

5.

EDUCATION AND CULTURE - TEACHERS' GROUP INSURANCE PLANS

BACKGROUND

5.1 The Department of Education and Culture makes payments for medical, dental, life and accidental death and dismemberment (AD&D) group insurance for active and retired teachers in the Province according to provisions of the 1994 Collective Agreement between the Minister of Education and Culture and the Nova Scotia Teachers Union. Although retired teachers are not specifically covered by the Collective Agreement, an arbitration decision related to a grievance filed pursuant to the Teachers' Collective Bargaining Act in 1992 concluded that *"the Employer is under a contractual obligation to pay health care premiums for retired teachers in full and that such obligation forms part of the existing collective agreement."*

5.2 Premiums paid by the Department of Education and Culture, teachers and school boards are remitted to the Nova Scotia Teachers Union (NSTU) Group Insurance Fund Trustees who are appointed by the Executive of the NSTU under the provisions of a Trust Deed dated 1965. The Province started paying premiums for the life insurance and medical plans for active teachers in 1973, for the retired teachers' medical plan in 1978 and for the dental plan in 1987.

5.3 The NSTU Group Insurance Fund Trustees (the Trustees) receive premiums and make arrangements with plan administrators and insurance carriers for insurance coverage. For the year ended April 30, 1995 the Trustees received \$9.8 million from the Province and \$7.2 million from plan members and school boards as premiums for the plans described above. The insurance carrier for the medical/dental plans is Maritime Medical Care Inc. (MMC) and Maritime Life is the current carrier for the life insurance plan.

5.4 The Trustees are also responsible for various other insurance plans available to teachers. For those plans, premiums are generally paid by teachers and the Province makes no contribution. Among those is a salary continuation (long-term disability) plan. The premiums for the salary continuation plan are cost-shared with teachers by some school boards under the provisions of local collective agreements between the school boards and the NSTU. Currently, the school boards fund approximately 24% of the total annual premiums of \$2.5 million.

5.5 The 1994 Annual Report of the Auditor General (page 11) reported that we had attempted to audit the NSTU Group Insurance Fund as a transfer payment recipient under Section 15(b) of the Auditor General Act. At that time, the NSTU denied us access to the Fund. Section 143(1) of the Education Act, passed in 1995, includes the following:

"The payments made by the Minister or a school board for all or a portion of the cost of any policy of insurance or any other benefits plan provided to teachers including, without limiting the generality of the foregoing, life insurance, accidental death or dismemberment insurance or medical and dental plans, are financial assistance for the purpose of the Auditor General Act and subject to audit by the Auditor General."

5.6 We requested audit access to the Group Insurance Trust Fund from the NSTU in the spring of 1996 and our request was granted. The audit was conducted during the spring of 1996.

5.7 On November 8, 1996 we issued a report on this audit to the Minister of Education and Culture under Section 9(3) of the Auditor General Act. The text of the relevant section of the Auditor General Act is included in Appendix I to this Report (page 242). On November 12, 1996 the Deputy Minister of Education and Culture sent a letter to the Executive Director of the NSTU requesting certain actions to deal with the findings in the Report. This Chapter summarizes the major points in the November 8, 1996 Report to the Minister and includes references to subsequent events to the date of writing of this Chapter in early 1997.

RESULTS IN BRIEF

5.8 The following are the principal findings resulting from our examination.

- We are unable to determine whether all premiums paid by the Province to the Trustees for medical, dental, life and accidental death and dismemberment insurance have been expended for the purposes appropriated by the Legislature because there are no agreements between the Department of Education and Culture and the Nova Scotia Teachers Union regarding ownership of experience rating refunds, dividends and accumulated surpluses and deficits for the group insurance plans. Premiums received from the Province have been remitted by the Trustees to the plan administrators and insurance carriers as appropriate.
- Experience rating refunds on the life insurance plan from 1973-1995 totalled \$2.4 million. The disposition of these refunds is not covered by existing agreements and the funds were expended by the Trustees on other than life insurance. Since the Province pays 76% of the premiums for the life insurance plan, the disposition of refunds should be covered by an agreement negotiated between the Department of Education and Culture and the NSTU.
- As at January 31, 1996 the group medical plan had accumulated a surplus of \$2.6 million which was being held by MMC for the plan. Since the Province contributes 60-70% of gross premiums, a written agreement regarding disposition of this and any future surpluses and deficits should be negotiated by the Department of Education and Culture and the NSTU. On October 25, 1996, subsequent to the release of our draft report from this audit to the Department of Education and Culture and the Trustees, a cheque for \$2,991,707 was issued by MMC to the Trustees for the accumulated surplus in the medical plan to April 30, 1996.
- The salary continuation plan generated approximately \$5 million of dividends from 1978 to 1995. School boards fund approximately 24% of the premiums for the salary continuation plan. The school boards and Trustees should reach an agreement regarding disposition of these dividends.
- At the time of our audit, the situation with respect to the submission of audited financial information to the Department of Education and Culture did not provide for adequate accountability for the expenditure of public money. This has since been resolved. On October 21, 1996 the Trustees submitted a complete set of audited financial statements for the Provincially-funded plans for the year ended April 30, 1996 to the Department of Education and Culture for the first time.
- The Trustees are meeting regularly and appear to be fulfilling their responsibilities for plan governance. However, the interests of the Department of Education and Culture were not effectively represented on the Board of Trustees by the government

nominee in the past due to the provisions of the Trust Deed and the agreement on confidentiality which the government nominee was required by the Trustees to sign. The Department of Education and Culture and the NSTU should explore alternatives to the existing Trust as a decision-making structure for the plans. The Trustees should be given better access to audited financial information and should be given the opportunity to meet with the auditors annually.

- Article 34.05(i) of the Collective Agreement committed the NSTU to cutting \$3.0 million from the medical/dental or life insurance plans. The wording of the Article is not precise enough to enable us to determine compliance. The Department of Education and Culture, subsequent to the date of our audit report, initiated a grievance under the Collective Agreement related to this matter. As at the date of writing of this Report, the Department and NSTU have not resolved this issue.
- Since August 1994 school boards and members have been paying premiums based on medical and dental plan costs before 1994 benefit reductions. If premiums had been billed based on the actual premiums charged by MMC since August 1994, the school boards and members would have paid a total of \$1.4 million less.
- We commend the Department of Education and Culture for initiating timely action on the findings in our Report to the Minister of Education and Culture dated November 8, 1996. Negotiations between representatives of the Department of Education and Culture and the NSTU commenced in November 1996 and were still in progress at the time of writing this Report. Other issues, particularly those related to governance of these plans, will be raised by the Department of Education and Culture in the Collective Agreement negotiations which will be taking place later in 1997.

AUDIT SCOPE

5.9 The objectives of this assignment were to determine:

- whether funds have been expended for the purposes for which the funds were appropriated by the Legislature and in accordance with the Collective Agreement;
- whether funds authorized to be expended by the Legislature have been expended with due regard to economy and efficiency;
- whether related financial information received by the Department of Education and Culture is appropriate;
- whether reserve funds held by the Trustees are necessary and in accordance with minimum levels as determined by the insurance industry and specific agreements;
- the ownership of accumulated reserves, surpluses or deficits; and
- whether the Trustees are fulfilling their responsibilities for effective governance of the insurance plans.

5.10 During the early stages of this audit, the Trustees and our Office agreed to limit the audit to the insurance plans for which the Province or school boards cost share premiums with members rather than the entire operations of the Trustees. The agreed upon scope is consistent with Section 143(1) of the Education Act.

5.11 Our audit approach included interviews of management and staff of the Departments of Education and Culture and Finance, the NSTU, the private insurance firm which administers the plans on behalf of the Trustees, the Trustees' external auditors and Maritime Medical Care Inc. We reviewed minutes of the Trustees' meetings, audited financial statements of the Nova Scotia Teachers Union Group Insurance Trust Fund since Provincial funds were first contributed to the plans, various reports and other documents.

PRINCIPAL FINDINGS

Compliance with Purposes for which Funds were Appropriated

5.12 *Overall conclusion* - We are unable to determine whether all premiums paid by the Province to the Trustees for medical, dental, life and accidental death and dismemberment insurance have been expended for the purposes appropriated by the Legislature because there are no agreements between the Department of Education and Culture and the Nova Scotia Teachers Union regarding ownership of experience rating refunds, dividends and accumulated surpluses and deficits for the group insurance plans. Premiums received from the Province have been remitted by the Trustees to the plan administrators and insurance carriers as appropriate.

5.13 The Trustees have indicated that when the Province began making contributions to the group insurance plans in 1973, the Province did not want to be involved in the administration of the plans. The Province wanted to pay the premiums and let the Trustees administer the plans. Therefore, the only aspect of the plans included in the Collective Agreement was the payment of premiums.

5.14 The following practices have developed over the years and are not included in provisions of the Collective Agreement or other written agreements between the Trustees and the Minister of Education and Culture.

5.15 *Experience rating refunds* - The Province pays 100% of the premiums for the life insurance plan for members funded by the Province. Since there are also plan members not funded by the Province, the Province paid 76% of total life insurance premiums for the year ended April 30, 1995. The plan is experience-rated which means that the Trustees are responsible for funding any deficit or refunded any surplus by the carrier at the end of the policy year. During the period from 1973-74 to 1994-95, the carrier refunded a net total of \$2.4 million to the Trustees as experience rating refunds. These funds and accumulated interest over the years were used by the Trustees to fund discretionary medical payments to members of \$2.3 million (payments for medical costs in excess of amounts covered by the group medical plan including ancillary benefits available to all teachers), deficits on the group medical plan of \$.5 million and renovations to the NSTU building of \$.2 million.

5.16 An amendment to the Trust Deed dated February 1994 gives the Trustees the mandate to approve discretionary medical payments. The Trust Deed is an agreement between the NSTU and the Trustees so the Department did not approve this amendment.

5.17 The Province of New Brunswick and the New Brunswick Teachers Federation have a similar life insurance plan for teachers. The brochure describing the New Brunswick plan for members clearly states "*The Provincial Government contributes 50% of the premium for \$50,000 life insurance and in return, receives 50% of all dividends.*" Since the Province pays 76% of the premiums for the life insurance plan, the disposition of refunds should be covered by an agreement negotiated between the Department of Education and Culture and the NSTU.

5.18 *Medical/dental plan surplus* - As of January 31, 1996 the medical insurance plan had accumulated a surplus of \$2.6 million due to positive claims to premium experience over the period since September 30, 1993. Prior to 1993, no significant surpluses were generated. The surplus was being held by Maritime Medical Care Inc. but it belonged to the plan, not MMC. MMC credited the plan with interest on the surplus. For the year ended April 30, 1995 the Province contributed 60-70% of gross medical premiums. The remainder was contributed by members and school boards. On October 25, 1996, subsequent to the release of our draft report from this audit to the Department of Education and Culture and the Trustees, a cheque for \$2,991,707 was issued by MMC to the Trustees for the accumulated surplus in the medical plan to April 30, 1996.

5.19 In the past, medical plan deficits have been funded by increased premiums in following years and by experience rating refunds from the life insurance plan as described above.

5.20 The dental plan had a surplus of \$13,276 as at January 31, 1996. For the year ended April 30, 1995 the Province paid 46% of total dental premiums. Since the dental plan inception in 1987, deficits and surpluses have been prorated between the Department of Education and Culture and the Trustees based on the percentage of premiums paid by each.

5.21 *Salary continuation plan dividends* - The Province makes no payments for salary continuation plan premiums. The premiums are cost-shared with teachers by some school boards under the provisions of local collective agreements between the school boards and the NSTU. Currently, the school boards fund approximately 24% of the total annual premiums of \$2.5 million.

5.22 The salary continuation plan generated approximately \$5 million of dividends (net of payments to the insurance carrier) from 1978-79 to 1994-95. Again, there is no agreement between the Trustees and the school boards governing the disposition of these dividends.

Financial Statements

5.23 Articles 34.06 and 34.07 of the Collective Agreement relate to the provision of financial information by the Trustees to the Department of Education and Culture. The requirement for audited financial statements (Article 34.07) was added to the Collective Agreement in 1989. The first audited Statement of Receipts and Disbursements was prepared for the year ended April 30, 1994 and submitted to the Department of Education and Culture in September 1995 in response to several requests from the Department.

5.24 At the time of our audit the situation with respect to the submission of audited financial information to the Department of Education and Culture did not provide for adequate accountability for the expenditure of public money. This situation has since been resolved. On October 21, 1996 the Trustees submitted a complete set of audited financial statements for the Provincially-funded plans for the year ended April 30, 1996 to the Department of Education and Culture for the first time.

Plan Governance

5.25 *Background* - The Group Insurance Trust Fund is governed by a board of six trustees appointed by the Provincial Executive of the NSTU pursuant to the Trust Deed. Trustees are members of the NSTU and selected based upon their perceived ability to represent the membership. There is no attempt to seek trustees with a background or expertise in business, insurance, investments, etc. Consultants are engaged to provide specialized expertise as required. Trustees are appointed for three-year terms which are renewable for another three years. They receive no remuneration for their services. We reviewed minutes of Trustee meetings and determined that the Trustees are meeting regularly and appear to be fulfilling their responsibilities for plan governance.

5.26 *Suggested improvements in governance process* - Trustees of the NSTU group insurance plans receive appropriate information to aid them in decision making and appear to be fulfilling their governance role adequately.

5.27 The Trustees are given little exposure to audited financial information. Audited financial statements are presented briefly by the plan administrators at Trustees' meetings but Trustees are asked to return the statements at the conclusion of the meeting which means that they are not given the opportunity to review the statements thoroughly. The Trustees do not have an audit committee and the auditors do not meet with the Trustees. The Trustees should be given the opportunity to keep the audited financial statements for review and reference and should be given the opportunity to meet with the auditors annually.

5.28 The Trustees indicated to us that, although Trustees cannot keep the full set of audited financial statements due to the confidential nature of the information, each Trustee may review the file copy at any time.

5.29 *Representation of Department of Education and Culture in governance process* - There is no written provision for the Department of Education and Culture to have any representation on the Board of Trustees. However, both the NSTU and the Department of Education and Culture agree that during the 1986 negotiations regarding the establishment of the dental plan a commitment was made to have a trustee nominated by the Department and appointed by the NSTU. That position was filled by two successive officials from the Department of Education and Culture during the period from 1986 to 1994. In late 1994 the Department of Education and Culture's nominee was removed from the Board by the NSTU and a replacement appointment has not been made although the Department proposed nominees and requested that the appointment be made. In May 1996 the NSTU asked the Department of Education and Culture to nominate a Trustee but the Department declined because it would like to consider a new governance structure for the plans.

5.30 As a condition of their appointment the Department of Education and Culture's nominees were required to sign an agreement with the Trustees respecting confidentiality which included a clause specifying that the Trustee "*agrees that he shall not ... divulge to any person whomsoever and shall use his best endeavours to prevent the publication or disclosure of any information concerning the business or finances of the Trust or any of its dealings, transactions or affairs which may come to his knowledge ...*"

5.31 In our opinion the agreement signed makes it impossible for the trustee nominated by the Department of Education and Culture to effectively represent the interests of the Department.

5.32 The Department of Education and Culture and the NSTU should explore alternatives to the existing Trust as a way of making major decisions for the plans. As the major contributor to the financing of the plans, the Department should have input into plan decisions such as rate structures, benefits covered and disposition of surpluses and deficits and should receive sufficient information to allow it to monitor the expenditure of public funds. Although the NSTU states that the level of benefit for the plans is currently negotiated between the NSTU and the Department of Education and Culture, the Department does not have sufficient information or formal input into the governance process.

Economy and Efficiency Considerations

5.33 For the year ended April 30, 1995 the Trustees recorded administration fees paid to the plan administrator of \$.5 million. The plan administrator has performed services for the NSTU plan since its inception in 1965. The Trustees' requirement for administration services has never been tendered or subject to a request for proposals.

5.34 We believe that the Trustees should explore alternatives to the current administration arrangement for the medical/dental plans to determine whether it would be possible to maintain an adequate level of service and reduce costs.

5.35 The plan administrators periodically conduct a *market test* for insurance carriers for medical/dental and life/AD&D insurance. The *market test* involves soliciting quotations from a number of carriers and was last conducted in 1992. Another *market test* was initiated in late 1996. This practice is useful in that it gives the Trustees current information on the market place and may result in cost reductions.

\$3 Million Reduction in Costs per Article 34.05 of 1994 Collective Agreement

5.36 *Interpretation* - Article 34.05(i) of the Collective Agreement was introduced as a result of the 1994 negotiations and commits the NSTU to cutting \$3.0 million from the medical/dental or life insurance plans. This provision has become very difficult to administer and a source of many conflicting interpretations between the NSTU and the Department of Education and Culture. An objective of this audit was to determine whether that Article of the Collective Agreement has been complied with.

5.37 The impact of the conflicting interpretations is that we are not sure which savings are to be included in a calculation of compliance with the Article. Possible alternatives are:

- total savings to the Provincially-funded plans (including savings to the Department, boards and members);
- total savings to the Department of Education and Culture and the school boards (excluding savings to individual members);
- total savings to the Department of Education and Culture; or
- total savings to the Provincial Treasury.

5.38 Our review of correspondence indicates that at some point each of these alternatives has been used by either the Trustees or the Department of Education and Culture in discussing this Article of the Collective Agreement.

5.39 Our conclusion is that the wording of Article 34.05(i) is not precise enough to allow us to determine compliance. Another factor to be considered is that the Department of Education and Culture has been withholding \$3 million a year from premiums billed by the Trustees to the Department. Therefore, regardless of the amount of benefits actually cut from the plan, the Department has saved \$3 million annually from the amount that would otherwise have been payable since April 1, 1994.

5.40 *Billing to boards and members since 1994 benefit cuts* - When the benefits were changed in August 1994, the premiums submitted to MMC were reduced to a rate which reflected the reduced benefit level (net rates). However, the premiums charged to the Department of Education and Culture, the school boards and the members were not reduced (premiums were actually increased in October 1994 to more than pre-August 1994 levels). The amounts billed by the plan administrators were approved by the Trustees and included in the Insurance Profile binders given to plan members. These billings were based on the original rates (gross rates) and not the reduced rates payable to Maritime Medical Care Inc. (net rates). The Department of Education and Culture deducted \$3 million annually from the billings received from the Trustees so the Department was not negatively impacted by the billing practice.

5.41 The result of this billing practice is that boards and members paid a share of costs related to benefits which had been reduced. For example, members with family medical coverage were charged a premium of \$48.46 per month (50% of total premium per Profile Book) when the amount paid on their behalf for premiums to MMC plus administration costs was actually \$39.23 per month (decreased because certain benefits had been de-insured). Note that some school boards pay the members' share as defined in local Collective Agreements between the school boards and teachers.

5.42 We believe that the practice of billing at gross rates is very confusing and not clearly communicated to the school boards and plan members.

5.43 The total amount billed to boards and members during the period from August 1994 to March 1996 using gross rates is \$1.4 million higher than if the rates had been reduced and the net rates used. The \$1.4 million remained with the Trustees (was not remitted to Maritime Medical Care) and was used to offset the \$6 million reduction in the Department of Education and Culture's contributions over the period as described in paragraph 5.40 above.

5.44 The Trustees indicated, in a letter to our Office dated May 9, 1996, that:

"In the matter of whether or not they [gross rate billings] constitute an overpayment, it is our position that they do not, at least, insofar as the Boards are concerned. . . . Article 34.05(ii) specifically required the Government to 'pass on in grants' [to the school boards] the sum of \$3,000,000. This, we are informed, has been done by the Department."

Developments After Issue of our Report to the Minister on November 8, 1996

5.45 On November 12, 1996 the Deputy Minister of Education and Culture sent a letter to the Executive Director of the NSTU requesting certain actions to deal with the findings in the Report. Negotiations between representatives of the Department of Education and Culture and the NSTU commenced in November 1996 and were still in progress at the time of writing this Report. Other issues, particularly those related to governance of these plans, will be raised by the Department of Education and Culture in the Collective Agreement negotiations which will be taking place later in 1997.

CONCLUDING REMARKS

5.46 Our conclusion is that significant improvements are required in the decision-making processes and agreements related to the NSTU group insurance plans. The Province currently pays approximately \$10 million annually or 58% of the total premiums for the plans and should be able to ensure that this public money is spent in accordance with the purposes for which it was appropriated by the Legislature and with due regard for economy and efficiency. A new governance structure for the Provincial plans is required to give the Province adequate representation. The Department of Education and Culture has indicated that it will raise this issue in the Collective Agreement negotiations scheduled for later in 1997 and we will revisit this matter after the Agreement is finalized.

5.47 The process of billing the Province, school boards, and plan members for premiums on the basis of gross rates should be changed. The gross rates are not indicative of the current premiums remitted to the insurance carrier and do not provide appropriate information to those receiving the premium bills.

5.48 We commend the Department of Education and Culture for initiating timely action on the findings in our Report to the Minister of Education and Culture dated November 8, 1996. Negotiations with the NSTU have continued for several months. Senior Department management are giving the negotiations a high priority and remain involved on an almost daily basis.

DEPARTMENT OF EDUCATION AND CULTURE'S RESPONSE

Thank you for your letter of February 6, 1997, along with a draft chapter of the 1996 Report of the Auditor General concerning surpluses in the Teachers' Group Insurance Plans.

As you point out, the details of this matter were brought to the department's attention on November 8, 1996. The department agreed with the report's conclusions and was obviously very concerned.

As a result, the department immediately took steps to attempt to resolve this matter. This led to active discussions between the Department of Education and Culture and the Nova Scotia Teachers Union, which are continuing. I want to assure your office that the successful resolution of the issues identified in the report is a high priority for this department and we will keep your office informed of the status of this matter.

The department appreciates the efforts of the Office of the Auditor General in undertaking and completing the audit of the Teachers' Group Insurance Plans. As well, thank you for your ongoing interest and for your assistance.
