, from the Canadian Association of Petroleum Producers: "Thank you very much for this clarification. This is exactly what we needed."

Well, now going over to the ethics side, as you know, Karen will be retiring. This is her last meeting, by the way. We'll be coming back in, of course, February for the annual meeting, but this is the last budget meeting. You can see that she looks so sad. She is retiring on April 9, 2010, which is her birthday. You wouldn't believe it although some of you have known her a long time and will understand that she's been with the office of the Ethics Commissioner as chief administrator for 18 years. She was there even before the first commissioner and will have been a member of the public service for 34 and a half years when she retires. Just an outstanding career. Yes. [applause] Thank you. She deserves it. We're going to miss her.

You know, as always she is doing her job extremely well. She's very diligent. She's preparing a succession plan, and it's well in place. She's ensuring that all her advice subject files are up to date, her databases are where they should be, and all the information that revolves and encompasses all facets of her office are up to date and ready to read and proceed with and all the policies are in place. She wants to ensure – and we want to, and I know you do – consistency and a high level of quality service for our clients. Of course, that would be you.

Talking about some presentations, both Karen and I as observers have attended some of Brad's presentations, but Brad also comes along with us as our chief counsel. We were very pleased to have him along when we did some of our presentations. One was with all the caucuses regarding private interest. We also met with delegations from Russia and from Shanghai. I've spoken to the School at the Legislature a couple of times and will continue to speak to them. Of course, we have many informal discussions and disclosure meetings as part of our regular business.

Getting back to the transition, by the way, I should tell you that the position has been advertised for Karen's replacement. We have gone through the first round of interviews. The second round takes place this afternoon at 1 o'clock. We anticipate the new recruit coming on early in 2010 so that they can work with Karen and receive a full orientation and information so that we will have a turnover that is as seamless as possible. We're looking, of course, for the skill sets that Karen has because Karen has it all, but we're also looking for a good fit not just with us but a good fit with you folks as well. This is a very personal business we're in, and we deal with a lot of you from time to time on a very personal basis.

Getting away now from presentations and recruitment and on to the business plan, there's one item I want to draw your attention to there. That is the item around the Alberta Public Agencies Governance Act, which has not been proclaimed yet but will be soon. We anticipate having a further role in code-of-conduct issues regarding the agencies that are covered under that legislation, which would be the agencies, boards, and commissions.

10:15

We're not just sure at this point what our involvement will be. Many of the larger ones will set up their own process. We're dealing with breaches of their own code of conduct, but in those cases many of them will want us to be the court, if you will, of last resort. Some of them that don't have that system probably will call upon us for more advice and may call us to do some investigations as well if and when that ever occurs.

Despite that, when you go to the budget, I want you to know that on the first item, which deals with personnel, we have not anticipated any increase in personnel. Anything that comes from them we will handle. It's certainly our intention to handle them through the existing staff that we have, but if the volume gets too large, of course, we will come back to you with extra information.

On personnel this item is down from the budget last year by \$25,000. I want to assure you that in line with the government there is no increase in staffing anticipated in 2010-11. No bonus payments will be paid. No cost-of-living adjustments will be paid. There'll be no merit increases for management or staff. We do have in there potential vacation payout allowances added. There was an amount increased to reflect the commissioner's option to receive payment in lieu of a vehicle. Because I'm driving my own vehicle and receive that payment, that has resulted in even greater savings elsewhere in the budget.

We have \$500 for each employee in a learning account, and the staff has indicated an interest in participating in continuing education. I haven't looked at exactly what they're thinking of doing. I have not approved those yet, but I expect we will. That money will not be spent if those programs do not go forward.

Under operational expenses we have several items here, the first one being travel. That's the same as last year's budget. Given the small staff that we have, we feel it's really important to keep contacts outside the province and outside our office, so out-of-province travel will still proceed. The registrar has been making presentations primarily in Edmonton and Calgary, but we'll reach out as well to other communities. We talked about Fort McMurray just a while ago. The commissioner also wants to accept more speaking engagements, and if you have any suggestions, let me know. I spoke to the Rotary Club a little while ago and will continue my participation as well in the Institute of Corporate Directors and also in Toastmasters.

The second item under operating expenses is advertising. This is down \$7,000 over last year's budget. The money budgeted here was primarily used to recruit admin support and the registrar position.

We are retaining an amount in this code as a contingency because we might want to put out a notice to lobbyist registrars who haven't registered just to remind them that they need to do that or if some of them may have noticed for some reason that they even have to.

On telephones this is up \$2,500 over last year. In order to keep staff connected at all times, management will be provided with BlackBerrys or equivalent phones.

Technology services, the next item here, down last year in the budget by \$5,000. The amount noted last year was based on the possibility of a charge for SuperNet, and that's why you see the expenses down. The reason for that is we did not have to pay for SuperNet. It was free to us. We're not certain what charges might be incurred for switching our accounts to Internet. That's why the item overspend last year is up.

Material and supplies, same as last year's budget. Last year's single factor in the spending reduction was the fact that I did not – and this is where the savings come in from my driving my own vehicle and my decision not to accept a vehicle lease, which eliminates the charges for gas, repairs, and expenses. We have maintained the same amount in this category in order to ensure that we have sufficient funds for small item purchases such as replacement printers and, if need be, workstations. If we do not replace the workstations until 2011-12, the forecast will be for 2010-11 and, again, less than budgeted. We will not spend the money if it's not needed.

Under contract services there are five items here that I'll talk about. This is the largest single item outside personnel, as you can see. The category encompasses a wide range of services. We routinely budget for services that we may or may not require, but we believe, the three of us, strongly that we should have the funds available to do that. This is nothing new. We've done this every year.

Under legal services the proposal for legal services is \$85,000, and the most significant potential expense is for outside legal counsel. Ethics has retained an amount in this category every year, as you know, to ensure that if any investigations require special legal expertise, the funds will be available to contract for those services.

On the lobbyist side the registrar's decisions – and this is new, and it's in the act – are subject to judicial review. We want to be assured that we have the funds to cover those costs if and when we need them. If we have no need for these services, the funds, as in other years, will be returned. We did use some funds in this fiscal year for outside counsel with respect to a judicial review of a decision involving the Information and Privacy Commissioner, and all legislative officers sought and received interview status.

Item 2 under contract services is IT support, budgeted at \$56,620. As we explained last year, we issued an RFP for outsourced IT support services for our office. The resulting RFP gave us a contract with a company called Long View, which is significantly less expensive than budgeted, and we're certainly extremely pleased with their service. You know, the staff without my encouragement go out and look for ways to save money. We do expend money, but they look for ways to save money at every turn. We have included an additional amount of money for services over and above our contract, and that's in the contract. This will include both general IT and registered related services outside our existing contracts.

Registry maintenance and website hosting. That's the third item under contracts. We have moved our website hosting from the LAO to our lobbyist registry developer server. This includes two websites. Our contract covers both service enhancements and upgrades to the registry and website hosting, \$30,000 there.

Item 4, HR and financial services support. Our contract with OIPC, the office of the Information of Privacy Commissioner, ceases

at their request on December 31, 2009, so we have engaged the services of an HR specialist on an as needed basis. We have engaged also the services of a CA, chartered accountant, to provide support on a regular and on an as needed basis for our accounting needs. We've also requested the assistance of Service Alberta in preparing our accounts payable, but we're really not sure what the costs will be there. We have also trained our staff to take over some of the functions, and this is in the area regarding images.

The last item, number 5, contract services. We have provided \$10,000 for media and public relations assistance should we decide to pursue professional publications. There may be other reasons that we need them throughout the year. We did not use the amount included last year for website development as the redesign of the lobbyist site was included within the maintenance and hosting fees we paid to the developer.

Under equipment, as we leave contract services and go to a new heading, our workstations would normally be scheduled for evergreening early in 2011. We have chosen not to replace the equipment in the 2010-2011 budget cycle. The server that supports the general office is also scheduled for evergreening early in 2011. It may need to be replaced due to memory capacity issues, possibly. If that occurs in 2009-2010, no funds will be extended in 2010-2011. The server that supports the registry will be due for replacement in the fall of 2011. We would replace, if necessary, the registry server in the 2011-2012 budget cycle, but we will determine whether the workstations should be replaced in 2011-2012.

10:25

Other issues we have. Our office lease expires March 31, 2011, and we must notify Infrastructure, as you probably know, early in 2010 so that they can look for a suitable site for us. You know, those of you that have been in our office know that it's a nice office, but it does have some challenges spacewise, so we'd be interested in relocating to help meet our growing filing needs, to give us some space for meeting with our out-service contractors, some space for them to work, and some space in our boardroom as well for meetings, et cetera.

That completes the information on our budget, and all three of us are pleased to answer any questions for you. I hope that has been of some help.

Over to you, Mr. Chair.

The Chair: Thank you very much, Mr. Wilkinson.
Ms Blakeman.

Ms Blakeman: Thank you. I actually have four questions, but maybe I'll start with two and go back on the list. My first question is that there are no performance measurements included in your presentation. I'm wondering how the office assesses its success, identifies its risks and also the areas that are needed for improvement.

Ms South: We've always had difficulty establishing performance measurements for our office. It's certainly easy, as we put into the annual report this year, to say, for example, that all MLAs filed their disclosure statements on time, that all senior officials within the past year filed their disclosure statements on time. Those kinds of measurements are very easy to assess.

It is far more difficult to assess how effective our office might be in terms of public perception, perhaps, of ethics in the parliamentary system. I know that there has been a recent article by an academic from central Canada who has suggested that the conflict of interest commissioner offices have had an effect.

I don't know what exact performance measurements we could put in our reports that would demonstrate that other than the fact that we don't have as many investigation requests as we used to have. We did put some performance measurements or some types of measurements in the annual report, including our response to specific issues relating to advice to certain senior officials or members to deal with investments and how those responses were received and how quickly they were dealt with. We did put in the annual report, as well, some measurements in terms of how long it takes us to respond to requests.

Other than that, we've always struggled.

Mr. Wilkinson: One of the questions, Ms Blakeman, that we asked the interviewees was: are they familiar with working with performance measures? We have three left to hire, and all of them said that they have, so they may have some ideas that we haven't thought of for performance measures.

Brad has been thinking about performance measures, and maybe his side, the lobbyist registry side, lends itself more to measures. Brad, do you want to comment on that?

Mr. Odsen: Thank you, Mr. Commissioner. I have been giving some thought to some of the kinds of things we might be able to do with the lobbyist registry down the road. Certainly, one thing I think that I want to undertake is probably somewhere in the six to 12 months after we've been up and running to do a pretty comprehensive survey of lobbyists concerning both their experience in working with it, their concerns that they may have that have not been communicated to me, any areas for improvement that they see or would like to see in terms of the operation of the registry itself, although that may also give us some insight into what some of the thoughts are with respect to the legislative review that's due up in a couple of years. That's certainly one thing that I intend to bring in.

Another thing that we'll have in place certainly by, I would think, very early in the new year is tracking of hits on the website and some of those kinds of things to get a sense of how many people are using it and what's being done there.

Those are two initial kinds of issues that we're going to be looking at.

Mr. Wilkinson: One of the goals of ours, as you know, is to help you people become more educated with the two acts that we administer. So, I guess, we could survey you to see if you're more knowledgeable this year than last year. Maybe you could just give us an idea around this table if you're more knowledgeable this year than last year on both the acts we administer. That would be one performance measure. We could survey you, maybe, before this meeting.

Our primary goal, which is in the preamble, is: do the public in Alberta view you with greater confidence than they did before? Do they view you with greater integrity? Our goal is to build integrity and confidence in the House. We could survey, I suppose, all Albertans to see if they view you any differently than they did, if they view the House any differently than they did the year before, but that gets pretty expensive, and I think you people may know the answer to that question, anyway.

So did you have some suggestions?

Ms Blakeman: Well, I'm not in your business, to be honest. Performance measurements are a management tool to be able to help you assess risks and successes and areas for improvement, and I didn't see them, which is why I asked the question. So I would encourage you to look at your colleagues' offices across the country

or to follow up on the academic studies to try and find it because it's a way for us to evaluate you but also a management tool for you to follow up on. Perhaps the ripest opportunities are in the Lobbyists Act.

It's not a popularity contest. It's not, you know, sort of a survey of who likes you the best. It's meant to be identification of risks and opportunities.

Mr. Wilkinson: Well, that's a good point. What do people across the country do, Karen, as far as performance measurement? Do you know?

Ms South: To my knowledge we are the only office that prepares a business plan. They may federally; I'm not certain whether they do or not. But to my knowledge we are the only provincial or territorial office that does a business plan.

Ms Blakeman: Okay. My second question is on the reference on page 5 to the Alberta Public Agencies Governance Act, which you referenced in your opening comments – and maybe my colleague opposite could answer this faster. Is the Ethics Commissioner's office referenced in the legislation as a go-to adjudicator? You present this under the opportunities and challenges section, and the notes I had are: well, what are the opportunities for the Ethics Commissioner's office, and what are the challenges around the Alberta Public Agencies Governance Act implementation? Given your referencing and your opening remarks then my questions was: well, are you actually officially gathered into this process, or have you offered yourself as a reference?

The Chair: Perhaps Mr. Horne would like to comment before Mr. Wilkinson.

Mr. Horne: Okay. Yeah. I'd stand to be corrected by Parliamentary Counsel, but to my knowledge the office is not referenced with a specific responsibility in the act. The office is, as are all officers of the Legislature, exempt under the legislation. The act itself does not apply to those independent officers of the Legislature. But I stand to be corrected. I don't recall a specific role assignment in there.

Ms South: It is expected that we will be brought in through regulation under that act.

Ms Blakeman: Ah, the famous regulations. Yes. The ones I never get to see. That would be why I won't know. Okay.
Thank you.

The Chair: Thank you.
Mr. Rogers.

Mr. Rogers: Oh, yes. Gosh, I got so wrapped up in the last discussion, Mr. Chairman, I'm – oh, yes. My question was around IT, Mr. Commissioner. You mentioned some \$56,000 for an outside IT consultant. I'm just wondering what support your office gets from government corporate IT and whether those opportunities were explored, if there are some opportunities there for, I guess, bottom line, at the end of the day, some savings in this area. I guess I'm surprised by your need to have such a strong, independent contract outside of the corporate opportunities within government. Maybe your answer might tell me whether or not this is desirable because of the nature of the independence of your office.

10:35

Mr. Wilkinson: Thank you, Mr. Rogers.
Karen?

Ms South: Certainly, the major focus would be the independence of the office. We do not use government or Service Alberta services with respect to technology at all. I think most offices have some sort of IT assistance unique to their own office. The company that we contract with does provide assistance with our workstation issues, with our server issues, and certainly there have been an awful lot, especially with the registry, making sure that everything is routing properly, that the security issues are being addressed. I don't know that it would be any less expensive if we had to engage Service Alberta in those issues. It certainly is very convenient for us to have somebody who is accessible immediately when we need them.

By going through the RFP process last year, we were able to identify a company that is much less expensive than what we were paying. Prior to last year, 2008, we had the services through the Information and Privacy Commissioner's office. We did have to pay that office for those services as well, so there would have been a cost to our office in any event.

Mr. Rogers: Thank you.

The Chair: Mr. MacDonald.

Mr. MacDonald: Yes. Thank you. I have a number of questions. The first one. I note with interest that you indicate there are to be no more bonuses paid. I do not want to know how the office of the Ethics Commissioner would calculate a bonus in the first place. I don't think it ever should happen; however, it did. It's cancelled, and I think it's a good thing. Regarding your salaries and wages for 2010-11 the estimate is less than what's forecast in 2009-10. Is that reduction a result of no bonuses being paid?

Ms South: The forecast includes a potential payout for vacation pay.

Mr. MacDonald: Okay. But I'm looking at the difference in the estimate here for \$435,000, and the forecast for 2009-10 is \$451,000 in salaries and wages.

Ms South: It is important that the forecast does include the potential payout for this fiscal year. It also reflects some reduction in salaries between incumbents.

Mr. MacDonald: Okay.

Mr. Wilkinson: We also have an overlap, too. We're going to have two, if you will, chief administrators because a new administrator starts – right? – early in January and will work with Karen to ensure consistency and easy transition through till April 9.

Mr. MacDonald: Okay. Now, my second question, the forecast. The total expenses for 2009-10 are forecast to be \$811,000, and that's significantly less than what was budgeted. That \$180,000 goes back into the general revenue fund if this course is maintained, correct? Okay. Thank you.

Now, you mentioned earlier that Service Alberta does some or all of your accounts payable. Did I hear that correctly?

Ms South: We'll be entering into an agreement with them to assist us next year in doing some of the processing of the accounts payable because our agreement with the office of the Information and

Privacy Commissioner will end. Because we are such a small office, there need to be a certain number of steps that ensure that processes are followed appropriately for audit purposes.

Mr. MacDonald: This would be a question to the commissioner. This arrangement doesn't in any way in your view compromise your independence or your impartiality?

Mr. Wilkinson: I don't believe so, no, because we are going outside to hire HR and accounting folks to report directly to us.

Mr. MacDonald: I'm confused here. I thought Service Alberta was going to do some of your accounts payable functions.

Ms South: Certain processing, entering into IMAGIS on our behalf: we will send them accounts that we have internally approved. They will simply be entering them in, doing the journals and ledgers.

Mr. MacDonald: Okay. Thank you.

Mr. Wilkinson: And some of the work is being done at our own office. We've trained our staff to work with IMAGIS as well.

The Chair: Mr. Horne.

Mr. Horne: Thank you, Mr. Chair. Since Ms Blakeman raised the matter – and I was curious myself, actually – in thinking about the new act, at the moment agencies, boards, and commissions are in the process of coming into compliance with what will be the requirements of the act once proclaimed. So we understand that they're, you know, developing their roles and mandates documents. Ministers are establishing the accountability mechanisms within their ministry that will position the ministers themselves to be accountable. One of the requirements of the legislation is that each agency, board, and commission have a code of conduct.

So I'd just be curious. I mean, your business plan talks about providing a resource base for questions on this. Number one, have you been receiving questions from ABCs as they develop these? Then, I guess, number two, once the act is proclaimed, however your responsibility is established, whether it's people that come to you independently for advice or whether it's enshrined in regulation, what other types of support would you envision you might be asked to provide?

Mr. Wilkinson: Mr. Horne, we've had one organization come to us and ask for advice in setting up their own code of conduct. I suspect they may be working with Peggy Hartman and her department to set up their own codes of conduct, but they've let them know that we're willing to help them.

Down the road it depends on the regulations, you know. We're not sure yet what those regulations, Mr. Horne, will be. But it could be that we would be, after they go through their own process, similar to the public service code. If they go through their own process and the employee is still not satisfied, the Ethics Commissioner is listed in the code as a court of last resort, if you will, or an appeal mechanism. So the regulations, I believe, will be there as well. Also, there may be in the regulations opportunity for chairs of the ABCs to come to the office of the commissioner for advice similar to the way MLAs do and senior officials.

Mr. Horne: Okay. I guess just as a follow-up to that: you've made some provision in the budget? You're confident, then, that that provision would be sufficient? I know it depends on exactly what

you're asked to do, but based on what you think could be the case, you're confident that the resources are in here to support that?

Mr. Wilkinson: Well, that's a good question, Mr. Horne, as well. I think we have allowed enough contingency in our budget for that circumstance to happen. If I don't have the resources, then our office can refuse to do it. We could come back to you, of course, for additional resources. Also, I could be in a conflict of interest. So there's another reason why I might not do the work, too.

We are confident that with the contingency we've built in and the amount of requests we've had so far, we're going to be all right to do it within our existing budget and within our existing staff. But that could change.

Mr. Horne: Thank you.

The Chair: Thank you.

Mr. Campbell: Good morning. I was just looking at your core business breakdown between the administration of the Conflicts of Interest Act and the administration of the Lobbyists Act. Of course, if you look at 2008-2009, I mean, there's very little work done on it because it's still being proclaimed. I'm just wondering: do you see your office doing less under the Conflicts of Interest Act and more under the Lobbyists Act? Do you see that trend happening, or are these just arbitrary figures, where you're just sort of dividing up, I guess, for administration purposes how you're doing business?

Mr. Wilkinson: Yes. Karen can explain that a little more.

Ms South: The figure for administering the Lobbyists Act actually was based on Mr. Odsen's forecast. No, I don't see us, or the office, because I won't be there, switching focus at all. I think that, especially with bringing in the agencies, there will still be a very strong role for the ethics side of the office, and I would certainly hope that it would continue to have a high profile within the office.

10:45

Mr. Campbell: Thanks.

The Chair: Ms Blakeman.

Ms Blakeman: Well, a nice segue. Thanks. Two questions again. The first one. On that expense summary by core business, the final page of your budget document, the same one just referred to by Mr. Campbell, there's a 10 per cent increase for next year's estimate, 2010-11, to the 2011-12 target – it's actually a bit more than 10 per cent – and then about an 8 per cent increase for the year following that. I'm just wondering: were you ballparking it, or was there something fairly specific that was going to lead to that slightly over 10 per cent increase between this year and next on your three-year projection forward?

Mr. Odsen: If I may . . .

Ms Blakeman: It was directed to you.

Mr. Odsen: Thank you. As was mentioned in the initial submission by the commissioner, we would normally be expected to evergreen our IT equipment in 2010-2011, but we're holding off to 2011-12. That's the primary reason for the difference there, and that includes servers.

Ms Blakeman: So that's the \$35,000 difference?

Mr. Odsen: Primarily, yes.

Ms Blakeman: Okay. Then the following year, in which you go from \$350,000 to \$375,000?

Mr. Odsen: I don't know that I can speak to that one. Karen, are you able to speak to that?

Ms South: With respect to, for example, our IT services there is a built-in escalation over the term of the contract, so each year it does go up.

Ms Blakeman: And that's the difference? That's the \$25,000?

Ms South: That along with – I expect that there would be other increases affiliated with the registrar's position. We do pay his professional dues.

Mr. Odsen: Memberships and those sorts of things.

Ms Blakeman: Okay. Then I'm going to follow up on a question that was asked by Mr. Rogers. You're spending a lot of money on the IT support. Have you looked at bringing that in-house? I mean, if I'm going off the correct budget line, we're at \$260,000 for your contract services, most of which are IT, I think. When I look at where you're at with your actual salaries and wages, is there a savings to be gained? Have you looked at that, at bringing the IT in-house? That satisfies your requirement of being unaffiliated with government departments and allows you to maintain your confidentiality in-house. I'm just wondering if there's a savings and a convenience to be realized by doing that or if you'd even looked at it.

Mr. Wilkinson: Just to clarify, legal services is actually our largest amount. On our budget of \$85,000, IT services is \$56,000.

I'd let Karen or Brad elaborate on their thoughts.

Ms South: One of the difficulties of having one employee do it all would be that they likely would not have the skill set to know servers, workstations. Certainly, our registry system is built on Lotus Domino, which is not familiar to our IT service providers. We get the benefits through the contract from – I think we've had at least five different employees – the company being brought in to solve different issues. That's the benefit from having a contract with the company rather than an individual.

Ms Blakeman: Okay. Thank you.

The Chair: Thank you very much.

Are there any other questions? If not, I'd like to thank you, Mr. Wilkinson, Mr. Odsen, and Ms South, for the presentation. The committee will be making decisions on the officers' budgets, to be sent out next week. Certainly, I'd like to also invite you, if you have time, to have lunch with us at noon.

Mr. Wilkinson: We'll be here, Mr. Chair.

The Chair: Okay. Thank you.

We'll reconvene at 11 sharp for our next officer. We'll call a break here for now.

[The committee adjourned from 10:50 a.m. to 11:02 a.m.]

The Chair: Okay. I think we'll reconvene our meeting, and I'd like to welcome Ms McKee-Jeske and Mr. Rhamey to this portion of the meeting. We're going to introduce ourselves again for the record. I am Len Mitzel. I chair the committee.

Mr. Lund: Ty Lund, Rocky Mountain House.

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

Mr. Campbell: Robin Campbell, West Yellowhead.

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Ms Blakeman: Laurie Blakeman. Welcome to my fabulous constituency of Edmonton-Centre.

Ms McKee-Jeske: Lori McKee-Jeske, Deputy Chief Electoral Officer, and for a short little while continuing in the capacity as Acting Chief Electoral Officer.

Mr. Rhamey: C.J. Rhamey, director, election finances.

Mr. Horne: Fred Horne, Edmonton-Rutherford.

Mr. Bhullar: Good morning. Manmeet Bhullar, Calgary-Montrose.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Okay. Thank you. I guess I'd just ask you, Ms McKee-Jeske and Mr. Rhamey, to proceed with the presentation, and we'd like to ask to have about 20 minutes at the end in order to be able to have a dialogue on any questions we may have. Okay?

Ms McKee-Jeske: Certainly.

Office of the Chief Electoral Officer

Ms McKee-Jeske: Good morning, Mr. Chair, members of the committee. It's a pleasure to be here today to update you on the past year's activities and to present our budget in support of our plans for the upcoming year. C.J. Rhamey is here to provide support and to help me answer any detailed questions you may have on the composition of our budget. To put this presentation into context, I plan to recap highlights of the current fiscal year to date, especially those with significant budget implications.

Last year's budget and the supporting service plan focused on our five main organizational goals, which you see up on the screen before you: to encourage citizen participation, to enhance voter services and accessibility, to expand assistance to political participants, to identify and address stakeholder needs, and to improve election administration. Last year about this time you were presented with a plan to enable Elections Alberta to move forward in achieving those goals. I'm pleased to say that we've made progress in each of those areas.

Encouraging citizen participation. Community outreach included face-to-face interaction with a number of groups interested in the electoral process, including over 2,000 youth. This slide shows a number of the outreach opportunities over the past year. We participated in a few of these activities for the first time, including the Global Youth Assembly, which focused on civic participation, particularly elections, with the theme Ignite Change Now. The

Speak Out conference, hosted by Alberta Education, involved students from all over the province with dialogue focused on students' involvement in education. The Youth Educator Forum was held in conjunction with the Global Youth Assembly. Our presentation, geared to educators, showcased building future voters as an approved teaching resource. The Alberta Teachers' Association magazine was used to increase awareness of the building future voters resources prepared by our office, and a train-the-trainer workshop on voting rights and processes reached leaders of various cultural organizations through the Calgary Immigrant Women's Association, CIWA.

We've continued our active participation in other outreach activities, including Forum for Young Albertans, MLA for a Day, School at the Legislature, and through classroom presentations on request.

Another ongoing outreach activity is conducted through the distribution of Voterlink notices each month inviting electors to add or update their elector record using our secure online voter registration application. Those invitations result in approximately 1,000 updates per month, a modest amount, which increases to a daily average of 700 updates during an election period. About one-quarter of these represent new electors, and over one-quarter reflect address changes, data that is essential to updating the register and improving the quality of the lists of electors. We hope to increase the use of this resource through increased distribution channels of Voterlink notices and more online links to the application from other websites.

Still we're heartened to see the take-up steadily increasing. Influencing a change to existing habits is a real challenge when many electors are still accustomed to the standard door-to-door enumeration process, which has become less viable of an option over time. It's a very exciting initiative for us since it allows for elector-initiated updates in real time. Many election offices are exploring ways to institute a similar program to Voterlink in order to complement other register management activities. Currently the option of online voter registration, I believe, is only offered in B.C. and Alberta. I'm guessing most of you have received Voterlink notices at some point, and I hope you've gone online to test it for yourselves. This slide shows the daily registrations over the past year, with the thin trend line moving in a positive direction.

Enhancing voter services and accessibility. We researched best practices in other jurisdictions to learn more about implementing options like anywhere voting. We've adopted a couple of resources used in B.C.'s general election. One was a voter statement that tracked voting activity throughout the day to support election officers and scrutineers in their roles. A second was a quick reference guide for our election officers, in placemat format, which provided a quick visual reminder of their key training messages to further promote consistent, competent front-line election administration. Now, that was a very simple and basic resource. It looked very much like this one I'm holding here, but it was something that was very visible in front of them during the day, very easy to refer to, and it complemented the usual guide that we provide to all of our election officers.

In addition, we recommended some legislative changes to support further service improvements and began planning for them should those changes be adopted.

Expanding assistance to political parties. We're working on revisions to our forms and guides to expand on and clarify the guidance provided by our office. We want to make those resources more user friendly for the people who complete your financial statements at the candidate, party, and constituency association level. We're also expanding the information we provide to candidates and their campaign workers through our information sessions

and reviewing the channels of delivery for possible expansion. Development of a political party constituency association registration module in ACES, which is Alberta's comprehensive election system, is scheduled for completion by the end of this year. It will increase disclosure and expedite the processing of changes requested at the political party and constituency association level.

11:10

Identifying and addressing stakeholder needs. Key issues identified by stakeholders after the last general election involved polling place selection and the quality of the lists of electors. We took steps to address these issues in the by-election and plan to apply these solutions to our management of the next general election. As an example, we used our geographic information system, GIS mapping, to identify potential polling places in Calgary-Glenmore in order to broaden the range of options provided to the returning officer. We plan to extend this activity throughout the province prior to the next election to facilitate polling place selection that will best suit the majority of electors. We're working to enhance the quality of lists of electors by obtaining data for updating the register of electors more frequently and focusing more resources on optimizing the use of that data. In addition, we tested a new method of updating the list of electors through direct elector contact prior to the by-election, and we're conducting a cost-benefit analysis to determine its viability for expanded use prior to the general election. Those steps will improve the resources provided to election officers, electors, and political participants.

Improving election administration. We're working to improve the response time and reliability of our online election support for all stakeholders. That's the key activity in our office under way at this time. We've developed the necessary GIS capacity to provide electors, parties, and candidates with clear, up-to-date mapping products to support election requirements.

I think we always say that it's been a busy year, and I hate to disappoint, so I'll mention some of the challenging opportunities we've had over the past year in addition to those mentioned earlier. We established a distribution mechanism for building future voters educational resources through the Learning Resources Centre in January, which has provided 640 packages of resources to grades 6, 9, and 12 social studies teachers throughout Alberta. We expect that the demand will increase, with citizen participation, elections, and democracy being a mandatory part of the school curriculum for these grade levels.

We participated in Election B.C.'s visitors' program in May and benefited through the first-hand review of innovations in that jurisdiction, some of which have been adopted.

We hosted a work session in May for provincial election offices that use election management systems derived from ACES, the application that was originally developed here in Alberta.

The partners group, which includes Saskatchewan, Nunavut, Northwest Territories, meets periodically to share system updates and planned initiatives.

We hosted the chief election officials conference in July, which is a meeting of senior election administrators from every jurisdiction in Canada and is hosted on a rotational basis by each jurisdiction.

We also prepared to support the 2009-10 Electoral Boundaries Commission, which was appointed in July, and are providing ongoing support to the commission, primarily in the areas of data collection, mapping, and website maintenance.

In September we conducted a successful by-election in Calgary-Glenmore, which allowed for the trial of three new initiatives. One was the mail-out register update process, a process of direct elector contact to increase the quality of the list of electors. Each residence

in Calgary-Glenmore received a notice listing the names of electors registered at that address. The notice encouraged residents to provide updated information prior to the by-election. We were very happy with the results of the initiative. More electors registered in advance than were registered at the polls by swearing in. This enhanced the quality of the list of electors provided to election officers and political participants to over 95 per cent accuracy, which in turn streamlined the voting process by reducing the number of polling day swear-ins.

The second was the distribution of where-to-vote cards to each elector instead of sending one card to each residence, which was done in the past. Electors were asked to retain the notice as a reminder of the event and to bring it along to the polls, again to expedite the voting process. For a first trial, this was very successful. Two-thirds of voters brought the cards to the polls, which allowed them to proceed directly to their polling station without the need for intervention by election officers at the door. This streamlined the process for them as well as for the remaining one-third of voters who required some sort of direction upon arrival at the polls.

The third was the creation of a voter statement, which was a resource completed by election officers on polling day. It was a resource designed to support scrutineers by identifying electors who had voted throughout the day. This ensured that scrutineers received current information on an ongoing basis even if election officers were busy serving voters and couldn't provide scrutineers with immediate access to the poll books. It was particularly helpful for those scrutineers who were observing activities at two or more polling stations.

We're continuing to review recommendations for legislative amendments and developing processes to support implementation should amendments occur. We're continuing our follow-up on issues identified in campaign financial statements and have finalized the majority of the issues. We've completed and tested a number of ACES enhancements, including the improvement of our search capacity for public-facing applications. The main applications would be "Where to vote?" and "Am I registered?" which are used during electoral events. We're working on development of staff payment and political entities registration modules currently.

We had a budget allocation of \$4.951 million to meet our operational needs for the current fiscal year. You'll note that we expect to have a small surplus of about \$250,000 at year-end. That money was originally budgeted for additional by-election activity, and the anticipated surplus is based on the assumption that we won't be conducting another by-election prior to March 31.

The 2010-2011 budget submission before you conforms to the direction provided in the committee's September 28 letter to our office. That direction was extremely helpful in developing our budget, and I'd like to thank you for that. It gave us a target to meet, and we certainly did our best to meet it. We were directed to base our budget submission on a zero per cent increase to our current operating budget. We have done that with respect to all ongoing costs, our steady-state budget that supports our ongoing activities. As you know, our business is extremely cyclical. Our activities and expenditures spike during an election year and to a lesser extent during the years in which we're ramping up for an election or conducting postelection activities.

As I mentioned, our current budget submission reflects a zero per cent increase on the operating portion of the budget. We found ways to contain costs without reducing service levels or cutting activities, which has produced a fairly lean budget with a focus on core business. As you know, all organizations face cost increases that are outside of their control. Costs for things like information technology continue to climb, and we've worked hard to absorb those costs

within our budget. We have examined various information technology options to support our business and our requirement to provide reliable, effective service at all times, which becomes particularly crucial at election time. We've examined our ongoing costs to ensure that they're sustainable and manageable with existing staff and have made some changes to previous IT plans to reflect the current fiscal reality.

You may recall from the February 13 meeting that the former Chief Electoral Officer identified the need to take control of our IT services, which are currently provided by Service Alberta in a shared server environment. The intent expressed then was to house and manage our server and all IT activities independently. This direction came at a cost that is now prohibitively expensive within the budgetary constraints we face, particularly since we were notified in April that plans for a shared server room in our building would not proceed.

Our plan has evolved to the establishment of dedicated servers at Service Alberta to ensure that our applications are not affected by others that are active at the same time, something that happened during the 2008 general election. I believe that this will be a beneficial compromise. We will minimize our risk of interruption by operating more independently, but we'll still enjoy the service, expertise, and cost savings available through a partnership with Service Alberta. This arrangement is currently being finalized, and we're waiting to have a project manager assigned in order to initiate these changes.

11:20

The obvious question is why our budget request exceeds this year's allocation by \$975,000 when 2010-2011 isn't an election budget, or at least not an election year budget if I may make that distinction. It's important to emphasize that our office is always involved in some stage of election preparation, with election activities under way on an ongoing basis. The four years in the current election cycle appear on this slide along with the budget or estimate of costs for each year. I'd like to briefly explain the key activities in each year, which will help to explain our budget submission.

Last year, which was our postelection year, or year 1, focused on research, analysis, and reporting. It involved the review and reconciliation of all election reporting done by returning officers. It included gathering recommendations for service improvements from stakeholders. We reviewed input received from political participants and electors as well as from returning officers before their appointments expired four months after polling day. It also involved the thorough review of our processes and documentation of those areas that we felt were in need of procedural or legislative change. Formal reporting of election activities and election campaign financing is another major task that was undertaken in that time frame.

The following year, year 2, is our current year in the election cycle. I've mentioned some specific activities in this fiscal year while many others occur on a routine basis. This is the year when we focus on planning and preparing for the next event, the year we take all the feedback collected postelection and prioritize it to begin to make the changes we feel are most important and achievable for the next election. This includes identifying existing resources that need to be enhanced as well as beginning to build new ones.

The following year is the pre-election year, year 3, the year for which we've prepared the attached 2010-2011 budget. It's a year that we target for designing and testing based on the plans we have developed this year. In a highly automated system, which we've come to rely on, that building has to start early to ensure completion for the next event. Successful results are dependent on thorough

testing in a stable IT environment in the year prior to the election. This lead time is also necessary to allow for development of effective training resources based on the system changes to ensure that we provide our returning officers and all election workers with accurate, current direction.

It's also the year we identify and contract for the services needed to conduct the election, things like telephone and Internet installation, supply delivery to 87 offices across the province, call centre support, 24/7 IT support through the election period, and so on. It's a year we begin to stock our warehouse with some of the material required for the election, particularly custom-made products and those items that are not readily available. Allowing ample time for purchasing ensures cost-effectiveness since we can obtain competitive quotes and begin to stock the warehouse with minimal additional staffing costs.

The following year, the last line on the slide, year 4, is the anticipated election year. It will focus on final preparations and event delivery. Specific activities include stocking the warehouse and preparing election shipments; supplying political participants with maps, lists of electors, and necessary information; training, resourcing, and supporting our returning officers; and managing the election process. It's also the year in which we focus particular attention on updating the lists of electors through some type of direct elector contact. This is obviously the peak in terms of both activity and expenditures since staff and facility costs, which exceed 70 per cent of the total budget, are incurred at that time. You'll note that our budget estimate for that year, 2011-2012, is approximately \$19 million for that reason.

As for this year we've maintained our budget related to ongoing activities to a zero per cent increase. There are, however, two specific initiatives which add \$975,000 to the budget. The first initiative is the map review to be conducted in follow-up to the work of the 2009-2010 Electoral Boundaries Commission; \$625,000 is requested to support this activity. Our office has a statutory requirement to provide lists of electors and revised polling subdivision maps to political parties and independent Members of the Legislative Assembly to reflect amendments to the electoral division boundaries. Our legislation directs us to provide these resources as soon as possible after the register is updated after the schedule of electoral divisions is amended. The last map review of this scope occurred following the work of the 2002-2003 Electoral Boundaries Commission.

The current commission will submit its final report to the Legislative Assembly by July 2010. Once the recommendations are accepted or accepted with alterations by the Legislative Assembly, our office will lead 87 returning officers in mapping polling subdivisions, developing the building blocks of election administration within the new electoral division boundaries. You may recall that the map review was conducted by former returning officers on a contract basis last time it was done. That would be an option to be considered if returning officers have not been appointed.

This process will be streamlined through our new capability with GIS mapping resources. The largest proportion of costs, over \$460,000, relates to returning officers' fees and expenses as they review their electoral divisions and establish 6,000-plus polling subdivisions across the province. Additional costs relate to obtaining and integrating current address data and purchasing consumables for map production. It's essential that we complete this project on a timely basis to provide political parties and independent Members of the Legislative Assembly with updated maps and lists of electors as soon as possible, as directed by legislation. It's also critical for effective election planning. Supply lists and inventory requirements are based on the number of polling subdivisions and polling stations

across the province.

The second initiative is election year preparation, which I mentioned previously. Obtaining comparative bids and stocking particular election material next year will assist with our statutory requirement for election readiness in the following year. Three hundred and fifty thousand dollars is requested for this purpose. Acquisition of election supplies accounts for \$290,000 of the funds requested. Those supplies will include ballot boxes, secure ballot paper, signs, election posters, voting screens. The balance of \$60,000 is required to collect physical addresses from electors who have only a mailing address in the register. Physical addresses, of course, are necessary to allow for accurate polling subdivision assignment on the lists of electors. As I mentioned, it's critical that we obtain funding for these initiatives in the upcoming fiscal year in order to be election ready the following year.

In conclusion, I should identify the costs that are typically included in the budget which do not appear in our 2010-2011 budget request. The manpower component does not include merit or COLA adjustments for any staff members. We have applied the salary freeze to all management, opted-out, and excluded staff, which covers all staff in our office. Our budget does not contain a provision for costs related to the enactment of any legislative changes. Recommendations for legislative change have been made by our office and in Bill 205 on third-party advertising, which would have cost implications if enacted. The budget being presented to you today could not accommodate those additional costs, which could vary considerably depending on the legislative change or changes that occur. Supplemental funding would be requested at that time.

I hope this information has been helpful. Now we'll be happy to try to answer any questions that you may have.

The Chair: Thank you very much. We do have some questions here now, and I'll ask Mr. Rogers, please. Before we start, just a note for the record that Mr. MacDonald joined us very shortly after the presentation started.

Mr. Rogers: Well, thank you, Mr. Chairman, and thank you for the presentation. I've got a few questions. I started jotting them down as we went along, but I must say that you've done a very good job of addressing a number of the questions that arose as we went through.

I want to reflect first on your mention of your activities around the recent by-election. I guess my first question would be: what is the typical cost of a by-election, and do you budget a ballpark amount in your annual budget for a certain amount of by-elections, for that possibility?

11:30

Secondly, you mentioned the process that you used, the mail-outs to every household in the most recent by-election, and you talked about your success with some of the response. I'm just wondering whether you have any ability to get some electronic responses by way of existing software or if that's something in your future plans. Maybe just share some of your thoughts: if it doesn't exist or what we might anticipate in that regard or any of the challenges that you might see around using some of that methodology.

The \$625,000 that you request for mapping and preparing for changes through the electoral boundaries review process. I'm just wondering about some history that might help us get a sense of that number, not specific numbers but some rationale for what you base that cost on.

I guess the other question I had was around election preparation,

but I think you've done a pretty good job of that one.

The other question I would ask – and I'd just as soon give them all to you, and then you can do one set of responses – is about the \$13 million, approximately, additionally that you're asking for or that we will anticipate in the next election year. I'm just wondering why you wouldn't, if the process allows you to, ask for that over maybe three years. A \$13 million hit in one year when we do know that in every cycle we can anticipate a cost like this. If you're constrained by our current accounting practices, this is something that we might want to look at changing because I think in any good operation you could budget something resembling a reserve that you anticipate. You build up three years' worth of reserves to cover the fourth year's major costs. It would seem to me to be just a much easier, I guess, hit to our budget on an ongoing basis if we implemented something like that rather than knowing that we're going to get a hit every third or fourth year.

Am I getting too far ahead of myself, Mr. Chairman?

The Chair: I think you are, Mr. Rogers. That's quite a few questions, and we've got to give everybody else an opportunity to have these. I'll put you back on the list for the others because she's got quite an extensive list for you now. Thank you.

Mr. Rogers: Thank you.

Ms McKee-Jeske: Okay. I'm going to do my best with that list of questions. Thank you. Each year we budget for three by-elections, a total amount of \$465,000, roughly \$155,000 per by-election. It varies depending on if it's a by-election in a rural area compared to an urban area. The last time we had three by-elections occur in one year was a number of years ago, but we have always done that to be prepared for the eventuality. Of course, we turn back the amount that's not used.

You had asked about the mail-out enumeration notice that we did, I believe, and whether we might look at some sort of electronic replacement for it. Now, I like to think the electronic replacement is already in place with Voterlink. We send out notices with respect to that initiative every month, and we do get a good, solid response on an ongoing basis, certainly a lot better during election time.

The mail-out enumeration notice is intended to flag people's interests when they know there's an event coming, people who may not tend to go online to update their information. We were really pleased with the results. We sent out over 15,000 enumeration notices. We asked people to return them only if they had change in their household, and 3,300 of them were returned to us that indicated there was some kind of change. We had expected about 20 per cent only because past research tells us that there is a 20 per cent deterioration in the quality of the list of electors in a year. We were over the 20 per cent, and of course we ended up being very pleased, then, when we saw the quality of the overall list of electors and the number of swear-ins that we had on polling day. We would see the two activities complementing each other.

History of figures with respect to redistribution. When we had prepared the budget for the map review, it was certainly based on similar activities that had occurred some years ago, so that would have been in the 2003-04 fiscal year, I believe. We see a number of incremental costs, certainly to fees, which accounts for the vast proportion of that activity, as well as to the other activities concerning map development and so on. Essentially, it's an incremental cost resulting from increased fees, increased numbers of returning officers that will be involved and so on.

I think, if I kept up with you, that the last question was related to

the process for budget submission around the election funding. My understanding – and I think you might have answered the question – is that we are constrained by current accounting practices in that regard, that we budget for costs that are going to be incurred for the particular fiscal year.

Mr. Rogers: Thank you very much, Chair.

The Chair: Ms Blakeman.

Ms Blakeman: Thank you. I had one of the same questions, which was, "What was the cost of the '02-03?" and you've answered that one.

I am noticing in your performance measure 4 – and thank you for providing performance measures, by the way, with measurable targets – under Encourage Citizen Participation, that you're looking to increase use of advance and special ballot voting; a 5 per cent increase in each type of this voting. Is that an expansion of – the word I'm thinking of is "permission." My understanding was that there were restrictions that discouraged people from using advance polls unless they met really stringent requirements, and that seems to have sort of moved away. I think part of that is that it is a legislative change that may have come through. Are we trying to get more people voting in advance polls, and are we even anticipating additional days of advance polls to have more people accommodated and to increase our voter participation rate?

Ms McKee-Jeske: Thank you. I think the performance measure largely, from our perspective, was to ensure that we're doing our job of notifying people of the availability of these options. They've been in place in different forms for many years. Certainly, one of my biggest frustrations is when someone calls me on polling day at 10 to 8, just before the polls close, someone who is not able to vote at the regular polling station – they're away from home – who would have been served by one of these options if they had been aware of it in time. Of course, you know, at the time they tell me they simply weren't aware of it, and there's very little we can do to help them at that late stage of the game.

The performance measure, I think, relates more to our communication of the availability, and we do see these voting options increase in use over time. Those who use them really like them. They're very effective.

You're right: the advance poll requires that for some reason you are unable to vote on polling day, and that's still the case. We had recommended that that restriction be lifted so that anyone would be free to vote at an advance poll should they choose to do so. They wouldn't be asked to take the oath or the declaration indicating that they are unable; they would simply indicate that they wished to do so.

Ms Blakeman: You answered my questions.

My second question is my perennial favourite – but I note that it is ever-expanding to the rest of my colleagues – which is around getting access to voters themselves, and that seems to fall under your stakeholder liaison, improving stakeholder liaison. Are you considering and what plans do you have to work with condo boards and apartment managers to ensure better access for all candidates to the doors of voters to be able to talk to them?

Second to that, have you considered approaching Canada Post to see if all candidates would be able to take advantage of an expanded ad-mail delivery, which would allow us to pay the ad-mail delivery rate, but have it delivered to all addressees during an election period rather than only going to those that don't display a no ad-mail

sticker?

11:40

Ms McKee-Jeske: Right. Thank you for the question about campaign access. That's one thing that we work on really hard during each election. Certainly, we see the greatest benefits if we work on it in advance of the election. If we're able to build the relationships with the condo boards and with the various associations, get appropriate notices out, we certainly see the effects of that during the election period. That's one thing that our outreach person will focus on. That's one thing that's been identified as a priority. One group that is hard to reach, certainly, is the residents of multifamily residences. We work on those as well as groups like militaries and those in work camps and so on. So, yes, we will continue to do that. I should just add that with that outreach focus we do intend to do more of that work in advance, starting earlier in advance of the election. To us that's absolutely key to be able to do that.

We have had the discussion with Canada Post concerning the ad-mail delivery. My understanding is that political material from federal Members of Parliament will be delivered even to people who request that no flyers be delivered.

Ms Blakeman: I'm sorry. I'll just correct you. It's always delivered for sitting federal MPs. They get to use the ad-mail rate, and it goes to every door all the time.

Ms McKee-Jeske: Yeah. And we have the advantage of getting our information sent to every door. The folks that we have spoken with at Canada Post have indicated that they aren't the appropriate people to change the prohibition with respect to candidates in the provincial elections, but I certainly can raise that with them.

Ms Blakeman: I think it would be helpful, and they'd make money on us.

The Chair: Okay. Thank you.

Mr. Marz.

Mr. Marz: Thank you. You mentioned the boundary review, and with the addition of seats up to 87, that's going to probably create quite an increased workload in the next couple of years. How much of that workload do you anticipate getting done in this fiscal year under this budget, to spread that cost out over the two years as opposed to having it all fall in the election year? For now I'll just leave it at that if you can answer that.

My second question. On your performance measures I see a chart with the expected results. I don't see any comparative from previous elections. I would suspect that satisfaction based on the last general election would be down, from what I heard, in rural areas especially, because I represent a rural area. One of the biggest things was returning officers not having enough time to be prepared. Secondly, a lot of voters had to go to vote in communities that they didn't traditionally travel to, and in inclement weather in a rural area with a lot of extra driving, that's quite a bit bigger issue than maybe in a city, where you have a couple of extra blocks to walk to correct that issue.

Ms McKee-Jeske: Thank you. You know, certainly, that speaks to the real importance of developing polling subdivision boundaries that make sense to the folks in the communities they are intended to serve, because the better job we do with that, the better job we can do with establishing polling places that suit the electors.

I believe your initial question was with respect to distribution of

costs around our map review project. Now, we can't do a lot of work on that until the Electoral Boundaries Commission has submitted its final report, which is expected next summer. We would hope that if the boundaries are approved or approved with alterations by the Assembly in the fall, we would begin in fall 2010 with that map review process. That would have us completing that activity in the upcoming fiscal year; hence, the reason we have asked for the funds for the 2010-2011 year. We are preparing now because we do support the boundaries commission through mapping resources. We are preparing now in that we have the base maps which will have the electoral divisions on them. So, in essence, we are prepared to that level. Then we drill down to that more detailed level of the 6,000-plus polling subdivisions, which requires the community input that we count on from returning officers.

Mr. Marz: Just to expand on the performance measures, if I may, I don't see a comparison with other years. Did you not track that in other years?

Ms McKee-Jeske: We did. That information is not contained in here for the 2008 general election. We just recently completed it – I'm sorry – after we submitted this document to you folks for the by-election. Now, with the by-election we can't track all the performance measures we typically would because we do much less in terms of advertising and so on.

The Chair: Thank you.

Mr. Lund.

Mr. Lund: Thank you. Thanks very much for the presentation. I'm curious. As I understood your presentation, in the by-election there were a lot of things that you did to try to increase the participation rate. What was the turnout in that by-election?

Ms McKee-Jeske: We're just finalizing that by-election report now, but our participation was approximately 39 per cent. For a by-election I believe that is one of the better turnouts that we've had over the past 10 years or so.

Mr. Lund: Well, I wasn't aware that the other by-elections were that poor a turnout. I just didn't realize that.

One of the things from the last general election: the cards that Elections Alberta sent to all of the households. Now, do I take it that there was no postage on that material? I didn't understand exactly your answers to Ms Blakeman. You said something about postage, and I wasn't sure.

Ms Blakeman: They pay, but they get it delivered everywhere.

Ms McKee-Jeske: The advantage is that we do get an excellent ad mail rate when we send any kind of mail throughout the province. We can have it reach every door, even those folks who indicate that they don't want to receive ad mail or flyers or what have you. It does reach every door. We do pay for it.

Mr. Lund: Well, I can just share with you one of the things that I heard during the election from people that had received it. They asked me what it cost because they're always concerned about the cost of things, and I had to tell them that I didn't know whether you had to pay postage or not. There was no evidence that there was postage. In any case, the point that they would make was what a waste of money because if they didn't know that there was an

election coming up, with all of the other activity that was going on around the election, they were obviously not in touch with anything that was going on.

So I really question, and it would be very, very interesting if there was some way you could measure the effectiveness of that particular activity. It did cause some confusion, and I guess it's because people maybe aren't keeping up on things well enough. Some people seemed to think that that entitled them to vote at any polling station, and you can't fix that because without getting very specific on the address, you don't know which polling station they need to go to.

Ms Blakeman: They're not "You vote at" cards; they're a straight information card.

11:50

Mr. Lund: I know that, and that's what I'm saying. The cost of sending those out for what the return is on the investment – I have a suspicion it's very low, and I question the value of it.

I want to thank you for a couple of things that did help, and that was on the advance polls. I think they're really important. If we want to increase participation, there's an area that I think we can do better. One of the things – and I'm not sure how much constraint there would be on it – is to allow people to use the absentee ballot to a greater extent. Often we're hitting a time when people are going away for a holiday and this sort of thing, and if they could use that ballot from the day the writ came down, then I think that we would get a better participation.

Thank you.

The Chair: That was a comment, not a question, right?

Mr. Lund: Yeah. I'm not asking any questions.

The Chair: Okay. Thank you very much.

Mr. Bhullar.

Mr. Bhullar: Thank you very much. A couple of questions around procedure, I guess, with respect to the new maps and polls. That's being completed once the report is finalized. Who makes the new polls? Is it, in fact, the returning officers on the ground?

Ms McKee-Jeske: Yes, it is. By legislation returning officers are directed to review polling subdivision boundaries from time to time. There's very specific mention as well in the Election Act that our office is responsible to distribute new polling subdivision maps and lists of electors after those electoral boundaries have changed. So we would be leading the returning officers in doing their work. They are definitely the folks on the ground. They are definitely the folks who know the communities and know where the appropriate boundaries should go.

Mr. Bhullar: Does that mean that you'll be appointing new returning officers?

Ms McKee-Jeske: It would be dependent on the legislation currently. The legislation with respect to appointment of returning officers hasn't changed. So we could expect to see returning officers appointed possibly as early as two years after the general election, so in March 2010, in accordance with the legislation as it stands now. We have in the past used former returning officers on a contract basis. Should our office be directed to recruit returning officers, then that would be how it would occur if there was a legislative change to accommodate that.

Mr. Bhullar: Okay. But there's no legislative provision right now that says that the former returning officers are the ones that do this.

Ms McKee-Jeske: No. That was done as a procedural thing, and they were hired, essentially, on a contract basis because of their familiarity with the areas.

Mr. Bhullar: Okay. Good.

That was sort of one question, Mr. Chair, wasn't it?

The Chair: Go ahead.

Mr. Bhullar: Thank you. Then with respect to some of the initiatives that you worked on in the by-election in Calgary-Glenmore, if I understand you correctly, the mail-out went to folks saying: this is your address, this is who we have listed at this home; if it's incorrect, call us.

Ms McKee-Jeske: If it was incorrect, people were encouraged to provide the information and mail them back. They were certainly free to call us, and some people went onto Voterlink and updated their information themselves.

Mr. Bhullar: And you're saying that you had how many people respond?

Ms McKee-Jeske: We had over 3,300 of the enumeration notices returned to us.

Mr. Bhullar: Thirty-three hundred?

Ms McKee-Jeske: Yeah. We had a very good response. We were very pleased with that response rate.

The Chair: Okay. Be very quick.

Mr. Bhullar: Well, I think that amalgamating that as a regular part of any communication that comes out of your office saying, "If you're moving, contact us," makes a lot of sense. Good to hear. Thank you.

The Chair: I think that's part of the outreach that she was talking about. Thanks.

We have a couple of speakers left, and I have one quick question. I just wanted to get clarification. On your charts in your presentation – and thank you very much for that – you talked about the various budgets for the upcoming years, and you showed one budget, certainly for 2011-2012, that you post at approximately \$19 million. The question I had – and I'm sorry I don't remember that information – is: what was the budget and actual for '07-08, which was also an election year? I just wanted to see the comparison on that one compared to what you expect for '11-12.

Ms McKee-Jeske: Yeah. The reported cost of the election that took place in March of '08 was \$10.7 million. We would be comparing that to \$13 million for the upcoming election, the 2011-12 election, keeping in mind that of that \$19 million budget request, a portion relates to our regular operating costs. So \$13 million relates to the election; the balance relates to just operating costs within the office.

The Chair: So the operating costs, then, for '07-08 was apart from this \$10 million you're talking about?

Ms McKee-Jeske: Correct; \$10.7 million was the cost of running the election.

The Chair: Okay. I just wanted to be clear on that. Thank you. Mr. Rogers, very quickly, and Ms Blakeman.

Mr. Rogers: I'm good.

The Chair: You're good?
Ms Blakeman.

Ms Blakeman: This is a request, actually. You are showing the targets that you're hoping to hit, and I'd request that in the future you are able to show us your measurement against that target so that we have some sense of movement. That's sort of the point to performance measurements: we can see how you're doing over the years. It is problematic for you because each year in your cycle is different than the year before, so a number of times today you've been asked: how does this compare to the same year in the cycle last time? I don't know if it's possible for you to do that, but obviously it satisfies some of the questions coming from the committee.

The real question that I have here is flowing from the question from Mr. Lund. My impression was that there were more complaints about people not getting information mailed to them than people complaining about getting information mailed to them. Do you track that? I had way more complaints that people didn't get information – that there was an election, where they would go, who they could call, what the website was – than people complaining that they got it.

Ms McKee-Jeske: The mail-outs that we did for the '08 election were essentially in response to feedback that we received from the public. We had conducted a survey, and one of the questions we'd asked was how people would like to be notified of election activities, how they would like to be notified of where they can go to have their questions answered, and so on. I believe that 80 per cent or over 80 per cent said: mail is the very best way to reach me. Hence we came up with the information we sent out.

There are different types of information that goes out to people. There's a generic piece that had gone out to folks – that certainly could have happened in Rocky Mountain House – if all we have for them is a mailing address. If we only have P.O. Box 22, for example, in the register currently, all we can do is tell those people: the election is coming up on March 3; you can phone this number; you can go online to this website to get additional information. For people in Edmonton-Centre where we have a specific address, we can send them the card after the polling stations have been established and indicate that they will vote on March 3 at a particular school or community league or what have you. There are two different pieces depending on the type of information that we have.

That is one of the reasons that we are looking to prepare to update the quality or the completeness, I guess, of the addresses that we hold that are simply mailing addresses in the register currently. It doesn't allow us to identify their polling subdivision for them, so the information is not as useful as if we can direct them to a particular polling place.

Ms Blakeman: Good clarification. Thank you.

The Chair: Are there any other questions?

If not, I'd like to thank Ms McKee-Jeske and Mr. Rhamey for your presentation and let you know that the committee will be making decisions on the officers' budgets, and they will be sent out within the next week.

With that, we'll adjourn for lunch. You certainly are invited to join us. We will be reconvening here at 12:45 sharp.

[The committee adjourned from 11:59 a.m. to 12:47 p.m.]

The Chair: We're going to introduce ourselves again for the record. I'm Len Mitzel. I chair this committee.

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

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

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Ms Blakeman: Laurie Blakeman. I'd like to welcome each and every one of you to my fabulous constituency of Edmonton-Centre.

Ms Furtak: Sophia Furtak, manager of finance.

Mr. Work: Frank Work, Information and Privacy Commissioner. It's always a pleasure to visit Ms Blakeman's constituency.

Mr. Wood: Wayne Wood with the office of the Information and Privacy Commissioner.

Mr. Bhullar: Manmeet Bhullar, MLA for Calgary-Montrose. Welcome.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: A couple of other gentlemen, Mr. Campbell and Mr. Horne, have joined us as well.

Keep your presentation to about 40 minutes. That will allow us sufficient time for questions and answers. I'll just ask you to proceed with your presentation, then.

Office of the Information and Privacy Commissioner

Mr. Work: Thank you, Mr. Chairman. A pleasure to be here again for the 2010-2011 budget. I might not even take the full 45 minutes. We tried to scale it down a bit, so I'd be happy to entertain any questions at any time.

I see a lot of familiar faces in the room, so you've heard a lot of this before. The office of the Information and Privacy Commissioner, OIPC, has been assigned three pieces of legislation: the Personal Information Protection Act, which is private-sector privacy; the Health Information Act, which governs health information in both private and public sectors; and the FOIP Act, Freedom of Information and Protection of Privacy Act, which deals primarily with public bodies, access to information, and the use of personal information by public bodies.

The mandate of the office. It's an interesting mandate. We're still trying to educate a lot of courts about the odd assortment of things that the office does, which includes investigating and resolving complaints and then the judicial functions of conducting inquiries and issuing orders, but we're also charged under all three pieces of legislation with a consultative function and with a responsibility to educate and inform and comment. This is sort of an odd assortment of tasks, being both an order-making body and a consultative body, and I think in some cases it may explain why we have spent so much time in court in recent years trying to inform courts about this.

The budget. This one slide pretty much sums it up. We have a status quo, zero increase, zero decrease budget. I think probably the

most productive thing to do with the time I have with you is to just explain what we've done in terms of reallocating money within the budget. If you look on the far right, there's a number, \$227,500, in brackets. This was a saving, if you will, primarily in the personnel area from the elimination of the achievement bonus and the hiring and salary freeze. So we have this amount of \$227,500 that we don't need for personnel for 2011.

What we've done with it falls on the next three lines on that far right-hand column. We're taking \$171,000 of that, and we're putting that into our supply and services category to cover two items, both legal costs. We have taken on some new responsibilities, which I'll discuss with you in a moment. So we're taking \$171,000 of that saved \$227,000, putting it in the supply and services item so that we can use it for these legal costs and some of the new responsibilities that we've been given by the Legislative Assembly.

We're going to use \$25,000 of that to offset funds we no longer get from fund sharing, services sharing with the Ethics Commissioner. When the Ethics Commissioner was given responsibility for the lobbyists registry, they kind of outgrew us to some extent. They became a bigger operation than we were able to comfortably share services with. So they've taken on some of their own – I'm sure you heard this morning – responsibility for some of their own services. They will be paying us less money for shared services, so we offset that.

Then the last item on the right-hand column is equipment. You'll see the \$31,000 figure. That will be used to upgrade our website and put towards disaster recovery, I think software and hardware. Yeah, software and hardware for the office.

Again, to summarize, the change is \$227,500 less being spent on personnel. We reallocated that in the three items there: \$171,500 to supply and services, \$25,000 to compensate for the money we're no longer getting from Ethics for shared services, and \$31,000 for equipment. If you add that all up – it comes on the bottom line there – our budget this year is exactly the same as our budget last year.

What I think I will do is jump ahead a few slides and let you know, tell you about the new responsibilities. There have been quite a few legislative changes. In fact, I believe the Assembly was debating . . .

Ms Blakeman: Bill 54.

Mr. Work: . . . Bill 54 as late as Wednesday of this week, so you know a bit about that. The FOIP Act has been changed to require a mandatory review by a special committee of the Legislature, and that will begin in July of the coming year. I'd be willing to bet that some of you on this committee will probably be tagged for that function, but that's just a guess on my part. There will be that involvement by us.

12:55

Next slide. The Health Information Act has had some significant changes. There are new custodians under the act. More health care providers have been designated as custodians under the HIA, which means that they have to comply with the requirement of submitting privacy impact assessments. You can see some examples there: dentists, denturists, hygienists, optometrists, chiropractors, podiatrists, nurses. Emergency medical services are moving from the FOIP Act to the jurisdiction of the Health Information Act. There is a new creation called a health information repository, which the minister of health can designate. These will be something like a data warehouse, possibly. The legislation gives my office some oversight. Once the minister designates a health information repository, the oversight of what they do with people's health information will fall to my office.

I can go to the next slide. Finally, again, as you know, the Personal Information Protection Act has been amended, and this is a very good amendment. Well, I think most of these amendments are very good, but this is a particularly good amendment, let me say, because it now requires mandatory notification of breaches where an organization loses personal information. If there is a real risk of significant harm, the breach must be reported. My office will be responsible for examining the breach and making recommendations or outright telling the organization what they should do about the breach to mitigate the harm that might be caused.

Given those new tasks, that's my explanation for why we're reallocating that \$171,500 from personnel to contract services. We anticipate using that money for contract services with respect to some of these new responsibilities.

There are two more slides there that deal with the specifics of the budgets, but the significant change in the budget is the reallocation of that \$227,500, as I explained. I'd be happy to go over that again if you want.

Total cases opened. I'll just give you three years' worth here: '07-08, 1,100; '08-09, 1,300; and '09-10, so far 1,021.

Interestingly, if you go to the next slide, orders – now, once we open a file, the first order of business is to try to negotiate a settlement of the file. Someone in my office will contact either the public body or the business that is being complained about and contact the individual who is complaining, and we try to arrange a settlement. Over 90 per cent of the time we're successful. Of those, say, 1,000 cases we anticipate that roughly 100 of them will probably go to inquiry and will result in an order having to be done. The number of orders is usually quite, you know, proportionately small compared to the number of cases we open: 81 orders in '07-08, 44 orders in '08-09, and so far in '09-10, 23. However, we have 183 cases at inquiry.

I'm a bit mystified as to what happened here. I mean, we had a very strange occurrence in the summer of this year. I don't know if it was the downturn in the economy or how to explain it, but we suddenly had a lot of cases coming, particularly from the private sector, that we were unable to negotiate and wound up in inquiry. Again, I don't have an explanation for why this happened in those particular months. I think that in the months of May and June we had 40 cases go straight to inquiry from the mediation process, and that's highly, highly unusual.

We have a backlog again, unfortunately. The backlog is in part attributable to what I just said, but the backlog is also in part attributable to the fact that two of my decision-makers, my order writers, are both on maternity leave and have been for a while. I mean, you can't argue with that. It's a good thing, but it has created a backlog. They will both hopefully be back at Christmas, and we'll keep working away at the backlog with the resources we have.

The largest single item other than personnel – I mean, like a lot of these offices, we're very personnel intensive. We don't produce things; we do things that require people, so our largest item is always personnel. But probably the second largest one is the amount of money we spend on lawyers and judicial reviews, and I'm sure that has not escaped the notice of the committee.

I'll just give you a comparison. Now, these numbers are fiscal '08-09 and fiscal '09-10. It was the only way we could break it down. A judicial review is when mediation has failed. We've gotten a complaint or a request for review. Mediation fails, so my mediators have been unable to reach a settlement. It goes through to an inquiry in front of myself or one of the other order writers. An order is written, and then either of the parties has the ability to request a judicial review. These are not things that my office initiates. These are things that either the public body or the business or the individual initiate.

Yeah. I could say a lot more about judicial reviews, but maybe for now I'll just say that you can see we have a total of 19 in 20, so we're pretty consistent in terms of being taken to court. You might notice a slight rearrangement over the two years: a couple more under FOIP and a couple less under the Health Information Act and about the same under the Personal Information Protection Act. That situation accounts for where most of that contract services item of our budget goes.

As I said, one of the new responsibilities we've been given under the amendments to PIPA act, as you know, is managing breaches, losses of personal information. Just to give you a little snapshot, over the past three years – as you know, at present there is no requirement to report, so this is just voluntarily reported breaches from the private sector – you'll see that in '07-08 we had 16 and in '08-09 we had 27 and '09-10 year to date we've only had 10, which, hopefully, may be a good sign. Maybe organizations are becoming more aware and more responsible in terms of how they manage the information in their care.

I think I can make it that short. As I said, Mr. Chairman, I've got a couple of more budget slides in there, and I'd be happy to drill down into those numbers if the committee wants and, certainly, any other questions you may have about the operation of the office. As I said, bottom line, I'm pleased to put before the committee a zero-gain budget. I think that with the new responsibilities, you know, new resources would always be welcome, but with this reallocation that we're showing here, I think we'll manage quite well with what we have.

I will say this as well. I will add two more things. I anticipate that we will be returning to the general revenue fund around \$400,000 out of this year's budget, and most of that will be attributable to salaries we did not pay because of the maternity leaves. But, still, that's \$400,000 less money expended.

1:05

We quite radically changed our IT structure in the office. We hired a new service provider, and through the use of the service provider we did not fill an FTE position that we have that was related to IT. So we brought in a new service provider, gave them some additional responsibilities, and we were able to do it at no additional cost. We therefore have kept an IT position empty, and we're not expending the money on that salary.

I think that truly is enough now, Mr. Chairman. I'd be happy to take any questions.

The Chair: Okay. Well, thank you, Mr. Work. I do have a short list so far.

Before we start, just for the record, Mr. MacDonald has joined the committee as well.

Ms Blakeman.

Ms Blakeman: Thanks very much. I'm just wondering under your discussion of scope. Actually it appears on the slide you did called new responsibilities under the Health Information Act, but it's around scope. Is the list of new custodians that you've got here – it's actually a for-example list: dentists, denturists, dental hygienists, optometrists, chiropractors, podiatrists, and nurses – sufficient to cover all of the health services that will now be covered because of the change making who pays for the service no longer relevant in determining? Is that an exhaustive list? That is what I'm asking you.

Mr. Work: Good point, and the answer is no. It's not exhaustive. For example, now massage therapists, physiotherapists who might

have previously been paid either by Alberta health care or by a private plan like Blue Cross – as you said, Ms Blakeman, the distinction used to be who pays. That distinction has been eliminated. Now massage therapists, these folks, physiotherapists, and so on are now under the Health Information Act regardless of whether they're paid by health care or a health plan. So, yes, there could be many more.

Ms Blakeman: Okay, then. Will this cost you more money somehow? I'm assuming you do some sort of in-service for these new groups that are coming in so they understand their responsibilities as a custodian under health information and don't, you know, take people's personal health information and just go blabbing around because they've got it now and they can. What kind of effort do you put in, and how is that reflected in your budget?

Mr. Work: We don't do an exhaustive public education program with these bodies for the following reason. We're kind of lucky under the Health Information Act because the Health Information Act requires health care providers to come to us with a privacy impact assessment before they embark upon certain kinds of health records. The benefit there is that we don't have to find them; they have to find us. Then through the process of them preparing a privacy impact assessment and the process of us reviewing that is where we kind of have a captive audience for education purposes. But it does mean that we have a lot more privacy impact assessments to review because that's the point of contact between us and custodians.

Ms Blakeman: There is a concerted move right now to deal with the problem that was created around massage therapists in that there are two levels. There is a registered massage therapist level, and then there's the sort of go to the spa and get a nice massage. What we've discovered, however, is that sex trade workers are perfectly capable of qualifying under the lesser educational component. Now you have sex trade workers offering massages and massage people offering massages, and I'm a little concerned that if those workers are accommodated, that secondary level of massage therapist, we now have a whole other industry that has access to people's personal health information who may not have the same rigour of approach. Would you like to comment on that?

Mr. Work: That was very tactfully understated, I must say.

Ms Blakeman: Well, they're my constituents, too, and I love them all. But I am recognizing a difficulty in that we have no way of distinguishing between those that qualify as a massage therapist under the 50-hour rule and then use that for sex trades.

Mr. Work: To the best of my knowledge we've never had a privacy impact assessment from one of those operations. It would be fascinating to get one. We would ask them, you know, to have the same safeguards and encryption and level of training that we would ask any other such body, but I don't think it's ever happened. I suspect they're ignoring us or that that part of that sector is probably ignoring us.

Ms Blakeman: True. But if that group is brought in and there is a move to do that, how are we going to deal with this if they do not voluntarily comply? We do have an industry out there that we cannot say no to that will now have people's personal health information. Now what?

Mr. Work: Well, that's a good point. I mean, I don't know how much – I don't know what to call them. With the more mainstream massage therapists, for example, the whole system tends to support enforcement. With a therapeutic massage there's usually a request, an order from a doctor, so we can trace the exchange of information there. The doctor sends the request that this patient needs their shoulder worked on, and we can trace the exchange of information back and forth between the requesting doctor and the supplying therapist. Similarly, if there are X-rays, blood tests, and so on going between health care providers, you can track that and say that this person disclosed the right amount of information or, you know, that we're aware of this person participating in the electronic health record or in Netcare. All of these electronic health records now track information flows.

Where I'm going with this is that with the people who provide purely recreational massages, let's say, that trail of information isn't there, so there's not usually health information moving to them in the first place. Your doctor is not going to send a requisition and a chart to one of the recreational massage therapists. So they're a little bit isolated in the information sense. What they will have is whatever you tell them, and they'll have your credit card number for sure. You know what I'm saying? Not being a part of the therapeutic care system, they won't be privy to the same degree of health information that mainstream therapists would be.

Ms Blakeman: Because it won't pass across their desks, literally.

Mr. Work: Exactly.

Ms Blakeman: There would be no lab tests or doctor's order or prescription that's coming with the customer that's walking in the door asking Eveline Charles for a massage.

Mr. Work: Correct. At least you hope not. I mean, I'd be amazed if one of these people would be able to get access to Netcare, for example, so I'm not overly concerned. But, you know, certainly, there are a lot of small businesses that get a lot of information from their clients and customers, and that's why the PIPA act was passed by the Assembly, to make sure that those businesses respected privacy rights as well. I don't want to minimize it, but I think that they're sufficiently to the side of the information flow that it's not a huge concern.

Ms Blakeman: You heard it here first.

Mr. Work: Yeah. Well, we keep our fingers crossed.

Mr. Campbell: I was looking at your judicial review applications. Correct me if I'm wrong, but under Supplies and Services the \$171,000 would be involved in covering some of the costs of a judicial review?

Mr. Work: Yeah, that's correct.

Mr. Campbell: I guess, just from personal experience, for example, in my time on the Appeals Commission our in-house counsel did our own judicial reviews. Also, because they did the judicial reviews in-house, we had the ability to talk to them, and when we were writing decisions for the Appeals Commission, we could then make sure that our decisions weren't going to be challenged in the courts. I'm wondering if you've looked at, with that money that you were spending for outside counsel, hiring in-house counsel to do your reviews and then help your investigators and your mediators as they

go through the process, which I think would give us a bigger bang for our dollar.

1:15

Mr. Work: We look at that just about every year as we get the numbers in on how much we're paying outside counsel for this. Our assessment is still that for half a million dollars, which is roughly what we're spending, you would not get a medium- to upper-end seasoned litigator plus support. We may be near that threshold, but I don't think we've crossed it yet. We use three different law firms and sometimes four for our judicial reviews, and obviously they're heard both here and in Calgary. While we're close to that point where you could say that you could do this in-house, I don't think we're there yet. Remember that I'm talking about hiring a medium- to high-end experienced lawyer, but then you've got to provide support for them as well in terms of research and filing documents, copying documents, and so on. We're close, but we're not there yet.

Mr. Campbell: I just find it hard to believe that we couldn't find a good legal counsel for, you know, I would say, even the \$200,000 to \$250,000 range that would be able to do the job. For example, I know both of the legal counsel at the Appeals Commission. They're both quite competent, and between the two of them I don't think we pay them \$500,000 a year.

Again, like I say, you know your business better than I do. I've never been in front of a judicial review for FOIP, so there might be a difference with the Appeals Commission.

Mr. Work: Yeah. We use very, very experienced external lawyers for these reviews. I don't know how to answer that. It may be fear or just undue concern on my part, but I get a little bit concerned about using less experienced people to try to present this stuff to the courts. I mean, possibly it could work, but I've lost enough, even with the people I have, that I do tend to look towards pretty senior members of the bar on a lot of these judicial reviews. I've got at least two right now in the Court of Appeal. As you probably know, the Court of Appeal makes you really nervous because that's the absolute big guns, and that's something that I would really want experienced counsel on.

As I said, the concern at the half million dollar level is that if you create the position and you fill it and our judicial reviews fall off, which could happen – for the first seven years of the FOIP Act things were fairly peaceful, and for the first maybe year or two of the private-sector privacy act things were pretty peaceful, and then the number of judicial reviews started ramping up. If by the same token they started subsiding – I can only wish – we've got a couple of fairly expensive positions that, you know, we might not be able to justify anymore. I'll admit it's a best-guess kind of situation.

Mr. Campbell: The second question I have is on education. Where in your budget – I just couldn't find it – would you have education? The reason I ask the question is that, going back in my former life, there were a lot of employers in this province who really didn't understand FOIP, and, you know, we don't do a good job, I think, of educating employers and employees as to what their rights are under FOIP. I think that if we spent a little bit more on education, we might see the inquiries drop a little. I would look at it as being, hopefully, revenue neutral.

Mr. Work: It would be nice. We share responsibility for public education on FOIP with Service Alberta. We do some things together with them, some joint projects, but with a lot of things we

do a part of it, and they do a part of it. We just make sure that we're not doing the same part. So the pool of available educational resources includes Service Alberta as well.

The main vehicle for education in my office is the staff. The portfolio officers, who are the same people that negotiate or try to mediate settlements, are also responsible for the public education process. I didn't bring numbers, but we do a large number of speaking engagements a year. We speak at trade associations. When the private-sector act came in, one of the huge concerns, for example, was occupational health and safety. For about the first eight or nine months after that we canvassed every possible employer, health and safety organization we could find and did presentations and PowerPoints.

Both Service Alberta and my office have help desks where you can just phone and ask questions. I'm sorry; I should have brought numbers for you on the number of calls that we fielded. I think we have thousands of queries every year where people just phone and say: "I don't know what I'm doing here. Do I have some responsibilities?" I think you've been handed some of our pamphlets and brochures. Both for PIPA, for the private-sector act, and for the Health Information Act we prepared a large eight and a half by 11 coil-bound workbook which described in pretty simple terms what the responsibilities were. In a nutshell, that's our educational program.

When it comes to judicial reviews – I'd be interested if this was your experience on the Appeals Commission – by the time you get there, these organizations are now being pretty well informed by counsel. If there's any misunderstanding or any confusion as to why we might be going to court, either their lawyer or our lawyer has – you know, it's an expensive proposition. The battle lines are drawn – I guess that is what I'm saying – by the time you get to that point.

I have a list of the places where we're getting judicial reviews from over two years. It's not a very well-written list. As I say, in terms of businesses we're only getting about 4 out of 20 from businesses, which, I take, is a good sign. More of our judicial reviews come from – we got a couple from police commissions, we've got four from police services under FOIP, and that tells me that these organizations know FOIP very, very well. So if they're taking us to court, they feel there's a real compelling issue there. As I say, the businesses haven't been responsible for a large portion of our judicial review docket. Sorry; that was a long answer. I apologize.

Mr. Campbell: No, no, no. I appreciate that. Thanks very much.

The Chair: Mr. Bhullar.

1:25

Mr. Bhullar: Thank you. Some of my remarks have already been said, actually, by Mr. Campbell. They were around legal services. In my opinion, privacy law is something that's evolving. It's not really all that well established yet, so it's changing. I see maybe some potential in your office actually becoming a centre of legal expertise in this as well. You bring in an experienced, high-calibre litigator, and you take on a couple of articling students, and I see some potential there. I see some great potential there if you were to bring some people in-house, but I leave that judgment to yourself. You've provided explanations for that to Mr. Campbell, so I will not get into that.

Overall, I think my greatest fear is that if litigation continues to increase, then eventually are we going to have to set up a tribunal in this area as well or some sort of a quasi-judicial body to deal with the cases as opposed to having them all go to court because the costs

are so out of whack? Maybe provide your thoughts on that. What are your thoughts on having this going to a quasi-judicial body as opposed to judicial review right away?

Mr. Work: What you said just reminded me that in my Parliamentary Counsel days we used to say: it's a little known fact now, but actually the Legislative Assembly is a court. Maybe I shouldn't tell you that. It might not be in my own best interest. But, you know, the Legislative Assembly is a court of sorts and can call people to the bar of the House to give evidence and account for themselves.

I think you made a very, very good point when you said that privacy is an evolving concept, and what I'm hopeful will happen is this. When we started out, both with FOIP and then HIA and then PIPA, I noticed the first few cases that we had go before the courts. The courts have a thing called deference. If the courts feel that either the Legislature has said – and I'll use me as an example although it would apply to any quasi-judicial body, appeals commissions and so on – to the courts, "You must defer to these guys, to this tribunal," then the courts will do it, of course, because that's the law of the land, and the courts are there to give effect to it.

As you may know, Legislatures are a little reluctant to give tribunals that kind of superpower. Some get it. I think the WCB Appeals Commission has kind of a superpower, where courts can only review them for certain things – right? – so the Legislature narrows the scope of what's fair game. I don't have that entirely although if you want, I can go into that, too. What has to happen is you have to start educating the courts as to who you are. You have to start earning your deference from the courts, and once the courts recognize you as being deserving of some deference, then you get a break from them in terms of the standard that they hold you to. For example, a tribunal that the court doesn't think deserves any deference because they're not an expert in their field or the Legislature hasn't given them any special responsibilities or powers doesn't get much deference, so the courts will hold them to a very high standard on review. They will say to these tribunals: you guys have to get it right every time, or we're going to correct you. The standard is called correctness.

That's kind of how I started out. I remember the first couple of judicial reviews we had. The courts said, and I'm sure lots of people agreed: "There's nothing special about this commissioner. We're not going to give him much deference at all." My feelings were hurt, not to mention that my pocketbook was hurt as we were spending money on losing cases.

What's happened since then is that we've earned some deference from the courts. We now have earned several decisions where the courts have said: "You know what? This commissioner is now an expert tribunal. They know this area. They have some expertise here. Therefore, we're now going to start deferring to them. Instead of holding them to a correctness standard where they've got to get it right, we're going to give them a reasonableness standard whereas if the commissioner now comes within the reasonableness ballpark, we're not going to interfere." So we've earned that, but it has taken some cases in front of the court, and it still does. Of course, judges read other judges' decisions, so once you start earning this deference, it kind of grows, and other courts say: "Okay. Well, it's already been decided that the commissioner is an expert tribunal. They're entitled to deference. Therefore, we won't interfere with this decision or that decision."

I still get overturned if the courts feel that I've totally left that reasonableness area, but what I'm saying is that the reasonableness area is now established, and it's getting a little bigger and getting a more definite shape. As you said, privacy is an evolving concept, and I think we're evolving with the courts as well. I think that as they become more knowledgeable about us, and if we're able to

continue to earn their deference, that, as much as anything, may start reducing the number of cases we see going. Again, lawyers read cases, too, and at some point they'll start saying: "Well, there's no point in taking the commissioner to court on this one. It has been decided in the past that, you know, he can do this." I'm crossing my fingers on that.

Mr. Bhullar: What's the highest level of court that has given you the reasonableness standard?

Mr. Work: The Court of Queen's Bench. As I say, we've got two cases before the Alberta Court of Appeal, and that's, of course, a higher court. We'll see how they treat us.

Mr. Bhullar: It'll be defining.

Mr. Work: Yes. Absolutely right. That'll be a big one. Both of those will be big for us.

Mr. Bhullar: Very interesting. This is actually very interesting because the way that those cases will be determined will say a lot about how this area will be governed and whether or not we, indeed, as legislators will be posed the question: do we need to give you further deference in the eyes of the courts?

Mr. Work: Yeah. Exactly right. In fact, if you notice in the PIPA Amendment Act, there's a section in there that says that when businesses have to report their breaches to my office – there's a couple of little words that the government very kindly put in the bill: "the Commissioner has exclusive jurisdiction" to make this decision. That's a cue to the courts from the Legislature that we the Legislative Assembly intend for this guy to have a lot of say on this, and the courts know what those words mean. That's an example where the Assembly has actually given me a little bit of a nudge up. Theoretically, if there's a breach reported to me, and I say to the organization, "Okay, I want you to notify all of the people affected," and the organization says, "We're not going to do that; we're going to take you to court," those couple of words that are now in this act should tell that organization or their lawyers that the Legislature doesn't want the commissioner's decisions to be too easily trifled with. It can be that subtle, as you say.

Mr. Bhullar: When do you expect decisions from the Court of Appeal?

Mr. Work: We've got one that goes in Calgary at the end of this month, and the other one, which is a very significant decision on an interpretation of a time period under both the FOIP and the PIPA acts, goes in Calgary, I think, in March. Our submissions are being written now. Yeah, they'll be very significant indeed.

Mr. Bhullar: Going back real quick – I'm sorry, Mr. Chair – you know, this conversation we've had over the last five minutes gives me all the more reason to say that I think you should have more in-house and really bring on articling students because this is an evolving area of law.

Mr. Work: It is.

Mr. Bhullar: It's very interesting, very fascinating. I think you can really become a centre of excellence where people will want to come, learn, and it will save you some money in the process.

Thank you.

Mr. Work: Thank you.

The Chair: Thank you.

Mr. MacDonald.

1:35

Mr. MacDonald: Yes. Thank you. Good afternoon. The 37 per cent requested increase from 2009-10 to 2010-11 in contract services: obviously, the majority of that would be for legal fees if footnote 7 is to be referenced. My question would be this. Will part of the \$713,000 requested in the estimates be used to retain legal counsel in the matter of the issue before the provincial courts going back to the altered flight logs?

Mr. Work: No. As far as my office is concerned, that matter is concluded.

Mr. MacDonald: Okay. That matter is concluded as far as your office, but it's not a matter that's legally concluded yet.

Mr. Work: No, there's Mr. Pringle's office. I believe he was appointed by the Premier or the Minister of Justice.

Mr. MacDonald: The Minister of Justice. Yes.

Mr. Work: Yeah. He's still dealing with it, but that has no implication for my office whatsoever now.

Mr. MacDonald: Okay. So if this budget is up or down, that's not going to restrict or limit in any way your ability to enforce the act.

Mr. Work: I'm sorry. Say that again.

Mr. MacDonald: If this \$713,000 estimate was to be lower, am I right in assuming that it would limit and restrict your ability to enforce the acts?

Mr. Work: Yeah. Let's be absolutely blunt. If I had less money to spend on lawyers, I would have to start making some decisions with respect to judicial reviews; for example, not to participate, which I don't have to. I could not show up and just take my chances that the court will – because on a judicial review the court gets the record anyway, right? They get my file whether I'm there or not. We get a notice of judicial review. We bundle up our file. We send it off to the court. If I didn't show up, I would just kind of be at the mercy of the court to read and interpret the file in any way they saw fit and take my chance on the outcome. I'd rather not do that, but, yes, if I had less money to spend on counsel, that would be one option.

The other option would be that I do have lawyers on staff. I could take one of them away from writing orders and maybe – none of them are really litigators, so it might not work – twist their arm to do the court work, but then, obviously, my backlog of orders is going to increase because I've got one less person writing orders.

You know, what I'm saying, Mr. MacDonald, is that it's not an end-of-the-world scenario, but it's certainly going to have implications for how effective my office is in terms of being able to enforce the act and the level of service we're able to offer Albertans.

Mr. MacDonald: Okay. Thank you.

The Chair: Thank you.

I just have one question, Mr. Work, and that's going back to some of your slides. You know, it's mostly just for information for

myself. I'm curious. You mentioned the total cases opened over the three-year periods there. Am I led to believe that the total cases closed, then, is the difference between what you have for orders and the judicial reviews? Would the rest of them, then, be closed? Would you get an opportunity to close a great many of those every year, then?

Mr. Work: Mr. Chairman, I really appreciate that question because I forgot to tell the committee something that I can now. The answer to your question is no. If you take that number and subtract the number of orders and judicial reviews, it all works out. The answer is no because of what I've started doing because of scarce resources. Under all three pieces of legislation the Legislative Assembly has given me the power to refuse to open a file or to refuse to hold an inquiry. So there is a gap. Your question does identify a gap, and that gap consists of cases where I've said: "No, we're not going to open a file on this. It has been done before. It has been heard before. I can't justify the resources." Conversely, I say that I'm not going to send this through to inquiry because, again, it has been done before or it's just vexatious or it's just someone with an axe to grind and not a legitimate complaint.

So, thank you. Yes, there is a category there in those gross numbers where they don't come out the other end as either an order or a resolved case because we've just put an end to them. We always inform the parties, and we allow them to make representations as to why I shouldn't exercise my prerogative to put an end to their file. We take their feedback seriously but, you know, resources are scarce. We're up against it, as everyone else is, and there are cases where the process is just being misused. We're at extra pains now to identify those cases and put an end to them early on in the process. And those decisions on my part, again, are reviewable. If someone feels that, really, by refusing to open a file or by refusing to put a file through to an inquiry, they've been really, really wronged, they have the recourse of taking me to court on a judicial review.

Thank you for that.

The Chair: Okay. Thank you. Are there any other questions?

Well, thank you very much, Mr. Work and Ms Furtak and Mr. Wood, for your presentation. The committee decisions on the offices' budgets will be sent out within the next week. Thank you very much for coming in.

Mr. Work: Thank you, Mr. Chairman, and thank you to members of the committee for your attention and your questions.

The Chair: We'll reconvene in about five minutes or so for the next officer. Okay?

[The committee adjourned from 1:42 p.m. to 1:48 p.m.]

The Chair: Well, we'll call the meeting back to order. Welcome, everyone, to our meeting.

We'll ask everyone to introduce themselves for the record.

Thank you for accommodating us as we finished a little bit early from our last one. We'll maybe finish a little early from this one as well.

I'm Len Mitzel. I chair this committee.

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

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

Mr. Campbell: Robin Campbell, West Yellowhead.

Mr. Rogers: George Rogers, Leduc-Beaumont-Devon.

Ms Blakeman: Laurie Blakeman. I am the lucky MLA for the fabulous constituency of Edmonton-Centre, to which I welcome you.

Mr. Resler: Glen Resler, director, corporate services.

Ms McHugh: Pam McHugh, Deputy Ombudsman.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Thank you very much. A couple of other members will be joining us very shortly.

The committee is certainly aware that Mr. Button, the Ombudsman, is unable to attend today because of some previously scheduled travel.

Mr. Bhullar has now joined our committee as well.

I would ask you, then, to proceed with your presentation. Then at the very end we'll save some time for questions and answers. I'll ask you to proceed. Okay. Thank you.

Office of the Ombudsman

Ms McHugh: Good afternoon. My name is Pam McHugh, and I'm the Deputy Alberta Ombudsman. With me today to make our presentation is Glen Resler, director of corporate services.

Let me begin by conveying an apology from Alberta Ombudsman Gord Button for not being able to be here today. As you know, Ombudsman Button has been a member of the board of directors of the International Ombudsman Institute, commonly referred to as the IOI, since 2006. The IOI is an international body made up of ombudsmen from over 140 countries around the world. Its purpose is to promote the concept and institute of ombudsman and to encourage its development throughout the world. Mr. Button was re-elected to the board of directors representing the North American region at the world congress of the IOI last June and subsequently elected to the position of treasurer.

The IOI is currently going through the transition of moving its head office from the University of Alberta Faculty of Law to Vienna, Austria, and the newly constituted board is holding its first meeting in Vienna this week. As a board member and treasurer of the IOI Ombudsman Button made a prior commitment to attend that meeting. He advised the committee through the committee clerk prior to the date being set for this presentation that he would be unavailable this week. Ombudsman Button sends his sincere apology and regrets that he could not make this presentation and respond to your questions himself. He has prepared a presentation for Glen and me to deliver to you, and we will of course endeavour to respond to any questions you may have during or after the overview we are about to provide.

Ombudsman Button looks forward to the opportunity to meet with you in the near future when the leg. officers are requested to appear before you again to be examined on their annual reports.

I now refer you to the slide presentation we provided to you in advance to prepare for this meeting, which includes our budget forecast for the current fiscal year and our estimates for 2010-2011 and the two subsequent years.

I will begin by providing you an update on the structure and current workload of the office and highlight some of the significant developments we have dealt with over the past year or anticipate will have an impact on us in the coming year. Glen will then explain our

budget documents and, of course, welcome your questions. In preparing this presentation, Mr. Button was cognizant of the need to avoid duplicating the information he will provide you when he presents our annual report. Therefore, our presentation will focus primarily on the factors impacting financial considerations and, in particular, the budget for the coming year.

I now move to the slide that has the organizational structure. We have 25 FTEs, and the chart shows how the FTEs are split between the Edmonton and Calgary offices. We have a very flat management structure composed of the Ombudsman, the Deputy Ombudsman, the director of corporate services, and senior legal counsel. We have 15 FTEs for investigations and complaints analyses and six FTEs for administrative support in relation to investigations and management. This organizational structure focuses maximum resources on our primary responsibility of conducting investigations and alternate complaint resolutions.

Currently we have one vacant investigator position, which we are looking to fill to meet the increased workload. As you will see, this position can be staffed while respecting budget restrictions. The Public Service Commissioner has advised previously that as long as we are cognizant of the economic conditions and aware of the hiring restrictions in place within the government of Alberta, we are not bound by these restrictions, and I refer the committee to its meeting of September 25, 2009.

I now move to the slide on the update on strategic business plan results '07-08, '09-10. Copies of the strategic business plan and internal scorecard have been provided to the committee.

1:55

I'll now move to the slides which include a brief statistical overview and the significant developments impacting on the office. The first slide, entitled workload and statistical overview. We have experienced another significant increase in all aspects of the workload in '08-09. Just as sort of a quick description I'd like to say that these figures put out here represent the work that investigators do. Investigators do more than just formal investigations. They also handle oral complaints, which are people who phone in to the office. We do intake on a daily basis. Investigators take all of those intake calls and assess whether the caller can write in to our office or whether it's a matter we cannot deal with. They also spend time dealing with walk-in clients who come in off the street.

They do what are called referral and decline letters, which respond to letters from the public with regard to matters that perhaps they write in and complain about that the Ombudsman does not have authority to investigate or that have to be referred because they have further steps to take since our office is an office of last resort. The other thing that investigators also do is further inquiries, which happen when people write in and they don't provide us with enough information to make an assessment as to whether it's a matter that we can investigate, or sometimes they don't provide us with enough details of the complaints.

I sort of give you that brief explanation because we've got some statistics below here which talk about these concepts. The first one is that oral complaints have increased 10 per cent over the past two years. The total written complaints, which consist of the referral and decline letters, further inquiries, alternate dispute resolution, the ACRs we've listed here in this chart, and formal investigations are up 28 per cent over the past two years. The formal investigations have stabilized in volume but are increasing in complexity.

We've also experienced an increased use of alternate complaint resolution, ACR, and IR, which is informal resolution, which is normally something an investigator will do on the telephone to mitigate some of the impact of increased written complaints because,

of course, it's normally quicker to do something on the phone if it's an appropriate complaint that we could deal with on the phone or through an alternate complaint resolution instead of a full-blown formal investigation.

Investigator file loads are up again this year. The average number of formal investigations that each of the 12 investigators carries is 22, which is up 16 per cent. The carry forwards – those are files – of formal investigation files year to year continue to rise due to increased volume and complexity of complaints and reduced investigative staff due to the vacant position and the impact of the own-motion investigation we did last year, which we'll discuss later.

We utilize other flexible approaches to try to manage with current resources to reduce the resource-intensive formal investigations but also to continue to do thorough investigations. Operational efficiencies are being found by having investigators better co-ordinate their complainant and authority visits to minimize the amount of travel and to maximize the effectiveness of the travel so that investigators will try to travel on more than one file if they can, depending on time. I, in assigning investigations, try to assign things in terms of geographical areas. For instance, if we have a complaint that comes in from Grande Prairie and then a couple of weeks later we have another Grande Prairie complaint, I try, obviously, to assign it to the same investigator so they're travelling to that area with their files.

A comparative analysis over the first six months of '09-10 indicated that a trend is continuing this year in terms of increased workload. For the first six months the written complaints were again up over 18 per cent. Currently, it is taking, on average, six to eight months to commence an investigation, and this delay in responding to citizens' complaints is unacceptable to the Ombudsman and to complainants.

I now wish to talk about the significant developments that face the office. I've got overviews of five significant developments: operational priorities, own-motion investigation, Health Professions Act investigations, the Alberta Public Agencies Governance Act and framework, and legal challenges, so I'll move to the first slide, the first significant development: operational priorities.

In July of 2008 the Ombudsman met with this committee to discuss his reappointment and to identify operational priorities for the office. This discussion focused on creating two dedicated units: one, to conduct more resource-intensive systemic investigations on his own motion or at the request of a minister, and two, to expand the use of informal problem resolution through ICRs and ACRs to resolve problems and to address increasing workload pressures. This would require seven additional FTEs, five for systemic investigations and two for mediation. These priorities were not funded in 2009-2010 due to fiscal restraint as the 2009-2010 budget was approved at only 3 per cent over the 2008-2009 figures. We are not tabling these priorities again this year in recognition of the ongoing economic challenges the province faces. These priorities do need to be reconsidered when the economy improves.

The second significant development is the own-motion investigation conducted into the out-of-country health services program. This report, entitled Prescription for Fairness, was released in May 2009 and was provided to each committee member. The recommendations included addressing training, orientation, recruitment, and members of the Out-of-country Health Service Committee and appeal panel; writing more detailed decision letters; that four appeals be reheard; changes to the regulations so that applications are physician driven and are required to have support in writing from specialists; and that the Department of Health and Wellness enhance its public communication of the program.

The standing committee has identified own-motion investigations as a priority. The Ombudsman decided to initiate this own-motion

investigation because a history of complaints had not been satisfactorily dealt with. We had 10 investigations at that time. This investigation was important to Albertans. In the future if Albertans are denied out-of-country health services funding, they will at least have an understanding of why they were denied. Albertans will have better access to information about the out-of-country health services program, and this will work to reassure Albertans that the decisions are fair and reasonable.

The report made 54 recommendations for needed change to enhance fairness and transparency of the program delivery. All recommendations were accepted by the minister, the committee, and the appeal panel. The majority of the recommendations have been implemented, and we are monitoring the progress of the remainder.

2:05

However, this investigation impacted the office in a number of ways. It was a significant drain on the resources of the office. We had three investigators working full-time over a six-month period and one dedicated admin support person. We also had significant time from the deputy, the senior legal counsel, and the Ombudsman. The total team commitment was approximately 3,500 hours. This impacted the progress on the regular work of the office on other investigations, but we have a team of committed and dedicated investigators who work very hard to do more investigations, take more intake calls, do more referrals, and decline work.

We did have very positive outcomes from the ministry, the Out-of-country Health Service Committee and appeal panel, and the citizens affected. There were four citizens who, as a result of this investigation, had their applications reheard or are in the process of having their applications reheard. Certainly, this demonstrates the value of these types of investigations that the Ombudsman could do, but to undertake another own-motion investigation will negatively impact the current workload and resource base. The findings and recommendations have application to many other programs across government that have similar unfairness, and we do use this report as a teaching tool to illustrate how the Ombudsman does his work and to illustrate what administrative fairness is.

I now move to the third significant development, Health Professions Act investigations. The office is beginning to receive complaints about colleges we haven't investigated previously. They're up 42 per cent over last year. Most complaints have resulted in very complex and lengthy investigations. Colleges were previously self-regulated, so they're not prepared, necessarily, for the external oversight. Therefore, investigators are spending time explaining the role of the Ombudsman and the investigative process. We have identified significant systemic problems in some investigations, but in most instances the colleges have been very co-operative and are interested in improving the fairness of their registration, disciplinary hearing, and complaint handling processes.

The fourth significant development is the Public Agencies Governance Act and framework. This framework was approved in February 2008. The act has been passed and is awaiting proclamation. The act prescribes good governance, transparency, and accountability standards for 250 agencies, boards, and commissions to ensure that they are as effective and transparent as possible. These standards to a great extent mirror the administrative fairness standards that the Ombudsman uses all the time in his investigations. Many of the 250 agencies, boards, and commissions are within the Ombudsman's jurisdiction. It is another tool for us to use in our investigations.

Specifically, this development impacts our operations in three ways. We use it as a tool for the public agencies under our jurisdiction. We use the standards to reinforce some of our recommenda-

tions on the basis that these standards are legislated government standards. We also, secondly, use this as a teaching tool for the private-sector entities which do not fall under the Alberta Public Agencies Governance Act and framework but are under the Ombudsman's authority to investigate, such as health professions. In making recommendations to these health professions, we may point out that while compliance with the act is not mandatory, it is a best practice which should be adopted.

Thirdly and finally, the act and framework more clearly define the accountability of public agencies to the minister responsible. This assists us particularly in terms of raising our recommendations to the minister and whether the minister is accountable to that agency and thus can speak to the recommendations the Ombudsman is raising.

The fifth significant development is legal challenges, two legal challenges that we face in the coming year. The first legal challenge potentially involves the Alberta Human Rights Commission. We had a challenge to our jurisdiction by the previous chief commissioner. This resulted in needing to take the matter to the Court of Queen's Bench in 2007. The court issued a decision confirming the Ombudsman's jurisdiction to investigate complaints about the actions and decisions of the chief commissioner in April 2008. The then chief commissioner, Mr. Mackintosh, retired in the spring of 2008. There was an acting chief commissioner, who was not prepared to co-operate with us and would not meet with the Ombudsman to discuss a resolution prior to the new appointment.

Delay in appointing a new chief commissioner occurred until the spring of 2009. The new chief commissioner has not accepted the court's decision and continues to challenge our authority to investigate the adjudicative function of the Human Rights Commission. Twelve formal investigations remain on hold, pending resolution. The Ombudsman is currently seeking legal advice on options, which may include going back to court.

The second legal challenge that we are dealing with involves the Information and Privacy Commissioner. In June 2009 the Ombudsman and the other legislative officers intervened in a court application started by the Information and Privacy Commissioner to review an adjudicator's decision under the Freedom of Information and Protection of Privacy Act. The adjudicator decided that section 4(1)(d) of the FOIP Act does not exempt from FOIP certain records that a legislative officer has or creates that relate to his function as a legislative officer. This interpretation goes against the long-standing interpretation that all records related to an officer's legislative functions are excluded from FOIP. We are concerned that the adjudicator's interpretation will result in inconsistencies between the FOIP Act and the secrecy and confidentiality provisions of the Ombudsman Act and could give the Information and Privacy Commissioner oversight into the Ombudsman's actions under the Ombudsman Act.

In its decision dated September 22, the Court of Queen's Bench agreed with the adjudicator that section 4(1)(d) does not exempt from FOIP certain records of a legislative officer that are related to carrying out his legislative duties. On November 4 the commissioner filed an appeal of this decision with the Alberta Court of Appeal. The Ombudsman intends to apply to the Court of Appeal for intervenor status in the commissioner's appeal. If successful, the Ombudsman would then participate as an intervenor in the main appeal. It is our understanding that the other leg. officers are applying to intervene as well.

That concludes the statistical overview and significant developments impacting our office.

I'll now turn our presentation over to Glen, who will discuss the budget in more detail. Thanks, Glen.

Mr. Resler: Thank you. First I'll walk through the 2009-2010 budget forecast. We are forecasting \$144,000 surplus in the personnel section. This is mainly due to several vacancies that have occurred throughout the year in addition to delays in filling these positions. We have a maternity leave that was not backfilled, and this staff member will be returning in April 2010. We also have one vacant investigator position. As Pam mentioned earlier, we are looking to staff the vacant investigator position to address the rising number of complaints, the increasing backlog of investigations, and to lessen the time to commence and complete investigations. Next, under employer contributions, they have a direct relation to the salaries and, as a result, are also in a surplus position. Under professional fees and development we are anticipating a lower cost for training in addition to a decrease in staff conference and workshop fees.

2:15

Under supplies and services I would like to highlight a reduction in staff conference and workshop travel costs. We will have higher advertising fees as a result of advertising for the staffing competitions. Lastly, the line item that stands out in our forecast, contract services, is forecast almost double the amount that was budgeted. The increase of \$46,000 in the contract forecast is due to an additional \$26,000 in legal fees to address the legal challenges involving the Alberta Human Rights Commission and the Information and Privacy Commissioner; in addition, \$20,000 for costs associated with the own-motion investigation, attributed to communications and report printing. The cost of the Information and Privacy Commissioner challenge has been kept minimal as the cost is shared by the four legislative offices.

Overall we are forecasting a surplus of \$102,000 for 2009-10.

Next I'd like to discuss our estimates for 2010-11. Our total cost of operations has been held within the suggested zero per cent increase over the approved 2009-10 operating budget. Staff expenses have been held at the 2009-10 levels. There are no increases for merit or cost of living, and no achievement bonuses will be paid. The number of staff will remain at 25 FTEs. We have reduced our staff travel to workshops and conference training sessions, which has resulted in a decrease in our fees and travel costs. Contract services have been increased by \$21,000, and that's to address the continuing legal challenges we're facing.

Technology services have been held at current numbers, and I'd like to clarify what is included in this line item. We do not have any IT staff in our office and, therefore, no salary costs relating to IT support. As a result we contract out these services. The technology services line item is made up of three main components. First is our case tracker system, which is our complaint, analysis, and investigative support software. We lease the system from the B.C. ombudsman's office, and we pay an annual fee for use of the system. In addition, B.C. houses the server and maintains the hardware and software on our behalf. This means we do not have any system development costs under capital expenditures, nor do we have any amortization costs associated with building a computer system, so this is very cost-effective for our office. The second component of technology services is network support for the 25 staff in the Edmonton and Calgary offices. And, finally, maintenance and housing of our website.

The last line item to discuss is amortization. This has been reduced as a result of delaying capital purchases. We have obtained warranty extensions on our servers, thereby extending the timeline for replacement of our computer hardware.

That ends my financial review. Pam and I would be pleased to answer any questions that you may have.

The Chair: Thank you very much.

We've got a short list here so far. Mr. Marz.

Mr. Marz: Well, thanks very much for that very thorough presentation. My question deals with one of the first slides, I believe, page 3, the workload statistical overview. First of all, I was wondering what percentage of your complaints, oral or written, would deal with the Health Professions Act. Secondly, you're very thorough with this, but I was just wondering if there is any correlation between the complaints resolution process and the number of formal investigations because in the last year, as your formal investigations seem to have gone up, your ACRs have gone down, and in the year before that your ACRs were up, but your formal investigations were down. Is there a correlation between those? If you use that complaint resolution process more, do those investigations seem to taper off?

Ms McHugh: I guess the correlation in general terms is that if we do more IRs and ACRs, there's the potential that the number of formal investigations will decrease because we do deal with some of these complaints in a more informal way, and obviously then we don't do a formal investigation.

Mr. Marz: Do you track, by percentage of complaints, what they're based on? Because health is such a huge part of the provincial budget, I was wondering if that's also a much higher percentage of the type of complaint you deal with, the Health Professions Act.

Ms McHugh: The Health Professions Act is an area, as I said, that's growing. Not all of the health professions' schedules under the Health Professions Act have been proclaimed. I think 21 of 28 have been proclaimed. It's an area, as I say, that's growing. We were up by 42 per cent. We do not have jurisdiction over the Alberta Health Services Board. Health is such a huge area and covers so much. We do have jurisdiction over the patient concerns resolution process under Alberta Health Services. That is an area which is growing as well.

Mr. Resler: If you look specifically at the Department of Alberta Health and Wellness, they're 5 per cent of our caseload base.

Mr. Marz: Not that big a percentage.

Mr. Resler: In addition to the health professions. That's separate.

Mr. Marz: In addition to?

Mr. Resler: In addition, yeah.

The Chair: Thank you.

Mr. Lund.

Mr. Lund: Thank you, Mr. Chairman. I'm very pleased to see the way you've held your budget, but of course you recognize that even though it's not a big amount, there is an increase in '12-13. If we pass this budget, that doesn't necessarily mean that that number way out there would be what it would be in that year.

I guess I really am disturbed when you describe these legal cases, really disturbed, because the fact is that we as legislators wrote the legislation, and if there's a problem like this, I can't believe that it wouldn't come back to us to fix it rather than spending all this money going through court. Now, I don't know who initiated the challenges. But I've got to tell you: I can't believe that within government, when it's an interpretation of legislation, it couldn't be

determined by legal counsel in the Attorney General's department what it is that we have to do to fix it. Obviously, it's an interpretation that is the problem. I guess that's all I can do about it right now, but I just can't imagine why that would go this far. We've spent all this money. I know it's not all in your budget, but it comes out of government money, and it's an internal thing. I sure will be pushing this as far as I can.

2:25

The Chair: If there are no comments on that . . .

Ms McHugh: I'm not sure if you want us to comment.

The Chair: It's up to you. If you wish.

Ms McHugh: Certainly, the Ombudsman has, you know, met with ministers, and we've done our best, from our perspective, to try to resolve these issues, particularly with the Human Rights Commission. The challenge involving FOIP also has to do with an individual, a private citizen, who was involved with the adjudicator's decision. I know that we're at times as frustrated as you are, Mr. Lund, in terms of trying to resolve these matters without involving the court.

At the same time, as we've pointed out and I think Mr. Button pointed out, last year we had 10 files with the Human Rights Commission on hold. We now have 12 on hold from 12 different Albertans, and we can't move anywhere with the investigations. It's like anything: someone will interpret the legislation one way, and somebody is interpreting it another way, and we can't seem to come to common ground. Although we're continuing to try to reach common ground, we just haven't, and that's why we're putting forward the fact that we want funds in reserve in case we do have to go to court to try to resolve these.

Mr. Lund: Well, I didn't realize that last year, when the Ombudsman was making those comments, he couldn't move on the ones with the Human Rights. I didn't realize it was a conflict between the commission and the Ombudsman. But you just really reinforced what I said earlier. To me it's an interpretation of legislation. If we haven't got it right, then we should get the wording right so that it's settled. That's within the purview, in my opinion, of the legislators. We would take advice from, of course, legal folks. To me this is just wrong. Just imagine what the public thinks when two bodies, internal in government, can't get along, and they're going to court against one another. I know that there's got to be an individual that has – from what you're saying, I suspect that in both cases they've probably gone first to the Privacy Commissioner, or maybe it came to you first. I don't know which it was.

Ms McHugh: The Privacy Commissioner.

Mr. Lund: Yeah. That's what I thought, probably. Okay. Anyway, that's my point.

The Chair: Thank you.

Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. I have several questions, but with your indulgence I would ask two and ask to be put back on the list for two more later.

Thanks for your presentation. My first two questions. You mention that you're short one investigator and that you're looking for someone. I'm just wondering – and I'm sorry; I'm just not

familiar with your process – who is a typical employee? Who would you typically hire as an investigator? What type of background do these people bring to this role? Secondly, I guess, following that up, when you went through the number of complaints and the cases and so on, I'm just wondering what percentage of those complaints are typically frivolous or require no action by your office.

Ms McHugh: I'm sorry. Frivolous or . . .

Mr. Rogers: Frivolous or require no action, so they're essentially dismissed.

Ms McHugh: Okay. Mr. Rogers, on your first question, in relation to the normal background of an investigator, we tend to look for about three to five years of investigative experience, which can be very broad. Our current staff have investigative experience from a number of different areas. We have people with a police background. We have a journalist. We have people who have government experience as investigators. There's a varied background. The other major thing we look for in terms of background is some kind of mediation alternate complaint resolution experience or training.

Mr. Rogers: Thank you.

Ms McHugh: With regard to your second comment, the number of complaints which are frivolous, we do have a section in our act that allows us to decline to investigate if we feel a matter is frivolous and vexatious. We very rarely employ that. In fact, I can only think of maybe one time in my career at the office where we've done that.

We will look to investigate if the person is at a last resort and it's within our jurisdiction in government or with regard to some of the professions. We do have about 2,700 matters a year which are not under our authority. As you can appreciate, people access our office with all different kinds of complaints. A lot of them deal with the federal government, for instance, where we obviously don't have jurisdiction, or they'll look at a lot of private matters – they're not happy with the way their car was repaired – all different things that we can't look at, which we categorize as nonjurisdictional.

Even if we decide that a matter requires no action, we try to do, as I talked earlier, a referral elsewhere. We try to keep a compendium of referrals all over the place so that when people phone in, if it's not a matter we can look at, we try to refer them somewhere. The same thing happens if people write in about a matter that we don't have authority over: we'll decline to investigate, but if we do have information about a place they can go, we will offer that.

Mr. Rogers: Thank you very much.

Ms McHugh: You're welcome.

The Chair: Okay. Any other members have any comments or questions?

Mr. Rogers, you're back to the top of the list.

Mr. Rogers: Well, thank you. I believe Mr. Bhullar was trying to get in, so since I've been up already I'd cede the floor to him.

The Chair: Okay.

Mr. Bhullar: Although your questions are usually more entertaining than mine. Maybe entertaining is not the right word.

I see 40-some thousand dollars for professional fees and development. Could you elaborate on what that encompasses?

Mr. Resler: The professional fees and development, that includes the educational component for staff, so staff training; the learning and wellness account; staff recognition programs; membership fees for the Canadian Bar Association, the law societies, the accounting society, and memberships that the office belongs to; and also some conference fees for the Ombudsman.

Mr. Bhullar: The second thing, I guess, is technology services. Again, this is a theme every year that I've had the opportunity to look at virtually any budget across government. Technology costs always seem to surprise me to some degree. We're looking at about \$100,000 a year in technology, and I just, I guess, put the question out there: are there ways and methods in which we can better align the use of technology services across various ministries or entities to try to save some dollars there? Is there anything significant or anything new that will be coming in the technology area?

Mr. Resler: There's nothing new. We do not have any staffing in IT, as mentioned. If you compare it to the cost of, you know, one system analyst, if you're looking at salaries and benefits, you're over \$100,000. When you look at our technology services, we contract out with the B.C. Ombudsman office. They've built a system, and we're able to piggyback on that with minimal customization. They are able to provide that, so that's very efficient. Then we also have the support in there and the website. We do use some functionality with Service Alberta; otherwise, everything else is in-house. Really, I think we are quite efficient on that one already, to be honest.

2:35

The Chair: Thank you.
Mr. Rogers.

Mr. Rogers: Thank you, Mr. Chairman. My next question, then, relates to your mentioning in your presentation that you're running probably somewhere from six to eight months in commencing an investigation. I find that quite unacceptable, and I'm just wondering what your thoughts might be or what plans you have to deal with that situation. I just would expect that we would be able to get at the investigations a lot sooner than that. Frankly, depending on the complaint, people move, for example, in that span of time, so it just doesn't seem very effective to me.

Secondly, I have two thoughts around your use of case tracker. Number one, I think it's a very good idea that you were able to use another system and not recreate the wheel. However, I'm also concerned about your reliance on this system, the fact that it's completely out-of-house, so to speak. Of course, if anything happened to the system in B.C., where would you be?

Ms McHugh: Okay, Mr. Rogers. In relation to your first question that it's six to eight months to commencing an investigation. As we've pointed out, that's unacceptable to the Ombudsman. This was a very tough year for the office with, as I explained, the impact of the own-motion investigation. We had three full-time investigators taken out of the roster of 12 people – that's significant – we had a vacancy for part of the year, and we had another investigator who was on special leave. Effectively, for half of last year we were down by five investigators out of 12, so it was a tough year. But this is a trend in terms of the ability to quickly commence an investigation.

That's why the Ombudsman is coming forward and looking to fill the vacant position. I think that that would help in terms of the workload and spreading it out farther. Obviously, we're hoping that that would then reduce the amount of time before the investigator can actually go out and start working on the investigations.

Mr. Rogers: If I may, just to follow, Mr. Chairman: am I hearing, then, that with the return – I believe you mentioned someone on mat leave and that – you are anticipating some improvement in that stat this upcoming year?

Ms McHugh: The person on maternity leave is an administrative support person. With the filling of the vacant position, I think that that would work toward lessening the amount of time to commence an investigation.

Mr. Rogers: Thank you.

The Chair: Okay. Thank you very much.

Mr. Resler: Just to answer the second question, regarding the case tracker system in B.C., you know: are we vulnerable in any ways? The B.C. Ombudsman office, part of the contract is the provision of a secure environment in which that server is housed. No different internally for disaster recovery purpose. In that sense it's a benefit because it isn't located in our office. If there was an incident within our office, we have a secure environment where that's located. That server and the database itself is backed up and information is stored off site, so if there is an incident in B.C., it is recoverable in that sense. So processes are in place to address that specifically.

Mr. Rogers: Thank you.

The Chair: Okay. If there are no other questions, then thank you very much for your presentation, Ms McHugh and Mr. Resler. The committee's decisions on the officers' budgets will be sent out within the next week. Thank you very much for coming today.

Mr. Resler: Thank you.

Ms McHugh: Thank you.

The Chair: We'll take a five-minute break, and then we'll be back here in five minutes sharp.

[The committee adjourned from 2:40 p.m. to 2:45 p.m.]

The Chair: Okay. We'll come back to order again. I think that the rest of today we have to pass motions on the presentations that were received.

A reminder that the officers, as they all mentioned, were asked to consider a zero per cent increase over their approved '09-10 budgets. I think that what we'll do is go through them one by one, and we'll start with the first one we had today.

At the same time, Karen also has copies of the motions. The reason she has copies of the motions is because last night *Hansard* had difficulty understanding what the exact wording of the motion was as we went through the two meetings that we had because they weren't stated word for word. So it was copied to them, and what we have here is the proposed wording. If there are any revisions required on any of them, this isn't a fait accompli. But there's the wording. It's laid out so that *Hansard* can understand it and can put it in correctly. Okay?

We'll start with the Auditor General. The 2009-2010 approved budget estimate was \$23,221,000, and the 2010-2011 budget estimate according to his presentation is \$23,165,000. Any discussion on that?

Ms Blakeman: I'm willing to move it.

The Chair: To make the motion with regard to the report?

Ms Blakeman: Yeah. I move that the Standing Committee on Legislative Offices approve the 2010-11 budget estimates of the office of the Auditor General in the amount of \$23,165,000 as presented.

The Chair: Any discussion?

Mr. Campbell: Well, I just wanted to say something before we even went into the discussion of approving this. Is there anything within our mandate that we can make some comments about legal counsel and the outsourcing of legal counsel? I know the clerk is sort of grinding her teeth at me, but I'm just concerned that the legal fees are continuing to rise for a number of the offices on the outsourcing of legal counsel. That concerns me. It's almost like it gets to the point where it's something you can't really control. I'm just wondering if maybe the chair could have a discussion with the Attorney General to see if there is something. You know, with all the legal expertise that we have within government, I find it hard to believe that we do not have somebody that can do judicial reviews. I'll put it that way.

The Chair: Mr. Campbell, as opposed to going to the Attorney General, I was going to suggest that perhaps either myself or the clerk have a discussion with Senior Parliamentary Counsel, and that's part of the LAO.

Ms Blakeman: They have to be independent.

The Chair: That's correct.

Ms Blakeman: These are independent officers of the Assembly.

Mr. Campbell: That's fine. I'm happy with the LAO.

Ms Blakeman: I think we have to be careful here not to micromanage on a line-by-line basis with any of these officers. I mean, clearly, these officers will be picking up the concerns by reading the *Hansard*, but it's possible we could put forward a recommendation that they examine their budgets with an eye to this issue that we see arising.

Further to that, we've had one member saying: well, if there's a problem with the legislation, then come back and tell us, and we'll bring it back into the House. Part of the problem with that is that you don't know exactly what the problem with the legislation is. Traditionally what we've had is legislation which then gets tested in the courts. When it fails in the courts, we know what to do.

Part of the problem with bringing it back to us now – you're right – is that we could make a change, and it wouldn't be the right change. Then we'd end up with another series of legal challenges until we figured out that there was another problem there. So to a certain extent the courts are the test that tells us what we need to do to fix it, but it may well be that the officers are able to give us an indication of some manner of helping it.

I have something I'd like to bring up under other business, around a subcommittee here to examine the Chief Electoral Officer legislation with an eye to some developments there.

The Chair: Okay. Thank you.

Mr. MacDonald: I would just like to caution us regarding these

legal fees. Certainly, we have to maintain the independence of these five offices. If you look through Public Accounts, you will see where each and every department of government routinely hires outside legal counsel in the tens of millions of dollars annually. In light of the development, as Mr. Bhullar has put it, or the evolution of some of these leg. offices, particularly the Privacy Commissioner and the Ethics Commissioner, I think we're going to see in the near term legal fees that may bounce up, that are off the chart. I don't think it's anything out of the ordinary. The government does it.

Thank you.

Mr. Campbell: Well, first of all, I differentiate between the two situations that are in front of us. The one that Mr. Lund brought up about the different officers going to court against themselves I look at differently than I look at each office having their own legal counsel to do their judicial reviews. You know, I see those as two different issues. I mean, we might spend tens of millions of dollars on outside counsel, but I think that where we have opportunities to do in-house, I think we should be looking at in-house. If we have opportunities to bring people along in some sort of succession planning or even education within their own field, i.e. articling students, I think it's something we should look at.

I mean, again, I go back to my experience on the labour board. I go back to my experience on the Appeals Commission. We had in-house counsel on both of those boards. For any judicial reviews that went before the courts, the labour board had their counsel go do that review. The Appeals Commission was the same thing. We had legal counsel that went from in-house and did those reviews.

I think that in looking at the boards as a whole, having in-house counsel doing your reviews and coming back to the boards and being able to provide education to the people that are either doing the investigations or writing the decisions leads, hopefully, to decisions being written or investigations being decided that reduce the time that we have to spend in front of the courts, which opens up again when you look at some of the issues we have about court time, the courts being tied up with issues. I mean, that frees up court time, and I think those are all things we look at so that when you look at the big picture of costs to government, you're looking at, you know, the big picture. If you're freeing up court time, you don't have judges doing judicial reviews, for example, for the Privacy Commissioner. Where we can get those things done in-house, I think we're all better off for it.

Ms Blakeman: Well, we have a motion on the floor, but I have no problem with what you're suggesting. This committee has certainly done it before, where we've asked the officers to look at an issue and come back to us next year. Or you can strike a subcommittee here and go and investigate it all. I think the important thing is that, you know, we do it within the boundaries that are set out for the independence of the officers and that we work within what their guidelines are.

I mean, some of them have made some good points around IT, which is the other area that just never stops going up. I think one of them made the point well that: well, in order for us to have in-house IT on all of the different areas we pull from, it would be far beyond what we're paying to contract it out. I think this is not an insurmountable problem.

The Chair: Yeah. You know, these have come to light, and certainly they should be part of a discussion either later on or at another meeting as we move forward on this. Okay?

There's a motion on the floor by Ms Blakeman with regard to the Auditor General's budgets. All in favour of that motion? Opposed? That is carried.

That takes us to the Ethics Commissioner. The 2009-2010 approved budget estimate was \$991,000. The 2010-2011 budget estimate is \$943,000.

2:55

Mr. Marz: I move that the Standing Committee on Legislative Offices approve the 2010-11 budget estimates of the office of the Ethics Commissioner in the amount of \$943,000 as presented.

The Chair: Any discussion? Seeing none, all in favour of that motion? Opposed? That motion is carried.

This takes us to the Chief Electoral Officer. The 2009-2010 approved budget estimate was \$4,951,000. The 2010-11 budget estimate is \$5,926,000, this being additional costs in preparation for the next general election.

Mr. Campbell, are you willing to make that motion?

Mr. Campbell: I'll move that the Standing Committee on Legislative Offices approve the 2010-11 budget estimates of the office of the Chief Electoral Officer in the amount of \$5,926,000, which includes additional costs in preparation for the next general election.

The Chair: Any discussion on that motion? Seeing none, all in favour of that motion? Opposed? That motion is carried.

This takes us to the Information and Privacy Commissioner. The 2009-2010 approved budget estimate was \$5,741,000. The 2010-11 budget estimate is \$5,741,000. Any member prepared to make that motion?

Mr. Lund: I would move that the Standing Committee on Legislative Offices approve the 2010-11 budget estimates of the office of the Information and Privacy Commissioner in the amount of \$5,741,000 as presented.

The Chair: Any discussion on that? Seeing none, all in favour? Opposed? That's carried.

This takes us to the Ombudsman. The 2009-10 approved budget estimate was \$2,911,000. The 2010-2011 budget estimate is \$2,888,000. Would a member make a motion approving that as submitted? Then I'll open the floor.

Mr. Rogers: Mr. Chairman, I'd be very pleased to move this one, particularly in the light that it's going down. I move that the Standing Committee on Legislative Offices approve the 2010-11 budget estimates of the office of the Ombudsman in the amount of \$2,888,000 as presented.

The Chair: Thank you. Any questions on that? Seeing none, all in favour? Opposed? That motion is carried as well.

This takes us to other business. We currently have two members, myself and Mr. Lukaszuk, and the committee clerk scheduled to attend the 2009 Council on Governmental Ethics Laws, COGEL, conference in Arizona from December 6 to 9. Ms Notley was also approved for attendance, but she withdrew her name, so we notified the first of two alternates. The first alternate, Mr. Campbell, had also withdrawn his name, and the second alternate, Mr. MacDonald, no longer wishes to have his name put forward.

The members may recall that the committee's motion was for the chair and the committee clerk to attend with two additional attendees based on the draw from the names put forward for conference attendance. The motion also stipulated that members who attended last year's COGEL conference not be included in the draw. We did have three other members expressing an interest in attending: Mr.

Marz, Mr. Lund, and Ms Blakeman. Ms Blakeman's name was removed as she had attended the 2008 conference, but she's still interested in attending. I'd suggest that if these three members are still interested, we could conduct another draw to identify our fourth attendee, including Ms Blakeman in the draw unless there are any objections to this. Any thoughts?

Mr. Marz: What are the dates for that?

The Chair: December 6 to 9.

Mr. Marz: Of this year?

The Chair: Yes.

Mr. Marz: Take me off.

The Chair: Okay. Mr. Marz has indicated that he doesn't want to be part of the selection.

Mr. Lund: I will still if you want to do the draw.

The Chair: Mr. Lund and Ms Blakeman.

Ms Blakeman: Well, I'm aware that the committee didn't want people that went last year to be eligible. I was just concerned that somebody go. I'm certainly interested, and I've found these to be really good conferences, but if we've got somebody that's willing to go, then . . .

The Chair: Well, if we're going to draw for names, I've just been informed that we should do this by motion, conduct a further draw for the names to determine the fourth attendee. If someone would move that, then we can conduct that draw.

Mr. Campbell: So moved, Mr. Chairman.

The Chair: Mr. Campbell moves that we conduct a draw to determine the fourth attendee. Any questions on that? All in favour? Opposed? That's carried.

Okay. We can do the draw right in the meeting, right now.

Are there any other items for discussion? Ms Blakeman, while we're getting the draw ready.

Ms Blakeman: Okay. It's occurred to me that something the committee might be interested in pursuing is to have either a look at the recommendations made by the previous Chief Electoral Officer or to review the comments of the committee in various *Hansards* about particular areas of concern that have come up repeatedly around election readiness and to form a subcommittee that could review that and bring something forward to the committee to examine with the possibility of sending it forward for a change in legislation. If we're going to do something to fix this, we kind of need to get on this now because if it is going to move forward through a process, in order to be in effect in the next election, we'd need to start it now. If we don't, then we're just going to be happy going into the next election the same way we went into the last one.

There are a few things that are outstanding; for example, whether we want to recommend a change around approval of the returning officers. That's one that seems to have come up a couple of times, and there have been a couple of other things that have been raised, particularly by Mr. Lund and maybe myself. I can't remember. It just occurred to me that if the committee wanted to do something,

we should look at doing it now and forming a subcommittee to examine that information to bring it back to the committee.

The Chair: I think that those ideas are good, but I think what we should do is look at our first meeting in January to do this.

Ms Blakeman: We gain what by doing that as compared to making a decision now?

The Chair: Well, first off, I was very interested in looking at the preparedness that is being done right now with the chief electoral office, with their whole department. She went through the presentation on all the various things that they're doing at the moment. There was the one point you made about the returning officers. I think that now that we have a new Chief Electoral Officer in place, let's let that get settled. I think that by January we'll see where that is going, and with that recommendation, especially if we do business plans in January or the last year's reports, as we did previously, that might be a time to have that discussion and maybe make that decision then. That's what I thought.

Mr. MacDonald, you had a comment?

Mr. MacDonald: Well, I think it's a very good idea. A subcommittee could report through to the committee and, hopefully, through this committee to the floor of the Legislative Assembly. There are a number of issues there which the Member for Edmonton-Centre has identified and which have been discussed, as I recall, even last summer in this committee: finances, election readiness, appointment of officers, training of officers, you name it. It's a long list. This is one of the roles of this committee and any subcommittees that it endeavours to strike. I think it's a good idea, and we should do it now.

Mr. Campbell: I have no problem with the idea, and I have no problem with the subcommittee, but I think we should wait till January. I mean, it's the end of November now. We're going to get out of session the first week of December. All of us will be busy in our constituencies doing Christmas stuff. I don't know about your constituencies, but my calendar is booked solid with Christmas functions. I think the earliest we're going to get at this thing is sometime in January anyway, so I think we should wait and let the new officer get his ducks in a row and see what's going on there and then strike the committee.

The Chair: Mr. Rogers.

3:05

Mr. Rogers: Thanks, Mr. Chairman. I won't belabour the point because my comments are very close to Mr. Campbell's. When does the new CEO start?

The Chair: As soon as he's sworn in. That report is going in next week, and he'll be sworn in some time after that.

Mr. Rogers: I, again, would echo that I believe these are some very good ideas to be explored. I have no quarrel with the point raised by Ms Blakeman. It's timing as well, and I would believe that working with the new CEO, starting early in the new year, would be quite timely. That's where I would be leaning.

The Chair: Mr. Campbell. I mean, Mr. MacDonald.

Mr. Campbell: He's a MacDonald. He's not a Campbell.

Mr. MacDonald: Thank goodness I'm not. If any of you are interested, there's a history behind that.

I was just going to suggest that if this subcommittee was struck and there was a time constraint here, we could visit Hinton. Just a thought.

Mr. Campbell: I suggest we visit Jasper myself.

The Chair: I think we'll move forward on this. If everyone is fine with this, I think it would be a good thing to not lose sight of, for sure, to make sure we've got it. Let's make sure that that's on the agenda for the next meeting.

Okay. I do have the results of the draw. Mr. Lund's name was drawn.

Mr. Lund: Thank you.

The Chair: Is there any other business?

The date of the next meeting. I guess we want to look at scheduling our meeting to review the annual reports for the officers of the Legislature. We held the first of these two meetings early this year, following the amendments to the standing orders, and the meeting was scheduled for mid-February for one full day. I'd suggest we try to do this again before the start of the spring session. I think spring session is the 8th of February this year. Any thoughts on this?

Mr. Lund: Mr. Chairman, we set yesterday the 19th or 20th – was it? – of January for a meeting. Can we work the two together, or is that impossible?

Ms Blakeman: They're long. We're talking about the annual reports. That's a full day.

Mr. Lund: Yes, it's a full day, and that's why I'm wondering if we could work them either the day before or the day after.

The Chair: We set the 20th, didn't we? We're booked for the 20th, but I'm free on the 19th.

Mr. Lund: Yeah. Well, that's what I'm getting at.

Mr. MacDonald: How are you on the 21st?

Mr. Campbell: I'm gone. I'm in Grande Prairie.

Mr. Lund: Laurie, how is the 19th?

Ms Blakeman: What am I looking for? What day?

The Chair: January 19.

Ms Blakeman: My memory was that I was fine for that one. January 19: I'm good. Is that all day?

The Chair: Probably. We need pretty well a whole day. We've got five of them.

Mr. MacDonald: But we could start at least. We could at least get started in the afternoon on some of the annual reports.

Mr. Campbell: Well, on the 20th we're booked for the morning.

The Chair: So we could do the afternoon as well on the 20th. We're trying to fit in five annual reports, and last year they took . . .

Mrs. Sawchuk: All day, Mr. Chair.

The Chair: Yeah. They were an hour and a bit each.

Mr. MacDonald: We could get three done in the afternoon, then, at least, couldn't we?

Ms Blakeman: Are you suggesting, starting on the 19th, going noon to 4:30 and then filling in the afternoon of the 20th with the rest of them?

Mr. MacDonald: Or at some other point before session starts on the 8th.

Mrs. Sawchuk: When is our other meeting?

The Chair: The 20th in the morning.

Mrs. Sawchuk: I thought we had just agreed on the 19th, Mr. Chair, all day the 19th and then the morning of the 20th.

Ms Blakeman: What does all day mean?

The Chair: Probably 9 till 4.

You can't make the 19th, Manmeet?

Mr. Bhullar: No, Mr. Chair. The 19th does not work for me. I finish my board meeting by noon. I can be here by 2 o'clock, hopefully, if I can catch a flight, but I can't do the 19th.

The Chair: Well, it would be done shortly after 2, I'm thinking.

I tell you what. I'm going to have the clerk poll everyone, and we're going to pick the date that works best for everybody. Because we're missing about four people here now, we'll go around and around, and we won't have anything completed. We'll be bouncing all over. If that's agreeable to everybody. We're not going to get everybody – we don't tend to – but we're going to get the majority. We'll poll it and let the clerk pull the one that works best for the most.

Mr. Horne: That would be appreciated.

The Chair: You bet. That's how we'll handle it, then. Everyone will look at their schedule, and they'll say: "Well, there's no way I can make this one. I can make the other." All right? Is that good? Okay.

If there's nothing else, a motion to adjourn. Mr. Rogers. All in favour? That is carried.

Thank you very much. It's been a good day.

[The committee adjourned at 3:11 p.m.]

