



Legislative Assembly of Alberta

The 31st Legislature
First Session

Standing Committee
on
Resource Stewardship

Public Interest Disclosure (Whistleblower Protection) Act Review

Friday, June 27, 2025
9 a.m.

Transcript No. 31-1-24

**Legislative Assembly of Alberta
The 31st Legislature
First Session**

Standing Committee on Resource Stewardship

Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UC), Chair
Sweet, Heather, Edmonton-Manning (NDP), Deputy Chair

Al-Guneid, Nagwan, Calgary-Glenmore (NDP)
Armstrong-Homeniuk, Jackie, Fort Saskatchewan-Vegreville (UC)
Boitchenko, Andrew, Drayton Valley-Devon (UC)
Calahoo Stonehouse, Jodi, Edmonton-Rutherford (NDP)
Cyr, Scott J., Bonnyville-Cold Lake-St. Paul (UC)*
Dyck, Nolan B., Grande Prairie (UC)
Eggen, David, Edmonton-North West (NDP)
Hunter, Grant R., Taber-Warner (UC)
Petrovic, Chelsae, Livingstone-Macleod (UC)**
Yao, Tany, Fort McMurray-Wood Buffalo (UC)

* substitution for Andrew Boitchenko

** substitution for Grant Hunter

Support Staff

Shannon Dean, KC	Clerk
Trafton Koenig	Law Clerk
Philip Massolin	Clerk Assistant and Executive Director of Parliamentary Services
Nancy Robert	Clerk of <i>Journals</i> and Committees
Abdul Bhurgri	Research Officer
Rachel McGraw	Research Officer
Warren Huffman	Committee Clerk
Jody Rempel	Committee Clerk
Aaron Roth	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications
Christina Steenbergen	Supervisor of Communications Services
Amanda LeBlanc	Managing Editor of <i>Alberta Hansard</i>

Standing Committee on Resource Stewardship

Participants

Ministry of Justice

Kelly Hillier, Barrister and Solicitor, Justice and Public Safety and Emergency Services

Office of the Public Interest Commissioner

Kevin Brezinski, Public Interest Commissioner

Chris Ewaniuk, Manager, Investigations

Rodney Fong, KC, General Counsel

9 a.m.

Friday, June 27, 2025

[Mr. Rowswell in the chair]

The Chair: I'd like to call this meeting of the Standing Committee on Resource Stewardship to order and welcome everyone in attendance. My name is Garth Rowswell. I'm the MLA for Vermilion-Lloydminster-Wainwright and chair of the committee. I'd ask that members and those joining the committee at the table introduce themselves for the record. We'll begin to my right.

Mr. Yao: Tany Yao, Fort McMurray-Wood Buffalo.

Mr. Dyck: Nolan Dyck, MLA for Grande Prairie.

Ms Hillier: Kelly Hillier, Alberta Justice.

Mr. Fong: Rodney Fong, Public Interest Commissioner's office.

Mr. Brezinski: Kevin Brezinski, Public Interest Commissioner.

Mr. Ewaniuk: Chris Ewaniuk, Public Interest Commissioner's office.

Member Calahoo Stonehouse: Calahoo Stonehouse, Edmonton-Rutherford.

Ms Sweet: Good morning. MLA Sweet, Edmonton-Manning.

Mr. Eggen: Good morning. David Eggen, MLA for Edmonton-North West.

Mr. Koenig: I'm Trafton Koenig with the office of Parliamentary Counsel.

Mr. Huffman: Good morning. Warren Huffman, committee clerk.

The Chair: We'll go online. We'll start with Nancy. Go ahead.

Ms Robert: Good morning, everyone. Nancy Robert, clerk of *Journals* and committees.

Mr. Cyr: Scott Cyr, MLA for Bonnyville-Cold Lake-St. Paul.

Mrs. Petrovic: Chelsae Petrovic, MLA for Livingstone-Macleod.

Ms Al-Guneid: Nagwan Al-Guneid, the MLA for Calgary-Glenmore.

Ms Armstrong-Homeniuk: Jackie Armstrong-Homeniuk, MLA, Fort Saskatchewan-Vegreville. Good morning, everyone.

The Chair: Thank you very much. For the record I'll note the following substitutions: Mrs. Petrovic for Hon. Minister Hunter and Mr. Cyr for Hon. Mr. Boitchenko.

A few housekeeping items to address before we turn to the business at hand. Please note that the microphones are operated by *Hansard* staff. Committee proceedings are live streamed on the Internet and broadcast on Alberta Assembly TV. The audio- and videostream and transcripts of the meeting can be accessed via the Legislative Assembly website. Those participating by videoconference are encouraged to please turn your camera on while speaking and mute your microphone when you're not speaking.

Members participating virtually who wish to be placed on the speakers list are asked to e-mail or message the committee clerk, and members in the room are asked to signal the chair if you want

to ask questions. Please set your cellphones and other devices to silent for the duration of the meeting.

Okay. We'll deal with the agenda. Are there any changes or additions to the draft agenda? If not, would someone like to move that we accept it? Moved by Member Eggen that the Standing Committee on Resource Stewardship approve the proposed agenda, as distributed, for its June 27, 2025, meeting. All in favour say aye. Online, all in favour, say aye. Any opposed, say nay. That is carried.

Approval of minutes. Next we have the draft minutes for our December 9, 2024, meeting. Are there any errors or omissions to note? If not, would a member like to move that? Member Yao moves that the Standing Committee on Resource Stewardship approve the minutes, as distributed or as amended, of its meeting held on December 9, 2024. Any discussions? All those in favour, say aye. Any opposed, say nay. Online, all in favour, say aye. Any opposed, say nay. That is carried.

Okay. On May 13, 2025, the Assembly approved Government Motion 73, which referred the Public Interest Disclosure (Whistleblower Protection) Act to this committee for review. A comprehensive review of the act must be taken by the committee of the Assembly every five years in accordance with section 37 of the act. Government Motion 73 directs the committee to submit its final report to the Assembly, including any proposed amendments to the act recommended by the committee, within 12 months after commencing its review. As today is the first meeting of the review, the committee must complete its work and present its final report by June 27, 2026. Are there any questions regarding the mandate of this committee to review this legislation? Member Eggen, go ahead.

Mr. Eggen: Thanks, Mr. Chair. I just wanted to have some clarification. We have a mandatory five-year review. So when does that five-year count start; when we start the review or when the report comes out?

The Chair: Good question.

Mr. Huffman: Thank you, Mr. Chair. I believe it's once it's been reported. I think Trafton might be able to – my initial thought is that it's after it's reported, five years after that, but Trafton is going to look into it.

Mr. Eggen: It's only been four years then, according to my calendar and my fingers count.

Mr. Koenig: Yeah. I mean, I can provide a bit more of a comprehensive answer a bit later, just because I'm looking at the act right now.

Mr. Eggen: Yeah. Let's check it out. I was just thinking, does it start here, or does it start there, right?

Mr. Koenig: The wording of section 37 of the act says, "within two years of the act coming into force and every five years after that," meaning every five years after that initial review. I'm just hesitant to provide you, like, off the cuff with sort of a specific answer, but I'm more than happy to get back to the committee and sort of indicate exactly what the timelines are. However, I would suggest that in terms of the mandate of the committee at this specific moment, it would be in accordance with what's in Government Motion 73. That's what provides the parameters for the Assembly's instruction to this committee in terms of what it's to be doing.

Mr. Eggen: Would you have that before we get to the presentation part or just after, like at a future meeting?

Mr. Koenig: No. Like any good lawyer, I want to go back and verify before giving you an answer to make sure it's right. I'm more than happy to provide something to the committee in writing. I can circulate it after this meeting. I would say that I'm not sure if there's a particular concern behind that question in terms of whether the committee has a mandate to do this.

Mr. Eggen: Well, no. It's more like the perception of the public. Of course, if we are changing whistle-blower legislation and we're somehow rushing it or – you know, again, I want people to know that we're here to strengthen public whistle-blower legislation in a timely sort of manner and not be rushing ahead for some other reason.

Mr. Koenig: Yeah. I mean, just to provide some broad information, section 37 provides the committee one year to complete the review process. There's a full year, as I understand it, to complete the review in terms of taking as much time as the committee needs within that kind of envelope of time to review the act, receive technical briefings, meet with stakeholders, and then come up with recommendations if there are any. The time the committee has is one year to complete the review.

Mr. Eggen: Thank you.

The Chair: Thank you. Any others? Okay, very good.

I'll just overview the review process. As committee members will recall, we completed a review of the Personal Information Protection Act earlier this year. I anticipate that our current review will follow a similar process, and I will provide a bit of an overview on how this review might work.

Today is our orientation meeting for the review. We have just reviewed our mandate with respect to the statute review. The first step in the statute review is typically to undertake information gathering and engagement on the operation of the act. This phase often involves the committee receiving technical briefings from individuals who have extensive knowledge of the act, which we will hear from the Ministry of Justice and the Public Interest Commissioner.

Next, the committee may decide to invite written submissions from stakeholders and possibly the public to gather feedback on the act. In that case, the committee would provide direction to the Legislative Assembly Office in terms of drafting a list of stakeholders to be invited to make written submissions on the act. The committee would review the draft stakeholders list at a future meeting. At that meeting the committee could also consider if it would like to receive written submissions from the public, and if it chooses to, then it could consider directing the LAO to prepare a communication plan to advertise or solicit submissions from Albertans.

After reviewing the written submissions, the committee may choose to hear oral presentations from select individuals or organizations who provided a written submission. The committee may also wish to direct the LAO to conduct specific research related to our review of the act such as a comparison of similar legislation across comparable Canadian jurisdiction. If asked for, research items would be prepared and presented to the committee for review at a future meeting.

9:10

Following the receipt of information that the committee has solicited, analysis of the information begins, including receiving summaries of written submissions. In addition, if additional information is required, the committee may request it and also ask for summaries of additional information received.

Once the committee has completed this information-gathering stage, the committee moves to deliberations and the making of the recommendations with respect to the act that will be reported to the Assembly. All recommendations made by the committee regarding the act will be included in a final report that will be presented to the Assembly. Do the committee members have any questions or comments about the review process? All right. We'll carry on.

Hon. members, as noted in the statute review, the first step typically is to request technical briefings on the act from officials whose responsibility it is to administer it and who are aware of how it operates. Accordingly, officials from the Ministry of Justice and commissioner's office have been invited to provide technical briefings to us today, and then, afterwards, committee members will have the opportunity to ask questions of the presenters.

First, I would like to ask Ms Hillier from the Ministry of Justice to begin her presentation. You have up to 20 minutes. Please begin when you are ready.

Ms Hillier: Good morning. Thank you for the opportunity to provide a technical briefing for the Public Interest Disclosure (Whistleblower Protection) Act. Before beginning my presentation, I wanted to outline Justice's role in relation to this particular legislation.

Pursuant to the designation and transfer of responsibility regulation, the Minister of Justice is responsible for the Public Interest Disclosure (Whistleblower Protection) Act. Accordingly, Justice staff such as myself are involved with any amendments to the act. However, the act is administered by the Public Interest Commissioner, who is an independent officer of the Legislature and is responsible for investigating allegations of wrongdoing and complaints of reprisal made under the act. Therefore, the Public Interest Commissioner is in the best position to provide submissions respecting operation of the act.

I will begin my presentation by discussing the scope of the act, including key definitions. I will then walk you through the legislation, highlighting key sections. The act enables public-sector employees to report wrongdoing in their workplaces without facing reprisal. "Employee" is defined in the act to include current employees, former employees who were subjected to reprisal, and anyone deemed as an employee in the regulations. The act applies to four categories of public-sector bodies and their employees: one, government departments; two, offices, which includes an office of the Legislature and the office of every MLA, minister, and the Premier – an office of the Legislature is defined as the Legislative Assembly Office as well as offices of specific officers of the Legislature – three, public entities, which is defined as an agency, board, or commission, Crown corporation, or other entity designated as a public entity in the regulations; four, individuals and entities designated as prescribed service providers in the regulations. There are currently no regulations establishing prescribed service providers.

Part 1, section 3 describes the types of wrongdoings to which the act applies. The act applies to five categories of wrongdoings. These are, one, contraventions of federal or provincial laws or regulations; two, acts or omissions that create substantial and specific dangers to the life, health, or safety of individuals, excluding dangers inherent to an employee's job; three, acts or omissions that create a substantial and specific danger to the environment; four, gross mismanagement of public funds, assets, or services; and five, gross mismanagement of employees through recurring or systemic bullying, harassment, or intimidation. Knowingly directing or counselling an individual to commit a wrongdoing is considered a wrongdoing as well. The act also allows for additional wrongdoings to be established in the regulations.

Section 4.1 establishes that the Public Interest Commissioner's powers and duties are subject to parliamentary privilege. The Speaker of the Legislative Assembly has the authority to decide whether a matter is subject to parliamentary privilege and, therefore, outside the commissioner's jurisdiction. The commissioner and the Speaker can develop a protocol respecting how the act applies to the Legislative Assembly, its members, and their offices.

Part 1.2 contains regulation-making powers concerning prescribed service providers. Regulations can designate individuals and bodies as prescribed service providers and set out how the act applies to them. However, no regulations have been created concerning prescribed service providers.

Part 2, sections 5 to 15, sets out the processes for dealing with disclosures of wrongdoing. The act creates the role of chief officer. For government departments the chief officer is the deputy minister. For offices the chief officer is the department head. The chief officers of public entities are set out in the regulations. Section 5 requires the chief officer to create written procedures for managing and investigating disclosures by employees. The procedures must cover the matters that are set out in subsection (2). The procedures must be communicated widely to employees. The Public Interest Commissioner can review procedures to ensure they comply with the minimum requirements. If the commissioner determines that procedures do not meet the act's minimum requirements, he can direct that disclosures be made directly to him until adequate procedures are implemented.

Section 7 allows a chief officer to designate a senior official to be responsible for managing and investigating disclosures. This person is referred to as a designated officer throughout the act.

Section 8 allows an employee who is considering making a disclosure to request information or advice from their supervisor, designated officer, chief officer, or the commissioner. The act outlines the processes that employees must follow when disclosing wrongdoings and the form that disclosures must take. An employee can make a disclosure if they have information that they reasonably believe could show that a wrongdoing has been committed or is about to be committed or if they have been asked to commit a wrongdoing. An employee of a department, office, or public entity can make a disclosure to their designated officer by following the procedures established under section 5 or directly to the commissioner in accordance with section 15.1.

Disclosures must be made in writing and must include specific information about the alleged wrongdoing. The content requirements for disclosures are set out in section 13. In brief, disclosures must describe what happened, when it happened, and who was involved as well as any additional information that could reasonably be required to investigate the alleged wrongdoing.

Section 12 deals with the unique scenario of disclosures concerning the office of the Public Interest Commissioner. Employees of the office of the Public Interest Commissioner can seek advice from and make disclosures to the Auditor General instead of the commissioner. If that happens, the Auditor General can deal with the disclosure as if he were the commissioner. Complaints about reprisals involving the commissioner's office are also handled by the Auditor General.

Section 14 provides that a designated officer can consult with the chief officer or request advice from the commissioner regarding the management and investigation of a disclosure. The act states that employees can make disclosures directly to the commissioner even if their employer's procedures contain language that suggest otherwise and even if the disclosure has already been dealt with under their employer's internal procedures.

Part 3, sections 16 to 23, sets out the commissioner's powers to conduct investigations into disclosures and reprisals. Section 16 establishes that the purposes of an investigation are to bring wrongdoings or reprisals to the attention of the affected public-sector body, to recommend corrective measures, and to promote public confidence in public-sector bodies and the services they provide.

The commissioner is responsible for investigating disclosures made to him by employees. If an investigation into a wrongdoing uncovers additional wrongdoings, the commissioner can investigate those as well. Solicitors and Crown prosecutors cannot be investigated. When conducting an investigation, the commissioner has broad authority to compel evidence and access information.

The commissioner can investigate disclosures made anonymously or by nonemployees at his discretion, or he can refer them to the relevant designated officer. The act requires investigations to be carried out as informally as possible while still respecting procedural fairness and natural justice principles. The commissioner can take any steps he considers necessary to resolve a disclosure within the affected public-sector body.

Section 19 provides that the commissioner is not required to investigate a disclosure if there is a valid reason such as the disclosure could more appropriately be dealt with under other legislation or a collective agreement; the disclosure is already subject to an investigation under the employer's internal procedures; the disclosure is frivolous, vexatious, in bad faith, or does not deal with the wrongdoing; the disclosure concerns a decision, action, or matter resulting from a balanced and informed decision-making process on a public policy or operational issue; the disclosure does not provide enough information to conduct a fair and effective investigation; or more than two years has passed since the wrongdoing was discovered.

9:20

If a disclosure alleges gross mismanagement of employees, the commissioner cannot investigate the disclosure unless he is satisfied that all other relevant mechanisms for dealing with workplace bullying, harassment, and intimidation have been used or considered.

Once an investigation is completed, the commissioner must prepare a report setting out his findings, the reason for those findings, and any recommendations he considers appropriate. A copy of the report must be sent to the relevant chief officer and designated officer.

The commissioner can request a body to take steps to implement his recommendations within a reasonable amount of time. If the body does not follow up on the commissioner's recommendations or if the body did not co-operate with the commissioner's investigation, the commissioner can escalate the matter to other relevant authorities identified in section 22(5); for example, in the case of a department to the clerk of the Executive Council, in the case of a public entity to the minister responsible, if any, and to the board of directors or the head of the public entity.

Part 4 protects employees from reprisal for doing anything permitted under the act in good faith, including making disclosures, requesting advice about making disclosures, co-operating with investigations, and refusing to participate in a wrongdoing. Reprisal means taking or threatening or directing or counselling someone else to take or threaten any measure that adversely affects the employee's employment or working conditions. Dismissals, layoffs, suspensions, demotions, transfers, role discontinuations or eliminations, wage reductions, schedule changes, work location changes, and reprimands are all considered reprisals under the act.

Reasonable human resource management decisions made in good faith are not considered reprisal per section 27 of the act.

The commissioner must investigate complaints of reprisal in the same manner as a disclosure. If the commissioner determines that a reprisal has been taken, directed, or counselled, he must refer his decision and reasons to the Labour Relations Board to determine an appropriate remedy. If the reprisal involves the board, however, the commissioner must determine the remedy himself. Sections 27.1 through 27.4 set out the board's powers, duties, and privileges in determining appropriate remedies.

For complaints concerning the offices of MLAs the commissioner must submit a report with recommendations to the Speaker of the Legislative Assembly. To avoid duplicative proceedings and double remedies, the commissioner, board, or Speaker can decline to deal with a complaint if it has been or could more appropriately be addressed under any other legislation or collective agreement. They can also defer an investigation or report pending the outcome of a court proceeding or other procedure concerning the same subject matter.

Part 4.1, sections 28 to 30, establishes rules around the collection, use, and disclosure of information. Section 28 provides that information necessary to make a disclosure or complaint of reprisal can be disclosed notwithstanding any other act or regulation. Similarly, section 29.1 establishes that the act is paramount to the Protection of Privacy Act and the Health Information Act. Despite these provisions, section 28.1(2) requires employees to take reasonable precautions to ensure that personal information, individually identifying health information, or confidential information is only disclosed to the extent necessary to make a disclosure or complaint.

Section 28.1(1) carves out some exceptions to section 28 by specifying that the act does not authorize the disclosure of information or documents that would disclose the deliberations of cabinet or a cabinet committee. Information and documents subject to solicitor-client privilege or litigation privilege are also protected.

Section 30 requires chief officers, designated officers, and the commissioner to report potential offences to law enforcement and the Minister of Justice. Imminent risk to individuals or the environment must also be reported to law enforcement and other relevant authorities. Investigations into disclosures or complaints must be suspended while a law enforcement investigation is ongoing.

Part 7, sections 46 to 53.1, concerns offences and liability. Sections 46 through 49 establish various offences for deceitful or obstructionist conduct. Offences are punishable by a fine of up to \$25,000 for a first offence, \$100,000 for a second or subsequent offence. Prosecutions can only be commenced within two years of the date on which an alleged offence occurred.

Section 51 limits liability for certain acts and omissions done under the act in good faith. Section 51.1 provides that the commissioner and individuals engaged or employed within the office of the Public Interest Commissioner can only be compelled to give evidence in specific circumstances.

As mentioned, there is a regulation under the act. It is the public interest disclosure whistle-blower protection regulation. It defines key terms, deals with procedural matters such as timeliness, limits disclosure of quality assurance records, designates public entities and chief officers, specifically in the health and education sectors, and prescribes the complaint of reprisal form to be used by individuals who are complaining of reprisal.

Thank you. That concludes my presentation.

The Chair: Thank you very much, Ms Hillier.

Next we'll hear from the office of the Public Interest Commissioner. Commissioner Brezinski, you and your staff have up to 20 minutes for your presentation. You may proceed.

Mr. Brezinski: Great. Thank you. We just have a PowerPoint here. I'll just wait till it loads. All right.

Good morning, and thank you for inviting me to speak with you today. I already introduced Chris Ewaniuk, who's our manager of investigations, and Rod Fong, our legal counsel. As you're aware, the Public Interest Commissioner and the Ombudsman are two separate and independent offices of the Legislature. Both offices play a vital role in upholding transparency, accountability, and ethical governance within Alberta's public sector. Each office has a different mandate, and their operational work is completely separate.

As Ombudsman my role is to investigate complaints from Albertans about unfair decisions or treatment while as the Public Interest Commissioner my office investigates allegations of wrongdoing and complaints of reprisal. This slide shows our current org chart. The legislation governing my role as Public Interest Commissioner is the Public Interest Disclosure (Whistleblower Protection) Act. Our investigative team is based in Edmonton and has seven full-time positions.

The whistle-blower protection act came into effect in 2013 and was first amended in 2018. The act was reviewed a second time five years ago, and 10 recommendations were approved by the assigned committee. To date none of the recommendations have been implemented with the exception of a public-sector survey which was conducted by my office. I will highlight some of the results of the survey near the end of my presentation.

I'll now provide an overview of our jurisdiction. Broadly speaking, the act applies to the public sector and includes Alberta government ministries, provincial agencies, boards, and commissions, school boards, and many other entities, as outlined in this current slide. The primary purpose of the act is to facilitate whistle-blower disclosures and the investigation of wrongdoing in the public sector. This includes acts which may be unlawful, dangerous to the public, or injurious to the public interest.

It's important to note that disclosures of wrongdoing to my office may be made by anyone or anonymously. However, the protections provided by the act apply only to current employees or individuals who have suffered a reprisal and are no longer employees.

During the previous review my office recommended expanding protections under the act to all individuals who make disclosures. The act identifies officials called chief officers, who are responsible for ensuring compliance with the act in their organizations. This includes deputy ministers, superintendents of school boards, presidents of postsecondary institutions, and CEOs of provincial corporations. The act requires chief officers to have processes in place to accept and investigate the disclosures of wrongdoing within their organization. To assist them in accomplishing this, my office provides resources and advice to support their processes.

They must ensure the internal procedures on how to report wrongdoing are widely communicated to employees. They receive investigation results and are responsible for corrective actions. As leaders they set the tone and create an environment where employees can report wrongdoing without fear of retaliation.

9:30

It's the shared responsibility of my office and chief officers to receive and investigate disclosures of wrongdoing, but what is a disclosure of wrongdoing? When it comes to the act, a wrongdoing is not simply what you or I may think of as being wrong. Rather,

what constitutes a wrongdoing is specifically defined in the act and is broken up into three categories.

The first category of wrongdoing is the gross mismanagement of public funds, assets, the delivery of public services, or employees. Gross mismanagement is conduct that demonstrates reckless or wilful disregard for proper management. In other words, the act is not concerned with minor deviations or misconduct. This is most evident when my office investigates disclosures about the gross mismanagement of employees. We've received many such disclosures, often relating to the chief officers of organizations. These investigations are complex and generally involve numerous witnesses. In some cases these disclosures relate to interpersonal issues best managed through an organization's human resource policies. However, when misconduct is systemic and affects the organization's workplace culture or misconduct is repeatedly left unaddressed, it can become a wrongdoing under the act.

The second category of wrongdoing refers to a contravention of a federal or provincial regulation. While my office can investigate contraventions of law, it's subject to restrictions if those contraventions are offences. If during an investigation I have reason to believe that an offence has been committed, I must report the matter to the relevant law enforcement agency and the Minister of Justice and suspend my investigation. If the matter is one involving imminent risk to individuals or the environment, I must direct the matter to the appropriate law enforcement agency or the chief medical officer of health and to the public entity responsible for the area.

A third category of wrongdoing arises when acts or omissions create a substantial and specific danger to the life, health, or safety of individuals or to the environment. For example, my office released a public report regarding the inadequate medical treatment of inmates at the Edmonton Remand Centre. I found that inmates seeking medical treatment did not receive the standard of care they were entitled to. The authority in this case accepted my recommendations and made positive changes in the correctional centres across Alberta. Other allegations investigated in my office include a CEO misusing public assets for personal gain, the systemic bullying of staff by the president of a postsecondary institution, and the misuse of poisonous substances by a government agency, creating a danger to the environment.

Employees who make disclosures of wrongdoing must do so in writing, and the disclosure may be made within their organization and/or to my office directly. However, not all disclosures result in a formal investigation. The act allows me to facilitate a resolution informally. My office has emphasized this option as a way to address issues promptly and efficiently.

It's not always easy for whistle-blowers to come forward if they feel they have information related to a wrongdoing. It takes courage. This leads me to another objective of the act, protecting employees who make disclosures of wrongdoing. The very title whistle-blower protection act reinforces the principle that individuals who act as whistle-blowers ought to be provided protection. Protection takes two forms in this context, prohibiting reprisals and safeguarding confidentiality.

First, the act prohibits reprisals. A reprisal is any action by any person, including the employer, that adversely affects the employment or working conditions of the employee for being a whistle-blower complying with the act. This may include dismissal, demotion, transfer, change of job locations, or reduced wages. If I find that someone has committed a reprisal, I refer my decision to the Labour Relations Board for a remedy. Further, I also report the findings to the Justice minister as committing a reprisal is an offence that is subject to a potentially significant fine.

The second form of protection is confidentiality. The act requires that procedures be put in place to protect the identities of the whistle-blowers, witnesses, and alleged wrongdoers. Identities may only be disclosed if specified by other legislation, for procedural fairness, or if directed by the court.

For individuals who participate in my investigations, the protection of their identity is extremely important. When one considers the unwanted attention that could accompany being publicly identified as a whistle-blower or a witness, the reprisal provisions of the act alone provide many with little comfort.

Protecting identities has become increasingly problematic following a recent court case involving my office. In a previous investigation my predecessor found that the leader of an educational institution grossly mismanaged employees by creating a culture of bullying, harassment, and intimidation. The leader disagreed and applied to the courts for judicial review. The whistle-blower and witnesses feared that if the leader knew their identities, the leader would not only pursue them professionally but personally as well. We were able to keep the identities confidential throughout the investigation; however, during the judicial review the court ordered my office to disclose an unredacted record of the investigation, identifying the individuals involved. This court decision has already negatively impacted some of our investigations and the willingness of people to come forward with information.

Other cases have also revealed gaps in protections for whistle-blowers and witnesses, creating barriers to reporting wrongdoing or participating in investigations. For example, former employees and nonemployees are not granted any protections under the act. The act also does not protect whistle-blowers and witnesses from civil action. Additionally, it does not preserve the confidentiality of those individuals involved in court proceedings. By contrast, for example, Manitoba's legislation contains a provision that explicitly provides for whistle-blower confidentiality during judicial reviews. Amending our act to include similar wording would allow my office to provide proactive protection for whistle-blowers and witnesses.

My office's job is to ensure that thorough and fair investigations are conducted when a disclosure of wrongdoing is made. During an investigation I'm authorized to require any person to answer questions, provide written responses, produce records, or to provide any information as needed. Failing to co-operate with an investigation by my office is not without consequence. The act makes it an offence to withhold information, make false statements, obstruct an investigation, or destroy evidence. These offences are subject to an initial fine of up to \$25,000 and up to \$100,000 for subsequent offences.

The act also authorizes me to decline to investigate under certain circumstances. When I decline or discontinue an investigation, I must provide the reasons for my decisions in writing. I can also broaden my investigation if other wrongdoings are uncovered. After an investigation is completed, I must prepare a written report with my findings and the reasons for the findings, including any recommendations I consider appropriate. I can compel the affected entity to report back on what action they followed or propose to follow.

In the case I mentioned earlier about the remand centre, the authority, which was AHS in this case, provided my office with updates regarding all of my recommendations. In cases where no wrongdoing is found the matter is simply concluded. The whistle-blower and witnesses remain confidential, and the employee remains protected under the legislation. However, when I identify issues that if left unresolved could result in wrongdoing, I may still report on those issues and make recommendations.

Recently my team investigated an allegation regarding the gross mismanagement of employees. It was apparent the whistle-blower reported a number of incidents to the internal executive team but felt nothing was done about it. Ultimately, I determined that there was there was no wrongdoing. However, it was clear that some HR processes could have been improved. In an effort to prevent the possible development of a toxic culture characterized by bullying, harassment, and intimidation, I made several recommendations to improve the situation.

Just a few other points I'd like to cover off before concluding my presentation here today. A larger goal of my office is to promote a culture within the public sector that encourages employees and management to report and remedy wrongdoings in their workplace, creating a more transparent and accountable public service. My office actively provides presentations and awareness to public-sector employees and organizations. We also work to educate organizations on the benefits of effective whistle-blower protection policies and procedures. As noted earlier on, the recommendations from the review conducted five years ago remain outstanding. However, my office acted on the committee's seventh recommendation by conducting a public-sector survey to gauge awareness of our act.

9:40

We found that employees lack understanding of the legislation and are unsure of whom to contact when they have a complaint. During the survey employees received information about our office and the act and were asked why they wouldn't report issues. Their main concerns were fear of retaliation and uncertainty about identity protection. Ensuring integrity in the public service is a shared responsibility, and I appreciate the opportunity to outline how my office contributes to that goal.

Finally, for information purposes we've included a slide which shows the number of cases we have received over the past three years. As you can see, our workload is considerable given the number of staff assigned to this work. I also can provide any additional information in terms of statistics or our survey results if the committee so desires.

Thank you. I can answer any questions.

The Chair: Thank you very much for your presentation.

Now I'd like to open the floor to questions from committee members. You may ask questions of both parties. As we did with the PIPA review, we kept a list of speakers here as people made me aware and we went back and forth, and we had a question and then a follow-up question. I suggest that we do the same. Please let the clerk know or me if you would like to ask a question, and we'll add you to the list. For the purposes of the questions it should be relative to the technical part of the presentations and not kind of like a stakeholder part of the presentation, so if we can stay on the technical side. That'll come later. We'll stick to the technical side.

Go ahead. We can start questions. Member Sweet, go ahead.

Ms Sweet: Well, thank you, Mr. Chair, and thank you for prefacing to stay within the briefing. I have lots of questions, and I would appreciate some latitude, I think. I do want to just go back and start with the Ministry of Justice first, please. We could focus on section 7, which is the section that allows the creation of regulation for all ministries to be able to investigate. The reason that I'd like some clarity on this is that I appreciate – I would also appreciate if the Public Interest Commissioner wants to jump in as well. If I could get a better understanding of how the breakdown works. If the regulation allows for the ministry to create regulation around investigation, what is the relationship between PIC, then, and a

ministry that may be also looking into a concern? Is it referred from PIC back to whoever is identified within the ministry to take forward the concern first, or is it deemed not an investigation and then it's sent to the ministry? Like, how does section 7 intersect with an investigation under PIC?

Ms Hillier: Are we sure we're talking about section 7, first of all?

Ms Sweet: Or is it section 22? Whichever section is allowing the delegation of the department to be able to start looking into the investigation, like, when you're looking at whether the deputy minister starts to get involved or not.

Ms Hillier: When it comes to the application of the act in the reg in that fashion, I would refer the question to the commissioner's legal counsel simply because they deal with that and it's actioned by them and not by Justice.

Ms Sweet: When does a ministry start to become involved, I guess, is the clarity that I'm trying to understand.

Mr. Brezinski: Right. If a whistle-blower complaint comes to our office, we'll look at the matter. We'll determine who is best suited to actually investigate the matter. Again, we have limited capacity within our office, but we try to take the more serious complaints within government departments, for example. If it's something that's better suited with the actual ministry itself, the designated officer has the ability to investigate complaints that come forward as well, so we can delegate it back to the ministry.

Ms Sweet: Can I have one more follow-up to that?

The Chair: Okay. Go ahead. Sure.

Ms Sweet: Then how do you ensure confidentiality with that?

Mr. Brezinski: Designated officers have the same responsibility as we do to ensure that identities are kept confidential.

The Chair: Our next question comes from Member Dyck. Go ahead.

Mr. Dyck: Excellent. Thank you so very much, both of you guys, for the presentation. Greatly appreciate the time here this morning. Lots of questions as well. Just following up. On the process of passing I've got one question here, I think, for the commissioner and then one for Justice afterwards. Commissioner, when you pass something to a ministry, is there a responsibility for them to have to go and inquire about your inquiry that you're passing to them? If you've said, "This doesn't pertain to me directly; I want the ministry to go and look at it," is there a requirement for the ministry to follow up on that, or can they just leave that hanging? And if you start something, at what point do you leave off that? Like, you've confirmed that they've started, or there's no confirmation that they've started something. Can you just walk me through that process at little?

Mr. Brezinski: Sure. If we were to delegate a whistle-blower complaint to an authority, they would conduct an investigation, and we would ensure that that investigation was completed thoroughly and met all the requirements of the act. If it didn't – we were unsatisfied, for example, with the result – we can still investigate that matter.

Mr. Dyck: Okay. Thank you.

Can I have a follow-up on that one?

The Chair: Yeah. Go ahead.

Mr. Dyck: Okay. Thank you for that answer.

And then for Justice: does the whistle-blower act apply to all the ministries in the same way, or are there different sections that apply to different ministries in different structure or different ways that they would move forward in that, depending upon the ministry?

Ms Hillier: I will say that there is one section of the act for prescribed service providers to which the act speaks to nothing whatsoever because they are to be set by regulation and there is no regulation outlining. So every section of the act is not speaking currently. I will let the commissioner speak to how they apply specifically to various.

Mr. Brezinski: Like, our expectation is that every designated officer would conduct an investigation thoroughly, which should be the same. We do try to educate all of our designated officers. We have a yearly conference that Chris actually manages, and we share best practices, and we have a great website with a lot of resources. So we would hope that they would conduct investigations in the same manner.

The Chair: Thank you.

The next question comes from Member Al-Guneid. Go ahead.

Ms Al-Guneid: Thank you, Mr. Chair. I'm looking at the previous review of this act back in 2021. As the commissioner mentioned, the recommendations were not implemented except for one. The previous Public Interest Commissioner, Ms Marianne Ryan, presented to this committee back in 2021, and Ms Ryan said that employees are deterred from reporting wrongdoing to her office because they believe doing so may expose them to civil liability. It seems very aligned with the office's survey results that you just presented.

Another person who contributed to the committee was David Hutton. He's a senior fellow with Ryerson university Centre for Free Expression. He said that overall Alberta's law is "not fit" for what it wants to accomplish. "Some of these shortcomings are particularly serious – any one of them would render the entire system ineffective." These are all direct quotes. So as the current Public Interest Commissioner how would you describe the current system five years later, especially as you have mentioned that the previous recommendations in the last review were not implemented?

Mr. Brezinski: Thanks for the question. Yes, I would agree that a lot of the recommendations that were made previously – I would hope that they would be implemented. Certainly, as part of this process we're going to provide our written submissions and give you some context as to what recommendations I would propose. The one in particular, and probably the most important, is protecting whistle-blowers and witnesses. I think that's key. If you don't have those protections in place, then people are hesitant to come forward, and if they're facing the possibility of civil litigation after, that certainly would prevent them from coming forward. So, yeah, I'm a proponent of that recommendation for sure.

Ms Al-Guneid: Mr. Chair, can I have a quick follow-up?

The Chair: Yeah. Go ahead.

Ms Al-Guneid: Thank you. Yeah. Thank you for that. The objective of the act is to encourage a culture of integrity and protection within the public sector, and absolutely it's about removing the fear of retaliation and holding leaders accountable and

truly providing a structured, confidential reporting system. People need to feel safe. So my question to you: how does the Alberta current system compare to, one, other Canadian provinces and, two, international systems and standards?

Thank you.

9:50

Mr. Brezinski: I think we have a pretty robust act in Alberta in terms of the work that we do. I know that if you compare our work, Quebec has a very robust program as well, where they conduct a lot of investigations, as well as the Canadian integrity commissioner. But, certainly, I think what's lacking in our act is the protection, again, of whistle-blowers and witnesses, and I think that that can be enhanced.

In terms of best practices we did have a review recently by the Centre for Free Expression that was conducted, and there were some limitations that were pointed out in terms of our act. Our processes, on the other hand, are pretty good, I would say, in Alberta.

The Chair: Thank you very much.

All right. Our next question comes from Member Cyr. Go ahead.

Mr. Cyr: Thank you for that. I appreciate the opportunity to be able to ask a question. This is my second go-around with a whistle-blowing review. I have to say that, overall, whenever we're going through these reviews, there's a lot of work put behind the scenes by the staff that's more or less trying to keep on top of what's going on within the world.

Now, I've heard some concerns when it comes to our colleagues from across the aisle that it may not be what is, I guess, at this point current, and this is the reason why we're moving forward with the review. To the commissioner: would you have suggestions on what other jurisdictions are doing in regard to these types of reviews? Is there anything that we can improve? How do you think that this next year should go?

Mr. Brezinski: Yeah. I'm not overly familiar with the review periods other than in everyone's legislation they have a review period. I think I would just hope that with this review we take into consideration the recommendations that were made last time, and then, obviously, with having submissions done by my office and then other people that intervene in this process, they will provide their perspective. A lot of work goes into this, and I would hope that the recommendations actually get implemented.

The Chair: A follow-up?

Mr. Cyr: Yes. Commissioner, again, this being my second time through this process. The first time that we went through it – I know that you weren't the commissioner back then – did the former government implement every single recommendation that was requested by your office back then?

Mr. Brezinski: Again, the review that was done five years ago, 10 recommendations were made. Of the 10 recommendations one was implemented, and that was the public-sector survey that we conducted by my office.

Mr. Cyr: Sorry; I need to clarify. This goes back to, I guess, not the last five years ago but the five years before that, so during the 2015 to 2019 year.

Mr. Brezinski: I'm not sure about that.

Chris, maybe are you familiar?

Mr. Ewaniuk: That would have been the first legislative review that occurred two years after the act came into force. There were recommendations that were made and there were changes, most notably the addition of gross mismanagement of employees. That was one of the bigger changes.

Mr. Brezinski: Right. Thanks.

Mr. Cyr: Again, thank you so much for that. I appreciate it.

The Chair: Okay. We'll continue on here, but I just – some of the questions are revolving around asking your opinion as opposed to the technical operation of the act, and that's kind of what we're here for today. We have had some latitude and I'm okay with that, but it's kind of getting down that path where it might be dealing more with that as opposed to the technical operation of the act.

We'll carry on. Member Calahoo Stonehouse, go ahead.

Member Calahoo Stonehouse: Thank you, Chair. My question to the commissioner. In regard to your slide show presentation the last slide show talked about the three terms, and there was a colour scheme, and I wasn't sure what the differentiation was of each colour. Could you clarify that for me?

Following that, in the slide show you also said that 34 per cent are also unlikely to report. I'm curious to where you collected that data from.

Mr. Brezinski: To answer your first question, it was a three-year comparison of cases received. In 2024-2025 we had 241 cases. Of those, 114 were general inquiries, so that could be anyone from a member of the public asking questions about the act to a designated officer asking for assistance or information. Twenty-two of the cases were allegations of reprisal. Sorry; cases. Those were actual disclosures. Then 105 were allegations of wrongdoing in the calendar year.

Member Calahoo Stonehouse: So we're seeing a tremendous increase?

Mr. Brezinski: From year to year there's been an increase. In 2022-23 there were 145 cases received; '23-24, 207 cases; '24-25, 241, so every year we're seeing an increase in the last three years.

Member Calahoo Stonehouse: Thank you.

The 34 per cent: where is that data collected?

Mr. Brezinski: Go ahead and answer that one.

Mr. Ewaniuk: The commissioner's office acted on one of the recommendations during the last Leg. review, which was to conduct a public-sector survey. With support from an outside organization we surveyed all public-sector entities, and we received over 4,300 responses. Of those responses, 34 per cent of respondents indicated that they would likely not report a wrongdoing if they became aware of it to either the designated officer or to our office. We have further information about the results of that survey on our website.

Member Calahoo Stonehouse: Great. Thank you.

I'd like to follow up. You've mentioned multiple times that only one of the recommendations was implemented. I'm curious why nine of the other recommendations were not implemented and whose responsibility it is to implement those recommendations.

Mr. Brezinski: It's beyond our control, and I believe it falls within Justice.

Ms Hillier: The question of whether to implement recommendations of a committee of the Legislative Assembly is a government decision, so that question would have to be put to the Minister of Justice.

Member Calahoo Stonehouse: Thank you.

The Chair: Thank you.

Our next question comes from Member Yao. Go ahead.

Mr. Yao: Thank you very much for your presentation. We greatly appreciate that. I think we're all here for the same thing. We want to make sure our processes are good and valid and make sure that we have the ability to demonstrate good governance, whether it's through our agencies and boards or otherwise or through our government. Obviously, the whistle-blower protections are an important tool in all that. By protecting the identity of whistle-blowers, your office ensures safety from reprisal, as you indicated, and ensures anonymity.

I guess to the office of the Public Interest Commissioner: what steps are currently being taken to protect the identity of whistle-blowers during the investigation? You kind of touched on it, but can you just reinforce what you're doing to ensure that people out there that are listening understand the protections that are due to them?

Mr. Brezinski: Right. When we get a disclosure from a whistle-blower, we keep that person's identity confidential. We don't share that with anyone else externally, witnesses, et cetera. Even witnesses, we try to keep their information confidential as well. As I mentioned, there was one court case where their identities had been revealed, but we did everything within our power to keep their identities confidential. So it is still a safe process. We manage many disclosures per year, and it's important that all people involved in our investigations and their identities are kept confidential, including respondents. If an allegation of wrongdoing is made against a person, it's very important for their reputation as well if that investigation deems that it's not founded, so we ensure that their information is kept confidential. It is a fairly good system, but I think it could be enhanced with the act.

Mr. Yao: Thank you.

The Chair: A follow-up?

Mr. Yao: No, sir.

The Chair: Okay. Next question comes from Member Calahoo Stonehouse. Go ahead.

Member Calahoo Stonehouse: Great. Thank you. I'm curious if you could share how many whistle-blower cases in the past five years have involved Indigenous communities, health care centres, or Indigenous employees, and what were the outcomes? Is there a restorative justice model or a quasi-judiciary process that includes Indigenous ways of knowing and doing?

10:00

My second question to that is: does this legislation apply to all people working on First Nations and Métis settlements; so contract nurses, social workers, mental health outreach teams? Because of the jurisdiction and authority between federal lands and provincial employees, I'm just curious as to how this protection will work for folks working on federal lands.

Mr. Brezinski: Currently we don't keep race-based data in terms of the number of Indigenous folks that have complained to our office.

Secondly, in terms of restorative kind of justice, I think we do have within our legislation the ability to informally resolve complaints. We're taking a really hard look at that and actually conducting more informal resolutions most recently. But specific to Indigenous issues, I can't really comment on that at this point because it hasn't come forward.

Lastly, yes, all individuals, employees, people, can actually make complaints to our office. Now, the protections are not necessarily there for nonemployees. Yes, Indigenous people from all walks of life can actually complain to our office.

Member Calahoo Stonehouse: Okay. I'm just curious if the protection will work for contractors who are working on First Nations or Métis settlements.

Mr. Brezinski: That's the problem, as mentioned by Kelly, with the prescribed service providers. Currently in the regulation it doesn't define who they are. Therefore, there are no protections for contract workers at this time.

Member Calahoo Stonehouse: Thank you.

The Chair: The next question comes from Member Dyck. Go ahead.

Mr. Dyck: Excellent. I guess my question is on section 24. I think this is a Justice question here for you. In the first section here it just talks about good faith and that protection is limited to those who act in good faith. I just have a question on that. Is it motive? Does that matter? Do we check the motive of somebody who is whistle-blowing before determining next steps? Like, that's a significant statement, that it has to be in good faith.

Ms Hillier: I am also the lawyer who handled it the last time the act was amended. So I am working on my memory, but my memory tells me that this was one of the areas that the previous commissioner wanted amended, to remove that clause of good faith.

Mr. Dyck: Interesting. Okay. Thank you. That sounds great. I think I would be interested in some further clarification, I guess, maybe as a committee on that. Thank you for that.

I have other questions, but there are multiple others, so why don't I just turn it over to you, Chair.

The Chair: Okay. Our next question comes from Member Sweet. Go ahead.

Ms Sweet: Thank you, Mr. Chair. One of the questions that I do have is this: if we saw a significant increase in whistle-blower – I don't know; whatever word you want to say . . .

Mr. Brezinski: Cases.

Ms Sweet: . . . cases that contact your office, if you start to see that there's a theme, like, let's say, health care, and there are a lot of health care workers that are coming forward talking about how they feel like they need whistle-blower protection, is there any mechanism currently in the act to allow you to do a review of a systemic issue or a ministry issue when you're seeing a significant increase in one set issue? Do you know what I mean?

Mr. Brezinski: I do.

On the Ombudsman side of the house I have the ability to conduct own-motion cases, but as the Public Interest Commissioner I need to receive a disclosure in order to investigate. But if we do get a disclosure and it relates to a systemic issue, I then can make recommendations to improve the entire organization.

Ms Sweet: Just to follow up, then, I mean, we have a current issue happening in the health care system right now where public servants are being asked to come and disclose information for an investigation. Is there a mechanism currently to ensure that those front-line workers who are currently being asked to disclose public information that is confidential information in an investigation – are they being informed of their rights under the whistle-blower legislation during that investigation process? Is there a mechanism within your office to ensure that that's happening?

Mr. Brezinski: I guess the mechanism typically would be through the designated officer, and that person is aware of the act and the protections.

But I guess the issue is whether those employees – and I don't know all the circumstances of the case – are invoking the public interest disclosure act. Like, I don't know that. If they were, then they have protections. If it's a system outside of the act, they don't necessarily have those protections.

The Chair: Our next question comes from Member Yao. Go ahead.

Mr. Yao: Thank you so much, Chair. You know, this is an interesting job that we have as elected officials. Over the last decade I've seen a lot of interesting things from the different agencies, boards, and commissions and stuff and discrepancies. I've been asked the question, like: who is responsible for this or that? It comes down to organizations staying within their lane or whether they have to interject in something. I guess my question is: if the commissioner ceases or refuses to investigate something that you feel could be more appropriately managed under a different jurisdiction or some organizations already have some set of rules as to who investigates that, how do you determine if the investigation is warranted, and how do you decide whether responsibility should be to an alternate investigative unit that might belong to another agency, as an example?

I mean, like, we get discrepancies everywhere. The Auditor General, as an example. You know, sometimes you see them in the paper insisting that something be investigated, and our understanding is that it might be under someone else or the elections officer and on and on. There are all sorts of discrepancies as to who should be managing the investigation of something. Can you give us some clarity on how your office manages those conundrums?

Mr. Brezinski: Sure. If, for example, I determine that a disclosure involves a potential offence in a different act, as mentioned before, I would report that to the Minister of Justice. In some cases, if it was serious in nature, say, and it's being investigated by a police agency, I would hold that case in abeyance and let them conduct their investigation. That's legislated in our act.

In terms of other things, within section 19 of the act it talks about different circumstances where I can refuse to investigate. So if it's a human resource matter or an individual grievance between two people, that's not necessarily systemic in nature and can be dealt with by an HR process.

So there are a number of different avenues for me not to investigate. But, again, if it's serious in nature, it falls within our act, then I would investigate.

Mr. Yao: Have you had any instances where there was a discrepancy, where there was that discussion amongst you and another agency as to how you guys manage the situation, or has it always been fairly clear-cut?

Mr. Brezinski: Yeah, I think previously there were investigations, and they predate me, where a number of different offices of the Legislature were involved in one case, in particular. It was reported as the AER file. Every Leg. office had their own lane, where they investigated a particular offence. There has to be open communication just to ensure that, you know, you fall within your own jurisdiction and your own lane. But, yeah, it has happened in the past.

The Chair: Thank you.

The next question is from Member Eggen. Go ahead.

Mr. Eggen: Well, thank you, Mr. Chair, and thanks for the presentations here this morning. I'm just curious about the interaction between your office, Justice, and other ministries as well. I was the Minister of Education, and we did have a designated officer that might deal with someone who came forward on a whistle-blowing case. The ministry and the designated officer that's dealing with that is part of the investigation, really. What we've seen here, you know, is some confusion around that, let's say, in the health ministry with the corrupt care issue, where it seems like their designated officers are telling them what to do and how to do it and what to say or what not to say. I certainly didn't have that problem in my ministry, when I was minister, but my point is that those designated officers in the ministry are actually a very integral part of an investigation of a whistle-blowing allegation. Don't you agree?

Mr. Brezinski: Certainly. They are responsible for our legislation, so they're responsible for co-ordinating disclosures within their organization. It's a critical role.

10:10

Mr. Eggen: Absolutely. I mean, certainly we would not characterize those people, those designated officers in different ministries, as just being stakeholders; rather, they are integral to the investigation.

Mr. Brezinski: Correct. You know, if I do an investigation, and I report back to the ministry, the designated officer and the chief officer, they ensure that the culture in the workplace and the corrective actions are actually undertaken.

Mr. Eggen: Right. Yeah. Thank you.

The Chair: Thank you.

Our next question comes from Member Dyck. Go ahead.

Mr. Dyck: Excellent. Thank you so very much. This question might be for both of you, both Justice and the commissioner. My understanding is that the whistle-blower act supersedes most of the other acts that we have as government if not all the other acts that we have; included would be, like, the health information protection act. How do these acts engage with each other? My understanding is that this one would supersede that, the HIPA act. Can you give some colour on that, on how this act might engage with some of the other ones and also how this is structured on those kind of information and whistle-blowing conversations between these acts for personal protection in these processes?

Ms Hillier: I can say that this act, the whistle-blower act, overrides them with respect to what information can be provided or what it

can say it specifically overrides in the others. This act, however, has its own built-in protections such as solicitor-client privilege; cabinet documents; parliamentary privilege, which has to be decided by the Speaker of the Assembly; and, as the commissioner has been saying, the parts that are geared towards protection of individual identity. But the act specifically overrides the others.

Mr. Dyck: I appreciate that. May I have a follow-up? Excellent.

Commissioner, you mentioned just in your presentation that you had done an investigation and that it turned into more of the HR processes and that when that takes place – sorry. I was just unclear. Do you give suggestions on clarity of those HR processes so they don't come back to you again? What is the responsibility of an ABC for instance? I'm not sure where this was, but for that organization to take your recommendations as well: is there a requirement for that? What authority do you have as commissioner? Also, where do you get off the train, I guess, saying: "This is no longer my jurisdiction. I can give you some suggestions." What's within your jurisdiction of this according to the act?

Mr. Brezinski: Right. If I investigate a complaint and find there is no wrongdoing, but I do find there are, like, HR issues or processes that can be enhanced, I can make recommendations to that department, and I can ask them to follow up within 30 days, for example, if they're going to implement any of my recommendations. I can't force them to make change, but usually all the organizations that we deal with are very good to deal with, and they actually, you know, take our recommendations seriously.

Mr. Dyck: That's nice. Thank you very much.

The Chair: Thank you very much. The next question comes from Member Calahoo Stonehouse.

Member Calahoo Stonehouse: Thank you, Chair. To the commissioner: I heard in your reports, which you spoke of, that you will investigate the act of gross mismanagement of funds and that you will investigate alleged wrongdoing. But I'm curious. If we are seeing an incredible steady increase of claims and 9 out of 10 recommendations filled and limited capacity in your offices, how are you really building public trust?

Mr. Brezinski: We build public trust by investigating complaints and making, you know, positive recommendations for change. I think that's the whole purpose of the act, that when wrongdoing is reported to our office and we can make recommendations for corrective action to enhance the public service, that certainly should instill some confidence. The protections, again, that I had mentioned: that lessens sometimes the faith that they have in the act. I think if we can strengthen those protections, I think that would certainly help people have more faith in the system.

Member Calahoo Stonehouse: Thank you. So strengthening the protections?

Mr. Brezinski: Yes.

Member Calahoo Stonehouse: Thank you.

The Chair: Is there a follow-up, or are you good?

Member Calahoo Stonehouse: That's good. Thank you.

The Chair: Okay. Thank you.

Next question. Member Al-Guneid.

Ms Al-Guneid: Thank you, Mr. Chair. I'm looking again at the recommendations from 2021, and this is maybe a question to both of you. Recommendation 6.4 is on defining prescribed service providers, and it is in relation to health care as well because "the Act applies to departments, offices, public entities, and prescribed service providers, subject to the regulations." However, in the report it says, "as of yet, there are no regulations with respect to prescribed service providers." The former Public Interest Commissioner "noted that many privately-owned organizations that deliver government services and receive public funds are not captured under the Act."

Given that we now have four health ministries and we have Bill 55 that passed and changed the definition of hospitals – just a quick refresher: Bill 55 is the Health Statutes Amendment Act. It's the one that created the four health ministries and introduced significant changes to Alberta's health system, and it's specific to hospital administration and governance. It could queue up the turnover of public hospital infrastructure to operations by private, for-profit companies. So my question is: under this act how do you manage the whistle-blower program? These are private operators and the act is for public employees, if that makes sense.

Mr. Brezinski: Yes. Currently we do not have anything in our regulation relevant to prescribed service providers, and I think we need some clarity on it probably moving forward, taking into consideration, again: do we have capacity to manage all prescribed service providers, or are there limitations? I think during this process we certainly, within my office, will be providing you with written submissions and actually some detailed information as to which prescribed service providers would be most appropriate. So during this process you'll certainly get that from our office.

Ms Al-Guneid: Yeah. I mean, quick follow-up comment, semi-question here is: how do you protect health care workers in a – it is publicly funded, yet it's a private operator. So it's almost like there is a hole in the system if we're publicly funding these programs and these services, yet it is under a private operation. Bill 55 is a game changer here because it is still part of the system. So it's not the same, almost. Like, you're more exposed to this than me on a daily basis, so I'm curious what you think. And Justice, too, might have a comment there.

Mr. Brezinski: I think every person who makes a whistle-blower complaint should be provided some protection, and I think we need to really define who those prescribed service providers should be in our legislation. Once we do that, then I think we can probably enhance the act.

Is there anything that you want to add, Kelly?

Ms Hillier: As you said and as I said in my presentation, the act does allow for a regulation to be created outlining who is a prescribed service provider and therefore who is subject to the act. That's not been done. It is subject to instruction. If Justice receives instruction to do so, we will then create a regulation.

The Chair: Thank you very much.

Our last question, I guess. Member Sweet, go ahead.

Ms Sweet: Thank you, Mr. Chair. Can we go to burden of proof, actually, and chat a little bit about the burden of proof? My understanding is that the legislation places the onus on the employee to prove, on a balance of probability or the burden of proof, that the workplace reprisal is a result of whistle-blower complaints and it's not actually on the employer. So I'm wondering how we can support employees that may feel that there's been a

level of reprisal if they've done a whistle-blower complaint. Is it appropriate that the employee has to demonstrate the burden of proof, or should the employer not be the one responsible for demonstrating the burden of proof?

10:20

Mr. Brezinski: I'll answer it, and then I'll have Chris, probably, weigh in on this. The way that our office investigates these complaints: it's kind of a shared responsibility. As a person who has been reprised against comes forward, they would provide their evidence. We would look at that objectively. We then would go to the employer and ask them if the allegations that were made – like, what happened, and we would actually take into consideration what they said. So we would look at it from a balanced perspective. We don't place the onus on one person versus the other. Does that make sense?

Mr. Fong: If I just might interject.

Mr. Brezinski: Go ahead. Sure.

Mr. Fong: It's a balance of probabilities, not a burden of proof, so they review the evidence and determine whether it's more likely that a reprisal took place or less likely that a reprisal took place. There is no burden on either party. It's an analysis of the evidence – you throw things on a scale – and whether it's more likely or not, 51 per cent, if you will.

Ms Sweet: I appreciate that, but the employee, the person that is facing the reprisal, is the one that has to initiate it. Like, I guess what I'm wondering, to clarify: if an employee is fired because they may come forward with information, let's say, and now it's up to that employee to prove that they were terminated based on disclosure of public good, right? I think that's what I'm trying to figure out. Should it be the employee's responsibility to have to prove that they were terminated for providing the public good and in the best interests of the public good, or should it not be up to the employer to demonstrate that there was misconduct that allowed for that termination?

Mr. Brezinski: That comes out in the investigation. The responsibility on the person that's been reprised against is to make a complaint. They make a complaint, and they provide their side of the story. We then would, again, go to the employer and ask them specific questions about the actual allegation, and the employer would provide us with a response. Then we look at all of the evidence that we have and, as Rod had said, on a balance of probabilities make a decision whether or not a reprisal took place.

The Chair: I've got a feeling you've got another question there.

Ms Sweet: Well, I've lots on this one.

I guess it's about confidence, right? It's ensuring that the public – I came from public sector a long time ago. I mean, I worked in children's services, so we dealt with significant confidential information, and the confidence in knowing that I would be protected as an employee by going through whistle-blower protection wasn't necessarily there because of the fear of termination. When we talk about confidence and ensuring that the public sector feels confident in being able to come forward with this information, I guess the concern is that it feels like the employee has to be able to defend and the employer can terminate you, so you lose your job and then you have to come back and try to fight for it – right? – whether that's with getting the union involved or whether, if you're outside in managerial scope, having to then go into civil to be able to defend your employment. I think the question is: is

there a tool within the legislation that needs to be changed to ensure that it's "you're fired; now get your job back," or should the employer have to prove that termination is valid before termination can occur? If that makes sense.

Mr. Brezinski: Chris.

Mr. Ewaniuk: The only expectation on the part of an employee, especially in the circumstance you described, a reprisal has occurred, is for them to make a complaint to our office, right? They don't have to gather evidence. They don't have to prove their case. They just need to simply explain that they made a whistle-blower complaint and they believe they were punished for doing so. The responsibility is then on our office to investigate it, and that includes gathering evidence, securing e-mails, securing records, questioning people, sometimes conducting forensic analysis of electronic data. They can be quite extensive investigations. So I'm cautious about the idea that there's an expectation on employees to prove their case. It is our responsibility to conduct an investigation and then the commissioner's responsibility to balance that evidence and determine on a balance of probabilities what more than likely occurred.

Ms Sweet: Thank you.

The Chair: Thank you very much.

That's it? Okay. Good.

All right. Does anyone else – no? We're good. Okay.

I'd like to thank our guests from the Ministry of Justice and the office of the Public Interest Commissioner for attending and providing a technical briefing this morning. You are welcome to stay if you want, but if you need to leave, feel free. Thank you very much.

Hon. members, it is customary to invite officials from relevant ministries and offices to also provide ongoing technical assistance to both the Legislative Assembly Office and the committee throughout reviews of this kind. I would like to open the floor to any comments, questions, or motions in relation to inviting ongoing technical assistance from both the Ministry of Justice and the office of the Public Interest Commissioner. Member Dyck, go ahead.

Mr. Dyck: I've got a motion here, Chair, that in support of the committee's review of the Public Interest Disclosure (Whistleblower Protection) Act, the Standing Committee on Resource Stewardship invite officials from the Ministry of Justice and the office of the Public Interest Commissioner to

- (a) provide technical assistance as required to the committee and Legislative Assembly Office, and
- (b) attend meetings of the committee when requested in order to provide technical expertise.

The Chair: Any discussion? Good. I'll go to the motion then. All in favour, say aye. Any opposed, say no. Online, all in favour, say aye. Any opposed, say no.

That is carried.

Good news. The efficiency of our LAO staff has been able to figure out the five-year question. I'll ask Mr. Koenig to . . .

Mr. Eggen: Without leaving the room.

Mr. Koenig: I know, it's amazing, eh? Well, I didn't want to overpromise and underdeliver, but with the able assistance of House services I've been able to go back and look at the review history of this act.

What I can confirm for the committee is that all provisions of the act were proclaimed in force as of June 2013 pursuant to Order in

Council 117/2013. Two years later the first review occurred in June 2015 pursuant to Government Motion 12, and that review was undertaken by the Select Special Ethics and Accountability Committee. Five years after that, the act was reviewed again as of June 2020 pursuant to Government Motion 22. That review was undertaken by this committee. Then five years after that, it was reviewed, now this time pursuant to Government Motion 73.

To go back to the original question earlier in the meeting by Member Eggen, I would suspect the confusion may be arising because the final report of the review last time was submitted in 2021. However, pursuant to section 37 of the act, the counting begins when the act was first brought into force, two years after that and every five years subsequent to that, which is why the referral occurred now in 2025.

The short answer to the question is: no, this review is not happening early. It's happening in accordance with section 37.

The Chair: Thank you.

Okay. Research services. Typically at this point in the statute review committees we request research documents to assist them in their review. With regard to stakeholders, as I noted earlier, the common practice that committees undertake during a statute review is to seek out information from relevant stakeholders. Typically the committee will choose to direct research services to put together a draft stakeholders list for the committee's review at a future meeting. Are there any comments, questions, or motions in relation to requesting preparation of a draft stakeholders list? Member Dyck.

Mr. Dyck: Chair, I've got a motion on this. My motion reads that the Standing Committee on Resource Stewardship direct the Legislative Assembly Office to prepare a draft stakeholder list as part of its review of the Public Interest Disclosure (Whistleblower Protection) Act and distribute it to committee members for their review.

The Chair: Okay. Any discussion? I will go to the question. All those in favour, say aye. Any opposed, say no. Online, all those in favour, say aye. Any opposed, say no. Thank you.

That is carried.

Crossjurisdictional comparison is also common in reviews of this nature. To task the Legislative Assembly Office with providing a crossjurisdictional comparison document outlining similar legislation in other jurisdictions in Canada: does anyone have thoughts on this? Go ahead, Mr. Dyck.

10:30

Mr. Dyck: All right. I have a motion on this, too, that in support of the committee's review of the Public Interest Disclosure (Whistleblower Protection) Act the Standing Committee on Resource Stewardship direct the Legislative Assembly Office to prepare a crossjurisdictional analysis of select jurisdictions with similar public interest disclosure legislation.

The Chair: Okay. Is there any discussion on that?

Okay. I'll go to the question. All those in favour, say aye. Any opposed, say nay. Online, all those in favour, say aye. Any opposed, say nay.

That is carried.

Okay. Hon. members, are there any other matters at this time the committee would like to consider in relation to gathering research as part of our review of the Public Interest Disclosure (Whistleblower Protection) Act? Member Sweet.

Ms Sweet: Thank you, Mr. Chair. I do have two motions that I would like to bring forward, the first motion being that

the Standing Committee on Resource Stewardship invite, as part of the committee's review of the Public Interest Disclosure (Whistleblower Protection) Act, officials from the ministries of Hospital and Surgical Health Services and Primary and Preventative Health Services to present with respect to the operation of the act at an upcoming committee meeting.

I think we clearly heard today, Mr. Chair, that the ministries do have a tool and a mechanism within the act that they are required as designated officers to implement when working with public-sector workers outside of the scope of stakeholder relations and being able to provide stakeholder feedback. They enact the act within their ministries, so I would request that the two new ministries of health be asked to come and give us a technical briefing about how it is that they're working within the whistle-blower protection act within their ministries as delegated by PIC.

The Chair: Any discussion? Member Dyck, go ahead.

Mr. Dyck: Excellent. Well, thanks to the member opposite for the motion. I'm a little surprised you brought this one forward, honestly, as a pretty experienced member of the Legislature. I think we just made a motion that we would put together a draft stakeholder list. That's the time to bring these type of questions forward, so I think this motion is jumping the gun significantly. We need to get that draft list in. I don't believe this is the right time for this motion to be in process, so I think we should vote no on this here today.

The Chair: Member Eggen, go ahead.

Mr. Eggen: Well, thanks. I think that we heard from Kevin Brezinski here today that there is a fundamental difference between a stakeholder and people who are actually executing the pursuit of a whistle-blower case. We don't have to look any further than the ministry of health at this point right now with the corrupt care scandal, where you have allegations of people reaching in from the ministry to pursue a whistle-blower allegation and being part of that investigation.

You know, stakeholders are one thing, but actually executing the legislation is another thing. We heard from Kevin Brezinski loud and clear here today that they're not just stakeholders in each of the ministries. Rather, they are actually part of the investigation. As I provided an example from when I was Minister of Education, you had a presiding officer, a designated officer that was charged with pursuing these things, and that's completely different from a stakeholder. I think that would be worth while. The Member for Edmonton-Manning chose two of the health ministries, and I think that's a very appropriate choice at this point in history.

The Chair: Okay. Any others?

Mr. Yao: No, I have to agree with my colleague. I think my good friend from across the aisle has the right intention to bring in stakeholders, including from the ministries, and that venue is available to us. They are still considered stakeholders. That's the venue where we can ask them all the questions that I believe the opposition would want. I respect and appreciate what they're trying to achieve here, but it will be achieved just through a regular process. To that, I would say no to this, but to the member opposite, their stakeholders will get included in our discussions because they are very relevant and very important to this issue. Good intent, just wrong process.

Thank you.

The Chair: Any others?

All right. We'll go to the motion. All those in favour of the motion, say aye. Any opposed, say no. Online, in favour, say aye. Opposed, say no. Okay.

That is defeated.

Ms Sweet: Can we have a recorded vote, please, Mr. Chair?

The Chair: A recorded vote has been requested. The process for a recorded vote in committee is similar to the process for a division in the House. I will first ask those in the room who are in favour of the motion to raise their hands, and then the committee clerk will call names of those who have raised their hands and record the votes. We will then follow the same process for those who are against the motion. If you wish to abstain from the vote, please do not raise your hand. I will do it in-house here first, and then I'll go online.

Those who are in favour of the motion, please raise your hand.

Mr. Huffman: Hon. Member Eggen, hon. Ms Sweet, and hon. Member Calahoo Stonehouse.

The Chair: Those who are against it in the room here, raise your hand.

Mr. Huffman: Mr. Yao and Mr. Dyck.

The Chair: Those online, turn your camera on when you're talking. I'll ask for your opinion, then we'll go from there. Member Al-Guneid, go ahead. In favour. Okay.

Member Petrovic, go ahead.

Mrs. Petrovic: Opposed.

Mr. Cyr: Opposed.

Ms Armstrong-Homeniuk: Opposed.

Mr. Huffman: I just note for the record that Ms Al-Guneid raised her hand in favour.

For the motion, we have four; against, we have five.

The Chair:

That is defeated.

Okay. Other motions. Member Dyck, go ahead.

Mr. Dyck: I have another motion here. It reads that the Standing Committee on Resource Stewardship direct the Legislative Assembly Office to prepare a summary document of any significant case law in Alberta related to the Public Interest Disclosure (Whistleblower Protection) Act since 2015.

The Chair: All right. Is there any discussion on that, or would you like to make the case for it?

Mr. Dyck: Let's just leave it on the floor and see if anybody wants to fight it.

The Chair: Okay. Fair enough. All right.

Any discussion?

Okay. If there's not, I will go to the question. All those in favour, say aye. Any opposed, say nay. Online, all those in favour, say aye. Any opposed, say nay.

That is carried.

Any other motions? Member Sweet, go ahead.

Ms Sweet: Thank you, Mr. Chair. I appreciate that the last motion in regard to bringing ministry officials was defeated by the government, but I am going to bring this one forward, that

the Standing Committee on Resource Stewardship invite, as part of the committee's review of the Public Interest Disclosure (Whistleblower Protection) Act, officials from the Ministry of Treasury Board and Finance to represent with respect to the operation of the act at an upcoming committee meeting.

Just to motivate the reason behind this, Mr. Chair, Treasury Board and Finance now holds the public service under their mandate. There used to be a ministry of labour. There is no longer a ministry of labour; I would be inviting them. It clearly is the employer of all of the public service. They are the hirers and the firers within the public service, and they work within the requirement and the mandate to be able to ensure that employees are aware of their rights as employees when it comes to whistleblower protection as well as antiharassment policies as well as labour relations in regard to the labour board, and I could go on and on.

They are not a stakeholder; they are the employer. This whistle-blower protection act is directly related to the relationship with the public sector, and Treasury Board and Finance as the employer holds a responsibility to ensure that this act is being held and is being supported with the public sector and that front-line workers are aware of their rights as employees, so they do need to attend. Again, I do not believe that ministries are stakeholders.

10:40

I appreciate that the member opposite said that as a seasoned person who has been in this role for over 10 years I should know how this works. I do. I have invited ministries before not as stakeholders but as ministries because they are the government, and they do come as ministries and not as stakeholders. I could pull *Hansard*, I'm sure, with me putting these motions forward repeatedly over my decade of experience. The government can choose to interpret stakeholder and ministry as the same, but tell a minister that he's a stakeholder, and I would love to see their response, Mr. Chair.

The Chair: Any comment? Member Dyck, go ahead.

Mr. Dyck: Sure. I'm just going to go back to my original comments here, too. We've already put a motion forward to bring forward a stakeholder list put together by the LAO. I think that is a wonderful mechanism in order for us to move forward. This is also our first meeting. This is not a normal motion to put forward in our first meeting, to invite departments to the committee table. That isn't a normal procedural thing. We'd be vastly breaking historic precedent. I don't know if we need to do that in this meeting here today. We will be getting a comprehensive stakeholder list, and it will be developed and put forward at an upcoming committee meeting. Once again, I don't think we need to – I think we should vote yes.

Ms Sweet: Yes.

Mr. Dyck: Vote no on this one – vote no on this one – as there will be opportunity in that future draft list to talk about various other stakeholders in this.

The Chair: Thank you.

Any others? Member Eggen, go ahead.

Mr. Eggen: Yeah. Thanks, Mr. Chair. You know, again, we need to look at this not just as words but with meaning as well. The meaning of differentiation between a government presentation and a stakeholder is that the government is responsible for these things. We didn't have to look any further than – we had the Ministry of

Justice here presenting as a responsible part of this legislation. Stakeholders come because they are representing clients or they're individuals or they might be labour associations and so forth. We want all of those, too, of course. But you don't lump ministries in as stakeholders. They are the government, and they are responsible for the legislation. To somehow say that "Oh, we'll just put them all into the stakeholder presentations" I think is shirking the responsibility that the government has to whistle-blower legislation.

The Chair: Any other comments?

Okay. We'll go to the question. All those in favour of the motion in the room, say aye. All those opposed, say nay. All those online in favour of the motion, say aye. All those opposed, say no.

It is defeated.

Ms Sweet: Recorded vote, please.

The Chair: Recorded vote. Okay.

All those in the room that are in favour of the motion, please raise your hand.

Mr. Huffman: Hon. Mr. Eggen, Ms Sweet, and Member Calahoo Stonehouse.

The Chair: All those opposed in the room, please raise your hand.

Mr. Huffman: Mr. Yao and Mr. Dyck.

The Chair: Okay. Now to do the procedure properly, I'll ask the clerk to identify the individuals, and if you could verbally say yea or nay, we'll go on that.

Mr. Huffman: Thank you, Mr. Chair.

Ms Al-Guneid.

Ms Al-Guneid: I support the motion. Aye.

Mr. Huffman: Thank you.

Mr. Cyr.

Mr. Cyr: Opposed.

Mr. Huffman: Mrs. Petrovic.

Mrs. Petrovic: Opposed.

Mr. Huffman: And Ms Armstrong-Homeniuk.

Ms Armstrong-Homeniuk: Opposed.

Mr. Huffman: Mr. Chair, for the motion, four; against, five.

The Chair: Okay.

That motion is defeated.

Are there other motions? We are good. Okay.

Are there any other issues to be discussed at today's meeting?

If not, the next meeting will be at the call of the chair.

If there is nothing else for the committee's consideration, I'll call for a motion to adjourn.

Mr. Yao: Hear, hear.

The Chair: Member Yao. Any discussion, I guess? All in favour of the motion, say aye. Any opposed, say no. Online, all in favour, say aye. Any opposed, say no. That is carried.

Thank you very much. The meeting is adjourned.

[The committee adjourned at 10:45 a.m.]

