

3.

USER FEES

BACKGROUND

3.1 Governments are increasingly financing their activities through charging user fees to individuals and businesses who directly benefit from government programs and services. Governments have the discretion to charge user fees, and the decision to impose fees is a matter of public policy. Charging fees not only helps to pay for government services, but can also make government services more effective and efficient. For example, user fees can help reduce inappropriate use of products or services previously provided free of charge, such as government literature taken by persons who are not likely to read it. User fees can result in greater appreciation for government services because the user can attribute a value to them based on the fees charged. In such cases, individuals and businesses may use services more wisely and communicate with government on issues relating to the necessity or efficiency of a government service or regulation.

3.2 In deciding to impose user fees, governments will often consider the fairness of charging for government services. Some argue that fairness can be improved by not having taxpayers fund programs and services from which they generally do not benefit. These services would be funded by only those who partake of them. Others argue that charging user fees is unfair because such fees are an impediment to the public's access to government services, and are especially restrictive to individuals of modest means.

3.3 In designing user fee structures, governments will often also consider the consistency with which users of government services are treated. For example, it may be considered inequitable to charge users of a service from one department the full cost of the service, while individuals receive a similar service from another department for a lesser amount. It may also be considered unfair to taxpayers when the fee charged for a service does not cover the whole cost of the service, resulting in taxpayers ultimately subsidizing the service. Another consideration is whether a fee results in lack of participation in government programs which help avert larger government costs in the future (for example, various preventative health or environmental measures).

3.4 For this assignment we defined *user fees* as *charges to individuals, companies and other jurisdictions for the use of government facilities, services and goods*. In contrast to taxes, most of which are not attributable to particular programs or services of government, user fees have the characteristic of associating a payment in return for a specific service or good received. As noted in the following paragraph, the Department of Finance has a more limited definition of user fees.

3.5 During the 1994-95 fiscal year, a change was introduced to the Provincial budgeting process. To provide departments with as much flexibility as possible, certain non-regulatory user fees were permitted to be retained within government departments rather than included in the Consolidated Fund revenues of the Province. User fees were then defined as "*a charge levied for a service performed for identifiable clients that is not regulatory in nature.*" At that time, approximately \$28.7 million of non-regulatory fees and other charges were excluded from Consolidated Fund revenues and netted against the costs of specific programs. Most of the changes were implemented in the 1994-95 fiscal year, but we were informed that there are ongoing budgetary initiatives and changes with respect to fee revenues. A report provided by the Department of Finance indicates that, for 1999-2000, non-regulatory fees total \$51.2 million.

3.6 In April 1997, government approved in principle 36 policy recommendations of a Task Force set up to study government licences, permits and approvals. The primary thrust of the recommendations was to improve service delivery to the public and make it easier for individuals and businesses to obtain required licences, permits and approvals from government. A secondary goal of the Task Force was the creation of a more reasonable fee structure and a consistent method of determining fees for licences, permits, registrations and certifications (LPRCs). The Task Force recommended that cost recovery be the normal guideline when establishing fee levels for LPRCs, and provided a formula which might be used throughout government to determine the full cost of a service or program. At the time, 288 Provincial LPRCs accounted for about \$47.5 million of government's fee revenue, including motor vehicle related revenues of about \$37.0 million.

3.7 A steering committee was created in 1997 to oversee the implementation of the Task Force's recommendations. However, the committee has been inactive since October 1999. The recently created Red Tape Reduction Task Force is expected to recommend legislative initiatives to minimize regulatory burdens and improve business regulation, and some of these may impact on user fees.

3.8 Government has made efforts to achieve balanced budgets by reducing expenditures and containing rising costs. Government has also been considering initiatives for increased revenue generation and we were informed that attention is being given to this matter in individual government departments. The government's Business Plan Guidelines for 2000-2001 requested that suggestions for new revenue raising opportunities be included as part of department business plans. The April 11, 2000 Budget Speech discussed user fees and matching costs with benefits, noting that those who benefit from particular services should pay more to help sustain those services. New and increased cost-recovery measures outlined in the 2000-2001 Budget total approximately \$25.2 million. However, not all planned recoveries may be realized.

RESULTS IN BRIEF

3.9 The following are the principal observations from this audit.

- There are no government-wide policies, procedures or practices to ensure consistent and fair application of user fees.
- No comprehensive information on significant user fee programs is presented to the Legislature, either by individual departments or on a government-wide basis.
- Government indicated that it would implement the 36 policies recommended in the 1997 Licences, Permits and Approvals Task Force report, but no significant progress has been made on the financial aspects of the recommendations.
- The Task Force report and recommended policies do not extend to approximately 300 Provincial agencies, boards and commissions, and there are no estimates of the numbers of user fees or total revenues associated with these entities.
- Departments have not reviewed all government programs where user fees are charged and, due to the Eurig Estate court decision, may be putting sources of government revenues at risk of court challenge.
- User fees for most hospital-based health care services are not based on actual costs because management information systems cannot provide the information needed to determine costs.

- There is no apparent rationale for fees charged by the Registry of Deeds or for personal property registration.
- It has been approximately thirteen years since government last completed an external review of its method of calculating fees charged to companies which harvest trees from Crown lands.

AUDIT SCOPE

3.10 In the fall of 2000, we completed a broad scope audit of government user fees in accordance with Section 8 of the Auditor General Act. The objectives of the assignment were to review and assess:

- the authority under which certain user fees are levied and collected, and the accountability structure and reporting practices for user fees;
- the principles, policies and practices that guide government in the determination and management of user fees; and
- due regard for economy and efficiency in the administration of user fees.

3.11 Audit criteria were developed to assist us in the planning and conduct of the audit. They are described in Exhibit 3.1 on page 50.

3.12 As part of this assignment we interviewed staff of the Department of Finance, Priorities and Planning Secretariat, and the former Department of Business and Consumer Services to gain an understanding of recent government-wide initiatives related to user fees. We also reviewed specific programs in the following government entities:

- (former) Department of Business and Consumer Services
- Department of Health
- (former) Department of Housing and Municipal Affairs
- Department of Natural Resources
- Nova Scotia Alcohol and Gaming Authority

PRINCIPAL FINDINGS

General Government

3.13 *Task Force* - In the summer of 1996, a government Task Force began a review of approximately 288 licences, permits, registrations and certifications (LPRCs) administered by 14 Provincial departments. Of the 288 LPRCs examined by the Task Force, a fee was charged for 146 and no fee was charged for the other 142. The 288 LPRCs accounted for about \$47.5 million of government revenues, which included motor vehicle related revenues of about \$37.0 million.

3.14 Due to time limitations, the scope of the project did not include fees charged by agencies, boards and commissions of the Province. We understand that there may be up to 300 such entities,

several of which charge fees, but there is no estimate of the total fees levied by these entities. The scope of the project also did not include any fees unrelated to LPRCs, such as fees for services and government leases. Again, there is no estimate of the total value of these fees. Further, there may be other fees not reviewed by the Task Force which fit the definition of user fees adopted for our audit. We cannot determine total user fees because there is no comprehensive list of all user fee programs.

3.15 In April 1997, the Task Force issued a report to government recommending 36 general policies related to Provincial LPRCs. The primary thrust of the recommendations was to improve service delivery to the public and make it easier for individuals and companies to conduct their business. A May 2000 internal summary on the Licences, Permits and Approvals Project noted several accomplishments as a result of the work of the Task Force.

- Several LPRCs were changed from requiring annual renewals to requiring renewal every three years.
- Two “Business Efficiency” Bills were enacted which addressed some recommendations of the Task Force (in place of the Omnibus Bill anticipated by the Task Force).
- The Nova Scotia Business Registry was created to streamline the application process for many LPRCs formerly administered by a number of departments.
- Over half of the 96 specific recommendations of the Task Force have been implemented.

3.16 A secondary goal of the Task Force was the creation of a more reasonable fee structure. The Task Force’s report recommended that there should be a consistent approach to setting fees for LPRCs, and cost recovery should be the normal guideline for calculating them. Anything less would be, in effect, a subsidy by taxpayers to the acquirer of the respective LPRC. We understand that, although the Task Force’s recommendations were accepted in principle by government, the policies relating to setting fees, the formula for determining costs of services, and the policy relating to fee premiums when a LPRC confers an economic benefit (such as harvesting a Provincial resource) have generally not been implemented in government departments.

3.17 The Task Force limited the scope of its work in order to complete the project in the relatively short time frame provided. The Task Force’s report recognized its limitations and identified a series of ‘Next Steps’ to be completed in the short term (60 days) and longer term (18 months). We found that a number of the ‘Next Steps’ have not been acted upon in the three and one-half years since the report was approved in principle by government. We are informed that the ‘Next Steps’ were not part of the mandate of the Steering Committee set up to oversee the implementation of Task Force recommendations, and responsibility for implementing these steps was not assigned to any group or individual. The steps not acted upon include:

- development of a system for tracking implementation of the 36 policies;
- progress reports to the Priorities and Planning Secretariat every six months;
- consideration of forming working groups to study other issues identified by the Task Force;
- forwarding working group recommendations and implementation proposals to the Priorities and Planning Secretariat; and

- identifying Provincial agencies, boards and commissions administering LPRCs and requesting them to adopt the policies recommended in the report.

3.18 In April 1997, after the Task Force's report was accepted in principle by government, a steering committee was formed to continue the work. We understand departments were made individually responsible for implementing Task Force recommendations for their own fee programs. However, we saw no reporting by departments on their responsibility for implementing Task Force recommendations, nor on the financial or other effects of the new policies. In addition, the Task Force report anticipated that the Priorities and Planning Secretariat would receive steering committee progress reports and would approve further work related to LPRCs. However, we found there was no central monitoring of the project after the Task Force issued its report and the steering committee was formed, and initiatives to create a consistent approach for fees across government have languished.

3.19 We could not determine the financial effect of fee changes between the issuance of the Task Force's report and the date of our audit, but we understand there have not been significant changes to most user fees since 1997. We were told that as a result of the 2000-2001 Provincial Budget, approximately 100 fee changes will be implemented; possibly generating up to \$25.2 million of extra revenue. The two largest incremental revenues were Pharmacare co-pay fees and ambulance fees. However, subsequent to the Budget, changes to the proposed ambulance fees were announced, and thus not all of the forecasted revenue increase may be realized.

3.20 The report recommended that an Omnibus Bill be prepared to make legislative changes required for the implementation of certain recommendations. However, it was left to individual departments to pursue legislative changes relative to their own LPRCs. Two Bills were passed by the House of Assembly in 1998 and 1999 relating to business efficiency. These Bills were in place of the Omnibus Bill anticipated by the Task Force, and all departments were invited to include legislative changes. These Bills only dealt with some of the legislative changes needed for LPRCs of the former Department of Business and Consumer Services and the former Department of Agriculture and Marketing. We could find no information on the progress of legislative action proposed for LPRCs managed by other departments. The recently created Red Tape Reduction Task Force is mandated to review the Provincial regulatory environment and make recommendations to minimize regulatory burdens and improve business regulation. It is not clear at this time whether this Task Force will pursue certain legislative initiatives recommended by the Licences, Permits and Approvals Task Force.

3.21 *The Eurig decision* - In October 1998, the Supreme Court of Canada delivered a decision on probate fees charged by the Province of Ontario to the Estate of Donald Valentine Eurig. The Court concluded that the probate fees amounted to a tax. According to its decision, if fees are levied to provide general revenues for a government, they are tax-like in character and must be imposed by legislation. The probate fees were struck down because the fees were compulsory, there was no reasonable connection between the amount of the fees and the costs of providing the services, and the fees were imposed by way of regulation, not legislation.

3.22 The decision impacts all jurisdictions where probate fees are similarly imposed. However, the supporting rationale of the decision is not confined to probate fees. To avoid being classified as a tax, the level of fees must approximate the cost of providing the service. Thus government departments and agencies must be able to associate the cost of service with the amount of fees charged if they are to have confidence in their authority to charge fees.

3.23 In Nova Scotia, a memorandum dated May 1999 was circulated to all Deputy Ministers asking them to have their departments review the services for which fees are charged and determine if the fees can be justified by the associated costs. The Eurig decision did not specify which costs

could be considered in the calculation of a fee. We understand that costs for specific programs may be incurred in more than one department and not all costs of government are necessarily allocated to the individual departments incurring them. For example, debt servicing charges of \$814 million comprised about 16% of total net expenses of the Province for the 1999-2000 fiscal year, and were accounted for only by the Department of Finance. We expect there are other costs which are not allocated to individual departments and programs, but we could not find a comprehensive list of significant unallocated costs. Significant costs which are not allocated to Provincial entities should be tabulated and made available so departments and agencies can estimate the full cost of each major program for which user fees are charged. We were told that the Department of Finance is currently working on a system which will allocate expenses to individual departments.

3.24 Some government entities evaluated the risks presented by the Eurig decision. The documentation we reviewed often noted, as mentioned above, that not all costs related to the fee-generating activities were associated with the program under review. An example of such a situation is the fees collected for the licensing and registration of motor vehicles. Whereas the revenues collected may exceed the cost of operating the Registry of Motor Vehicles, the fees are meant to also pay for driving and highway safety programs, some of which are the responsibility of the Department of Transportation and Public Works.

3.25 The Department of Justice reviewed its regulatory programs and established that the only significant fees charged, other than probate fees, were those levied by the various courts. Legislative amendments were made to establish the proper authority for probate fees. A recent court decision in Nova Scotia in which the Eurig decision was applied generally upheld the regulatory authority to establish some court fees. The evidence submitted in the case indicated that fees substantially failed to recover the cost of operating the courts. However, the decision indicated increasing certain other court fees could unduly restrict access to justice.

3.26 Contemporary publications and guidelines suggest that legislative authority for user fees be in the form of a general framework for the application of fees, and that legislation should not establish the precise amount of the individual charges. This would enable fees to be adjusted without legislative amendment, thus providing governments with the flexibility to react quickly to changes in cost structures and the nature of services provided. However, the Eurig decision stands as a reminder that setting fees through legislation is required if fee revenue is expected to significantly exceed the costs of the relevant service.

3.27 *Accounting and reporting* - User fee programs are not centrally managed or monitored by government. Accordingly, we could not obtain current government-wide information on fees charged, related costs, supporting legislation and regulations, dates and support for recent changes, etc. We had to approach departments individually to get information on their user fee programs.

3.28 We also found that there is no timely, complete reporting of user fees to the Legislature, including such information as the nature and volume of fees collected and how the money was spent. The Public Accounts are not a good source of such information because in some areas fees are netted against expenses, and fee revenues may be classified differently in the accounting records of different departments. The Department of Finance informed us that there are traditional guidelines for classifying different types of revenues, recoveries and fees, but they may not be followed by all government entities.

3.29 *Conclusion* - Although Nova Scotia governments have had significant initiatives and interest in the area of user fees over the last several years, we note there has been no significant coordinated progress towards implementing fair, consistent user fees across all Provincial government departments and other entities. The 1997 Task Force recommendation to establish cost recovery as the normal guideline for setting fees for LPRCs has not been implemented.

3.30 There is no manual or other compilation of government-wide principles, policies, procedures or practices which departments can use as guidance in the setting and management of user fees. There is little support available to departments in determining other government costs which could be considered when assessing fees charged for various services. There is no consistency in how government departments and other entities determine the amount charged for their services and programs. Some taxpayers may be paying full cost for certain services while taxpayers receiving services from other programs may be subsidized by general government revenues. This information is not reported to the Legislature.

Department of Business and Consumer Services

3.31 In 1997, the former Department of Business and Consumer Services (BCS) co-directed the Task Force on Licences, Permits and Approvals, and chaired the subsequent steering committee. At that time, BCS was responsible for 63 (22%) of 288 LPRCs. In May 2000, the Department was responsible for 69 (23%) of 303 LPRCs. The 1999-2000 Provincial Estimates indicate that BCS will have approximately \$64.7 million of revenue from LPRCs, which includes about \$44.3 million from motor vehicle related activities.

3.32 The responsibility and authority for the Department's user fees are documented in legislation or regulations. Fee levels are approved by government when requests for fee revisions are sent to Executive Council. We understand that there have been few changes to fee levels in the Department since 1997.

3.33 There was no requirement for BCS to issue an annual report, thus there has been no reporting of user fee information to the Legislature. Some information on revenues is provided in the Annual Estimates and Public Accounts, both of which are tabled in the House of Assembly. However, the information does not compare the revenues and costs of programs and thus it is not possible to determine which programs are self-sustaining and which programs are subsidized by other government revenues. We believe legislative control and oversight could be enhanced if such information was available to the Legislature.

3.34 There are no government-wide policies, principles or practices related to user fees. Similarly we found no policies on user fees in the Department. In the three and one-half years since the Task Force's report, the Department has yet to review all of its LPRCs to ensure full cost recovery or to justify cases where no fees are charged or fees are less than total program costs. In 2000, BCS began a pilot study of 30 LPRCs to determine the costs associated with each item. The study was abandoned due to problems determining and allocating the costs involved. In certain cases it was concluded that relevant costs may be incurred in several departments. As described above, costs related to driver and motor vehicle programs are also incurred in the Department of Transportation and Public Works. In preparing its 2000-2001 budget, BCS reviewed certain functions of the Registry of Motor Vehicles and new fees were implemented to make certain services more efficient and to recover more of the costs of services. The Department does not plan to review all of its current fees at this time, but indicates it will analyze and compare program revenues and costs when fees are to be changed.

3.35 An internal analysis prepared by BCS for its 1999-2000 budget compared revenues and costs of its various divisions. The Department believes that where revenues exceed costs, there is not a significant risk of legal challenge based on the Eurig decision because costs accounted for by other Provincial entities can be directly or indirectly associated with these programs. However, as described above, the extent and applicability of these other costs have not been fully determined.

Department of Health

3.36 The Department of Health charges user fees in four main areas:

- Hospitals - insured services provided to residents of other jurisdictions, and uninsured services
- Physicians - insured services provided to residents of other jurisdictions, and uninsured services
- Long-term care - residents' contributions towards cost of care
- Emergency health services - transportation costs associated with ground ambulance and air medical transport programs.

Hospital Services

3.37 Pursuant to the Canada Health Act, Canadian residents receive insured, medically necessary, hospital services free of charge. The Medical Services Insurance (MSI) Plan administered by the Department of Health provides insured services to Nova Scotia residents.

3.38 Under the portability provisions of the Canada Health Act, residents can access hospital services in any province. The financial responsibility for services provided to residents of Canadian provinces rests with the patient's home province.

3.39 Members of certain user groups such as the RCMP, veterans and Armed Forces personnel are not insured under the Nova Scotia MSI plan.

3.40 User fees are levied for uninsured (not medically necessary) hospital services and for insured services to non-Canadian residents. In addition, acute care facilities levy fees for non-medical services. Examples of non-medical services which attract user fees include private and semi-private accommodations, parking, dietary and laundry services.

3.41 The authority for acute care facilities to impose user fees for uninsured services, non-medical services, and insured services to non-Canadian residents is provided under Section 11 of the Hospitals Act.

3.42 District Health Authorities (DHAs) and Provincial Health Care Centres (PHCCs), formerly Regional Health Boards (RHBs) and Non-designated Organizations (NDOs), are responsible for levying and collecting user fees. These fees are reflected in the financial statements of these entities as revenues from sources other than the Department of Health, and totaled approximately \$89.0 million for the 1998-99 fiscal year.

3.43 *Insured services* - Although the Canada Health Act provides general guidelines to define medically necessary hospital services, each province or territory determines the specific services insured in the jurisdiction. In Nova Scotia, the decision to add or remove services from the list of insured services is made by senior management of the Department in consultation with the Nova Scotia Medical Society.

3.44 *Fees for uninsured services* - Prior to 1995, the Department established policies, procedures and billing rates for various insured and uninsured hospital services. User fee policies and rates were communicated to hospital administrators in a Hospital Reference Manual first published by the Department in the mid-1980's.

3.45 In 1995 the Department delegated responsibility for setting user fees to RHBs and NDOs. DHAs and PHCCs are now responsible for day-to-day billing and collection of user fees.

3.46 Reference Manual sections related to user fees have not been updated since 1995. Department management informed us that, although specific user fee information within the Manual may be somewhat dated, the Manual contains useful policy guidance for hospital administrators concerning user fees.

3.47 The Department does not monitor the practices which organizations use to establish, levy and collect user fees. During the annual budget review process, the Department monitors the reasonableness of anticipated user fee revenues, using 1995 revenues as a benchmark. We have recommended the Department take a more active role in ensuring that user fee policies and practices of health care facilities are reasonable, efficient and economic.

3.48 Although the Department no longer establishes user fee rates for hospital services, the Department expects recovery rates to include the direct costs of the service plus a reasonable provision for indirect costs and overhead. The Department also encourages consistency among the various providers.

3.49 *Fees for residents of other countries, other provinces and uninsured groups* - The Department does not monitor or regulate billings of services to residents of other countries. DHAs and PHCCs determine the fees to be charged and bill the user or the user's private health insurance plan.

3.50 Reciprocal billing agreements exist between all the provinces and territories in Canada stipulating rates at which the various services can be billed. Hospital services to residents of other Canadian provinces are billed and collected directly by the Department of Health, based on information supplied by the service providers. Nova Scotia billed \$27.2 million to other provinces during the 1999-2000 fiscal year for insured hospital services.

3.51 Hospital services are billed directly by the health care facility to uninsured groups such as the RCMP, veterans and Armed Forces pursuant to agreements between these groups and the Department.

3.52 *Incentive to maximize user fees* - Since 1995, Provincial funding to Regional Health Boards and Non-designated Organizations has been calculated net of estimated revenues from sources other than the Department of Health. Revenues and user fees in excess of the estimate now remain with the institution for its own use. Department management believe that allowing entities to keep additional revenues will act as an incentive to maximize revenues, and will reduce demands for additional Provincial funding.

3.53 *Audit of Cape Breton Healthcare Complex* - During the 1999-2000 fiscal year, we performed a broad scope audit of the Cape Breton Healthcare Complex (CBHC). The report from that audit is included as Chapter 7 of this Report, page 113. The audit included examination of CBHC's practices related to revenue and user fees.

3.54 CBHC's management information systems are not able to determine costs of most services provided. Therefore, user fee rates are not based on the actual cost of service. We understand that most entities delivering health care services in the Province experience similar difficulties. Management of the Department of Health indicated that costing of medical services is a complex and expensive undertaking. We recommended that the acute care facilities and the Department work towards developing an approach which results in recovery of full costs from all services for which the entities are able to charge fees.

Physician Services

3.55 Pursuant to the Canada Health Act (CHA), Canadian residents receive insured, medically necessary, physician services free of charge. The Act prohibits charging user fees for insured services, and extra billing by physicians. In Nova Scotia, physician services are governed by the Medical Services Insurance Act and provided through the Medical Services Insurance (MSI) Plan administered by the Insured Programs Branch of the Department of Health. Physicians are paid for insured services provided pursuant to a contract between the Nova Scotia Medical Society and the Department. The Department has contracted Maritime Medical Care Inc. to perform the day-to-day administration of the MSI plan.

3.56 Under the portability provisions of the Canada Health Act, residents can access insured physician services in any province. The financial responsibility for services provided to residents of Canadian provinces rests with the patient's home province.

3.57 Members of certain user groups such as the RCMP, veterans and Armed Forces personnel are not insured under the Nova Scotia MSI plan.

3.58 Physicians may charge user fees for services that are not medically necessary, and for services to non-Canadian residents.

3.59 *Insured services* - The Department of Health maintains listings of medically necessary insured services. Changes to the listings are communicated to physicians through information bulletins published by the Department. Decisions to add or remove services from the list of insured services are made by senior management of the Department in consultation with the Nova Scotia Medical Society.

3.60 *Fees for uninsured services* - Examples of uninsured physician services include certain optometry services, dental services, cosmetic surgery and acupuncture. The Department does not monitor or regulate fees for uninsured services. Physicians are responsible for billing and collection of fees for uninsured, not medically necessary, physician services. These billing arrangements are considered by the Department to be the private business affairs of the physician.

3.61 *Fees for residents of other countries, other provinces and uninsured groups* - Uninsured patients are primarily residents of other countries. The Department does not monitor or regulate billings to these individuals. Physicians determine the fees to be charged and bill the user or the user's private health insurance plan.

3.62 Reciprocal billing agreements, stipulating rates at which various physician services can be billed, exist between all the provinces and territories in Canada. Maritime Medical Care bills physician services to other Canadian provinces based on claims submitted by physicians, and makes collections. Reciprocal billing rates are based on the fees that would be paid to the doctor by the physician's home province for similar services. In 1999-2000, Nova Scotia received payments from other provinces for physician services of \$9.7 million.

3.63 Physicians bill uninsured organizations (such as RCMP, Armed Forces and others) pursuant to agreements between the organizations and the Nova Scotia Medical Society. The Department does not monitor or regulate fees for physician services to these groups.

3.64 *Ensuring no user fees were charged* - Maritime Medical Care is responsible for auditing payments to physicians. Requests are sent to approximately 1% of patients for confirmation of certain information including any fees charged for insured services. If fees had been charged, Maritime Medical Care would follow up with the physician's office.

Long-Term Care

3.65 There are presently 72 nursing homes and homes for the aged with 5,901 beds in the Province. The majority of these homes are operated by private owners and not-for-profit groups. Seven homes are affiliated with hospitals. The Department of Health licenses these homes under the Homes for Special Care Act and regulations. No fee is charged for the annual licence.

3.66 In 1999-2000, expenditures for long-term care facilities were \$241.9 million, with approximately \$84.9 million funded by residents and \$157.0 million funded by the Department of Health.

3.67 Long-term care is not an insured service under the Canada Health Act. Residents of nursing homes and homes for the aged are charged a per diem rate by the homes. The Social Assistance Act provides for financial assistance to residents if their financial resources are inadequate to meet their cost of care. This assistance is provided under the Long-Term Care Program of the Department of Health.

3.68 Resident contributions to the cost of long-term care are a variation on the concept of user fees. The contributions go directly to the homes, rather than to the Province. However, the required contribution is set by the Province and the total cost to the Province of the Long-Term Care Program is decreased by the resident contributions. The contributions are not reflected as revenues or recoveries on the financial statements of the Province, but rather serve to reduce the Province's expenditures for the Long-Term Care Program.

3.69 *Establishing per diem rates* - Each year, the Department of Health calculates approved per diem rates for the various long-term care facilities in the Province based on budget information submitted by the facility operators. There are no written policies defining types of costs permitted to be included in a budget, but salaries, benefits, maintenance, equipment and other operating expenses are typically included. Approved rates during 1999-2000 for the various facilities ranged from \$90 to \$159 per day. The per diem rates approved by the Department dictate the facility operator's billing rate to all facility residents, regardless of whether the resident receives Provincial assistance.

3.70 *Establishing eligibility for Provincial assistance* - A resident's eligibility for financial assistance is assessed by field staff of the Department of Health pursuant to criteria contained in a joint policy manual developed with the Department of Community Services.

3.71 Residents who require Provincial assistance are expected to make a financial contribution toward their care. The required resident contribution is assessed by the Department and reduces the amount of Department assistance paid to long-term care facility operators. Assistance payments are calculated to cover the shortfall between a resident's contribution and the approved per diem rate for that home. Facility operators are responsible for collecting the required financial contribution from the resident.

3.72 Residents must apply their income to their cost of care prior to being eligible for financial assistance from the Department of Health. A resident's contribution includes the assignment of Canada Pension Plan, Old Age Security, private pension benefits and other income sources, plus proceeds from the disposal of investments and assets. Applicants are permitted to retain a small monthly amount for personal items. Income or assets transferred by the applicant to third parties during the 36 months prior to their application are included in the individual's financial resources when determining eligibility for financial assistance. The needs of a spouse staying at home are also considered when determining financial eligibility.

3.73 The Social Assistance Act does not require applicants for financial assistance to sell their primary residence to pay for their costs of care. Applicants can “designate” a primary residence which excludes this asset from the contribution calculation. This matter was discussed in more depth in the 1997 Report of the Auditor General, Chapter 6, paragraphs 6.29 to 6.33.

3.74 *Monitoring of resident contributions* - In December 1999, the Audit and Consulting section of the Department of Health completed, for the first time, a review of the financial assessment process performed by Department staff. This audit revealed instances of non-compliance with Department policies in the assessment and collection of resident contributions. Findings resulting from the audits are documented in an audit report to Department senior management and followed-up by staff. Follow-up reviews will be completed by the Audit and Consulting section if necessary to determine whether corrective action has been taken.

3.75 *Monitoring of facilities* - Most facility operators submit audited financial statements to the Department, with the remainder providing unaudited financial information. Department of Health staff review audited financial information, on a limited basis, to judge the reasonableness of budget submissions for the current year. The financial statements also provide accountability information for the prior year budget submission and the related per diem rate calculation. Department staff informed us that resources are not adequate to perform detailed analysis of the financial information provided by facility operators. The 1998 Report of the Auditor General, Chapter 11, included recommendations for improvement to the Department’s systems for monitoring long-term care facilities.

Emergency Health Services

3.76 During the winter of 1999-2000, we performed a broad scope audit of Emergency Health Services Nova Scotia (EHSNS); a branch of the Department of Health. The report from that audit is included as Chapter 8 of this Report, page 137. We reviewed user fees, with the assistance of the Department’s Audit and Consulting section, within the scope of that audit, and related findings are summarized below.

3.77 EHSNS is responsible for providing pre-hospital emergency health services to Nova Scotians. User fees are charged for the transportation components of the ground ambulance and air medical transport programs.

3.78 The collection of fees for the ground ambulance program is the responsibility of a contractor (Emergency Medical Care Inc.) which provides day-to-day operational management for this program. The contractor is expected to remit to EHSNS all user fees collected up to 75% of fees billed. If collections fall below 75% of amounts billed, then EHSNS bears the cost of the uncollected user fees and has the right to terminate the collection arrangement with the contractor. Collections by the contractor in excess of the 75% billed are shared equally by the contractor and EHSNS. The value of user fees remitted to EHSNS by the contractor during the 1999-2000 fiscal year was \$4.4 million and is estimated to increase to \$5.9 million in 2000-01. The increase is attributable to rate changes implemented in April 2000. The total expenditures of EHSNS for the same period were \$57.6 million.

3.79 For residents of Nova Scotia, the charge for emergency air medical transport is the same as for ground transport. However, New Brunswick and Prince Edward Island have contracted with Nova Scotia to use the air medical transport services of EHSNS for transportation of residents of those provinces when required. Fees are billed to New Brunswick and Prince Edward Island pursuant to inter-provincial contracts negotiated with these provinces. The billing and collection of air medical transport services to New Brunswick and Prince Edward Island are administered directly by EHSNS. Inter-provincial collections by EHSNS for the 1999-2000 fiscal year were approximately \$0.4 million and are budgeted to be \$0.6 million for 2000-01.

3.80 *Establishing user fees* - There are no regulations governing the imposition of user fees by EHSNS for the ground ambulance and air medical transport programs. The current user fee rate structure was developed by EHSNS and approved by Cabinet as part of the budget process. We have recommended that regulations and appropriate legislation for the billing and collection of user fees be developed.

3.81 A summary of the EHSNS user fee rate structure is provided in Exhibit 8.6 of Chapter 8 of this Report, page 137.

3.82 Formal contracts for the billing of air medical transport costs to New Brunswick and Prince Edward Island expired on March 31, 1999. New contractual arrangements were being negotiated at the time of our audit.

3.83 Ground ambulance user fees for Nova Scotia residents are based on a percentage of the estimated annual operating cost of the service. The Canada Health Act prohibits the charging of user fees for medically necessary health services. Therefore Nova Scotia residents are only charged a user fee for the transportation component of operating costs which is deemed to be 20% of total operating costs. EHSNS considers the rates charged by other provinces in determining the fees. We found the process for establishing user fee rates to be well researched and documented.

3.84 The inter-provincial contracts with New Brunswick and Prince Edward Island include a fee for each transport which is based on the estimated cost to Nova Scotia of providing the service to each province.

3.85 *Incentive to maximize collection of user fees* - The contract permits the ground ambulance contractor to share 50% of collections in excess of 75% of amounts billed which provides an incentive to maximize billing and collection efforts. The contractor is responsible for all collection costs which provides an incentive to minimize these costs.

Department of Housing and Municipal Affairs - Land Information Services Division

3.86 During the winter of 1999-2000, we performed a broad scope audit of the Land Information Services Division of the former Department of Housing and Municipal Affairs. The report from that audit is included as Chapter 10 of this Report, page 172. We reviewed revenues/user fees within the scope of that audit, and related findings are summarized below.

3.87 The Land Information Services Division records revenues of approximately \$9.5 million annually, and recoveries of approximately \$1.5 million. These revenues and recoveries are derived from three sources:

- Sales of maps and geographic data - recoveries of approximately \$1.5 million (14%)
- Fees charged by the Registry of Deeds - revenues of approximately \$5.2 million (47%)
- Fees charged for registrations and searches under the Personal Property Security Act - revenues of approximately \$4.3 million (39%)

3.88 *Sales of maps and geographic data* - The pricing policy for these products and services was examined in 1994 by an interdepartmental group, which made recommendations to a deputy ministerial committee. The group considered three potential pricing bases - full cost recovery, market value and a nominal fee - and reviewed experience in other jurisdictions. The group concluded that both cost recovery and market value approaches might inhibit use of geographic

information, and recommended that the price of this information be set to encourage use and access. In this case, although the fees are not based on full cost recovery, there was a documented rationale for the approach chosen.

3.89 *Fees charged by the Registry of Deeds* - The fees charged for services provided by the Registry of Deeds were last approved by Order in Council in May 1990. We were unable to determine whether there was a rationale for the fees at the time the decision was made. However, at this time, there appears to be no relationship between a specific fee and the cost of the service provided. We recommended that the Division review these fees and prepare a rationale for the fees charged.

3.90 *Fees charged for Personal Property Registration* - The fees for personal property registration were established by Regulation in November 1997 when the electronic Personal Property Registration System was initiated through Atlantic Canada On Line. Similar to the Registry of Deeds, there is no apparent relationship between fees and cost of service, and we have recommended that the Division review these fees and prepare a rationale.

Department of Natural Resources

3.91 The Department of Natural Resources (DNR) is responsible for the most LPRCs of any Provincial department. In 1997, DNR administered 72 (25%) of the 288 LPRCs. Information prepared for the Licences, Permits and Approvals Task Force indicates that there was no charge for 34 of the 72 LPRCs, and modest charges for the other 38 LPRCs amounting to about \$1.8 million for the 1995-96 fiscal year. In May 2000, DNR was responsible for 78 (26%) of 303 LPRCs and a fee is now charged for 59 of them. The majority of DNR's fee-based LPRCs are related to activities associated with coal, gas, or minerals; Crown lands and beaches; and hunting. For the 2000-01 fiscal year, Department fees are estimated to be \$7.6 million, including \$3.7 million for timber and fuelwood licences to harvest wood from Crown land (stumpage fees).

3.92 *User fees* - The Department's annual report tabled in the Legislature does not contain information related to user fees. Certain information is provided in the Annual Estimates and Public Accounts, but generally the information does not compare program revenues and costs. Thus, it is not possible to determine which programs are self-sustaining and which programs are subsidized by general government revenues.

3.93 There are no government-wide policies, principles or practices related to user fees. Similarly, there were no policies on user fees in the Department. The Licences, Permits and Approvals Task Force recommended 36 policies to government, but the policies related to the financial aspects of LPRCs have not been implemented in the Department.

3.94 The Task Force recommended that cost recovery be the normal guideline for setting fees for LPRCs. Currently, DNR does not charge for 19 of its LPRCs and charges only a modest cost for many of the remaining 59. The Department could not provide us with any analysis to demonstrate whether programs for which user fees are charged are on a cost recovery basis, as recommended by the Task Force. The Department's 2000-01 business plan noted that mineral royalties could provide revenue generation opportunities as the rates have been unchanged for many years, but the Department's 2000-01 budget did not include any significant new or increased cost-recovery measures.

3.95 *Eurig decision* - As a result of the Eurig decision (see paragraphs 3.21 to 3.26 above), all government departments in Nova Scotia were asked to review program revenues and costs where fees are charged.

3.96 DNR estimates it will collect approximately \$7.6 million in ordinary revenues for the year ending March 31, 2001. No comparison of program costs and program revenues has been carried out, and no review is contemplated. We are concerned that DNR is not complying with the government-wide request and may be putting sources of government revenue at risk of legal challenge.

3.97 *Stumpage fees* - In 1999, the Crown owned approximately 28% of the land in the Province. Small land owners held approximately 50%, large businesses owned 19%, and the Federal government owned 3%. Of the land owned by the Province, approximately 21% was protected from resource extraction and not available for forestry activities, and 40% of the remaining potential annual allowable cut was not available for harvest due to other land use restrictions. There are three major pulp and paper companies (two of which harvest Crown land), 265 saw mills and one hardboard plant operating in the Province.

3.98 Timber on Crown land is owned by the Province and is considered a Provincial asset. The Crown Lands Act authorizes DNR to issue licences and charge stumpage fees for harvesting timber from Crown land. The two major pulp and paper companies which harvest Crown lands are responsible for about 67% of the total timber harvested from Crown lands. Separate Acts authorize each company's harvest and outline the method for calculating stumpage fees. For the 1999-2000 fiscal year, stumpage fees totaled approximately \$4.2 million, of which approximately \$2.6 million (62%) was collected from the two pulp and paper companies which harvest Crown land. DNR could not provide us with an analysis comparing program revenues to program costs, but we noted that the National Forestry Database Program of the Canadian Council of Forest Ministers records 1997-98 Nova Scotia forest management expenditures of \$6.3 million and \$4.1 million of stumpage revenues. In 1998-99, the Province spent \$6.6 million on Crown land forest management and \$14.6 million on private land forest management, and received revenues of \$4.5 million related to wood harvested.

3.99 In November 1987, a report was issued by a consultant on his study of stumpage fees, forest management and market access in Nova Scotia (The Reed Report). The report recommended base rates be established for different classifications of timber, and that rates be adjusted regularly through the use of Statistics Canada industry specific indices. The recommended methodology for calculating stumpage fees was accepted and is still being used by the Department.

3.100 When timber is harvested for use as pulp, stumpage fees are lower than if timber is processed at a sawmill for resale. Approximately 67% of the timber harvested by one of the pulp and paper companies is processed as pulp in their own mill. The remainder is processed at sawmills. This company was responsible for 59% of all Crown land timber harvested for the year ended March 31, 2000. The company was charged stumpage fees of approximately \$2.2 million (52% of total stumpage fee revenue), for an average price of \$7.30 per cubic metre of timber. Virtually all of the timber harvested by the other pulp and paper company is traded to sawmills for pulp chips. This company was responsible for 8% of all Crown land timber harvested and was charged stumpage fees of approximately \$0.4 million (10%), for an average price of \$10.61 per cubic metre of timber. The companies are charged fees calculated according to a mutually agreed upon methodology recommended by a consultant (paragraph 3.99). The stumpage rates are adjusted annually using product specific price indices applicable to the product manufactured.

3.101 A blended Provincial rate is charged for timber harvested on Crown land by companies other than the two major producers. These other companies were responsible for approximately 33% of all Crown land timber harvested for the year ended March 31, 2000, and were charged stumpage fees of approximately \$1.6 million (38%), for an average price of \$9.94 per cubic metre of timber.

3.102 We understand that the value of timber fluctuates according to market demand. The last significant review of the base rate for stumpage fees was contained in the November 1987 Reed Report. A consultant was hired in the spring of 2000 to review stumpage fees but the study had not

been finalized at the time of writing our Report. In our view, a thirteen-year period between external reviews is excessive. We understand that the Department performs an internal review of fees about every three years. We believe there should be an internal review of stumpage fees every year and an external review at least every five years.

3.103 *Silviculture costs* - Silviculture helps ensure a healthy regeneration and renewal of forests, as well as increased forest yield. The Department sets and monitors standards for silviculture work on Crown land. The two major harvesters of Crown timber are required by legislation to perform certain silviculture work on lands they are licensed to harvest.

3.104 The two companies also conduct silviculture work on Crown lands other than those they are licensed to harvest. The Province enters into sole-sourced contracts for silviculture work with these two companies, and payments for the year ended March 31, 2000 were approximately \$2.5 million to one company and \$0.2 million to the other company. The Province also calls for public tenders for silviculture work on other Crown lands. Payments for these tendered contracts totaled approximately \$0.3 million.

3.105 We understand silviculture contracts awarded by public tender contain rates lower than those paid to the two major harvesters. Discussions with DNR staff indicate that there are a number of perceived benefits in the current method of awarding silviculture work. In our view, an analysis of the various alternatives should be performed and documented, including the quantification of the costs and benefits of each option.

Nova Scotia Alcohol and Gaming Authority

3.106 The Nova Scotia Alcohol and Gaming Authority had total revenue of \$11.6 million for the year ended March 31, 2000. Net revenues after operating costs totaled \$5.1 million, and were accounted for as part of the Province's general revenues. Liquor licence fees totaled \$7.3 million, of which \$6.8 million is attributable to a 9.3% licence fee paid by approximately 2000 licensees (e.g., beverage rooms, restaurants) based on the gross value of liquor purchased.

3.107 The Authority derives its mandate from the Gaming Control Act and the Liquor Control Act, and the authority for its fees is set by regulation. The Authority produces an annual report, but details concerning significant user fees and related costs are not included in the report.

3.108 The liquor licence fee is set by regulation and, until just recently, had not been significantly changed for a number of years. Due to the Eurig Estate court decision, the Authority obtained a legal opinion on its licence fees and prepared an analysis relating the fee revenues to operating costs. Revenues exceed program costs, but it was indicated that there may be costs incurred by other Provincial entities that can be allocated to the licensing program. We recommended that consideration be given to completing the analysis by tabulating any other related costs not accounted for by the Authority.

3.109 On December 8, 2000 Executive Council approved a reduction in the licence fee to 4.1% of the gross value of liquor purchased, effective April 1, 2001.

CONCLUDING REMARKS

3.110 The Province began an initiative in 1997 to review and improve the management of licences, permits, registrations and certifications. However, it was not centrally monitored or controlled. The steering committee set up to implement the recommendations of the Licences, Permits and Approvals Task Force became inactive in October 1999 and progress in implementing the financial

aspects of recommended policies stopped. Government should continue the efforts of the Task Force, particularly those related to pricing user fees, and apply the policies to all Provincial entities. All significant revenue sources should be included in the scope of the work.

3.111 No information concerning user fees is reported to the Legislature. Relevant user fee information should be accumulated and reported on a regular basis.

3.112 The 1998 Eurig Estate decision required the Ontario government to repay user fees which were deemed to be taxes. In general, Nova Scotia government departments have not performed sufficient analysis to ensure significant Provincial revenues are not at risk of a similar legal challenge.

*Exhibit 3.1***AUDIT CRITERIA**

Audit criteria are reasonable and attainable standards of performance and control, against which the adequacy of systems and practices can be assessed. They relate to the audit objectives developed for an assignment and the criteria are used to design detailed audit tests and procedures.

The following criteria were used in our audit of government user fees.

- There should be clear responsibility and accountability for the assessment of user fees. The legal authority to charge fees should be clearly defined and appropriately approved. Appropriate, timely information on user fees should be reported to the Legislature.
- There should be government-wide policies to provide guidance and ensure uniformity and fairness to users of government services. Goals for charging user fees should be documented and explanations provided where no fee is charged or where fee revenues are below program costs.
- There should be clear, documented rationale for the fee rates chosen and the full cost of the program should be determined. Fees should be collected in an economic and efficient manner. Performance targets should be set for fee-based programs and performance should be monitored and reported on a regular basis.

DEPARTMENT OF NATURAL RESOURCES' RESPONSE

General Comments on Paragraphs 3.91 to 3.97

Response: As was pointed out, DNR is responsible for more LPRCs than any other department. This is due, in large part, to our wide range of natural resource management responsibilities. Many of DNR's LPRCs are regulatory in nature and have resource management implications. Others are mechanisms to recover economic rents from the use of natural resources.

The rationale for charging for LPRCs related to resource use is to collect the economic rent from the use of valuable public goods by private sector parties. This provides revenue to the government and also promotes the efficient use of the resource by the purchaser (since the charge is based on the value of the economic rent). This is fundamentally different from the concept of cost recovery from the provision of a service. In one case, prices are set by the value of the resource to the user. In the other case, prices would be based on the cost of providing the service.

Two other factors should be considered when determining the appropriate fees for the remaining DNR LPRCs. The first factor is the positive externalities that occur as a result of activities covered under a number of DNR's LPRCs. An example would be the collection of information that can be used for resource management purposes. Clients provide this information as one condition for receiving the LPRC, which benefits the department. There are social, economic, environmental, and resource management objectives that are met, and which benefit all Nova Scotians, as a result of the availability of this information. This is partly a pricing issue; as the price of the LPRC increase, demand for the product falls. As a result, the supply of information available to DNR also falls which, from a resource management perspective, is counter-productive.

A second complicating factor is the way DNR operates. Individual staff are often involved in a range of activities. The effort required to accurately allocate costs to different LPRCs would be a complicated task and could add additional costs without realizing any significant benefits.

Comments on Paragraphs 3.98, 3.102, 3.105

3.98 "In 1998-99, the Province spent \$6.6 million on Crown land forest management and \$14.6 million on private land forest management, and received revenues of \$4.5 million related to wood harvested."

Response: The Department of Natural Resources has a mandate for the wise management of natural resources for a broad range of resource values and has a commitment to sustainable forests. Therefore, the forest management costs incurred by the Province includes costs for forest resource protection and for the maintenance, enhancement and protection of numerous other resource values, many of which are intrinsic, when planning and carrying out forestry activities. As the report has suggested, the Department does not operate cost tracking systems that provide such detailed information. The information provided to the National Forest Database Program, while indicative, are estimates based on allocating expenditures using indirect measures and are not a strict accounting of resources. For Crown land many of the planning and protection costs incurred by the

Department in meeting its mandate are not justifiably recoverable through stumpage. In fact planning for other land and resource use values significantly reduces potential stumpage revenue as noted by the AG's report. Likewise much of the Departmental activity for private land are broadly based and are not necessarily related to a specific beneficiary to which a fee could be ascribed other than through general taxation. Sales of other forest resources, activity fees and Provincial revenues from taxation form part of the total revenue equation.

It should be noted that the Atlantic Province's Economic Council in a study entitled "The Economic Impact of the Forest Industry on the Nova Scotia Economy" (March, 2000) estimated that in the calendar year 1998 the Federal and Provincial governments collected in Nova Scotia \$89.5 million in income tax and another \$39.8 million in HST from wages, salaries and retail sales. These were directly or indirectly attributable to forestry activity and forest product manufacturing. The Provinces share of these amounts is estimated at \$57 million per year after stumpage is included. An additional \$26.6 million is estimated paid into federal and provincial coffers in net indirect taxes for other forest product activities such as transportation fuel taxes. The forest industry's position as a Foundation Industry to the provincial economy is recognized in the Province's economic strategy.

- 3.102 **Response:** *The consultants report was publically released January 4th, 2001 and provides extensive recommendations concerning the administration of timber sales and stumpage valuation. Both this and the earlier review advocate the approach that the total cost to a Licencee for Crown timber (stumpage plus other management expenses) should be benchmarked to the fair market value established for the private market. The Department has requested public comment on the reports recommendations.*
- 3.105 **Response:** *There are considerable planning services provided by licensees in the identification, layout, and monitoring of silviculture work. This partnering with licensees saves the Department considerable field and administrative work which would require additional staffing and budget if it were to be directly undertaken by the Department of Natural Resources. The sole-sourced contracts originate from the provisions of the Acts of the Legislature. However, the Department agrees that the analysis should be done, as has been in the past, for the purpose of setting maximum eligible rates. The maximum rates should not exceed the quantification of legitimate costs and benefits associated with work performed in an efficient manner using cost-effective methods.*
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