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Chapter 1

Introductory Comments

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Introductory Comments

Overview

1.1 In this volume of our 2009 Report, we are reporting on four projects: our audit of provincial testing of students in the Anglophone education sector; our analysis of the Department of Environment's Environmental Trust Fund; our audit of the Province's governance structure related to the New Brunswick Innovation Foundation, and our review of the Province's contract with Shannex Inc. for nursing home beds. We have also included in this volume our follow-up work on some of the recommendations we made in prior years.

1.2 While this report contains four projects, each of those projects was narrowly scoped. This is a result of our recent budget constraints which make it difficult for us to examine large or complex government programs.

1.3 Our objectives in our audit of provincial testing of students in the Anglophone education sector were to assess the Department of Education's strategic direction and the process for administering its provincial testing of students in the Anglophone sector.

1.4 In our analysis of the Environmental Trust Fund, we wanted to determine if the purpose of the fund is clear, if the fund is operating as intended and if its results are measured and reported.

1.5 Our objective in the audit of the Innovation Foundation was to assess whether the governance structures and practices established by Business New Brunswick in connection with the delivery of innovation funding through the New Brunswick Innovation Foundation ensure accountability and protection of the public interest.

1.6 In our review of the Province's contract with Shannex Inc. for nursing home beds, we wanted to find the answer to eight specific questions related to the tendering of the contract and to the contract itself.

1.7 Our follow-up work on recommendations we have made in the past once again indicates that government is slow to implement our recommendations.

Acknowledgements

1.8 I wish to acknowledge the hard work of the staff in the Office in completing this volume of our Report. I believe that each chapter in the Report contains information that is useful to the members of the Legislative Assembly.



Michael Ferguson, CA
Auditor General

Chapter 2

Department of Education

Provincial Testing of Students

Anglophone Sector

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Department of Education

Provincial Testing of Students

Anglophone Sector

Main points

2.1 The purpose of this chapter is to inform the Legislative Assembly about the work we did on provincial testing of students in the Anglophone sector, by the Department of Education. This section highlights significant observations and summarizes our work in two charts (Exhibits 2.1 & 2.2).

Highlights

2.2 Some of our observations and comments include the following.

- Individual students' results on provincial tests are reported to the school; however, they are not included in the student's mark, and they are not reported to the parent/guardian.
- Some districts and some schools do testing that is similar to provincial testing, which is not incorporated into the student's mark. The Department is not monitoring to ensure all the testing is needed, and there is no integration of the testing for efficiency - to ensure the appropriate party is doing appropriate testing. Students could be writing too many tests.
- We examined the provincial testing schedule and while we found most of the schedule to be consistent with the education plan, we observed some inconsistencies and risks.
- The Department has a good process for marking provincial tests.
- While the Department administers many provincial tests, there are no documented policies and limited procedures to protect the integrity of the data and the quality of the information generated. Without documented policies and procedures with adequate

monitoring, the quality and reliability of the information gathered through provincial testing is at risk. The Department could be gathering and using bad information. While the Department has guidelines, we saw evidence that schools were not always following them when the provincial test was written.

- The results from provincial testing show that the percentage of students meeting the proficiency standards for literacy has increased since 2004; during the same time, the percentage of students meeting the proficiency standards for math has decreased. The Department should take care to ensure that improvements in performance in one area do not come at the expense of declines in performance in any other subject area. (The results from national and international testing show New Brunswick students achieving at levels below their peers from across Canada.)
- We believe that different purposes for provincial testing would result in different testing and reporting strategies. For example, if the purpose for provincial testing is to serve as a system check (“to keep the public informed about the educational system’s general health”), then a sample of students could be tested, which would likely have less cost and be less disruptive to learning time. However, if the purpose for provincial testing is to measure individual students’ achievement, then the results should be included in the student’s mark and reported to the parent or guardian.
- Although the Department has been doing provincial testing for over thirty years, it has not yet completed a strategic plan for provincial testing. The Department provided us with a draft document labeled *Assessment Framework* and evidence that the Department has been working on it over the past four years. The Department informed us that it was in the process of finalizing the *Assessment Framework*.
- The Minister’s advisory committee, which is required by legislation, was inactive from 2004 until March 2009.
- One of the provincial tests is a graduation requirement – the ELPA (English Language Proficiency Assessment). It tests for appropriate achievement of grade 8 literacy standards. The test is given to students in grade 9. Students not successful on the test

can rewrite it in grades 10, 11 and 12. Policy 316 “*Graduation Requirements*” provides a comprehensive listing of requirements necessary for a student’s graduation, which includes the ELPA. We are surprised that the Department expects only a grade 8 literacy level as one of its requirements for high-school graduation.

- In 2008, 43% of grade 9 students (and 62% of the repeat writers in grades 10-12) failed the reading component of the ELPA. Thirty-three percent (33%) of grade 9 students and 42% of the repeat writers failed the writing component.
- In October 2008, eighty-seven schools had students who wrote the grade 7 provincial test in English literacy, which tested for appropriate achievement of grade 6 standards. The provincial target is that 85% of students reach or exceed appropriate achievement. Only two of the eighty-seven schools met the target.
- With its *Accountability Report 2008*¹, we are pleased to see that the Department has made progress in performance reporting. The Department has performance indicators with targets, and is measuring and publicly reporting actual performance in comparison to the targets. Despite actual performance figures being low when compared to targeted performance on provincial tests, the Department is demonstrating accountability by reporting performance.

2.3 Despite the above observations, we commend the *Assessment and Evaluation* branch within the Department of Education for the work they do. We observed dedicated staff members doing a large volume of work and noted the following.

- With limited resources, the *Assessment and Evaluation* branch administers a large number of provincial tests, which has been increasing since 2005-06. With the Province’s French Immersion program, a literacy test may require the preparation of two different tests, one for the English program and a second for the French Immersion program.

1. Province of New Brunswick, *An Accountability Report on the targets of When kids come first 2008*, March 2009.

- Recently, the branch has started doing additional analysis of the results of the provincial tests. The information provided to the Department and the districts appears very useful.
- In December 2008, after a two-year recess from publicly reporting school results of provincial testing, the branch generated school report cards that each student took home to parents or guardians and that are available to the public on the Department's web site.

What we found

2.4 Our observations, conclusion and recommendations for each of our two objectives are summarized in Exhibits 2.1 & 2.2.

Exhibit 2.1 Strategic direction for provincial testing

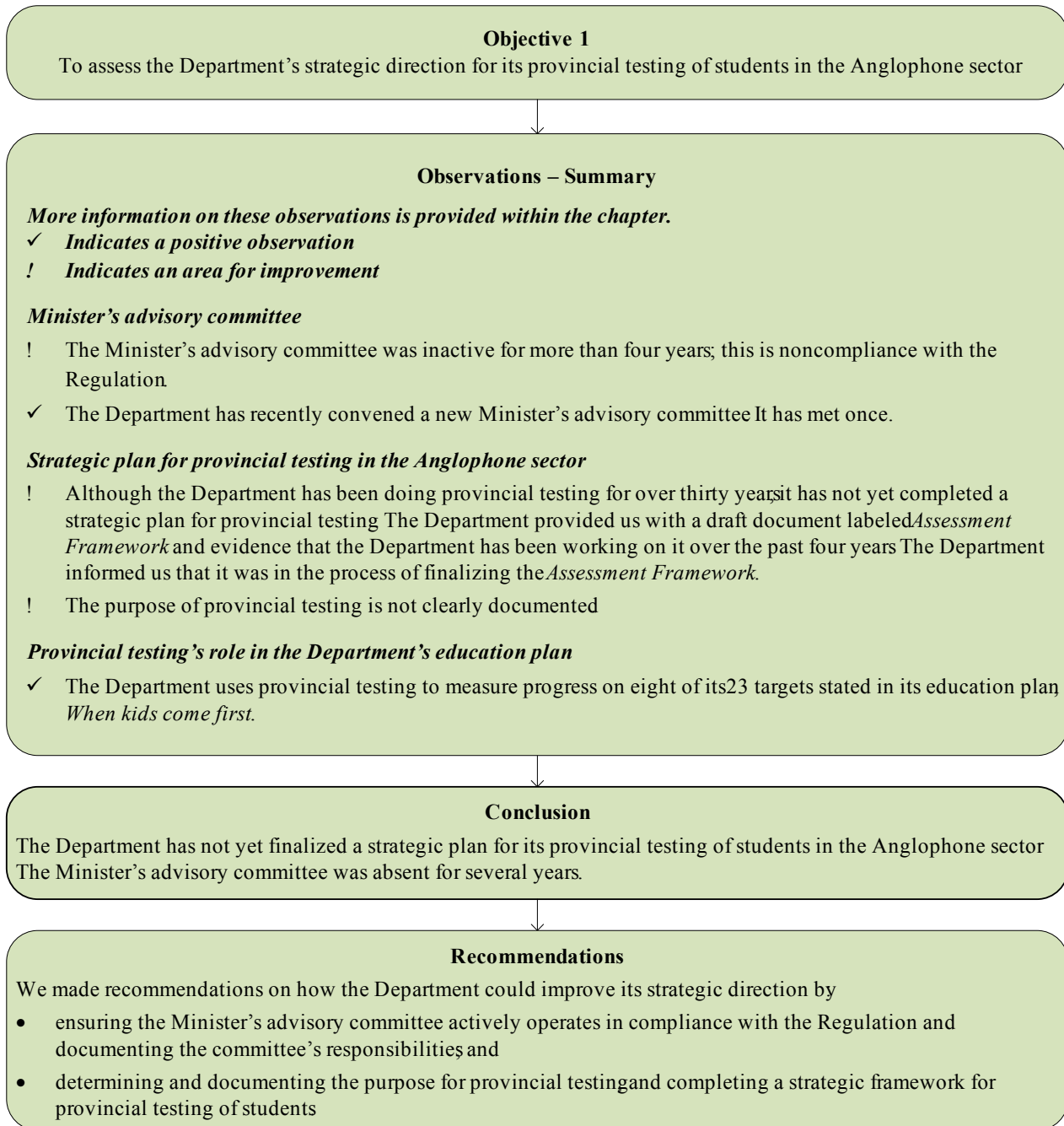
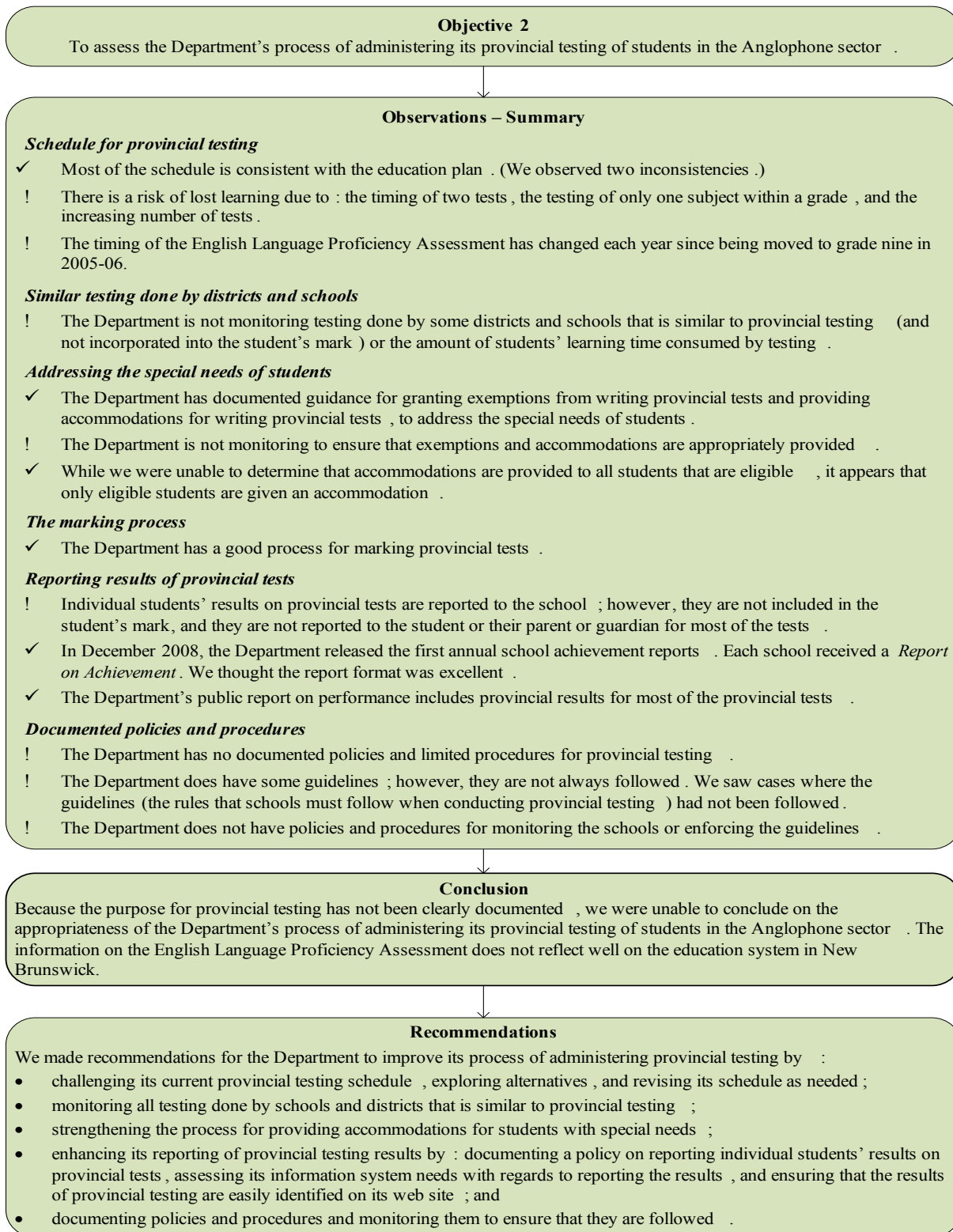


Exhibit 2.2 Administration of provincial testing



Introduction and background information

Overview of the chapter's layout and content

2.5 The purpose of this section is to give an overview of the chapter's layout; present the objectives of our work; and provide background information on the public school system in New Brunswick.

2.6 The purpose of this chapter is to inform the Legislative Assembly about the work we did on provincial testing of students in the Anglophone sector. We began with a section which summarized main points. This section provides background information on the public school system in New Brunswick and the *Assessment and Evaluation* branch of the Department of Education, which is responsible for administering provincial testing for Anglophone educational services in New Brunswick. Next, we present our observations and recommendations relating to the Department's strategic direction for provincial testing of students. The following section presents our observations and recommendations relating to the Department's process of administering its provincial testing of students. The appendix shows the recommendations that we made to the Department, along with the Department's response to the recommendations.

2.7 This chapter identifies issues that require the Department's attention and areas where improvement is needed to protect the quality of information obtained by provincial testing in the Anglophone sector. We include some of the results of students' performance on provincial tests. Our report also includes references to the province of Alberta. (Alberta's vision for education is stated as, "*The best Kindergarten to Grade 12 education system in the world.*"¹ And, the results of national and international testing of students show that Alberta is a leader in education, both within Canada and internationally.)

What we examined and the objectives of our work

2.8 *Assessment and Evaluation* is a branch within the Department. The branch is responsible for developing and conducting the provincial testing program.

2.9 Provincial tests are prepared by the Department for several grade levels and various subjects. The results from provincial tests are reported to schools, districts, parents/guardians and the public in varying levels of detail.

1. Province of Alberta, *Alberta Education 2008-2011 Business Plan*, page 2

2.10 We began our work during 2008 and reported our findings to the Department in July 2009. The objectives of our work were:

- *to assess the Department's strategic direction for its provincial testing of students in the Anglophone sector; and*
- *to assess the Department's process of administering its provincial testing of students in the Anglophone sector.*

**The public school system
in New Brunswick**
*Organization of the school
system*

2.11 The Department describes the organization of the school system as follows.

Since 1967, the provincial government has had sole responsibility for financing public schools and is committed to equal opportunity for all students. The Minister of Education prescribes curriculum and establishes educational goals and standards.

Serving Canada's only officially bilingual province, New Brunswick's education system offers students the opportunity to learn in both French and English through two parallel but separate education systems. Each linguistic sector of the Department of Education is responsible for its own curriculum and assessment.

The public education system has 14 school districts -- five French and nine English. District Education Councils (DECs), consisting of publicly and locally elected members, are responsible for establishing the direction and priorities for the school district and for making decisions as to how the districts and schools are operated.¹

**Mission statement, budget
and statistics**

2.12 The Department's mission statement for New Brunswick schools is, "*To have each student develop the attributes needed to be a lifelong learner, to achieve personal fulfillment and to contribute to a productive, just and democratic society.*"²

-
1. Government of New Brunswick web site, Department of Education – *About us.*
 2. *Ibid*

2.13 The Department of Education has an annual budget of \$963.1 million for 2009-2010 (\$941.6 million for 2008-2009)¹.

2.14 Statistics for each sector are shown in box 1.

1		Anglophone	Francophone
Students	108,407	77,288 (58,630 English) (18,658 French Immersion)	31,119
Schools	326	228	98
Districts	14	9	5
Source: Department of Education, <i>Summary Statistics - School Year 2008-2009</i> , pages 3 & 16. (Numbers were not audited.)			

When kids come first (WKCF) – the Department’s education plan

2.15 In June 2007, the Department released *When kids come first*, its plan for public education in New Brunswick. The Department describes the government’s education strategy as follows, “*When kids come first, our five-year framework for increasing student learning and academic performance is an ambitious plan. It is based on the vision that we can build the best education system in Canada, an integral component of our self-sufficiency agenda.*”²

2.16 The five-year plan has three goals (box 2), eight commitments, 142 actions and 23 targets to be achieved by 2013.

2	Goals of <i>When kids come first</i>
<p>In <i>When kids come first</i>, we have identified the three fundamental goals we need to achieve if we are to realize our vision of having the best education system in Canada. These goals recognize and reflect the three fundamental stages our kids will pass through on their journey into and through the K–12 education system.</p> <ol style="list-style-type: none"> 1. Every child will arrive at kindergarten ready to learn. 2. Every child will leave Grade 5 having mastered the tools to learn – reading, writing and numeracy. 3. Every child will graduate from high school having had the opportunity to discover his or her personal strengths and to find something he or she loves doing. 	
Source: <i>When kids come first</i> , June 2007, pages 8 & 9.	

1. Province of New Brunswick, *Main Estimates 2009-2010*, March 2009, page 41 and *Main Estimates 2008-2009*, March 2008.
2. Province of New Brunswick, *A Benchmark Report on the targets of When kids come first - 2007*, December 2007, page 3.

Assessment and Evaluation branch

Who is responsible for provincial testing? (mandate and description)

2.17 For more information on the school system in New Brunswick, see the Department's web site: www.gnb.ca/0000/.

2.18 This section presents information on the *Assessment and Evaluation* branch for the Anglophone sector of the Department. It states the mandate for the branch and provides a brief description, discusses the provincial testing schedule and gives some general information on provincial testing.

2.19 Responsibilities for provincial testing are assigned to the Minister of the Department, the principal of each school and the "provincial testing and evaluation advisory committees" in sections 37 & 38 of the *School Administration Regulation - Education Act*.

2.20 *Assessment and Evaluation* is a branch within the Anglophone Educational Services division of the Department. The branch is responsible for developing and conducting provincial testing programs at both elementary and secondary school levels. The mandate of the branch is stated as follows, "*The Evaluation Branch is responsible for monitoring student achievement for the purposes of public accountability and improving teaching and learning.*"¹

2.21 The branch began in 1975. A task force in 1975 did "*a study of Provincial Testing and Evaluation Needs in the Province of New Brunswick.*" ("*Until 1972 the Department of Education administered High School leaving examinations. At that time, the Province entered into a four-year contract with Educational Testing Service, Princeton, New Jersey to provide tests based on the NB curriculum in nine subject areas. Writing the tests was on a voluntary basis.*"²)

2.22 In addition to the provincial testing done by the Department, the branch is also responsible for administering the national and international tests in which New Brunswick participates (see boxes 4 and 5). National and international tests provide measures of how New Brunswick students perform in relation to the rest of Canada, as well as other industrialized nations.

Provincial testing schedule – grade level and topic

2.23 Provincial testing in the Anglophone sector is done at each of the three school levels: elementary, middle and high school.

1. Government of New Brunswick web site, Department of Education – *Mandate – Assessment and Evaluation*.

2. Province of New Brunswick, *Report - Task Force on Provincial Testing and Evaluation*, August 1976, page 6.

Provincial tests are conducted on language arts (reading and writing) and mathematics. A provincial test on science is being piloted. In 2008-09 students wrote provincial tests at several grade levels for various subjects as listed here.

- Kindergarten - Teacher's School Readiness Inventory
- Grade 2 literacy
- Grade 4 literacy
- Grade 5 mathematics
- Grade 6 science (pilot)
- Grade 7 English literacy
- Grade 8 mathematics
- Grade 9 English Language Proficiency Assessment and Reassessments (ELPA). (Reassessments are written at the same time for students in grades 10, 11 and 12 who have yet to be successful. Success on the ELPA is a requirement for graduation with a New Brunswick high school diploma.)
- Grade 10 French oral proficiency
- Grade 10 French literacy
- Grade 12 French oral proficiency
- “off year” for national and international assessments (NB students participated in the national assessment in 2007 and will participate in the international test in 2009.)

General information on provincial testing

3	General information on provincial testing - Anglophone sector
<p>Do all students take part? Almost all students attending public schools participate. Those in the English program are tested in English; students in French Immersion do their test in French. Students whose Special Education Plans justify their not participating may be excused from or do only part of the test.</p> <p>What is a provincial test like? For literacy tests, students are presented several short passages at reading levels appropriate to the grade. After each reading, they answer questions to assess their understanding of the passage. As well, students are asked to produce a short piece of writing.</p> <p>How long does a provincial test take? The duration of the test is different for different subjects and also for different grade levels. Literacy tests usually have three parts, which are often conducted over three days. The grade 5 math test takes two 45-minute sessions.</p> <p>Who marks the students' work? The Department of Education conducts a marking session. Teachers, principals and district-office staff are invited to participate.</p> <p>How are results reported? Within a few months, results are produced showing how well students performed. Districts and schools are provided provincial, district and school level information, as well as individual student results. While the Department prepares individual student results, they are not provided to the parents. In December 2008, after a two-year recess, the Department publicly reported each school's results on all provincial tests.</p>	
<p>Source: <i>Information Bulletins for Parents and Guardians</i></p>	

2.24 For more information on the *Assessment and Evaluation* branch, see the Department's web site: www.gnb.ca/0000/.

4

National Assessment: PCAP

PCAP - The Pan-Canadian Assessment Program

The Pan-Canadian Assessment Program (PCAP) is the most recent commitment from CMEC to inform Canadians about how well their education systems are meeting the needs of students and society. The information gathered in these cyclical tests of student achievement in mathematics, reading, and science provides the provinces and territories with a basis for examining their curriculum and improving their assessment tools. As school programs differ from one part of the country to another, making comparisons of results is complex; however, these tests help determine whether students across Canada reach similar levels of performance at about the same time in their schooling.

School Achievement Indicators Program

The first PCAP assessment took place in 2007. Prior to this, the School Achievement Indicators Program (SAIP) had been in place since 1993. The provinces and territories, through CMEC, developed SAIP to assess the performance of 13- and 16-year-old students. Between 1993 and 2004, SAIP assessments were conducted nine times – so that each of the core subjects of mathematics, reading and writing, and science was tested three times. The tests were given to a random sample of students and were conducted in French and English.

PCAP Results

Sample sizes have permitted results to be calculated at both a pan-Canadian and jurisdictional level. PCAP, and SAIP before it, is not intended to replace provincial and territorial assessments, but rather to complement them. Given the random sampling and the nature of the PCAP assessment, it is also not a measure of individual student achievement. On a program level, jurisdictions can validate the results of their own assessments against PCAP results as well as those of the Programme for International Student Assessment (PISA).

Source: CMEC (Council of Ministers of Education, Canada) web site, programs & initiatives, assessment, Pan-Canadian Assessment Program

5	International Assessment: PISA
<p>PISA — Programme for International Student Assessment</p> <p>PISA is a collaborative effort on the part of the member countries of the OECD (Organisation for Economic Co-operation and Development) to measure how well 15-year-olds are prepared to meet the challenges of today's knowledge societies. Over 40 countries, including Canada, and more than a quarter of a million students participate in this international assessment that occurs every three years. PISA assesses three domains: reading literacy, mathematical literacy, and scientific literacy.</p> <p>How PISA Works</p> <p>A sample of 15-year-old students is randomly chosen from selected schools in each country for the PISA assessment. PISA is a two-hour pen-and-paper assessment with both multiple-choice questions and questions requiring students to construct their own answers. Students and principals also complete a questionnaire. Each assessment examines one domain in depth, and the other two domains provide a summary profile of skills. Reading literacy was examined in depth in 2000, mathematical literacy was examined in depth in 2003, scientific literacy in 2006. In 2009, Reading literacy will again be the main domain.</p> <p>Canadian Context</p> <p>Approximately 22,000 15-year-old students from more than 1000 schools across Canada took part in the 2006 administration of PISA. A large Canadian sample was drawn so that information could be provided at both national and provincial levels. Canadian students performed well in the global context, ranking fourth in reading, seventh in math, and third in science. The performance of the students in the Atlantic provinces was above the international average, but well below the Canadian average.</p>	
<p>Source: Preparing Students for PISA - Mathematical Literacy - Teacher's Handbook, page 3.</p>	

Objective 1 - Strategic direction for provincial testing of students

2.25 The purpose of this section is to provide additional information on the observations shown in the chart presented earlier for objective 1.

2.26 The objective was:

to assess the Department's strategic direction for its provincial testing of students in the Anglophone sector.

2.27 We comment on the following:

- the Minister's advisory committee;
- a strategic plan for provincial testing in the Anglophone sector; and
- provincial testing's role in the Department's education plan.

The Minister's advisory committee

The Minister's advisory committee is required by legislation

2.28 Section 38 of the *School Administration Regulation - Education Act* states the requirement of a provincial testing and evaluation advisory committee to the Minister, for “*the purposes of consultation, advice, liaison and communication with respect to the provincial testing and evaluation programs*”. It also states that the committee is to have eleven members who meet at least annually. Committee members are to serve a two-year appointment and may be reappointed.

The committee was inactive for more than four years

2.29 At the beginning of our work, the Department informed us that the *Minister's Advisory Committee on Testing and Evaluation* (MACTE) had existed in the past, but did not exist at the time we started our work. The Department planned to reconvene the committee.

2.30 The Department provided documentation (minutes of meetings and correspondence with members) demonstrating the following.

- The *Minister's Advisory Committee on Testing and Evaluation* was inactive from 2004 until March 2009. The Department is not complying with legislation if it operates without an active provincial testing and evaluation advisory committee to the Minister.
- The committee was active from November 1999 to June 2004.
- The committee had twelve members in 1999, only nine members in 2001-2002, and ten members appointed for 2003-2005.
- The committee expressed concern regarding their influence, i.e. their role and their recommendations to the Minister.

The committee has been reconvened

2.31 The Department told us the committee has been reconvened and provided documentation from its first meeting on March 30th, 2009.

Conclusion

2.32 The Department is not complying with legislation unless the Minister's advisory committee is active.

Recommendations

2.33 **The Department should ensure the Minister's advisory committee actively operates in compliance with legislation. The representation on the Minister's advisory committee and the**

frequency of its meetings should allow the advisory committee to serve its purpose.

2.34 The Department should document clearly the committee's terms of reference, which should include its role and responsibilities.

2.35 The Department should develop an orientation program for new committee members.

Strategic plan for provincial testing in the Anglophone sector
The importance of a strategic plan

2.36 Strategic planning results in a clear purpose with goals and priorities for a program. It also identifies the type of information that must be gathered in order to assess the achievement of the program's purpose. A strategic plan also identifies risks and the actions needed to minimize or prevent key risks. A good plan also includes a process for reviewing and amending the plan.

2.37 Once a strategic plan is prepared and implemented, it is important to monitor operations to ensure the plan is followed.

Strategic plan for provincial testing has not been completed

2.38 The branch responsible for provincial testing has been operating since 1975. The description of the Evaluation Program Component in the 2009-2010 *Main Estimates* says that the purpose is to "develop and administer a provincial comprehensive policy on educational evaluation." This statement has been repeated in the *Main Estimates* each year since 1992-93, and perhaps earlier.

2.39 The Department has recently committed to completing an *Assessment Policy Framework*. The document called *When kids come first* (June 2007) included the following action step, "Work with education partners to develop an Assessment Policy Framework that clearly articulates what is tested, why and how, and that ensures provincial testing reflects critical thinking and problem-solving skills." This action step was to be implemented in phase 1 of *When kids come first*, which covered the first two years of the plan.

2.40 We also saw evidence suggesting that the Department has been working on developing a provincial testing plan over the past four years.

- A report dated April 2005 called *Believing in Achieving 2005* included the following statement, "The provincial assessment program in the anglophone sector is being revised... These revisions will be finalized within the next year."

- We reviewed a document dated May 2006 titled, “*A Framework for Improving Student Learning – Anglophone Sector (Revised Draft) – A Discussion Paper – Prepared for the N.B. Department of Education by Stevenson & Cooper*”. This report included a proposed policy, guidelines and recommendations for the provincial assessment program and for improvement planning.
- The Department provided us with a draft document labeled *Assessment Framework* and informed us that it was in the process of finalizing the document.

2.41 The history of provincial testing indicates to us that the Department has placed more importance on testing in recent years. While the Department has been working towards putting in place a framework, the Department has not yet completed it.

Recommendation

2.42 **With the assistance of the Minister’s advisory committee, the Department should complete its strategic framework for provincial testing of students.**

Purpose of provincial testing

2.43 The Department’s *Annual Report* states the following for the *Assessment and Evaluation* branch.

The responsibilities within Assessment and Evaluation include monitoring student achievement through provincial examinations and monitoring school effectiveness through a school review process. The objective of both is to improve teaching and learning and to keep the public informed about the educational system’s general health. Provincial assessments function as a reasonable and cost-effective gauge of an individual student’s or school’s overall achievement.¹

2.44 This information was out of date when published (the school review process was no longer done by the branch), and the objective statement does not clearly articulate the purpose of provincial testing of students. In comparison, in Alberta the purpose of provincial testing is clearly stated as follows.

The purpose of the Achievement Testing Program is to

1. Province of New Brunswick, *2007-2008 Annual Report - Department of Education*, February 2009, page 6.

- determine if students are learning what they are expected to learn
- report to Albertans how well students have achieved provincial standards at given points in their schooling;
- assist schools, authorities, and the province in monitoring and improving student learning.¹

2.45 The draft *Assessment Framework* the Department showed us includes a purpose statement that is similar to Alberta's statement. Part of the process to finalize the framework would include getting input from the Minister's advisory committee on the proposed purpose statement. We believe that the Department needs to finalize the purpose of provincial testing, because it will help to ensure that testing is carried out in the most effective way.

2.46 We believe that different purposes for provincial testing would result in different testing and reporting strategies. For example, if the purpose for provincial testing is to serve as a system check ("*to keep the public informed about the educational system's general health*"), then a sample of students could be tested, which would likely have less cost and be less disruptive to learning time. However, if the purpose for provincial testing is to measure individual students' achievement, then the results should be included in the student's mark and reported to the parent or guardian.

Conclusion

2.47 The Department has not finalized its strategic plan for provincial testing. While the Department has been working on an *Assessment Framework*, it needs to receive input from the Minister's advisory committee on the draft framework, and then finish and adopt the resulting framework. It is important that the final framework include a clear statement of purpose for provincial testing.

Recommendation

2.48 **With the assistance of the Minister's advisory committee, the Department should determine and document its purpose for provincial testing.**

Provincial testing's role in the Department's education plan

2.49 Strategic direction for the Department's work is documented in *When kids come first*, which states the Department's vision, goals, commitments, targets and action steps.

1. Government of Alberta web site, *General Information Bulletin - Introduction to the Achievement Testing Program*, August 2007, page 1.

2.50 “To help measure the progress of *When Kids Come First*, ...23 targets, linked to the eight commitments, are used to determine whether the education and school systems are improving relative to their current status . . .”¹ The Department uses provincial testing to measure progress on eight of its targets, as shown in box 6.

2.51 We noted an inconsistency between one of the Department’s goals and two of its targets. Goal #2 states, “*Every child will leave Grade 5 having mastered the tools to learn – reading, writing and numeracy.*”² However, targets #4 and #5, state “90% of kids”.

6	Some of the 23 targets stated in <i>When kids come first</i>
	Target #1 - All kids come to kindergarten school-ready.
	Target #4 - 90% of kids reach the reading standard at Grade 2 and again at Grade 4; 20% exceed it.
	Target #5 - 90% of kids reach the numeracy standard at Grade 3 and again at Grade 5; 20% exceed it.
	Target #6 - 85% of students reach or exceed the standard in Grades 6-12 on provincial assessments of literacy, numeracy and science.
	Target #7 - The top 20% of New Brunswick students on literacy, numeracy and science assessments achieve at a level comparable with their peers in Canada’s top three provinces.
	Target #8 - 70% of high school graduates are able to function effectively in speaking their second official language.
	Target #9 - NB ranks among the top three in the country on national and international assessments in literacy, numeracy and science.
	Target #12 - First Nations students achieve at levels comparable with their peers on provincial assessments.
	Note – “provincial assessments” is another term for provincial testing.
	Source: <i>When kids come first</i> , June 2007, page 29.

Objective 2 – Process of administering provincial testing of students

2.52 The purpose of this section is to provide additional information on the observations shown in the chart presented earlier for objective 2.

2.53 The objective was:

to assess the Department’s process of administering its provincial testing of students in the Anglophone sector.

1. Communications New Brunswick - News Release, Education - *New vision for public education in New Brunswick*, June 2007.
2. Province of New Brunswick, *When kids come first*, June 2007, page 9.

2.54 We comment on the following:

- the schedule for provincial testing;
- similar testing done by districts and schools;
- addressing the special needs of students;
- the marking process;
- reporting results of provincial tests;
- documented policies and procedures; and
- the English Language Proficiency Assessment (ELPA).

Observations on the schedule for provincial testing in the Anglophone sector

Inconsistencies between the provincial testing schedule and the Department's education plan

2.55 The schedule for provincial testing in the Anglophone sector is presented in box 7. It shows that literacy is tested four different times, at grades 2, 4, 7 and 9. It shows that math is tested two different times, at grades 5 and 8. It shows that provincial testing in science at grade 6 is in its third year as a pilot.

2.56 Provincial tests provide information for measuring progress towards attaining specific targets stated in the Department's education plan (WKCF). While we found most of the schedule to be consistent with the education plan, we observed the following inconsistencies.

- WKCF states eight commitments. The second commitment states, *"To Work Urgently on Literacy, Numeracy and Science - Reading, writing, math and science concepts are the tools for learning. We will set high standards for students to master these skills by Grade 5 and improve them throughout higher grades. ..."* While the education plan indicates mastering science by grade 5, the schedule for provincial testing (box 7) shows that there is no provincial testing in science before grade 6. (Prior to 2002-03, science was tested at both grades 3 and 5.)
- The fifth target in WKCF states, *"90% of kids reach the numeracy standard at Grade 3 and again at Grade 5; 20% exceed it."* The schedule for provincial testing shows that there is no provincial testing in numeracy at grade 3. However, the education plan states an action of adding provincial testing in numeracy at grade 3 within two years, which would be June 2009.

7 Provincial testing schedule in the Anglophone sector				
Grade	Subject	Origin (Note 1)	WKCF target?	School results reported to parents/guardians?
Kinder- garten	Teacher's School Readiness Inventory	2005-06	Yes #1	No
2	literacy	2003-04	Yes #4	Yes
4	literacy	2005-06	Yes #4	Yes
5	mathematics	Before 2001	Yes #5	Yes
6	science (pilot)	2006-07	Yes #6	No
7	literacy	2005-06	Yes #6	Yes
8	mathematics	Before 2001	Yes #6	Yes
		Format change in 2003-04		
9	English language proficiency (literacy)	See note 2 below	Yes #6	Yes
		Change in grade 2005-06		
10	French oral proficiency	2005-06	Yes #8	No
		See note 3 below		
10	French literacy (French Immersion)	2006-07	Yes #6	No
12	French oral proficiency	Over 25 years in use	Yes #8	No
Age 13	National (PCAP)	1993	Yes #9	No
	See note 4 below			
Age 15	International (PISA)	2000-01	Yes #9	No
	See note 4 below			
Notes				
1. "Origin" refers to the school year in which the provincial test was done for the first time.				
2. English Language Proficiency was done at grade 8 when it began in the mid 1990s until 2004. Starting in 2005-06, it was written in grade 9.				
3. "Every second year, a random sample of all grade 10 students, including those in Core French and in Immersion programs, is selected for this evaluation."				
4. National and international testing does not occur each year. A random sample of students is selected for testing. In New Brunswick in 2006, approximately 1,800 students from 45 schools wrote the PISA and in 2007 approximately 2,800 students from 113 schools wrote the PCAP.				
5. Approximately 5,300 students participate in each provincial test at the elementary school level and 6,000 students at the middle school level. In 2007-08, approximately 12,000 students wrote the English language proficiency test and approximately 1,500 students wrote the French oral proficiency test.				
6. When school results are reported to parents, they are also available on the Department's web site.				
7. Student results are reported to the parent or guardian for the following tests: English language proficiency and French oral language proficiency.				
Source: Information provided by the Department (Dates were not audited.)				

There is a risk of lost learning due to the timing of two tests.

2.57 Most of the provincial tests are written by students at the end of the school year, often in early June. This seems to be an appropriate time given that the test measures the achievement standards for the end of a grade. For example, the grade 2 provincial literacy test measures the achievement of literacy standards for the end of grade 2.

2.58 We note two tests are not written at the end of the school year. The grade 7 English literacy provincial test is usually written in October of grade 7 and measures the achievement of literacy standards for the end of grade 6. The grade 9 English language proficiency test is usually written in January of grade 9 and measures the achievement of literacy standards for the end of grade 8. It is possible, and we believe it is likely, that teachers review information to help students prepare for tests. When provincial tests are not written in the grade consistent to the achievement standards being tested, teachers may review the previous year's information rather than teaching the current year's curriculum.

There is a risk of lost learning due to provincial testing of only one subject within a grade.

2.59 When provincial testing addresses only one subject at a specific grade level, as opposed to several subjects in the grade's curriculum, there is a risk of teachers, "*reassigning instructional time from subjects that are not being tested provincially.*"¹

2.60 The schedule for provincial testing shows that only one subject is tested at a grade level. Prior to 2002-03, this was not the case; provincial tests at grades 3 and 5 were done in English reading, math and science. In 2002-03, the schedule was similar except for the elimination of testing science at grade 3. In 2003-04, the schedule for provincial testing changed to testing only one subject at a specific grade level; testing literacy at grade 2 and testing math at grade 5. In 2005-06, testing literacy began at grade 4 and at grade 7.

2.61 Box 8 shows that the percentage of students meeting the proficiency standards for literacy has increased since 2004. It also shows that during the same time, the percentage of students meeting the proficiency standards for math has decreased. We note that there is provincial testing in literacy two times (at grades 2 and 4), before the first provincial test in math (at grade 5). We are unable to comment on the change in performance since 2004 for other subjects, such as science or social studies, because there is no provincial testing of them in New Brunswick. While it is acceptable to focus

1. *NBTA Position Paper on External Assessments*, May 2007, page 4.

improvement efforts, care must be taken to ensure that improvements in performance in one area do not come at the expense of declines in performance in any other area.

8 Percentage of students meeting the proficiency standards			
Subject	2008	2004	% increase or decrease
Reading Grade 2			
<i>French Immersion</i>	83%	63%	Up 20%
<i>English</i>	76%	59%	Up 17%
Reading Grade 4			
2005-06 = 1 st year			
<i>French Immersion</i>	76%	63%	Up 13%
<i>English</i>	75%	70%	Up 5%
English Literacy Grade 7			
2005-06 = 1st year			
<i>Reading</i>	66%	61%	Up 5%
<i>Writing</i>	47%	43%	Up 4%
Math Grade 5	65%	67%	Down 2%
Math Grade 8	57%	61%	Down 4%
Source: Unaudited figures from information provided by the Department			

2.62 We also observed that the provincial testing schedule for the Anglophone sector in New Brunswick is different from most of the other provinces. (The Department provided us with information on the provincial testing programs in the other Canadian provinces.) Most provinces, including Alberta, do provincial testing of more than one subject within a grade.

2.63 Box 9 shows the provincial testing schedules for New Brunswick and Alberta. It portrays single-subject testing in New Brunswick and provincial testing of multiple subjects in Alberta. We question why the Department does provincial testing of only one subject at a specific grade level, which has the risk of teachers focusing on the subject having a provincial test rather than the entire curriculum for the grade.

9	Provincial testing schedules for New Brunswick and Alberta												
	K	1	2	3	4	5	6	7	8	9	10	11	12
New Brunswick (Anglophone sector)													
School Readiness Inventory	✓												
Literacy			✓		✓			✓		✱	FL		
Mathematics						✓			✓				
Science							P						
French 2nd Language Oral Proficiency											✓		✓
Alberta													
English Language Arts				✓			✓			✓			
Mathematics				✓			✓			✓			
Science							✓			✓			
Social Studies							✓			✓			
French Language Arts				F			F			F			
P = pilot ✱ = English language proficiency test (success on this test is a graduation requirement) FL = French language arts (reading and writing) for French Immersion students only. F = Students in French Immersion													
Source: New Brunswick – information provided by the Department; Alberta – Government of Alberta web site - <i>General Information Bulletin - Introduction to the Achievement Testing</i>													

There is a risk of lost learning due to the increasing number of tests.

2.64 Within the past four years the number of provincial tests written by students in the Anglophone sector has doubled; it has gone from five to eleven. And, the Department plans to add at least one more provincial test.

- The number of provincial tests conducted in the 2007-08 academic year was eleven; see box 7.
- The number of provincial tests conducted in the 2003-04 academic year was five. They were: grade 2 literacy, grade 5 math, grade 8 math, the middle level English Language Proficiency Assessment (ELPA), and grade 12 French second language oral proficiency.

- The Department plans to add a test for numeracy in Grade 3, as stated in the Department's education plan, *When kids come first*.
- According to the *Charter for Change*, the government will "reinstate Provincial Achievement Examinations to ensure all students are learning the essential skills."¹

2.65 Each provincial test has a cost, not only a financial cost to the Department for administering the test, but also a cost to the schools due to the consumption of valuable learning time and due to stress on students.

The provincial testing schedule has been increasing, which has disadvantages

2.66 A stable provincial testing schedule allows for trend analysis over time, which can provide valuable information. Some of the provincial tests have been in place for many years, such as the grade 8 math test and the French oral proficiency test. However in general, the provincial testing schedule has been increasing, as demonstrated by box 7. Box 7 also indicates that the ELPA changed from grade 8 to grade 9 in 2005-06. It is typical that once the timing of a provincial test is set, it is written during the same month each year. However, the timing of the ELPA is unstable; it has changed each year since being moved to grade 9 in 2005-06.

2.67 Valuable information from trend analysis is forfeited whenever the provincial testing schedule changes. There are other disadvantages that can occur. For example, a changing schedule can hurt operational planning, and it can create an impression of disorder.

Conclusion

2.68 The provincial testing schedule has the following weaknesses: it is not completely consistent with the education plan; there is a risk of lost learning due to: the timing of two tests, the testing of only one subject within a grade, and the increasing number of tests; and, the schedule is subject to change.

Recommendation

2.69 **In consultation with its stakeholders, the Department should challenge its current provincial testing schedule, explore alternatives for obtaining the information required to serve its purpose with the least disruption to the students' learning time, and revise its provincial testing schedule as needed.**

1. New Brunswick Liberal Party, *The Charter for Change*, September 2006, page 13.

Similar testing done by districts and schools

2.70 In addition to the tests prepared by the teacher that are used to generate a student's mark and the provincial tests that are done by the Department, students write other tests. We observed the following:

- Some districts and some schools do testing that is similar to provincial testing, which is not incorporated into the student's mark.
- The Department does not monitor which schools or districts are conducting other tests or how many are done.
- "Testing does not make kids smarter; teaching does."¹ Both teacher and student time and effort is consumed preparing for and writing tests that are not reflected in the students' course marks. The Department does not know how much learning time is used for conducting other testing done by the districts and schools. It is not monitored.
- There is no coordinated integration of provincial testing, district testing and testing by the schools.
- Parents or guardians may, or may not, be aware of the other tests; and they may, or may not, be informed of the results.

2.71 Monitoring the testing done by different parties would reduce the risk of duplication and excessive testing time.

Conclusion

2.72 The Department is not monitoring testing done by some districts and some schools that is similar to provincial testing and not incorporated into the student's mark. The Department does not know which schools or districts are conducting other tests or how many are done.

Recommendations

2.73 The Department should monitor all testing done by schools and districts that is similar to provincial testing.

2.74 The Department should monitor the amount of students' learning time that is used for preparing for and writing provincial testing and all other similar testing done by the districts and schools to ensure that it is not excessive.

1. NBTA Position Paper on External Assessments, May 2007, page 2.

Provincial testing and the special needs of students
Why is this important?

2.75 The Department should develop practices to ensure that different testing of students complements one another and there is no duplication of efforts.

2.76 Students with special needs have a special education plan to help them at school. Their plan indicates if they should be exempted from participating in provincial testing or if they require an accommodation when writing the provincial test. Box 10 describes exemptions and accommodations.

2.77 It is important that exemptions and accommodations are appropriately granted in order to protect the quality of the information obtained by provincial testing. Accommodations should be given to students that require them; and, only an eligible student should be provided with an accommodation. Appropriate use of accommodations enhances the validity of the results of the test.

Documented guideline

2.78 The Department's document, *Provincial Assessment Program - Guidelines for Exemptions and Accommodations* allows provincial testing to be as inclusive as possible by addressing the special needs of students. This document provides guidance on exemptions and accommodations for each of the provincial tests. It also describes the process to be followed and provides the required forms to be used to obtain exemptions and accommodations for students. In addition to being provided to the schools, the document is available on the Department's web site for parents or guardians.

2.79 The process for obtaining an exemption is different than the process for obtaining an accommodation. Currently, the process for administering exemptions and accommodations is manual with paper forms.

10	Exemptions and accommodations
<p>Exemptions</p> <p><i>Exemptions should be considered for students who have a cognitive deficit, multiple handicapping conditions or a specific Learning Disability to such a degree as would render the assessment inappropriate and/or emotionally harmful to them. Exemption will be allowed for students who have been identified with exceptionalities and have current Special Education Plans which document the need for exemption.</i></p> <p>Accommodations</p> <p><i>Teachers and principals should make every effort to enable students with special needs to participate in the assessment to the best of their ability with their peers. Appropriate accommodations should be provided to preserve students' self-respect and sense of belonging. Schools are encouraged to include as many students in the assessment as possible. Examples of accommodations include: additional time, alternate setting, provision of test in different format (e.g., large print, Braille, audio tape), and extended use of technology (where normally used by special needs students in their educational program).</i></p>	
<p>Source: <i>New Brunswick – Provincial Assessment Program for Literacy and Mathematics – Guidelines for Exemptions and Accommodations, 2006-2007.</i></p>	

Exemption from writing the test

2.80 Our observations on the Department's process for administering exemptions from provincial testing included the following.

- The exemption process appears reasonable. It is clearly documented with standard forms. Forms requesting exemption are monitored by the branch for compliance with the documented process.
- Approximately 2% of students are granted an exemption from provincial testing.
- Students with exemptions are included when reporting provincial results on provincial tests. They are counted as not having the appropriate standard of achievement on the provincial test.

Accommodations for writing the test

2.81 Our observations on the Department's process for administering accommodations for provincial testing included the following.

- The process for providing accommodations is clearly documented with a standard form. Forms requesting accommodations are processed by the branch and the requested accommodation is provided.

- The Department does not monitor the requests for accommodations to ensure only eligible students are given accommodations. We examined a sample of 57 students (from four different districts) that had been provided with an accommodation. We determined that each of the 57 students had a special education plan.
- The Department does not monitor the number of students needing accommodations, the number of accommodations provided or the type of accommodations required and provided. We examined the requests for one type of accommodation for the 2008 grade 7 English literacy test. We observed that one school with 33 grade 7 students requested accommodations for 9 students (27% of the students writing the test were provided with the accommodation) and a different school with 272 grade 7 students had no requests for the accommodation (0% of the students writing the test were provided with the accommodation).

Conclusion

2.82 The Department has documented guidance for granting exemptions from writing provincial tests and providing accommodations for writing provincial tests, to address the special needs of students. The Department is not adequately monitoring to ensure that exemptions and accommodations are appropriately provided. While we were unable to determine that accommodations are provided to all students that are eligible, it appears that only eligible students are given an accommodation.

Recommendation

2.83 The Department should strengthen the process for providing accommodations for students with special needs to ensure that:

- **all eligible students receive accommodations and in the form to which they are entitled; and**
- **only eligible students receive accommodations and only in the form to which they are entitled.**

The marking process

2.84 Our observations on the marking process for provincial tests included the following.

- The staff member responsible for preparing the provincial test is also responsible for its marking. The individual is present at all times during the marking session to oversee the process and address any concern that may arise.

- The company contracted for packing and shipping the tests is also present at the marking session. They distribute the tests to ensure all markers are kept busy at all times.
- The marking session begins with a briefing and training period so markers are comfortable with their role before the actual marking.
- Markers report that they enjoy serving on the marking committee; they comment that it is a great learning experience.
- The markers document common errors. The Department uses this information to produce a “list of common errors”, which is circulated to the teachers so they are able to help students with the common weaknesses identified on the provincial test.

Conclusion

2.85 The Department has a good process for marking provincial tests.

Reporting results of provincial testing in the Anglophone sector

2.86 This section provides our observations on how the Department reports the results of students’ performance on provincial tests. After the provincial test has been written by the students and marked by the marking committee, the Department collects the data and reports the results by student, by class, by school, by district and for the Province. We make comments on reporting individual students’ results, reporting schools’ results and reporting results to the public.

Reporting individual students’ results

2.87 Our observations on reporting individual students’ results included the following.

- The Department states the following on its website, “*Provincial assessments function as a reasonable and cost-effective gauge of an individual student’s or school’s overall achievement.*”¹

1. Government of New Brunswick web site- Department of Education – Anglophone sector – Assessment and Evaluation – *Overview*.

- Individual students' results on provincial tests are reported to the school; however, they are not included in the student's mark. (In Alberta, "*individual teachers may use provincial achievement test results in determining final grades for their students.*"¹)
- Individual students' results on provincial tests are not reported to the student or their parent or guardian for most of the tests. Individual students' results are provided to the student for two of the eleven provincial tests; the English Language Proficiency Assessment (ELPA) and the French oral proficiency test.
- Before each provincial test, an *Information Bulletin for Parents and Guardians* is sent home with the students. While the Information Bulletin is different for each provincial test, in general it provides the same information regarding when the test will be written, what it will be like and how it will be marked. It also tells how the results will be reported. "*Districts and schools will be provided provincial, district and school level information, as well as individual student results.*" We noted that for the grade 7 provincial English literacy test, the Information Bulletin also stated, "*...schools will receive individual student results to share with parents/guardians.*"² However, parents or guardians were not provided with their student's results or given instructions for obtaining their student's results.
- The Department is aware that one district provides parents or guardians their student's results for at least some of the provincial tests.
- While we did not review literature on all Canadian provinces, we did note that Alberta and Nova Scotia report the individual student's results to the parents or guardians and Saskatchewan does not.

Reporting schools' results

2.88 Our observations on reporting schools' results included the following.

-
1. Government of Alberta web site, *Meeting High Standards*, September 2007.
 2. Province of New Brunswick - Department of Education, *Information for Parents and Guardians - Provincial Grade 7 Literacy Assessment - October 20-24, 2008.*

- After eleven years of producing an annual *Report Card* that provided provincial, district and school level information on provincial testing, there was no public reporting of these results for two academic years (2005-06 and 2006-07),
- In December 2008, the Department released the first annual school achievement reports. Each school received a *Report on Achievement*. The report has the following traits, which make it an excellent report. The report shows achievement levels on provincial tests over a three-year period, which allows the reader to see progress over time. The report shows the provincial targets for each test along with the overall performance results for the school, district and the Province, which allows the reader to make comparisons. Results for schools having five or fewer students who wrote the test are not reported, which respects individual students of small classes. The report is easy to read and understand.
- The school *Report on Achievement* was given to each student in every school to take home to their parents or guardians.
- The Department's information system is not well-suited for generating the *Report on Achievement*. For example, producing the 228 school reports involved manually entering three years' of provincial testing data and manually verifying its accuracy.

Reporting results to the public

2.89 Our observations on reporting results to the public included the following.

- The *Report on Achievement* for each school and each district is available on the Department's web site for the public.
- The Department's web site also provides the Provincial Report which provides performance results for each provincial test, with graphs providing a three-year comparison. It also provides additional information for each test, such as the number of students writing the test.
- It is not explicitly clear how to find the results of provincial testing on the Department's web site; the results are not shown with the other information on the *Assessment and Evaluation* branch.

- In December 2007, the Department released its *Benchmark Report* for the 2006-07 school year. “*This Benchmark Report is designed to give parents and the public a complete picture of where we currently stand on the various indicators of success. Next year, and in the years that follow, we will report on the progress we have made.*”¹ In March 2009, the Department released *An Accountability Report on the targets of When kids come first 2008 (Accountability Report)* for the 2007-08 school year.
- The *Benchmark Report* and the *Accountability Report* include provincial results for most of the provincial tests. They include results from national and international tests. We did note that the ELPA results were not reported in the 2007 and 2008 reports.
- We commend the Department for its report titled, *A Benchmark Report on the targets of When kids come first – 2007* and the successor, *An Accountability Report 2008*. With these reports, the Department has made progress in performance reporting. The Department of Education has performance indicators with targets, and the Department is measuring and publicly reporting actual performance in comparison to the targets. Despite actual performance figures being low when compared to targeted performance on provincial tests, the Department is demonstrating accountability by reporting performance.

Conclusion

2.90 Since the purpose of provincial testing has not been clearly documented, we were unable to determine the appropriateness of the reporting of the results.

Recommendations

2.91 The Department should document a policy on reporting individual students’ results on provincial tests.

2.92 The Department should assess its information system needs with regards to reporting the results of provincial testing and ensure that its needs are met.

2.93 The Department should ensure that the results of provincial testing are easily identified on its web site.

1. Province of New Brunswick, *A Benchmark Report on the targets of When kids come first – 2007*, December 2007, page 6.

Documented policies and procedures***The importance of policies and procedures******No policies and limited procedures***

2.94 Policies and procedures document the rules of a program and describe the proper steps in performing tasks. Not only do policies and procedures inform staff members how to fulfill their day-to-day responsibilities successfully, but they also provide a basis for monitoring activities to ensure consistency in operations.

2.95 The Department has no documented policies and limited procedures for provincial testing in the Anglophone sector. The following observations indicate a need for documented procedures.

2.96 We observed that the marking team is composed differently for different provincial tests. Sometimes the districts are asked to select representatives to serve on the marking team and other times the Department selects individuals. Without documented guidance, there is little assurance that the selected individuals have the experience and objectivity that a marking team requires.

2.97 The Department does have *Administrative Guidelines* for Principals and Teachers (the rules that schools must follow when conducting provincial testing) and *Guidelines for Exemptions and Accommodations*. These appear to be useful documents; however, they are not always followed. For many readers, the term “guideline” means a suggestion, rather than a requirement. This may explain why the guidelines are not always followed.

2.98 We saw cases where the *Administrative Guidelines* for Principals and Teachers had not been followed. (For example, writing with pencil although the rules state, “*students must use a pen with dark blue or black ink,*” and inserting additional loose papers, while the rules instruct that responses are to be written in the booklet and state, “*there should not be additional pages of student work stapled into the booklet.*”) We also saw where a teacher changed the test. (The test instructed students to write on the topic of being a student in middle school. One teacher instructed her students to write on the topic of storm days instead.) The Department is aware of these and other cases where the rules had not been followed.

2.99 The Department does not have policies and procedures for monitoring the schools or enforcing the guidelines. In order to protect the integrity of the information obtained from provincial testing, documented procedures are needed for identifying the misuse of provincial testing materials, documenting the misuse, and reporting it for corrective action.

2.100 The Department should have documented procedures for each significant component of provincial testing. These include: developing and preparing provincial tests; packaging and transporting tests to and from the schools; selecting committees and marking tests; accumulating data and reporting the tests' results; and storing and retaining provincial testing documentation. Also, there should be documented procedures for how districts, schools and teachers are to use the results of provincial testing. And, to ensure that the policies and procedures are followed and updated as needed, quality control practices need to be documented and implemented.

Conclusion

2.101 The Department has no documented policies and limited procedures for provincial testing in the Anglophone sector.

Recommendations

2.102 The Department should develop documented policies and procedures for the provincial testing program.

2.103 The Department should provide training, as necessary, to help ensure the policies and procedures are understood and followed. This should include training teachers on the administrative guidelines and the use of provincial testing results.

2.104 The Department should develop and implement quality control practices to ensure the policies and procedures are followed and updated as needed.

The English Language Proficiency Assessment (ELPA)

What is the ELPA?

2.105 The ELPA (English Language Proficiency Assessment) is a provincial test on English literacy. Similar to the other provincial literacy tests, the ELPA has both reading and writing components.

2.106 Different from the provincial literacy tests at grades 2 and 4, the ELPA is written only in English. (In grades 2 and 4, French Immersion students take a French provincial literacy test.)

2.107 Also different from the provincial literacy tests at grades 2 and 4, success on the ELPA is a requirement. *“In order to graduate with a New Brunswick diploma, a student (with the exception of those officially exempted for valid reasons) must demonstrate the ability to read and write at an ‘Appropriate’ standard of achievement as determined by the English Language Proficiency Assessment. Unsuccessful students will have opportunities for reassessment in*

*Grades 10, 11, and 12.*¹ Because the ELPA is a graduation requirement, it appears similar to Alberta's diploma examinations, which are described in box 11.

11	Description of Alberta's diploma examinations
<p>A major purpose of a Grade 12 diploma examination is to certify a student's achievement in a course. Each examination is aligned with the program of studies in order to provide a common assessment for students across the province. ... A diploma examination contributes 50% of a student's final mark in the course, and the school-awarded mark contributes the other 50% of the final mark... To pass a course, a student must obtain a final blended mark of 50 per cent or higher.</p>	
<p>Source: Government of Alberta web site – Education, <i>Meeting High Standards</i>, September 2007.</p>	

History of the ELPA

2.108 The following information provides a brief history of the ELPA.

- In the 1990s, New Brunswick had provincial exams for various subjects in high school. Student marks were comprised of 70% class mark and 30% provincial exam. To receive a NB high school diploma, there was a required achievement of at least 50% on the English mark. During the period 1997-2004, the provincial exam in English was replaced by the ELPA.
- The ELPA was introduced in 1994 in grade 8 as a pilot and implemented in 1995.
- Success on the ELPA became a requirement for graduation in June 2001.
- The timing of the ELPA shifted from grade 8 to grade 9; it was written for the last time in grade 8 in 2003-04, and it was written for the first time in grade 9 in 2005-06.

Comments

2.109 Our observations on the ELPA included the following.

- While the ELPA is written during grade 9, it tests for competency of the literacy achievement standards for end of grade 8.
- Of the eleven provincial tests, it is the only one that has a success requirement.

1. Province of New Brunswick - Department of Education, *Information For Parents And Guardians 2008-2009 - English Language Proficiency Assessment*.

- Students have up to five opportunities to succeed on the test.
- Forty-three percent (43%) of grade 9 students failed the reading component of the ELPA in 2007-08. Sixty-two percent (62%) of the repeat writers (in grades 10-12) failed the reading component of the ELPA in 2007-08. Thirty-three percent (33%) of grade 9 students and 42% of the repeat writers (in grades 10-12) failed the writing component of the ELPA in 2007-08.
- The success rate on the ELPA has decreased significantly since 2004. See box 12.
- The number of students repeating the test may exceed the number of first-time writers. In January 2009, there were 6,265 grade 9 students who wrote the ELPA, and there were 4,247 repeat writers (from grades 10 through 12) for the reading component and 3,007 repeat writers for the writing component. (Since students only repeat the component that they were not successful on, it is possible that a student may only have to repeat one component. Some students may have to repeat both components.) In 2008, there were 6,447 grade 9 students who wrote the ELPA, and there were 4,042 repeat writers for the reading component and 4,938 repeat writers for the writing component. The Department could not provide information on the success rate by grade level of the repeat writers.
- The cost of the ELPA and reassessment is approximately \$250,000. This is double the cost of the other literacy tests, which are done at grades 2, 4 and 7 and cost approximately \$120,000 - \$140,000. (These figures do not include salaries of branch staff members.)
- The ELPA is the cause for the recently added (2006) grade 7 English literacy provincial test. From a request brought forward by the teacher population, the provincial test on English literacy at grade 7 was established to prepare students for the ELPA, which is a graduation requirement. The grade 7 English literacy test is written in October, and it tests for competency of the literacy achievement standards for end of grade 6. In October 2008, eighty-seven schools had students who wrote the grade 7 English literacy test. The provincial target is that 85% of students reach or exceed appropriate achievement. Only two of the eighty-seven schools met the target. Seventy-nine schools had fewer

than 80% of the students reach or exceed appropriate achievement, of which eight schools had fewer than 50% of the students reach or exceed appropriate achievement.

- While the opportunity to rewrite the test four times has been in practice since 2004, the Department has not done a cost/benefit analysis to determine if five opportunities for writing the test is appropriate.

12	Performance results on the ELPA - % of students that were successful									
	2008	2007	2006	2005	2004	2003	2002	2001	2000	Mid 1990s
Reading	57	61	60	Note 3	71	73	71	76	73	66
Writing	67	52	53		Note 2					Note 1
Repeat writers										
Reading	38	46	47							
Writing	58	38	41							
Notes:										
1. Figure obtained from the following quote in 2001, "The success rates on the Middle Level English Language Proficiency Assessment have risen steadily from 66% to 76% during the past five years." ¹										
2. Results were reported differently prior to 2005.										
3. The English Language Proficiency Assessment was moved from grade 8 to grade 9. Since grade 9 students had already written the assessment in grade 8, there are no English Language Proficiency Assessment results for this school year. ²										
Source: Unaudited figures from information provided by the Department										

Conclusion

2.110 The information on the ELPA does not reflect well on the education system in New Brunswick. It is difficult to understand why success on a grade 8 literacy test is one of the requirements for a high-school diploma; this appears to be a very low expectation for a high-school graduate. The results of the ELPA show that the Department is promoting a large number of students into high school that do not have the literacy skills required to cope with the high school curriculum.

1. Province of New Brunswick, *Report Card 2001 Anglophone School Districts - Department of Education - Evaluation Branch*.
2. Province of New Brunswick, *Report Card 2005 Anglophone School Districts - Department of Education - Evaluation Branch*.

Conclusion

2.111 In regards to our objectives, we concluded that the Department has not yet finalized a strategic plan for its provincial testing of students in the Anglophone sector; and because the purpose for provincial testing has not been clearly documented, we were unable to conclude on the appropriateness of the Department's process of administering its provincial testing of students in the Anglophone sector.

2.112 Some fundamental elements of an effective program are missing, such as: a clear purpose, a strategy or master plan, documented policies and procedures, and program monitoring. The Department is doing a lot of provincial testing of students in the Anglophone sector. However, the relevance and the reliability of the information obtained through provincial testing is at risk because the program does not have documented policies and adequate procedures with proper monitoring to protect the quality of the information. We made recommendations to address the weaknesses we identified. We believe our recommendations are consistent with the plan stated in *The Charter for Change* to "Examine the best practices for student evaluation."¹

2.113 The information on the ELPA does not reflect well on the education system in New Brunswick.

2.114 Last year we reported our work on *Adult Literacy Services* in the Department of Post-Secondary Education, Training and Labour². We noted the Canadian results of the 2003 *International Adult Literacy and Skills Survey* (IALSS); the average proficiency scores of the adult population aged 16-65 in New Brunswick were below the Canadian averages across all domains measured (literacy, numeracy and problem solving). The international survey results indicated that in Canada, approximately 50% of high-school graduates do not have the skills needed in today's world. We commented that, "In New Brunswick, we have a free education system. We have legislation that requires children to attend school until the age of eighteen. We have a curriculum set by the Province. We have teachers that must have specific qualifications." And, we questioned, "Why do we have people without the appropriate literacy skills?" Finally, we quoted the

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1. New Brunswick Liberal Party, *The Charter for Change*, September 2006, page 13.
 2. Office of the Auditor General Province of New Brunswick, *Report of the Auditor General of New Brunswick – Volume 2 2008*, March 2009, chapter 6.

following, “...learners in adult literacy programs represent, at the simplest level, the failure of schools to educate all children to graduation.”¹ With our work on provincial testing in the Department of Education this year, we wonder if perhaps New Brunswick’s high-school graduation requirement for a grade 8 literacy level plays a part.

2.115 Finally, we remind our readers, that although provincial testing can provide “high-quality information that is reliable and valid, it cannot provide all the information that a school needs to know about students’ achievement. School and [district] results from provincial tests are best interpreted within the context of local quantitative and qualitative information.” ... “Achievement tests can assess only part of what is to be learned.”²

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1. Nayda Veeman, Angela Ward & Keith Walker, *Valuing Literacy - Rhetoric or Reality?*, 2006, page 27.
 2. Government of Alberta web site, *General Information Bulletin - Introduction to the Achievement Testing Program*, August 2007, page 1.

Appendix - Recommendations

2.116 The purpose of this section is to present our recommendations in the areas where we think change is appropriate. Our recommendations to the Department are presented along with the Department's response to each recommendation. Recommendations relate to each of our two objectives, which address the following topics:

- strategic direction for provincial testing (box 13); and
- process of administering provincial testing (box 14).

13	Recommendations relating to strategic direction for provincial testing (Anglophone sector)	
<i>Recommendation</i>	<i>Department's Response</i>	
Minister's advisory committee		
<ul style="list-style-type: none"> • <i>The Department should ensure the Minister's advisory committee actively operates in compliance with legislation. The representation on the Minister's advisory committee and the frequency of its meetings should allow the advisory committee to serve its purpose.</i> 	<p><i>The Department is in compliance with the legislation. The Minister's advisory committee is operating in compliance with the legislation. The Education Act states the Committee should meet at least once a year. The committee has met twice this year. The committee has developed a handbook to guide MACTE meetings. The committee has agreed to three annual meetings.</i></p>	
<ul style="list-style-type: none"> • <i>The Department should document clearly the committee's terms of reference, which should include its role and responsibilities.</i> 	<p><i>The Department has developed a terms of reference including roles and responsibilities of the committee. It has been developed with MACTE.</i></p>	
<ul style="list-style-type: none"> • <i>The Department should develop an orientation program for new committee members.</i> 	<p><i>The Department agrees with this recommendation and will develop an orientation program for new committee members.</i></p>	
Strategic plan		
<ul style="list-style-type: none"> • <i>With the assistance of the Minister's advisory committee, the Department should complete its strategic framework for provincial testing of students.</i> 	<p><i>The Department has completed its strategic framework for provincial testing with input from MACTE and other stakeholders and it is on the Department's website.</i></p>	
<ul style="list-style-type: none"> • <i>With the assistance of the Minister's advisory committee, the Department should determine and document its purpose for provincial testing.</i> 	<p><i>The purpose of provincial testing is documented in the Assessment Framework.</i></p>	

14	Recommendations relating to the process of administering provincial testing in the Anglophone sector	
	Recommendation	Department's Response
	<p>The schedule for provincial testing</p> <ul style="list-style-type: none"> <i>In consultation with its stakeholders, the Department should challenge its current provincial testing schedule, explore alternatives for obtaining the information required to serve its purpose with the least disruption to the students' learning time, and revise its provincial testing schedule as needed.</i> 	<p><i>The current schedule for provincial testing is consistent with the Provincial Education Plan targets. The Department consults with its stakeholders on the testing schedule and will continue to do so. Stability in the schedule is important for historical trend data. Provincial assessments are skills based and consistent with the curricular outcomes. As a result, disruption of student learning is minimal since the assessment is a reflection of what the student is learning. With the above in mind, the Department will review its testing schedule.</i></p>
	<p>Similar testing done by districts and schools</p> <ul style="list-style-type: none"> <i>The Department should monitor all testing done by schools and districts that is similar to provincial testing.</i> <i>The Department should monitor the amount of students' learning time that is used for preparing for and writing provincial testing and all other similar testing done by the districts and schools to ensure that it is not excessive.</i> <i>The Department should develop practices to ensure that different testing of students complements one another and there is no duplication of efforts.</i> 	<p><i>The Department agrees with the recommendation and will work with districts to monitor testing that is similar to provincial testing to reduce duplication. Section 36.9 (2) of the Education Act states: "A district education plan shall be consistent with the provincial education plan and shall include...(c) accountability measures for evaluating pupil achievement, monitoring school district performance and monitoring the achievement of strategic objectives." The District Education Plan is submitted annually to the Department.</i></p> <p><i>The Department agrees with this recommendation and will align assessment practices to ensure a balanced assessment program at all levels.</i></p> <p><i>The Department agrees with this recommendation and will develop a document on best practices in education assessments to ensure a balanced assessment regime.</i></p>
	<p>Addressing the special needs of students</p> <p><i>The Department should strengthen the process for providing accommodations for students with special needs to ensure that:</i></p> <ul style="list-style-type: none"> <i>all eligible students receive accommodations and in the form to which they are entitled; and</i> <i>only eligible students receive accommodations and only in the form to which they are entitled.</i> 	<p><i>The Department agrees with these recommendations and is using technology to strengthen its processes of matching accommodations to Special Education Plans.</i></p>

14 Cont'd	Recommendations relating to the process of administering provincial testing in the Anglophone sector - <i>continued</i>	
	Recommendation	Department's Response
	<p>Reporting results of provincial tests</p> <ul style="list-style-type: none"> • <i>The Department should document a policy on reporting individual students' results on provincial tests.</i> • <i>The Department should assess its information system needs with regards to reporting the results of provincial testing and ensure that its needs are met.</i> • <i>The Department should ensure that the results of provincial testing are easily identified on its web site.</i> 	<p><i>The Department agrees with the recommendation and will consult with its stakeholders through MACTE to make a recommendation to the Minister.</i></p> <p><i>The Department agrees with the recommendation and is working to address reporting needs through a new student information system.</i></p> <p><i>The results of provincial testing are currently on the Department's homepage. The Department will improve the visibility of assessment results on its web site.</i></p>
	<p>Documented policies and procedures</p> <ul style="list-style-type: none"> • <i>The Department should develop documented policies and procedures for the provincial testing program.</i> • <i>The Department should provide training, as necessary, to help ensure the policies and procedures are understood and followed. This should include training teachers on the administrative guidelines and the use of provincial testing results.</i> • <i>The Department should develop and implement quality control practices to ensure the policies and procedures are followed and updated as needed.</i> 	<p><i>Guided by the Assessment Framework, the Department will strengthen existing guidelines and procedures and put those that are appropriate into policy.</i></p> <p><i>The Department agrees with this recommendation and will undertake this role on an annual basis as necessary.</i></p> <p><i>The Department has recently developed and implemented compliance protocols for administering provincial assessments which addresses this recommendation. Feedback from schools and districts has been favorable.</i></p>

Chapter 3

Department of Environment Environmental Trust Fund

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Department of Environment Environmental Trust Fund

Background

Introduction

3.1 The Environmental Trust Fund (ETF) was established in 1990 under the authority of the *Environmental Trust Fund Act* (the Act). The Department of Environment administers the Act, and the Department of Finance is the custodian of the fund.

3.2 The 2007-2008 annual report of the Department of Environment describes the fund this way:

The Environmental Trust Fund is a dedicated funding source for community-based action oriented activities aimed at protecting, preserving and enhancing New Brunswick's natural environment.

3.3 The annual report also tells us that the Environmental Services Branch of the Department looks after the Environmental Trust Fund and is the branch that is responsible for administering the Act.

3.4 The Department's web site expands the description of the fund slightly; it says:

*The Fund provides assistance for action-oriented projects **with tangible, measurable results**, aimed at protecting, preserving and enhancing the Province's natural environment. (Emphasis added.)*

3.5 Section 3 of the Act states that the assets of the Environmental Trust Fund shall be used to:

- a) Pay for the costs incurred to
 - (i) provide for environmental protection,

- (ii) *provide for environmental restoration,*
 - (iii) *promote sustainable development of natural resources,*
 - (iv) *conserve natural resources within the Province,*
 - (v) *educate on matters relating to environmental issues and the sustainable development of natural resources, and*
 - (vi) *maintain and enhance the visual environment; and*
- b) *reimburse any department, corporation or agency of the Government of the Province that makes an advance so as to provide financing for any of the costs incurred for any of the purposes set out in paragraph (a).*

3.6 Section 4 of the Act says:

The Minister of Environment shall appoint an Environmental Trust Advisory Board consisting of a chairperson and not less than four members to advise the Minister of Environment on matters relating to section 3.

3.7 Section 1(3) of the Act establishes the Minister of Finance as the custodian for the fund:

The Minister of Finance shall be the custodian of the Environmental Trust Fund and the Environmental Trust Fund shall be held in trust by the Minister of Finance.

3.8 We last reported on the ETF in our 1994 Report.

Financial information

3.9 The Act contains two references to revenue sources for the ETF. Section 2(1) says:

The Environmental Trust Fund may receive direct contributions.

3.10 Section 1(5) says:

All interest arising from the Environmental Trust Fund shall be paid into and form part of the Environmental Trust Fund.

3.11 The ETF's primary source of revenue is described in its unaudited financial statements as environmental fees. These are fees levied under the *Beverage Containers Act*, and are described in that Act as:

“environmental fee” means the fee established to provide for the costs of administering programs for the reduction, reuse and recycling of waste produced by littering, failing to reuse or recycle or other actions or inactions by individuals;

3.12 Section 19 of the *Beverage Containers Act* says:

The environmental fees and unclaimed deposits that are not used or retained by a distributor or where applicable, an agent of a distributor and have been remitted under section 18 shall be paid into the Environmental Trust Fund.

3.13 The regulations under the *Beverage Containers Act* provide the methods for calculating the environmental fees and unclaimed deposits that are not used or retained.

3.14 For the first ten years of the ETF's existence the fund received a portion of the Province's video gaming revenue. The last year the ETF received video gaming revenue was in the fiscal year ended 2000, when the annual payment of \$10 million ceased.

3.15 The following table provides a financial history of the ETF:

ETF Summary of Financial Information (Years Ended 31 March) (\$ 000's)								
Year	Opening Fund Equity	Environmental Fees and Unclaimed Deposits	Video Gaming Revenue	Interest	Total Revenue	Expenses	Increase (Decrease) in Fund Equity	Ending Fund Equity
2008	7 426,7	8 596,6	-	365,0	8 961,6	7 318,2	1 643,4	9 070,1
2007	5 652,1	8 475,7	-	322,7	8 798,4	7 023,8	1 774,6	7 426,7
2006	4 417,1	6 047,8	-	209,9	6 257,7	5 022,7	1 235,0	5 652,1
2005	3 490,6	6 019,8	-	129,6	6 149,4	5 222,9	926,5	4 417,1
2004	3 117,9	5 296,5	-	140,5	5 437,0	5 064,3	372,7	3 490,6
2003	1 745,4	5 118,3	-	95,2	5 213,5	3 841,0	1 372,5	3 117,9
2002	1 411,9	4 943,9	-	88,9	5 032,8	4 699,3	333,5	1 745,4
2001	1 369,1	4 698,2	-	202,1	4 900,3	4 857,5	42,8	1 411,9
2000	1 806,9	5 004,5	10 000	284,0	15 288,5	15 726,3	(437,8)	1 369,1
1999	1 426,8	4 569,0	10 000	362,0	14 931,0	14 550,9	380,1	1 806,9
1998	1 633,4	4 343,3	10 000	277,5	14 620,8	14 827,4	(206,6)	1 426,8
1997	1 307,2	4 441,8	10 000	402,7	14 844,5	14 518,3	326,2	1 633,4
1996	2 346,3	4 458,6	10 000	397,5	14 856,1	15 895,2	(1 039,1)	1 307,2
1995	3 038,1	4 455,4	10 000	478,5	14 933,9	15 625,7	(691,8)	2 346,3

3.16 As the table above indicates, there was a 40% increase in revenue in 2007, which was the first year the department requested a distributor to remit an amount of unredeemed deposits.

3.17 The Department's 2007/2008 annual report indicated that 463 applications totaling \$19,786,112 were received by the ETF. At total of \$7,318,229 was spent on 306 projects.

3.18 Spending from the ETF is not appropriated by the Legislature. Expenditures from the fund are considered to be statutory and therefore do not require a vote by the Legislature.

3.19 The 2009-2010 Main Estimates show that spending from the ETF is estimated to be \$8.5 million, \$1.9 million of which is planned to be used to fund various ordinary account programs of the Department. The Main Estimates do not provide any information about what the other \$6.6 million of ETF spending will go toward.

3.20 The 2008-2009 budget also authorized moving funds from the ETF to cover some of the Department of the Environment's ordinary

account expenses. The total budget – both ordinary account and ETF, eliminating for inter-fund transfers – over a three year period has been:

Department of Environment Total Gross Budget With Inter-fund Transfers Eliminated			
Year Ended 31 March	2008	2009	2010
Total Budget (\$ 000)	23 472	22 372	21 814
Difference (\$ 000)		(1 100)	(558)
Percent Change		(4.7%)	(2.5%)

3.21 Based on the information contained in the 2009-2010 Main Estimates, this level of budgeted expenses appears to be sustainable only for a few years. The Estimates assume that \$8.5 million will be spent from the ETF, however, the revenue for the ETF is only estimated to be \$6.7 million – a net budgeted deficit for the ETF of \$1.8 million. If that pattern continues into future years, the equity in the ETF will be depleted in about five years.

History

3.22 The history of the Environmental Trust Fund is interesting. On 27 April 1990, the Minister of Finance at that time said:

...in my budget speech of March 27 this year, a commitment was made for the effective control and regulation of video gaming machines. Additional public benefit was promised through a commitment to use up to \$20 million annually from video gaming for an environmental trust fund.

3.23 When introducing the Environmental Trust Fund Act, the Minister of the Environment at that time said that it

...establishes a source of dedicated funding to undertake action-oriented activities which are consistent with the principles of sustainable economic development and environmentally friendly programs. These funds will assist government departments in undertaking projects which have a strong environmental component, or assist nongovernment organizations in carrying out their environment- related community activities.

3.24 In Committee of the Whole, the Minister of the Environment said that the Fund was to be used in a:

...pro-active manner to deal with the many environmental concerns that have been presented to the government of New Brunswick by individuals and groups throughout the province. It is funded under the Lotteries Act, and it will realize approximately \$20 million per year.

3.25 He also said:

The number one intent of the environmental trust fund is to provide an incentive and support for those little groups and individuals who want to do something significant to change our environment.

This money will be made available to community-based organizations and projects.

3.26 One member of the opposition said:

My concern is that at some point in the future, a different government, with different priorities in terms of the importance attached to the environment, may try to circumvent the intent of this Act when implementing it. Provisions of the Act may be used to siphon monies out of the environmental trust fund, to be used for other things.

3.27 In response to that concern, the Minister of the Environment said:

By introducing this Act, I would hope that we are demonstrating – not only to this government but to any government that may follow – that not only are we sincere about establishing the fund, but we are quite sincere about keeping the monies out of general funding...

...once the money is addressed to the environmental trust fund, the minister [of Finance] loses all authority to take that money back and to use it for other things.

3.28 In our 1994 Report, we noted that:

A portion of the Fund is being used to support environmental projects that may have, in the past, been considered for funding through various departments' base budgets. A November 1993 DOE document states:

With fiscal restraint impacting on Departmental budgets, the Environmental Trust Fund is able to assist in meeting their environmental program objectives through augmentation of base budgets. Government priorities which would otherwise be postponed, can be addressed, resulting in both employment and improved environmental practices. Examples of this include the pesticides management program, the emergency remediation program, the purchase and management of environmentally significant areas, construction of salt domes and the development of sustainable development plans for the Buctouche and Caraquet Bay areas, just to name a few.

3.29 It appears that the ETF never reached the level of funding originally envisioned - \$20 million per year, and that it very quickly started to be used as a mechanism to reduce ordinary account pressures. Furthermore, in 2001 its original source of funding was completely removed. The recent budget changes of using the ETF to directly fund some of the Department of Environment's spending does not appear to be unique, it is simply more clearly identified and transparent.

Scope

3.30 We had three objectives; they were:

- to determine if the purpose of the Environmental Trust Fund is clearly established;
- to determine if the Environmental Trust Fund is operating as intended with respect to grants; and
- to determine if the Environmental Trust Fund is measuring and reporting the achievement of its goals and objectives.

Results in brief

3.31 The following exhibit summarizes our objectives, criteria and the status of each.

Objective	Objective Status	Criteria	Status
1. To determine if the purpose of the Environmental Trust Fund is clearly established.	Partially Met	1. The ETF should have clearly defined goals and objectives	Partially Met
2. To determine if the Environmental Trust Fund is operating as intended with respect to grants.	Partially Met	1. Appropriate program eligibility and assessment criteria should be developed to support the achievement of the goals and objectives.	Met
		2. Eligibility and assessment criteria should be met before awarding grants.	Partially Met
		3. Agreements should be signed with the grants recipients that clearly specify the terms and conditions of the grants being awarded prior to the money being disbursed.	Met
		4. The ongoing performance of the fund recipients should be monitored to ensure the terms of the agreement are being complied with.	Partially Met
3. To determine if the Environmental Trust Fund is measuring and reporting the achievement of its goals and objectives.	Not Met	1. There should be a periodic evaluation of whether the fund is meeting its goals and objectives	Not Met
		2. The Environmental Trust Fund should issue an annual report.	Partially Met

Purpose of the Fund

3.32 As we stated in the background section of this chapter, the Act directs how the ETF is used. We wanted to determine if the ETF had clearly defined goals and objectives, and whether those goals and objectives were consistent with the requirements of the Act, and were current.

3.33 A goal can be defined as a general statement of the desired results to be achieved. An objective is a specific statement of results to be achieved over a specific period of time. An objective sets a target and aids in the achievement of a goal. Therefore goals and objectives are important tools for setting program direction and achieving intended results.

3.34 In our 1994 Report we stated that the ETF did not have clearly defined, measurable goals and objectives which could be used to measure the effectiveness of its performance. Given its broad

mandate, various groups or individuals could interpret or measure the success of the operations of the fund quite differently.

3.35 We recommended that the Department establish clearer and more measurable goals and objectives. The Department has told us that the statement in their annual report which says “The Environmental Trust Fund is a dedicated funding source for community-based action oriented activities aimed at protecting, preserving and enhancing New Brunswick’s natural environment” is the goal of the ETF.

3.36 The Department interprets section 3 of the Act as the general objectives of the ETF. The Department suggests that because there are so many possible environmental issues to support, only general objectives are needed. They also indicated that over time, they may want to emphasize one environmental area over another due to emerging issues.

3.37 In our opinion, section 3 of the Act gives the Department the authority to fund projects in a wide variety of areas. It does not establish the objectives of that funding. Furthermore, we believe there is a conflict between the general areas of spending outlined in Section 3 of the *Environmental Trust Fund Act*, and the definition of environmental fee in the *Beverage Containers Act*.

3.38 While section 3 of the Act broadly defines allowable areas of spending, the definition of environmental fees, which represent almost all of the ETF’s funding, restricts the use of those fees to programs for reduction, reuse and recycling of waste produced by littering and failing to reuse or recycle. In our opinion this is much more restrictive.

3.39 The Department’s description of the ETF says that the activities it funds should be action-oriented, but there is no definition of what action-oriented means. Defining action-oriented would be the first step in establishing objectives for the fund.

3.40 While the Department is not specific about the objectives of the ETF, they do require applicants to be specific about the goals of their projects. The standard ETF application form which must be completed by each applicant asks two important questions: what do you want to do and how do you plan to do it? The application further states that it is very important that the applicant establish concise and

tangible results (goals) for their project since its success will be measured by how well these goals have been met. The application also says that the applicant must determine how they will measure how successful they have been in meeting their goals.

3.41 If the Department had established objectives for the fund, it would be in a better position to evaluate the goals and objectives set by the applicants.

3.42 We believe that having clearer objectives would enhance the Department's ability to make sure that the funds of the ETF are spent in priority areas. Periodic reviews could be done to look at the major environmental issues facing the Province, then, before each call for grant applications the Department could communicate their priorities publicly.

Recommendation

3.43 We therefore recommended the Department establish clearer objectives for the Environmental Trust Fund.

Departmental response

3.44 *The Department agrees with this recommendation and has already taken steps to this effect. In the 2008-2009 round of ETF funding, the Department decided to be more strategic in linking project funding with departmental priorities and objectives. In 2009-2010 the Department placed additional emphasis on project outcomes and measures of success in selecting projects and reviewing final reports. This information has been relayed to applicants via the ETF website. The Department will continue to build on the objectives already established and communicate this information to applicants.*

3.45 These objectives should be consistent with the Department's desire to have action-oriented projects that have a measurable impact, and should be consistent with applicable legislation.

Recommendation

3.46 We recommended the Department annually make public its priorities for the types of projects that it wants to fund from the Environmental Trust Fund.

Departmental response

3.47 *The Department agrees with this recommendation. The Department listed the priority areas for project funding on the ETF website in November, 2008 and has expanded the information posted for the 2010-2011 funding year.*

3.48 The priorities for the upcoming year could also be included in the Main Estimates page for the Environmental Trust Fund so that members of the Legislature have an idea of what the fund will be used for.

3.49 We have concluded that this objective has been partially met.

Payment of grants

3.50 For our second objective, we wanted to determine if the ETF has appropriate program eligibility and assessment criteria for grant applications; whether those criteria are met before grants are awarded; whether the terms and conditions of grants are contained in signed agreements before the grants are disbursed; whether the performance of the fund recipients is monitored; and whether problems with the performance of the fund recipients are identified and appropriate action taken.

3.51 To assess whether the Environmental Trust Fund is operating as intended with respect to grants, we chose a sample of 21 applications for grants.

Overview of the application process

3.52 The ETF web site includes the ETF application guide, the application form, and a section on how to fill out an application form. The information given includes who may apply, where to send the application, deadlines and the kinds of projects that the Fund will support. There is also information about the contribution agreement.

3.53 According to the Department's web site, funding is available to the following groups:

Community groups, NB municipalities, non-profit NB organizations, and institutions furthering sustainable development may apply to the Environmental Trust Fund.

3.54 In the past individual residents of the Province and government departments were eligible to apply for funding. The guidance quoted above does not include those categories as eligible for funding. The application guide also describes how the application process works:

The Department of Environment (ENV) is the single entry-point for all ETF submissions...ENV staff will analyze your application to ensure it meets the program's criteria. During this initial assessment, you may be contacted for

further information or clarification of your proposal. The Environmental Trust Fund Advisory Board then reviews all applications and makes recommendations to the Minister of Environment who, in turn, submits a project list to the provincial cabinet for approval. Once projects are approved, the Minister will announce the ETF awards for 2008-09.

3.55 In the past applications could be sent to other departments. This is no longer the case although the Department of Environment consults with other departments when they deem it to be necessary.

3.56 The Department supplied us with a one page flow chart that briefly describes the application process.

3.57 The process starts with a meeting of the ETF advisory board, usually in the Fall (October) to develop the parameters for the program. The Department then makes a public announcement requesting applications usually in November. The Department receives and logs the applications it receives. Subject area experts in the Department review the applications. The advisory board will meet after the applications have been received and will make recommendations to the Minister. The Department makes an announcement of which applications have been successful usually in late May.

Recommendation

3.58 Because we found the flowchart useful, **we recommended the Department enhance the one page flowchart of the Environmental Trust Fund application process to include a brief description of certain steps and should post the flow chart on the Environmental Trust Fund web site.**

Departmental response

3.59 *The Department agrees with the intent to improve the transparency of the ETF process. The flow chart provided to the Office of the Auditor General at the time of the audit will be enhanced and placed on the website. In addition, the Department has already added more information to the “How Does the Fund Work” portion of the website in order to provide additional detail on the method of processing applications.*

3.60 The Department has a standard application form that each potential applicant must complete in order to be considered for funding.

3.61 The application form requires the applicant to provide information about any other funding that they are applying for or have already received from other sources for the same project. It also requests information about any in-kind support that the project will receive. The final page of the application includes a request for a breakdown of how the grant money will be spent. The final item of the application is a certification by the applicant that must be signed. The application must be signed to be valid for consideration.

3.62 If the applicant is approved for funding they receive a three page standard letter of offer from the Department. The letter of offer states the maximum grant payable to the recipient and it identifies the eligible project costs and the ineligible project costs. The letter of offer contains sixteen conditions that must be met by the applicant and it must also be signed by the applicant before the Department will consider disbursing any funds.

Eligibility and assessment criteria

3.63 Our first criterion under this objective was to determine whether the Department had appropriate program eligibility and assessment criteria.

3.64 The Department provided us with two documents to assist us with this criterion. The first was the ETF guidelines and it discussed screening criteria. The second was a document titled Criteria and Notes for ETF. It listed criteria for six specific types of projects, each of which included a number of suggestions for the departmental reviewer to consider.

3.65 We therefore established the Department has program eligibility and assessment criteria. The only criticism we have is that this information is not provided in advance to the potential applicant. It is our opinion that if this information was provided to the applicants, the quality of applications could be improved.

Recommendation

3.66 **We recommended the Department provide potential applicants with the program guidelines and criteria.**

Departmental response

3.67 *The Department agrees with this recommendation and has already posted additional information regarding areas of emphasis in the evaluation of project applications and final reports on the ETF website in November 2008. The Department has also placed information regarding project eligibility and criteria on the website in preparation for the 2010-2011 funding year.*

3.68 As described above, even though the application requires the applicant to detail other sources of funding we did not find any indication that the Department uses this information as an eligibility or assessment criterion. There is no requirement that the applicant must raise a certain percentage of the funds in order to qualify for assistance from the Environmental Trust Fund.

Recommendation

3.69 We recommended the program eligibility and assessment criteria should indicate how other sources of funding are to be assessed.

Departmental response

3.70 *The Department feels that section six of the “How to Fill Out the Application Form” provides guidance to applicants regarding how other sources of funding are to be assessed. It states:*

Full disclosure of all assistance is required. Environmental Trust Fund support may be used to complement existing federal, provincial and private programs, and having other sources of funding may enhance the likelihood of Trust Fund support. Where appropriate, you may be asked to seek alternate or supplementary funding through other sources. Should other sources of funding be confirmed after you have submitted your proposal, please notify the ETF.

3.71 *The Project Eligibility and Criteria section of the website will be updated to reflect the above as well as instructions to project reviewers in the Department.*

3.72 We believe this criterion has been met.

Eligibility and assessment criteria should be met before awarding grants

3.73 We looked at approved applications to determine if they met the Departments eligibility and assessment criteria.

3.74 One of the steps in the ETF application process indicates that information is prepared and reviewed by subject experts who are provincial government employees. In each applicant’s file there was supposed to be a one page summary prepared by the subject experts describing the merits of the project. This is supposed to include a recommendation of whether to fund the project or reject the project. In our sample we found an application where the subject expert recommended the project, however it was not approved. We also found one application where the subject expert did not recommend

the project and yet it was funded. Finally one sample item did not have a subject expert review at all and yet the project was funded.

3.75 Our sample of 21 applications included three projects that were classified by the Department as in-year ETF applications. These applications were received after the published deadline for application submissions. There was no information on the web site that suggested that projects would be accepted after the deadline, however, the applicants must have had knowledge that money was still available or they would not have submitted the application. The Department supplied us with a document called the Process for In-year ETF Applications. One of the steps required by this document is to “forward the application request to the appropriate staff person for review based on the subject of the request.” We interpreted this to be the equivalent of the subject expert review mentioned above, however, we did not find any correspondence in any of the three in-year sample items that suggested the application was reviewed by a subject expert.

3.76 The Department referred to these in-year applications as applications to the discretionary fund.

3.77 We believe the public would make more use of these applications to the discretionary fund if information about the process was readily available.

3.78 It appears these in-year applications were sometimes fast tracked within the Department. In the case of one of the three sample items, the applicant had submitted some financial information but no formal application. The end result was that the applicant was successful in receiving a grant of \$20,000 without completing a formal application.

3.79 A second in-year application was approved and awarded \$10,000, but there was no signed letter of offer on the file. This application was stamped as received by the Department on the 19th of July 2006 and the approval letter was signed and dated by the Minister on the 20th of July, 2006.

3.80 In summary the eligibility and assessment criteria were met for regular applications, but not for the in-year applications.

Recommendation

3.81 We recommended the Department ensures that it follows the written protocol for in-year ETF applications.

Departmental response

3.82 The Department agrees with this recommendation. The Department established a protocol regarding in-year applications in October 2006 that applies to all in-year applications subsequent to those reviewed during the audit.

3.83 Therefore we believe this criterion has been partially met.

Agreements should be signed with grant recipients

3.84 The standard letter of offer that we described in the Overview of the Application Process includes conditions that the grant recipient is supposed to meet. This letter of offer is supposed to be signed by the grant recipient.

3.85 As we noted earlier, one of the three approved in-year applications did not have a signed copy of the letter of offer on file.

3.86 Except for this one item, our sample indicated that signed agreements did exist, therefore this criterion was met.

Performance of Fund recipients should be monitored

3.87 To assess whether the performance of the fund recipients was being monitored, we narrowed our testing to include three items. These three items are quarterly reports that the recipient is required to submit; a final report from the recipient; and departmental on-site visits. All three of these are required by the standard letter of offer.

3.88 In all cases the applicant is required by the letter of offer to provide copies of invoices and cancelled cheques. This helps the Department to ensure that the work was completed and was within the scope of the project as approved. It also helps to ensure that the Department does not pay for costs that exceed the approved grant total.

3.89 In our sample we rarely saw a quarterly report. Usually the successful recipient asked for an advance and then would make a final claim. In some cases the recipient would make one interim claim prior to the final claim. We discussed this with the Department. We felt that the short time frame for many projects would mean that the requirement to submit quarterly reports was not reasonable. The Department had also recognized this. In fact before we finished our audit work they informed us that they had changed that procedure

and would no longer request quarterly reports. The requirement has been changed to an interim report and a final report.

3.90 The standard letter of offer requires that “at the end of the funding period, there will be a 10% hold back of project funding until a final report and all financial back-up, including proof of expenditure of any advance, has been received by the Department.” In our sample we found one example where the recipient did not initially complete a final report. That recipient subsequently inquired about why they had not received their hold back. The Department informed them about the missing final report. As a result the recipient completed the final report and received their hold back. All other sample items had a final report.

3.91 The standard letter of offer requires that “the project site shall be accessible to the Departmental staff on a continuing basis” for on-site visits. The Department has a form to record information collected from these on-site visits. The Department also has a list of items to be discussed during the site visits, however, due to limited resources the Department had just one individual assigned to the on-site visits, an employee who also had numerous other duties.

3.92 In our sample, we found that the Department had visited three of the 21 recipients. Our understanding from the Department is that they choose the recipients to visit based on several undocumented criteria. For example: first time recipients; if the recipient had experienced trouble in the past; or if the recipient had requested an on-site visit to clarify some issues. Such a risk based approach is an appropriate approach, however, because the approach was not documented we could not determine if an appropriate number of site visits were conducted.

3.93 We believe the on-site visits are extremely important to the Department and to the recipient.

3.94 In addition to the three items we looked for, the Department did provide us with evidence of phone conversations with some of the recipients.

Recommendation

3.95 We recommended the Department document the criteria it uses to determine which projects will be inspected through on-site visits.

Departmental response

3.96 *The Department agrees with this recommendation and will compile a set of written guidelines to provide direction to staff in scheduling site visits.*

3.97 This criterion has been partially met.

Follow-up action on site visits should be taken

3.98 We looked for evidence that the Department was taking follow-up action when site visits identified problems with the performance of fund recipients. We noted that the three on-site visits conducted by the Department did not identify any problems with the performance of the fund recipient. We also noted that the Department did not release the hold back payment on one project until the final report was received. In the case of the hold back, however, the recipient had to ask the Department about the payment rather than the Department following up with the recipient to have the final report submitted.

3.99 We can not conclude on this criterion because we did not observe any site visits that would have required follow-up action.

3.100 We have concluded that our second objective which related to the payment of grants has been partially met.

Performance reporting

3.101 We wanted to determine if the Department does a periodic evaluation of whether the ETF is meeting its goals and objectives and whether the results of those evaluations are reported, and we wanted to determine if the ETF issues an annual report.

3.102 Over the years, government has taken certain actions that indicated to us that it has not been satisfied that the ETF was doing what it is intended to do. These actions were:

- A significant reduction in spending from the ETF. In the year ended 31 March 2000, over \$15 million was being spent from the ETF; this declined to a low of \$3.8 million in 2003. In 2007, \$7.0 million was spent.
- Reduced funding. In 2001 the Province stopped putting video gaming revenue into the ETF, thereby reducing its annual revenue by \$10 million.
- Transferring ETF funds to the regular departmental budget, without enhancing the ETF budget.

3.103 There has not been a formal evaluation of the ETF assessing its performance. We still believe, as we said in 1994, that a formal evaluation of the ETF should be done to determine the degree of success the fund has achieved to date. Such an evaluation should also include an examination of alternative approaches for the future and help to clarify the goals and objectives to be accomplished.

3.104 The Department publishes a single page of information about the ETF each year in its annual report. This gives the total number and funding value of projects awarded funds in each of the six categories listed in Section 3 of the Act. It also indicates the total number and value of applications received. The information reported does not explain the six categories, provide descriptions of any of the projects funded, or provide any information about what will be achieved by supporting those projects. The Department's annual report also includes a table that reports the revenue and expenditures of the ETF, however, the amount of the expenditures in the table is different than the amount of spending referred to in the narrative about the ETF. Neither the table nor the narrative provided any details about the fund's revenue.

Recommendation

3.105 We recommended the Department's annual report include more information about the performance of the Environmental Trust Fund.

Departmental response

3.106 *The Department agrees with this recommendation and has included some additional information on the performance of the ETF in the Department's 2008-2009 annual report. More information will be provided in future years. The Department will also begin highlighting selected projects in 2010-2011 on the ETF website.*

3.107 We did find that the Department occasionally issues a press release that reports certain aspects of a project but not necessarily for every funded project every year.

3.108 Through an internet search we also found several examples of the results of individually funded projects being reported. This was usually the result of an external group reporting their involvement in a project and its success.

3.109 We have concluded that this objective has not been met.

Overall conclusions

3.110 The ETF should develop more clearly defined objectives that are tied to the Department's priorities.

3.111 The ETF has eligibility and assessment criteria which it is applying except in the case of the in-year applications to the discretionary fund.

3.112 The on site project inspection guidelines need to be documented.

3.113 The Department should report on how the fund is meeting the goals and objectives it has decided on.

Chapter 4

Department of Business New Brunswick

New Brunswick Innovation Foundation

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Department of Business New Brunswick New Brunswick Innovation Foundation

Introduction

4.1 Innovation can be defined as the development of new or enhanced products and services that will advance upon what is available in the marketplace currently. Development of innovative products and services takes money, and governments including New Brunswick have taken on a funding role in this area.

4.2 New Brunswick businesses and entrepreneurs have no shortage of innovative ideas. The problem from a public perspective is to decide how much funding a small province with limited resources can commit to the development of those ideas, and then how to choose which projects will be funded publicly.

4.3 There have been specific innovation funding challenges in recent years as well. For example:

- the decision by the federal government to fund innovation projects directly rather than transferring money to the provinces for that purpose. This has meant that the Province no longer has control over which projects are funded with federal funds.
- the dissolution of the provincial Science and Technology Secretariat which had been responsible for creating a significant focus on innovation.

4.4 Since 2002 New Brunswick has chosen to deliver a substantial portion of the available public innovation funding through an independent organization, the New Brunswick Innovation Foundation (NBIF). This was one of two such foundations set up at

the time in New Brunswick for purposes of delivering a public program. There have been none set up since, but they are common in some other jurisdictions and at the federal level. Essentially, the Province has delegated discretionary spending authority to the NBIF. NBIF can redistribute public money entrusted to it without direct decision-making input from government.

4.5 Because of NBIF's independence, there are some risks associated with this arrangement in relation to accountability. Specifically, government's lack of control over spending may make it more difficult for government to:

- be held accountable by the Legislative Assembly for funds expended; and
- be held accountable by the Legislative Assembly for ensuring that programs and services are delivered to publicly-acceptable standards.

4.6 It is therefore important that specific controls exist to mitigate these risks and ensure that the Province gets full value for funds transferred to NBIF. Our report addresses these key risks and the controls in place to mitigate them.

4.7 Although some pre-planning had been done, government only made the final decision to set up the current arrangement for delivering provincial innovation funding in February 2002. By March 2002 the New Brunswick Innovation Trust Fund (the Trust) had been established and \$20 million of public funds had been transferred to the Trust. On 6 November 2002, NBIF was incorporated and assigned sole authority to withdraw and use money from the Trust to fund provincial innovation projects at its discretion. The Department of Finance (Finance) handled the establishment of the Trust, while Business New Brunswick (BNB) was responsible for setting up NBIF including the selection of all of the initial NBIF board members. The Office of the Comptroller also provided input during the implementation of the arrangement.

4.8 A BNB representative indicated that, at the time, it was planned to transfer \$20 million per year of public funds into the Trust, but that did not happen. To date, a total of \$30 million in provincial innovation funding has been transferred to the Trust.

Background

Arrangement for delivering provincial innovation funding

4.9 The purpose of setting up the existing innovation structure, as described in the Trust Agreement, was as follows:

To provide an immediate, irrevocable commitment to the people of New Brunswick towards supporting the growth of the economy of New Brunswick through a fund dedicated to supporting targeted and leveraged investments in companies, business and key industrial clusters such as IT and the e-economy, advanced manufacturing, plastics, environmental services, and life sciences and the bio-economy with the following objectives:

- *Increased private sector R&D investment*
- *Increased R&D investment in and by universities*
- *Enhanced take-up of federal R&D programs and “university chairs”*
- *More small and medium sized enterprise knowledge-based start-ups*
- *Stronger collaborative linkages amongst governments, private sector and universities.*

4.10 The NBIF website states:

The New Brunswick Innovation Foundation (NBIF) is an independant corporation that supports the development of innovation in New Brunswick. Our mandate is to strengthen the innovation capacity of New Brunswick by making investments in applied research and new growth-oriented businesses.

4.11 In addition to innovation funding, NBIF has also contracted with the Department of Post-Secondary Education, Training, and Labour (Department of PETL) to deliver the funding associated with two programs.

- The Research Assistantship Initiative provides research assistantships to students working with professors or researchers dealing with innovation activities in the strategic industries identified by the NBIF.
- The Research Technicians Initiative provides financial assistance to academic institutions and research organizations in the Province of New Brunswick for the hiring of research technicians, or research associates, working under the supervision

of researchers in support of the institutions' efforts to expand capacity to undertake research and innovation activities.

Our audit

4.12 In our 2002 Report, paragraph 1.8, we made the following comment about this arrangement:

...the funds have flowed outside of the control of government. But this also means there is no further accountability to the Legislative Assembly and the taxpayers of New Brunswick. ... there is no requirement to publicly report which ... companies actually receive funds, how much they receive or for what purpose.

4.13 Our Report went on to recommend in paragraph 1.9:

If there are to be any similarly structured trust agreements in the future, I would recommend that they include provisions for full public accountability, including performance reporting and a better audit regime.

4.14 We have continued to believe that, because NBIF is independent of government, there is a significant risk that accountability in association with the current arrangement for delivering provincial innovation funding may be inadequate. Our primary interest is in ensuring that BNB can be held accountable for its performance in delivering innovation funding through NBIF. For that reason, we felt it would be of value for us to audit this arrangement.

4.15 It is important to note that our audit focused on BNB's involvement in the delivery of provincial innovation funding through NBIF. We did not audit the activities or operations of NBIF, nor do we have the legal right to do so.

Scope

4.16 The objective of our audit was:

To assess whether governance structures and practices established by Business New Brunswick in connection with the delivery of innovation funding through the New Brunswick Innovation Foundation ensure accountability and protection of the public interest.

4.17 In completing our audit, we interviewed government representatives on the board of NBIF, and representatives from BNB,

Finance, the Department of PETL, and NBIF. We reviewed all planning and related files at BNB. We reviewed NB Innovation Trust Fund data and reports provided by Finance, documents provided by NBIF, documents provided by the Department of PETL, and other pertinent information from various sources. Finally, we reviewed the results of audits of similar independent foundations conducted in other Canadian jurisdictions, most particularly reports prepared by the Auditor General of Canada.

4.18 Note that we could not compel NBIF to provide us with information, as it is an organization independent of government, and therefore not required to comply with the New Brunswick Auditor General Act. However, in the course of completing this audit, NBIF did provide us with certain confidential financial and operating data about their operations. This data was provided by NBIF on the understanding that it would be for our internal use only, and would not be disclosed publicly in our report.

4.19 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Results in brief

Summary of audit findings

Audit Area and Criterion	Summary of Audit Findings
<p>Government Funding to NBIF – no specific criterion developed.</p>	<p>There are additional administration and overhead costs associated with having a separate organization that would not be necessary if all innovation funding was delivered through BNB. The value of having an independent organization delivering provincial innovation funding and the advantages that entails must be weighed against these associated costs.</p> <p>There is no formal, defined process for replenishing the Trust. If the Province decides not to transfer additional resources into the Trust by the end of the 2010/2011 fiscal year, and NBIF is not able to find another source of funding, the organization will not be able to continue at its present activity level beyond the 2010/2011 fiscal year.</p> <p>The initial decision to provide NBIF with access to multi-year funding through the Trust has led to a \$2.6 million net interest cost for the seven-year period that would not have been incurred had NBIF been directly funded by government on a year-by-year basis.</p> <p>One advantage noted by a government representative as associated with the current arrangement for delivering innovation funding relates to the timing of recognition of expenditures for provincial financial statement purposes. In essence, creating the New Brunswick Innovation Trust Fund as a vehicle for channeling funds to the independent NBIF organization has given the Province the ability to increase its expenditures as required by simply transferring money to the Trust. However, we would argue that the ability for government to manipulate its financial results is not an advantage from a public perspective.</p>

Audit Area and Criterion	Summary of Audit Findings
<p>Provincial Innovation Strategy - <i>Delivery of innovation funding through the New Brunswick Innovation Foundation (NBIF) should be aligned with an overall provincial innovation strategy.</i></p>	<p>The delivery of innovation funding through the New Brunswick Innovation Foundation appears to be aligned with overall provincial innovation strategy.</p>
<p>Roles and Responsibilities - <i>The roles and responsibilities of the NBIF and government, including government representatives on the board of the NBIF, should be clearly defined and linked to the overall provincial innovation strategy.</i></p>	<p>While the roles of the various government organizations responsible for delivering innovation funding or related support services are clear, there is no documented agreement between BNB and NBIF specifying the performance expectations, and other terms and conditions under which government provides funding to NBIF.</p> <p>BNB was originally intended to be given responsibility for communicating government performance expectations to NBIF and monitoring and reporting on NBIF's performance in order to ensure transparency and accountability. However, it was never given a mandate by government to carry out these responsibilities.</p> <p>The government representatives on the board of NBIF may be in a conflict position relating to their dual roles as representatives of the Province and board members of NBIF.</p>
<p><u>Monitoring</u> - <i>BNB should regularly monitor the performance of NBIF and take corrective action where that performance does not meet provincial expectations.</i></p>	<p>Because it was never given a mandate by government to do so, BNB does not regularly monitor the performance of NBIF. Consequently, it does not have access to sufficient information to know when corrective action is necessary to address deficiencies in NBIF's performance.</p> <p>We would, however, like to acknowledge the efforts undertaken by the Department of PETL in monitoring NBIF delivery of the Research Assistanceship Initiative and the Research Technicians Initiative.</p>

Audit Area and Criterion	Summary of Audit Findings
Code of Conduct - <i>BNB should ensure that, as an organization delivering provincial funding, NBIF has a code of conduct in place for board members and staff that supports and protects public sector values (i.e. fairness, impartiality, equity, honesty, prudence, transparency and openness, respect for the public good and the rule of law, provincial standards and policies, conflict-of-interest, accountability, stewardship of the public trust, privacy, and protection of the environment), including sanctions that apply to breaches of this code of conduct.</i>	Because it was never given a mandate to do so, BNB has not ensured that NBIF has a code of conduct in place for board members and staff that supports and protects public sector values. And NBIF has not developed such a code of conduct, nor does it require its directors to sign a conflict-of-interest or other declaration pursuant to their membership on the NBIF board.
Audit and Evaluation - <i>BNB should ensure that NBIF is subject to the same level of attest, compliance, and performance audit as departments and Crown agencies, and that periodic program evaluations of the arrangement are undertaken. Key findings from these audits and evaluations should be reported to the board of directors, BNB, and the Legislative Assembly.</i>	Because it was never given a mandate to do so, BNB has not ensured that NBIF is subject to the same level of attest, compliance, and performance audit as departments and Crown agencies, nor has it ensured that periodic program evaluations of the arrangement are undertaken. Results from the evaluation that was completed were not provided to the Minister of Business New Brunswick or the Legislative Assembly by NBIF.
Effectiveness Reporting - <i>BNB should have established procedures to measure and report on the effectiveness of NBIF in accomplishing its provincial policy objectives, and in acting as a good steward for public assets.</i>	Because it was never given a mandate to do so, BNB has not established procedures to measure and report on the effectiveness of NBIF in accomplishing its provincial policy objectives, and in acting as a good steward for public assets.

Conclusion

4.20 Based upon our audit work, we conclude that governance structures and practices established by Business New Brunswick in connection with the delivery of innovation funding through the New Brunswick Innovation Foundation do not currently ensure accountability and protection of the public interest.

Recommendations

4.21 We recommend the Province should provide future funding to NBIF on a year-by-year basis due to the significant financing costs associated with providing multiple year funding.

4.22 We recommend the Province explicitly assign responsibility to BNB for communicating government performance expectations to NBIF, and monitoring and

reporting on NBIF's performance in order to ensure that adequate accountability exists for the arrangement.

4.23 We recommend BNB should ensure that regular reconciliations are performed verifying that money drawn from the Trust agrees with that reported in NBIF's financial statements.

4.24 We recommend, in order to simplify and potentially reduce the cost of the funding process, the Province should terminate the Trust as allowed under the Deed of Settlement and Trust, and have BNB simply fund NBIF directly as part of a contractual arrangement.

4.25 Further to that, we recommend BNB should require NBIF to sign a letter of agreement before transferring additional funds to the Trust. That letter of agreement should clearly document:

- The amount and timing of funding to flow from BNB to NBIF, the period covered, and any significant details relating to the process for NBIF accessing those funds.
- BNB performance expectations for NBIF relating to its delivery of innovation funding. Those performance expectations should include:
 - Expected program outcomes to be achieved by NBIF;
 - A requirement for NBIF to be covered by and compliant with the provincial Auditor General Act, giving our Office the legal right to conduct compliance and performance audits at NBIF and report the results of those audits to the Legislative Assembly;
 - A requirement for periodic independent evaluations of the delivery of innovation funding through NBIF using recognized evaluation standards; and
 - A requirement for NBIF to apply public sector values in delivering innovation funding for the Province. This should include a requirement for NBIF to adopt a code of conduct, including conflict-of-interest guidelines, that is signed by all board members and staff. It should also include a requirement that NBIF be as publicly open as possible regarding access to information on the agreements, objectives, activities, and achievements

with appropriate provisions being made for legitimate concerns of personal privacy, commercial confidence, and intergovernmental negotiations.

- Reporting required by BNB from NBIF. Required reporting should facilitate BNB monitoring and effectiveness reporting related to all aspects of NBIF's performance.
- A requirement for both parties to comply with terms of the operational memorandum of understanding signed by BNB and NBIF.
- Specific remedies available to BNB should NBIF fail to meet government performance expectations or reporting requirements associated with the arrangement. In such cases, BNB should have the right to withdraw funding, roll-over funding to future years, or take other specific actions as determined appropriate in the circumstances.
- The role of government representatives on the board of NBIF.
- Other terms and conditions as considered necessary in the circumstances.

4.26 We recommend, in order for BNB to effectively monitor NBIF and provide a basis for public performance reporting on the arrangement, BNB should ensure that:

- Government performance expectations are communicated to NBIF annually,
- Appropriate, sufficient reporting is being provided to BNB by NBIF to allow the department to evaluate the degree to which NBIF has met government performance expectations,
- Regular report review processes have been implemented within BNB, and
- Processes have been developed and implemented covering action to be taken by BNB when NBIF performance is not as expected.

4.27 We recommend BNB should publicly report information on the extent to which the arrangement with NBIF has accomplished its provincial policy objectives, and at what cost, in its annual report.

4.28 We recommend BNB should table evaluation reports related to the arrangement in the Legislative Assembly because

of the value of those reports as inputs to public policy decisions associated with the delivery of innovation funding.

4.29 We recommend BNB should carefully consider the ramifications of the potential conflict for government representatives on the NBIF board between their fiduciary duties as board members and their assigned roles as protectors of the provincial interest relating to innovation funding delivered through NBIF. Action should be taken to mitigate any identified risks. The simplest option would be to eliminate the requirement that provincial representatives sit on the board of NBIF, or as a minimum remove their voting rights as board members.

Delivery of provincial innovation funding by NBIF

Government funding to NBIF

4.30 By 31 March 2009, NBIF had received approximately \$41.7 million in funding from all government sources, as shown in Exhibit 4.1 below.

Exhibit 4.1 Funding Available to NBIF from All Sources from Incorporation to 31 March 2009 (NBIF figures)–(\$ millions)

Source of Funds	Amount Received to 31 March 2009
Innovation Funding from BNB to New Brunswick Innovation Trust	\$30,0
Interest Earned Within New Brunswick Innovation Trust	3,5
Post-Secondary Education, Training, and Labour for the Research Assistanceship and Research Technicians Initiatives	6,1
Maritime Provinces Higher Education Commission for the Research Assistanceship Initiative	0,9
Regional Development Corporation for Atlantic Cancer Research Institute	1,2
Total	\$41,7

4.31 As can be seen from Exhibit 4.1, funding received by NBIF from sources other than the New Brunswick Innovation Trust Fund has been targeted for specific program expenditures. Exhibit 4.2 below provides more detail on the sources and uses of funds within the Trust.

Exhibit 4.2 New Brunswick Innovation Trust Fund – Continuity Schedule – (\$000's)

Fiscal Year	Opening Trust Balance	Funds from PNB	Interest Earned	Draws by NBIF	Admin Fees	Closing Trust Balance
2001/2002	0	20 000	13	0	0	20 013
2002/2003	20 013	0	528	1 000	17	19 524
2003/2004	19 524	0	482	3 500	10	16 496
2004/2005	16 496	5 000	301	3 000	8	18 789
2005/2006	18 789	5 000	470	4 000	8	20 251
2006/2007	20 251	0	745	3 000	8	17 988
2007/2008	17 988	0	681	3 000	9	15 660
2008/2009	15 660	0	263	5 500	14	10 409
Total 2001/2002 to 2008/2009	0	30 000	3 483	23 000	74	10 409

4.32 NBIF has been gradually drawing down the balance in the Trust as required to fund investments in innovation projects and administrative costs of the organization. The Province has not transferred additional funds to the Trust since 2005/2006. The draw for 2008/2009 of \$5.5 million reflects the current annual expenditure level of NBIF. As of 31 March 2009, the remaining balance in the trust was approximately \$10.4 million. This means that at that date, considering interest to be earned, there was only about two years of funding remaining in the Trust Fund.

4.33 There is no formal defined process for replenishing the Trust. NBIF made a formal request to government in 2008 that the Province transfer an additional \$10 million to the fund, but that request was rejected. As no additional government funds have been budgeted for transfer to the Trust in 2009/2010, it appears that government will have to make a critical decision about the future of NBIF during the next budget cycle. If the Province decides not to transfer additional resources to NBIF by the end of the 2010/2011 fiscal year, and NBIF is not able to find another source of funding, the organization will not be able to continue at its present activity level beyond the 2010/2011 fiscal year.

4.34 One government representative we talked to suggested that government may decide to budget transfers to NBIF on a year-by-

year basis in future as it does for Crown agencies and other government-funded organizations. The concern expressed by NBIF is that since inception they have always been assured of the availability of multi-year funding. The current situation is causing uncertainty within NBIF about its future, and there is concern that staff may decide to pursue other opportunities as a result. This potential loss of staff may lessen the effectiveness of the organization in the longer term. An NBIF representative indicated that they would prefer to have the assurance of longer-term funding, but do, as a minimum, need to know the government's future funding plans for the Trust as soon as possible.

4.35 In the near future, government will also have to decide whether to extend the termination date of the Trust. According to the current Deed of Settlement and Trust Agreement, the Trust will be terminated no later than March 31, 2012.

Additional costs

4.36 Through our audit work, it became apparent that there were significant costs to government associated with setting up the current delivery arrangement for innovation funding. Unfortunately, cost information was not accumulated in association with this initiative so we can provide no actual dollar figures. However, the types of costs incurred included:

- Salaries and benefits of departmental management and staff who were involved in planning and implementing the arrangement. Note that a number of staff from BNB, Finance, and the Comptroller's Office were involved, some very extensively.
- Costs associated with the incorporation of NBIF, the hiring of staff, and the appointment of board members.
- Costs associated with the establishment of the Trust.

4.37 We have, however, been able to quantify one significant cost associated with the establishment of the current arrangement. Referring back to Exhibit 4.2, it relates directly to the decision to set up the Trust as a funding conduit and transfer funds to it well in advance of those funds being needed by NBIF.

Exhibit 4.3 Net Interest Cost of Pre-Funding the New Brunswick Innovation Trust

Fiscal Year	Average Trust Balance (\$ 000's)	PNB Borrowing Rate (%)	Total Interest Cost (\$ 000's)	Less: Interest Earned in Trust (\$ 000's)	Net Interest Cost (\$ 000's)
2002/2003	19 768,3	5,72	1 130,7	527,7	603,0
2003/2004	18 009,5	5,20	936,5	481,7	454,8
2004/2005	17 642,0	5,00	882,1	301,3	580,8
2005/2006	19 519,4	4,48	874,5	469,9	404,6
2006/2007	19 119,0	4,52	864,2	745,7	118,5
2007/2008	16 824,1	4,58	770,5	680,9	89,6
2008/2009	13 034,6	4,53	590,5	263,0	327,5
Total			6 049,0	3 470,2	2 578,8

4.38 As can be seen in Exhibit 4.3, applying the average annual provincial borrowing rates to the average balances in the Trust on a year-by-year basis yields a total interest cost associated with this pre-funding of approximately \$6.0 million over the period from 2002/2003 to 2008/2009. Since only \$3.5 million in interest was earned within the Trust during that same period, the net interest cost of pre-funding NBIF was over \$2.5 million for the seven-year period.

4.39 This cost relates directly to the initial decision to provide NBIF with access to multi-year funding. In our opinion, it also provides a strong cost argument for moving the funding model to a year-by-year basis, as is apparently being considered by government at present.

Benefits and problems associated with the arrangement

4.40 Although the current arrangement for delivery of provincial innovation funding does not appear to be based on an existing model from another jurisdiction, provincial and NBIF representatives described a number of advantages associated with creating NBIF as a separate entity and continuing to deliver provincial innovation funding in this manner. Among the advantages noted were:

- To create higher visibility, perceived importance, and action for innovation within the Province. NBIF has developed better marketing capabilities and a higher innovation profile than government.

- To reduce the risk of direct political interference in the delivery of innovation funding.
- To leverage available federal funding for applied research. NBIF, as an organization that is independent of government, has access to matching funds under certain federal government programs that are not available to BNB. Also, more generally, to leverage funds from other levels of government and/or the private sector as available. (Note that NBIF typically requires that at least 80 percent of funding for a project be obtained from sources other than NBIF.)
- To obtain access to free technical expertise. NBIF relies on other funding partners to do technical reviews for them. (BNB does its own technical reviews.)
- To increase investment flexibility. NBIF can make venture capital investments, thereby assuming an ownership position in investee companies. BNB is not legally able to make this type of investment, although its associated Crown agency Provincial Holdings Ltd. may do so.
- To allow the use of non-traditional methods to encourage innovation within the Province. NBIF created the Breakthru competition for innovative provincial entrepreneurs, which includes the awarding of prizes paid for by NBIF or donated by private sector organizations. Given spending and other restrictions within government, it would be difficult to run such a program through a government department.
- To allow for longer term planning in innovation. The assets in the Trust have been large enough to cover multiple years of NBIF's financial needs, allowing them more flexibility in planning long term. Within government, budgets are approved annually.
- To facilitate revenue generating activities such as fundraising. NBIF would retain all funds raised by such activities for potential reinvestment in innovation. Revenues earned by a government department like BNB would go into general government revenue, and therefore out of the control of the department, making it unlikely it would be used for innovation.

- To facilitate contact with the private sector. Many private sector organizations are not as comfortable dealing with government as they are in dealing with an independent NBIF.
- To deliver research dollars to universities.
- To give the Province more flexibility in managing its financial results. Creating the New Brunswick Innovation Trust Fund as a vehicle for channeling funds to the independent NBIF organization has given the Province the ability to increase its expenditures as required by simply transferring money to the Trust. However, we would argue that the ability for government to manipulate its financial results is not an advantage from a public perspective.

4.41 Some problems were also noted with the delivery of innovation funding through NBIF, as it is presently structured.

- Government accountability for funds paid into the Innovation Trust Fund is a problem. Once funds are transferred to the Trust, there is essentially no government control over how they are expended because government did not give BNB or any other department a mandate to communicate government performance expectations to NBIF or monitor and report on its performance.
- Government has set no performance expectations for NBIF relating to the delivery of innovation funding.
- Government has set no reporting requirements for what it receives from NBIF in exchange for funding provided vis-a-vis performance reporting. Therefore, because NBIF is independent, government does not have the right to demand that information about NBIF's operations and/or achievement of government objectives be provided.
- All funding for NBIF currently comes from government. The business community, while it benefits from NBIF funding, has made no financial investment in NBIF.
- The capacity and expertise to evaluate proposed innovation projects has already been developed within BNB, but is not being exploited under the current model. Also, there may be confusion in the private sector about who to approach for particular types of

funding, although BNB and NBIF did indicate that they each refer inquiries to the other when appropriate.

- Government has the opportunity to transfer more money than is currently needed to the Trust over which neither it, nor future governments, will have control. This may effectively take decision-making authority away from the future legislators who will be in place when the funds are actually required.
- There are additional administration and overhead costs associated with having a Trust and a separate organization (i.e. NBIF) that would not be necessary if all innovation funding was delivered through BNB.

Cost/benefit of delivering provincial innovation funding through NBIF

4.42 The value of having an independent organization delivering provincial innovation funding and the advantages that entails must be weighed against the associated costs of establishing NBIF and the Trust and administering them on an ongoing basis. There appear to be significant benefits associated with the arrangement. However, the degree to which government can address the problem areas should be critical in its assessment of whether NBIF should continue to be funded in the long term by government. Ultimately NBIF needs to provide relevant services that do not “compete” with those already offered by BNB and/or other government and private-sector organizations. It also needs to be cost effective, and, most importantly, successful in achieving the goals of the programs that it has been called upon by government to deliver.

Provincial innovation strategy
Audit criterion

4.43 The following audit criterion relating to the linkage between the provincial innovation strategy and the operations of NBIF was agreed upon with BNB.

Delivery of innovation funding through the New Brunswick Innovation Foundation (NBIF) should be aligned with an overall provincial innovation strategy.

Existing provincial strategy

4.44 Government has no separate innovation strategy per se. Government innovation “strategy” is rather covered in various places under the government’s *Our Action Plan to be Self-Sufficient in New Brunswick*. In connection with this plan, BNB has prepared a “strategic priorities” document covering the period from 2007-2011. It identifies five key industrial and technological “clusters” that government wants to focus on, including advanced learning, bio-

science, health, energy, and aerospace & defense. The BNB Innovation branch has a role in each of these clusters.

Existing NBIF strategy

4.45 According to an NBIF representative, the organization's overall goal is to make a significant contribution to innovation in NB. The original vision for the organization, as developed by its first chair and board of directors, was to split innovation funding 50/50 between venture capital and applied research. However, NBIF has had difficulty in meeting that target for venture capital investments, and therefore has spent somewhat more in the research area.

4.46 NBIF updates their strategic plan every year and prepares an associated three year business plan. This plan is developed internally by NBIF and approved by the NBIF board of directors. NBIF indicated that they try to mirror government priorities in preparing these plans, and the government's *Our Action Plan to be Self-Sufficient in New Brunswick* is currently considered a key planning reference by the organization.

Review of NBIF mandate by government under self-sufficiency plan

4.47 The government's *Our Action Plan to be Self-Sufficient in New Brunswick* included the following comment:

Priority actions will include . . . Reviewing the current mandate and structure of the New Brunswick Innovation Foundation so that it supports key research and development that is complementary to priority technology clusters.

4.48 A representative of BNB indicated that government, through its four representatives on the board of NBIF, is addressing this mandate review of NBIF. The NBIF board has recently brought the strategic priorities of NBIF more in line with the government's self-sufficiency agenda by adding the energy and environmental technologies category, and has taken action to address concerns around administrative costs. For example, the NBIF board required revisions to the initial proposed budget for 2009/2010, specifically the reduction of planned administrative costs. The representative stated that while NBIF does not need to be completely aligned with BNB's objectives, their priority should be to support the five key strategic clusters identified in provincial plans. As can be seen in Exhibit 4.4 below, NBIF appears to cover many, but not all, of BNB's strategic clusters among their strategic industries list.

Exhibit 4.4 Comparison of Strategic Focus of BNB and NBIF

BNB Strategic Clusters	NBIF Strategic Industries
<p>Advanced Learning (Technology Cluster)</p> <ul style="list-style-type: none"> • Customized corporate training solutions • Computer based training utilizing simulation, animation and game technologies • Safety, security and military instruction • Industrial/vocational technical training • Information technology certification 	<p>Knowledge Industry</p> <ul style="list-style-type: none"> • Information and communication technologies including internet solutions/e-commerce, software development system integration, e-learning, e-health, etc. • Geomatics • Engineering including computer, electronics, architectural, ocean technologies, medical
<p>Bio-Science (Technology Cluster)</p> <ul style="list-style-type: none"> • Sustainable diversification of traditional bio resource-based industries (forest, agriculture and marine) • New and emerging markets in clean bio energy and bio products • Use of renewable natural resources and expertise to develop environmentally-friendly products, services, fuels, energy and materials • New technologies, products and services for human and animal applications • New technologies to study gene and cell functions in plant and animal biological systems 	<p>Life Sciences</p> <ul style="list-style-type: none"> • Biotechnology – e.g. bio-medical engineering, bio-pharmaceuticals, genomics, breeding and pest management, bio-informatics, crop science and bio-pesticides, bio-products • Marine Science • Wood Science <p>Value-Added Natural Resources</p> <ul style="list-style-type: none"> • Agriculture • Forestry • Minerals • Aquaculture and Fisheries including value-added fish and seafood products
<p>Health (Technology Cluster)</p> <ul style="list-style-type: none"> • Research and development in cancer, genomics, proteomics and bio-informatics • Cybernetics and prosthetic limb development for rehabilitation • Home and rural health care technology – tele-health services and home-based monitoring • Electronic health records • Prescription drug monitoring • Clinical trials 	<p>Partially covered under “Knowledge Industry” above.</p>

BNB Strategic Clusters	NBIF Strategic Industries
Energy (Industrial Cluster) <ul style="list-style-type: none"> • Energy efficiency products and services for residential, commercial and industrial markets • World class expertise in nuclear power technology • Ocean and wind energy generation technologies • Clean air, water and land environmental expertise 	Energy and Environmental Technologies <ul style="list-style-type: none"> • Energy Generation from alternate sources • Energy Storage including fuel cells, advanced batteries, hybrid systems • Energy infrastructure • Water treatment and conservation • Air and Climate including emission control, clean-up, monitoring/compliance, trading and offsets • Recycling and waste treatment
Aerospace and Defence (Industrial Cluster) <ul style="list-style-type: none"> • Precision machining and metal fabrication • Advanced learning/simulation systems • Electronics/avionics assembly • Commercial pilot training • Military vehicle armouring and refurbishment 	Not covered

Provincial innovation strategy- conclusion

4.49 Based upon our work, we conclude that the delivery of innovation funding through the New Brunswick Innovation Foundation appears to be aligned with overall provincial innovation strategy.

Roles and responsibilities
Audit criterion

4.50 The following criterion in relation to roles and responsibilities of key provincial innovation players was agreed upon with BNB.

The roles and responsibilities of the NBIF and government, including government representatives on the board of the NBIF, should be clearly defined and linked to the overall provincial innovation strategy.

Roles of provincial organizations in innovation

4.51 There are several organizations involved in delivering innovation funding and support services at the provincial level.

4.52 The Business New Brunswick Innovation branch administers the Technical Adoption and Commercialization Program (TACP). This program committed approximately \$1.9 million in contributions to 250 projects during 2007/2008, and has a budget of just \$1 million for 2009/2010. Consequently, BNB funds only small innovation projects through that program. The Financial Assistance to Industry (FAI) program that is also delivered by BNB has a much larger

budget. However, a departmental representative indicated that the payback methodology used for the FAI program doesn't work for innovation projects, so they are typically not funded through that program.

4.53 NBIF focuses on the following specific areas:

- venture capital;
- applied research;
- the breakthru program for new entrepreneurs; and
- Department of PETL programs (i.e. the Research Assistantship and Research Technicians Initiatives)

4.54 As NBIF's venture capital investments involve larger projects, it does not service the same client base as BNB's TACP.

4.55 The Department of PETL has contracted with NBIF to deliver the two research-related programs noted above and may add an additional program in the near future.

4.56 The Research and Productivity Council (RPC) offers primarily problem solution expertise. RPC's work is performed on a fee for service basis and they only get a small percentage of their revenue from government. RPC does not provide financial support for innovation.

4.57 The New Brunswick Investment Management Corporation (NBIMC) may invest up to three percent of its assets within New Brunswick. This may include innovation projects.

4.58 From our review, there appears to be no duplication of service delivery among any of the organizations discussed in this section. Most particularly, the roles of BNB and NBIF appear to be complementary. NBIF appears to focus on larger projects requiring venture capital investment while BNB concentrates on providing grant funding for smaller projects requiring resources to take a product idea to market. Research funding is outside the mandate of BNB.

***Degree of coordination
between NBIF and
government***

4.59 *The New Brunswick Innovation Foundation - A Framework - November 2002* states:

Business New Brunswick will be the lead department in coordinating the provincial government's role in

innovation, and its relationship with the Innovation Foundation.

4.60 According to the framework document, BNB was originally intended to be given responsibility for communicating government performance expectations to NBIF and monitoring and reporting on NBIF's performance in order to ensure transparency and accountability. However, in practice neither BNB nor any other government department was given a mandate by government to carry out these responsibilities. This has led to significant accountability deficiencies that are discussed later in this report.

4.61 In the normal course of its operations, NBIF has occasional contact with Business New Brunswick, primarily through a single BNB liaison. In keeping with the governance structure established when NBIF was created, NBIF operates completely independently of BNB, making its own decisions on which innovation projects it will fund. As previously discussed, NBIF primarily focuses on larger innovation projects which would typically not qualify under any of BNB's funding programs, so the risk of NBIF duplicating government funding is low. NBIF may refer clients to BNB and vice versa depending on the type of funding being requested.

4.62 A BNB representative indicated that when NBIF was set up, the intent was that BNB would do technical application reviews, and a Memorandum of Understanding (MOU) to that end was developed. However, in practice, BNB is involved in very few NBIF reviews. Under the current revised version of the MOU, NBIF occasionally asks BNB for its opinion on certain specific questions related to proposals being considered by NBIF. Information shared by NBIF in such cases is limited. There is no ongoing cooperative relationship on NBIF files.

4.63 NBIF also deals regularly with the Department of PETL for whom it delivers some program funding, and Finance, who are responsible for investing the funds in the Trust, and also transfer trust fund dollars to NBIF as required. NBIF also has some contact with the New Brunswick Investment Management Corporation in connection with funds that organization is permitted to invest in New Brunswick companies.

4.64 A representative of NBIF noted that, while they do have contact with various government departments, formal communication is lacking, especially between BNB and NBIF. From

our review, we found no documented agreement aside from the MOU as to what type of formal communications are to take place between BNB and NBIF, nor any description of what form those communications should take.

Composition of the board of directors

4.65 The current NBIF board is composed of fourteen members. It is made up of seven members from the private sector, four from government, and three from academia. The chair is a representative of the private sector.

4.66 No-one we talked to could explain the rationale for the size or composition of the board.

Role of government representatives on the board

4.67 NBIF board members are responsible for governing the organization, primarily through attendance at several board meetings held each year. One board member indicated their primary responsibilities include reviewing financial statements, reviewing project funding decisions made by the executive management committee, and working on organizational plans. Based on our discussions with board members representing the Province, an important part of this planning is ensuring that corporate objectives align with provincial priorities.

4.68 The chair, along with a board member representing the government, and the NBIF President form the three-member NBIF executive management committee. That group is responsible for reviewing all funding requests, and either approving them (i.e. for funding requests under a certain amount), or recommending them to the board for approval.

4.69 When asked about the role of government representatives on the board of NBIF, a board member commented:

Members are appointed from economic departments. They are appointed because they understand relationships between departments and NBIF. Funding for programs comes from departments. The relationship between the broad priorities of government and NBIF need to be aligned. They have certain expertise in an area. They monitor how NBIF is achieving the goals of government.

4.70 We feel that the primary responsibility of any board member is to act in the best interests of the organization that they govern, in this case NBIF. This should include government representatives on

the board. However, the roles assigned by government may not be consistent with this primary responsibility. In fact, deputy ministers on the board of NBIF may be acting primarily as representatives of government at the board table. There may be cases where this is not in the best interests of an independent NBIF. One comment from a government board member may be illustrative:

... You have to separate your fiduciary responsibilities as a board member to serve the best interest of the organization [i.e. government]. There's no point having an organization [i.e. NBIF] working at cross purposes from what we are doing here [in a government department]...

4.71 Also, as previously noted, government, through its four representatives on the board of NBIF, is currently reviewing the mandate of NBIF under *Our Action Plan to be Self-Sufficient in New Brunswick*.

4.72 Our primary concern is from a public sector perspective, and government representatives on the board of NBIF do appear to be acting in the best interests of government. However, we feel that government should consider carefully the ramifications of this potential conflict for government representatives on the NBIF board.

Government control over NBIF operations and activities

4.73 Notwithstanding the presence of government deputy ministers on the board and executive management committee of NBIF, the key control that government has over the activities of NBIF lies in the fact that NBIF's operations are primarily funded through public money transferred to the Trust. As discussed previously, without the funds provided by government, NBIF is unlikely to be able to continue to operate in its present form. However, government has not used this leverage to make a formal agreement with NBIF specifying the performance it expects of NBIF and any other specific requirements it has in connection with the current arrangement. We feel that many of the problems with the arrangement, as described earlier in this report, have arisen as a direct result of the lack of such a formal agreement.

4.74 The Department of PETL has taken a more proactive approach in this area. As mentioned above, NBIF currently delivers the funding for two programs on behalf of the Department, the Research Assistantship Initiative and the Research Technicians Initiative. For each of those programs, the Department requires that NBIF sign a detailed letter of offer specifying the rights and

responsibilities of both parties to the agreement. This creates a contractual arrangement between the Department and NBIF. Specific terms of the letter of offer most recently prepared by the Department include the following:

- The amount and timing of funding to flow from the Department to NBIF and the period covered, and any details relating to the process for NBIF accessing those funds.
- The objectives assigned to NBIF relating to its delivery of the program.
- The requirement for NBIF to provide a written activity report periodically and in prescribed form to the Department that includes specified details about each project funded.
- The requirement to provide a written final report to the Department in prescribed form upon completion of the funding period covered by the letter of offer.
- The Department's right to withdraw, roll-over to future years, or to otherwise terminate funding, where in the Department's determination, yearly objectives are not being met.
- The requirement for NBIF to keep books, records and account for 36 months after the completion of the program for departmental audit purposes, and to provide such statistical data as required by the Department.
- NBIF indemnification of the Department from all claims, demands, actions and causes of action of third parties arising from the agreement.
- The requirement that all NBIF public announcements regarding the program shall be prepared in consultation with and/or approved by the Department.

4.75 NBIF reporting associated with these requirements feeds into monitoring carried out by the Department of PETL, as discussed in the next section of this report.

4.76 If government decides it will continue to provide funding to the Trust, we feel it will create an excellent opportunity for BNB, as the responsible department, to formalize the arrangement on a "go forward" basis with NBIF. The approach used by the Department of PETL could serve as a model. We feel that BNB should be requiring that NBIF agree to certain performance and operational requirements set by the Province in exchange for receiving innovation funding.

Roles and responsibilities - conclusion

4.77 Based upon our audit, we would conclude that the roles and responsibilities of the NBIF and government, including government

representatives on the board of the NBIF, have not been clearly defined and linked to the overall provincial innovation strategy.

4.78 While the roles of the various government organizations responsible for delivering innovation funding or related support services are clear, there is no documented agreement between BNB and NBIF specifying the performance expectations, and other terms and conditions under which BNB provides funding to NBIF. Further, we have concerns that the government representatives on the board of NBIF could be in a conflict position relating to their dual roles as representatives of the Province and board members of NBIF.

Monitoring

Audit criterion

4.79 The following audit criterion relating to BNB monitoring of the performance of NBIF was agreed upon with BNB.

BNB should regularly monitor the performance of NBIF and take corrective action where that performance does not meet provincial expectations.

Effective monitoring process

4.80 BNB needs to monitor the performance of NBIF in order to ensure that government is getting value for the funds it is providing to NBIF. Included in the document New Brunswick Innovation Foundation – A Framework that was formally approved by the Policy and Priorities Committee on June 18, 2002 were the following comments relating to accountability.

Appropriate accountability mechanisms will ensure proper stewardship of public funds. The Innovation Foundation will focus on concerted actions designed to achieve measurable success in improving our innovation capacity and capabilities. The Innovation Foundation will be fully accountable to its funding agents for the development and implementation of strategic plans that achieve expected results. The Foundation will report its results on a regular basis to the Minister of Business New Brunswick, as it will to its other financial stakeholders. As part of its reporting structure, the auditor of the Foundation may be the Auditor General of the Province of New Brunswick.

4.81 However, as previously discussed, while BNB was originally intended to be given responsibility for setting up appropriate accountability mechanisms relating to the arrangement with NBIF, it

was never given a mandate by government to take on these responsibilities.

4.82 There are a few key elements needed in order to implement an effective monitoring process. They include:

- established performance expectations,
- established reporting requirements linked to those performance expectations; and
- specified action in cases of non-performance

Performance expectations

4.83 BNB should set specific performance expectations of NBIF. These should be clear, measurable, and focused on outcomes. BNB has not provided NBIF with a list of its performance expectations for the arrangement. However, government has communicated to NBIF, through government board representatives, the general expectation that NBIF should support projects representing the five strategic clusters identified in the BNB strategic plan wherever possible.

4.84 NBIF has, for the most part, had to make its own assumptions about government's performance expectations. It has interpreted government's expectations as being focused primarily on NBIF's project leveraging ratio. Leveraging is the process through which the commitment of provincial government funding to a project is used as a springboard to attract other funds to that project. Other funding organizations for innovation projects may include for example, the Atlantic Canada Opportunities Agency, and the National Research Council through its Industrial Research Assistance Program. NBIF operates on the basis that a minimum 5 to 1 leveraging ratio is necessary on its funding of projects. In fact, its actual leveraging ratio has been over 7 to 1 during the period from 2002/03 to mid-2008/09, so it has exceeded its own target in this area. Based upon our discussions with NBIF, it appears that they use leveraging ratio as a key determinant in funding decisions.

4.85 A BNB representative with whom we discussed NBIF's focus on leveraging ratio expressed concern that in the absence of other balancing indicators, primary reliance on this indicator could lead to suboptimal decisions. A board member also questioned the value of leveraging ratios as an overall indicator of performance for NBIF.

4.86 As stated in the background section of this chapter, the government's purpose for setting up the existing innovation structure,

as described in the Trust Agreement, was in part to meet the following objectives:

- Increased private sector R&D investment
- Increased R&D investment in and by universities
- Enhanced take-up of federal R&D programs and “university chairs”
- More small and medium sized enterprise knowledge-based start-ups
- Stronger collaborative linkages amongst governments, private sector and universities.

4.87 If these government objectives have not changed, we feel it is these objectives upon which BNB should base clear, measurable performance expectations for NBIF.

Reporting

4.88 In order to do appropriate strategic monitoring, BNB needs timely information on NBIF’s stewardship, outcomes achieved, and overall compliance with terms and conditions associated with the arrangement. However, BNB has not provided specific reporting requirements to NBIF.

4.89 In the absence of direction from government, ongoing reporting provided to BNB by NBIF has been determined by NBIF management. At present this reporting includes:

- Provision of the NBIF annual financial statements to BNB.
- Provision of a semi-annual leveraging report to BNB. NBIF considers this to be its key performance-related report.

4.90 The NBIF annual report is also publicly available through the NBIF website.

4.91 Very little is done with this information by BNB. At one time, the leveraging report was reviewed by a departmental staff member and a summary was passed on to the departmental executive management committee, but that process has been discontinued. Information provided does not seem to address stewardship or outcomes achieved beyond the leveraging ratio. There are no formal terms and conditions associated with the arrangement because of the lack of a written agreement between BNB and NBIF.

4.92 Government representatives on the board of NBIF are provided with any necessary information pursuant to their duties as

board members. However, according to a representative of BNB, this information is held separately because of confidentiality concerns and is not generally made available to staff for any potential monitoring use.

Non-performance

4.93 Because BNB does no formal monitoring of NBIF's performance, it has had no impetus to develop or implement any procedures to be followed in cases where NBIF has not performed in accordance with government expectations. Further, BNB has established no formal dispute resolution mechanisms that provide guidance for resolving any disputes between the NBIF and BNB. This may be primarily due to the fact that given there is no formal agreement between BNB and NBIF, disputes related to interpretation of the arrangement are unlikely to arise, but it would expose government to a significant risk in the case where a significant dispute did arise.

4.94 Under the current arrangement, BNB has no recourse when it feels NBIF is not performing adequately besides recommending that government withhold future transfers to the Trust. We feel it is important that BNB be able to intervene in the exceptional case where the public purpose of the arrangement is clearly not being met or circumstances have changed considerably since the creation of the arrangement, without necessarily having to cut off funding to NBIF.

4.95 We would also note that at present, government cannot recover public money once it is transferred to the Trust. Under the terms of the Trust, any residual money remaining in the Trust after an NBIF wind-up would be distributed to provincial universities. We feel that government should be able to recover any remaining provincial funds in that event.

Monitoring by BNB

4.96 At the time of establishment of NBIF and the Trust, government was in a position to set performance objectives, reporting requirements, and assign other key responsibilities to NBIF in exchange for funding provided through a formal agreement. However, no such accountability mechanisms were put in place.

4.97 Significant work is required for BNB to be in a position to effectively monitor the performance of NBIF in order to ensure that the Province is receiving value for the money it is providing to NBIF. Only after

- government expectations have been communicated to NBIF;

- appropriate performance reports have been developed and are being prepared by NBIF and forwarded to BNB;
- report review processes within BNB have been implemented; and
- processes have been developed covering action to be taken when NBIF performance is not as expected,

will BNB have all the tools it needs to effectively monitor NBIF. These key elements of an effective monitoring process could be detailed in a letter of agreement from BNB to NBIF, as discussed earlier in this chapter.

Monitoring by government representatives on the NBIF board of directors

4.98 The only substantive government monitoring of NBIF performance since it was established has been by way of the four deputy ministers who serve on the NBIF board of directors.

4.99 Based upon our discussions with them, it appears that the current focus of government representatives on the NBIF board is on the rationalization of administrative costs at NBIF, the ongoing review of NBIF's mandate and structure under the government's *Our Action Plan to be Self-Sufficient in New Brunswick*, ensuring that government-identified strategic clusters are considered by NBIF in making funding decisions, and most significantly the decision whether government should continue to fund NBIF.

4.100 One government representative indicated that it has been difficult to rationalize a decision on the future of NBIF due to a lack of performance information upon which to base that decision. Pursuant to their analysis, the government representatives on the board requested that NBIF have an evaluation done of its operations. In response, NBIF provided the report, *New Brunswick Innovation Foundation – Outcomes and Performance Measures* dated 3 November 2008 to both its board and the Minister of BNB. However, one board member we talked to had concerns about the independence and objectivity of those who completed the evaluation. Consequently, government board members are hesitant to rely on the information contained in the report in recommending a particular decision on the future of government funding to NBIF.

Monitoring by Finance

4.101 As mentioned previously, the Department of Finance established the New Brunswick Innovation Trust in 2002. It also hired the private sector trust fund manager, CIBC Mellon, at that time. They use the monthly statement prepared by the trust fund manager as the basis for providing investment instructions, and also monitor the performance of the manager. As NBIF has never

provided any sort of cash flow requirements statement, Finance has always assumed that all money invested in the Trust needs to be available on short notice and therefore invests all funds in 30 day treasury bills.

4.102 Finance also receives periodic requests for funds from NBIF. As a courtesy, Finance clerical staff also contact NBIF when each issue of thirty day treasury bills are about to mature. Money required by NBIF is not reinvested, but rather transferred to NBIF for their use. Each transfer is documented and signed off by the Deputy Minister of Finance before it is completed.

4.103 Finance has no other contact with NBIF, performs no reconciliations to ensure that money drawn from the Trust agrees with that reported in NBIF's financial statements, and completes no other monitoring activity in relation to NBIF.

Monitoring by Post-Secondary Education, Training, and Labour

4.104 Department of PETL monitoring of NBIF's delivery of the Research Assistantship and Research Technicians Initiatives follows directly from the terms of the letters of offer signed for those programs. The Department reviews reports required under the letter of offer as they are provided by NBIF. These reports focus on the degree of success that NBIF has had in achieving expected program outcomes as established by the Department. NBIF also provides the Department with the portion of its leveraging report that specifically relates to the two programs. Also, on invitation from NBIF, Department of PETL staff participates in the internal NBIF committee which evaluates research proposals and makes awards.

Conclusion - monitoring

4.105 Based upon our audit we would conclude that, at present, BNB does not regularly monitor the performance of NBIF. It therefore does not have access to sufficient information to evaluate NBIF's performance, or to identify cases where corrective action is necessary to address performance that does not meet provincial expectations. We would, however, like to acknowledge the monitoring effort undertaken by the Department of PETL in monitoring NBIF delivery of the Research Assistantship Initiative and the Research Technicians Initiative.

***Code of conduct
Audit criterion***

4.106 The following audit criterion relating to the application of public sector values at NBIF in the delivery of innovation funding was agreed upon with BNB.

BNB should ensure that, as an organization delivering provincial funding, NBIF has a code of conduct in place for board members and staff that supports and protects public sector values (i.e. fairness, impartiality, equity, honesty, prudence, transparency and openness, respect for the public good and the rule of law, provincial standards and policies, conflict-of-interest, accountability, stewardship of the public trust, privacy, and protection of the environment), including sanctions that apply to breaches of this code of conduct.

Public sector values and ethics

4.107 It is important that, in an arrangement where government is not directly delivering a publicly-funded program, it gain assurance that public sector values and ethics are being applied in the delivery of that program. In the case of the arrangement with NBIF, this should include ensuring that:

- NBIF has created a notion of public trust within the organization. (i.e. NBIF board of directors and staff.) This would involve instilling corporate values such as fairness, impartiality, equity, honesty, prudence, and openness, respect for the public good and the rule of law. There should be sanctions for breaches of these rules.
- NBIF is respecting the public interest, the rule of law, and provincial standards, policies, and values. For example, this would require compliance with relevant provincial laws and policies, such as those governing the environment and official languages.
- NBIF is responsive when citizens express concerns about the services being delivered by the organization.
- NBIF has procedures in place to ensure fairness in the decision-making process for the payment of grants to eligible recipients.
- BNB has remedies available to it in cases where it has determined that NBIF is not acting in accordance with public sector values and ethics.

Code of conduct

4.108 Within NBIF, the most effective way to ensure that the expected corporate values and ethics are understood by both NBIF board members and staff would be to have them documented in a code of conduct, and have each individual sign a declaration of their understanding. However, as discussed in the previous section, BNB was not given a mandate to communicate government performance expectations nor to monitor or report on results. Consequently, BNB has not required NBIF to develop a code of conduct, nor have they

implemented any performance monitoring procedures in this area. And NBIF has not developed such a document on its own. Further, at present directors are not required to sign a conflict-of-interest or other declaration pursuant to their membership on the NBIF board.

4.109 A member of the board of directors did indicate that deputy ministers on the board of directors do monitor the reported operations of NBIF to ensure that provincial values and policies are respected. They also indicated that many of the staff members of NBIF are former public employees who would understand what is expected in this area. However, without a documented code of conduct, they have no way of knowing how staff and other board members interpret their ethical responsibilities in connection with NBIF.

4.110 We feel that government expectations, related NBIF reporting to BNB, and consequences of a failure to meet government expectations could be communicated through the previously-recommended letter of agreement between BNB and NBIF. The letter of agreement could also specify the role of government board members in monitoring NBIF performance in this area.

Code of conduct - conclusion

4.111 Based upon our audit we would conclude that BNB has not ensured that, as an organization delivering provincial funding, NBIF has a code of conduct in place for board members and staff that supports and protects public sector values. And NBIF has not developed such a code of conduct, nor does it require its directors to sign a conflict-of-interest or other declaration pursuant to their membership on the NBIF board.

Audit and evaluation ***Audit criterion***

4.112 The following audit criterion relating to the audit and evaluation of NBIF was agreed upon with BNB.

BNB should ensure that NBIF is subject to the same level of attest, compliance, and performance audit as departments and Crown agencies, and that periodic program evaluations of the arrangement are undertaken. Key findings from these audits and evaluations should be reported to the board of directors, BNB, and the Legislative Assembly.

Audit of public innovation funding

4.113 Under the *Auditor General Act*, departments and Crown agencies are subject to audit by the Office of the Auditor General. This involves not only financial audit, but also compliance audit, and performance or value-for-money audit. Even in situations where a

Crown agency has appointed an external financial auditor, our Office retains the right in law to undertake compliance and performance audits.

4.114 However, even though NBIF is funded entirely through public dollars, our Office does not have the legal right to perform audits at NBIF because NBIF was created as an entity that is independent of government. Further, NBIF has contracted its external auditor to perform only an annual financial statement audit. Therefore public funds transferred to the Trust are not subject to the same level of scrutiny as those expended through Crown agencies and government departments. As a result, our Office is unable to provide the Legislative Assembly and the public with any assurance that funds transferred to NBIF through the Trust have been used appropriately in pursuing public policy objectives.

4.115 We believe that the NBIF should be subject to both compliance and performance audits. Further, as suggested in our 2006 Report, Chapter 8, Strengthening the Role of the Auditor General, we feel that our Office should have the legal right to follow public dollars in order to ensure that they have been properly used. In other words, we believe that our Office should be given the legal right to conduct compliance and performance audits at NBIF. This would mean that results of compliance and performance audits of NBIF would be reported to both the Minister of Business New Brunswick and the Legislative Assembly. This would mirror the reporting practices followed by our Office for government departments and Crown agencies. The results of NBIF financial audits are currently only provided to the NBIF board of directors.

Evaluation of the delivery of public innovation funding

4.116 Evaluations can provide valuable, objective decision-making information about:

- the continued relevance of a program;
- the cost-effectiveness of a program; and
- the extent to which a program is successful in achieving its objectives.

4.117 We feel that as part of the arrangement between government and NBIF, periodic independent evaluations of the delivery of innovation funding through NBIF should be conducted. Further, recognized evaluation standards should be applied in carrying out these evaluations. And, because of their value as inputs to public

policy decisions around the delivery of innovation funding, evaluation reports should be tabled in the Legislative Assembly.

4.118 As mentioned earlier in this chapter, a government representative on the board requested that NBIF have an evaluation done of its operations. Specifically, it was requested that someone independent of NBIF look at what NBIF had accomplished to date and compare that with what was intended by government when the organization was established.

4.119 As indicated, the evaluation was completed, but at least one government board member had concerns about the independence and objectivity of those who completed the evaluation, and felt that the information provided was not particularly valuable in assessing the real success of the organization. Consequently, government board members are hesitant to rely on the information contained in the report, and they would still like to have a full formal and independent evaluation completed comparing what has been accomplished through the present delivery arrangement in comparison with what was originally intended.

4.120 Finally, as discussed in the previous section, BNB was not given a mandate to communicate government performance expectations to NBIF nor to monitor or report on its results. Consequently, BNB has not been involved in setting requirements for the audit or evaluation of NBIF.

***Audit and evaluation -
conclusion***

4.121 Based upon our audit we would conclude that BNB has not ensured that NBIF is subject to the same level of attest, compliance, and performance audit as departments and Crown agencies, nor has it ensured that periodic program evaluations of the arrangement are undertaken. The report for the single evaluation that was completed was not provided to the Minister of Business New Brunswick or the Legislative Assembly by NBIF.

**Effectiveness
reporting
*Audit criterion***

4.122 The following audit criterion relating to BNB effectiveness reporting for the innovation funding delivery arrangement with NBIF was agreed upon with BNB.

BNB should have established procedures to measure and report on the effectiveness of NBIF in accomplishing its provincial policy objectives, and in acting as a good steward for public assets.

Public effectiveness reporting

4.123 We believe that public effectiveness reporting by BNB with regards to this arrangement would have a number of benefits.

- It would provide legislators and the public with information they could use in evaluating the effectiveness of the arrangement for delivering public innovation funding.
- It would allow legislators and the public to hold Business New Brunswick accountable for its administration of the funding arrangement.
- It would provide decision-makers within government with information upon which to base future funding decisions pertaining to NBIF.

4.124 In 2006, the New Brunswick Board of Management (BOM) made a request to BNB that it provide an update to BOM on projects awarded from the Trust. Because NBIF is independent of government, BNB had to reply to BOM, in a memo dated 8 August 2006, that it could not provide this information. In effect then, under the current arrangement BOM does not have ready access to information about how public dollars are being spent. As already discussed, government has made no reporting requirements of NBIF in return for funding provided. Therefore, as an independent organization, NBIF is acting prudently in protecting its private information. However, this makes BNB's task of measuring and reporting on the effectiveness of NBIF much more difficult.

4.125 In the absence of direction from government, actual reporting provided to BNB by NBIF is solely at the discretion of NBIF. As previously noted, regular ongoing reporting available to BNB includes the NBIF annual report, NBIF annual financial statements, and a semi-annual leveraging report that NBIF considers to be its key performance-related report.

4.126 While BNB does feel that information contained in the leveraging report could be useful in reporting on performance, as already noted it does not feel that information contained in the report should be relied upon exclusively in evaluating the performance of NBIF.

4.127 We feel that the current lack of comprehensive performance reporting from NBIF to BNB would preclude BNB from effectively measuring and reporting on the performance of NBIF. Not surprisingly, BNB provides no leveraging or other information about how NBIF is contributing to provincial innovation in its annual

report. Also, no other NBIF-related documents have been tabled at the Legislative Assembly.

4.128 We feel the following steps need to be taken to allow BNB to adequately report on the effectiveness of the arrangement with NBIF. In order to carry out these steps, BNB would first have to be assigned responsibility for establishing appropriate accountability mechanisms for the arrangement by government.

1. BNB should communicate its performance expectations to NBIF.
2. BNB should ensure that it receives adequate reporting from NBIF to allow it to evaluate the degree to which NBIF has met those performance expectations.
3. BNB should report information on the extent to which the arrangement has accomplished its provincial policy objectives, and at what cost, in its annual report.
4. BNB should require NBIF to be as open as possible regarding access to information on the agreements, objectives, activities, and achievements. Appropriate provisions should be made for legitimate concerns of personal privacy, commercial confidence, and intergovernmental negotiations.
5. BNB should ensure that key findings from compliance and performance audits, and evaluation studies of NBIF are reported to the Legislative Assembly.

Effectiveness reporting - conclusion

4.129 Based upon our audit, we would conclude that BNB has not established procedures to measure and report on the effectiveness of NBIF in accomplishing its provincial policy objectives, and in acting as a good steward for public assets.

Departmental comments

4.130 The Department of Business New Brunswick provided the following response to our report and recommendations:

Thank you for your letter dated October 8, 2009 with your audit report on The Provincial Innovation Funding Delivered through the New Brunswick Innovation Foundation.

The department has noted that the overall audit conclusion is:

Based upon our audit work, we conclude that governance structures and practices established by Business New Brunswick in connection with the delivery of innovation funding through the New Brunswick Innovation Foundation do not currently ensure accountability and protection of the public interest.

With respect to this finding, the department continues to advise the Auditor General that the emphasis during the time period was to ensure that the New Brunswick Innovation Foundation (NBIF) operated at “arms length to government” and was effectively not responsible to Business New Brunswick. Thus Business New Brunswick was not directed to nor empowered to handle the NBIF as a reporting agency. This “hands off” relationship between the department and NBIF has been respected and carefully maintained. Only in recent months has there been a new expression of support for Business New Brunswick being accountable for NBIF’s performance.

On this issue of departmental responsibility, we wish to acknowledge your audit findings in which you stated:

BNB was originally intended to be given responsibility for communicating government performance expectations to NBIF and monitoring and reporting on NBIF’s performance in order to ensure transparency and accountability. However, it was never given a mandate by government to carry out these responsibilities.

With respect to your audit of the delivery of innovation funding to NBIF and the actual alignment of such activity with the priorities of the government, your audit also states:

Based upon our work, we conclude that the delivery of innovation funding through the New Brunswick Innovation Foundation appears to be aligned with overall provincial innovation strategy.

Given the “hands-off” relationship, Business New Brunswick did what it could, to encourage and support

NBIF in addressing the innovation priorities of the provincial government. It appears that we were successful in this endeavor.

Lastly, I wish to comment on one area that we see is vital to strengthening and advancing our provincial innovation strategy. Specifically it concerns the financing of innovation initiatives, including the New Brunswick Innovation Foundation. In order to reap the rewards provided through innovation, it is important that sustainable funding be provided by government. We think that solutions that offer longer term financial support to NBIF need to be carefully considered. We offer this comment specifically in light of your recommendation for year-by-year funding of NBIF.

Again thank you for the opportunity to provide these limited comments. We look forward to working closer with NBIF as we continue to pursue economic self-sufficiency for our province.

Chapter 5

Departments of Social Development and Supply and Services

Review of Nursing Home Contract with Shannex Inc.

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Departments of Social Development and Supply and Services

Review of Nursing Home Contract with Shannex Inc.

Background

5.1 In April 2008, the Province issued a news release stating:

The province is partnering with Shannex New Brunswick, Atlantic Canada's largest long-term care service provider, in a pilot public-private initiative to open 216 new nursing home beds. The new beds will open within the next two years, and will help address waiting lists and bed shortages. Construction will begin in July.

5.2 A year earlier, in April 2007, Shannex approached the Department of Social Development during a series of long-term care consultations that were being held around the Province. The purpose of the consultations was to receive advice on how the long-term care system could be improved. The information collected formed the basis for the development of a long-term care strategy to be phased in over the next 10 years.¹ The consultation process involved meetings with representatives of seniors' clubs, home support agencies, special care homes and nursing homes, and included submissions of briefs from individuals and organizations.

5.3 The Department of Social Development told us that this was not the first time that Shannex had approached the Province with a proposal for a new model for supplying nursing home beds. The

1. Consultation process on long-term care system for seniors is launched (07/04/17) NB471 Family and Community Services

Department also told us that most nursing homes in the Province are operated by non-profit boards, as self contained operations, requiring significant government involvement on key decisions. Shannex is a for profit organization that operates integrated senior living campuses, which can include senior apartments, assisted living beds and nursing home beds. Shannex proposed a short term pilot project to the Province under which it would supply nursing home beds to the Province for a daily per diem.

5.4 According to staff at the Department of Social Development, the Province was interested in Shannex's approach because of the short time frame to construct and open the nursing homes. This was important to the Department because of the increased demand for nursing home beds. A change in government policy in 2006-07 accelerated the demand for nursing home beds. In the new policy, the Department capped the fee charged to residents of nursing homes at \$70 per day and no longer required assets to be part of the calculation to determine the amount each client contributes for their long term care services.

5.5 In January 2008, the Department of Social Development requested an exemption under the *Public Purchasing Act* (the Act) to enter into an agreement with Shannex to lease nursing home beds without going through a tendering process. The exemption was granted under section 27.1(1)(d) of regulation 94-157 of the Act. This exemption is used where the supply of services is required in the event of an emergency or urgent situation.

5.6 The contract with Shannex will add 216 nursing home beds in New Brunswick, consisting of 72 beds at each of three facilities in Fredericton, Riverview and Quispamsis. Three separate five-year contracts with renewal options were signed in April 2008, one for each complex.

Our approach and findings

5.7 Before starting our work we discussed this matter with the Ombudsman who was considering examining the Shannex arrangement. The Ombudsman concluded that because his legislation does not provide him with jurisdiction over nursing home operations, the only area that could be examined at the moment is the procurement of the services. We agreed that our Office should review the decisions and conditions surrounding the tendering exemption granted to the Department of Social Development for the purpose of contracting with Shannex Inc.

5.8 The Ombudsman has stated in the past that he should have the authority to investigate nursing home operations and complaints from residents of the homes. We believe that changes to the nursing home system such as implementing new service delivery model mean it is even more important to give the Ombudsman jurisdiction over nursing homes.

Recommendation

5.9 We recommended the Province expand the Ombudsman's legislation to provide him with jurisdiction over Nursing Homes.

Response from the Department of Social Development

5.10 *The Department of Social Development is responsible to ensure that nursing homes comply with the Nursing Homes Act, the Regulations, and the departmental standards and policies. Staff of the Department inspects nursing homes at least annually. The unannounced inspection examines more than 200 items and takes place over 2 full days. As well, the Department is responsible for following up on complaints from the general public. The process is thorough and includes follow-up with all of the parties, a review of documentation and/or an unannounced inspection of the nursing home. We believe that this process works well and addresses the issues raised by residents and their families living in nursing homes.*

5.11 In addition to discussing this issue with the Ombudsman, we reviewed a copy of a Notice of Motion, including the government response, where the Opposition had requested all documents, agreements, correspondence and any other information related to the transactions between government and Shannex.

5.12 After discussing the issue with the Ombudsman and reviewing the Notice of Motion package, we identified a number of questions surrounding the Shannex contract. Exhibit 5.1 is a summary of our questions, as well as our findings.

Exhibit 5.1 Summary of Questions and Our Findings

Questions	Our Findings
1. Why was a tendering exemption needed?	<ul style="list-style-type: none"> • The assessment of the length of time to tender was not documented before the Department of Social Development proceeded with the Shannex proposal. • No clause in contracts ensuring that beds go to individuals on the waitlist in hospitals.
2. Did the Departments of Social Development and Supply and Services comply with the <i>Public Purchasing Act</i> ?	<ul style="list-style-type: none"> • Determination of urgent situation is subjective; there are no definitions or guidelines used to assess exemption request. • The Department of Social Development complied with the Act in terms of the process for requesting an exemption. • The Department of Supply and Services is not ensuring that departments are properly documenting the justification for exemptions in emergency or urgent situations.
3. Was the process fair to all possible service providers?	<ul style="list-style-type: none"> • Because of the urgency of the situation, the services were not tendered and therefore the process was not fair to all possible service providers.
4. How will the pilot project be evaluated?	<ul style="list-style-type: none"> • The process to evaluate the success of the project has not been established yet.
5. Did the Department of Social Development perform due diligence in assessing Shannex?	<ul style="list-style-type: none"> • The Department of Social Development did not document the due diligence steps it took in assessing the Shannex proposal.
6. What if this new approach doesn't work out?	<ul style="list-style-type: none"> • New approach carries new risks. • The Department of Social Development did not carry out a full assessment of the risks associated with the new service delivery model or develop a plan for dealing with those additional risks. • The Department of Social Development has not obtained a legal opinion on the authority of the Minister and the Lieutenant-Governor in Council to take over the nursing home operations in the event of an emergency.
7. Did the Departments of Social Development and Supply and Services comply with Notice of Motion #69?	<ul style="list-style-type: none"> • The Departments of Social Development and Supply and Services complied with the Notice of Motion.
8. Is the price of the nursing home beds reasonable?	<ul style="list-style-type: none"> • The contracted rate with Shannex appears reasonable when compared to other newly constructed homes, but we cannot say whether it is the best rate that could have been obtained because the purchase of beds was not tendered and we do not know what rate other service providers could have offered.

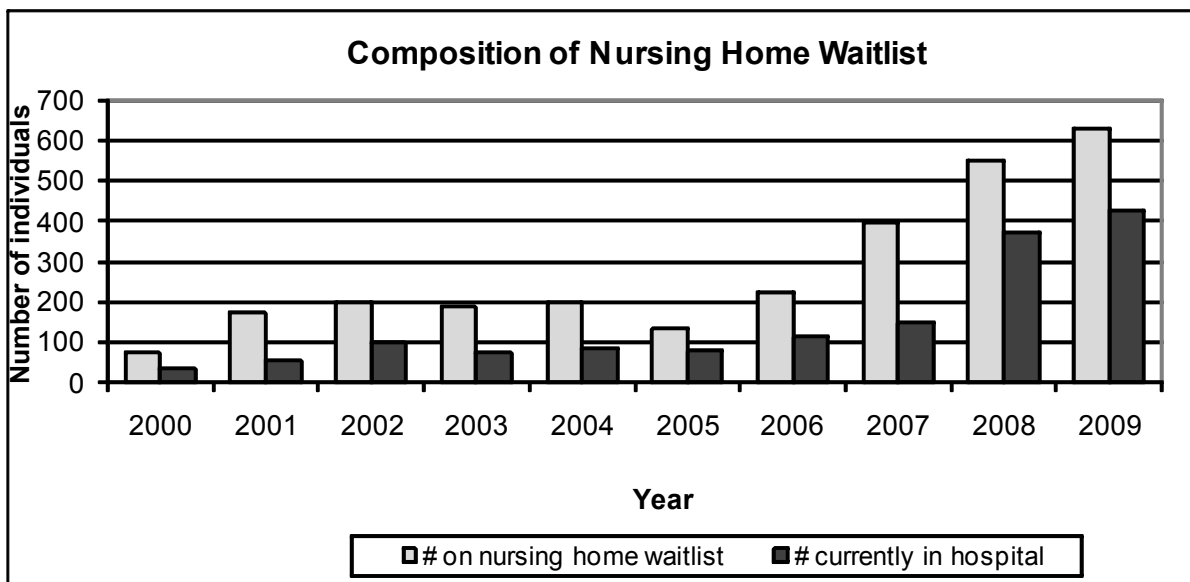
Why was a tendering exemption needed?

5.13 We have also included some other observations we made during our review at the end of this chapter.

5.14 Though it was reported in the media that Shannex was awarded the contract due to an “emergency” situation, the tendering exemption that was granted to Shannex was actually because of an “urgent” situation. The Department of Supply and Services emphasized that this is an important distinction.

5.15 According to staff of the Department of Social Development, additional nursing home beds were urgently needed in order to vacate hospital beds occupied by individuals that, though medically discharged, remained in hospital awaiting a bed in a nursing home. In Exhibit 5.2, we look at the number of individuals on the nursing home waitlist that were in hospitals for the years ended March 31 2000 to 2009.

Exhibit 5.2 Number of Individuals on Nursing Home Waitlist and Number that Remain in Hospital for the Years Ended March 31 2000 to 2009.



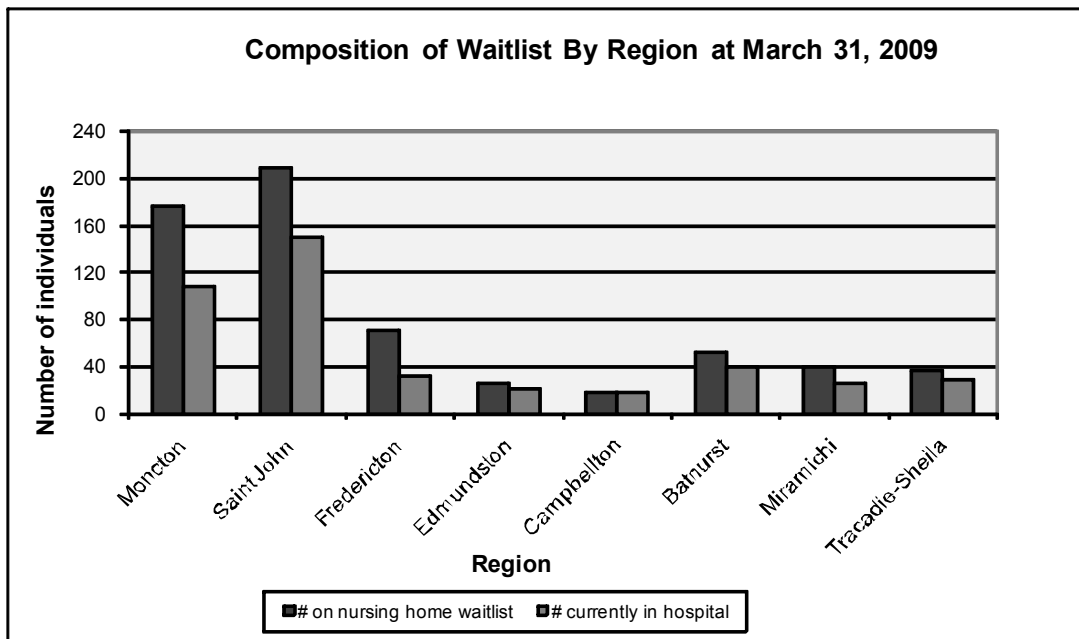
5.16 Based on the *Nursing Home Services Annual Statistical Report* for the years 2000 to 2007, and additional information provided by the Department for 2008 and 2009¹, we found that the

1. As of 2008, the Department no longer prepares the *Nursing Home Services Annual Statistical Report*. Therefore, we obtained data directly from staff at the Department to complete our exhibits.

number of people on the waitlist for a nursing home bed has been increasing. In fact, the number of people waiting for a bed more than quadrupled between 2000 and 2007, from 72 to 399. It increased an additional 38% between 2007 and 2008 alone. The most significant year over year increase occurred between 2006 and 2007, where the need increased by 175 or 78%. As we mentioned in the background of this report, this significant increase coincided with government’s changes to the nursing home policy. On average for the years 2000 to 2009, we found that 54% of people on the waitlist for a nursing home bed were in a hospital (though medically discharged). At March 31, 2009, 68% of people on the waitlist for a nursing home bed were in a hospital (though medically discharged).

5.17 In Exhibit 5.3 we look at waitlist information by region for 2009 only. We found that Moncton and Saint John had a significantly larger waitlist than other areas in the Province. In those two cities, the number of nursing home beds added by Shannex will be less than the number of medically discharged people in hospital who are waiting for a nursing home bed. By contrast, the number of nursing home beds added by Shannex in Fredericton could, if the facility accepted all of the people that are in hospital who are waiting for a nursing home bed, free up all of the hospital beds so occupied and still allow for additional admissions.

Exhibit 5.3 Composition of Waitlist By Region at March 31, 2009



5.18 According to staff at the Department of Social Development, if the government had tendered for the additional nursing home beds, the tendering process would have taken 24-36 months, not including construction time. Shannex, on the other hand, is expected to be build their facilities within 18 months. We found emails within the Department of Supply and Services files that indicated that tendering could have been accomplished within 15-24 months. We found evidence of a discussion Supply and Services had with another jurisdiction regarding the length of time needed to manage a tender; however, this discussion took place on June 25, 2008 after the contracts with Shannex were already signed. A full assessment of the length of time needed for the tendering process was done before the Department of Social Development decided to proceed with the Shannex proposal, but that there was no documentation of that assessment. While it is obvious that tendering for these services would have taken longer than not tendering, we can not evaluate the Departments' assessments of the amount of time a tender would have taken.

5.19 Finally, while it is clear that the addition of 216 nursing home beds by Shannex will have an impact on a number of individuals awaiting a nursing home bed while currently in hospital, it is also possible that the Shannex beds will go to people awaiting a bed elsewhere than in a hospital. There are no clauses in the contracts between the Department of Social Development and Shannex that ensure the beds go to individuals currently in hospital, even though this was a factor justifying the urgency of the situation.

Conclusion

5.20 We were told by both the Department of Supply and Services and the Department of Social Development that the need for nursing home beds did justified a purchasing exemption. We were also told by the Department of Supply and Services that purchasing exemptions are routinely given for the acquisition of traditional nursing home beds. The Departments did not adequately document their assessment of the length of time a tender would take.

5.21 We believe the Department of Social Development should have built into the contracts with Shannex a clause requiring a minimum number of admissions to come from medically discharged patients in hospitals that are on the waitlist.

Response from the Department of Supply and Services

5.22 *We agree that the documentation in the file could have been more extensive. However, DSS has several expert procurement specialists with many years of experience that are able to estimate*

the length of time to properly prepare a request for proposals. We maintain that by granting this exemption, at least 15 to 24 months were removed from the date the nursing home beds would have become available using a conventional tendering process.

Did the Departments of Social Development and Supply and Services comply with the *Public Purchasing Act*?

5.23 The *Public Purchasing Act* requires that, unless otherwise provided in the Act, the Minister of Supply and Services shall tender the purchase of services or supplies on behalf of a department.

5.24 Each department must purchase its services and supplies through the Minister, unless the services and supplies are specifically excluded by regulation. Departments are exempt from purchasing services through the Minister that have a cost of \$10,000 or less. If the cost of services is greater than \$10,000 but less than \$50,000, tenders must be requested publicly or from vendors on the vendors list. If the cost of the services exceeds \$50,000 then a public tender must be requested.

5.25 There are certain services that are specifically excluded from tendering; these are services that are provided by certain professionals such as engineers, chartered accountants, and medical practitioners.

5.26 A department can request an exemption from tendering from the Minister of Supply and Services in the case of very specific circumstances, including where the services are required in the event of an emergency or urgent situation.

5.27 Section 45 of Regulation 94-157 of the Act requires that when the Minister purchases services under an exemption, the Minister shall ensure that the justification for the exemption is documented and kept on file.

5.28 When we spoke to representatives of the Department of Supply and Services, we found that they assign responsibility to defend an exemption back to the department that requested the exemption. The Department of Supply and Services told us that section 1.1 of the *Public Purchasing Act*, which states “The Minister is responsible for the administration of the Act and may designate persons to act on his behalf”, gives them the authority to assign this responsibility to the departments. Since there are no criteria established to assess whether a situation is an emergency or urgent, and since many departments would not have the experience making this judgment for the purpose of the *Public Purchasing Act*, we

believe the Department of Supply and Services should take responsibility to ensure that departments have properly documented their reason for an exemption.

5.29 In their request for an exemption, the Department of Social Development did not specify the type of exemption they needed; they simply requested an exemption from tendering. It was the Department of Supply and Services that identified the specific type of exemption that should be granted under Regulation 94-157 to the Act. When the exemption was requested, the Department of Supply and Services met with the Department of Social Development, reviewed the information provided and made their assessment.

5.30 In the case of the Shannex contract, the exemption granted by the Minister of Supply and Services referred to the situation as an urgent or emergency situation.

5.31 When we asked what qualified as an urgent or emergency situation, the Department of Supply and Services said that the *Public Purchasing Act* does not define what constitutes an emergency or urgent situation; instead, staff must use their judgement. There are no guidelines or policies in place to assist staff in assessing whether a situation is an emergency or urgent. We were told that there is a clear distinction between emergency and urgent, though the distinction is not documented. The Department of Supply and Services told us that an “emergency situation is a situation where by you must act immediately for protection of the public good: i.e. flood, fire, oil spill, pending pandemic or other unforeseen event”. They added that “an urgent situation is when the need is time sensitive and requires action to be taken to resolve the problem”.

5.32 Based on the information we reviewed as well as our analysis in this report, we found the Department of Social Development’s request for exemption was not specific. We were told that the exemption was approved based on two reasons; purchase of service on behalf of a third party and an urgent situation (discussed below).

5.33 Any exemption exceeding \$500,000 requires the Minister of Supply and Services’ approval. When staff of the Department of Supply and Services recommended to the Minister that an exemption be provided for the Shannex contract, they recommended the exemption be granted under section 27.1 (1) (d) of the regulations to the *Public Purchasing Act* which refers to an emergency or urgent situation. However, the purchase order approval, signed by the

Minister, Deputy Minister, Assistant Deputy Minister, the Director of Central Purchasing and the Manager of Strategic Procurement, states that approval is granted under section 27.1(1)(z). This section refers to the purchase of services on behalf of a third party not covered by the Act or Regulation. When the actual purchase order was prepared in April 2008, it indicated that approval for exemption was granted pursuant to section 27.1(d) of the regulation (this is an incorrect reference to the legislation, and should be 27.1(1)(d)). The Director of Purchasing told us that both exemptions were presented and discussed as options in the Shannex case and both are valid and acceptable in this context. The Deputy Minister of Supply and Services told us that the reason for the inconsistency was that the computerized purchasing system only accepts one exemption reason, even if multiple reasons are valid. We believe that the Department of Supply and Services should ensure that the reason for exemption entered into the purchasing system is consistent with the signed purchase order approval.

Conclusion

5.34 The Department of Social Development complied with the Act in terms of the process for requesting an exemption. We believe the Department of Supply and Services complied with the Act, however we noted an inconsistency in their documentation of the approval. We also believe that the Department of Supply and Services did not ensure that there was proper documentation of the reason for the exemption for the purchase of these services as required by section 45 of Regulation 94-157.

Recommendations

5.35 We recommended the Department of Supply and Services formally document the definition of “urgent situation.”

5.36 We recommended the Department of Supply and Services put in place a process to ensure that the reason for exemption entered into the purchasing system is consistent with the signed purchase order approval.

5.37 We recommended the Department of Supply and Services implement a process to ensure that departments are adequately documenting and maintaining on file the justification for exemptions for emergency or urgent situations.

Response from the Department of Supply and Services

5.38 *DSS procurement staff has a good grasp of what constitutes an emergency or an urgent situation. While in theory, a documented definition would be ideal, we believe that it would be impractical to write a definition that would cover every possible scenario. Central*

Purchasing consults with departments and assists them in evaluating each request on its own merit.

5.39 *DSS agrees that the reason for exemption entered into the purchasing system should be consistent with the signed purchase order approval and that adequate documentation should be maintained on file to justify the reasons for an exemption.*

**Response from the
Department of Social
Development**

5.40 *The Department of Social Development believes that it faithfully executed all necessary steps in the process to request an exemption to the Public Purchasing Act. The Department agrees with your office's conclusion that the need for nursing home beds in these three areas was urgent. Indeed, nursing home waiting list statistics have continued to rise in 2009 which would provide further confirmation of the urgent nature of this situation. However, the final memo could have articulated these reasons demonstrating the urgency and the proposed response thereto more specifically, and while these issues were discussed with Department of Supply and Services staff in person, we recognize that it would have been very helpful to fully articulate these reasons in the memo.*

5.41 *The Department believes that the agreement with Shannex Inc. is a fair agreement and that tendering would have both lengthened the timeframe within which the beds could be constructed, would have likely resulted in a higher daily per diem, since our experience is that companies build the cost of preparing proposals into their per diems and would have had no impact on the outcome, since Shannex Inc. is the only company with the proven track record to deliver quality care of this kind in the timeframes and at such competitive costs.*

5.42 *While not a recommendation per se for this section, one of the conclusions states that there was "no clause in the contracts to ensure that beds go to individuals on the wait list in hospitals." The Department has taken the advice of the Auditor General and since negotiated an amendment to the contract that clearly states that Shannex Inc. will take 75% of its residents from hospital at opening. The Department would not support taking a larger percentage from the hospital, as the message to the public would then become that the only way to get into a nursing home would be by going into the hospital, which would further exacerbate overcrowding in our hospitals.*

Was the process fair to all possible service providers?

5.43 The stated goal of the Central Purchasing Branch of the Department of Supply and Services implies that the public tendering process as described in the Act maximizes competition in order to achieve the best value for money while ensuring that all suppliers who wish to compete for government contracts have a fair and open opportunity to do so. Because the purchase of nursing home beds from Shannex was not tendered due to the urgency of the situation, it would not have been fair to other possible service providers.

Response from the Department of Supply and Services

5.44 *As stated previously, the large number of medically discharged patients occupying acute care hospital beds did warrant an exemption as an urgent situation. DSS had the authority and the justification to grant an exemption under the Public Purchasing Act. Whenever an exemption is granted, that removes the requirement to tender and hence removes the opportunity for other potential suppliers to bid on a contract. At that point, the issue of fairness to other suppliers is over ruled in favour of achieving the greater public good.*

How will the pilot project be evaluated?

5.45 According to the document requesting an exemption to the tendering process, the Department of Social Development wanted to enter into a pilot project with Shannex to create three aging-in-place campuses for senior citizens. The campuses would include seniors' apartments, supportive living housing and nursing home care.

5.46 Since this is a pilot project, we expected to find an explanation of how and when the success of the pilot project would be assessed. We were told that the evaluation method would be developed during the life of the contracts. At the time of our review, the evaluation method had not yet been established. We believe that the better practice would have been to have established how and when the pilot project will be assessed before signing the contract.

Conclusion

5.47 The Department of Social Development told us that they intend to put in place a process to assess and evaluate the success of this pilot project. We believe that better practice for a large contract with a new delivery model would have been to have the evaluation method determined before entering into a contract.

Recommendation

5.48 **We recommended the Department of Social Development put in place a formal mechanism to assess the success of the pilot project they have entered into with Shannex.**

**Response from the
Department of Social
Development**

5.49 *The Auditor General is correct that evaluation should be part of any pilot project, and at Social Development, evaluation is indeed part of any pilot project. The Department of Social Development has an Audit and Evaluation Committee with well-established practices in determining and approving evaluation work, including the practice of requiring evaluation for any pilot project undertaken by the department. When the Shannex pilot was approved, the Director of Planning, Research and Evaluation was informed that an evaluation would be required. Once other evaluation work that was already underway was completed and resources were available, the Shannex evaluation commenced. An evaluation framework is in place well before the opening of the new nursing home complexes.*

5.50 One measure of success of the Shannex initiative could be the degree to which it has relieved some of the pressure on hospital beds. The Department of Social Development could measure the number of people awaiting a nursing home bed while in a hospital in a given region immediately before and after the opening of a Shannex facility. This type of data could be published in the Department's annual report as an account of whether each of the three facilities did indeed vacate hospital beds occupied by people on the nursing home waitlist.

**Did the Department of
Social Development
perform due diligence in
assessing Shannex?**

5.51 Since the public-private partnership with Shannex is a new approach for the Province, we expected the Department of Social Development to apply due diligence when assessing Shannex prior to entering into a contract. This would ensure the effective use of taxpayers' money. We were told that the following due diligence work was carried out by departmental staff:

- Visited Shannex's properties, visiting both older and newer facilities. They met with the CEO of Shannex and two of the company's vice-presidents. They asked questions of clarification and received a presentation from Shannex staff. During several tours, they also spoke to some front-line employees and many residents.
- Reviewed copies of inspection reports, financial information, client satisfaction information and site plans.
- Spoke to senior staff at the Department of Community Services in Nova Scotia, who have contracts with Shannex, to determine their comfort level with the corporation and the quality of its services.

5.52 The actions performed, however, were not documented nor was supporting evidence conserved. We were told that documents provided by Shannex were not copied due to the proprietary nature of the information. Nonetheless, we feel the outcome of due diligence should be the subject of a formal written report to be used in conjunction with other reports and evaluations to improve the robustness of the decision making process.¹

Conclusion

5.53 Given the size of this project, the Department of Social Development should have prepared a due diligence report outlining the steps they took in assessing Shannex.

Recommendation

5.54 **We recommended the Department of Social Development document its due diligence activities when assessing significant contracts.**

Response from the Department of Social Development

5.55 *While a formal due diligence document was not prepared and placed on file by the Department of Social Development, the Department believes that due diligence was demonstrated by governmental staff during the decision-making process. This included review of several years worth of inspection reports of all Shannex Inc. facilities in Nova Scotia, site visits by numerous departmental staff on several different occasions of a number of Shannex Inc. Facilities which were similar in scope and size to what was being proposed to be built in New Brunswick, review of resident satisfaction surveys and in-depth discussions with government staff in Nova Scotia who had had long term dealings with the Shannex Corporation. As well, the actual contract was vetted by numerous staff in the Departments of Social Development and Justice. However, on a go-forward basis, the Department of Social Development will commence to formally documenting its due diligence activities when assessing significant contracts.*

What if this new approach doesn't work out?

5.56 This new approach in providing nursing home care also carries new risks. Specifically, we questioned what would happen if the Province was unsatisfied with the services or what would happen if there was an unforeseen external event that meant the Department of Social Development would have to step in and take over operations, as permitted in the *Nursing Homes Act*. Also, the Shannex campuses include facilities other than the nursing home

1. Due Diligence and Probity Assessment Guidelines, Queensland Government

units; does that present new risks to the Province that it does not face with traditional nursing homes?

5.57 We did not find a documented contingency plan in place to address these situations.

5.58 We also found that the Department of Social Development had not obtained a legal opinion on the authority of the Minister of Social Development and the Lieutenant-Governor in Council to take over the nursing home operations in the event of an emergency, as described in section 10(1) of the *Nursing Homes Act*. This section states that the Lieutenant-Governor in Council may appoint a trustee who will assume all property, powers, duties and liabilities of the operator of the nursing home if the Minister believes:

- the nursing home is not functioning properly;
- the operator or the nursing home has failed to meet the requirements of the Act and the regulations;
- the operator of the nursing home has violated any provision of the Act and the regulations;
- the operator has failed to comply with the terms and conditions to which the license is subject; or
- the license of a nursing home has been revoked, a renewal is refused or a license expires and is not renewed.

5.59 The Department of Social Development also needs a plan to accommodate the nursing home residents in the event of any occurrence, including the expiration of the contract, which would mean the residents would need to move out and find another facility.

Conclusion

5.60 The Department of Social Development did not carry out an adequate assessment of the risks associated with the new service delivery model or develop a plan for dealing with those additional risks.

5.61 Even though the contracts have been signed, the Department of Social Development should do a risk assessment to ensure their contingency plans address all significant risks.

Recommendation

5.62 We recommended the Department of Social Development prepare and document a risk assessment of the Shannex contract and identify any mitigating actions that should be put in place.

Response from the Department of Social Development

5.63 *The Department has put its mind to risk assessment through its due diligence and other activities. However, the Department accepts the recommendation and will put such a plan in place well before the Request for Proposal process commences.*

Did the Departments of Social Development and Supply and Services comply with Notice of Motion #69?

5.64 In April 2008, the Official Opposition was asking questions about the Shannex contracts. In Notice of Motion # 69, Mr. Carr made the following resolution:

That an address be presented to His Honour the Lieutenant-Governor, praying that he cause to be laid upon the table of the House all documents, agreements, correspondence or any other information stored or recorded in any format in the possession of government related to any transactions between the Government of New Brunswick and Shannex prior to April 16th 2008.

Conclusion

5.65 We reviewed the information provided in response to the Notice of Motion and compared it to the information that we obtained during our review. The material that we were provided included two documents in addition to the material provided under the Notice of Motion. In both cases, the Departments of Social Development and Supply and Services informed us, and it is our understanding, that the documents did not have to be supplied under the Notice of Motion. One was the signed Purchase Order Approval with authorized signatures dated March 31, 2008 which the Department of Supply and Services told us was “Advice to Minister”, and the other was a legal opinion from the Department of Justice stating that legal concerns have been addressed in the service agreements for the 3 Shannex facilities (dated March 21, 2008). We therefore have concluded that both departments complied with the Notice of Motion.

Is the price of the nursing home beds reasonable?

5.66 Based on the information provided to us by the Department of Social Development, we found that Shannex’s budget for 72 beds was higher than the budget for an existing nursing home in New Brunswick with 70 beds. On the other hand, we also found that the per diem that will be paid to Shannex is less than the per diem that will be paid to some newly constructed nursing homes.

5.67 The difference between the rates for newly constructed nursing home beds and the rates contracted with Shannex implies that there may be opportunities for the Department of Social Development to identify cost savings in the acquisition of future nursing home beds.

Conclusion

5.68 Overall, the contracted rate with Shannex appears reasonable when compared to other newly constructed homes, but we cannot say whether it is the best rate that could have been obtained because the purchase of beds was not tendered and we do not know what rate other service providers could have offered.

Other observations

5.69 The purchase order approval states that the value of the 5-year contract is \$50,584,373 (including taxes), to be paid over 4 years. We believe the value of the 5-year contract to be \$95,774,076, according to the contracts signed by the Department of Social Development. Therefore, the total amount of the purchase order approval is less than the minimum amount that will be paid under the contracts.

5.70 The contracts contain a renewal clause that could allow the agreement to extend an additional 3 years, with additional costs to be negotiated at that time. At a minimum (if we use the current rate as part of our calculation), a 3-year contract renewal would be worth an additional \$57.1 million.

5.71 The value of the purchase order was \$50,584,373.16 US dollars. When we inquired as to why the purchase order was in US dollars, we were told that this was a system error. After we brought this to the attention of the Department of Supply and Services, a zero-dollar purchase order amendment was prepared in March 2009 to indicate the value was in Canadian currency.

Recommendation

5.72 **We recommended the Department of Social Development start planning a replacement tender in year three of the current contract.**

Response from the Department of Social Development

5.73 *The Department of Social Development and the Department of Supply and Services have already commenced discussions regarding a replacement tender which will indeed be issued in year three of the current contract.*

5.74 *While not a recommendation per se for this section, this section notes a discrepancy in the purchase order amount and the*

expected cost to Government for the period of the contract. The purchase order amount varies from what the Office of the Auditor General calculates for two reasons 1) the purchase order was required as proof of intent to pay when the contract was signed and is automatically set for a five-year period from the date it is generated, even though the department would not be paying anything to Shannex Inc. in the first year. The department was always aware that it would require a purchase order extension for the additional two years of operations of the contract. At the same time, Social Development's costing was calculated at total costs less the anticipated client contribution, which at the time of the contract was an average of \$41.28 per day, which should account for the differential in funding.

Recommendation

5.75 We recommended the Department of Social Development put in place a plan for how residents would be accommodated through any future move that could be required at the expiration of the contract term.

Response from the Department of Social Development

5.76 *Based on its decades of experience in working with nursing homes to implement, for a variety of reasons, both large and small scale patient transfers, the Department will put such a contingency plan in place as it develops its risk assessment plan referenced above.*

Recommendation

5.77 We recommended the Department of Supply and Services ensure that all purchase orders issued properly reflect the value of the services purchased, and in the correct currency.

Response from the Department of Supply and Services

5.78 *DSS issues over 5,800 purchase orders per year. While it would be ideal to eliminate all possibilities of errors, sometimes mistakes are made. Section 23(5) of the Regulation to the Public Purchasing Act provides that the Minister can make amendments to correct errors or oversights. The Department will review its processes to ensure such errors are minimized.*

5.79 *The value that appears on the Purchase Order is based on information provided by the client department to DSS. If it is later determined that the actual expenditure will be higher, then an amendment to the Purchase Order amount can be made.*

Overall conclusion

5.80 We agree that there was an urgent need for nursing home beds. We believe the Department of Social Development did not fully assess the risks of entering into a new service delivery model for acquiring nursing home beds, they also did not adequately document their assessment of the new delivery model. We would also have

preferred the Department to have established a method for evaluating the pilot project prior to signing the contract.

5.81 We believe the Department of Supply and Services needs to have a formal and documented role in ensuring that departments have properly justified their reason for requesting an exemption for an emergency or urgent situation. We also believe the Department of Supply and Services needs to take steps to ensure purchase orders are issued in the right currency and that reasons for exemptions entered into the purchasing system are supported by appropriate approvals.

5.82 It appears to us that the rates to be paid under these contracts is reasonable, however, the Department of Social Development needs to start its planning for the expiration and possible renewal of these contracts well before their end dates.

Chapter 6

Follow up on Prior Years’ Recommendations

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Follow up on Prior Years' Recommendations

Background

6.1 We have a strategic goal that departments and agencies accept and implement our recommendations. Consequently, we track both the number of recommendations accepted and the number of recommendations implemented. This chapter reports on those two key performance indicators.

6.2 This chapter promotes accountability by giving MLAs and the general public information about how responsive the government has been to our recommendations. We think it is important that MLAs and the public see if the government is making progress with our recommendations; recommendations that were significant enough to have been brought to the attention of the Legislative Assembly in previous years.

Scope

6.3 Our practice is to track the status of our recommendations for four years after they first appear in the Report of the Auditor General, starting in the second year after the original Report. In other words, in this Report for the year ended 31 March 2009, we are tracking progress on recommendations from 2005, 2006 and 2007.

6.4 To prepare this chapter, we request written updates on progress from the respective departments and agencies. This year we changed our process slightly. In addition to any comments they might normally provide, we asked departments and agencies to “self-report” the status of each recommendation. That is, we asked for each recommendation that the departments and agencies simply check the one appropriate box:

- Fully Implemented
- Not Implemented

6.5 We added these two “self-report” boxes to attempt to clarify our understanding of the departments’ responses. In the past, we have found cases where a department or agency provides us a fairly lengthy response to a recommendation, but it has not been completely clear to us whether the response is actually saying the recommendation has been implemented or not.

6.6 We mailed these requests in June 2009. We received all the updates we requested, and carried out our review during the Fall of 2009.

6.7 Our follow-up work does not involve further auditing of the program that was the subject of our original audit. Rather, we carry out enough procedures on the updates to allow us to conclude the information is plausible in the circumstances. In some cases we request additional documentation to test the accuracy of the progress updates departments and agencies have sent to us. If a department or agency reports that it has implemented a recommendation, we normally do some checking to see if this is the case.

6.8 In carrying out this checking, we had the same scope restriction that we reported in 2008. The Department of Public Safety once again refused to show us a legal opinion pertinent to one of our original recommendations.

6.9 Exhibit 6.1 gives an overview of the status of recommendations by department and agency. Exhibit 6.2 shows the results organized by year of the original audit.

6.10 A good deal of the coverage in this chapter is on the recommendations from 2005. This is because these recommendations have reached the end of the four year follow-up cycle. We are providing the Members of the Legislative Assembly and the general public one last look at those recommendations which the government has not adopted. Following our comments on recommendations from 2005, we do have comments on a couple of recommendations of note from 2006.

Exhibit 6.1 Status of recommendations

Department	Audit area	Year	Recommendations					
			Total	Disagreed	Implemented	Partially implemented	Agreed/Not implemented	No longer applicable
Business New Brunswick	Community Economic Development Agencies	2006	5	0	4	0	1	0
Education	Facilities Maintenance	2005	22	2	9	5	6	0
Health	Prescription Drug Program	2005	8	0	2	0	6	0
	Health Levy	2006	5	0	3	1	1	0
	Program Evaluation	2007	8	0	0	0	8	0
Justice	Pensions Benefit Act	2006	20	4	4	6	6	0
	NBCUDIC	2007	12	1	3	1	7	0
Natural Resources	Tracking System for Wood Harvested from Private Woodlots	2006	12	0	6	3	3	0
	Wildlife Trust Fund	2007	4	1	1	0	2	0
NBIMC / Finance	Governance	2006	14	1	5	2	6	0
NB Power / Energy / Finance	Governance	2005	22	1	12	5	4	0
Post Secondary Education, Training and Labour	Private Occupational Training Act	2007	23	5	5	3	10	0
Public Safety	NB's Emergency 9-1-1 Service	2006	9	0	3	2	4	0
Service New Brunswick	Property Assessment for Taxation Purposes	2005	16	1	10	4	1	0
Social Development	Special Care Homes	2005	21	0	11	1	9	0
Total			201	16	78	33	74	0

Exhibit 6.2 Status of recommendations by year

Year	Recommendations					
	Total	No longer applicable	Implemented	Partially implemented	Agreed/Not implemented	Disagreed
2005	89	0	44	15	26	4
2006	65	0	25	14	21	5
2007	47	0	9	4	27	7
Total	201	0	78	33	74	16

Results in brief

6.11 Exhibit 6.1 shows departments and agencies had implemented 78 (about 39%) of our recommendations from 2005, 2006 and 2007 by the time we drafted our 2009 Report. We rated another 33 (about 16%) as partially implemented. More than half of our recommendations remain unimplemented after four years, the limit of our tracking.

Comments on recommendations from 2005

6.12 45, or 51% of the 89 recommendations we made in our 2005 Report have not been fully implemented by the government. Of these 45 recommendations, 4 are “disagreed with recommendations”, 26 are “not implemented” and 15 are “partially implemented”.

6.13 Exhibit 6.3 shows all of the 45 recommendations from 2005 that the government has not fully implemented and their current status. Their current status appears under the column titled “our assessment after four years”. The term “partial” in this column means we have judged the recommendation as partially implemented. The term “agree” means we have determined government has not made progress with the recommendation, but neither has it disagreed with it in the responses of the last four years.

6.14 These 2005 recommendations have reached the end of the four year follow-up cycle. They are in the areas of:

- NB Power Governance ;
- Social Development – Special Care Homes;
- Education – Facilities Maintenance;
- Service New Brunswick – Property Assessment for Taxation Purposes; and
- Health – Prescription Drug Program.

6.15 We encourage Members of the Legislative Assembly to look at these 2005 recommendations which the government has not implemented. Perhaps upcoming meetings of the Public Accounts Committee and the Crown Corporations Committee would give an opportunity for Members to pursue these matters in some detail.

6.16 Immediately following Exhibit 6.3, we provide some additional commentary on some of the recommendations from 2005 audits.

Exhibit 6.3 Recommendations made in 2005 that were not fully implemented

Department	Audit	Recommendations made in 2005 that were not fully implemented	Our assessment after 4 years
Service New Brunswick	Property Assessments for Taxation Purposes	We recommended SNB exercise their full authority under the Assessment Act to obtain all relevant information required to properly assess all properties.	Agree
		We recommended SNB eliminate inequity in assessments of superior homes, waterfront properties, apartment buildings, commercial, and industrial properties.	Partial
		We recommended SNB ensure its sales inspection standards are met.	Partial
		We recommended SNB develop an audit plan for the Quality Control function.	Partial
		We recommended SNB disclose in its annual report the nature of its accountability relationships with its governing authorities.	Partial
		We recommended SNB disclose in its annual report operating results for each line of business.	Disagree
Education	Facilities Maintenance	We recommended the Department of Education establish standard timelines for completion of repairs of identified deficiencies.	Agree
		We recommended the Department of Education monitor the degree of compliance with legislation, results of inspections, overall building condition, and the extent of unfunded repairs.	Partial
		We recommended the Department of Education ensure appropriate province-wide policy exists to protect assets and facility occupants. Such policy should detail specific actions and the level of subsequent reporting required.	Agree
		We recommended the Department of Education ensure DEC's adopt adequate playground inspection practices. This would include requirements for meeting CSA requirements regarding the frequency of inspections and documentation of findings and remedial action taken.	Partial
		We recommended the Department of Education ensure all inspection results are kept for review at head office.	Partial
		We recommended the Department of Education develop appropriate follow-up procedures to ensure the timely completion of needed repairs identified by facilities inspection processes. Further, results of follow-up procedures should be well documented.	Partial
		We recommended the Department of Education report funding shortfalls and associated risks to the decision makers and the public.	Partial
		We recommended the Department of Education allocate capital repair dollars to districts on a priority basis which considers the risk to safety and health of building occupants.	Disagree
		We recommended the Department of Education ensure necessary minor repairs are addressed in a timely fashion.	Disagree
		We recommended the Department of Education develop, document and communicate goals for facilities maintenance.	Agree
We recommended the Department of Education develop objectives relating to the maintenance of facilities that are linked to goals. These objectives should be documented and communicated to all affected parties.	Agree		

Department	Audit	Recommendations made in 2005 that were not fully implemented	Our assessment after 4 years
Education	Facilities Maintenance	We recommended the Department of Education ensure its annual report include: <ul style="list-style-type: none"> • a clear account of goals and objectives relating to facilities maintenance; and • disclosure on how well the Department has done in achieving its plans relating to facilities maintenance. 	Agree
		We recommended the Department of Education annually advise government of: <ul style="list-style-type: none"> • the estimated level of expenditures necessary to appropriately maintain school facilities; and • the major repairs that have been deferred because of limited funding and the projected risks associated with deferring the major repairs. 	Agree
Social Development	Special Care Homes	The Department should comply with the Regulation and ensure all regulatory requirements are met prior to issuing a license to a special care home or a community residence.	Agree
		The Department should determine why licenses are not being renewed prior to their expiry dates and implement corrective actions to ensure their timely renewal.	Agree
		The Department should ensure licensing procedures are followed. If procedures are no longer appropriate, they should be changed.	Agree
		The Department should review the legislation for special care homes and community residences and initiate amendments as appropriate. In particular, the inclusion of requirements for an emergency plan and public posting of the license should be considered.	Agree
		The Department should verify operators' compliance with all of the standards by performing complete inspections at special care homes and community residences.	Partial
		The Department should implement a formalized risk management approach for prioritizing inspections of special care homes and community residences.	Agree
		The Department should develop quality control practices to ensure the policies and procedures are followed.	Agree
		The Department should take immediate corrective action to comply with the legislation. The corrective action may require changes to the practices, to the legislation or to both.	Agree
		The Department should develop and implement quality control practices to ensure that policies and procedures are followed consistently in the regional offices.	Agree
		To provide better accountability to the public, the Department should report publicly, in its annual report, on the performance of the program for licensing and inspecting special care homes and community residences.	Agree

Department	Audit	Recommendations made in 2005 that were not fully implemented	Our assessment after 4 years
Health	Prescription Drug Program	Once objectives have been established, we recommended the Department ensure the information collected is adequate to measure the performance with regard to the objectives.	Agree
		We also recommended the Department monitor data and conduct analysis on a regular basis to ensure that problems and issues are identified.	Agree
		We recommended the Department identify the non-financial aspects of the Prescription Drug Program that affect performance, and accordingly establish standards to regularly monitor and evaluate the program's performance, and take corrective action as required.	Agree
		We recommended the Department ensure the information required to evaluate the goals/objectives of the program is available.	Agree
		We recommended the Department utilize the data it currently has to its fullest potential.	Agree
		We recommended the Department comply with the requirements of the annual report policy with respect to the content concerning the Prescription Drug Program.	Agree
NB Power / Energy / Finance	Governance	We recommended the Executive Council Office develop and document a policy that clearly defines the process to be followed in appointing directors to the boards of all provincial Crown agencies. This policy should be based on the process utilized to appoint the new NB Power board.	Partial
		We recommended the policy include the requirement for thorough documentation of information and analyses supporting the evaluation, recommendation and appointment of candidates.	Agree
		We recommended clearly documented mandates, missions, and objectives for all corporations in the NB Power Group be reviewed and agreed to by the Province, as shareholder, and the board of NB Power. This could be done as part of the sign-off of a shareholder's letter of expectations, as discussed later in this chapter.	Partial
		We recommended the Province give the board of directors of NB Power full responsibility for approving the hiring and firing of the NB Power CEO.	Disagree
		We recommended the Province, in consultation with the NB Power board of directors, develop, and update annually, a shareholder's letter of expectations that, as a minimum: <ul style="list-style-type: none"> • Identifies one official shareholder representative to provide direction to NB Power on behalf of the shareholder (i.e. Department of Energy, NBEFC, or another organization). • Provides clearly defined shareholder performance expectations including targets that the Province will use in evaluating corporate performance. • Provides a clear indication to the NB Power board of directors as to when it needs to consult with the shareholder representative for direction prior to making a decision on a significant initiative. This should be consistent with the process to the extent it is already documented in existing shareholder agreements. • Documents clearly-stated mandates, missions and objectives for all corporations in the NB Power group. • Establishes performance reporting the shareholder needs from NB Power to evaluate corporate performance. • Clarifies other aspects of the relationship between the shareholder and NB Power as considered necessary (e.g. relative roles and responsibilities of major players in the governance of NB Power). 	Agree

Department	Audit	Recommendations made in 2005 that were not fully implemented	Our assessment after 4 years
NB Power / Energy / Finance	Governance	The document should be signed by both the shareholder representative and the chair of the NB Power board of directors to signify their understanding and agreement. The British Columbia document discussed above could be used as a model.	Agree
		We recommended the NB Power board develop a policy covering external reporting by NB Power. That policy should be based on the provincial annual report policy.	Agree
		We recommended a summary of the annual environmental reporting by NB Power pursuant to its involvement in the Environmental Commitment and Responsibility Program of the Canadian Electricity Association be included as part of the corporate annual report.	Partial
		We recommended the official shareholder representative consider requesting that the Electricity Act be amended to require tabling of the corporate financial statements at the Legislative Assembly within three months of the end of the fiscal year.	Partial
		We recommended that, as part of the board's internal and external reporting policies, there be a requirement for some form of assurance from management or others relating to non-financial performance information presented.	Partial

NB Power governance

6.17 In 2005 we looked at the governance structures and processes established for NB Power to see if they set a framework for effective governance. The audit involved four government organizations: NB Power, the Department of Energy, the Department of Finance and the New Brunswick Electric Finance Corporation.

6.18 We made a total of 22 recommendations. To date, twelve of those recommendations have been fully implemented and an additional five have been partially implemented. All recommendations directed to NB Power have been fully or partially implemented with one exception. In that case, implementation of the recommended reporting enhancements is close to being completed.

6.19 Other recommendations that were not implemented primarily relate to the lack of a provincially-developed accountability framework that would allow the Province to set performance expectations for NB Power and monitor its actual performance. Key aspects of an accountability framework have been in development within the Department of Energy for the past couple of years. However, as the Department of Energy did not provide us with an update for 2009, we have assumed that the related recommendations have not yet been implemented.

Department of Social Development – special care homes

6.20 This audit made 21 recommendations aimed at improving the Department's licensing and inspection practices for special care homes and community residences, and the related legislation. The Department of Social Development (formerly the Department of Family and Community Services) implemented 11 of our 21

recommendations and partially implemented another one. Recommendations that have yet to be implemented require legislative amendments, quality control measures and, as in the case of many government programs, improved performance reporting.

***Department of Education –
facilities maintenance***

6.21 This audit reviewed school facilities (including buildings and surrounding grounds) to ensure that they are appropriately maintained. As a result of our work, we made 22 recommendations. The Department implemented 9 of our recommendations and partially implemented an additional 5. Recommendations that were not implemented addressed standard timelines for completing repairs, policies to protect assets and facility occupants, and reporting on the effectiveness of programs for maintenance of school facilities.

***Service New Brunswick –
property assessment for
taxation purposes***

6.22 In 2005 we carried out an audit at Service New Brunswick of property assessment for taxation purposes. We made a total of 16 recommendations, of which 10 have been implemented. Our final recommendation in this audit was that **SNB disclose in its annual report operating results for each line of business.**

6.23 In 2005 SNB responded:

The Corporation follows generally accepted accounting principles (GAAP). As noted in the report, the requirements of GAAP for segmented reporting do not apply to SNB. While the information is available internally and shared from time to time with relevant stakeholders, the cost of providing such breakdown in audited financial statements would far exceed its value to general readers.

6.24 After continuing to disagree with this recommendation in 2007 and 2008, in 2009 SNB responded:

This recommendation is under consideration at this time.

***Department of Health -
prescription drug program***

6.25 In 2003, legislative auditors from a number of jurisdictions across Canada decided to conduct audits of drug programs in their jurisdictions. The prescription drug program audit discussed the results of our participation in this joint effort.

6.26 We looked at three areas: program management; drug selection and cost; and reporting to the Legislative Assembly. We made a total of eight recommendations. The Department has implemented two of our recommendations. The remaining

recommendations that were not implemented addressed weaknesses in monitoring and performance reporting. The Department is in the very preliminary stages of developing an evaluation framework for departmental programs that, if implemented, may provide a means of addressing these weaknesses.

Comments on recommendations from 2006

Comments on recommendations from 2006 audit of NBIMC governance

6.27 This audit dealt to a large degree with governance practices of the NB Investment Management Corporation and we addressed most of our recommendations to NBIMC board and management. We did, however, have a number of recommendations that we addressed to the Department of Finance.

6.28 When we wrote the Department of Finance with our original report in 2006, we stated,

While we invite you to provide any comments you have that you would like included in our public report, we particularly would like to draw your attention to the following sections of the report

- Pages 8-9 Strategic Plan
- Pages 10 – 11 Deputy Minister of Finance – ex-officio board member
- Pages 15-17 Letter of expectations
- Pages 24-25 Continuity of board membership
- Page 28 Revisiting the role of NBIMC
- Page 29 Reviewing and updating the NBIMC Act

6.29 The Department of Finance declined our invitation and did not choose to respond to our original 2006 report. Further, it did not respond to our written enquiries in 2007 and again in 2008.

6.30 The Department did, however, provide a response in 2009, and indicated that “departmental staff are currently in the process of engaging a third party consultant to, among other things, review the roles of NBIMC and the Department of Finance in the governance and administration of the pension plans and funds. As part of the consultant’s terms of reference they will analyze rationalizing roles such as trusteeship, investment counseling and investment of pension assets.”

Comments on recommendations from 2006 re NB's Emergency 9-1-1 service

6.31 In this work in the Department of Public Safety we recommended that **the Department make a clear public statement on their intentions for the regionalization of fire dispatch and ensure that they have legislated authority to perform their intentions.**

6.32 As we reported last year, the Department told us that it has a legal opinion stating that it has legislated authority to regionalize fire dispatch. However, it continues to refuse to provide us with the opinion.

General comments on the implementation of recommendations

6.33 Our recommendations are intended to improve government programs. We undertake our annual follow-up of our recommendations to determine if the changes we identified are being put in place. We do not have the resources to do extensive investigation into the extent of departmental implementation. We hope that the Public Accounts and Crown Corporations Committees will use this chapter to hold government accountable for implementing our recommendations.

6.34 Exhibit 6.4 reports government's progress (or lack thereof) in implementing our recommendations over the past number of years.

Exhibit 6.4 Implementation of recommendations

Year	Number of Recommendations	Recommendations Implemented Within		
		Two Years	Three Years	Four Years
1999	99	35%	42%	42%
2000	90	26%	41%	49%
2001	187	53%	64%	72%
2002	147	39%	58%	63%
2003	124	31%	36%	42%
2004	110	31%	38%	49%
2005	89	27%	38%	49%
2006	65	22%	38%	-
2007	47	19%	-	-
Total	958	-	-	-

6.35 Exhibit 6.4 shows a couple of disturbing trends. Less than one in five of our recommendations made in 2007 have been implemented two years later; the downward trend is continuing. And

more than half of our recommendations remain unimplemented after four years, the limit of our tracking.

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Summary of Significant Audits Conducted in Departments and Crown Agencies over the Past Ten Years

The following is a list of value-for-money audits reported in a separate chapter of our annual Reports over the last ten years, organized by department and agency. The year of reporting is in brackets following the subject of the audit. The list is organized using the current name of the department or agency, even though in some cases the audit was conducted prior to a government reorganization.

Department of Agriculture and Aquaculture

Salmon Aquaculture (2004)

This chapter assesses whether Province of New Brunswick programs ensure that New Brunswick salmon cage culture operations are economically, environmentally, and socially sustainable.

Review of Legislation (2000)

This chapter examines how well the Department is meeting its administrative responsibilities pertaining to legislation it has been assigned, and whether the results are being adequately measured and reported to the Legislative Assembly.

Department of Business New Brunswick

New Brunswick Innovation Foundation (2009)

This chapter examines whether governance structures and practices established by Business New Brunswick in connection with the delivery of innovation funding through the New Brunswick Innovation Foundation ensure accountability and protection of the public interest.

Department of Education

Provincial Testing of Students – Anglophone Sector (2009)

This chapter assesses the Department's strategic direction for its provincial testing of students in the Anglophone sector. It also assesses the Department's process of administering its provincial testing of students in the Anglophone sector.

Facilities Maintenance (2005)

This chapter examines whether the Minister of Education has adequate systems and practices in place to ensure that school facilities are appropriately maintained.

Pupil Transportation (2001)

This chapter examines the systems and practices in place in the Department of Education for the safe transportation of pupils to and from their schools.

Department of Environment

Environmental Trust Fund (2009)

This chapter examines whether the purpose of the Environmental Trust Fund is clearly established, and whether the Fund is measuring and reporting the achievement of its goals and objectives. It also examines whether the Fund is operating as intended with respect to grants.

Environmental Impact Assessment (2008)

This chapter examines whether the Department is carrying out its key roles and responsibilities under the NB Environmental Impact Assessment Regulation and related departmental guidelines with due regard for economy, efficiency and effectiveness. It also identifies key risks associated with the provincial EIA process and determines the extent to which those risks are being managed.

Beverage Containers Program (2004)

This chapter examines whether the Department has established satisfactory procedures to measure and report on whether the Beverage Containers Program is achieving its intended results. It also reports on the progress the Department has made in implementing the recommendations and responding to the findings of our 1994 report on the Beverage Containers Program.

Environmental Inspections (2002)

This chapter examines the inspection process established by the Department to monitor and report compliance with environmental legislation.

Domestic Well Water Quality (2000)

A reliable supply of safe drinking water is important to everyone. Approximately 40% of New Brunswickers living in small towns and rural areas rely on domestic wells as their primary source of water. Two regulations under the *Clean Water Act* that contribute to the prevention of drinking water problems for individuals on newly drilled or dug domestic wells are the *Water Well Regulation* and the *Potable Water Regulation*. This chapter examines the performance of the Departments of the Environment and Local Government and Health and Wellness in ensuring compliance with these regulations as they relate to private wells.

Department of Finance

Tax Expenditures (2003)

This chapter examines and assesses the processes of approving, monitoring, evaluating and reporting provincial tax expenditure programs.

Pension Plan Governance (2002)

This chapter examines whether the governors of two provincially sponsored pension plans have established satisfactory procedures to measure and report on the effectiveness of the plans' asset management activities.

Early Retirement Program (2001)

This chapter examines the process followed by government to reach the decision to offer a voluntary early retirement program to its employees.

Pension Plan Governance (2000)

This chapter examines the governance structure of four provincially-sponsored pension plans.

Department of Health

Program Evaluation (2007)

This chapter examines whether adequate systems and practices have been established to regularly evaluate programs funded by the Department of Health.

Health Levy (2006)

This chapter explains what the health levy is for, and summarizes the issues we identified related to the health levy process.

Prescription Drug Program (2005)

This chapter examines whether the Department has adequate procedures in place to manage the performance of the Prescription Drug Program, and whether there is adequate reporting on the Prescription Drug Program's performance. It also examines whether the Department has adequate procedures in place to ensure that the drug assessment process for formulary listing and the amount paid for drugs and pharmacy services are managed with due regard for cost effectiveness.

Accountability of Psychiatric Hospitals and Psychiatric Units (2003)

This chapter assesses whether the Department has appropriate accountability processes in place for the operations of the psychiatric hospitals and psychiatric units under the direction of the Regional Health Authorities.

Client Service Delivery System (2002)

This chapter examines why the development of the Client Service Delivery System, which was approved in 1995 for \$4.5 million and was to be operational in three years, is costing substantially more and taking much longer than anticipated. It also examines whether there has been any non-compliance with contractual arrangements, government policy or provincial legislation related to the higher costs and longer completion time.

Prescription Drug Program (2001)

This chapter examines the government plan to provide drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay. Our objective was to determine whether the Departments have appropriate systems and practices in place to ensure that each person who is eligible for benefits is offered the program, and that the plan provides services only to those people who qualify.

Domestic Well Water Quality (2000)

A reliable supply of safe drinking water is important to everyone. Approximately 40% of New Brunswickers living in small towns and rural areas rely on domestic wells as their primary source of water. Two regulations under the *Clean Water Act* that contribute to the prevention of drinking water problems for individuals on newly drilled or dug domestic wells are the *Water Well Regulation* and the *Potable Water Regulation*. This chapter examines the performance of the Departments of the Environment and Local Government and Health and Wellness in ensuring compliance with these regulations as they relate to private wells.

Department of Justice and Consumer Affairs

Superintendent of Credit Unions (2008)

This chapter examines whether the Superintendent of Credit Unions is fulfilling his duties and responsibilities to oversee the financial stability and solvency of credit unions and caisses populaires for the protection of New Brunswick depositors.

Pension Benefits Act (2006)

This chapter examines the protections offered by the *Pension Benefits Act* to active and former pension plan members, and the nature of the operations of the Office of the Superintendent of Pensions.

Health Levy (2006)

This chapter explains what the health levy is for, and summarizes the issues we identified related to the health levy process.

Department of Natural Resources

Timber Royalties (2008)

This chapter describes timber royalties and the processes and requirements surrounding them. It also examines whether the Department is complying with its legislated requirements.

Wildlife Trust Fund (2007)

This chapter reports the results of an audit of a sample of grants issued by the fund and our testing of the conservation revenue fee.

Tracking System for Wood Harvested from Private Woodlots (2006)

This chapter examines whether the Department maintains appropriate processes to ensure the tracking system for primary forest products harvested from private woodlots is operating as required by the *Transportation of Primary Forest Products Act*. It also examines whether the Department uses the information provided by the wood tracking system in assessing and reporting publicly on the sustainability of the private wood supply in New Brunswick.

Crown Lands Management (2001)

This chapter examines the Minister's responsibilities for Crown lands, and looks at how well the Department is doing in measuring and reporting on the effectiveness of its Crown lands programs.

Private Forest Lands (2000)

This chapter examines the government's role in encouraging the management of private forest lands as the primary source of timber for wood processing facilities in the Province.

Office of Human Resources

Absenteeism Management (2003)

This chapter examines whether government has systems and practices in place to effectively manage employee absenteeism in the Civil Service.

Department of Post-Secondary Education, Training and Labour

Adult Literacy Services (2008)

This chapter examines the Department's strategic direction, control procedures, and performance measurement and reporting for its adult literacy support.

Private Occupational Training Act (2007)

This chapter examines whether the Department, and the New Brunswick Private Occupational Training Corporation, are fulfilling their mandate to provide effective consumer protection to students of private occupational training organizations in New Brunswick.

Employment Development Programs (2002)

This chapter examines the management of economic development programs, and whether there are adequate procedures in place to measure and report on program effectiveness.

Department of Public Safety

Office of the Fire Marshal (2002)

This chapter examines whether the Office of the Fire Marshal is adequately carrying out the provisions of the *Fire Prevention Act*, and whether it has appropriate human resource systems and practices in place to sufficiently deliver provincial fire prevention and protection programs.

High Risk Drivers (2001)

This chapter examines whether the Department has a system in place to identify and respond appropriately to high-risk drivers of private passenger vehicles. It also looks at one specific class of high-risk driver – the student driver.

Department of Social Development

Review of Nursing Home Contract with Shannex Inc. (2009)

This chapter examines various questions surrounding the contract with Shannex Inc. to supply nursing home beds.

Special Care Homes and Community Residences (2005)

This chapter examines whether the Department has appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

Nursing Home Services (2004)

This chapter examines whether the Department has appropriate practices to ensure that licensed nursing homes are complying with the Province's legislation for nursing homes, and that the Province's legislation and departmental policies for nursing homes are reviewed and amended on a regular basis.

Child Day Care Facilities (2003)

This chapter examines whether the Department has appropriate policies and practices to ensure compliance with the Province's legislation and standards for child day care facilities.

Prescription Drug Program (2001)

This chapter examines the government plan to provide drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay. Our objective was to determine whether the Departments have appropriate systems and practices in place to ensure that each person who is eligible for benefits is offered the program, and that the plan provides services only to those people who qualify.

Department of Supply and Services

Review of Nursing Home Contract with Shannex Inc. (2009)

This chapter examines various questions surrounding the contract with Shannex Inc. to supply nursing home beds.

Management of Insurable Risks to Public Works Buildings (2003)

This chapter examines how the Department manages significant insurable risks for the public works buildings it is responsible for.

Cellular Phones (2002)

This chapter examines whether the government has an adequate system in place to administer the acquisition and use of cell phones.

Provincial Archives of New Brunswick (2001)

This chapter examines the work of the Provincial Archives of New Brunswick. It considers their role in the assessment and preservation of archival records.

Purchasing (2001)

This chapter examines whether the Minister is fulfilling his responsibilities under the *Public Purchasing Act* and Regulation.

Contracts for IT Professionals (2001)

This chapter presents the results of an examination of forty contracts from six departments for the services of various Information Technology professionals.

Land Management Fund (2000)

The Land Management Fund buys, manages and sells land on behalf of the government. This chapter examines whether the Fund is achieving the purposes for which it was established. This chapter also examines compliance with the government-wide policy on the disposal of real property.

Department of Transportation

Vehicle Management Agency (2002)

This chapter examines whether the Vehicle Management Agency is providing repair and maintenance services for government cars, executive vehicles and light trucks in a manner which minimizes costs and maximizes efficiency. It also examines whether the Agency has adequate systems and practices in place to monitor and control the usage of fuel for government cars and light trucks.

Engineering Consulting and Road Construction Materials (2000)

This chapter examines the Department's procedures for obtaining engineering consulting services and managing its inventories of road construction materials. It also examines the progress made by the Department in implementing End Results Specifications as a guarantee of road construction quality.

Government-wide audits

Review of Departmental Annual Reports (2008)

Our primary objective for this project was to determine the degree to which departmental annual reports and our government's reporting on performance could be improved by applying state-of-the-art principles. Our secondary objective was to determine what enhancements might be recommended for the Province's annual report policy.

Program Evaluation in Government Departments (2004)

Our objective for this project was to determine the approach to program evaluation employed by provincial departments.

Crown agency audits

Crown Agency Governance (2003)

This chapter summarizes the results of our governance reviews over the past five years, reviews practices in other jurisdictions, and makes major overall recommendations on steps the Province can take to improve Crown agency governance.

New Brunswick Credit Union Deposit Insurance Corporation (2007)

This chapter examines whether the New Brunswick Credit Union Deposit Insurance Corporation has adequate structures, processes and procedures in place to fulfill its obligation to protect the deposits of members of credit unions and caisses populaires in New Brunswick.

New Brunswick Investment Management Corporation

Investment Performance and Cost Analysis (2008)

This chapter looks at some indicators of the New Brunswick Investment Management Corporation's investment performance, and provides an analysis of the costs of the organization.

Governance (2006)

This chapter examines whether current governance structures and processes established for the New Brunswick Investment Management Corporation set a framework for effective governance.

NB Power

Governance (2005)

This chapter examines whether the current governance structures and processes established for NB Power set a framework for effective governance.

Regional Development Corporation

Provincially Funded Programs and Projects (2004)

This chapter examines whether the Regional Development Corporation has satisfactory procedures in place to measure and report on the effectiveness of the provincially funded programs and projects it administers.

Service New Brunswick

Property Assessment for Taxation Purposes (2005)

This chapter examines whether Service New Brunswick complies with the *Assessment Act* by assessing real property at “real and true value”.

NB Agriexport Inc. (2000)

This chapter highlights the results of a special review of the operations and accountability of NB Agriexport Inc., carried out at the request of the Crown Corporations Committee.

Regional Health Authorities (2000)

This chapter summarizes the Auditor General’s observations and recommendations as a result of assisting the Crown Corporations Committee in its initial hearings with regional hospital corporations.