



# **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

## **Hansard Verbatim Report**

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**STANDING COMMITTEE ON PUBLIC ACCOUNTS  
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Mr. Elwin Hermanson, Chair  
Rosetown-Elrose

Mr. Lon Borgerson, Deputy Chair  
Saskatchewan Rivers

Mr. Glenn Hagel  
Moose Jaw North

Mr. Glen Hart  
Last Mountain-Touchwood

Mr. Ken Krawetz  
Canora-Pelly

Mr. Kim Trew  
Regina Coronation Park

Mr. Kevin Yates  
Regina Dewdney

The committee met at 13:15.

**The Chair:** — Good afternoon, committee members. I'd like to call the Public Accounts Committee meeting to order and welcome you all here. And thank you for taking some time off on a couple of, it looks like, very beautiful days here in Saskatchewan, to deal with the financial affairs of the province.

You've had an agenda circulated I think even before the legislature recessed for the summer, indicating a pretty aggressive agenda over the next two days. We will endeavour as much as possible to stay on schedule, recognizing that some items may go more quickly; some may go a little more slowly. We'll try to let the officials that are expecting to be coming in at certain times to know if there are any significant changes so that they will not experience too much inconvenience.

This afternoon we want to deal with Energy and Mines, chapter 4 of 2003 Report Volume 1; quite a large sector on Liquor and Gaming and Saskatchewan Indian Gaming Authority from both the 2002 and 2003 reports.

Following a break, if we have time, we'll conclude with the Workers' Compensation Board, chapter 16 of the most recent 2004 Report Volume 1.

Therefore I will welcome not only committee members but the guests. We have the Provincial Auditor, Mr. Wendel, with us and several officials from his office. We have the officials from the Provincial Comptroller's office with us again. And we will have witnesses from the various departments, depending on what area we are involved in.

As far as Energy and Mines is concerned, which we are beginning with, we have as witnesses Hal Sanders, the executive director of revenue and funding services, as well as Denise Haas, the executive director of investment and corporate resources. We will ask them to respond to a brief report by the Provincial Auditor or his designate in regards to chapter 4 of Energy and Mines. Mr. Wendel.

#### Public Hearing: Energy and Mines

**Mr. Wendel:** — Well thank you, Mr. Chair. I have Mobashar Ahmad with me today to my left, and Mobashar will be making a brief presentation about Energy and Mines.

**Mr. Ahmad:** — Thank you, Fred. Good afternoon, Mr. Chair, and members of the committee.

I will provide an overview of the chapter on the Department of Energy and Mines. The Department of Energy and Mines is now part of the Department of Industry and Resources.

Chapter 4 starts on page 93 of our 2003 Report Volume 1. In this chapter we report our audit conclusions and findings for the department and the Oil and Gas Environment Fund for the year ended March 31, 2003.

In this chapter we make three recommendations. The recommendations relate to improving the department's processes to ensure the royalties and taxes due to the

department are accurate. Because the department did not have adequate processes, it may not have accurately assessed all the royalties and tax revenues required by the law.

On page 96 we recommend the department should prepare an overall audit plan that ensures proper coverage of the assessment and collection of royalties and taxes due. An overall audit plan should include a risk assessment for each tax and royalty, and strategies to manage those risks. At the time of our report, management told us the department is preparing a comprehensive audit plan addressing the department's risks and strategies to address those risks.

On page 97, we recommend that the department should develop and implement a formal training plan for its auditors. The department assesses and collects taxes and royalties from a complex industry that uses fast-changing technologies to explore, produce, transport, and account for resources. The department needs to ensure its staff acquire and maintains competencies needed to do their job well. Management told us the department is preparing a training plan for its staff.

Lastly, on page 98, we recommend the department should improve its supervisory practices to ensure that the audit plans are approved and audits are carried out as planned. We noted the auditors did not always document the objective of work, did not always leave evidence of what they did and why, and did not always complete the audits as planned or document reasons for changes to their plans.

Also we did not always find evidence of management's review and approval of the audit plan and audit findings. Management's review and approval would help ensure that the audit results are well supported in case of challenges by producers.

That concludes my review. Thank you.

**The Chair:** — Thank you very much, Mr. Ahmad. I now ask the officials from Energy and Mines to make a response and then we'll open up the floor to questions.

**Mr. Sanders:** — Thank you, Mr. Chair. If I could address each one of the items individually. The first one related to the overall audit plan. Historically the department had not prepared one single, concise document that could be called a consolidated, overall master audit plan. However it's our view that this does not support a conclusion that there was an absence of planning. Over the years, management identified risks to accurately assess revenues, establish auditing and monitoring process, and employed human and technical resources to mitigate those risks.

Included in these processes is the monitoring of oil and gas prices, reconciliation of reported oil and gas production to purchasers' and transportation company reports, computerized billing systems that verify the mathematical accuracy of producer-calculated oil and gas royalties and tax remittances, and desk and field audits of profit-based royalties and taxes.

The processes and the staff that carry them out, of course can only exist as a result of conscious strategic decisions made by

management and communicated to staff through a combination of approved job descriptions, work plans, memos, meetings, and established practices. The absence of a specific document which is consolidated does not show evidence that it doesn't occur. Notwithstanding the department's current level of audit controls, noting the recommendations of the Provincial Auditor, the department has consolidated its directives, planning memos, control documentation in an overall audit planning document including an assessment against our current strategic plan, and it's being incorporated into the audit process.

On the second point, related to the adequate knowledge, skills, and abilities to plan and do audits, I believe the Provincial Auditor has agreed that the audit staff do have the necessary education and experience required to hold those positions. Its criticism of the department is that it doesn't have a formal, ongoing, documented learning or training plan.

And it is true that the department did not have that specific type of plan. However we do take certain steps to ensure that auditors are informed of changes in the industry, changes in royalty regimes. And we have situations where they are constantly evolving and in almost all cases, they are specific to Saskatchewan. The process is necessary to mitigate the risk, evolve in conjunction with these regimes. And in many cases those audit staff pioneer changes to audit procedures when they're out in the field.

We do have two audit managers that actually manage seven auditors. And those auditors have an average of over 20 years of directly related audit experience in that area. I believe our attrition rate is somewhere in the neighbourhood of one person every six to seven years, or it has been in the last 20 years. However, subsequent to the auditor's report, the department has developed an overall training strategy for all staff and the allocation of resources to the future training of auditors will be prioritized in that global setting for the department.

The third and last point that was raised is related to the supervisory practices to ensure audits are approved and carried out as planned. The department does recognize that its auditors are experienced professionals and allows them to operate with a great degree of independence that is commensurate with their experience. Their job descriptions, through which they are classified, stipulate that the audit staff have the authority to make decisions outside of policy or regulations, which are intended to set standards for future use by others, and may in fact be accepted without review.

Although not always documented, communication between the auditors and management is continuous and routine. Initial audit plans, subsequent changes to plans, contentious issues, audit adjustments, and royalty tax implementations are discussed with management.

As I indicated earlier, in the 2000 . . . in the fiscal year we're speaking to, there were two audit managers to seven auditors, ensuring consistency, completeness of audits, and financial risk management. The absence of formal documentation in some instances should not be construed as lack of supervision. Taking the Provincial Auditor's comments, we have since introduced practices to increase its documentation, showing the supervisory evidence that the Provincial Auditor seeks. So

essentially there will be more signatures on the files to indicate that the managers have in fact reviewed those files. Thank you.

**The Chair:** — Thank you, Mr. Sanders. We'll open the floor to questions. Mr. Hart.

**Mr. Hart:** — On page 96 the auditor makes a statement that the department doesn't know whether it has accurately assessed all taxes and royalties owed to the department, and therefore the auditor is unable to assess whether all taxes and royalties have been — that are to be collected — actually have been collected. What steps have you taken to rectify that position . . . situation?

I understand you've talked about a more formal plan and that sort of thing, but there's this question about whether all taxes and royalties that are to be collected actually have been collected. And I guess on the flip side of that coin, have more taxes and royalties been collected than are supposed to be collected? I mean if you don't know exactly what you're collecting, you may err on either side. And I wonder if you could just explain what the department has done to ensure that this uncertainty is no longer there.

**Mr. Sanders:** — I guess my comment would be that the specific items that the Provincial Auditor had identified are those items that they feel are necessary to ensure that activity is properly assessed. That said, you can never be 100 per cent sure that 100 per cent of the royalties and taxes in any given regime are collected. What you're doing is achieving a level of assurance that a certain percentage of . . . you know, with close to 100 per cent assurance that the money has been collected.

In addition to those steps that we've taken here, we've also done two other major items. And that was in assessing some of our resource needs, we have increased our audit staff by an allocation of four staff members, four junior staff members that were allotted to us in the budget process, I believe, the fiscal year before last. And so we now have junior staff within that work unit. So we've increased our audit component from seven to eleven.

The other thing that we've done, and I believe it's consistent with our discussions with provincial audit, is that much of the discussion has been around the notion that we have a certain number of staff and then we must allocate them to the different resources. But in fact what, if you had all the resources that you would like to have, what you should typically do is look at your tax bases, determine the risk, and then decide how many auditors you need. That ultimately could mean that you could require a lot more resources than the resources that you have available.

We are trying to marry those two types of activities. Now we haven't completed that review yet. We are still finalizing the strategic plan which will fit within the audit activities. Those are the types of things that we're doing to assure that.

We've also taken other steps. In the case of uranium specifically, we've actually made regulatory regimen changes which require less of an audit; they focus attention on particular areas of audit, as opposed to a much broader activity. An example would be where we had to audit actual exploration expenditures for a period of 20 years leading up to the

development of a mine. We've moved to a system whereby there's a fixed allocation given for development expenditures or for a mine or for an expansion of a mine, which means it's a number that's agreed to and there's no audit necessary to determine that that's the number. That has freed up resources to allow us to do some reallocation as well.

**Mr. Hart:** — I wonder if you could just briefly explain, as far as oil and gas royalties — because that seems to be more where the auditor seems to have concerns — as far as just the process. First of all, what are the royalties? Are there more than one? And I assume there are.

I must admit my knowledge of the royalties regime is fairly limited and I wonder if you could just basically explain that. And then explain how the department regulates or perhaps the royalty . . . or the collection of royalties, I guess. I understand that you don't do any field audits. It's done from producers' records and so on. I wonder if you could just very briefly explain that whole area.

**Mr. Sanders:** — I could certainly try; it's a very big question. But the first point I'd like to make is that I believe the auditor's comments . . . The wording of the document says that we don't audit, field audit all of oil and gas returns, but in fact we do audit some. Their argument is that, that we don't audit all of them. It's not a suggestion that we are not auditing some.

In the oil and gas area . . . Well first of all, oil and gas are treated a little bit differently. In the case of oil there are actually six different geographic regions. Within those six different geographic regions there can be light, medium, and heavy oil. Each one of those draws a different royalty rate. And then on a monthly basis, every tenth of a cubic metre of oil draws a different royalty rate per month based on the price for that month for that oil.

So there's an extensive system operating in the department that takes reporting from the industry for all of their production activities for every well in the province. There is a reporting system that records the sale of every . . . all of the production from every well in the province. And then there is a consolidation of that information.

We have a static system within the department that looks at . . . For instance the dates of when wells are produced also could have a different royalty regime, whether it's an enhanced oil recovering regime, which has essentially ring-fenced areas which have special royalty regimes. So there is a database within the department that identifies every specific well and about six different factors. Another component would be whether or not it's Crown-owned mineral rights or freehold-owned mineral rights, which again could draw a different royalty rate.

So on a monthly basis our department is actually managing a rolling system of 36 months of well . . . essentially well-months for all 30,000 . . . 30 to 40,000 oil and gas producing wells in the province. So in any given month we could be tracking anywhere around a half a million wells and as . . . well-months that is, not wells.

And as we move forward on a monthly basis, companies are

expected to submit an estimate for the production and sales for the previous month. We have a reconciliation report and we actually invoice. That is the largest exercise that goes on. Within that invoicing process, we invoice approximately 400 oil producers in any given month.

So every month we're assessing 400. Payments are made every month and there's a reconciliation against what they paid and what we assessed to ensure that there aren't companies potentially under-reporting all the time or even over reporting, if they've misjudged what class of well that they may be reporting on, which sometimes happens.

So that is essentially how it's been operating. The system's been in operation since 1985 with some updates based on new regime changes over the years. But essentially the process has been around for that long.

If you wanted to, I could go into further detail. But it is managed by over 100 people, I would expect, in different aspects of it.

**Mr. Hart:** — Well thank you for that explanation. I can see that it's . . . I thought it was a fairly complex subject and your explanation certainly has indicated that. And so therefore I can see where the auditor would be concerned, because of just the sheer size of the task, that staff be, that a plan be put in place, an audit plan — and that, you know, staff with adequate training and experience be also put in place. And you have certainly explained some of the steps you have taken towards addressing some of the concerns that the auditor has. So, Mr. Chair, that would be all the questions I'd have at the moment.

**The Chair:** — Thank you. Mr. Hagel.

**Mr. Hagel:** — Yes, Mr. Chair, my question is really to the auditor. On the matter of training, I noted that the audit staff with the department are long-term staff with a fair amount of expertise. And I have a hard time here of getting a picture of inadequacy in training. And I just want to ask of the auditor's office whether there is the feeling that somehow the department's training is inadequate to do the job competently.

**Mr. Ahmad:** — Mr. Chair, it's a question of a documented plan for maintaining that knowledge that the auditors have gained — on-the-job experience, so to speak. And there's also an element of succession plan as well. As people have more and more knowledge and they come close to retirement or leave, there has to be a plan to make sure that the new people learn and maintain that knowledge. And that's what we are talking about. There must be a plan to make sure that the department at all times has some kind of levelled, experienced staff.

**Mr. Hagel:** — So it's really with emphasis more on the longer-term implications of succession planning, and there's no . . . I guess I want to make clear there's no suggestion of inadequacy at this point in time, but you're looking down the road in the context of succession planning. Am I understanding your . . .

**Mr. Ahmad:** — Right. What we are saying is, if you don't maintain that knowledge base, you're going to erode that. You have to have a plan to make sure that the knowledge is

maintained well as the technologies move.

**Mr. Hagel:** — Then can I ask, Mr. Sanders, is that something that you see as a concern, long-term concern for the department?

**Mr. Sanders:** — I believe that over the longer term it's probably a valid assessment that we could lose a lot of staff at one point in time. But again, to address that we have brought in some junior staff who are now rotating through the different royalty regimes that we're hoping will help alleviate that, as well as just the overall department training plan — the formal training plan.

**Mr. Hagel:** — And are most of your auditors roughly the same age as . . . or are they quite a wide range of ages?

**Mr. Sanders:** — I believe that they range in age somewhere in the neighbourhood of age 40 to 64.

**Mr. Hagel:** — And there's, you said, seven?

**Mr. Sanders:** — Yes.

**Mr. Hagel:** — Seven. Okay. Thanks, Mr. Chairman.

**The Chair:** — I just have about three short questions and I'm fine with short answers.

Just on the collection of royalties, the fact that they're not all collected, I've thought of five categories or five reasons why they might not be collected. Can you tell me whether any of these are the right categories? They may not be collected because simply there's a refusal on the part of the oil and gas company. They may be negligent — they just don't get around to it. They may disagree as to what the royalties should be. They may be in ignorance of what is required of them. Or they may have an inability to pay for financial reasons. Would this be, would I be hitting any of the right spots here or am I missing something?

**Mr. Sanders:** — I believe it's fair to say that they could fit into any one of those categories, but I would argue that we do have factors that mitigate those risks. We do have collection officers that ensure those people that refuse to pay, that there's collection activities pursuing that. In the case of ignorance, we have information circulars and we do talk to the industry quite regularly, including some training sessions that we offer through one of the industry associations when we're asked to provide instructions on how our royalty regimes operate. So we try and address that.

When they disagree, there is a requirement that they pay taxes and appeal afterwards. So that addresses that particular one.

And where they're negligent, I think that is probably the area where we focus a lot of our audit attention because it could be somebody that's intentionally under-reporting a price or under-reporting production. And those are the risks that we're specifically keying in on and where much of the audit time spends.

**The Chair:** — Okay, thank you. My second question is for the

auditor. And I noticed that one thing that isn't in your report is a comment on oil price forecasting. Now perhaps that was because when this report came out the department had been pretty much on the money with their prognostication, but currently the forecasted price of oil in the budget is far lower than the actual price being received.

I just wondered if the Provincial Auditor's office had any comments on the accuracy of Mines and Energy predicting oil and gas revenues and that impact on royalties for budgeting purposes by the government.

**Mr. Wendel:** — Mr. Chair, we haven't commented on the internal financial reporting that Energy and Mines has. We're satisfied that they have adequate processes to monitor their financial results and we haven't had a concern with that.

Insofar as the budget's concerned, I think the oil price that's set is a kind of a government-wide . . . (inaudible) . . . the budget, the Finance department where they estimate what the oil price is going to be and use that for the purpose of estimating.

**The Chair:** — I guess I would just then ask the executive director, does Mines and Energy pass on a forecast to Finance or does Finance make this decision on their own?

**Mr. Sanders:** — The Industry and Resources does pass on a forecast to the Department of Finance, and its basis for its price forecasting is not actually coming up with an independent price but taking an average of a number of independent sources through the industry.

**The Chair:** — Okay. My last question has to do with the last section of the auditor's report regarding payments to NewGrade Energy. And while there's no recommendations there, the auditor makes the comment that there is a, I guess an annual payment to NewGrade as a grant and not as a remission of royalties, and it's the viewpoint of the auditor that that is not the way it should be done.

I just wondered if the department could respond. Why would they be making what could be, I guess, deemed an unfair subsidy to one player in the industry, giving them an advantage over other players?

**Mr. Sanders:** — I guess my comment there would be specific to our understanding of the rebate and our interpretation of it, and that is that within our system . . . We actually have a system whereby we're paying it to the producer and the producer is assigning it over to NewGrade, allowing us to make the payment directly to NewGrade. So there is a difference of opinion on whether or not it meets the conditions of the finance administration Act with respect to that process, whether we should be paying it directly back to the producers.

**The Chair:** — So why isn't NewGrade treated the same as the Husky oil upgrader in Lloydminster? Why aren't they on the same footing? Why are there different processes in place?

**Mr. Sanders:** — Quite truthfully I can't speak to that specifically. They were negotiated in separate environments and outside our specific department's activities.

**The Chair:** — So is your department . . .

**Mr. Sanders:** — We're administering the . . .

**The Chair:** — Is your department taking any action to try to make a level playing field with the same process in place for the entire industry?

**Mr. Sanders:** — We are not changing the process for Husky or for NewGrade.

**The Chair:** — All right. There are, I believe, three recommendations on . . . yes, three recommendations arising out of chapter 4 on Energy and Mines. The first recommendation is on page 96 and it reads:

We recommend that the Department prepare an overall audit plan that ensures the accurate assessment and collection of all royalties and taxes due to the Department.

I would entertain a motion. Mr. Yates.

**Mr. Yates:** — I would move we concur and note compliance.

**The Chair:** — Are there any questions in regard to the motion? Seeing none, I call for the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — That's carried. Recommendation no. 2 on page 97:

We recommend that the Department develop and implement a formal training/learning plan for its auditors.

Again I would entertain a motion. Mr. Hagel.

**Mr. Hagel:** — Mr. Chair, I move that we concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Any questions regarding the motion? Seeing none, I call the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — Again that's carried. And the third recommendation is on page 98. It reads:

We recommend that the Department improve its supervisory practices to ensure that audits are approved and carried out as planned.

Again I would entertain a motion. Mr. Yates.

**Mr. Yates:** — I would move that we concur and note progress.

**The Chair:** — Again, a motion to concur and note progress. Any questions? Seeing none, I'll call for the question. All in favour? And that too is carried unanimously.

That brings us to the end of chapter 4. I would like to thank our guests for appearing before the committee. We wish you well,

and maybe perhaps some time off this summer to enjoy the fine weather we're having. Thank you very much.

### **Public Hearing: Liquor and Gaming Authority and Saskatchewan Indian Gaming Authority**

**The Chair:** — We will now move on to the next item on our agenda, which is Liquor and Gaming Authority and Saskatchewan Indian Gaming Authority. And we'll invite the witnesses to enter and take their seats.

All right. The second item on our agenda, Liquor and Gaming Authority, Saskatchewan Indian Gaming Authority. We are reviewing from the Provincial Auditor's report, chapter 6 of the 2002 Fall Report Volume 2, both parts A and B, as well as chapter 5 from the 2003 Report Volume 3, and again both parts A and B.

I'd like to welcome our guests. I understand we have Sandra Morgan, the president and CEO (chief executive officer) of Saskatchewan Liquor and Gaming, and we'd like to welcome you. You might want to introduce us to some of your colleagues who are appearing and then we will have a report from the . . . a summary of the report from the auditor and then we'll get into your response, followed by questions of the committee members. So if you'd introduce your colleagues, please, Ms. Morgan.

**Ms. Morgan:** — Thank you, Mr. Chair. I have with me today, on my immediate left, Barry Lacey, who is the vice-president of corporate services. On my immediate right is Jim Engel, who is the executive director of policy and planning. Behind me, starting on my left, is Lisa Ann Wood, who is the executive director of human services. Beside Lisa Ann is Brian Keith, the executive assistant to the president. Next to Brian is Paul Weber who is the vice-president of liquor operations. Beside Paul is Faye Rafter, who is the executive director of the compliance branch of the regulatory compliance division. Beside Faye is Jolene Beblow, who is the acting vice-president of casino and electronic gaming in the gaming operations division. Beside Jolene is Dale Markewich, who is the vice-president of regulatory compliance. Thank you, Mr. Chair.

**The Chair:** — All right. Thank you very much. I was reviewing some of the material we have to go over. There's a lot there, so I think we better just get right into this. It looks like again Mr. Ahmad is speaking on behalf of the Provincial Auditor's office. And so, Mr. Ahmad, we would give you the floor.

**Mr. Ahmad:** — Thank you, Mr. Chair. This time I will provide an overview of chapter 5A and 5B of our 2003 Report Volume 3. These chapters deal with Saskatchewan Liquor and Gaming — I'll call Liquor and Gaming — and Saskatchewan Indian Gaming Authority that I will refer to as SIGA.

But before I do that, I will talk about recommendation no. 10 in chapter 6A and recommendation no. 1 in chapter 6B of our 2002 Fall Report Volume 2. These two recommendations deal with the same matter, once from Liquor and Gaming's perspective and then from SIGA's perspective.

In May last year, your committee considered and deferred these

recommendations pending Liquor and Gaming's obtaining legal opinion. We reported that Liquor and Gaming did not have authority to allow SIGA to use public money to pay \$400,000 to FSIN (Federation of Saskatchewan Indian Nations) to negotiate a new framework agreement and \$150,000 to Saskatchewan Indian Gaming Licensing or SIGL.

We received and reviewed the legal opinion Liquor and Gaming obtained for payments to SIGL. The legal opinion states that the new framework agreement provides authority for such payment. Mr. Chair, we agree. However, Liquor and Gaming authorized this payment in the year ending March 31, 2002 and the new agreement was not signed until June 2002.

For payment to FSIN, our legal adviser continues to hold the view that Liquor and Gaming cannot do what cabinet did not authorize it to do. Cabinet did not authorize Liquor and Gaming to allow SIGA to offer any inducement to facilitate the negotiation.

Now I will talk about chapter 5A and B of our 2003 Report — in these chapters of the report, the result of our audit for the year ending March 31, 2003. Most of the matters we report in this chapter have been reported in our previous report. In May 2003, your committee considered and concurred with our recommendation.

The first matter of the report on page 130 relates to Liquor and Gaming's authority to allow SIGA to spend public money for purposes other than operating casinos. This matter is similar to what I talked about in the beginning. That is, Liquor and Gaming cannot do what cabinet has not authorized it to do.

The 2002 Gaming Framework Agreement approved by cabinet states that the government does not intend to promote the establishment of a casino in Saskatoon. By allowing SIGA to use public money, and by allowing SIGA to use its employees to promote establishment of a casino in Saskatoon, Liquor and Gaming became involved in promoting establishment of a casino in Saskatoon. Liquor and Gaming can only do that if cabinet specifically authorized it to do. Accordingly, the expenditure of 446,000, plus the salaries and benefits paid to some of the SIGA senior staff to promote the Saskatoon casino, is without authority.

Second, we report that Liquor and Gaming needs to continue to strengthen its management of public money under SIGA's control. In our previous report, we made 13 recommendations to help Liquor and Gaming do so. The exhibit on page 140 describes our past recommendations and whether or not they have been implemented.

Recommendation 1 on page 135 is highlighted because your committee did not specifically consider this recommendation. We had made this recommendation in our 2000 Fall Report Volume 2, but your committee did not consider this recommendation because of a mix-up in our presentation.

The matters reported on page 136 to 39 relate to establishing standards for testing of slot machines, better monitoring of table games, and the need for a contingency plan. These matters were reported in our previous reports.

We report one new matter covered in recommendation 2 on page 138. Although Liquor and Gaming has a policy requiring timely reconciliation of all bank accounts, staff did not reconcile all bank accounts promptly. Timely and regular reconciliation of bank accounts provides a check that all changes to the bank accounts are proper, and provides a check on accuracy and reliability of Liquor and Gaming's accounting records. We recommend Liquor and Gaming follow the established policy to promptly reconcile all bank accounts.

That concludes my overview of chapter 5A. Now I will go to chapter 5B on pages 143 to 172.

Most of the recommendations we make in this chapter are carried forward from prior years. Exhibit 1 on page 165 to 170 describes 24 recommendations, the year they were first made, and the status of their implementation. In May 2003 your committee has considered and concurred with our recommendations.

In this chapter we have two recommendations. The first recommendation is on page 149. This recommendation deals with our access to the internal auditor's work. SIGA has since revised this agreement with the internal auditor, and we now have full access to all the things in the auditor's work.

The second recommendation is on page 153. This recommendation deals with completion and implementation of SIGA's human resource plan, the need for casinos to follow established human policies consistently, and for the board to receive more information about staff retention rates and effectiveness of SIGA's training activities.

In 2003 we examined in depth SIGA's processes to build human resource capacity. We concluded SIGA's processes were not adequate and made recommendations to help SIGA improve its processes. Management told us that SIGA has begun to address these recommendations. That concludes my review of both chapters. Thank you.

**The Chair:** — Thank you, Mr. Ahmad, for that report. And, Ms. Morgan, would you or your officials care to respond?

**Ms. Morgan:** — Thank you, Mr. Chair. I thought it would be appropriate today to provide this committee with an update regarding our operations since our last appearance here a year ago.

As you may be aware, SLGA (Saskatchewan Liquor and Gaming Authority) employs staff in 64 communities throughout the province, and staff work in SLGA's network of liquor stores, a distribution warehouse here in Regina, and offices in both Regina and Saskatoon.

On the liquor side of our business, we operate 81 stores around Saskatchewan. In communities that are not large enough to sustain a provincial liquor store, we have contracts with existing private businesses to sell beverage alcohol on our behalf. And there are approximately 190 of those franchises in Saskatchewan.

On the gaming side, we regulate all seven of the province's full-time casinos. That is Emerald Park . . . or Emerald Casino



in Saskatoon, as well as the four casinos in North Battleford, Prince Albert, Yorkton, White Bear, and the two SGC (Saskatchewan Gaming Corporation) casinos in Moose Jaw and Regina.

We also operate the province's VLT (video lottery terminal) network and regulate charitable gaming — that is bingos, break-opens, and raffles. Financially the net income for 2002-03 was \$325.2 million. That's an increase of 7 million over the year previous. We expect that once we've received our audited financial statements for '03-04, to realize an even greater income for that year. We forecasted \$358 million.

We also continue to focus on addressing the Provincial Auditor's recommendations regarding the Saskatchewan Indian Gaming Authority. And I'm pleased to report to this committee that in our view progress has been made since the last time I reported to the committee.

During '03-04, SIGA developed and approved more than 100 policies relating to human resources — which the auditor just referred to — marketing, finance, and ancillary operations. As well, SIGA has prepared and approved a strategic plan, a business and financial plan for '04-05. These plans have been submitted to SLGA and have been approved.

Financially, SIGA continues to record impressive revenues which provide important dollars for economic development, social development, justice, health, education, recreation, culture, and other First Nations initiatives. In '02-03 SIGA recorded a net income of 29.4 million compared to 24.8 million the previous year. And we are forecasting for the current year revenues of 30.3 million — or a net income of 30.3 million. So the trend is upward.

So that's just a very brief summary of the year that has passed since I was last here, and now we'd be quite pleased to address each of the recommendations referred to by the auditor.

**The Chair:** — Thank you, Ms. Morgan. I will open the floor to questions from the members. Mr. Yates.

**Mr. Yates:** — Yes. My question is for the department officials. Is it possible — and I know I was here when we got last year's legal opinion in the last Public Accounts Committee, and I've misplaced it — to get a copy of the legal opinion that is in reference to the first couple of recommendations?

**Ms. Morgan:** — Yes, we brought copies for this committee because we realize the other committee was a different group of individuals. So we can distribute that, if that's okay with the Chair.

**The Chair:** — Absolutely. I think because the content between the 2002 report and the 2003 Report, the two volumes we are looking at today, are closely intertwined, that there's no sense in trying to separate them for the purpose of the questioning. So if there are questions, we don't have to look at one volume first and complete that and then go on to the second volume. We'll look at this package as a whole because a lot of the areas are covered in both of the reports.

Again we'll open the floor to questions. Mr. Hart.

**Mr. Hart:** — Having just received the legal opinion, I notice, and I believe the auditor in his report said that the — if I understood this correctly — that under the new agreement the payments that were made to, that SIGA made to the Saskatchewan Indian Gaming Licensing authority and the FSIN, under the new agreements they're legal and there wasn't a problem with them, but under the old agreement they weren't authorized and still therefore those payments are still considered to be improper. Is that basically what this document is telling us?

**Ms. Morgan:** — We don't believe so. But I'll let Mr. Engel, who was at the bargaining table at the time the agreements were negotiated as well, who has liaised directly with Mr. Gibbings, respond to that.

But we believe Mr. Gibbings's opinion said we had authority in the old agreement as well.

**Mr. Engel:** — Thank you, Sandra. Yes, as Mr. Gibbings notes in his opinion, his view, and as the view of the Liquor and Gaming Authority, the payments in question were in fact authorized under the 1995 Gaming Agreement between the FSIN and the government.

Now I guess the matter at question is, there is not a specific, pointed reference to those payments. And that's the, I guess, the issue that our colleagues at the Provincial Auditor's office bring forward.

Our view is that the concept of the payments is very consistent with the agreement, that there is, if you look at the totality of the framework agreement and the operating agreement between the government and the FSIN and SIGA, that the nature of the payments is in fact not at all inconsistent with the agreements and is quite consistent with the conceptual basis underlying the agreements.

For clarity moving forward, we certainly made a point, appreciating the issue the Provincial Auditor brings forward, we did make a point in the 2002 agreements to make sure there was specific reference so there could be no continuing uncertainty about this. But as Mr. Gibbings notes in his opinion, and as was our view at the time and continues to be our view, that there was in fact a clear acceptability of the nature of payments that were made prior to the changes to the agreements.

**Mr. Hart:** — I guess my next question would be to the auditor. I thought I heard you say that you still consider those payments made in prior, in the 2002 report, as not being authorized. Is that what you said in your report earlier today?

**Mr. Ahmad:** — Yes, certainly. What we are saying that the payment that was made in 2002 to SIGL, that's the licensing authority, because SIGL does not issue any licence for anything to anybody at that time, there was no need for that payment.

What we understood was that the payment was to make sure that there was some kind of training program or educational program for SIGL. But the framework agreement does not talk about that at all and that's consistent with our lawyer's views.

**Mr. Hart:** — Just having received this opinion, I certainly

haven't had time to look at it completely, but this legal opinion does not agree with the auditor then. And is that where . . .

**Ms. Morgan:** — That's correct. And at this committee last year we had this same discussion. We had a legal opinion that was in disagreement with what the auditor was contending. And we identified the fact that this is one of those issues that from time to time we agree to disagree with the Provincial Auditor.

I mean we continue to accept the legal opinion we received. We believe that we were within our legal rights to approve payments to both the FSIN and SIGL, as it was then known, and we haven't changed our opinion on that. We believe that Mr. Gibbings's legal opinion accurately reflects the authority that was given to SLGA in the First Nations gaming agreement and the casino operating agreement.

But we discussed at some length last year — and I'm sure that the auditor remembers that — that this is one of the issues that we at this point in time just agree to disagree on.

**Mr. Hart:** — Could you like explain — being new to the Public Accounts Committee and not having the benefit of past discussions and so on — what were the payments for, the 150 . . . I believe it was \$150,000 that was made to SIGL. What was that for?

**Mr. Engel:** — To answer that question, maybe to give some fuller context I might actually take you right back to the original gaming agreement in 1995 between the government and the FSIN. And there were actually sort of two, two key very important components to that.

There's a global framework agreement between the government and the FSIN that speaks to First Nations gaming, and there's two equally important components to that. One is the operation of casinos, which revolves specifically around SIGA and the day-to-day functioning of casino operations; the second part of that which is, I guess we would present as being as equally paramount of a concept in the agreements is the notion of the creation of a First Nations gaming regulatory body, which in 1995 or 1996 was created, called the Saskatchewan Indian Gaming Licensing Inc.

There was a recognition in 1995 at the very outset that in order for that organization to eventually undertake some regulatory responsibility for gaming on First Nations in Saskatchewan, that there would have to be a fairly lengthy process of capacity building for that organization in order to get them to the level where they could undertake that regulatory responsibility and do so in a competent, capable manner.

So there have been payments made to that organization to basically allow them to have staff hired, to allow them to train and develop the capacity of their staff with the view to someday the province delegating the authority for certain regulatory functions to that body for on-reserve gaming. So that's the . . . that's specifically . . . the payment in question is one of several payments that were made to that organization.

**Mr. Hart:** — Does Liquor and Gaming . . . you regulate the gaming down at Regina casino and the Moose Jaw casino but . . . and the one in Saskatoon, I presume, and the other four are

regulated by First Nations regulatory bodies. Is that . . .

**Ms. Morgan:** — No, not at this time.

**Mr. Hart:** — Not at this . . .

**Ms. Morgan:** — We regulate all of the casinos in the province of Saskatchewan.

**Mr. Hart:** — Okay, but . . .

**Ms. Morgan:** — But that authority to regulate on-reserve gaming has not been given to the Indian Gaming Authority. We believe they have not got . . . or the licensing authorities. They've changed their name so I'm . . . SIGL was the old name and IGR (Indigenous Gaming Regulators Inc.) is the new name. But we've not yet given that authority because in our view we haven't got the negotiations completed with respect to the handing over of authority. And nor has the appropriate order in council been approved by government at this stage to give them that authority. We still believe they need to do some capacity building before they're in a place where they can take over the authority.

**Mr. Hart:** — But that is the long-term plan, to hand over the regulatory capacity to the First Nations?

**Ms. Morgan:** — For charity gaming on-reserve is what the First Nations gaming agreement refers to.

**Mr. Hart:** — Okay. Okay, Mr. Chair, I don't have any questions at this particular time but I may have some as we carry on here.

**The Chair:** — Mr. Yates.

**Mr. Yates:** — Thank you, Mr. Chair. My first question is for the Provincial Auditor's office. Do you have a legal opinion that's to the contrary to this legal opinion?

**Mr. Wendel:** — Yes, Mr. Chair, we do.

**Mr. Yates:** — Could you provide the committee with copies of that legal opinion, please?

**Mr. Wendel:** — We have a copy here with us. If someone can make copies, you can certainly have it with you.

**The Chair:** — We will have those copies made as quickly as we can and distribute them to the members as soon as they're copied.

**Mr. Yates:** — Thank you, Mr. Chair. My second question is for the officials from Liquor and Gaming. At the time these payments were made, were . . . was the member of Executive Council responsible for the Saskatchewan Liquor and Gaming Authority and the government aware that these payments were being made?

**Ms. Morgan:** — The answer is yes.

**Mr. Yates:** — And was the government at that time in full agreement with these payments being made?

**Ms. Morgan:** — Yes.

**Mr. Yates:** — Okay. And was there internal discussions about the legalities of these payments made with any of the government's or Department of Justice internal people at the time the original payments were made?

**Mr. Engel:** — I can answer, I can answer that question. Actually not . . . no substantive discussion that I can recall. Again our view had been always that there was no particular problem with this, with these payments. So we didn't frankly spend or invest a lot of time answering that question. Because our view is they were . . . the payments were always consistent with what was contemplated and under the nature of the agreement between the government and the First Nations.

And, in fact, we requested a legal opinion only after having discussed that issue here at Public Accounts a year ago. We certainly had had verbal discussions with our counsel, Mr. Gibbings in Saskatoon, on this matter. But we'd never actually gone so far as to ask him to provide his thoughts to us in writing. Because again it, to all of us — to him, to all of us at the Liquor and Gaming Authority — this seemed frankly like a non-issue. Because in our view there was such a clear consistency between SIGA making these payments and what was contemplated within the broader context of the gaming framework agreement.

**Mr. Yates:** — And would it be fair that the member of Executive Council responsible and the Legislative Instruments Committee of the government would have agreed with that opinion at that time?

**Ms. Morgan:** — The answer's yes. Yes.

**Mr. Yates:** — Thank you.

**The Chair:** — Thank you. Just a couple of questions that I have on this. First of all, for background. The revenues that SIGA receives is allocated according to a formula, and a large portion of that goes to First Nations people. Could you just again inform the committee of the formula, where the revenues from gaming on the four casinos in particular are allocated.

**Ms. Morgan:** — The revenue that comes through SIGA is all deposited into the province's General Revenue Fund. And then it is dispersed thirty-seven and a half per cent to the province, thirty-seven and a half per cent to the First Nations Trust, and 25 per cent to the community development corporations, or the CDCs as they're called.

**The Chair:** — All right. So if there is, you know, expenditures such as this \$150,000 and another \$400,000 that went to the Federation of Saskatchewan Indian Nations, that means that that money is not . . . is taken out of the pot that is distributed under that formula. Am I correct?

**Ms. Morgan:** — Yes, that's correct.

**The Chair:** — So in other words by allocating this . . . By approving of these payments, First Nations people did not receive the full benefit they might have received had that been distributed in the formula, and taxpayers were shortchanged

money that they would have received for programs like health care had that money stayed in the General Revenue Fund.

**Ms. Morgan:** — Well as Mr. Engel says, at the time we negotiated the First Nations gaming agreement, the First Nations community themselves, that is one of the signators to that agreement, anticipated that these payments — the 400,000 to the FSIN to negotiate the gaming agreement and the \$150,000 for SIGL — would be approved by the government for these bodies, so that the money did go to First Nations pursuant to the First Nations gaming agreement. It had been agreed by the parties at the table that the government would . . . or not the government, but these payments would be authorized to be paid to the First Nations organization as well as SIGL.

**The Chair:** — I guess hindsight is always 20/20, but that would now in hindsight seem like perhaps an unwise decision given the controversy, given the fact that there are contrasting legal opinions as to whether this was correct. Would not Liquor and Gaming have been wiser to have not made those aspersions, or after having allowed them to go through, to request that money be returned and distributed to the formula rather than challenging the auditor's opinion with another legal opinion?

**Ms. Morgan:** — Well no organization likes to be in an ongoing disagreement with the Provincial Auditor's office, that's for sure. But we really and truly believe that we were obligated under the First Nations gaming agreement to make these payments, because the parties at the table bargaining the agreements agreed that the costs would be borne and that SLGA would approve that SIGA makes the payments.

**The Chair:** — So did Liquor and Gaming seek an opinion from the Provincial Auditor before they approved these payments from the . . . an opinion from the Provincial Auditor?

**Ms. Morgan:** — I don't know. None of us were at SIGA . . . or at SLGA at the time. Perhaps the Provincial Auditor might know, but I don't believe so. Because we felt we had the authority.

**The Chair:** — Okay. Mr. Ahmad?

**Mr. Ahmad:** — No, we were not consulted on those things.

**The Chair:** — Well again, looking at the Provincial Auditor's report, you know the main point . . . in the main points at the beginning of chapter 5A he notes that progress has been slow you know in the whole area of accountability and safeguarding public money.

And you would think that, given some of the controversy and ongoing problems plaguing the relationship between the Saskatchewan Indian Gaming Authority, Liquor and Gaming, and public concern about you know the proper distribution of these funds to people that are supposed to benefit — particularly the First Nations people who are supposed to benefit — that some unwise decisions in the past have been made. But I would take from your . . . the position that you're bringing to the table today that you would disagree with that position and if you had it to do all over again, you would probably again make these disbursements. Am I correct in that conclusion?

**Ms. Morgan:** — I think I would have to answer, Mr. Chair, yes, because we believe we had an obligation under the agreement to make these payments. The First Nations community did benefit from the payments in the sense that it was agreed that SIGA would make the payments to the First Nations in order to negotiate the agreement, to pay their costs associated with negotiating the agreement. And it was also agreed with First Nations that we would help them establish their licensing authority, the regulating body, and provide them with capacity building. So it's not so much regretting what we did, as we thought we were operating according to the agreement as it was.

And I realize that there's a difference of opinion between the lawyers and between the auditor and us. But from time to time, as we learned last spring when we had this discussion here, the Provincial Auditor and agencies of government do disagree. But we do believe that we were obligated to make these payments under the First Nations gaming agreement, yes.

**The Chair:** — Does Liquor and Gaming have internal reports and was there an internal report that recommended the disbursement of these two payments of 150,000 and 400,000?

**Ms. Morgan:** — You mean a separate report apart from the First Nations gaming agreement?

**The Chair:** — Right. I'm talking about a report within your department of Liquor and Gaming.

**Ms. Morgan:** — I'm not aware of any report, no.

**The Chair:** — So then what system was used? What process was used to make this decision? You know upon what basis . . . You said, you know, that it was your opinion that you had to live up to the previous agreement, that this was the correct process or the correct outcome. That must have been based on something. You must have had some kind of an opinion or report that came to Liquor and Gaming. You said, okay, based on this report, we will support the disbursement of these funds to FSIN and to the other entity.

**Mr. Engel:** — Sure, if I can just answer that. Two responses to that. First in how we handled the decision. That would have just been done through discussions of senior officials at the authority. Not necessarily any exchange of written documentation but just discussions amongst ourselves.

I would also like to note as well, that although we're discussing these payments because of the nature of the review here related to specific reports of the Provincial Auditor's office, there was precedent for these types of payments to be made . . . that were made in previous years. So funding had been flowing to SIGL for years previous to this particular year in review and there also had been revenue that was given to the FSIN previously with respect to negotiation of gaming agreements.

So again, I guess the context for this, there was no written documentation because again collectively in our view this wasn't a particularly controversial or unusual decision for us to be taking.

**The Chair:** — So had the Provincial Auditor cast an opinion on

these previous payments prior to the one that he reports on in the 2002 report and 2003 Report?

**Mr. Engel:** — I don't believe they were covered in previous years, no.

**The Chair:** — I guess I could ask the Provincial Auditor, why did your office wait until this particular year if this was an ongoing practice of the department of Liquor and Gaming?

**Mr. Wendel:** — Mr. Chair, I think we questioned it the year before too when we reported on SIGA, year ended March 31, 2001.

**Ms. Morgan:** — I couldn't hear you; I'm sorry.

**Mr. Wendel:** — I'm sorry. We questioned this payment in the past when we first audited SIGA and it was quite a bit larger amount that was paid to S-I-G-L or SIGL or whatever you say. So it was questioned at that time.

**The Chair:** — So if the Provincial Auditor questioned it the year before, you know, it almost sounded like you sat down around coffee and decided, we did it last year and we'll do it again, without taking into consideration there was criticism from the Provincial Auditor — which strikes me as very unusual. I would think there would be some kind of an investigation or some kind of an internal inquiry with a report, and that was what I was driving at with my earlier questions. There must have been some basis upon which you again made this decision, particularly if the auditor had questioned it the year before.

**Ms. Morgan:** — Well again, the only way I can answer that, Mr. Chair, is to just emphasize again that we believed the authority existed within the agreement. And this is an issue on which the Provincial Auditor and SLGA have disagreed for some time. So we believe the authority already exists. We have a legal opinion that says we were authorized to make the payments. The First Nations community negotiated the agreement with us and anticipated receiving the payments in order for them to negotiate the First Nations gaming agreement as well as set up SIGL.

So again, as I say, it is one of those issues on which we will continue to agree to disagree with the Provincial Auditor and I regret that, but we believe the authority exists within the First Nations gaming agreement.

**The Chair:** — Again, maybe I'm not communicating this well enough, but my concern is that if the Provincial Auditor pointed out that this is a problem, why did your department not undergo a review of this — this whole process — before you again committed to the expenditures the following year?

Normally when the Provincial Auditor highlights a problem there's an extensive review, there's some kind of an internal inquiry, there's reports; maybe you'd even hire, you know, expertise outside of your department to come in and have a look at this. And it sounds like that there is sort of a frame of mind within your department that, we don't care what the auditor says, we're going to keep doing this because we think it's right, and we've done it before, we're going to do it again. And that

quite frankly concerns me.

**Ms. Morgan:** — Well I think that's not true. It's not that we ignored the Provincial Auditor, not at all. Any issues the Provincial Auditor raises with us we take very seriously and we do review. But on this issue of the payments, we discussed it with the lawyer who was . . . both lawyers who were at the table at the time it was negotiated, both the lawyer for the FSIN and our own lawyer. We received written opinions from our lawyer and we continue to believe, as does the FSIN, that these payments were totally in order.

So it's not, Mr. Chair, as if we were ignoring the Provincial Auditor, not at all, because the issue he raises are serious. But we believe, in this instance, the First Nations gaming agreement gave us the authority.

**The Chair:** — But the legal opinion that you've distributed was obtained after the money was distributed for the second time. Am I not right?

**Ms. Morgan:** — The opinion was obtained in writing after this issue arose at Public Accounts last year, but we had Mr. Gibbings's verbal report in the fall of the year that the Provincial Auditor's report came out. Because my first concern when the auditor's report came out that said these were not authorized, that we somehow were in breach of the First Nations gaming agreement, and we sought Mr. Gibbings's opinion at that time which we received verbally.

It was after appearing at Public Accounts a year ago that we asked for it in writing so that we could share it with the committee as we were asked to do.

**The Chair:** — So there was no internal structure put in place to review this. All there was was a verbal opinion from the department's legal advisers. Is that what you're telling the committee?

**Mr. Engel:** — If I can add, Mr. Chair, just to clarify. And again I don't, as Sandra has done, I don't want to suggest that we're not mindful of the Provincial Auditor's views on things.

I think when we looked at this we recognized that the solution to remedy the Provincial Auditor's issue was in fact to amend the agreements that existed between the province and the FSIN and between SLGA and SIGA. And clearly, at the first opportunity we had to make those amendments, we did so. So that the 2002 agreements are very clear — there's no ambiguity, there's no room for a differing of opinions or points of view on this particular question.

When we go back to that time frame of 2001, prior to the completion of those new agreements, frankly there wasn't a vehicle to expeditiously bring about that conclusive resolution. And again, we continued to act in a manner that we felt was appropriate knowing that we would take advantage of the first opportunity that we had to clarify any ambiguity that might exist on the matter in question.

**The Chair:** — Mr. Engel, the fact that you had to change the agreement to get around the problem, isn't that a bit of an admission that there was a problem and doesn't that again point

that, point to the fact that perhaps there should have been a little more consideration and due diligence done by your department before the money was distributed this way for a second time in two years?

**Mr. Engel:** — I think it'd be fair to characterize it's an acknowledgment of a view that our colleagues at the Provincial Auditor have.

I guess I'm . . . I guess we're all of the view that, as we continue, as we're having the discussion here today, we're not in a view that we're in agreement with the Provincial Auditor's perspective, but we did acknowledge that it existed and so we took action when the opportunity first presented itself to make sure there was no continuing ambiguity or potential for misinterpretation or different views.

You know, I guess from a purely interpretation or applying the agreement point of view, I think we'd have been quite fine without speaking to those points as conclusively as we did in the agreements. But again, in recognition of the issue that the auditor raised and the fact that there is potentially some ambiguity around that, we took steps to address that and we did so at the first opportunity that presented itself to us.

**The Chair:** — Mr. Yates.

**Mr. Yates:** — Thank you, Mr. Chair. I just want to clarify a couple of issues. The parties to the agreement, when they made the agreement, did they believe there was authorization to make these types of payments?

**Ms. Morgan:** — Yes. We thought there was language in the agreement and continue to think that there was language in that agreement, as does the FSIN, that authorized these payments.

**Mr. Yates:** — Okay. So both parties to the agreement believed that that authority existed.

Am I to read from the previous questions I'd asked that the member of the Executive Council responsible and the Executive Council believed that the authority existed to make those payments?

**Ms. Morgan:** — The answer is yes.

**Mr. Yates:** — So what we have is the governing authority and the parties to the agreement all believing that the authority existed to make the payment. The intent was the authority existed. And we have the Provincial Auditor saying he doesn't believe the authority existed. So we have a difference of opinion. But the body that has the authority, the Executive Council, to make the orders or to make the, in fact, the agreement, believes that the authority existed. So I think forever here we're going to have a difference of opinion. We have two such legal opinions. Having read them both, you know, the legal opinion from the Merchant group in the final letter I don't believe to be . . . And he says, as I understand it, there is no evidence that SLGA were authorized by the executive government to allow further sums to be deducted.

Yet we've heard today that the Executive Council, in fact, knew and were supportive of, and believed the original agreement

gave that authority. So if that's the case, we have simply a difference of opinion as to what the original agreement meant and what the content or the intent of those clauses were. And forever we are going to have difference of agreement on that, so I suggest that we move on to deal with these recommendations.

**The Chair:** — Okay. Thank you, Mr. Yates.

Mr. Hart has asked for the floor but, before I give it to him, just to clarify then. Executive Council gave approval to Liquor and Gaming to disburse these funds under the manner we're discussing then. Was that a cabinet decision? Is that what you're saying, or who are we talking about? Are we talking about Executive Council, are we talking about the . . . we're talking about a cabinet decision.

**Ms. Morgan:** — The First Nations gaming agreement, yes.

**The Chair:** — So if a mistake was made, you know, and if the legal opinion obtained by the Provincial Auditor is correct, then cabinet made a mistake. I'm not asking you to respond because your legal opinion says no. And I recognize there's a difference of opinion here, but I am . . . obviously if the Provincial Auditor's legal decision is the . . . or interpretation is the correct one, then the cabinet decision was the wrong one.

**Ms. Morgan:** — I can't comment on that.

**The Chair:** — Mr. Hart.

**Mr. Hart:** — Well Mr. Yates said that we have two legal opinions and in fact we do. One is on one side of the issue, and one is on the other side of the issue. And we have the auditor who says that as far as their interpretation of the original agreement — gaming agreement — that Liquor and Gaming, through SIGA, had no authority to make these payments of \$150,000 to the regulatory body and also the \$400,000 to the FSIN.

Now it's quite convenient for the new agreement to . . . You know, you can make that argument that, well that was the intent of the old agreement and so therefore, the new agreement, we incorporated those authorities. But you could also make the argument that we needed to incorporate that authority in the new agreement to cover the mistakes that were done in the past. And until we have somebody . . . We have these two pieces of paper, these two letters which are opinions, and that's all they are. And we need someone with authority to tell us which is the correct opinion because otherwise this issue is going to carry on forever.

**The Chair:** — Are you asking someone to respond to that comment?

**Mr. Hart:** — Well I guess my question, my question is, well you know, between the auditor and the department we need to get this resolved. And I guess my question is, what authority do we as the Public Accounts Committee have to get involved in this issue to have this issue resolved, because it seems to be going on quite some time?

**The Chair:** — Are you asking for the floor, Mr. Yates?

**Mr. Yates:** — Yes, Mr. Chair. It's the role of this committee to determine what the outcome of the recommendation is and in due course I guess we'll make our motion that we'll deal with this issue and put it to bed.

**Mr. Hart:** — What I would suggest then, because we do have two legal opinions and I don't see any lawyers sitting around this table, as far as members of the committee, perhaps we need to have a third opinion on this. Maybe perhaps this committee needs to ask for a legal opinion.

**The Chair:** — Mr. Trew.

**Mr. Trew:** — Thank you, Mr. Chair. Perhaps we need a fourth and a fifth and a seventh legal opinion. Mr. Yates has clearly stated our obligation as members of the Public Accounts Committee is to question — based on the auditor's report — question officials, officials who give responses, and we're to sort it out to the best of our ability. That's what our jobs are.

It's not to seek endless outside opinions. It's good to get opinions, but we know . . . I mean everyone around this table, everyone in this room knows that we have two divergent opinions. As Ms. Morgan stated, there's a disagreement between her operation and the Provincial Auditor's operation, but we just have to make our decisions based on the evidence as we've heard.

And we've also heard, I remind all members we've heard, that the two parties that were signator — negotiated the original agreement and were signator to the original agreement, as was reported today — both parties understood that there was authority to make the payments. And there's nothing unexpected there. That's what they thought they were signing. So that's where it's at. I think it's time to move on. Thank you.

**Mr. Hart:** — Well, Mr. Chair . . .

**The Chair:** — Mr. Hart.

**Mr. Hart:** — . . . if I could respond. I think this whole issue revolves around a legal interpretation of a contract. And as I said, we have two opinions from both the interested parties that are on opposite sides of the issue.

Certainly I suppose — if I could interject on a personal note — if I was party to a dispute I would look for someone who would certainly put my position forward in the best way and someone that I had confidence in. What I'm looking for is someone that's impartial.

You know, I'm not so sure whether both of these parties who have expressed these opinions are totally impartial. Certainly they're using their best legal and professional opinion, but that's all it is, is an opinion.

**The Chair:** — Mr. Yates.

**Mr. Yates:** — Thank you very much, Mr. Chair. What we have is the two parties to the agreement, who were both at the table, both agree that the authority existed to make the payments and agree to what the clause is. So there is no disagreement between the parties. And the contract is between the parties.

What we have is a third party questioning whether or not the first two agreed to what they agreed to. And in law — and we can get lots of lawyers to check this out — but if the two parties that made the agreement both agree to what the intent of the agreement is, there's no disagreement. A third party can't challenge an agreement between two parties. And the two parties both agreed to the agreement.

So to get another legal opinion, that's the question we'd have to ask. If the two parties agree — the FSIN and SLGA — agree that that's what was intended, a third party can't . . . A contractual agreement is between the two parties, and they both agree.

**Mr. Hart:** — Mr. Chair, if I could respond. But in this case the two parties to this agreement had mutual benefits to derive from this agreement. And the auditor is that impartial watchdog that looks at the way government and departments conduct their affairs. And that impartial opinion . . . the auditor has said that what was, what took place in this case was not authorized; it was not part of the original agreement. So basically I would interpret it as we have the two parties that signed the agreement are in the same group on one side of this argument. And the auditor, who is the impartial watchdog of the citizens of this province, says look, what you two parties, people thought you had in this agreement didn't exist in this agreement, and these two payments were in fact unauthorized.

And therefore I think and this whole argument centres around a legal interpretation of a contract. And I think it's very difficult for this committee to make a decision without an impartial opinion on that.

**The Chair:** — Perhaps the Chair can interject here and just to help us all understand what role Executive Council plays in this. To Ms. Morgan, would it be your understanding then that under the agreement — the previous agreement — that Executive Council could have authorized almost any expenditure? Let's suppose one of the casinos under the authority of Saskatchewan Indian Gaming Authority wanted to set up an amusement park, which wasn't under the . . . it wasn't contained in the agreement. Could that be bypassed by Executive Council authorizing funds to build an amusement park at a casino?

**Ms. Morgan:** — No. The answer's no, Mr. Chair. Executive Council, or the government, and SLGA can only make decisions based on the contents of the First Nations gaming agreement. And clearly there's no language in the First Nations gaming agreement that would have ever contemplated that.

I mean the actions by both us and the government are pursuant to the First Nations gaming agreement.

**The Chair:** — So then in light of that answer, if the Provincial Auditor's legal opinion is the correct opinion, then Executive Council was wrong in authorizing or telling Liquor and Gaming that they were authorized to make these payments. Am I correct? Because the interpretation, the legal interpretation the Provincial Auditor has says that this was, this is not allowed under that previous agreement.

So if Executive Council authorized Liquor and Gaming to go ahead with that expenditure, that was the wrong decision, if the

Provincial Auditor's legal opinion is correct.

**Ms. Morgan:** — Well I'm reluctant to answer that question simply because the First Nations gaming agreement was reviewed and approved by the Government of Saskatchewan. They were aware of all the provisions of that. They understood that there were payments contemplating at . . . contemplated as a consequence of the agreement.

And as I say, both the FSIN and SLGA had at the table their lawyers. There were officials from the Department of Justice that negotiated these agreements. And clearly the intent of the agreement was that the payments would be made, and that both parties to the agreement clearly understood that to be the case. So I can only reiterate that we acted based on the contents and existing language of the First Nations gaming agreement.

And when the Provincial Auditor advised us that in his view they weren't authorized, at the first opportunity we had to put language in the agreement such that it was unequivocal, we did so. But even though we've changed the language we still are of the view that we had the authority under the first agreement as well.

**The Chair:** — So then you can confirm that Executive Council authorized Liquor and Gaming to proceed in this expenditure after seeing the written legal opinion that the Provincial Auditor had obtained, and based on a verbal legal opinion, that your department had obtained.

Now did Executive Council have any other of their own legal opinions other than the written opinion of the Provincial Auditor versus the verbal position that your legal council had given you?

**Mr. Engel:** — If I could, Mr. Chair, I'd just like to clarify. The question that was originally asked around Executive Council — I believe Mr. Yates asked the question — was the minister from Executive Council responsible for the Liquor and Gaming Authority aware that these payments were being approved. And I believe Ms. Morgan responded affirmatively to that was the case.

I don't want to leave the misimpression with the committee that there was a specific formal approval by the Executive Council of government to these particular payments. These were payments that were made by the Saskatchewan Indian Gaming Authority. They were approved; the budget amendment for SIGA was approved by SLGA. There was not a specific approval. There was not an order in council that went to cabinet or a cabinet decision item that went to cabinet. These were decisions that were made by the Liquor and Gaming Authority pursuant to our role to administer these agreements between the province and the FSIN.

The member that was responsible for SLGA at the time was certainly aware that these payments were going to be approved and that authority was going to be given by SLGA to SIGA to make them. But again, I don't want to make that potential misinterpretation with the committee that there was some formal approval process by Executive Council.

**The Chair:** — Well thank you for clarifying that, Mr. Engel,

because the understanding I had from some earlier questions was that this had been authorized by Executive Council. What you're saying is Executive Council was aware but did not intervene, and that Liquor and Gaming moved ahead based on the verbal legal opinion that you had. Is that . . . now do I get the correct picture?

**Ms. Morgan:** — We moved ahead based on the First Nations gaming agreement. We acted based on the provisions contained in the First Nations gaming agreement that we had negotiated with First Nations.

**The Chair:** — Even though the auditor's legal opinion said that that wasn't part of the agreement.

**Ms. Morgan:** — Well the payment . . .

**The Chair:** — Or wasn't covered by the agreement.

**Ms. Morgan:** — The payments were made before we had the opinion from the Provincial Auditor.

**The Chair:** — But not the second time, because this legal opinion is dated November 20, 2002. Is that after the second?

**Mr. Yates:** — This one just says it's an accounting question. Better read them carefully.

**Mr. Engel:** — If I could add as well, Mr. Chair, just again to clarify, that I appreciate the Provincial Auditor had in his possession this legal opinion prior to the authorization being made for the payment. But this legal opinion was not provided to the Liquor and Gaming Authority until after that authorization was given.

**The Chair:** — So had you had that legal opinion it may have caused you to follow a different process than you did.

**Mr. Engel:** — Well speculating is always an interesting exercise. It may have caused us to seek . . . The written legal opinion that we eventually did seek, it may have caused us to seek that earlier. I don't believe that it would have in fact changed the course of action that we eventually took.

**The Chair:** — Are there any other questions on this particular area? Mr. Hagel.

**Mr. Hagel:** — Yes. Mr. Chair, I just want to clarify. The legal opinion that was received from Mr. Gibbings dated August 15, 2003, was written by Mr. Gibbings and was Mr. Gibbings — I just want to clarify — was a party at the table when the original agreement was being negotiated.

**Ms. Morgan:** — Yes.

**Mr. Hagel:** — So when he wrote his legal opinion, it was with full understanding of the negotiations, the intention of negotiations, and having participated in the writing, in the verbal . . . in the putting into words the original agreement?

**Ms. Morgan:** — That's my understanding, yes.

**Mr. Hagel:** — So would it . . . It would seem to me then if one

is seeking a legal opinion as to what was agreed to and consistent with the intent of that original agreement, that it would be virtually impossible to find some . . . to find a legal opinion from someone with greater authority on that particular subject. Would that be the view of Liquor and Gaming?

**Ms. Morgan:** — Yes. We trust Mr. Gibbings' legal opinion here very much.

**The Chair:** — The Chair had not intended to intervene on this issue again but that raises another question. Thank you, Mr. Hagel, for raising that. But isn't it unusual that someone who had been a legal advisor or a legal participant in the drawing up of the agreement would then be asked to provide opinion? Wouldn't that person obviously interpret the agreement in a more favourable light or be open to interpreting it differently than someone who was not a party to the construction of the initial agreement?

I'm not trying to question the professionalism of the legal profession in Saskatchewan, but it seems odd that someone who is involved in the initial construction of agreement would then be asked to render a legal opinion on that agreement that he had been a part of putting together in the first place.

**Ms. Morgan:** — Well he is our lawyer on this file which is a complicated one. And we felt it necessary to have from him in writing because he had been at the table, the . . . you know, what was clearly the intent of both parties.

I don't know if this will help or make this more complicated, but last year the Provincial Auditor raised the issue of the money spent by SIGA in the pursuit of a Saskatoon casino is the same issue. The auditor advised that in his view he thought those expenditures were inappropriate. At that time the minister of SLGA hired the services that are contracted out with chief justice Wakeling to get a legal opinion from him with respect to the propriety of that payment.

And the opinion we have from chief justice Wakeling we can make available to you, but in essence he said that it was a contract between two parties; it was clearly understood this was the intent, and that for . . . he says at the conclusion, for those reasons I have given I have decided that they were and therefore I cannot agree with the auditor.

So we have a report from chief justice Wakeling with respect to another payment that the auditor felt was inappropriate pursuant to the agreement and we have Wakeling's views that these are appropriate, that the parties to the agreement agreed and that this was the intent and therefore they are in order — the payment is in order.

**The Chair:** — All right, well I'm not going to belabour this any longer. We do have recommendations that will bring us back to this issue, there is a lot more in the chapters. Are there any other questions? Mr. Hart.

**Mr. Hart:** — Yes, there was . . . The auditor in the 2003 Report — and we've got numerous reports here and sometimes it may be difficult to follow all the reports — had indicated \$466,000 was paid by SLGA to promote the establishment of a casino in Saskatoon. So you mentioned you have an opinion from the



chief justice on this that that was . . .

**Ms. Morgan:** — Yes, that was specifically what we asked for, and he provided us with his report. And I can read parts of it, but we'll make a copy available to you. Justice Wakeling says:

. . . I find nothing unreasonable in the position advanced by the SLGA and FSIN as to the meaning to be given to section 3.6. It is quite within reason and logic to accept that section 3.6, in its totality, provided nothing more than an assurance to the FSIN that should the situation in Saskatoon ever change, the Government did not intend to take advantage of that situation and to develop and operate a casino . . . It went on to indicate that for a period of three years . . . FSIN would have exclusive right . . .

It is therefore my opinion (that) the expenditures in question made by SIGA to develop plans for a casino in Saskatoon were not beyond the authority of . . . SLGA or SIGA.

**Mr. Hart:** — And when did you receive this opinion from the justice?

**Ms. Morgan:** — This opinion was sought last fall at the time the Provincial Auditor's report was released. And we received it early in the . . . sorry, March 1 is when we received this opinion.

**The Chair:** — 2004?

**Ms. Morgan:** — Yes, sorry. Yes, March 1, 2004. We have copies, so if we could make arrangements to have it . . .

**The Chair:** — . . . we'll ask that the officials get together and make sure those copies are distributed to the members.

**Ms. Morgan:** — Okay. Yes we'll do that.

**Mr. Hart:** — Did you make that . . . have you provided the auditor with a copy prior to today?

**Ms. Morgan:** — Yes we did. We sent it to him when we received it.

**Mr. Hart:** — So as a result of the decision, or the opinion that you received from Liquor and Gaming with regards to the concern of 466,000. Does that satisfy your concerns then?

**Mr. Wendel:** — No it doesn't, Mr. Chair. I think it goes to the nub of the problem. And at the moment you have a public document, an order in council, setting out government policy with respect to the casino operating agreement. And that agreement says that the only expenses that can be deducted are expenses related to operating casinos.

Now Liquor and Gaming has a great deal of power to make other kinds of payments, and it could do them through SIGA, but they require another public document, another order in council, to do that. I think that's the nub of the problem. You could do these things. And when they passed the new casino agreement, that's another order in council setting out the public policy then.

So in the past, had they sought an order in council, I don't think we would have had any comment on these two matters and this new one.

**Mr. Hart:** — So just a follow-up question. Obviously this has been discussed in the past and your comments have been made before so Liquor and Gaming are certainly aware of the nub of the problem that we're discussing here this afternoon. I would take it that there's . . . You're certain that Liquor and Gaming are fully aware of your concerns. You've discussed them with them extensively?

**Mr. Wendel:** — Yes, they've been discussed.

**Ms. Morgan:** — And in response to that that's why we sought chief justice Wakeling's views. Again it's a disagreement on legal opinions because Justice Wakeling says:

The question therefore that must be decided is whether the payments objected to by the Provincial Auditor were made within the terms of the 2002 Framework Agreement. For the reasons I have given, (and there's many paragraphs before this) I have decided that they were and therefore, I cannot agree with the Auditor General they were not subject to the authorization provided by the Order in Council.

**Mr. Hart:** — So if I understand what you said, Mr. Wendel, if Executive Council would have passed some amendments to the agreements, we would have had those public documents and that would have . . . authorizing these types of payments and that would end all our discussions here then. Am I understanding it correctly?

**Mr. Wendel:** — I think that would summarize it very well.

**Mr. Hart:** — Then my question is to Ms. Morgan. Did Liquor and Gaming ever make any recommendations to the minister responsible that the actions that we discussed — that the auditor has suggested — that there be an order in council passed to amend the agreements so that we don't have any concerns and dispute over what is intended in the agreements and so on? Did you ever make that suggestion to the minister?

**Ms. Morgan:** — The answer is yes we did, but I'll let Mr. Engel answer this specifically.

**Mr. Engel:** — Yes, just to clarify and this again is based on both the legal opinion from Rob Gibbings and now also a second legal opinion from retired Justice Wakeling. The view of both of those individuals is that the existing order in council that approved the gaming framework agreement approves our authorization of the payment in question.

So I guess from our point of view, we've got I think two very eminent and very qualified legal opinions that are indicating to us that there is authority that does exist to give SIGA authorization to make the payment in question. And so from, I guess from our point of view, to what extreme do we go to keep getting more and more authority. In our view, there is clear legal authority. There is an existing order in council that approves an agreement and that SLGA pursuant to that agreement has the authority it needs to approve SIGA to in turn

make these payments.

**Mr. Hart:** — If I could pose a question to Mr. Wendel. Are there other examples where you as the auditor or the auditor differs as far as interpretations of public policy or public documents and it's on an ongoing basis like this example, where we have this ongoing difference between the auditor and another department or agency of government? Are there other examples that have . . . in the past, that would compare to this particular example?

**Mr. Wendel:** — Well this one's specific and it's ongoing. But earlier today you discussed Energy and Mines, and in Energy and Mines we reported that they were making payments to NewGrade, and that's been an ongoing matter for over 10 years now I believe, and will be until they cease making payments.

And my responsibility is to bring those to your attention and you then date them . . .

**Mr. Hart:** — I didn't recall today receiving any legal opinions on either side of the issue and I'm just wondering if there are other instances where those sort of disagreements have existed in the past.

**Mr. Wendel:** — Mr. Chair, we put the reference to Energy and Mines in again this particular report, that one that you reviewed. And now that it's been discussed by this committee, the payments will continue but I won't be bringing it to your attention until there's a new legislature again.

But yes, those situations do occur and there were legal opinions brought forward to this committee. And for a while this committee supported our view, and then for a while they supported the organization's view, and it's gone back and forth.

**Mr. Hart:** — Thank you for that clarification.

**The Chair:** — Just an area that I have some concern with. On the auditor's report — and I've got to make sure which volume I'm in here — 2003 Report Volume 3, on page 133, there is a statement on the bottom of that page:

In our past reports, we recommended that Liquor and Gaming should ensure (that) it has adequate resources to audit SIGA and frequently audit SIGA to ensure compliance with the approved policies.

And then top of the next page 134:

Accordingly, Liquor and Gaming does not know if the casino staff fully complied with Liquor and Gaming's policies.

You know, I know there's been a lot of controversy and I know that SIGA has indicated that they have corrected some problems in the past. You know, Mr. Bellegarde made some . . . apparently made some . . . taken some steps to correct that.

So I guess I would ask first of all that the auditor . . . this statement applies up to what period? And then I would ask Ms. Morgan, or one of her people, you know how is this problem being fixed?

**Mr. Wendel:** — Mr. Chair, this would apply up to March 31, 2003.

**The Chair:** — All right. Ms. Morgan, how is your department responding to the auditor's concern?

**Ms. Morgan:** — I'll let Mr. Lacey answer that question, Mr. Chair. He's in charge of our audit services division.

**Mr. Lacey:** — Thank you, Sandra. Saskatchewan Liquor and Gaming Authority has an audit program with SIGA with respect to . . . and I'm speaking to the current program that's currently in place with respect to going into SIGA on a semi-annual basis. So every six months we are in at SIGA doing a detailed review of their expenditures. A second component of our audit program at SIGA is audits of SIGA's casino sites — the actual casino sites themselves. That audit's more focused on the slot machines, and the table games, and the handling of cash in those sites.

In addition to those audits that SLGA performs directly at SIGA, SIGA has their own internal auditor. Their internal auditor also undertakes expenditure reviews as well as reviews at the casino sites themselves. SLGA has access to those reports, reviews those reports, and follows up with SIGA.

And I guess a third layer of audit with respect to SIGA is the Provincial Auditor's involvement at SIGA as well. And as a result of the outcome of his recommendations, obviously we are in discussion and follow-up with SIGA as well. It's my understanding and recollection with respect to the year under review, March 31, 2002 which Mr. Wendel referred to, the one item where SLGA had a plan in place where, for that year, we did not complete the audit work as planned with respect to two casino site audits.

So with respect to Mr. Wendel's comments with respect to SLGA having an adequate plan and not fully carrying out that plan, refers to the plan to audit those two casino sites, which we did not do in that fiscal year due to staff restraint issues in that particular year. As a compensating control, I would like to mention however, that in addition to audit work, a separate component of SLGA, the inspections branch, the regulatory compliance piece, did visit casino sites, those casino sites during the year, and did form a number of audit procedures out at those sites. But obviously — sorry — not to the full extent that the audit group would've.

In summary I guess, for the March 31, 2003 year, Mr. Chair, which is just ended, our plan was to go out and audit two casino sites. And we did go out and audit those two casino sites, as well as the head office expenditure reviews which we have been doing for the last three years.

**The Chair:** — Now I'm not at all aware of how you do these audits. Is this something that you schedule ahead? Do you tell a casino, you know, lookit, we're coming next month, be ready for us, we're going to bring so many people, we'll need this and this and this? Or is this more like, say, a health inspector that just kind of shows up and says, hey, I'd like to have a look around? I have no idea. I'd like you to just explain the mechanics of an audit.

**Mr. Lacey:** — At the beginning of each year, Mr. Chair, an audit plan is developed. As part of that audit plan at the beginning of the year there is a plan to conduct, in this case, a number of audits at SIGA. Resources are planned to conduct those audits and then throughout the year we attempt to follow that plan to the best of our ability.

I'm sure as you can appreciate, as we go through the year, there is at times changes to resource levels. In this particular instance we had a number of staff who were dedicated to casino auditing that took leave of absences, which at the end of the day did not allow us to fully achieve the audit plan for the year.

We have a process where an audit plan is struck at the beginning of the year, audit work is undertaken throughout the year, and at the end of the year we report actual audit work against that plan. And that report does go forward to our board indicating the results of our work, as well as whether or not we achieved our objectives for the year.

So I don't know if that helps, Mr. Chair. It's a fairly long explanation.

**Ms. Morgan:** — But the other thing is, Mr. Chair, that yes, SIGA knows when we are auditing, absolutely. They're provided with notice such that they make all of the information available to us. They are not spot audits.

**The Chair:** — Okay, thank you. That helps me a bit. I just noticed from the Provincial Auditor's report that SIGA can . . . perennially loses money on their table games. Why is that? Their table games operation as opposed to the slots.

**Mr. Engel:** — Sure, I can answer that, Mr. Chair. Generally speaking, the market for table games varies quite a bit depending where you are in Canada. And there's different locations depending on some ethnic and cultural background issues that factor into the level of play the table games receive.

Generally speaking, table games are very labour-intensive. They require a considerable amount of manual labour to be dealing the games, to be monitoring them, and so on. In many markets, in fact in most markets, table games will at best break even and Saskatchewan is no exception to that. So generally speaking, table games, I guess in the market here and again in many jurisdictions in Canada, table games are actually not really expected to be making a profit, and if, sort of the goal might be to simply break even at the table games.

There are again some very select markets — the Lower Mainland in British Columbia would be an exception — where some cultural influences particular to that area of the country make table game play in fact very profitable because there are certain cultural groups that are very keen on pursuing table games and play them vigorously, which is not generally the case in most places in Canada.

**The Chair:** — So clarify for me — the reason that SIGA is losing money on table games is because there is no market in Saskatchewan for this type of gambling, or is it because the odds are such that, you know, the payouts are equal to the money put in, or it may be even the payouts are greater?

**Mr. Engel:** — Generally speaking, most table games are played under rules or terms and conditions that generally speaking are fairly consistent across North America — in fact in many cases, consistently globally. The rates of payout that are predicted for a particular game are known going into that game. So if you play enough hands, often in the range of hundreds of thousands of hands, the payout for a certain game will be known going into that.

There's no question and there's certainly a move in many jurisdictions to migrate away from table games and into more exclusively electronic gaming environments. Certainly we've encouraged, and the approach in Saskatchewan has been that casinos as part of the mix of being a casino requires that they do offer table games for play.

One of the principle rationales for doing that from a policy point of view is that the significant portion of the employment in a casino is generated from that table game play. So the approach typically that's been taken in Saskatchewan — primarily to ensure there is a very robust employment associated with casino gaming — is to require table games to be part of that broader casino mix, again striving ideally to break even or perhaps generate a small amount of revenue, but recognizing that they will never likely represent a significant net income source for any of the casino operators in Saskatchewan.

**The Chair:** — So has Liquor and Gaming done a cost-benefit analysis, given that the revenues from gaming are to go to the taxpayers of Saskatchewan and to First Nations people, you know, to better their lives?

You know, what you're saying is some jobs are created. Obviously SIGA has lost, I think in the last recorded year well over, I think it was well over \$1 million in table games. You know, is the benefit greater than the loss, given the fact that revenues go to help First Nations people and to ease the tax burden on taxpayers?

**Mr. Engel:** — I think it's interesting and that is perhaps a question that the FSIN and SIGA might take some interest in answering.

I think, again not wanting to speak for them, but if I were to surmise what they might answer if asked that question, I think they would argue that yes, the financial benefits of casino gaming do benefit First Nations people. However, the capacity building and the ability to move people into an employment environment where they can learn a hospitality industry profession, learn to do it well, and then presumably move on to other things, is also a very significant benefit to First Nations people.

So I don't, I guess I don't think that necessarily the First Nations or the FSIN would boil that question down to a pure dollar and cents one. They'd be very, they'd be very interested in the capacity building and the non-monetary benefits that accrue to First Nations people through that employment opportunity.

**The Chair:** — Just for comparison sake, are the losses similar on a, you know, comparing volume of business with the Regina,

Moose Jaw casinos?

**Mr. Engel:** — I may defer some of that question to Mr. Lacey, although my understanding is that Casino Regina does not actually allocate its expenses against table games. So the shorter answer is we actually don't have comparable information for the SIGA casinos and the SGC casinos because the nature of the accounting basis is different, and that SGC does not allocate its expenses against table game versus electronic gaming. I see Barry's nodding so I think I've got that right.

**The Chair:** — So why would SIGA record their operation different than Liquor and Gaming would record the, you know, the revenues from the Regina and Moose Jaw casinos?

**Mr. Engel:** — Because under the gaming framework agreement, we've obliged, as a business practice, SIGA to do that because we feel again it's important from an accountability point of view that we should, and SIGA should, be keeping track of those costs. Again we don't have the same level of business influence with respect to SGC in that we are more of a regulator rather than being a regulator and also having a business relationship with SIGA.

**The Chair:** — Shouldn't they be compelled to meet the same standards? You know, it almost sounds like the Regina and Moose Jaw casinos are not required to be as accountable as the SIGA casinos and that doesn't sound right to me.

**Mr. Engel:** — Well the SGC casinos of course, or the SGC operation is accountable to their board. Whether they provide that information to their board or not, I'm not sure.

Again we have, in addition to our regulatory role with SIGA we are, as you noted earlier, protecting a business interest with respect to those First Nations casinos in that a portion of that revenue that they're generating is accruing to the General Revenue Fund. If it would be appropriate for SGC to undertake that same level of allocation of expenses is probably a question that would be best placed before officials from SGC.

**The Chair:** — And we may very well do that because some of their revenues also go to the General Revenue Fund. And so I would think that they should be held to the same standard of accountability because, you know, it impacts the tax burden on the province in the delivery of services such as health care and education.

So I just don't see why there's a double standard in SIGA required to report more information than the other casinos. So we may very well ask them that.

**Mr. Engel:** — And I'm sure they'll be pleased that I raised that.

**The Chair:** — The auditor also, in his report, talks a bit about the lack of measuring the social costs of gambling in Saskatchewan, and, I think, points his finger at Liquor and Gaming, saying that, you know while you're reaping some financial benefits here, you have not taken your responsibility to a large enough degree to find out what the social costs are.

And it's interesting. One of the quotes I have from the . . . We have a couple of quotes here actually from the Premier, Mr.

Calvert, before he was Premier and obviously he had great concerns about gambling. And one of these quotes says:

It appears the government is hard up for cash and sees . . . (them) as a quick fix. In many ways, the government is like an individual who might turn to gambling in hopes it will solve his financial problems only to find out it leads to more problems.

And he also said — I think this is in February 23, 1989, so it's way out of date — but he says:

Liberalized gambling laws will mean more prostitution, drug trafficking, and other crimes common to cities with wholly relaxed regulations.

Given the auditor's concern that there is not measurement of the social costs related to gambling, and given the auditor's concern that you partly responded to that there wasn't enough auditing of the industry by yourselves, which would mean there is a potential for, you know, for some illegal activities to surround this industry — you know it's happened in other areas — what can you tell me about what you've done to address these two concerns that the auditor has raised?

**Ms. Morgan:** — I'll let Jim speak in detail, Mr. Chair, but I will say that there is an interdepartmental committee charged with the social responsibility issues associated with gaming. And they're very active. The Department of Health is the lead on that committee but Jim is our representative so I'll let him speak to the specific initiatives we undertake with respect to responsible gaming.

**Mr. Engel:** — Thank you, Sandra. Maybe going back to the first comment and the question or the statement about measuring the social impact of gaming, I think it would be fair to say that Saskatchewan and SLGA, as would I think every jurisdiction in Canada, like to be able to better measure those, the social impacts of gaming.

This is an area where the research is thin at best. What is out there is very conflicting with other research studies in terms of measuring that net social impact where you trade off some of the detrimental aspects of expanded gaming such as a problem or pathological gaming with beneficial impacts of economic spinoffs and particularly in the case of Saskatchewan Aboriginal and First Nation employment.

You know, I think it's a fair comment and I don't think we disagree with the Provincial Auditor that we wish we had the ability and the tools to better measure those, that sort of net social impact.

We are currently working with a number of jurisdictions across Canada trying to put together a partnership for responsible gaming. And one of the objectives of this partnership would be to direct some national-based research, and one of the questions we may very well look at is that question of net social impact.

The other specific comment I'd like to make, which Sandra alluded to, there is a significant amount of funding in Saskatchewan dedicated to problem gambling in particular, on the order of \$4 million, which is a mix of funding from

Saskatchewan Health, from the Liquor and Gaming Authority, from the Community Initiatives Fund, and from the gaming agreements, that's dedicated to an organization called the First Nations Addiction Rehabilitation Foundation.

That \$4 million of funding directed toward problem gambling, prevention, and treatment is the highest per capita amount in Canada that is dedicated to those purposes. And as Sandra mentioned, there is an interdepartmental group that oversees or manages those expenditures. Again, Health is the lead on that, given they do have the expertise in these areas of treatment and prevention of pathological behaviours, be they gambling or otherwise. And so we do participate in that, both as a funder and as a participant in that process to identify ways to try to mitigate or minimize the social impacts of gaming.

**The Chair:** — All right. Thank you. Just on page 151 of chapter 5B, the auditor notes that:

SIGA has not yet established a wage grid for senior management and has not established development (training) guidelines for all of its employees. Further, SIGA has not yet established performance evaluation guidelines for most of its employees . . . (and) not yet established policies and procedures for providing staff benefits (use of vehicles, computers, cell phones, etc.).

Can you tell me the status of these concerns?

**Ms. Morgan:** — Yes, I can, Mr. Chair. That was the report as at March 31, 2003, and SIGA has now complied with the Provincial Auditor's recommendations regarding these policies and SLGA and the SIGA board have approved these policies and they're now in place. We now need a period to ensure that all of these policies will be effectively implemented throughout the casinos and head office. But we now have all of the policies. There were over 100 of them submitted before the end of March of this year.

**The Chair:** — Could you make those available to the committee?

**Ms. Morgan:** — All of the policies?

**The Chair:** — The salary grids, benefits, all of those.

**Ms. Morgan:** — We don't have them with us, but we can certainly make them available to the committee.

**The Chair:** — Okay. I think that would be helpful to committee members to see just how that has unfolded.

**Ms. Morgan:** — Okay.

**The Chair:** — Thank you.

**Mr. Engel:** — Sorry, if I could just interrupt. It might be helpful just to clarify — are you interested in receiving all of the policies? Again, I just don't want to overburden members, that this is a significant amount of paper that we're discussing. Or was it specifically the HR (human resources), the senior management compensation policy that you were particularly interested in?

**The Chair:** — What I was asking for were the policies with regard to the paragraph that I read on the bottom of page 151 and the top of 152.

**Mr. Engel:** — Okay, so we'll, as Sandra mentioned, we'll undertake to provide those to the members.

**The Chair:** — All right. Are there any other general questions? We have a number of recommendations. You know, I'm not going . . . This is a huge area. It's been very controversial; we recognize that. As Chair, I don't want to belabour the issues. But it could be a long time before we're back doing this. Mr. Hart, did you have some more questions? Mr. Hart, then.

**Mr. Hart:** — Thank you, Mr. Chair. On page 144 of the 2003 Report, the auditor discusses SIGA's requirements to establish and comply with Liquor and Gaming approved policies for the operations of casinos by August 15, 2005. Does that mean that SIGA doesn't have existing policies or does this statement refer to the fact that they need to improve and upgrade their policies? Could you just comment on that and also perhaps comment on what progress is being made with regards to this?

**Ms. Morgan:** — I'll let Barry answer in more detail, but I'd say firstly that these are part of the policies that were submitted to us before the end of March of this year. So we now have all of the policies, and as I say, we now have to experience a period where all of these policies must be implemented and working. And the 2005 date is the date by which SIGA is required to have complied with directives from the fall of 2000 regarding sustained progress and with the Provincial Auditor's recommendations. So we have been working very diligently with them. We have the policies and we now have to make sure they're implemented.

**Mr. Hart:** — So what you've said is that SIGA has provided you with a document of policies, you're reviewing them . . .

**Ms. Morgan:** — No, they've already been approved.

**Mr. Hart:** — You've approved them and now you're monitoring SIGA's progress as far as implementation of the policies?

**Ms. Morgan:** — Absolutely yes, yes.

**Mr. Hart:** — And the auditor also makes the statement that SIGA needs to move quickly, and speculates that if SIGA doesn't move quickly enough that they may not be allowed to operate the casinos. Could you comment on that statement?

**Ms. Morgan:** — Yes. That speaks to the First Nations gaming agreement again and the August 2005 deadline. And under the terms and conditions of the agreement — and Jim can correct me if I'm wrong — but if SIGA has not reached compliance, then there is a clause in the agreement whereby they no longer would operate the Indian-run casinos. Is that correct? What is the exact language, Jim? Jim will know.

**Mr. Engel:** — Yes. Maybe just to clarify that. The language states that if SIGA is not in compliance at that date, that the province can consider that a breach of the agreement, an event of . . . I believe the specific phrase is an event of default.

Now an event of default could trigger the province cancelling the contract. It's not automatic that that would happen, but there is a provision that again would view that that failure to meet that deadline and the activities required by then, do construct an event of default under the agreement.

**The Chair:** — Colleagues, if I could again just interject for a minute. We had scheduled . . . We had anticipated that this discussion would last till about now, we would have a short 15-minute break, and then conclude with Workers' Compensation Board for about an hour. It may not take that long.

To committee members: what is your wish? Do you anticipate there'll be many more questions before we get to recommendations? Do you want to take the break and then come back and conclude this? Do you want to just go through the break and try to get back on schedule? I need the direction of my committee members in this regard. Mr. Borgerson.

**Mr. Borgerson:** — Yes, I'd like to suggest we go through the break. We have no more questions on this, so . . .

**The Chair:** — Mr. Hart, on your side?

**Mr. Hart:** — No, I think we should go through the break and try and get some of these issues dealt with. I just have perhaps two or three more questions.

**The Chair:** — Okay, that's fine. I just . . . Could you please continue then.

**Mr. Hart:** — I was just wondering how does Liquor and Gaming . . . what methods do you use to monitor the implementation of policies by . . . that you have approved by SIGA and what is the status of that progress? How far along are they as far as implementing the policies that you have approved?

**Ms. Morgan:** — The staff in our gaming operations division work every day with SIGA, quite frankly. And the SIGA staff meet on an ongoing basis, face to face — alternating between them coming here, us going to Saskatoon — with respect to the communications plans they have with respect to these policies, how it is they are going to be communicating the policies to the four casinos.

So there's just ongoing communication between our two organizations, ongoing meetings. And we meet every month with the board of SIGA, the SIGA board. We're a standing item on their agenda, at which time we also discuss the implementation plans. And of course the proof is in the audits that both we and the Provincial Auditor will be doing with respect to whether or not they have effectively implemented these policies. So it's just ongoing, constant contact.

**Mr. Hart:** — Is there a . . . Have you established a time frame for SIGA to be at a certain level of compliance by a certain date or is that SIGA's responsibility? And if so, have they established a time frame as far as moving towards compliance by August '05?

**Ms. Morgan:** — I think it's fair to say that the date that SIGA

has always had in mind is August 2005. I think quite frankly we would have liked them to be in compliance with many of these policies long before now.

But part of the issue for us has been building capacity within SIGA as an organization itself to be able to do these things, getting the right people in place. And quite frankly last fall they hired a new executive vice-president of operations. And since he's been on board, things have really been moving along quite fine.

So it's been a question of getting the people and then getting the policies in place, written and in place. And now hopefully they will be very effective in implementing them. But clearly 2005 is the date that everyone is working towards.

**Mr. Hart:** — Are there any other aspects of the framework agreement and the casino operating agreement that are outstanding, as far as are there ongoing negotiations with any elements of either of those agreements at this time?

**Ms. Morgan:** — There are no negotiations underway at this . . . Formal negotiations, is that what you mean?

**Mr. Hart:** — Well are there outstanding issues, I guess, that need to be resolved?

**Ms. Morgan:** — Well there are two committees that are currently working very hard, that are pursuant to that First Nations gaming agreement. One is a jurisdiction committee that's comprised of representatives from the First Nations community and representatives of the province of Saskatchewan. And the second committee is the Indian gaming regulators committee, or SIGL, as it was previously called. There are negotiations underway with respect to the devolution of authority to regulate on-reserve, and that again is a committee comprised of First Nations representatives and the Government of Saskatchewan representatives.

For the Government of Saskatchewan, the representatives at each table are the same. Mr. Engel and a number of officials from Justice . . . (inaudible interjection) . . . Oh, Government Relations, okay, are at the table negotiating. So those two are outstanding.

But the negotiations have . . . they commenced shortly after the gaming agreement was signed in 2002. And I don't know if there is a timetable on the jurisdiction piece. It was the province and the FSIN who agreed to go forward together to the federal government with a proposal regarding jurisdiction. So that is what is in essence being worked on.

**Mr. Hart:** — And as far as the regulatory negotiations, is there a time frame with that?

**Mr. Engel:** — I can answer that question. There's no . . . There were some best efforts indications in the gaming agreement with respect to both parties agreeing that they would try to accomplish certain tasks by certain periods of time. But again those were all within the context of being best efforts clauses.

So I guess there isn't a contractually binding specific time frame, and it's more of when we manage to get all the details

ironed out, then it will happen.

**Mr. Hart:** — Okay. I believe in the report here, I saw the auditor identified some problems with reconciling bank accounts. I wonder if you could just discuss that issue and . . .

**Ms. Morgan:** — We'll let Mr. Lacey address that, yes.

**Mr. Lacey:** — I guess the short of it is that the bank reconciliation process is now up to date and bank reconciliations are now being done on a timely basis. Provincial Auditor's observations and recommendations for the period under review were accurate during that time period — the reconciliations were not up to date.

**Mr. Hart:** — Good. Thank you. That would conclude my questions.

**The Chair:** — Are we ready to move to the recommendations? It looks like we are. We'll go to 2002 Fall Report Volume 2, chapter 6. And there are — this is difficult to explain — but there is recommendations 1 and 2. Two have some sub-recommendations, but I believe we deal with them all under recommendation 2. Am I correct here?

All right the Clerk has informed me that we're just doing recommendations 10 in part A. So if you will go to . . . I'll find the right page here. Here we are, page 132. Actually it moves over to the top of page 133. Recommendation no. 10 reads:

We recommend that Liquor and Gaming authorize SIGA to spend money on expenses only necessary to operate casinos.

Is there a motion? Mr. Yates.

**Mr. Yates:** — Thank you, Mr. Chair. I would move:

That we accept the legal opinions provided to SLGA by Robert J. Gibbings, Q.C., and retired chief justice Wakeling, that the payments made were within the authority of the 1995 Gaming Framework Agreement.

**The Chair:** — All right you've heard the motion, is there any discussion?

**Mr. Hart:** — Well I think we've had the discussion. And I must say that I cannot agree with the motion, but I don't think there's any point in rehashing the discussion that we had earlier.

**The Chair:** — Okay then I'll call for the question. Mr. Hagel.

**Mr. Hagel:** — Mr. Chair, I'd just like to say I appreciate having been provided all of the legal opinions that we've had here today. And not having had a chance to consider them previously, because I wasn't a member of the committee when it was around before, I appreciate having had sufficient time to read them through today.

And I recognize that there are some differences of legal opinion, but to me it seems to me that the prevailing logic here is actually found in retired chief justice Wakeling's reference that opinions must come from the full context, not just from a

portion of the agreement. And that in that context then, when I read these and I understand what is the intent of the agreement, I understand the auditor's responsibility to raise the question for the committee for our consideration.

It seems to me that the motion before us is the appropriate course of action in the interest of the public good, and therefore I would support the motion.

**The Chair:** — All right. Mr. Hart.

**Mr. Hart:** — Mr. Chair, I believe Justice Wakeling's opinion refers to a payment of \$466,000 which took place after the payments that we're discussing with recommendation no. 10. Recommendation no. 10 talks about payments of 150,000 and 400,000, and so therefore I don't think Justice Wakeling's opinion applies to those payments. I believe his opinion applies to the new gaming agreement whereas the auditor's concerns are with the old gaming agreement.

So therefore I would suggest we're back to two opposite opinions by Mr. Gibbings, and I just have lost the other one but there's one on the other side of the issue. And I guess it's for this committee to decide which opinion we would value and agree with.

**The Chair:** — All right thank you for those observations. Are we ready for the question?

**Some Hon. Members:** — Question.

**The Chair:** — All in favour? Opposed? It's carried, four to one.

And the next recommendation is on page 145. Recommendation no. 1 at the bottom of the page and it doesn't carry over to the next page.

**Mr. Hagel:** — Where are you, Mr. Chair?

**The Chair:** — Page 145 of chapter 6 in the 2002 Fall Report Volume 2. Before you make your motion, I'll read it, the recommendation. Are you there, Mr. Hagel?

**Mr. Hagel:** — Yes.

**The Chair:** — Okay, the recommendation reads:

We recommend that SIGA incur only costs necessary to operate its casinos under the Casino Operating Agreement.

Is there a motion? Mr. Yates.

**Mr. Yates:** — Yes, Mr. Chair. I would move:

That we accept the legal opinions provided to SLGA by Robert J. Gibbings, Q.C., and retired chief justice Wakeling, that the payments made were within the authority of the 1995 Gaming Framework Agreement.

**The Chair:** — That motion has a familiar ring to it. I don't expect we'll need any discussion. I expect the comments made previously . . . Mr. Hart you do have a . . .

**Mr. Hart:** — Yes, just for the record, echo my opposition to the motion, to the previous motion.

**The Chair:** — All right, we'll call for the question. Unless, Mr. . . . You want to, you want to also. Okay, all right. We've got a couple of dittos here. All those in favour of the motion? Opposed? Again it's carried, four to one.

And then I think there are some recommendations in 2003 Report Volume 3. I believe there's two recommendations in 5A. Page 135 is recommendation no. 1, and it reads:

We continue to recommend Liquor and Gaming recover money for SIGA's expenses that do not comply with approved spending policies.

Again, is there a motion? Ms. Morgan wanted to make a comment.

**Ms. Morgan:** — Yes, I just wanted to report to the committee that the Saskatchewan Liquor and Gaming Authority will be making a recommendation very shortly to our board for a permanent recovery process. The Provincial Auditor has been asking for this for some time, so we are putting in place a formal recovery process whereby any inappropriately spent monies can be recovered. And that, as I say, will go forward very soon.

**The Chair:** — Okay, thank you, that's helpful information. Is there a motion? Mr. Borgerson.

**Mr. Borgerson:** — Yes, Mr. Chair. I'll move that we concur with the recommendation and note progress towards the recommendation.

**The Chair:** — Okay, there's a motion to concur and note progress. Any discussion? I see some smiling faces. Are we ready for the question? All in favour? That's carried unanimously.

And the next recommendation is on page 138, and it reads:

We recommend that Liquor and Gaming follow its rules and procedures to reconcile promptly its recorded bank balances to the bank's records.

Again, do we have a motion? Mr. Borgerson.

**Mr. Borgerson:** — Yes, again I'll recommend that we concur and note progress.

**The Chair:** — Okay, again a motion to concur and note progress. Any discussion or questions? Seeing none then, I call the question. All in favour? Any opposed? None opposed. So that's carried.

Have we completed this? No, there's two in part B. Page 149, recommendation no. 1:

We recommend that SIGA amend its agreement with the internal auditor to allow us full access to the internal auditor's files and records.

Is there a motion? Mr. Yates.

**Mr. Yates:** — I move to concur and note progress, Mr. Chair.

**The Chair:** — A motion to concur and note progress. And no discussion. All ready for the question? All in favour? None opposed? That's carried.

And 153, recommendation no. 2, and this one follows on to the next page. It reads:

We recommend that SIGA:

complete and implement its human resource plan;

ensure its casinos consistently follow established human resource policies;

prepare and provide to the Board more information about how SIGA is managing its staff retention risks; and

prepare and provide to the Board more information about the effectiveness of SIGA's training activities.

Is there a motion? Mr. Yates.

**Mr. Yates:** — I'll move we concur and note progress.

**The Chair:** — Again, a motion to concur and note progress. Is there any discussion? Seeing no hands, I will call the question. All in favour? None opposed. That's carried.

I think we have concluded a big bite this afternoon. There was a lot of material to go through. I thank the witnesses again for appearing. I thank the auditor's office for being with us through this long one.

We're not finished yet, but we will now excuse the witnesses and ask the next ones to come forward. I suggest maybe we'll just take a five minute break and we will reconvene.

**The committee recessed for a period of time.**

#### **Public Hearing: Workers' Compensation Board**

**The Chair:** — All right. We will reconvene. If the witnesses would take their chairs. Thank you, committee members, for being prompt and taking just a short break. I know it's been a long afternoon, but I think we're starting to see the light at the end of the tunnel. We are on the last agenda item, Workers' Compensation Board, chapter 16, 2004 report. I think it's kind of interesting we finally found a 2004 report which is much better than 2002. Chapter 16, Workers' Comp Board.

I'd like to welcome Mr. Solomon and his officials here. The procedure we've been following is to ask the Provincial Auditor to refresh your memories with some of the concerns and recommendations that his office has made. And then we will allow the witnesses time to briefly respond and then we'll open the floor to questions from the members. So, Mr. Wendel, or is it Mr. . . .



**Mr. Wendel:** — Mr. Chair, Mr. Ahmad will make the presentation.

**The Chair:** — All right, Mr. Ahmad.

**Mr. Ahmad:** — Thank you, Fred. And this time around I'll be talking about chapter 16 on Workers' Compensation Board. I'll call it WCB. In our 2004 Report Volume 1, the chapter begins on page 225 of our report and describes our audit conclusion finding for the year ended December 31, 2003.

We worked with Deloitte, the WCB appointed auditors to form our opinion. In our opinion, the WCB's financial statements are reliable. The WCB complied with authority governing its activities and had adequate rules and procedures to safeguard public resources, except for the matters we reported. The matter we reported relates to WCB's processes to administer injured workers' claims.

In 2001-02, the WCB began making changes to its system for processing injured workers' claim. During 2003, we examined in depth the WCB's new system to administer injured workers' claim. Administering injured workers' claim is a complicated task. We found that the system was generally adequate and well-documented. We make eight recommendations to help the WCB to improve its systems by administering injured workers' claims . . .

The first four recommendation are on page 233 and on top of page 234. These recommendations relate to WCB's processes to receive injuries report from employers, identify claims that could be recovered from third parties, ensure its actuaries receive and use accurate data to calculate benefit owing, and to follow its processes to calculate expected cost or saving for all policy changes.

Prompt receipt of injury report from employer is necessary for prompt processing of injured worker's claim. Delay in employers' reports delay payment of benefit to injured workers. The management told us that WCB has sought legislative changes to help to receive injury report on a timely basis.

The WCB could try to recover claim from other parties if it determines that the injury occurred due to fault of others. The WCB has developed guideline for employees to flag such claims, however employees do not always know of the written guidance and did not always flag claims for possible recovery. The WCB needs to ensure employees understand and follow the guidance available.

We noted the WCB did not identify and provide certain claim information to its actuary for calculating expected future benefit. For financial statement purposes, the WCB later provided all information to the actuary to calculate the expected future benefit. The WCB needs to clearly assign to an employee the responsibility for providing accurate and complete data to actuaries.

The WCB has processes to evaluate and approve policy changes. The process require management to calculate cost or saving for all policy changes. We noted WCB did not always do so; we think it should. We note the WCB properly calculate cost for all legislative changes and provide detail to the board.

On page 235 we recommend the WCB set out guidelines for documenting its quality control work, and on top of page 236 we recommend the WCB should monitor the quality of administration of long-term claims. The quality control is new and commendable process that WCB has started. To help ensure the WCB can continue to improve this process in future, it must ensure the employees document reviews on a consistent manner. Also similar to its monitoring the quality of administration of short-term claims, it must monitor the quality of its administration of its long-term claims assigned to case management teams.

On page 237 we recommend the board should formally define its reporting needs to oversee the administration of claims and receive and approve an adequate work plan for the internal auditor.

Senior management and board receive regular and special reports and enormous statistical information. We noted, from the minutes of board meetings, documents requested for information and changes to reports the board has received. However, the board has not formally set out the information needs. We think the board should do so.

Also the work plan the board approved for the internal auditor is not adequate. The work plan does not include business and operating risks the WCB faces, and does not show how the internal auditor's work would help mitigate those risks. We think the board should ask the internal auditor to provide this information in its annual report.

That concludes my remarks. Thank you.

**The Chair:** — Thank you, Mr. Ahmad. And Mr. Solomon, as the Chair of the Workers' Compensation Board, if you would like to introduce your colleagues and I know you have a response.

**Mr. Solomon:** — Thank you very much, Mr. Chair, and committee members, and Provincial Auditor's office. With me today is my chief — or the board's chief executive officer — Peter Federko. Also in the back left there is Karen O'Brien, who is employed by Deloitte. She is part of the team that audits our operation at the Workers' Compensation Board.

I'd like to start by providing some opening remarks about workers' comp, if I may, Mr. Chair, and then get right down into responding to the recommendations from the Provincial Auditor. I'll ask our chief executive officer, Mr. Federko, to deal with those matters that are related to the administration side.

I see this Public Accounts visit as an opportunity to highlight an important WCB initiative and to speak to recent challenges that Canada's compensation boards face together. My custom, whenever I talk about compensation, is to give a short description of Canada's compensation system. I'll do that today if it's okay.

Workers' compensation is Canada's oldest social safety net, publicly administered. It originated in Ontario 90 years ago as a result of the Meredith Royal Commission in 1915. Workers' compensation preceded the arrival of unemployment insurance,

Canada Pension Plan, social assistance and basic public pension plans.

Workers' compensation is based on Meredith's five principles. Number one, no-fault compensation for wage loss; collective employer liability and funding, guaranteed compensation payments to workers and their families, publicly administered, and finally, delivered by a tribunal independent of government.

This safety net is founded on what's called a historic compromise between business and labour. This compromise means workers gave up their right to sue in court for negligence causing workplace injury and disease, in exchange for a fully-funded program paid for by employers. Put another way, workers' compensation is a mandatory substitute for tort damage claims in the civil courts.

Compensation boards are not government departments or crown corporations. Instead they are independent quasi-judicial administrative tribunals, solely responsible for administering The Workers' Compensation Act in Saskatchewan.

Canada's 12 compensation boards accept about one million claims annually, with 373,000 time loss claims and 900 fatalities. Annual benefit payouts to injured workers are now in the \$6 billion range.

In Saskatchewan, nearly 40,000 work injury claims are lodged each year. Fifteen thousand of these claims are so serious that workers are off the job and compensated by our operation. About 400 workers each year suffer a permanently disabling injury and on average each year, the Saskatchewan WCB accepts about 30 workplace fatalities. Wage loss replacement and health care treatment are the main components of work injury costs now hovering around \$200 million a year.

I've said many times that no other compensation board on the North American continent is more publicly accountable than our WCB. Each spring we host two stakeholder events. This year was the 10th anniversary of our annual general meeting and we're very pleased to have opposition MLA (Member of the Legislative Assembly) Glen Hart attending our annual meeting.

In March we held our seventh annual compensation institute. No other WCB sponsors an event like comp institute, and no WCBs in North America hold annual general meetings, except recently Nova Scotia who debuted their AGM (annual general meeting) last month, and Alberta whose third AGM took place two weeks ago.

We not only hold one, we actually hold two every year — one in Regina, the next day in Saskatoon, and they're not for an hour or 50 minutes, they usually go for about three hours.

In addition, every autumn the WCB convenes a series of rate-setting meetings where employer premium rates for the upcoming year are explained. Throughout the year we also meet with organizations like the chamber of commerce, the CFIB (Canadian Federation of Independent Business), Saskatchewan Federation of Labour, Saskatchewan Mining Association, SAHO (Saskatchewan Association of Health Organizations), and Saskatchewan construction association, to name a few.

These meetings are also in addition to what we have with our employers which the administration meets with on a regular basis and the board meets with a number of employers throughout the year as well.

Accountability to MLAs is also important to us. Each day our staff try to deal as thoroughly and as promptly as we can with constituents' inquiries who bring their WCB issues to the MLAs' attention.

Last November our new fair practices office opened for business under the leadership of former Saskatchewan deputy ombudsman, Murray Knoll. We're one of a handful of WCBs with an impartial fair practices office that investigates complaints and ensures policy and procedure are applied fairly and consistently.

Every year since 1930 when the WCB came into being, the minister responsible has tabled an annual report, another accountability process. In its first term the TC Douglas government back in the 1940s placed the Committee of Review within The Workers' Compensation Act. The independent Committee of Review gives employers and workers an opportunity every four years to examine and update workers compensation to fit the changing times.

This stakeholder review is unique to Saskatchewan until recently when some provinces undertook a one-time review. Ours happens every four years. Like past appearances, our presence today at the Public Accounts Committee is one of the other many tests of accountability that we must meet and we enjoy meeting.

Dramatic declines in investment earnings over the past few years, coupled with rising injury costs and rising numbers of injuries led to unwelcome results for Canada's WCBs. The unwelcome results were higher employer premiums and operating shortfalls at all provincial WCBs.

At the Saskatchewan board from 1995 onward our investment revenues grew, reaching a record high in year 2000 of \$105 million. Twelve months later, these returns fell by \$33 million to \$72 million. These revenues again fell in 2002, down to \$46 million, the lowest since 1995. Our 2003 portfolio earnings have levelled off at about 48 million; that's \$2 million in the previous year, but well short of 2000 and 2001 earnings that played a critical role in meeting steadily rising work injury costs.

We ended fiscal year 2003 by regaining much of the ground we lost in '01 and '02. Our small \$7.9 million operating loss is a significant 12-month rebound over the previous year's \$93 million shortfall, but our combined revenues at \$225 million are still below year 2000's revenue of 230 million, the lingering impact of weak investment markets.

Our 2003 claim costs are \$22 million or 10 per cent lower than the previous year, a year when we handled our highest number of claims since 1981 — almost 40,000 claims, as I referred to earlier. But the startling statistic is that we had an injury rate in Saskatchewan of 4.9 per cent.

2003 was a year of several solid achievements for the WCB. I'd

like to share them with you if I can. Under team-based case management, claim durations fell from 40 days in 2002 to 37 days in 2003, accompanied by improved customer satisfaction levels. Since the arrival of team-based case management in 2001, durations have dropped by more than five days.

Our administration runs a very tight ship financially. Our administration costs are down \$2 million to 35.6 million. This is the lowest level since 1998, and \$3.2 million or 8 per cent less in 2001 administration costs. When you factor in year-after-year salary increases and other things that we had to meet in terms of inflation, it's quite a remarkable achievement by the administration. We also have the second-lowest time loss claim administration costs in the country and the lowest appeal decision cost in Canada.

With Canada's WCBs all facing the same challenges, the Saskatchewan WCB successfully kept its place as a province with very competitive employer premiums. Last year, our average net premium was the second-lowest among the provinces. Our premium benefit ratio is the best of all the 10 provinces.

In summary, the Saskatchewan WCB weathered the poor markets as well as any board, but the damage will linger for a few years. While we expect employer premiums to level off over the next year or two or three, I do want the members of Public Accounts to know and appreciate that it will take many years before the WCB injury fund is replenished back to the strong surplus position we enjoyed until the bear market struck.

The Atlanta-based US (United States) Center for Disease Control marked the millennium and a new century by compiling, and I quote, "Ten Great Public Health Achievements" of the 20th century.

On the centre's list are achievements like: vaccination, motor vehicle safety, infectious disease control, and safe workplaces. Many do not view effective occupational health and safety laws from a public health perspective, but more people should.

According to the Canadian Public Health Association, injury from work and non-work is one of Canada's most significant public health problems. There's a mindset — indeed, a public resignation — that occupational injuries, illnesses, and fatalities are unavoidable. It's an attitude that we believe must change.

The WCB is tackling this public health challenge by putting injury prevention advocacy front and centre in our strategic plan. Workplaces must realize that a well-funded injury prevention program is not a cost, it's an investment. We have set a goal-lowering injury rate by 20 per cent by year 2007. Right now our province along with Manitoba share the highest injury rate in Canada. We've gone from 4.9 to 4.8 per cent for last year, and that's five injuries per 100 workers in Saskatchewan.

Reaching our goal would mean 2,500 fewer injured workers and \$25 million less in workers' compensation expenditures. That would translate into a 12 per cent reduction in premium . . . average employer premium.

The WCB and the Department of Labour launched WorkSafe

Saskatchewan to mark the 30th anniversary of our trailblazing OH&S (occupational health and safety) laws. WorkSafe Saskatchewan is aimed at optimizing province-wide coordination of the many education prevention services focused on workplace injuries and illnesses.

WorkSafe is a catalyst designed to foster a more robust, safety- and prevention-first culture where everyone accepts responsibility for workplace safety and prevention and pursues it on a daily basis.

WorkSafe Saskatchewan offers instant access to a world of information resources two ways: at our Web site and through our WorkSafe CD-ROM (compact disc read-only memory) — and we'll give each one of the committee members one of these to take home and have a look at if they wish. This ROM (read-only memory) has been sent to hundreds of occupational health committees around the province and handed out at numerous training sessions, trade shows, and conventions. I believe we have sent out 10,000 — Peter? — now, or a little bit more than that.

Every workplace wanting quick access to safety and prevention know-how, sound advice, and practical solutions can find it at WorkSafe Saskatchewan. We still have far to go in raising awareness and changing the behaviour of Saskatchewan people when it comes to workplace health and safety. We need everyone's help and participation to bring down an injury rate that's far too high. But it will take a shift in attitude, a different frame of mind, to make workplace injuries socially unacceptable.

Thank you very much for allowing me to make those comments with respect to our operation. I'll ask Peter Federko, our chief executive officer, now to respond to many of the recommendations that the Provincial Auditor has made. And I'll deal with the last one, recommendation no. 8, on the Audit Committee. Peter.

**Mr. Federko:** — Thank you, John. I won't deal with each of the Provincial Auditor recommendations unless there are specific questions relative to those. But suffice to say, we've accepted the recommendations of the Provincial Auditor and are . . . or have taken actions with respect to each and every one of the recommendations that have been made.

I'd simply like to preface however by saying that the implementation of our team-based case management processes, which is what the Provincial Auditor has referred to as the administration of our claims, includes the entire claims process from acceptance, to adjudication, to case management, vocational rehabilitation, and ultimate return to work.

And while the Provincial Auditor describes the audit processes that were carried out as related to the administration of claims, I hope committee members will recognize that when you look at the recommendations, it really covered a much broader area of our organization — including the human resource areas where the Provincial Auditor in fact looked at some of our HR processes to ensure that we had adequate processes in place for example to recruit people with the competencies and technical skills required to adequately perform the job.

So this was a pre-agreed-to process that the board, external auditor, and Provincial Auditor came up with in terms of the various areas and elements that the Provincial Auditor would look at.

The case management processes were actually implemented, introduced, January 1, 2002. The Provincial Auditor, in concluding the 2002 audit, had determined that the entire claims administration process had not been implemented at that particular point in time. And not to get into semantics, but I believe what they're referring to is that it had not yet fully matured.

We implemented about March 1, 2002. The implementation involved not only a new approach to the whole case management and adjudication processes, but also to a diversification of our operations to the extent that we increased the staff complement of our Saskatoon office to give greater presence to the case management area of our operation right in Saskatoon.

So the province essentially is divided north and south, Davidson being the dividing line. The north part of the province being looked after by the Saskatoon office and the south part being looked after by the Regina office. It's fair to say that we had not fully matured those processes because the establishment of the Saskatoon office required staffing processes, movement of those people, accommodating family situations, and so on and so forth, as well as just folks getting trained and used to the new processes that are in place.

The team-based case management also saw the implementation of what we call a team support function, which is really a quality assurance function that came to our organization, again, January 1, 2002, and to this point we continue to work on improving those processes.

So we accept the recommendations of the Provincial Auditor as made; as I said earlier, have taken or are taking actions to address all of the recommendations that the Provincial Auditor has made.

And unless there are specific questions relative to the recommendations, Mr. Chair, I'd just leave it at that.

**The Chair:** — All right. Thank you very much, both Mr. Solomon and Mr. Federko, for those opening statements.

We have some time now for the members, but before we deal with the individual recommendations, the members of this committee are great at doing their homework and I know that they'll have some questions in regards to the auditor's report. So I would open the floor to questions. Mr. Hart.

**Mr. Hart:** — Thank you, Mr. Chair. The auditor talks about the need to improve the timeliness of injury reports from employers. I guess what I would like, if you could provide some information as to what percentage of injury reports are late, what actions you have taken to improve upon the timeliness, and — I would imagine that there probably are some employers who have a difficulty getting their reports in on a timely basis, you know, over a period of some time — and what powers the board has to improve . . . to encourage an employer to get the

injury reports in on a timely basis.

**Mr. Solomon:** — Thank you, Mr. Hart. I'll deal with part of the question with respect to the section of the Act which deals with employers filing on time. The section — 52, I believe — suggests that they should file within five days of the injury.

The Audit Committee which I Chair has requested from the administration a report, a regular report on how many employers are beyond the five days. We've received in the latest audit report about 1,500 employers have over the previous year been over the five days. And there's some very good reasons for some of them. They weren't informed by the injured worker that they . . . actually was an injury and Peter, Mr. Federko, can talk about some of the other reasons.

In terms of improving timeliness, the Audit Committee has requested some review by the internal audit investigations branch of the WCB. But when you look at the Act, section 53 says that in summary conviction you can fine an employer a maximum of \$1,000. And when you've got a large number of employers who have good reasons for filing late and some who are delinquent and continually be delinquent or habitual delinquents, you look at the information and whether or not you pass it on to the Department of Justice to gather the information and decide to prosecute. And they're frankly very busy and we haven't done a lot of that because of the fact there is some large numbers.

What we have done is we've requested and we are, we will be requesting some legislative review that we change section 53 — that rather than have a summary conviction and then apply the penalty that we take that out of the Act and request that we as a board are able to fine them internally or penalize them in some way, to tack it on to their assessment revenue or their assessment fees or whatever.

And in addition to that, we're undertaking some administrative processes to ensure that the employers who are habitual delinquents are aware of it and that that's rectified without having to go to court to get a summary conviction. And Peter can maybe add to that.

**Mr. Federko:** — Just for clarity, section 52 requires employer reporting within five days from the date that they are notified about the injury. So it's not injury specific date, it's when the employer was actually notified of it. And that, in addition to the issues that Mr. Solomon has raised, further complicates actually nailing down when the employer was notified of the injury although our employer form requires that they report the date of the injury, the date that they were notified, and the date that they are filing the report.

In the absence of our legislation having much in the way of being able to incent employers to comply with section 52 of our Act, we have introduced administrative procedures to make it easier for employers to file their injury reports with us. We do have on-line reporting now available; they can e-mail it to us; they can fax it to us. And of course for a couple of years now we've had the ability to actually report the injury via telephone through our telefile initiative. So it would make it easier, does make it easier for employers to actually report those injuries to us.

However as Mr. Solomon said, there are those employers who habitually just choose to, I think, not file their injury reports on time. And as Mr. Solomon's indicated, we are trying to deal with that through the legislative process.

**Mr. Hart:** — Thank you. You mentioned that the five days applies from the time the employer is notified of an injury and sometimes there perhaps is a bit of a lag time between the time the injury occurred and the time the employer is notified.

I, as Labour critic, I get people coming to me from both sides of the issue; injured workers and also employers. And this whole area of whether an injury was workplace injury or not seems to be one of the common themes that I deal with, both from injured workers and employers, particularly back injuries and stress-related injuries. And I can well imagine that particularly a stress injury is certainly, I can imagine, fairly difficult to define.

And I was just . . . How does the board deal particularly with workplace stress injuries? How do you determine whether it is a workplace . . . First of all, stress has been recognized as a workplace injury recently and so how do you define, what parameters do you use to measure that?

**Mr. Solomon:** — The board's policy is that if there is a traumatic event at work that's caused the stress, that is compensable. If it's a series of events — and each case is judged on its own merits and justice but if it's a series of events off-site, for example, family stress, financial stress — those all have to be weighed in. But it has to be something traumatic.

The example I will use is if you are a bank teller and somebody rolls into the bank and robs you at gunpoint and you're stressed out and you sort of have to leave work for a period of time, that's compensable — not a problem. Or if you're at a work site and you witness a colleague getting killed at work or severely injured and you're stressed out, we cover those sorts of things. It has to be something traumatic and it has to be fairly clear.

But stress is becoming more and more complex. There's a call from many individuals and organizations that we should cover all stress. And if we were to do that, we'd probably have everybody on compensation; there wouldn't be a whole lot of people working. So we have to be very careful with that because we all have different stresses. Peter, do you have anything to add to that?

**Mr. Federko:** — The policy that we have does, as Mr. Solomon indicated, deal specifically with post-traumatic stress and it's fairly easy to determine. Our Act however does not exclude stress as an occupational disease. So not only do we consider post-traumatic stress, but we do consider accumulative stress issues as well. So many of the stress claims that we get are not related to a traumatic event, but may be related just to an accumulation of events that have occurred in the work site.

Our policy specifies that we will go through extensive development. And like any other claim, we collect information from the worker, from the employer, and from the medical community to help us make the determination whether, at least on a 50/50 basis — given that the benefit-of-doubt provision exists in our legislation — has resulted as a result of work issues as opposed to non-work issues, with the qualifier that

labour relations issues are not considered part of a stress claim.

If for example an employee is going through a progressive discipline process and feeling the stress of that, we do not consider that a work-related injury. However if due to extraordinary events within the workplace — additional workload that is above and beyond what would normally be expected in the workplace, if it's harassment, those kinds of things — we will consider those as work-related stress injuries.

The development of them is fairly extensive. It takes several months and several consultations to really make the defining decision as to whether they are work related or not.

**Mr. Hart:** — Thank you for that explanation. I think the hour is moving on and I'll zero in on a couple of the auditor's recommendations. I'd like some clarification, some information.

On page 233, recommendation no. 2, the auditor recommends that WCB, wherever possible, recover damages or money from third parties, perhaps if a worker is injured due to a faulty design of equipment and those sort of things. Of the claims that are submitted on an annual basis, what percentage would you estimate this third party option would be a factor in the claims? Are there quite a number of claims where you could perhaps recover some of the costs from a third party, or is it a fairly small number of claims that actually this would be a factor in?

**Mr. Federko:** — In relative terms the number is small. But the number is, pardon me, ever increasing, mostly because of the increasing number of asbestosis claims. The latency period for these kinds of occupational diseases is a very long time. So in the days when it was appropriate to use asbestos within work sites, exposures to the asbestos fibres may have occurred 20, 30 years ago and only now, perhaps even in their twilight retirement years, folks are being diagnosed with the black lung that is associated with these asbestos exposures.

Trust companies have been set up throughout North America to compensate victims that have been exposed to these fibres and we have, through our subrogation efforts processes, set up to attempt to recover at least a portion of the claims cost associated with these asbestosis claims.

I couldn't give you a percentage of claims per year. I would say however that it would be, you know, around 100 claims per year. Recoveries would be in the neighbourhood of about \$1 million per year.

**Mr. Hart:** — Thank you. You answered a question that I had before I asked it of you. So it's about \$1 million per year that you recover from other parties, on average.

**Mr. Federko:** — On average.

**Mr. Hart:** — There's a recommendation no. 3 here that the auditor recommends that:

. . . actuaries receive and use accurate data to calculate the expected benefits . . .

Could you perhaps explain the issues around the auditor's

recommendation and what action you've taken to comply with this recommendation?

**Mr. Federko:** — Sure. Each year we send all of our claim data, pardon me, to an external, independent actuary to determine the level of liability that we have to record in our balance sheet.

The process is to transfer claims data from our operation to the actuary's operation in Vancouver. And in the current year, I believe there were around 13 files or so that somehow got missed in being sent over to the actuary. And until the auditor came in and examined the data, we didn't realize that the 13 files or so had been missed, which understated our liability by an amount that I have forgotten.

We have about for a year now had the use of a part-time actuary in partnership with the University of Regina. That actuary is now in charge of the transfer of claim data to our external actuary, and we are more closely monitoring that through the use of our internal actuary now.

**Mr. Hart:** — The auditor's recommendation no. 6 on page 236 talks about the quality of administration of long-term claims assigned to case management teams. I wonder could you briefly describe this case management, what is meant by it, and how does it impact on an injured worker.

One of the things that I hear from . . . that's raised by injured workers with myself is, I think, some of it stems from personality conflicts between the people from the board and the injured worker and that sort of thing.

And when we talk about case management teams, that suggests to me that an injured worker is working with more than one individual and that sort of thing. And I wonder if you could just briefly describe the case management process that you have set up.

**Mr. Federko:** — The case management process is team-based today. We have six teams that are assigned six geographical areas of the province — northeast, southeast, Regina, and then the mirror image up in Saskatoon. An injured worker is assigned one case manager on that team, and that case manager owns the file from beginning to end.

However, included on that team are people like vocational rehabilitation specialists, health care facilitators; physicians are assigned to those teams, administrative support — the idea being through weekly team meetings, while a individual case manager will be most familiar with a particular file, all case managers on that team will have some familiarity. So in the event of an illness or absence as a result of vacation, one of the other team members can at least to some degree fill in to continue to manage the file.

The case management process itself really revolves or starts from the receipt of notification that an injury has happened, determining whether it's work related or not, and then issuing payments up to the date of return to work. Involved in that process is the collection of information, as I said earlier, from the employer, the worker, the medical community; arranging, looking after any medical treatment that's required; making payments to the worker, to their families, to any other support

mechanisms; developing individual recovery plans for the long-term claims that will not resolve themselves within about the first eight weeks of disability so that the employer, the worker, the medical caregiver as well and the WCB are familiar with the date that the worker is expected to return to work.

So case management involves all of the things that need to happen from the date that the worker goes off of work until the date that the worker returns to work, whether that is in modified or complete return to work.

What the auditor is referring to is the degree to which our case management processes had matured, and more specifically our quality assurance processes had matured, as at December 31, 2003.

We had initially focused our case management and quality assurance processes on the short-term claims, on those claims that are less than that eight-week period, and most recently now that we have processes built for the short-term claims, have been focusing on the long-term claims. And I think the Provincial Auditor is simply concurring that we need to continue to perfect and focus on the quality assurance with respect to periodic file reviews for the long-term claims as well.

So through our quality assurance function and our team leaders, which are assigned to each team, we have both a quality control and a quality assurance function that are now present and maturing as does the entire system.

**Mr. Hart:** — So how far along are you in establishing this quality control as far as the long-term claims are concerned? You said that you feel that you're on top of the processes, and you're assured that you have good quality as far as the administration of short-term claims and you've started down that same process for the long-term claims. Where would you say you're at as far as assessment of quality and being able to monitor the quality of administration of those long-term claims?

**Mr. Federko:** — I would say we're about 90 per cent there. All of the processes are in place. What's left to do is just the introduction on on-line templates where the quality assurance staff can actually report the results in a consistent basis of the file reviews that are being conducted. So everything that needs to be done is there. It just now needs some time to iron out all of the kinks and develop some supporting processes around them.

**Mr. Hart:** — This doesn't maybe necessarily deal directly with some of the recommendations that the auditor has made, but one of the suggestions that I hear on a more frequent basis is it has to do with the appeals and the appeal process. An injured worker appeals, by and large, at least it's their opinion that the appeal is heard by the same body, WCB, as the initial appeal, or as the initial claim in the case. And what they're asking for is an independent appeal body — a body that's independent of the people that dealt with and made the decisions initially on the claim. Have you given that any consideration at all?

**Mr. Solomon:** — Couple of points, Mr. Hart. One, that's a claim that is not 100 per cent valid in the following way. The chairman and the two board members who sit on the final appeal board, they're not employed by Workers' Comp per se.

They're not hired by the board, they're appointed through their stakeholders. For example, the employer representative is nominated by chamber of commerce, CFIB. I give the list to the government and they appoint one off the list.

The worker rep is nominated from the Saskatchewan Federation of Labour and/or building trades, depending on the particular appointment, and again the government appoints that person. So these two primary stakeholders handle the vast majority, about 85 per cent of all the appeals at the final level. The perception is because we're located in the same building, that we're the same people. But each case at the appeal level is reviewed on its merits and justice as the Act instructs the board to consider the appeal.

With respect to an independent committee, or an independent commission, there's been two studies undertaken and recommendations made to the government. One was Jim Dorsey, who was hired to review the administrative situation at the board back in year 2000. We tabled his report in May 2001, with about 11 or 12 recommendations with respect to administration improvements, but one in terms of setting up an independent appeal commission. That recommendation was referred to the government and . . . or I'm sorry, the legislative requirements had to be undertaken to effect the appeal commission, because it's in legislation that we're set up. The administration side of the recommendations were fulfilled and carried out by the board.

The government, because the committee of review cycle was just starting that summer, they took the May report and passed on the recommendation of the appeals tribunal to the committee of review, chaired by Jim Dorsey, but having six stakeholder reps — three worker reps and three employee reps. They reviewed that recommendation and instead of recommending the government that an appeal tribunal be installed, they rejected that because they had public hearings where people made their representation with respect to that issue.

The conclusion was, in their report that was tabled in January of 2002, was that they recommended a third person appeal commissioner to chair all of the hearings of the two stakeholder representatives at the final appeal level.

This was a recommendation that was made in the committee of review recommendations. The government consulted all of the stakeholders — that is the chamber, the CFIB, the SFL (Saskatchewan Federation of Labour), the building trades and others. I'm not sure who they consulted with, but those are the primary stakeholders.

And there was . . . They also undertook to have yet one more review undertaken by an actuarial firm by the name of Nexus out of Winnipeg. And they analyzed all the tribunals in Canada — four tribunals in Canada — to look at the costs, the pros and cons of each. So the consultations, the Nexus report which did the analysis, was then considered by the minister and the decision was to make no change.

I can tell you that I've . . . One of the tasks I was given when I was first selected to be chair, was to look at other appeal tribunals around Canada and North America to see whether they'd work in Saskatchewan. Out of the 52 boards in North

America, there's probably 48 different systems that have appeal levels.

Ours and when you look at the Nexus report clearly suggests that we're the least cost of the appeal level, that our wait times are the shortest pretty much in North America of all appellants waiting to be heard and decision taken. And that it's stakeholder friendly in the sense that the stakeholders still have control of the appeal system. And if you recall in my opening remarks, workers' compensation is created as a result of a compromise between employers and workers. Workers gave up the right to sue for this funded program.

So in our appeal system, in my view it's not only the least cost and most timely, but it's also the most fair because we have really an open-ended system. All the other tribunals have finites or a process where if you made the appeal and you're unsuccessful, you're done. You can appeal to our board, if you fail at your appeal, you can file another appeal with more information. And we're always open to new information with respect to injuries or employers' claims at the appeal level.

So we have no authority to change the system. It's really a government decision and that's been the long process now. It's been going on for at least two and a half years.

**Mr. Hart:** — When the independent appeal commission was reviewed and you mentioned there was a group hired to look at this and . . . did they come up with some costing as far as what it would cost to put such an independent body in place in Saskatchewan?

**Mr. Solomon:** — They provided recommendations with respect to costing, as well as they costed out other tribunals. They were estimates, however. I'm not sure . . . They were fairly accurate in terms of what the cost of administering such a system would be. No other actuarial costs were involved though.

**Mr. Hart:** — As far as the cost of administration of that independent group, what were the estimated costs of administering there?

**Mr. Solomon:** — I can't recall, Mr. Hart, exactly but it was a half a million dollars or three quarters of a million dollars more. And I think one of the reasons the employer stakeholders balked at that was they didn't want to pay any more money towards the system.

And actually, I think the worker components, stakeholders were more interested in having an appeals commissioner than another tribunal because of the fact they would lose some ownership of the system.

**Mr. Hart:** — You mentioned the independent appeals commissioner. You have such a . . . that person is in place or are . . .

**Mr. Solomon:** — No. The government, because of the consultations with the stakeholders — the stakeholders didn't want it or at least the majority didn't and so they didn't proceed with it.

**Mr. Hart:** — Okay. Good. Thank you for your information. I

have no further questions at this time.

**The Chair:** — Mr. Hagel.

**Mr. Hagel:** — Yes, Mr. Chair. I'm very conscious of the time. I just have three quick points for clarification. They all relate to the first recommendation, I think, really and to receive injury reports from employers promptly. And perhaps, in light of the time, if I can just ask all three and then get your response to them.

I noticed on the bottom of page 231, the auditor's report refers to employers requiring to report injuries with . . . quotes, "within five days of the injury". But just by way of clarification, I think I heard you say it's within five days of being advised of the injury. And that's a factor?

**Mr. Solomon:** — That's correct.

**Mr. Hagel:** — Okay. And then secondly, in terms of your reference to the stress-related injuries which is a growing phenomenon, I just want to clarify because I think I heard you refer to the definition of stress as being . . . or compensable stress as being based on quotes about stress which is above and beyond normal working conditions. And I just . . . that's correct? Okay.

**Mr. Solomon:** — Yes.

**Mr. Hagel:** — Would that mean, for example, that something like . . . I think an air traffic controller is considered to be a very high stress job but I would assume, therefore, likely a low claim rate for stress because the nature of the job is that it's high stress. Am I understanding that correctly?

**Mr. Solomon:** — Yes. Correct.

**Mr. Hagel:** — Okay. Thanks. And thirdly, just in terms of the timeliness of reports then from employers, do you have a quantifiable way of measuring or assuming the cost implication to employer groups because of the slow reporting times of some employers?

I think you said there was about 1,500 employers that you said had records of late reports and I just wondered if you've been able to get an actuarial kind of implication of what that means to the other employers who are not reporting late; they are following the rules. Are they paying a price for the untimely reports of slower employers in some measurable way?

**Mr. Solomon:** — I'll let Peter answer the details. But generally, Mr. Hagel, the longer we hear about and develop the case — hear about the injury and develop the case, it becomes more costly because then we have a lag time in diagnostics. It takes . . . Then it is a lag time in terms of a treatment plan and a lag time in terms of getting workers back to work. So it does cost the system money when it's late and that's a very important factor. I'm not sure if we've got the numbers on that, Peter, but . . .

**Mr. Federko:** — We haven't had the actuary specifically identify the cost associated with it. But on average we receive the employer report within 21 days as opposed to the five days

that's required. So that's an additional 16 days. As Mr. Solomon indicated, that essentially is added on to minimum 1,500 claims. These are 1,500 employers who may have multiple claims that they report to us on a late basis.

**Mr. Hagel:** — When you say 21 days on average, of those 1,500?

**Mr. Federko:** — No. Of all of them.

**Mr. Hagel:** — Of all.

**Mr. Federko:** — So if we just use . . .

**Mr. Hagel:** — So some of those are . . .

**Mr. Federko:** — I'm sorry.

**Mr. Hagel:** — So some of those 1,500 are much longer delays then?

**Mr. Federko:** — Absolutely. The majority of employers would report to us within the required time. So we might not hear for 60 days or more on some of those late ones. So the average across all 40,000 claims roughly is 21 days.

But if we just use that as a rough estimate, there's 16 days times minimum 1,500 claims that we're paying presumably beyond what would normally be required if we got those employer reports in on time.

**Mr. Hagel:** — What does that translate into a cost of? \$1 million a year? Or is there a figure that you can translate that into in terms of the cost to the operation?

**Mr. Solomon:** — I'm going to ask Mr. Fred Wendel to respond to this one.

**Mr. Hagel:** — It's been raised and I see it as . . .

**Mr. Solomon:** — There's another issue Fred can check into.

**Mr. Hagel:** — It has been raised and I guess the more I hear about it, the more it strikes me as being a legitimate issue in terms of the cost-effective operation, which has got to be of concern to employers who are paying the fees, of course, and also to injured workers who it would seem is delaying the rehab time and return to the workforce.

**Mr. Solomon:** — The internal or the Audit Committee of the board has requested the internal audit investigations branch to look at that situation of the late reporting to come up with some administrative suggestions and recommendations. Mr. Federko has responded to that issue earlier in the Q & A (questions and answer), but it's a good question, Mr. Hagel. We're not quite sure what the costs are, but it's something we obviously will have to look at if it's possible to even estimate.

**Mr. Federko:** — Conservatively if we use just as a rule of thumb that a time loss claim on average costs about \$100 a day, so that's \$1,600 per 1,500 occurrences is over \$1 million, conservatively, per year. So I mean that would be a rough idea.



But you also raise another point. Not only is this increase in the compensation costs, but to the extent that we require the employer information to make a work-related decision, this essentially delays us from issuing a cheque to the injured worker who may be relying on that compensation to make their mortgage or bill payments.

**Mr. Hagel:** — Thanks, Mr. Chair.

**The Chair:** — Thank you, Mr. Hagel. And if I could just perhaps conclude before we get to the recommendations with a few quick questions. I'm too interested in this late reporting. Have you determined if there's certain occupations that are more culpable in this area?

**Mr. Federko:** — No, there isn't any one that . . . any one industry or any one occupation where this seems to be more prevalent than any other.

**The Chair:** — Okay. Well, you know, that's interesting. So then it wouldn't . . . late reporting wouldn't have any impact then on rates, premiums, you know, so one sector of the economy, one occupation wouldn't have higher rates because of late reporting or something like that. That's . . .

**Mr. Federko:** — In theory, if my thumbnail estimate is correct, \$1 million per year translates into about a penny on the rate. So on average I can't attribute this to any one industry because some industries will be better than others, but it will change from year to year. In theory, a penny could come off of the premium rate if in fact the earlier reporting resulted in us reducing those costs by \$1 million.

**The Chair:** — Okay. And also which are the occupations now that have the . . . You said Saskatchewan and Manitoba are very high when it comes to injury rates, which is, you know, very concerning; it doesn't seem right. Which occupations are the most problematic? I guess we always think maybe it's the oil patch or meat cutters or something like that. But I'm hearing lately perhaps health care workers are very high on the list.

**Mr. Federko:** — It depends on what question you're asking. If the question is specific, which occupation is reporting the most injuries, occupations within the health care sector have the greatest number of time loss injuries. But put in proper context, we must also realize that the health care sector is the largest employer in this province.

So when we look at the percentage of workers within that industry that are experiencing a time loss claim as measured by our injury rate, so using our 4.8 per cent, the injury rate for the whole health care industry in 2003 was 7.2 per cent compared to the 4.8 average. So certainly higher than the average, however not highest.

In fact, again this is out in our stakeholder report that is a public document. In fact our meat processing and forestry industries have the highest rate of injury — not necessarily the highest volume of claims, but the highest rate of injury at over 30 per cent. So 30 per cent of the workers within those industries experience a claim that requires loss of work beyond the day of injury.

**The Chair:** — And health care is 7 per cent, did you say?

**Mr. Federko:** — 7 per cent.

**The Chair:** — All right, okay. Well that's . . .

**Mr. Solomon:** — Oil well drilling is 1 point . . . operation of oil wells is 1 per cent . . .

**The Chair:** — So it's low, very low.

**Mr. Solomon:** — That's the operation. And the oil well servicing is about 6.5. So it's higher than the average.

**The Chair:** — Okay. That's very interesting. The auditor talks about determining costs or savings through policy changes. Have there been any policy changes or are there policy changes being considered as far as out-of-province treatment is concerned? And how much does out-of-province treatment, I'm thinking particularly, you know, of MRIs (magnetic resonance imaging), which is a big issue, how much does that cost Workers' Compensation? And are there policy changes being considered?

**Mr. Federko:** — This is more an administrative issue than it is a policy issue. We don't have policy restrictions on where health care services are to be provided — only the requirement that we provide those health care services on a timely basis.

Particularly on the diagnostic side, MRIs in particular, we have been relying on out-of-province clinics to do the majority of the volumes that we have. I believe in 2003 we would have spent around \$600,000 on out-of-province MRIs.

**The Chair:** — How much, 600?

**Mr. Federko:** — About 600,000.

**The Chair:** — Okay.

**Mr. Federko:** — I'm sorry. We sent between 6 and 700 workers outside of the province, at a cost of a couple million dollars.

**The Chair:** — Okay.

**Mr. Federko:** — As you may know, we do have arrangements currently with the Regina and Saskatoon health authorities to expedite the MRIs within our province. So we're trying to spend some of those dollars in-house. However, the costs are relatively the same when you consider that out-of-province costs, or out-of-province diagnostics, also have significant travel costs associated with them.

**The Chair:** — Has Workers' Compensation discussed, say with SGI (Saskatchewan Government Insurance), other arrangements here in Saskatchewan? Have you thought about purchasing an MRI yourselves? I guess that would be a policy change.

**Mr. Federko:** — Yes, we've looked at the business case for doing so but the numbers would not support . . . and there are other issues around the ownership of a . . . Buying the machine is the easy part; it's actually operating it that becomes the more

difficult part.

**The Chair:** — And just the last area that I wanted to ask you about. I'm sure this has happened, but have you switched to electronic record keeping? Because I remember seeing, not intentionally, a couple floors of Workers' Compensation records when I was going to another floor. The elevator's open and I got this viewpoint of nothing but files and it struck me as not a very good use of space. So that no longer exists and everything is electronic? Is that correct?

**Mr. Federko:** — I think those people that coined the phrase, paperless world, were exaggerating a little bit when they coined that phrase. All of our claim files, new claim files since 1994 are now in electronic form. They are all imaged documents. But because a file of workers' compensation really never technically closes, we have several — we've been in business for over 70, around 70 years — we have accumulated a fair number of paper files that we are not in a position to destroy.

And so we have them stored off-site in secure premises. They're very infrequently accessed. They have been converted to microfilm form so if we do need to refer to them we can do that on site. But we have done away with . . . If you went on that floor, on floor 6, you would not see any of those paper files, Mr. Hermanson, that you saw a few years ago.

**The Chair:** — It was quite a sight. All right, are there any other questions? Okay. We have a number of recommendations, eight recommendations in chapter 16 of Workers' Compensation Board, the 2004 auditor's report. And I'm just quickly trying to find where the first one is — 233.

Recommendation no. 1:

We recommend the WCB receive injury reports from employers promptly.

Do I have a motion? Mr. Hagel.

**Mr. Hagel:** — Mr. Chair, I'll move that we definitely concur and note progress.

**The Chair:** — All right. There's a motion to concur and note progress. Is there any discussion on the motion? Seeing none, I call the question. All in favour? Carried unanimously.

Recommendation no 2:

We recommend (that) the WCB identify claims where recovery may be possible from other parties and effectively pursue such recoveries.

Again I would look for a motion. Mr. Yates.

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Is there any discussion? I call the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — Again carried unanimously.

Recommendation no. 3:

We recommend the WCB ensure its actuaries receive and use accurate data to calculate the expected benefits owing to injured workers.

I'd entertain a motion. Mr. Yates.

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Is there any discussion? Seeing none, the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried unanimously. Over the page on 234 is recommendation no. 4.

We recommend the WCB follow its processes to calculate the expected costs or savings for all policy changes.

Again, is there any discussion?

Pardon me. I'm looking for a motion first, aren't I? Mr. Yates.

**Mr. Yates:** — We concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Now is there any discussion? Seeing no one seeking the floor, the question is called. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — Any opposed? That's carried unanimously.

Recommendation 5 is on the bottom of the page 235, and:

We recommend that the WCB set out guidelines for documenting its quality control work.

Pardon me. Again I would look for a motion. Mr. Yates.

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Is there any discussion? And seeing none, I call the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — That's carried unanimously. Recommendation no. 6 is on the top of page 236:

We recommend that the WCB monitor the quality of the administration of the long-term claims assigned to case management teams.

Again I would entertain a motion.

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Mr. Yates moves that we concur and note progress. Is there any discussion? I hear the train coming here.

All in favour? None opposed. That's carried.

Recommendation 7 is near the bottom of page 237. It reads:

We recommend the Board formally define its reporting needs to oversee the administration of claims.

Again is there a motion? Mr. Yates.

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Again a motion to concur and note progress. Is there any discussion? I see smiles but no one asking for the floor. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried unanimously. Recommendation no. 8 on the bottom of 237.

We recommend the Board receive and approve an adequate work plan for the internal auditor.

Again is there a motion?

**Mr. Yates:** — I move we concur and note progress.

**The Chair:** — Mr. Yates moves that we concur and note progress. Is there any discussion? Mr. Hagel.

**Mr. Hagel:** — Mr. Chair, again, with being very conscious of the time, I don't think we've had a comment on this and I would appreciate just a very, very brief comment from the Workers' Comp on no. 8.

**The Chair:** — No. 8.

**Mr. Hagel:** — Yes.

**Mr. Solomon:** — We have received as an Audit Committee a draft audit plan from our internal auditor. We've asked for some improvements, and Peter can perhaps give us some additional information on that.

We haven't received the formal response from the internal auditor, but we do have a plan. It's just that it's draft copy; it hasn't been published. It's something that we . . . I'm not sure we're going to publish it. But what do you think, Peter, are we going to publish this one or . . .

**Mr. Federko:** — The internal audit work plan?

**Mr. Solomon:** — Yes.

**Mr. Federko:** — No, it really is a . . . What the Provincial Auditor is referring to is that a work plan be provided to the Audit Committee simply outlining the work that they will accomplish over the next year. We are just in the process of completing a risk assessment, and once that risk assessment is completed it will be fed into the internal audit process, and as Mr. Solomon indicated, a revised, more updated work plan will be issued to the Audit Committee and acknowledged as having been received.

**Mr. Hagel:** — In the early stages?

**Mr. Solomon:** — Just halfway through.

**Mr. Hagel:** — All right. Thanks, Mr. Chair.

**The Chair:** — All right, is there any other comments or discussion? Seeing none, I call for the question. All in favour?

**Some Hon. Members:** — Agreed.

**The Chair:** — None opposed. That also is carried unanimously.

Well thank you, Mr. Solomon and Mr. Federko and Ms. O'Brien, for appearing before our committee. We apologize for keeping you a little later than we anticipated, but we've had a very productive afternoon and we thank you for concluding it for us.

**Mr. Solomon:** — Thank you very much for allowing us to appear, and I look forward to the next time.

**The Chair:** — Again, I thank the committee members for their patience. We started a little late and we finished a little late, but we pretty much met our expected targets as far as discussion times were concerned. I thank everyone for their co-operation and assistance in accomplishing what we accomplished this afternoon.

To the viewers who thought they were going to watch the shopping channel and caught us this afternoon, they'll soon be back to scintillating shoppers' television. But if they'd like, if they like this show, they can tune in tomorrow. We meet, I believe, at 9 o'clock in the morning. I now declare this meeting adjourned.

The committee adjourned at 16:53.