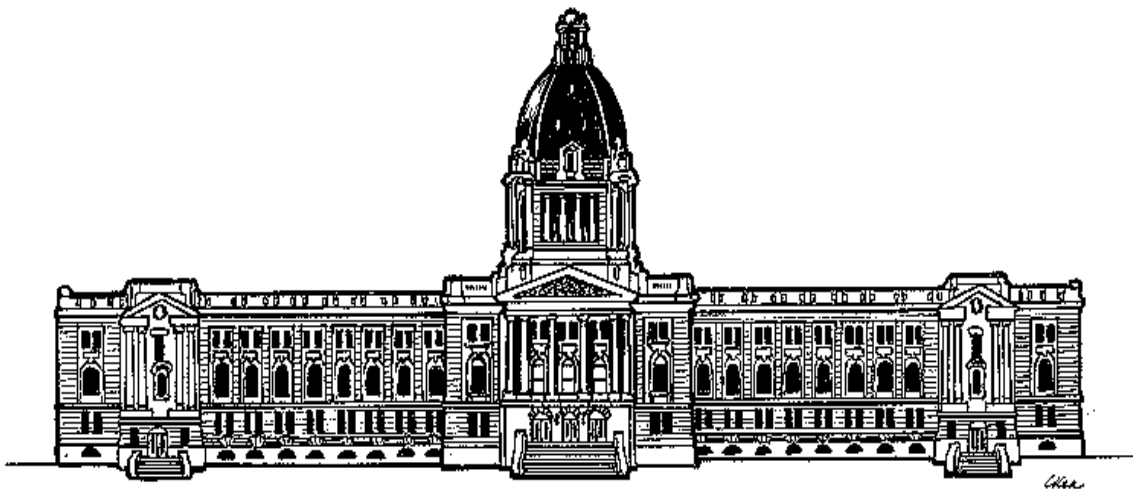




STANDING COMMITTEE ON PUBLIC ACCOUNTS

Hansard Verbatim Report

No. 4 – June 25, 2012



Legislative Assembly of Saskatchewan

Twenty-seventh Legislature

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Mr. Trent Wotherspoon, Chair
Regina Rosemont

Mr. Scott Moe, Deputy Chair
Rosthern-Shellbrook

Ms. Jennifer Campeau
Saskatoon Fairview

Mr. Herb Cox
The Battlefords

Mr. Glen Hart
Last Mountain-Touchwood

Mr. Warren Michelson
Moose Jaw North

Mr. Corey Tochor
Saskatoon Eastview

[The committee met at 08:30.]

The Chair: — Well good morning, committee members, officials from ministries, from the comptroller's office, from the Provincial Auditor's office. We'll convene our meeting at this point in time. We've a few matters to address here this morning. Of course it's the Standing Committee on Public Accounts, and for the legions of followers that we have at home, I would send them to www.auditor.sk.ca so they can follow along with the documents that we'll be referring to here today.

As a first order of business, I guess a bit of a housekeeping item, there is a vacancy in the Deputy Chair position so we need to elect a new Deputy Chair. Just to remind members of the process, I'll ask for nominations. Once there are no further nominations, I'll then ask a member to move a motion to have a committee member preside as Deputy Chair of the Standing Committee on Public Accounts. At this point in time, I will call for a nomination for the position of Deputy Chair. Mr. Michelson.

Mr. Michelson: — Mr. Chair, I would like to nominate Scott Moe for the position of Deputy Chair.

The Chair: — Mr. Michelson has nominated Mr. Moe to the position of Deputy Chair. Are there any further nominations? Seeing none, I would now invite one of the members to move that motion.

Mr. Michelson: — Mr. Chair, I would like to move that Mr. Scott Moe be elected to preside as Deputy Chair of this committee, the Standing Committee on Public Accounts.

The Chair: — Thank you, Mr. Michelson. It's been moved by Mr. Michelson that Mr. Moe be elected to preside as Deputy Chair of the Standing Committee on Public Accounts. All in favour of the motion? All opposed? I declare that motion carried. Thank you, Mr. Moe. I look forward to working with you in that capacity.

Just to maybe recognize committee members that have joined us here this morning, we have Deputy Chair Mr. Moe, Mr. Michelson, Mr. Hart, Mr. Tochor — sometimes struggle with the pronunciations . . . [inaudible interjection] . . . Mr. Tochor's correct then? Very good. And Ms. Campeau and Mr. Cox. So thank you each for being here today.

I'll welcome our Provincial Auditor, Ms. Lysyk, and invite Ms. Lysyk to introduce briefly the officials that she has with her here today.

Ms. Lysyk: — Thank you, Mr. Chair. I would like to introduce Mark Anderson, to my left, who is the executive director of strategic initiatives with our office; and Melissa Yanyu who is a senior audit manager with our office.

The Chair: — Thank you, Ms. Lysyk. I see Provincial Comptroller Mr. Paton here and I'll ask him briefly to introduce the officials he has with us here today.

Mr. Paton: — Good morning, Mr. Chair. I have with me Lori Taylor from my office, and Chris Bayda.

The Chair: — Thank you for being with us. I'll table the following document — this has been distributed to members here this morning — PAC 13/27 from the Virtus Group. This is correspondence outlining the terms of engagement to audit the Office of the Provincial Auditor dated June 13th, 2012.

I'd also like to advise the committee that pursuant to rule 141(2), the 2012 *Report of the Provincial Auditor* volume 1 was deemed referred to the committee on June 7th, 2012 and copies have been distributed to members.

Labour Relations and Workplace Safety

The Chair: — Moving along with considerations this morning, our primary focus will be on 2011 report volume 2, some considerations on to volume 1 as well. We have with us here this morning, to start off our considerations, officials from Labour Relations and Workplace Safety. I'd like to thank Deputy Minister Carr and his officials for joining us here today. I'll provide an opportunity for Mr. Carr to introduce his officials and then I'm going to come over to the Provincial Auditor to provide some comments as it relates to their findings, their recommendations, and then we'll come back to you, Mr. Carr. But, Mr. Carr, if you can introduce your officials.

Mr. Carr: — Thank you, Mr. Chair. To my left I have Glennis Bihun, executive director of occupational health and safety; and to my right, Mr. Laurier Donais who's executive director of central services for the ministry. Immediately behind Glennis we have Mr. Ray Anthony who is the director of workplace safety for occupational health.

The Chair: — Thank you, Deputy Minister Carr. I'll now turn it over and invite Provincial Auditor Lysyk and her office to make comment as it relates to the 2011 Provincial Auditor report volume 2, chapter 18, Labour Relations and Workplace Safety.

Ms. Lysyk: — Thank you, Mr. Chair. Mark Anderson and Melissa Yanyu, to my left, were involved in chapter 18. I would like to at this time thank the deputy minister and his staff for the co-operation extended to us during the audit. It is and was much appreciated.

This chapter is covered on pages 358 to 378 in chapter 10 of our 2011 volume 2 report, and contains the results of both our integrated audit work and our performance work on the audit of the processes used by the former Ministry of Labour Relations and Workplace Safety, now known as the Ministry of Central Services, to address workplace non-compliance with *The Occupational Health and Safety Act* and related recommendations.

This chapter contains two new recommendations that deal with the need for service agreements and five new recommendations to improve the processes used by the ministry to enforce employer compliance with the occupational health and safety legislation.

Further, in exhibit 1 on page 364, we show the status of three outstanding 2008 PAC [Public Accounts Committee]

recommendations as at March 31st, 2011 that the ministry has partially implemented but still has work to do: in developing a human resource plan, signing a disaster recovery agreement with the ITO office, Information Technology Office, and work with the Information Technology Office to monitor the effectiveness of security controls on the ministry's computer systems and data.

Mark Anderson will now walk you through the issues and recommendations from both of those areas.

Mr. Anderson: — So the first area I would like to cover is a need for service agreements that was identified during our integrated audit. The Ministry of Labour Relations and Workplace Safety obtains services from other ministries. It obtains support services, including payment and revenue processing, from Advanced Education. It obtains payroll and human resource services from the Public Service Commission, which is now part of Central Services. The ministry needs agreements with these agencies to help ensure that the agencies understand their respective roles and responsibilities.

We made the following recommendations at page 363:

We recommend that the Ministry of Labour Relations and Workplace Safety sign a shared service agreement with the Ministry of Advanced Education, Employment and Immigration [as it was then known].

The second recommendation was:

We recommend that the Ministry of Labour Relations and Workplace Safety establish an agreement with the Public Service Commission for providing payroll services that clearly assigns responsibilities for key payroll activities.

The second area I would like to cover is the results of our performance audit that starts on page 35 in our report. As we point out in the chapter, it is difficult to overstate the importance of healthy and safe workplaces; yet the workplace can be a dangerous place for some workers. Our audit found that the ministry had effective processes to address workplace non-compliance with *The Occupational Health and Safety Act, 1993* and related regulations, except for the following. And actually I would just like to change the page number, the page reference that I just made — not page 35; page 365. Thank you.

So our audit findings were that the ministry had effective processes to address workplace non-compliance except for the following areas: the ministry requires a documented, comprehensive, risk-based approach to address workplace non-compliance; secondly, the ministry needs to undertake more complete analysis of workplace non-compliance and its causes; the ministry needs to ensure that there is more consistent use of ministry policies and better follow-up of non-compliant workplaces by their staff.

We made five recommendations that appear on pages 371 to 376 and are as follows. Recommendation no. 1:

We recommend that the Ministry of Labour Relations and Workplace Safety document and use a comprehensive, risk-based approach to address workplace

non-compliance with *The Occupational Health and Safety Act, 1993* and related regulations.

The next recommendation:

We recommend that the Ministry of Labour Relations and Workplace Safety analyze why employers and/or employees do not comply with *The Occupational Health and Safety Act, 1993* and related regulations.

We recommend that the Ministry of Labour Relations and Workplace Safety consistently use stop work orders under *The Occupational Health and Safety Act, 1993* to address situations where workers are at immediate risk of harm.

We recommend that the Ministry of Labour Relations and Workplace Safety monitor the timeliness of progress reports (e.g., from employers) to promptly enforce orders under *The Occupational Health and Safety Act, 1993*.

And finally:

We recommend that the Ministry of Labour Relations and Workplace Safety regularly evaluate the results and effectiveness of its processes for enforcing *The Occupational Health and Safety Act, 1993* and related regulations.

Ms. Lysyk: — Thanks, Mark. That concludes our comments with respect to this chapter.

The Chair: — Well thank you for those recommendations and that analysis. I'll turn it over to Deputy Minister Carr and officials. And maybe to make sure, whatever comments you bring to bear here today are certainly welcomed, but to be specific to the recommendations that are there and specific progress and timelines and actions that your ministry has undertaken.

Mr. Carr: — Certainly, Mr. Chair. It's our pleasure to be here before the committee this morning and to share with you some information with respect to the findings of the Provincial Auditor. In particular, we'd like to start by expressing our belief that audits are valuable, that they create an opportunity for us to think about how we do our work and what the mechanisms are that ensure the delivery of service and good, helpful, and sustainable expenditures of public funds.

In terms of our duty, Labour Relations and Workplace Safety had seriously considered the recommendations of the audit. And I would start by saying that we value the lessons that we learned and the information gained as a result of that audit.

With respect to the recommendation that we sign a shared service agreement with the Ministry of Advanced Education, we've made a significant amount of effort to that and had initiated a discussion with Advanced Education, Employment and Immigration towards that end prior to the reorganization and restructuring of government. With the changes, it's still our expectation that we will continue to pursue that opportunity for a shared service agreement, but the ministry does want to make the observation that the risk associated with not having a service level agreement is low due to the organizational culture

of the Government of Saskatchewan as one organization, due to the fact that ministry staff have a very good and effective working relationship with their counterparts at Advanced Education, and given that Advanced Education is very familiar with the services that we require and the structure in which those services must be delivered.

We follow the same financial policies as identified in the financial administration manual, and it's with that point that we recognize that, while there is some benefit perhaps to a service level agreement, in our judgment it is not perhaps the highest priority in terms of what we hope to achieve by working with our partners.

With the centralization of accounts payable within government, the draft service level agreement that we had prepared will significantly change, and these changes need to be reviewed and incorporated into the next draft of that service level agreement. We expect and fully anticipate that the work of our respective officials will result in a service level agreement being in place by March 31st of 2013.

With respect to the recommendation that the ministry establish an agreement with the PSC [Public Service Commission] for providing payroll services that clearly assigns responsibility for key payroll activities, the ministry is pleased to report that we're fully in compliance with that recommendation and that we engaged in the signing of a service level agreement with the PSC on January the 10th, 2012.

With respect to the outstanding recommendations from the 2008 audit, a recommendation that the ministry develop a human resources plan, we're fully compliant with that. The ministry submitted its HR [human resources] plan to Executive Council on December 15th of 2011 and received approval of that plan on February 15th, 2012.

The next outstanding recommendation was that the ministry sign an adequate agreement for disaster recovery of computer systems with the ITO. I'm pleased also to announce that we're fully compliant with that recommendation and that the ministry signed a service level agreement with the ITO on October 27th, 2011.

[08:45]

Finally that the ministry monitor the effectiveness of the ITO security controls to protect the ministry's computer systems and data, I'm also pleased to announce that we're fully compliant with that as the ministry, as I'd mentioned earlier, signed a service level agreement on October the 27th, 2011 with the ITO. Furthermore the ministry has an information technology management committee made up of senior officials and ITO officials that meets quarterly to discuss IT [information technology] issues, risks, and progress on completion of projects.

If I may now turn to the recommendations of the special audit with occupational health and safety division, again we believe that the recommendations of the auditor are very helpful in assisting the ministry to further reduce the injury rate within the province of Saskatchewan. The ministry of course undertakes its work in the belief that all injuries are predictable and

preventable and takes note that it is really the workplace partners — that is the owners and operators of business enterprises and the people that work for them — that have the primary responsibility for safety in those workplaces.

The ministry is very proud of its significant increase in enforcement activities over the past number of years. And the product that we have produced as a result of that has been greater awareness in Saskatchewan workplaces about the hazards and risks of employment.

There is evidence that in industries and workplaces where we have focused our attention, the corresponding injury rate reductions occur much quicker than in circumstances where there is not the same focus and attention on enforcement. We recognize that improved consistency in our follow-up on non-compliant workplaces will indeed result in further reductions in the injury rate across the province. While the occupational health and safety division has a less than half a per cent appeal rate of the more than 6,700 violations it issues each year, the cause of the violation being noted during an assessment will undoubtedly provide the workplace with useful information as it takes steps to come into compliance with the requirements of our legislation.

The occupational health and safety division established its first policy and procedures manual in 1999 as a guide to our officer corps in the conduct of their duties. This manual sets out how officials will carry out those duties and provides policy guidance and direction to them as they conduct their work. Through policy, officers are limited in their role from making specific recommendations as to the solutions to contraventions. The reasons for that are rather simple and practical. Those who know the workplace operation and its procedures best are those who are actually engaged in that activity within the workforce and within the workplace. Our officers then are sometimes put into a position where, while they have expertise and knowledge about a particular compliance issue, they may not know the best mechanism or method within that workplace to achieve compliance.

So it's that perspective that I want to provide the committee with this simple reminder, and that is that it works best when those who are in direct control of the process have considered the risks and hazards and have acted appropriately to achieve compliance. So it's a reminder again that safe workplaces are the product of employers and their workforce working together to address safety issues. We as the regulator can only provide direction and support for that work to take place.

While the occupational health and safety division works through those policies, we've found the recommendations of the auditor with respect to consistency to be very helpful. It has in fact pointed out a number of opportunities for us to improve our mechanisms and service delivery. As I describe the actions taken on those recommendations of the auditor, you'll hear that in order to fully respond, the ministry has pursued first, legislative amendments; second, changes to its policy and procedures manual; thirdly, a monthly and quarterly reporting tool has been implemented to ensure that we know and understand the activities that our officers are engaged in. We've had enhancements to our inspection reporting software so that we can capture information more consistently. And we've also

undertaken significant training of managers and officers across the system.

Now if I turn directly to the recommendations. Recommendation that the Ministry of Labour Relations and Workplace Safety document and use a comprehensive, risk-based approach to address workplace non-compliance, we're making progress towards this recommendation, and I would share with the committee the following actions. In May of 2012, occupational health and safety completed integrating the requirement for documenting its risk-based analysis approach in its work plans through reform and amendment of its policy A3, work plans and reports. Training of all occupational health and safety managers and staff took place between May 31 and June 18th of 2012.

Further, the occupational health and safety division's existing risk-based approach — while based on developing and implementing strategies that target workplaces and sectors where hazards are high and where injury rates are correspondingly high — has resulted in the development of a partnership with the Workers' Compensation Board under the Worksafe Saskatchewan initiative.

With respect to occupational health and safety's particular efforts, we're now initiating consistent documentation of its existing risk-based model and the approach in its annual work plans which include strategies to address non-compliance at the workplace and at sector levels. So the focus here again is to look at specific workplaces and specific sectors of our economy where injury rates remain high. It anticipates that receipt of frequency and severity analysis from the gathering of statistics on a monthly, quarterly, and annual basis will continue to provide helpful support in directing scarce resources to an immediate result in the economy. We expect to have all of this recommendation fully implemented and under way by September 30th of 2012.

With respect to the next recommendation where the ministry was advised that it analyze why employers and/or employees do not comply with occupational health and safety Acts or regulations, again we've made significant progress towards compliance with this recommendation through the amendment of existing policies, C1 which is the purpose of inspections and C2 which are the reporting requirements that officers engage as a result of those inspections. The policies are now specifically designed to address considerations for officers when making those inspections and provide documented supporting evidence for the recommendations they've left in that workplace.

Managers and officers were trained on these policy updates again between May 31 and June 18th of this year. Additional officer training will occur regarding how to choose the regulation that best addresses the cause, contributing factors, and the parties responsible whenever there's been a lack of compliance. We fully anticipate that this recommendation will be operational and complete by September 30th of this year.

Moving on with respect to the recommendation that the ministry consistently use stop work orders available under *The Occupational Health and Safety Act* to address situations where workers are at immediate risk of harm, it is our belief that that in fact had been our practice, although the documentation that

the auditors revealed certainly didn't demonstrate that. With respect to that we again have revised and clarified our policy B6, which deals with issuance of stop work orders, to ensure that there is consistent ongoing application of the criteria used for issuing such a stop work order, ensuring that officers' opinions are documented when stop work orders are issued, and that there is a defensible explanation of the evidence that the stop work order was based upon, on the record. This work, as I mentioned earlier, has been under way and has been completed and brought to the attention to the officer corps and the management team in the training that was conducted earlier in May and June of this year. And this recommendation will now be fully operational as well by September 30th of this year.

With respect to recommendation no. 6 where LRWS [Labour Relations and Workplace Safety] would monitor the timeliness of progress reports and promptly enforce orders under the Act, legislative amendments will come into force on proclamation, we assume around September the 3rd of this year, that will provide clarification for when officers issue non-compliance reports, formalize the provision and requirement of progress reports from workplace partners in response to those non-compliance reports, and ensure that we have a consistent record for reliable action.

In addition, the ministry is working with the Ministry of Justice to create the authority for officers to issue summary offence tickets in certain scenarios, including a flagrant disregard for compliance.

The division has also updated and trained managers and officers on policies B4, which is the issuance of notices of contravention, and B5.1, which addresses compliance assurance. These changes include clarifying when to use a compliance assurance and when to issue a notice of contravention. The need for documentation in the inspection software in all cases, explaining why compliance was not achieved and discussing cases under which it can be achieved, will be an ongoing part of the work of our division.

The division has completed its first ever interpretive guide in response to the passage of Bill 23 which saw significant amendments to *The Occupational Health and Safety Act* this past spring. That interpretive guide will be used as an educational opportunity in working with workplace partners, business owners, management teams, and workers within occupational health and safety committees to ensure that we have stronger compliance with the recommendations and the regulations and the provisions of *The Occupational Health and Safety Act*.

The division has also drafted a policy on summary offence ticketing and finalized a schedule in *The Summary Offence Procedures Regulations* of 1991 which will establish 75 occupational health and safety related offences and the associated fines for various workplace parties related to non-compliance.

Inspection software updates are also being contemplated and completed to prompt officers to record their rationale for non-compliance and the issuance of their non-compliance activity. Manager and officer training in this regard commenced June 19th and 20th and will continue through the balance of the

summer. We fully expect to have achieved this recommendation by December 31 of 2012.

Finally, the recommendation to Labour Relations and Workplace Safety regarding an evaluation of results and the effectiveness of its processes in enforcing *The Occupational Health and Safety Act* and related regulations has also been given serious consideration. As a result, additional monthly and quarterly reporting is being developed and implemented that will enable the management team to monitor where compliance has not been achieved on a monthly basis, assess how its enforcement activities are aligning with its work plans, and on a quarterly basis allow us to review the goals for injury reduction set by workplaces, sectors, and by WorkSafe Saskatchewan.

In addition, officers are commencing a standard review of their inspection reporting. The inspection software caseload manager will also allow them to ensure that they are going back and following up on files that remain open and that have not been closed due to the issuance of final reporting.

All of this activity we expect will be completed by September 30th. And it's really from that perspective that I'm pleased to report on behalf of the ministry and on behalf of occupational health and safety division that we expect those recommendations have been put to good use, and as a result of the changes we've implemented, we will see a further reduction in Saskatchewan's injury rate. That concludes my remarks.

The Chair: — Thank you, Deputy Minister Carr. Maybe looking to committee members for further questions, noting that maybe the first two recommendations are separate from the last which were sort of in a theme there. I think you were rather thorough in providing some timelines towards the progress towards recommendation no. 1, noting that maybe from the ministry's perspective the risk wasn't, I believe, noted to be incredibly high. But I did hear that compliance is something that's going to be worked towards in a timeline that was noted there for the first recommendation with Advanced Education.

And then for the second recommendation, I heard that compliance is in fact, from the ministry's perspective, has been achieved. So maybe we'll focus, if there's further questions on those first two recommendations, or I would certainly seek a motion on those items. Mr. Hart.

[09:00]

Mr. Hart: — Mr. Chair, just a bit of clarification from Mr. Carr with recommendation no. 1. You haven't achieved what's been recommended, but it is on your to-do list, and there has been some work done with regards to moving that way.

Mr. Carr: — In fact we had a draft service level agreement prepared with the former Ministry of Advanced Education, Employment and Immigration. We were moving towards a signing of that document and then found that two things had happened. First a move to centralize the accounts payable process was under way, so we needed to further consider how that would be reflected in the service level agreement. And then the restructuring of government occurred. And so that caused us to put the brakes on and say, let's find out who our new partner is first, and then we'll move to an agreement.

Mr. Hart: — Thank you for that, Mr. Carr. Mr. Chair, I would move with regard to recommendation no. 1 that we concur with the recommendation and note progress.

The Chair: — All in favour? Moved by Mr. Hart.

Some Hon. Members: — Agreed.

The Chair: — It's agreed that this committee concur with recommendation no. 1 and note progress towards compliance.

Recommendation no. 2, noted by the ministry that full compliance occurs. I guess for folks at home, it's important to note that certainly we appreciate that statement from the ministry, but certainly the auditor does go back in to review that full compliance has occurred and follows up on all of these recommendations. But certainly, if there's questions, or I'd seek a motion. Mr. Moe.

Mr. Moe: — I would concur with the recommendation.

The Chair: — And should we and would we want to note compliance has been noted on this one here?

Mr. Moe: — Yes.

The Chair: — Okay, so moved by Mr. Moe. All in favour?

Some Hon. Members: — Agreed.

The Chair: — Okay. So it's agreed that this committee concur with recommendation no. 2 and note compliance.

I appreciate the update and the manner for which you presented here today. It dovetailed very nicely with the report allowing us to do, I think, our work effectively, particularly the update on some of the outstanding recommendations as well. That's not something we always have brought forward by respective ministries, and it was nice to see both progress but I believe compliance on those outstanding recommendations. So thank you for doing, for providing that here today and the work that your ministry's undertaken.

Mr. Carr: — My pleasure.

The Chair: — Now we have some other recommendations that all fit into a bit of a theme here, and certainly I think all of us would concur that these recommendations fit into this area of human risk and loss and certainly are I'm sure a concern to all of us. And certainly it seemed that that was noted as well by ministry officials here today.

I have one question maybe just to draw upon. I found one comment interesting, and I'd maybe just seek a comment from the deputy minister or from officials here today, and that comment was as it relates to fines. And certainly I think there was a comment that fines in Saskatchewan are lower than that in Alberta and Manitoba is what I extracted from the report. And there was a comment here that officers told the auditor that some employers think it's cheaper to pay fines than to comply, and then putting that in context to that, where we are in fact lower than Alberta and Manitoba.

I guess I look on two fronts here. That's a bit of a worrisome comment. I look specifically for sort of that understanding from or reflection from employers that they're more willing maybe just to pay the fine than to comply with what's been recommended. But then also of course it's not just fines that are going to change dangerous behaviour, workplace practice. You've identified other areas as well, but maybe just the ministry's comments specific to that employer's perspective.

Mr. Carr: — Certainly. I think, Mr. Chair, from our perspective, we found that commentary quite alarming, and it helped inform our approach to legislative amendments that recently passed under Bill 23. As you may be aware, fine levels within the province of Saskatchewan as a result of the passage of Bill 23 will, upon its proclamation, double. And in that environment we will have the highest maximum fine of all jurisdictions in Canada.

But it's also I think important to point out and perhaps illustrative of the work the ministry has done and the division has done to adopt a summary offence ticketing approach to compliance. And it provides our officers in the field with a complete new set of tools with respect to dealing with recalcitrant employers. There's not many of them, but there are those out there that thumb their nose at the rules. Where that occurs, our officers will have significant tools that will impart an immediate penalty for non-compliance.

The penalty under our summary offence ticketing procedures process will be large enough to get their attention but small enough that it will give them some encouragement that they ought to work with us in coming into compliance rather than simply do what they have done in the past, which is those few employers have simply chosen not to play by the rules.

The Chair: — Looking to committee members if there's further questions. You know, certainly there was identifications. I believe on each recommendation I heard a timeline with a specific time noted that compliance will occur, many of them being September 30th, 2012. I've noted that for each of them. Maybe my attention waned for a moment, but I didn't hear it specifically for the seventh recommendation that exists there. Is there a noted period of time for full compliance?

Mr. Carr: — There is indeed, and it also is September 30th of 2012.

The Chair: — Further questions from committee members? Mr. Hart.

Mr. Hart: — Yes. With regards to recommendation no. 4, I wonder if Deputy Minister Carr could expand on his earlier comments. He talked about the best people to analyze and bring forward good safety measures are the employer along with the employees, and although yet the auditor in recommendation no. 4 suggests that the officer should be analyzing why the accident happened and that sort of thing. I wonder if you could just perhaps expand a bit more and explain your rationale for the way you deal with the analysis of accidents and that sort of thing.

Mr. Carr: — Certainly. I'd be happy to. I'd also, when I've made a remark or two, call upon Glennis Bihun to provide

stronger insight into that.

I think it's been my experience dealing with occupational health and safety matters for well in excess of 30 years that often the regulator finds themselves in a difficult position because they hear competing explanations for events. They hear often arguments put to them that the issue that the officer is concerned about is really not that big a deal. Well I think that what helps inform the officer's viewpoint is really looking at things like injury rate experience, looking at what some of the causative agents are in incidents that give rise to injury.

The officers also try to apply in their investigative activities a very clear understanding to the workplace parties as to what compliance looks like. And so it's not an issue of where there's a lot of debate about whether you're in or out of compliance. It's how is compliance best achieved within an individual work setting. And that's where I have concluded, after many years of experience, that it's really the business owner/operator, management team, and their workers that need to have the discussion about how to move to compliance because there's many ways, as you might imagine, to come to the same conclusion or the same compliance issue, and we want to ensure that the best way is the way that the workplace uses.

Two reasons really for that. First, if it's difficult to comply, it's unlikely compliance will be achieved. Second of all, if there's unintended consequence of a particular approach to compliance, you'll find no compliance again. So from our perspective, we want to encourage the employer, the business owner, the management team, and its workforce to have the dialogue and the discussion and figure out what the best way is to achieve our requirement for compliance. Glennis.

Ms. Bihun: — When we reviewed the fourth recommendation, while we intuitively made the assessments of the workplace responsibility systems during our inspections, we didn't do a good job documenting those observations or that evidence when we were rendering our reports. So the key changes that we've accomplished here are building into our policies the very real need for the assessment of the workplace responsibility system in consideration of such things as hazard controls to be formed into the report.

So for example, in the past we might have issued a violation related to a lack of worker training. So while we know we've undertaken the assessment to consider whether that training's been provided, whether the workers attended the training, whether they're applying the training within the workplace, because that observation or how we got there wasn't recorded in the reports, it wasn't apparent that we had actually completed that assessment. So we've now very carefully built into our policies the need for those steps to be documented, and that does become the helpful information for workplaces to be able to follow through on what kinds of changes they need to make to become into a compliant situation.

Mr. Hart: — So those changes are fairly recent, and you, I think I heard you say that by September, you'll be fully up to speed on this recommendation.

Ms. Bihun: — So what we've done is our initial round of training with our managers and our officers. We recognize that

it's important to build that capacity throughout the organization, and we also know that we need that capacity sustainable. So we need to update our ongoing officer training programs so that as staff come and go, we have abilities to get them up to the standards and implement the policy in training.

Mr. Hart: — Okay. Thank you.

The Chair: — Thank you for those questions. Thank you for those answers. The one area on recommendation no. 6 where I found I guess the attention of the ministry encouraging but certainly what seemed to be flagrant disregard that was noted for following up in a consistent way with progress reports to be a concern. So I'm glad . . . Thank you so much to the auditor's office for identifying this, I guess, concern of, you know, contravention and also concerns around inadequate follow-up in progress, and appreciative of hearing from the ministry that in fact we are working towards compliance on this front. I see this as an important area. I don't have any specific questions there but certainly a comment and appreciative of the work that's being undertaken by the ministry.

At this point in time, are there further questions? Or I think Deputy Chair Moe has a motion that he's considering.

Mr. Moe: — In light of the discussion, I'd like to concur with progress on points 3 through 7, so 3, 4, 5, 6, 7.

The Chair: — So we'd concur and . . .

Mr. Moe: — Note progress.

The Chair: — And noting some progress. All in favour?

Some Hon. Members: — Agreed.

The Chair: — It's agreed that this committee concur with recommendations 3, 4, 5, 6, and 7, chapter 18, Labour Relations and Workplace Safety, and note progress towards compliance.

At this point in time without . . . Unless there's any further comments from the auditor's office?

Ms. Lysyk: — I just want to thank the ministry for considering the recommendations and really for the actions that have been taken to date given the time frame. Thank you very much.

The Chair: — Thank you, Deputy Minister Carr and your officials, for coming before us here today. We'll turn our attention now to the Information Technology Office. Thank you.

[09:15]

Information Technology Office

The Chair: — Welcome to Deputy Minister Dedman and officials here today representing the Information Technology Office. I'll ask Mr. Dedman to briefly introduce his officials that are here with him here today.

Mr. Dedman: — Thank you, Mr. Chair. Robert Guillaume is the associate deputy minister of central services; Tim Kealey,

assistant deputy minister; and Rebecca Sengmany, the director of finance. And, Mr. Chair, I'm going to turn it over to Robert to provide introductory comments if that would be . . .

The Chair: — I'll intervene for a moment here. What we'll do is . . . Thank you very much for being here today to yourself, Mr. Dedman and officials. I'll turn it over to our Provincial Auditor's office to make their respective comments, their recommendations, and then over to you for subsequent response and questioning from committee.

We have three chapters that are here today. We have chapter 7, chapter 16 . . . chapter 7 from volume 1, chapter 16 from volume 2, and then a special report on the US [United States] *PATRIOT* [Providing Appropriate Tools Required to Intercept and Obstruct Terrorism] Act, chapter 20, volume 2. We're going to deal with each of these one at a time, I think, just to allow it to occur in an orderly way. So maybe specific to chapter 7 from volume 1, I'll turn it over to the Provincial Auditor.

Ms. Lysyk: — Thank you, Mr. Chair. I am joined again by Mark Anderson and Jeff Kress from my office who participated in this audit and who also participated in the second two audits that we'll be talking about after this one.

This is a rather short file, so I will take us through the document. This is a follow-up of a previous audit that was done, measuring benefits of IT consolidation. I do want to thank again the deputy minister and his staff for the co-operation extended to us during this audit. That is much appreciated.

In 2009 we examined whether the Information Technology Office, ITO, improved information technology services through consolidation and provided those services at a lower cost. We concluded that due to the absence of reliable performance measures and costs relating to IT services for periods before and after consolidation, we were not able at that time to determine whether ITO had improved IT services through consolidation and provided those services at lower cost.

We made five recommendations then. Chapter 7 is covered on pages 85 to 89 and describes the results of our follow-up of management's actions on those five recommendations from the 2009 report, volume 1. We found that three recommendations had been implemented and we have noted progress on the following two outstanding recommendations, which read that ITO work with ministries to prepare joint action plans to address issues identified in satisfaction surveys as required by its service level agreements, and that ITO seek mutual agreement with ministries on relevant service delivery measures and targets. And that concludes our comments on this chapter.

The Chair: — So this one here we don't have any new recommendations, but noting progress on some outstanding ones. Maybe just specific to those outstanding recommendations noted in chapter 7, I'll turn it over to officials with ITO to make comment.

Mr. Guillaume: — I guess the first recommendation from the Provincial Auditor is to continue to work with and continue to have joint action plans with our customer ministries and to solicit feedback on those agreements through customer

satisfaction surveys. The IT office for Central Services continues to define itself from the outside in from those customers. The services that we hold in our portfolio are defined only by the requirements needed by those customers, and one of the key leading measures of the health of those services that we provide continues to be the customer satisfaction measure.

Obviously this is a . . . Technology is an ever-changing and evolving field, that we strive to keep our service levels and our services that we provide in our portfolio aligned to those customer needs, but we're always . . . some latencies, some lag there in the time that we understand the government needs a requirement to when we can actually fulfill it. We strive to capture those lags in elements like the customer satisfaction survey and will continue to action all of them.

The Chair: — When might we see compliance with these outstanding recommendations?

Mr. Guillaume: — Quite frankly, maybe never. This will be an ongoing work as IT always continues to change. There will always be gaps, temporal gaps. Our goal would be to try to close the gaps as tight as possible such that in-year potentially we could respond with the appropriate services as required by our customers. But I would suspect that in a changing environment there will always be some discrepancies.

The Chair: — So the two recommendations that are outstanding . . . And is it the ministry's perspective that those two outstanding recommendations, both of them, may never be able to be complied? And I believe that the first one, joint action plans to solve issues identified in satisfaction surveys, is it not possible to have joint action plans? I understand that it may be difficult to solve issues in sort of a 100 per cent way all the time, but to have an action plan to respond to that. And then the second one being the service delivery measures and targets, the memorandums of understanding with clients — are neither of those achievable as laid out by the auditor?

Mr. Guillaume: — Just for clarification, both for the in-year services that we provide, absolutely those are achievable. And I would say that we collect that information and we report on it. The point of never being 100 per cent compliant would be the temporal nature of the change, the incoming services, new changes, different ministries.

The Chair: — So maybe just go back to the specific recommendation. I think when we look at it there, I think that it's . . . Maybe we're not being clear in the communication there. I think though the one recommendation is that we be consistent in having the form filled out. Is that achievable?

Mr. Guillaume: — That is achievable and, in current state, is done.

The Chair: — Right. Okay. Thank you for your full report and your honesty on the scope of some of the challenges that may exist. Maybe we'll turn our attention to chapter 16 from the volume 2 report and turn it back over to the Provincial Auditor's office and our Provincial Auditor to make comment.

Ms. Lysyk: — Thank you, Mr. Chair. Jeff Kress, audit

principal for my office, was involved in completing the work in chapter 16 and will speak to that in a minute. Chapter 16 is on pages 333 to 348. There are two parts to this chapter. The first part covers our audit of the Information Technology Office. The second part covers our audit of ITO's controls to protect the confidentiality, integrity, and availability of systems and data. We audit these controls every year and we use the results of this audit to support our work at other ministries and agencies. This work actually ties in to our audit of the public accounts. This is where we obtain reliance on the IT systems used to accumulate the financial information that is reported publicly. Jeff will outline the recommendations in this chapter for you.

Mr. Kress: — Thank you. Good morning, everyone. I will first cover the results from our audit of the ITO. We found that the ITO did not follow its established procedures for removing its own users' access to computer systems and data. As a result, we recommended on page 336 that the Information Technology Office follow its established procedures for removing user access to its computer systems and data.

ITO delivers IT services to government ministries and agencies. To protect its clients' systems and data, ITO needs adequate controls. As a result of auditing ITO's controls, we found that the ITO had adequate controls except in certain areas.

ITO signed an agreement with its service provider effective December 6th, 2010, for operating and maintaining its data centre. We made the following new recommendations relating to this arrangement at page 341. We recommend that the Information Technology Office finalize the filing of security requirements its service provider needs to follow. We recommend that the Information Technology Office monitor whether its service provider meets its security requirements.

We continue to make four additional recommendations relating to our ITO security audit that this committee had concurred with. They are found in pages 342 to 345. Two recommendations relate to 2005 and are partially implemented. They are as follows: that ITO sign service level agreements with its clients prior to delivering IT services and that ITO sign agreements with its clients on security and disaster recovery.

In 2008 we recommended that ITO improve its human resource plan. This recommendation is partially implemented.

In 2010 we recommended that ITO prepare accurate and complete year-end financial reports. We continue to make this recommendation. This concludes our comments on this chapter.

The Chair: — Thank you for that presentation. I'll turn it over to Deputy Minister Dedman and officials for response, and if you can focus specifically on the recommendations that have been made, also on outstanding recommendations and actions and timelines towards compliance or if compliance has been achieved.

Mr. Guillaume: — All right, I'll try to be very focused. So since the audit, we have signed the information security controls portion of the data centre agreement with our service provider, obligating both that the provider and the ITO will be compliant with security requirements for the scope of the agreement. We have also signed MOUs [memorandum of

understanding] with each of our customer ministries and continue to mature the level of schedules attached to those MOUs, memorandums of understanding, to try to reflect the expectations and the white space between the two organizations. We continue to develop security reporting with our service provider based on those requirements defined in the iSec [information security controls] agreement. That's in progress, and we are targeting that to be complete March 2013 to its entirety.

We provide customer ministries today with stale account reports, with security risk management reports, project security assessment reports, password reset reports, security incident reports. All this has been completed since the audit took place.

We'll continue to work with the Provincial Auditor on making all the changes to our reporting to comply with the recommended accounting and audit practices for the report.

The HR plan, we have completed our HR plan for the IT Office and continue to execute on that plan, and we'll keep it up to date every year forthcoming.

There was a request for accurate year-end financials. We agree that that is important, and we'll continue to do so. And that would conclude my comments.

The Chair: — Thank you. Just on the accurate financials, what's preventing that from occurring right now?

Mr. Guillaume: — I would note one area, and again it goes back to the change and the temporal nature of our business. We are a service provider wedged between the needs of all ministries, thirty-one of our customers, and the IT industry and our service providers that provide service by proxy.

One example of one of the financial areas is the statement of future contractual commitment on our finances, and the issue there is some of those contracts that we have in play, multi-year contracts, are all wedged and set against usage targets. So there's additional resource credits and reduction credits that, as we change the number of servers and the number of provisioning that we do as a province, that will effectively change the contractual obligation that the province holds in future years. What is more important to me is in past tense, that we have an accurate in-year view for where we're going to land on our financials. I believe we're in a position to do so.

The Chair: — Committee members, further questions on some of these items? Mr. Michelson.

Mr. Michelson: — Mr. Chair, I guess in regards to that recommendation no. 1, the follow established procedures, that always bothers me if we've got the procedures but we're not following them. Is there steps being taken that make sure that we're following up on people that aren't following these procedures?

[09:30]

Mr. Guillaume: — Yes. One example as noted in the report was the removal of user access, I believe was specifically the issue. One of the challenges is this government currently has a

lot of manual processes inside our portfolio, and ultimately what happens in manual processes as there's change in personnel and such, things do decay over time. Now obviously there's steps that need to be taken and are appropriate to be taken to ensure that those processes continue in the future. The best answer, and what we're endeavouring to do today and hopefully by the next audit period, is automate many of those procedures. Things like the complex workflow of removing users after they're no longer in the service of government really needs to be automated and controlled.

The second piece of the question is, how do we monitor that? Our instrumentation strategy for the Government of Saskatchewan is such that we will be audit ready not just once a year but constantly. We have tooling in place and instrumentation that once we understand the lead indicators we want to monitor, like ensure that all users are removed in one day, removed from government, the system will essentially flag any discrepancies that we have automatically, and we'll be under constant audit of ourself. So that is the true answer in the long term.

The Chair: — So I appreciate the comment there about a system and automated response to make sure that this is fully complied. And can the ministry provide assurance to the public right now that in fact individuals who have departed the service of ITO or individuals who shouldn't have access to that system couldn't or don't have access as it stands here today? Or are we not sure if that's safeguarded?

Mr. Guillaume: — Yes, we are sure that's safeguarded. This audit period was March 2011. Since that time, I'm seeing reports every 30 days to ensure that that's taking place. We also communicate those reports back to our ministries as well to ensure they understand any existence of stale accounts and such.

The Chair: — Thank you for that answer. Maybe we have a motion of progress on this front, or on this . . .

Mr. Moe: — On point no. 1, I think we would concur with the recommendation and note progress towards compliance.

The Chair: — So moved by Deputy Chair Moe. All agreed?

Some Hon. Members: — Agreed.

The Chair: — So it's agreed that this committee concur with recommendation no. 1 and note progress towards compliance. Moving along with our . . . maybe turning our attention to the recommendations 2 and 3. So these are sort of contingent upon one another. The first one is to define security requirements and the second one, once that's been complete, does that then allow the proper monitoring and reporting to occur? Is that how I understood these two recommendations?

Mr. Guillaume: — Correct.

The Chair: — So we have progress then on no. 2 that was noted by the ministry in defining the security requirements. I guess on the third one, we could certainly concur with it. I'm not sure that there's specific progress right now. I think the progress may begin once those security requirements have been

defined. Maybe I'd seek a motion for progress, maybe for no. 2. No. 3, maybe we simply concur on it. I'm not sure.

Mr. Michelson: — I think progress is actually being made on both counts.

The Chair: — Sure, so I'd welcome a motion.

Mr. Moe: — On points no. 2 and 3, I would concur with the recommendation and note progress towards compliance.

The Chair: — Okay, is that agreed? Moved by Deputy Chair Moe, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — It's agreed by this committee that we concur with recommendations 2 and 3 and note progress towards compliance. I believe ... Are there any other new recommendations, or these are the outstanding ones that go back to 2008, 2009, 2010? Comments were provided by officials on them. I guess just in a general way with those outstanding recommendations, are there any recommendations for which in, sort of when we look out at the year ahead of us, that we should... are there any reasons that compliance wouldn't occur with any of those recommendations, outstanding ones?

Mr. Guillaume: — No, there isn't.

The Chair: — Any other further questions as it relates to this chapter at this point in time?

We'll turn our attention then to a special report as it relates to the *USA PATRIOT Act*, protecting Saskatchewan data from the 2011 report volume 2, chapter 20, and I would turn it over to the Provincial Auditor of Saskatchewan and her office to make presentation.

Ms. Lysyk: — Thank you, Mr. Chair. Again Mark Anderson is joining me as executive director our strategic initiatives group, and he was responsible for the work in chapter 20 which is on pages 403 to 414 of the 2011 report volume 2.

Effective December 2010, the Information Technology Office, ITO, commenced an agreement with a service provider to operate and maintain its data centre until December 5, 2017. The service provider, through multiple levels of ownership, is a subsidiary of a US company. I would like to thank ... now we worked with the Ministry of Justice and the staff as well as the ministry of information technology and its staff for this audit, and again I'd like to thank both of them for the co-operation. I would also like to thank and acknowledge the Saskatchewan Information and Privacy Commissioner for his assistance and insight during our work on this topic.

In 2011, the Public Accounts Committee passed a motion requesting us to look at all of the necessary protections that ITO has in place to ensure the citizens of Saskatchewan, that the third-party contractor cannot share information with the parent company where the parent company is subject to the *USA PATRIOT Act*. The *USA PATRIOT Act* made numerous amendments to US laws. The effect of those amendments

includes permitting US law enforcement agencies to require US persons or entities to provide information. Those orders can apply to information that is in the US, in Canada, or elsewhere.

I'll have Mark provide some comments to you on chapter 20.

Mr. Anderson: — Thank you. So in chapter 20, we concluded that the protections put in place by ITO cannot ensure that information will not be accessible through the operation of the *USA PATRIOT Act*. Short of a decision to exclude the third party contractor because of its corporate ownership though, ITO's contractual protections do represent a reasonable attempt to manage risks related to the *USA PATRIOT Act*. However as indicated in our other audit work discussed here today, there are IT security weaknesses involving the ITO. Until these IT security weaknesses are addressed, government information is at risk of inappropriate access or modification.

As well, until ITO monitors whether security requirements that the third party contractor needs to follow are being met, the contractual protections may not be effective in achieving their intended purpose.

We described in chapter 20 how the risk of inappropriate access can be managed and we made two recommendations. The first relates to what Saskatchewan's Information and Privacy Commissioner regards as a gap in the legislation. The commissioner has recommended that Saskatchewan's access and privacy legislation be updated to include a duty to protect that requires government agencies to protect personal information, and that's Saskatchewan's general access and privacy legislation, *The Freedom of Information and Protection of Privacy Act* and the local authority equivalent. This duty would be backed up by significant penalties.

On page 411, we recommended that the Ministry of Justice and Attorney General consider the benefits, in consultation with Saskatchewan's Information and Privacy Commissioner, of changes to Saskatchewan's general access and privacy legislation which could serve to mitigate some risks related to the *USA PATRIOT Act*. In particular, Saskatchewan's Information and Privacy Commissioner has expressed concerns and made recommendations regarding the duty to protect personal information and data in prior years.

We made a second recommendation that appears on page 411. We found that ITO had assessed the risk of using third party contractors, however ITO had not documented its analysis. And our recommendation was, we recommended that the Information Technology Office document its analysis of risks related to the *USA PATRIOT Act*.

Ms. Lysyk: — And this concludes our comments on this chapter. Thank you.

The Chair: — Thank you for that analysis and those recommendations. I'll turn it over to Deputy Minister Dedman and his officials for comment.

Mr. Dedman: — Yes, Mr. Chair. We also have representatives of the Ministry of Justice. Rick Hischebett's here. Go ahead, Robert.

Mr. Guillaume: — Okay. I'd like to address the questions on the, I guess the status of the contract that we had. I appreciate the comments from the Provincial Auditor. ITO takes its regulated responsibility to protect this government very seriously and appreciate the Provincial Auditor stated in the report that the ITO had taken reasonable measures it could in agreement with ISM [Information Systems Management Corporation] Canada to ensure government information will be protected.

I'd like to note that the Provincial Auditor confirmed that ITO ensured the following obligations were included in its agreement contractually with ISM Canada: ITO specified that ISM Canada's computing infrastructure has to be located inside of Saskatchewan, that ITO specified that personal information and personal health information as well as information and infrastructure were to remain in Canada, and only under limited and rare support circumstances with explicit approval from the ITO could data be temporarily stored outside of Canada.

The ITO specified that ISM Canada is responsible for complying with all privacy laws. The ITO assessed, considered, and took every reasonable step to protect data from risks presented by the existence of the US *PATRIOT Act* in their agreement with ISM Canada and, as stated above, the Provincial Auditor has confirmed that in her report.

We have adopted a very similar strategy to most provinces and the federal government, one of assessing and managing or avoiding risks in addressing concerns on a contractual basis. We note this and would ask that Justice please comment on the following recommendation on the appropriate of the legislation.

Mr. Hischebett: — Thank you, Mr. Chair. Committee members and provincial audit members, my name is Rick Hischebett. I am the executive director of the civil law division of Saskatchewan Justice. I'd like to introduce the officials accompanying me today. I have Darcy McGovern, the director of public law, and I have Dave Tulloch, the executive director of corporate services branch. I'm here to comment on the first recommendation made by the Provincial Auditor in the Provincial Auditor's 2011 report volume 2, chapter 20.

We appreciate that the recommendations the Provincial Auditor and the Information and Privacy Commissioner made regarding improving protection of privacy within Saskatchewan. The government works hard to ensure data and its protection and possession is appropriately protected. Senior officials from the Ministry of Justice have met with the Information and Privacy Commissioner to discuss this recommendation. The commissioner made it clear he's not recommending that the government legislate restrictions on doing business in the United States in response to the *USA PATRIOT Act*.

The commissioner has requested that duty to protect provisions be included in *The Freedom of Information and Protection of Privacy Act*, and while no final decision has been made, a review of that Act may be considered in a future session of the legislature.

In regards to the *USA PATRIOT Act*, the Saskatchewan government adopts a strategy similar to most other provinces and the federal government, one of addressing and managing or

avoiding risks and addressing concerns on a contractual basis. We note the Provincial Auditor has acknowledged the value of this approach.

And this concludes our remarks regarding the Provincial Auditor's 2011 report volume 2, chapter 20. We'll be pleased to address any questions that the committee may wish to ask.

The Chair: — Thank you. Any questions specific? I guess we're hearing that legislative change specific to recommendation no. 1 might be a possibility, might be something or is something that's being considered. I think for this committee then, I don't know whether or not we can . . . We wouldn't note that as progress towards the recommendation because it hasn't yet been communicated to us whether or not ministry or government concurs with that pursuit. But I'd certainly welcome a motion from this committee. Mr. Hart.

[09:45]

Mr. Hart: — Before we do that, I have a couple of questions.

The Chair: — Good.

Mr. Hart: — Specifically with regards to recommendation no. 1, did you look at what other provinces are doing and how they're handling this? Are other provinces looking at perhaps changes to their legislation? I guess in order to analyze that, we'd have to look at what, you know, what level of protection the current legislation provides citizens of this province and also the level that exists in other provinces. You know, how do we stand in that area and are there other provinces that are looking as closely at this situation, at this Act, as what we have? Have other provinces had this level of scrutiny? The level of scrutiny that we are talking about today resulted from an action that this committee took a year ago. I wonder if you could just make some comments in that general area to give the committee members an idea as to how we stack up as compared to other provinces in Canada.

Mr. McGovern: — Thank you for the question. Mr. Chair, if I may respond. Darcy McGovern, director of legislative services for Justice. In terms of legislation which specifically addresses the *USA PATRIOT Act*, British Columbia is the province that in 2004 created a broad prohibition against storing personal information outside of Canada. Nova Scotia has more recently a similar but less restrictive prohibition in its personal information international disclosure Act. And Alberta has an offence for a person to wilfully disclose personal information subject to their FOI [freedom of information] Act pursuant to warrant or similar instrument not valid in Alberta. All the other jurisdictions — so Ontario, Quebec, Manitoba — take the same approach to Saskatchewan, that is risk management to assess the relative risks of doing business or not doing business with a USA [United States of America] firm, which Mr. Hischebett mentioned in terms of manage it on a contractual basis on a case-by-case basis.

The second aspect of that and with respect to the duty to protect . . . And this was mentioned in the introduction and was also mentioned by Mr. Dickson in our meeting with him. Saskatchewan is one of the few provinces that doesn't have an express duty to protect in its legislation, and that's what we've

agreed to actively consider in the next time this legislation goes forward for consideration. In the meantime, of course, we have clear direction within the ministries to take compliance with the Act very seriously, but that is a distinction that in Saskatchewan we don't have an express duty to protect. We operate on the basis that we have of course a duty to comply with the legislation, which includes protecting personal information, but that's a statement which our Act doesn't make and which we'll give consideration to the next time it's brought forward for amendment.

The Chair: — So would we . . . We'd seek a motion on this front if the committee members are there. Maybe at this point in time we would concur in that recommendation. Deputy Chair Moe.

Mr. Moe: — On point 1 or point 1 and 2?

The Chair: — I think point 1.

Mr. Moe: — One, yes. On point 1, I think we would concur with the recommendation.

The Chair: — Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Deputy Chair Moe moves, and it's agreed by this committee, that we concur with recommendation no. 1. Moving along to our attention to recommendation 2 and any other outstanding questions of committee members on this matter.

I guess just in one area, and maybe looking for a response from officials here, I believe it's been noted by the auditor that the *USA PATRIOT Act* could be used to attain data and really other than the third party contractors with American operations, ITO itself would not be certain of whether that data had been accessed or not. Is that correct?

Mr. Guillaume: — As stated, we have taken contractual steps and have paper in place with our service provider, ISM Canada, to ensure that they inform us if any of that were to take place.

The Chair: — Now is that allowable from a Justice perspective maybe here? Does the *US PATRIOT Act* not define and actually possibly prohibit that sort of communication?

Mr. Hischebett: — Mr. Chair, the answer is the *USA PATRIOT Act* within the governance of the United States of America indeed does prevent that from occurring.

And the issue that I think it's raised is the fact of subsidiaries in Canada who are operating from a US-based parent corporation. And if a US-based parent corporation was actually served with a *PATRIOT Act* order, the risk being that through the corporate control elements of the parent company that somehow that information might find its way back and be binding, a Canadian company in Canada operating in Canada will not be subject legally to a *USA PATRIOT Act* order.

And within the contractual commitments that we obtain from that Canadian company, we actually require that Canadian

company to tell us if they have disclosed that information, either pursuant to an order or pursuant to any other element. So we try to protect against that from the contractual end, and that's all that we can actually do in that regard.

The Chair: — As a potential of the Act as it stands, that communication may not in fact be permissible by that third party contractor, depending on its relationship as a subsidiary or its relationship to the parent company and as it relates to the *PATRIOT Act* and its scope.

Mr. Hischebett: — If the data finds its way clearly into the hands of, let's say, a subcontractor operating in the USA, then yes, that's absolutely correct.

But having said that, the ITO and in our contracts where we deal with that, that's part of the contractual philosophy of how to actually try to manage this risk. You understand before you start who you're dealing with. You understand how that information is going to be processed and transmitted and stored. And then you understand what that information actually is, and you make some choices as to whether that risk is going to exist, or then you make a contract that precludes that risk from arising. And what we do is we make choices and we choose to recognize that, especially in the case of ISM, that this information is going to remain in Canada, and we contractually agree with that. So we try to control that by looking at the issue right from the start, to understand the risks that exist and then to deal with it contractually as best we possibly can.

The Chair: — Is it fair to say that some of the contractual obligations that were attempting to provide protection to people weren't necessarily in place at the time of transitioning to this provider?

Mr. Guillaume: — I'll need clarification on the question, please.

The Chair: — When we're looking at the transition to this provider and to the storage and management of information from this provider, were we absent in having the contractual obligations, the contract, as strong and robust as it should be? Or are we strengthening that contract now out of some of the recommendations of the auditor, some of the analysis of ministries, ministry officials?

Mr. Guillaume: — The original contract was as strong as it is today and will continue to be.

The Chair: — What sort of analysis has been placed with respect to the *US PATRIOT Act* prior to entering into that contract?

Mr. Hischebett: — Actually, Mr. Chair, there had been a fair bit of analysis done in relation to the *USA PATRIOT Act* before that contract was entered into. There is something called a personal information contract checklist which government ministries are advised of and made aware of any time they're dealing with a contract that involves the disclosure of personal information. And that could be an IT contract which the ITO might manage, but that could equally be a contract in which we're getting service delivery, in which we have to disclose some personal information as part of the service delivery

component in order to receive the service back.

So back in 2005, a contract checklist was actually developed. And the checklist itself actually recognizes the US *PATRIOT Act* as one of the issues associated with the disclosure of personal information. And it provides a systematic step-by-step guide as to how to address those issues and to make sure that ministries are aware of that when they are dealing with personal information in their contracts and service provision.

So the *USA PATRIOT Act* has been something that the government has been aware of for some time.

The Chair: — Mr. Michelson.

Mr. Michelson: — Thank you, Mr. Chair. Because it's a federal US Act, is there any direction from the Canadian government on this?

Mr. McGovern: — It's as a matter of . . . And it starts to get into the jurisdictional issues in terms of who governs what, and of course each of the provinces has, as a matter of property and civil rights, has jurisdiction over freedom of information and protection of privacy legislation, though the federal government in its own dealings has taken a similar approach, that being a contractual approach rather than a legislative approach. And Mr. Hischebett has described in part as a matter of conflicts of law. Of course we're not able to reach beyond our particular borders to dictate what's done in another province or in another country in that regard.

And so to that degree the contractual approach that's been discussed has been preferred in terms of the *PATRIOT Act* specifically, keeping in mind the *PATRIOT Act* isn't new, hasn't recently changed, for example, that it is something that was . . . 2004 was when British Columbia made their legislative amendments. I think each of the jurisdictions took a look at it fairly carefully at that point to decide what is the best management mechanism in that regard, and it was the contractual approach that was settled on in the majority of jurisdictions. So I think that's a big part of the discussion in that regard.

Mr. Michelson: — I was wondering, how big of an issue is this? Like obviously if nothing's happened there's no risk, but what would the extent of the risk of this be? Is that a fair question?

Mr. McGovern: — Well and it's I think we take it very seriously in terms of the management of personal information, and this is an aspect of that. You know there's . . . *The Freedom of Information and Protection of Privacy Act* itself was amended on the substantive side to deal with issues, in 2003, to deal with issues regarding post 9/11 realities, and it provides for a process whereby disclosures can be made to it in certain circumstances. And so that's the sort of the formal provision in (h.1).

In terms of the process for contracts, we take it very seriously, as Mr. Hischebett's outlined and it has been outlined in the ISM, by addressing it specifically in a contractual basis rather than a statement within the Act. I think what we want to take a closer look at is the duty to protect that has been identified by

the Information and Privacy Commissioner, which applies not specifically to the *PATRIOT Act* at all, but more as a general statement.

The Chair: — Mr. Hart.

Mr. Hart: — Since when has ISM Canada been the service provider to ITO? When did you sign your first contract with that company? Approximately.

Mr. Guillaume: — There would be some contracts with that company going back to probably the mid-'90s.

Mr. Hart: — Okay.

Mr. Guillaume: — Or earlier. I believe it was '95 when ISM, certainly when I was there and related to that, there was contracts in place. Today, in this shape of this contract round, are data centre operations. Again, this is just evolution of other contracts. This one took place December of two thousand and — getting my years mixed up — ten, 2010.

Mr. Hart: — So currently they are the main service provider for ITO?

Mr. Guillaume: — For our data centre, correct.

Mr. Hart: — For your data centre. So I guess what we have here is a situation that there is some vulnerability here because we're dealing with a subsidiary of an American company that, currently under the US *PATRIOT Act*, the parent company could be forced to release data which could . . . even though we have the data stored here in Canada, that's the risk that we're looking at.

[10:00]

I would assume that other jurisdictions are in the same, are experiencing that same level of risk because they could be dealing with an American . . . or a company whose parent company is headquartered in the US. Are there other service providers . . . You know, I'm not suggesting that we do that, but just for the information purposes of this committee, are there other service providers who would not be in that position that would be headquartered outside of the US and have no links to the US? And have you looked at that possibility, perhaps? Or if this in the future should become a major issue, is there other service providers that could provide the same level of service that aren't linked to the US?

Mr. Guillaume: — I would comment that, you know, in the interest of business practice for the government, it would be very prudent to continue to look at other options, especially weighing in on risk, on how that works into those contracts and potential cost of those contracts. I couldn't comment, without doing some research, on an extensive list of what alternatives might be. I know, as Justice had pointed out, this linking between entities, between American companies, Canadian companies, I would have to defer, you know. And obviously that's something we have to be conscious of going forward, but in my opinion what we have done is very consistent with most jurisdictions in Canada and potentially globally as well.

Mr. Hart: — Thank you for that. That's reassuring.

The Chair: — But the question was a good one and I'm not . . . Are we not able to provide an answer to whether or not there's in fact . . . I think basically the question is, is there companies that wouldn't be subject to the US *PATRIOT Act* for whom we could be looking to as a third party provider? Maybe that's a Canadian company. Maybe it's others. But are there companies or vendors that are possible?

Mr. Guillaume: — I'll receive that comment as a recommendation. Absolutely we'll continue to consider that going forward. The complexity, as I said, is about the corporate linkage I guess between the ownership of those companies. I couldn't tell you today which of those service providers do have the same risk north and south across the border. Thank you for that comment though.

The Chair: — Thank you for that. So will you be able to endeavour to provide that information back to committee members by way of which contractors wouldn't be subject to the US *PATRIOT Act* back to this committee?

Mr. Guillaume: — I would endeavour to ensure that that's built into our criteria moving forward on how we work with service providers. We'll ensure that we do that analysis. It'd be very difficult and a lot of work to try to come up with an explicit list today.

The Chair: — Okay. Do we know if there's at least one company that can provide this information that wouldn't be linked or wouldn't be subject to the US *PATRIOT Act*?

Mr. Guillaume: — I wouldn't go on record without knowing absolutely.

The Chair: — Okay. And the difficulty in this is that the relationships are so complex of these corporations or these companies in understanding their connection to the *PATRIOT Act*. Is that . . .

Mr. Guillaume: — And/or ownership structures and such.

The Chair: — Right. Do we have Canadian companies that could do this work?

Mr. Guillaume: — Well just in my opinion, ISM Canada is a Canadian company that is doing that work today, just as an example. There is another company here in town called CGI which also does that type of work. They host as well for us. So I'm sure there are. Absolutely.

The Chair: — And are there Canadian companies that aren't a subsidiary or have a relationship with an American company?

Mr. Guillaume: — Right. That's what I think you should do some . . . or we will do some research on before I would comment on whether there is any linkage or not.

The Chair: — Sure. No, and I appreciate your caution and making sure everything you're putting before us is accurate and fair. So thank you, and we'd appreciate if you're able to share some information back with us. That would be helpful.

Now am I understanding this correctly? This certainly brings to bear to the importance of the two recommendations we dealt with in the previous chapter, chapter 16, where it talks about finalizing defining the security requirement of service provider, that a service provider needs to follow. I think when we're talking about that recommendation, this in fact is sort of the main service provider that we're speaking of and then of course the subsequent recommendation is that the proper monitoring of that. Am I right to connect those two pieces?

Mr. Guillaume: — Yes.

The Chair: — And just to clarify, as far as the actual recommendation of the auditor as far as documenting an analysis of risks as it relates to the US *PATRIOT Act*, where is the ministry at in complying with that recommendation by way of a timeline or actions that have occurred?

Mr. Guillaume: — One of the major progress areas in this space for the committee is that we embarked on a corporate-wide security assessment that will continue to evolve. That security assessment was linked with an enterprise risk management engagement as well that helped document a lot of the risks that are not exclusive to those that were talked about here today. Those two pieces of work are forming the basis for a submission that will go to treasury this fall for a multi-year security program that will all point back to the recommendations here inside the report. That will continue to mature and satisfy, I think, all the concerns of the auditor.

The Chair: — Okay, so thank you. So my understanding would be then, as we come around to that process, that this recommendation to . . . that the ITO document, its analysis of risks related to the US *PATRIOT Act* would be then fully complied in. Is that a fair understanding or is that what you're portraying?

Mr. Guillaume: — It's a fair understanding that one of the risks inside that risk register would be documenting this risk. Absolutely.

The Chair: — Okay, so I'd seek a . . .

Mr. Michelson: — So is that complied then?

The Chair: — No, I think we're hearing that maybe there's progress towards this, and certainly continued follow-up I think from this committee and from the auditor will occur. So I'd seek a motion maybe to that nature. Deputy Chair Moe.

Mr. Moe: — On point no. 2, I'd like to concur with the recommendation and note progress towards compliance.

The Chair: — Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — It's agreed that this committee concur with recommendation no. 2 in chapter 20, protecting Saskatchewan data, the US *PATRIOT Act*, and note progress towards compliance.

If there are other questions of committee members on this

chapter . . . Maybe I'd just make a note to committee and to those that are following at home that this inquiry, as I understand — and I believe I was at the table when it occurred; I believe Mr. Hart was as well at that point in time — came from this committee sitting at this table and having some questions and some concerns as it related to this issue. And I would like to thank the auditor for their analysis and certainly to Justice officials and to ITO for coming before us here today with their answers.

So, cognizant of time, I believe we can still move into another chapter here. Yes, we'll see how . . . And I think next we'll deal with Government Services, which means that the deputy minister doesn't change.

Government Services

The Chair: — Okay. We'll move along with our considerations here this morning, moving and turning our attention to Government Services. Deputy Minister Dedman is with us here this morning. I'd ask him to briefly introduce his officials before I turn it over to the auditor to focus her office's attention on chapter 5.

Mr. Dedman: — Thank you, Mr. Chair. I'd like to introduce other officials from the Ministry of Central Services, formerly the Ministry of Government Services. With us today: Shelley Reddekopp, on my right, assistant deputy minister, corporate support services; Al Mullen, on my left, assistant deputy minister of asset management; and in behind, Richard Murray, assistant deputy minister of facility management; and Greg Lusk, executive director of commercial services.

The Chair: — Thank you very much. I'll turn it over to the Provincial Auditor.

Ms. Lysyk: — Thank you, Mr. Chair. With me today I have Kelly Deis. Kelly is a new deputy provincial auditor with our office. He was appointed just about a month ago. He replaces Mike Heffernan who retired after providing over 30 years of service in the province to the office. So I would also at this point like to acknowledge there's an individual in our office who acts as the coordinator for the PAC committee, and that's Kim Lowe. And Kim is with us today for all of the sessions, and I failed to, I was amiss to mention her name at the very beginning of the process.

At this time I again would like to thank the deputy minister — I think this is the third time to the same deputy minister because of the reorganization in the government — and his staff for their co-operation in helping us with this audit and working together with us around the draft report and the final report.

Our work is presented in chapter 5 of the 2011 report volume 1 and it's on pages 59 to 72. The chapter contains a performance audit of accommodation planning and that's on pages 61 to 67 where we concluded that the ministry had adequate processes to plan accommodation for client agencies except that it needs to prepare an overall accommodation plan, including a risk assessment, and monitor implementation of the overall accommodation plan. To plan accommodation means planning to meet the overall current and future needs of its client agencies for physical premises to carry on their operations and

deliver services.

We made six recommendations. Kelly was involved in this audit and will take us through those recommendations.

Mr. Deis: — Thank you, Bonnie. On page 64 we recommend that the ministry specify in its policy documents the requirement to prepare an overall accommodation plan, including a risk assessment. By not looking at the combined overall needs of its clients, the ministry may not identify all opportunities or pressures that it will face in fulfilling client needs. Without an overall risk assessment, the ministry will not know if its plan is addressing key risks in providing accommodation to its clients.

[10:15]

On page 65 we recommend that the ministry regularly request information from clients on their future accommodation needs. By not regularly requesting information from all clients, the ministry remains at risk of not having all of the information it needs to create an overall accommodation plan. This could result in decisions that are not cost-effective for the government.

On page 65 we recommend that the ministry identify the gap between its existing accommodation portfolio and future accommodation needs. Without knowing differences between its existing accommodation portfolio and its future accommodation needs, the ministry may not meet the accommodation needs of its client agencies in a cost-effective manner.

On page 66 we recommend that the ministry verify staffing information provided by its clients for the ministry's buildings. The ministry does not verify the full-time equivalent information reported to it overall or on a building-by-building basis. The ministry requires accurate information on client agency full-time equivalents to adequately plan to meet its space standard of 18.6 metres squared space per full-time equivalent.

On page 66 we recommend that the ministry develop an overall accommodation plan. The ministry needs to have an overall accommodation plan to help ensure it can effectively and efficiently meet all of its client needs.

On page 67 we recommend that the ministry monitor and report on implementation of an overall accommodation plan. Senior management should require regular status reports describing progress against an overall accommodation plan. The chapter also contains their follow-up on five recommendations, on pages 68 to 72, from a 2009 audit where we concluded that the ministry did not have adequate processes to maintain its buildings. These recommendations were previously agreed to by this committee.

The ministry has made progress on some of our past recommendations on its processes to maintain its buildings, but it has not yet fully implemented the recommendations. The ministry still has work to do. The consequences of not carrying out adequate building maintenance and repairs are loss of asset value, poor quality of working space, potential health and safety

problems, and the probability of higher repair costs in the future. And this concludes our comments on the chapter.

The Chair: — Thank you for that report, those recommendations. I'll turn it over to Deputy Minister Dedman to speak to those recommendations.

Mr. Dedman: — Thank you, Mr. Chair. As noted, the auditor provided six recommendations. The first recommendation was that the ministry needs to specify in its policy documents the requirements to prepare an overall accommodation plan, including a risk assessment. And in 2011-2012 the ministry completed accommodation planning and risk assessment policy and guidelines, and these have been implemented for 2012-13.

The auditor recommended that the ministry regularly request information from clients on their future accommodation needs. This fiscal year the ministry will implement a formal process to request future accommodation needs from client ministries. The information requested will focus on how current needs are being met, what changes are being considered, and the timelines for any changes.

The auditor's report also recommends the ministry identify the gap between its existing accommodation portfolio and future accommodation needs. During 2012-13, the ministry plans to implement a framework to identify the future space needs of clients and to reconcile the gap between the existing space allocations and future needs.

It was recommended that the ministry verify staffing information provided by its clients for the ministry's buildings. In the fourth quarter of 2011-12, the ministry implemented a formal process to request and verify FTE [full-time equivalent] staff information from General Revenue Fund clients for the office space portfolio. Each ministry client was asked to sign the form verifying the information was valid.

The auditor recommended that the ministry develop an overall accommodation plan, and monitor and report on implementation of an overall accommodation plan. The ministry agrees with this recommendation, and during 2012-13 the ministry plans to implement an overall accommodation plan. The plan will provide for a roll-up of all accommodation plans by office and program space, portfolios, and will include performance measures. The plans and performance measures will be presented to senior management. Those are response to the six recommendations.

The Chair: — Thank you for those answers. Actually it highlights some very important analysis I think that should guide the decisions of contracts that we're entering into as a province as it relates to our lease obligations. And I guess I just, I thank the auditor for putting a spotlight on this area to show what appears to be an absence of analysis that really provides the economic case for leases and contracts that government's entering into. I think it's probably fair to say that that's a fair expectation of all of us and some level of disappointment that that wasn't necessarily in place while entering into contracts in the past. And certainly not having this in place puts the public at risk of not having the most effective, efficient contracts and utilization of space.

So I heard on various fronts here that there's certainly agreement to work towards these goals. In some cases I heard a level of compliance. In other cases I heard progress in plans that'll occur in the forthcoming years or in the forthcoming year, I should say. That's good. And maybe . . . I don't know if other committee members have specific questions about how that's going to come together, timelines on those fronts.

I guess my question might be, certainly there's been new contracts entered into as far as agreements, some of which have been discussed in a more public light, one in Regina with a new office tower that's in place. What confidence does the ministry have that in entering into a fairly significant contract, as I understand for Government Services, that without having sort of the plans in place that we see, the absence of planning in place that we see here today, what confidence does the ministry have that its recent actions have been in the best interest of the public?

Mr. Dedman: — We have a couple of, well many issues that we deal with, with respect to finding appropriate space for government ministries. And because we are a very large renter of space, what is happening in the market can hold us, as a government, captive. So in Regina, for example, where there has been a very low vacancy rate, when it comes time to renegotiate a lease for a particular client, if there are no other vacant spaces available of the size of the particular tenant, we're held captive by the landlord. So I think what people will see is, through some of the actions that we have in working with landlords and working to help the market increase in the province, in the long term we will experience much better rates because there will be vacant space, and there will be competition for the space we go to lease.

The Chair: — Okay. So just explain that last bit of the comment there. Certainly we understand the market pressures. Certainly I think it reflects the need for an overall plan. But so is it the suggestion then that as policy of government or actions of government, have facilitated some increase of commercial or office space in Regina? Is that . . .

Mr. Dedman: — Well in the overall scheme of things, it's advantageous if there is competition in the market. So for the past few years, there's not been competition in the market, and we've seen really some significant rate increases. The building of the new office tower downtown generates over 200,000 square feet of space and there will be some significant blocks of space available in the market because of that building being built. And it will generate significant competition in the next 12 to 18 months.

The Chair: — So just in my understanding then, there's a policy direction that's been taken by your ministry then to create that space by entering into contract, long-term lease, with that specific project. So the contract itself isn't just about satisfying the needs of Government Services; it has a broader policy goal of creating more space in the Regina rental market, office rental market.

Mr. Dedman: — The needs of Government Services are to find ways to get competitive rates in the marketplace.

The Chair: — But we have no analysis. So it's important for us

to understand this. So is it that we're entering into that contract because we have square footage needs and that classification of space that we utilize, or is it because this is a mechanism to create more space on the market which may be a very viable and important pursuit as well? But those are two different policy pursuits all done at the same time, as it seems, that the auditor has clarified or brought to our attention that there isn't an understanding or a comprehensive plan on behalf of Government Services for space utilization. But it highlights from my perspective as a legislator certainly some concerns. And just seeking clarification as to the motivations, I guess, of actions of Government Services with that specific contract.

Mr. Dedman: — Well it's very difficult to say that there is only one issue at play for Government Services in this space, in acquiring space. What we do know is that we've experienced increases in rents of well over 50 per cent, and those are because we have no choice but to negotiate with the only landlords that hold the right amount of space.

The Chair: — Thank you. Now I guess in the . . . I see questions from committee members here right now, and I do see that we have an important event for us to attend to in just a few minutes here. I think this is going to be a chapter that we're going to need to follow up with at a later date just to go through the thorough analysis that we need to. I know if we had a little more time, we could certainly do so.

So I guess I would certainly thank officials for the answers that were provided to my questions. I know there's other questions here right now, but you know, due to time maybe I would welcome a motion of adjournment at this point in time.

Mr. Michelson: — How long will it take us to go through these?

The Chair: — We have two minutes, and I certainly don't have a desire to see some of these considerations rushed anyways. I know Mr. Tochor has either a motion or a question too.

Mr. Tochor: — No, I have a question. But how many motions are we on here? We have four . . .

Mr. Hart: — There's six recommendations.

The Chair: — And I apologize. I know there's many, many questions that exist there. And if, Mr. Tochor, if we can keep note of it and when we come back to these considerations, we can follow up with them. And I appreciate that very much as well.

Mr. Moe: — I'll make a motion to adjourn.

The Chair: — Mr. Deputy Chair Moe makes a motion to adjourn. All in favour?

Some Hon. Members: — Agreed.

The Chair: — This committee's now adjourned. Oh, I didn't provide the usual thanks that we have to officials. But thank you for coming before us.

[The committee adjourned at 10:28.]