

First Session - Fortieth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Larry Maguire
Constituency of Arthur-Virden

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Fortieth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, May 23, 2012

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Larry Maguire (Arthur-Virden)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE – 10 QUORUM – 6

Members of the Committee present:

Hon. Mr. Struthers

Mr. Allum, Ms. Braun, Messrs. Dewar, Helwer, Jha, Maguire, Pedersen, Mrs. Stefanson, Mr. Whitehead

APPEARING:

*Mr. Cameron Friesen, MLA for Morden-Winkler
Ms. Carol Bellringer, Auditor General*

WITNESSES:

*Hon. Stan Struthers, Minister of Finance
Mr. John Clarkson, Deputy Minister of Finance*

MATTERS UNDER CONSIDERATION:

*Auditor General's Report-Follow-Up of
Previously Issued Recommendations-dated
January 2012*

*Section 7-Use of Derivative Financial
Instruments in the Province of Manitoba*

*Section 8-Audit of Mandatory Legislative
Reviews*

*Section 9-Public Sector Compensation
Disclosure Reporting*

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Mr. Chairperson: Good evening, everyone. I'd like to call this committee, the Standing Committee on Public Accounts, to order.

And this meeting has been called to consider the following sections of the Auditor General's Report, Follow-up of the Previously Issued Recommendations, dated January 2012: Section 7–Use of Derivative Financial Instruments in the

Province of Manitoba; Section 8–Audit of Mandatory Legislative Reviews; and Section 9–Public Sector Compensation disclosing–Disclosure Reporting.

Are there any suggestions on–from the committee as to how long we should sit this evening?

Ms. Erna Braun (Rossmere): I would suggest 9 o'clock or completion of the agenda, whichever comes first.

Mr. Chairperson: It's been suggested that we sit until 9 or whatever time we finish the reports previous to that if we finish ahead of time. Is there consensus on the committee for that? *[Agreed]* Okay, that's what we'll do. We'll carry forward with that.

Is there any suggestions in regards to the order that we should consider these sections?

Ms. Braun: I'm on a roll. May as well carry on.

Okay, my suggestion would be we just deal with the issues as on the agenda.

Mr. Chairperson: It's been suggested that we deal with them in the order that they appear on the agenda. Is there an agreement? *[Agreed]*

Does the Auditor General wish to make an opening comment?

Ms. Carol Bellringer (Auditor General): I'll refer to each of the chapters as we get to them. So I'll just make a comment first on the chapter that covers the use of derivative financial instruments in the Province of Manitoba. The original report was issued in December 2005, and this is our follow-up report from–that we issued in January 2012, and it gives you the status at June 2011.

At the time of issuing our report, we found that the Province does have a risk management process for derivatives in place, but we had noted areas that needed to be addressed to ensure that the process was operating consistent with industry best practice with respect to management, market, legal, credit, and operational risks.

When we obtained the status of the recommendations as at June 30, 2011, from the department, we found that all 19 of our recommendations had been implemented.

Mr. Chairperson: So I would move this forward then. I'd like to welcome the minister here this evening and Mr. Clarkson, the deputy minister, as well, and open it up to see if there's any opening comments from the deputy minister in this as well.

Mr. John Clarkson (Deputy Minister of Finance): Just brief opening remarks. Just to say, first of all, thank you to the Auditor General and her staff for the work that they have done in the issue of the derivatives financial policies that we operate under. Just to say thank you to the Auditor General and her staff for the work that they've done in this area.

We had derivative policies in place, as she had noted, but they needed to be updated. We have undertaken that update that was necessary. We have addressed all 19 recommendations that were put in place.

We have processes in place for oversight of the activities now that we didn't have before: external oversight activities as well as revised internal oversight activities, renewal strategies for those policies to ensure that they are kept up to date, and specific areas of—that we will concentrate on to ensure that we meet the intent of the use of derivatives as we go forward.

So I think that the recommendations were good ones and really reflected well on us and on the Auditor General and the work of her staff. And I just want to thank them again for the work that was done.

Mr. Chairperson: I thank the Deputy Minister Clarkson for his opening comments as well.

And just a couple of housecleaning things. I'd ask that we kind of keep our cellphones down if we can, as far as the use in the meeting, and, if you have to take something, to move back. And also to remind members that we're here to ask any administrative questions of a nature to the deputy minister tonight.

If there's anything that verges on policy, we can ask the minister. But I think those kinds of questions are better left for another forum, as I've said in previous meetings as well.

And so I would open the floor to questions on section 7, if there—if we could proceed.

Mrs. Heather Stefanson (Tuxedo): I thank the Auditor General and the deputy minister for their opening comments.

And just a few questions around some of the recommendations that have been made, and maybe just around how derivatives are dealt with by the Department of Finance.

First of all, I believe that derivatives in the context of governments are usually used to mitigate some sort of a risk to government investments and so on. And I'm wondering, usually those are done, I would think, primarily in the area of currency and interest rates. Are there other areas of risk mitigation that take place outside of currency and interest rates?

Mr. Clarkson: Yes. Thank you for the question. And those are the two areas that we use derivatives in, and they are related to our borrowing program, to make sure that we address those risks appropriately.

Mrs. Stefanson: Thank you for that, Mr. Clarkson. And there is a discussion here of a front, middle and back office within the Department of Finance that manages any kind of trading activity to do with derivatives.

Is that front, middle and back office only for derivatives, or do you also deal with other securities?

Mr. Clarkson: The front, middle and back offices have been established to deal with all of our investment and borrowing requirements. That way we can separate out the market activities from the closure activities, and the policy and administration functions and the oversight functions are all dealt with separately.

Mr. Chairperson: Yes. Before I move forward, I was negligent earlier in asking the minister or the deputy if they could introduce the cohorts at the table here as well. I don't want anyone to feel left out.

So, Mr. Clarkson?

Mr. Clarkson: I have with me Betty-Anne Pratt, who is the Comptroller for the Province of Manitoba, and Scott Wiebe, who is in our Treasury Division.

Mr. Chairperson: Thank you. Welcome, and to Tyson Shtykalo, thank you as well, is the assistant auditor general in Financial Statement here as well. So welcome, Tyson, okay.

Mrs. Stefanson: With respect to the front, middle and back offices and the—if—can you just explain what takes place in terms of—I assume that and we'll get into the policy and what the government—and not

that kind of policy—but policy within the implementation of the policy.

I'm just wondering if the deputy minister could explain how the trading process takes place within the Department of Finance.

* (19:10)

Mr. Clarkson: Essentially, the way it would operate is that the front office would deal with the marketing aspects of it and the relationships with the people that we would be borrowing the money from. The back office would deal with the closures of the deal to make sure those are handled in an appropriate way. And the middle office is responsible for setting the policies related to those functions and the activities related to monitoring and accountability for the activities that take place.

Mrs. Stefanson: I'm just wondering if the deputy minister could indicate—so the front office would then deal with a brokerage company or so on who they're going to purchase or do the trading through, is that right? Is that outsourced, or is the trading activity done within the Department of Finance?

Mr. Clarkson: The majority of the work, when we look for borrowing in the activities, are all done in-house. We do use a consortium to help place our debt when we go about that activity, but, generally speaking, the activities that you were speaking about are all done in-house.

Mrs. Stefanson: Thank you for that. And just to move on, I spoke of the policy earlier, and I'm just wondering—it was one of the recommendations, I guess, within here, in terms of the policy in going forward with the transactions here and so on. And I'm wondering if you could explain what that policy is or if we could get a copy of what the policy is.

Mr. Clarkson: So our Treasury Risk Management Framework has a number of different groups of policies related to the activities that we undertake: a Credit Risk Management Policy, the Derivative Policy, the Investment Policy, and our Debt Management Policy. And, within each of those policies, we deal with the specific processes that we need to follow, the mandates that we need to have put in place, and the reporting requirements against each of the criteria, including any limits or specific areas that we need to deal with. We can make a copy of the policy available. It is a document that is publicly available and so we could make a copy of that available for you.

Mrs. Stefanson: And, just with respect to the oversight body, could you indicate who sits on the oversight body and how often that they meet?

Mr. Clarkson: So the members of the committee are Ewald Boschmann, Bill Fraser, Jan Lederman, Ellen Lee [*phonetic*], Jeff Norton, and Marilyn McLaren, and, generally speaking, they meet twice a year to review any requirements related to the actions that have taken place and the policies that need to be updated.

Mrs. Stefanson: And are there certain requirements for the oversight body? Are there a certain number that have to be professionals within the industry or—what are the criteria used to—for the makeup of the oversight committee?

Mr. Clarkson: So, in terms of the Risk Oversight Committee, it is that committee that's appointed by the minister. It has guiding principles that require the members to have knowledge and expertise in the area of—that we're dealing with, people who are outside of the department in that sense, and that the chair currently has to be somebody that's external from any of the government agencies as well, too.

So there are two to four external representation from the private sector, and then we also maintain representation from MPI and Manitoba Hydro because of the strong borrowing programs that we offer for them as well too.

Mr. Reg Helwer (Brandon West): It kind of answers my question, but I assume, then, that the—all the Crowns go through the same group for all of their instruments or do they have a separate body internal to the Crowns for particular debt instruments?

Mr. Clarkson: All of the Crowns have their own internal policies related to their investment and borrowing strategies. We will facilitate some of that for the Crowns that we would borrow the money for or invest for, but the strategies that they use are based on their own policies.

Mr. Helwer: Would any of those policies or actions be subject to the Public Utilities Board?

Mr. Clarkson: That's a question that you have to address to the Crown corporation themselves. I'm not sure what processes they would use for approval of their policies.

Mr. Helwer: I guess, to the Auditor General. You mention that there were 19 recommendations and they've all been addressed. Are you comfortable with the method that they've been addressed or are

there—in some, in particular, that you'd like to see more work done on or—

Mr. Chairperson: Madam Auditor General.

Ms. Bellringer: No, we were satisfied that they were all addressed when we indicated in the report that that was the case. The one thing, though, that I would say, it's—of all of the areas within the Department of Finance, it's the one I personally am probably the least comfortable with because it's the most complex. It can get organizations into big trouble, as we all know from current world activities. And all I would suggest, beyond the report, would be that the department continue to stay on top of it, having looked at it at a point in time and in a great deal of depth back in 2005.

We do look at it annually when we do the audit of the financial statements, but it's not at that same depth, and we would see that to be a departmental responsibility to make sure that it stays in place and it's solid on an ongoing basis. They may need to have external advice periodically, just to provide assurance to the deputy and to the minister and, then, through to the House that all of the details in the department are well taken care of.

Mr. Helwer: Through you to the Auditor General. So outside advice in terms of risk management or anything in particular that—

Mr. Chairperson: Ms. Bellringer.

Ms. Bellringer: Something similar to the audit that we did. So what we did was look at industry best practice and then measure every little—like, what we did was a very in-depth audit, and it looked at every aspect of it. So I'd say that something at that kind of level of detail should be done periodically.

We could choose to do it again in the future, but I think we would be quite comfortable with the department choosing to just do it on their own. I don't think that it needs, in particular, the outside audit supervision, if you will, around that exercise. I think that they can do it themselves. And they may, indeed, be doing that. I am actually not aware of what their current practices are for additional overview of the area.

Mr. Helwer: Probably to the deputy minister, I would imagine. In '04, the Public Utilities Board talked about Manitoba Hydro and the losses that they incurred—is it '04? Yes—and that at one time they had losses of some \$400 million, but it could've potentially been much higher had they not mitigated

some risk. I would imagine this is the type of group you would've done the work for them on the futures side in terms of the purchasing forward contracts to mitigate that risk, or did this exist at that time?

* (19:20)

Mr. Clarkson: I'm not aware of what the details are around the \$400-million loss of Manitoba Hydro that you're referring to and, therefore, unable to, you know, answer what we might have been doing at that time in relationship to that issue.

Mr. Helwer: So I guess the question—well, if I can read from you is the—if I find the right portion here, but it had to do with buying—they had certain contracts that they had entered into that, but because of the water supply at that year, they were not able to fill—fulfill those contracts. So they, I would imagine, purchased hydro on the futures market or electricity on the futures market to resell to the—fulfill those contracts rather than renege on them. If they had not done that action they would've lost, as I understand, over a billion dollars, and they were able to decrease it. So is that the type of the environment that you would've performed for them or—?

Mr. Chairperson: Mr. Clarkson.

Mr. Clarkson: No, that's not the kind of function that we would have performed for them. We would look at the borrowing requirements that Hydro would have and the—any investments of cash that they might undertake. We would perform those kinds of functions for them and manage and look at the risks related to that.

The questions related to their strategies around when they would buy power in the US to service US contracts is part of their own risk management strategies, and those would be something you would have to address through Manitoba Hydro.

Mr. Helwer: I guess, going back to a previous question, so they have an entity like we describe here in-house for their risk management?

Mr. Clarkson: I'm not sure how they perform that function. I'm just saying that there—it's their responsibility for risk management related to these kind of issues to address those themselves.

Mr. Cameron Friesen (Morden-Winkler): For the deputy minister and then just further to the Auditor General's statement earlier.

Does the department now have a system in place, either a plan or a practice, to review on some

indicated or deliberate schedule those additional overviews of practices?

Mr. Clarkson: Yes, we do have a plan related to that and a schedule related to that upcoming at our Risk Oversight Committee meeting, which is being scheduled for August and September—will be a review, a current review of the policies and plans we have in place and recommendations made on any changes.

The role of the Risk Oversight Committee is to review that and provide advice to us on that activity. If they feel that they need to engage in an external person to help them undertake that kind of review with the changes we're proposing, they have the capabilities and the authority to be able to do that as well too, and then that would be provided as recommendation advice to myself and the minister.

Mr. Friesen: Then will that be done on an annual basis going forward, as well?

Mr. Clarkson: Our plan is to look at that on an annual basis going forward.

Mr. Chairperson: Are there further questions in regards to chapter 7?

Seeing none, does the committee agree that we have completed consideration of section 7? *[Agreed]*

Seeing no further questions, does the committee agree that we've—that we need to move to section 8?

And I would ask the Auditor General if she has an opening statement on section 8.

Ms. Bellringer: The second chapter is the audit of mandatory legislative reviews which was originally issued in December 2007. When we issued our report, we found that statutes with a mandatory review clause did undergo required reviews.

However, in the case of regulations, only 56 per cent of mandatory reviews were undertaken. As at June 30, 2011, two of our recommendations were in progress, but the department indicated they would not be preparing guidance to assist departmental staff when they consider whether to include a mandatory review provision in legislation to clarify government expectations in relation to the legislative provisions on mandatory reviews or to assist departments in planning, conducting and reporting of mandatory legislative reviews. And we would actually consider that to still be a useful recommendation that, perhaps, should be reconsidered.

Mr. Chairperson: Thank you. And does the deputy minister have an opening comment in section 8?

Mr. Clarkson: Thank you. The review of the legislation that was done is a critical part of government activities. We have certainly progressed on two of three of the recommendations in the way that the auditor has recommended and believe, on the second recommendation, that there should be a different way of dealing with that one, and are in the process of working with departments around that issue of how to address and assist them in their processes related to legislative reviews.

Our model is based on a controllership framework that we have put in place that provides criteria and guidelines to the departments. But controllership, in our mind, is really a responsibility of individual managers under which we would provide a framework for.

But critical to the issues of planning, executing, reporting and being accountable is to undertake those kinds of activities yourself. We would put the frameworks in place in terms of how to do that, and we believe that we have adopted a framework that would allow that to take place and would achieve the activities that are being recommended in recommendation 2 in the report and, therefore, have undertaken the necessary activities that need to be looked at to go forward.

But, certainly, in our model and in the ways in which we've implemented this is that the responsibilities for legislative reviews rest with the department, minister, deputy and management within the departments. And, therefore, we can provide guidance to them on what kinds of criteria they should use, but they have to be responsible for undertaking that review themselves and reporting up through various mechanisms on that.

Mr. Chairperson: Thank you. Open to questions.

Mrs. Stefanson: And I'm just looking out at the numbers here and, in terms of the mandatory review of the statute of regulations, it says five out of 471 acts and 58 out of 940 regulations have such a requirement, which are mandatory reviews. And then, I guess, it goes on to say that only 60—or 56 per cent of the mandatory reviews of regulations were undertaken.

I guess my first question is to the Auditor General with respect to this and, again, not wanting to get into a policy question, but in the—in a sense that—you know, when we're talking about

transparency and accountability within government, is this enough? Are there—I mean, why wouldn't they all be mandatory for review, and, you know, in terms of—why would it be such a select number?

Ms. Bellringer: And you did make the reference to policy. I think it is pretty much a policy call, and they do tend to be the trend at a certain point in time. And I think you'd find that a lot of the requirements were over a very specific period of time when that was put in place. I mean, we'd see it as a matter of relevance, so are there issues within any piece of legislation that cause the legislation to be a bit of a problem?

And I do appreciate and agree with the notion that legislation should be monitored on a regular basis by all departments, and all legislation should, indeed, be watched to make sure that there aren't some major flaws and that, that have to be corrected.

The mandatory review is a technique to do that, that just made it—put it on the radar automatically, if you will, because it was entrenched in the legislation. That's a useful way to do that.

I'll wait and see if there's further questions.

*(19:30)

Mrs. Stefanson: I guess, just with respect to that, and I'd ask the Auditor General, I mean, if there—I mean, I gather, with respect to the legislation and the mandatory review provision, it takes in, I guess, 11 out of 16 departments that have legislation that have a mandatory review that fall under this. And would it not be best—and I know it is your—I believe it's your recommendation to have some sort of a co-ordinated effort, someone overseeing those departments, to make sure there's a co-ordinated effort across those departments, for a mandatory review of those pieces of legislation. Is that, sort of, why you made this recommendation?

Ms. Bellringer: Yes, and it was more, you know, practical recommendation around the way to make sure that what was required was actually being done.

Mrs. Stefanson: I guess I would just ask the deputy minister, what's the downside to having a co-ordinated effort here? I think it would provide transparency and accountability across all departments, to have a uniform mandatory review process, across all departments with various legislation, that is to be reviewed under this mandatory provision. And, I'm just wondering why, you know, I mean, that the departments—yes, they

have to review themselves and so on, and that's fine, but who's overseeing that and who's making sure that it's done in such a way where it's transparent and accountable for Manitobans?

Mr. Clarkson: In the broader context of this, we don't separate out the difference between legislation that has mandatory review processes in it, from legislation that doesn't.

In the model that we use of the decentralized controllership framework, there's a requirement for various different actions to be undertaken, of which reviews of legislation and regulation, is required as part of that controllership framework, to ensure that your activities are current and managed in an appropriate way. So, by providing a framework under which to do that, and the criteria under which to undertake some of those reviews, then we have set up a process to allow that to take place.

The accountability for that, though, has to rest within the ministers and management of the department and they are responsible for signing off on their own controllership plans. Each department's senior staff, executive financial officer and deputy minister do that. Each department has a form of an audit committee that is responsible for that activity, and therefore, they are there to undertake that necessary review.

Mrs. Stefanson: But I guess I'm wondering what the role of Treasury Board is in all of this. I mean, in terms of overseeing various programs and acts that are supposed to be reviewed. I mean, I would think it would be incumbent upon Treasury Board to ensure that there's some sort of a uniform way of double checking that departments are reporting these mandatory acts and regulations—that the mandatory review for the various acts and regulations. Would it not make sense to, maybe, for the—for Treasury Board to play that role? Is that not part of the role of Treasury Board?

Mr. Clarkson: The role of Treasury Board is specifically spelled out within The Financial Administration Act and that would deal with the issues related to the oversight responsibility that they have been given.

From our perspective—the Department of Finance perspective—we've provided a framework through the controllership function to allow for the review to take place and the responsibility related to that.

Mrs. Stefanson: Okay, maybe it's not Treasury Board, but I—maybe it is just the Department of Finance. I mean, I just believe that there should be some sort of a co-ordinated effort here to ensure that there's a uniform way of reporting the mandatory provision of reviewing the various acts and regulations.

And, I guess, we may go back and forth on this here. Obviously, the department does not agree that that is the case, but I think it is a very important part of moving forward. I think Manitobans would appreciate the transparency and accountability with respect to this. And, perhaps it is more of a policy decision that would have to be made with respect to this, but—and we're not here to discuss policy today, so I won't go there, but, perhaps, maybe the deputy minister can indicate what constitutes—I mean, we see here that there's a certain number of acts that are under mandatory review and certain number of regulations that fall under the mandatory review. What's the criteria used to decide whether or not something should be a mandatory review or a regular review?

Mr. Clarkson: Well, we—I—we don't provide the criteria that's related to what should be under a mandatory review or not under a mandatory review. Our controllership framework that we provide requires all legislation and all regulation to be reviewed as part of the process. It's not part of a mandatory or non-mandatory component of it.

And we do provide consistency to that through our controllership review unit that we have in place that works with departments to make sure that they understand the criteria that's there and the process that follows. But what constitutes being a mandatory review, I—that's not something that we get into.

Mrs. Stefanson: Okay, in the case of regulations, only 56 per cent of mandatory reviews of regulations were undertaken so, you know, you're sort of saying that you do a review, or the departments do a review of everything and you're satisfactory—you're satisfied with that, but, obviously, it's not happening across the board. In some cases, it's not happening. So how do you answer for that?

Mr. Clarkson: Again, in that context, I think you have to address it with the individual areas that are not undertaking the reviews that need to be undertaken. They are the best people to decide when, why reviews should be taken, and under the—and have the appropriate ability to be able to determine that for their own individual areas. But it really is a

department's responsibility to provide these—this kind of information when they deem it appropriate to do that.

Mr. Helwer: I think, through you to the Auditor General, which—there are five departments, then, that do not have legislation with the mandatory review. Which five departments?

Ms. Bellringer: Mr. Chair, that was at the time of issuing the report. I don't know which five it was off the top of my head. I could—we could look it up in the file which ones were—that represented.

Can I just add something at this point? Just—one thing that we did in the report is provide a fairly extensive list of the staff perspectives, so the individuals who were actually having to put these mandatory reviews together. And they had a lot of questions about interpretation. And so, you know, that was where we thought the guidance—that the direction of the guidance should go, to provide them with some of those answers so that they weren't having difficulty putting the framework into action.

Mr. Helwer: So there seems to be a disagreement, then, between the Auditor General's thoughts on that guidance and the benefits for it, or of it, and the Finance Department. So can we figure out a way how to get these two differences together and make sure that the staff gets what they need?

Ms. Bellringer: We've laid it out; we've provided quite a lot of detail, and the department's chosen not to see that as being useful, so I honestly don't know what to do next, other than we've reported to you the fact that it's not—they don't intend to implement it, which is not often that that happens.

* (19:40)

I'm still having some difficulty understanding why it's—there's a roadblock on this one, because it really was intended to be something that would facilitate that effort from each of those various departments. We didn't do an audit of the extent to which legislation was being reviewed on a regular basis by all departments, whether or not there was a mandatory clause, and I wouldn't be surprised if it would be, you know, useful for them to have some further guidance in that area as well. If it's not in the mandatory area, then it may—and maybe I'm wrong on that because we haven't done an audit of that. But, as I say, I really would recommend that the department reconsider that and, perhaps, we do need—perhaps what they're—maybe we're missing something here that what they're describing and what

we're looking at maybe we weren't provided with all of the detail that they're currently providing to the departments. But I am not seeing a monitoring component to it, which is always a balance when there are requirements and, then, you know, how often do you go to check to make sure they're being followed. But, as you pointed out, we saw that only 56 per cent of those regulations were being reviewed even though there was a mandatory requirement to do so. So they're not all being checked. So I would've put—my personal position would be that you would put in some additional fuel controls to make sure that it's being—that that's taking place now given the finding that we've brought to everyone's attention.

Mr. Helwer: I think, through you, Mr. Chair, to the deputy finance minister, that obviously the Auditor General still sees a need for this and it's something you feel you're fulfilling, but your staff doesn't seem to feel that you're fulfilling the need for. Would you care to comment on the disparity and perhaps we can find a way to accommodate both sides here?

Mr. Clarkson: I think there are always rooms for improvement in any activities that are undertaken. I think that's what part of the audit reports are all about is ensuring that you have a continuous improvement process in place and that you get better at what you're doing. I think the current process in place is to ensure that the responsibility rests with the people that have the authority to be able to deal with that, and on that basis the criteria that we've put together helps them go through that process. If there's more work that we need to do to work with departments to help them in those kinds of categories, we will certainly look at those kinds of issues to see how we can help people get better at doing that. We have a corporate audit committee that will help guide those kinds of initiatives.

But the staff that is being referred to, I believe, in the report, are the staff from the departments who are uncertain in some cases, not staff within the Finance Department that are uncertain about the activities going forward, and so on that basis I take that note seriously and we will look at, with others, how best to ensure that they can fulfill the commitments that are there. But it still has to be within their responsibilities to deal with this issue, and we can provide them a framework and guidelines and some guidance and looking at ways that we can provide assistance with training and those kinds of activities to ensure that they have the capabilities of moving forward with it.

Mr. Helwer: Well, it's all very nice to say that we will try. But I guess I want to know that it will be done. The Auditor General obviously feels it's important, and the deputy minister doesn't feel that it's as important and that it's partly being done. So can we have a way to ensure this committee that you're going to meet these requirements, either by timelines or a report to the Auditor General, or what would be the tools we would use to make sure this is being done in an adequate manner?

Mr. Clarkson: I think the issue in terms of how they are being done need to be asked to the departments who are not fulfilling those activities and those issues can be addressed through various mechanisms which we will look at how best to do that. Giving a time frame around that I don't think is possible to do that because it is not our responsibility to undertake those reviews. They really are the departments' responsibilities. They are the ones that are responsible for their legislation, their regulations, and we need to address the issues of providing what the right capacity is to deal with that issue from the side that we can related to the frameworks, the criteria and the role that we're asking them to play.

Mr. Helwer: Would the Auditor General care to comment on how we might find a solution?

Ms. Bellringer: I'm not sure about the solution quite yet, but in terms of reporting back to this committee, this is the first year that we had a follow-up on that particular report, and with our new format, we'll be reporting on it for another few years, so it will come back here automatically in next year's follow-up report.

I think, though, at the heart of the discussion is, indeed, something that's not directly addressed in those recommendations but the extent to which monitoring is appropriate and when. And, you know, I will undertake to ensure that we have some discussions around that between our office and the department, just to fully understand.

I totally understand the notion that individual departments have a responsibility. But I also believe in monitoring being a nice—not a nice way, I mean, a necessary way to ensure that things are being done. And I also appreciate you have to balance that off with you don't have to look over people's shoulders all the time on absolutely everything.

But, given that we saw some difficulties in this area, perhaps it's one area where I would expect to see that monitoring take place.

Mr. Friesen: I just wanted to come back to—at the risk of being repetitive, I'm just trying to understand better why it is that there was only 56 per cent compliance when it came to the mandatory statute reviews. And I guess my question to the Auditor General is: I see there that a recommendation under work in progress is that a plan be developed to address the noncompliance with mandatory regular reviews.

Can you indicate for this committee why it is that that 44 per cent or, no, actually, the 56 per cent would not have complied? What would it be, those reasons?

Ms. Bellringer: Mr. Chair, I'm not sure I can answer that question—one—only because, you know, we're pretty careful not to speculate. I don't have an answer, so I don't want to make one up.

I don't know why they didn't. We merely report on the fact that it hasn't yet been completed.

Mr. Friesen: Then, perhaps, just to try to understand this a little better, so the 56 per cent, I see that listed there. What is, then, the current percentage of actual reviews undertaken for the regulations that were required to be reviewed between the years 2000 and 2006?

Ms. Bellringer: I'm sorry. I just didn't hear the question.

Mr. Friesen: Sorry. I'm just trying to understand this a little better. It's indicated here that three mandatory statute reviews were undertaken and 23 out of the 41 regulations were reviewed. But I'm just—I'm wondering here, so that's the accurate number. It's 56 per cent, that's correct—56 per cent were not in compliance?

Just a question, then, to the Auditor General. Is that the correct number?

Ms. Bellringer: The per cent—the 56 per cent was with respect to those that we selected for review. So we don't know in terms of the actual total out there how many were we looked at. We just—it was just from our sample.

Mr. Chairperson: Are there further questions? Seeing none, is it the will of the committee to agree that we've completed the consideration of section 8? *[Agreed]*

Okay. I would provide us with the opportunity, then, to move forward to section 9 and ask the Auditor General if she has an opening statement in

regards to the Public Sector Compensation Disclosure Reporting section of the follow-up report.

Ms. Bellringer: Thank you, Mr. Chair. The third chapter provides our status on that audit of the public sector compensation disclosure reporting.

The report was originally issued in December 2009, and our three recommendations remain in progress, the first being the threshold for reporting compensation, which we recommended should be increased to capture the intended percentage when the legislation was put into place; the second is that the public sector compensation disclosure reports for all organizations within the government reporting entity be accessible on a provincial government website; and the third being that not-for-profit entities who receive government funding should not be required to provide audited compensation disclosure reports, but the disclosure information should still be available if requested. And that was based on the survey that we conducted.

* (19:50)

Mr. Chairperson: Thank you, Ms. Bellringer, and I turn it over to Mr. Clarkson for his opening comments in this.

Mr. Clarkson: Thank you for that. Certainly, the issue of public sector disclosure is an important one for all of us to deal with.

The three recommendations of the Auditor General we actually support, and we are working at mechanisms to put in—put all three of those recommendations in place.

There will be legislative changes required to undertake the first one and that's the change in the dollar salary level. And we're making sure we have a regular process related to that and the mechanism for updating it on a regular basis.

The second one on the non-profit activity side, we're looking at how best to facilitate getting that information out in an appropriate way. And the third one deals with the information availability and we do support making this information more readily available.

Mr. Gregory Dewar (Selkirk): Yes, thank you. I understand that the current threshold is \$50,000 for public disclosure.

Mr. Clarkson: Yes, that's correct.

Mr. Dewar: And I believe that's designed to capture about 10 per cent of the workforce senior

management so considering that there's been certain—an increase in the compensation paid to public sector employees since this first threshold was established, my question would be: What is the—what percentage of the workforce does the \$50,000 threshold currently capture?

Mr. Clarkson: In terms of the current salary cap of \$50,000, I believe the number is around 40 per cent of the public services currently captured. The report recommended a number about \$72,000 which would give us—get us back to the intention of the act, which was to capture about 10 per cent of the employees. So we were—are looking at a number that would be in the 72 to 75 thousand dollar range and a mechanism for having that reviewed on a regular basis.

Mrs. Stefanson: Yes, and just with respect to the second area, which I gather from you is also a work in—or, I gather from the deputy minister, is also a work-in-progress.

This has to do with the public sector compensation disclosure reports for all organizations within the government, including Crown corporations and government reporting entities, and I know we have brought forward a bill in the Legislature to call on the government to expand this when we move to summary budgeting. It makes a lot of sense to also include those government reporting entities within that framework and I'm pleased to hear that the government is moving in that direction.

And I'm wondering if the deputy minister could indicate how they're looking. We sort of felt that it—I know the Auditor General has recommended that it be somehow posted online and I think, certainly, the Public Accounts are posted online I believe, and I think it would be—it would make the most sense that we look at moving in that direction to include them in the Public Accounts books as is already done although we're talking about raising the threshold. Is that an area where the government is considering reporting these public sector compensation disclosure reporting?

Mr. Clarkson: Yes, that's one of the options that we're certainly looking at and that's the option that we're leaning towards is to making them available on the web so that they're more easily accessible and we're just working out with the parties, in terms of the best way of making that available on the web.

Trying to minimize the costs associated with producing all of this information, and we think the web is the best way to be able to do that.

Ms. Stefanson: So is it a consideration to include that in the actual Public Accounts books as is done already in terms of the government departments?

Mr. Clarkson: There are number of different options being considered, of which some would be to include it in; others would see it just available on the website.

Mrs. Stefanson: What are all the options that the department is currently considering?

Mr. Clarkson: Options we're considering would be posted on the government website, having them all available in one location, options being looked at to have them available within each of the individual organizations, options being looked at to include them in a printed version of the Public Accounts.

Mrs. Stefanson: So what is the time frame to complete this?

Mr. Clarkson: It is a priority for us to deal with this. We haven't set a date, but our intention is to get this resolved very quickly.

Mrs. Stefanson: I thank the deputy minister for that. In terms of No. 3, dealing with the not-for-profit entities, I see in the Auditor General's report that the recommendation says that not-for-profit entities who receive government funding should not be required to provide audited compensation disclosure reports. But the compensation information should be available if requested.

I'm wondering if the Auditor could indicate in what way she believes would be an appropriate way to make that information available. I know right now we're maybe—it would have to be done by way of a FIPPA request, but is there another way? Sometimes that can often be delayed in getting the information, and I'm wondering if she has an idea in terms of how that could be—that information could be available to someone who requests it in a very—in a more timely manner?

Ms. Bellringer: There's just—just as a bit of background to the recommendation. We surveyed the entities that we believed were impacted by the way the act was written, and we had to develop the list. There were 891 public sector organizations, and it's based on the amount of grant funding that they're receiving, not just from core government, but when you go, it's a calculation of right across the government reporting entity. And when we surveyed

all of them, we didn't get a response from all of them, which was a bit of an issue, but we did find out that, overall, 86 per cent of them were aware of their requirement to comply; 66 per cent of those who were aware actually provided the report to us, and others that were aware, they still didn't give us a copy of the report. So we thought, well, this is a bit of a problem.

Having said that, I think that, if there's a requirement, especially if it's in legislation, that it be practical to follow it up. And in this case it really isn't practical, because you'd have to do an annual calculation to figure out which entities are we talking about in the first place. That would change from year to year. It's very difficult to pull that list together, because we're talking about, not just Crown organizations and so on, but all of the various—the small—well, not small, because it's—the threshold's a couple of hundred thousand.

So I don't think there is an easy, one-stop place to get that information. I think it's better dealt with in the—and we're talking compensation, so we're—really, it's something that I—my position would be that it's up to individual departments when they're entering into funding arrangements with an organization to determine the extent to which they want to put any requirements around compensation. Whether it be controlled, because it shouldn't be over a certain amount, or whether it be some kind of disclosure. And I do think it should be determined on a—link directly to the grant, as opposed to something that is swept up into a single piece of legislation.

* (20:00)

How do you, then, get access to that? I mean, FIPPA's a mechanism that I thought was intended to be in the event that the system doesn't make the information available to you on a regular basis, you can still get access to it. In the case of the not-for-profits, I actually think that's maybe not a bad way to get at this information, because for all of them to have to have it audited and then brought forward and then for the department to have to monitor it to make sure that they are, indeed, bringing them forward is a fairly expensive system to put into place.

The one comparison that was brought up to us when we were doing the audit that, I think, is a valid one is it somewhat compares to the taxation processes. You know, you're required to comply, and we don't check to see that absolutely everyone is

doing so. But, in this case, we're talking a legislated requirement to put this information together, to bring it forward to an auditor, and then it doesn't go anywhere. So I've got some problems with that. The quick answer is there isn't a practical way to get at it, other than to just request it when there is an interest.

Mrs. Stefanson: But, if we request it and we have an interest—and the way this is written, your recommendation, it says that the compensation information should still be available if requested. And so, I mean, how can that be made available? I mean, if you're talking about just through a FIPPA request, I mean, they would still have to have that information available, so shouldn't it just be mandatory to have this information available, or how else do you, you know, go about doing this and holding them accountable?

I mean, FIPPA requests are—I'm not sure that that would necessarily get to what you're asking here, because you want the compensation information, you know, to be available upon request. I mean, I take that as, if I ask for the information, I mean, I should be able to get it right away, directly, not going through freedom of information to get it and all of these other ways, because you sometimes get the runaround when you're doing that. So I read your recommendation as being that this information should be made available to me, you know, immediately, or, you know, I should be able to request that directly.

Ms. Bellringer: Yes, and the current legislation has that anybody can request that information currently because of the way the legislation is written, and we wouldn't suggest that be changed. We just don't think that it should be—there should be an audit requirement.

Mrs. Stefanson: Can I just ask the deputy minister to comment on this and where you're at in terms of implementing this recommendation?

Mr. Clarkson: We certainly agree with Carol that the—or the Auditor General, I should say, that the current approach is onerous on non-profit organizations and not necessarily being followed in an appropriate way, although we do recognize that there's value in having that information in place. So, currently, we are looking at options that would require the audit not to be provided and what the implications of that are and whether there is still trust

and confidence in the information if it's provided in an unaudited fashion.

And then, secondly, looking at the mechanism for making it available on a public perspective, which we are leaning towards a website, again, activities to be able to do that and, as part of that, including the requirements for this in all of the funding agreements with the non-profit organizations.

The current framework for it is very difficult for non-profits to follow. When you have a—you know, based on a grant amount or a percentage of your total revenue, you could start the beginning of the year thinking you didn't have to qualify for it and then have a change in a funding arrangement with somebody else and then fall within the compliance to do it. So it makes it, we agree, very difficult to deal with. And so we think the appropriate mechanism for spelling out how to deal with this is in the funding agreements with the agencies, and we're working with the various departments in terms of how best to describe that.

Mr. Helwer: Well, I'm encouraged that the deputy agrees with the Auditor General, that these are all three important recommendations and that plans are to go ahead with them, but I'm a little concerned about time frames. But I want to know, for recommendations two and three, will they be done—will either one of them be done in the next year and, if so, which one?

Mr. Clarkson: Our plan is to deal with both of them in the next year.

Mr. Helwer: So to confirm that, both of these two recommendations will be finished, complete and, as per the Auditor General's recommendation, within the next year.

Mr. Clarkson: Our plan is to bring forward solutions for both of those recommendations within the next year to address the issues in the way in which we feel is the most appropriate way to deal with them.

Mr. Friesen: To the Auditor General: I just noticed that the Auditor General indicated that the disclosure practices are consistent with that of other provinces, but you made mention of the fact that disclosure lacks details, like job title or job function.

I was just wondering: On what basis did the Auditor General choose to not recommend that job

title and-or job function be included in the reported material—information?

Ms. Bellringer: That's a good question. We didn't put it in a recommendation; doesn't mean we're not still watching for that kind of improvement.

There's another fairly significant matter that we raised within the context of the report, which is the disclosure of vendor payments over \$5,000. We didn't make a recommendations around that, as well.

I'd suggest that those two topics are both in the category of ongoing discussions. And at a point where we think that the progress on the recommendations we have made is at a point where we think the department should be doing a little bit more, you'll see recommendations coming forward to the Legislature in future reports.

Mr. Friesen: To the Auditor General: Thank you for that information.

Did you find in your discovery that there were other provinces currently reporting details like job title or job function?

Ms. Bellringer: My recollection is there's—that it—that no, that kind of disclosure is not commonly found across the country in the reports coming out the public sector. But that, again, a lot of the criteria we were using was also criteria that's applied in the private sector, and it certainly is the trend in the private sector to have that kind of information. It would be useful.

It does add to the volume of work that each individual entity would be required to put together each year, and it isn't necessarily the best way to get at the—if you're interested in a particular area, you can look to the organizational charts, and so on, within many of the organizations. So we didn't think that it was a priority matter.

Mr. Friesen: And, just with respect to the first recommendation, then, and maybe this question to the deputy minister: Then, if the department is moving to a system to raise the threshold for reporting, would there be a willingness to include also in that, then, job title and job function with that material, with that information?

Mr. Clarkson: We'll certainly look at all the different aspects of this to see whether or not that's a

valuable addition in information that we need to undertake at this time.

Mr. Friesen: I would suggest it would probably be a—to the deputy minister—I'd suggest it would probably be worth evaluating, simply because we would be raising that threshold anyways in terms of reporting compensation, so the list would be far less extensive than previous, and it certainly would seem to be reasonable, then, to be able to include more information in that reported list. And certainly, I think that job title or job function might be measurements that you would care to consider including in that list.

Are you aware that—I guess, just further to that—the question that the deputy minister related to that would be, are there other provinces that are doing the same with respect to raising the thresholds for reporting compensation?

Mr. Clarkson: I'm actually not aware of what's been going on in other provinces on this regard, either on the level of compensation or on what it is, the information, they include.

But we are looking at ensuring that our system that we go forward with removes the dollar amount out of the legislation and puts it into regulation so that we can then have the regular review process to keep it at a—the intent of the legislation, in terms of what was to be reported.

* (20:10)

Mrs. Stefanson: Just one last question: the Auditor General just brought it up and it has to do with public sector compensation, disclosure for contracts, which, I believe, is in volume 2 of the Public Accounts. And that threshold, right now, I believe, is \$5,000, and the Auditor General has indicated that that should probably be reviewed as well, although it's not in the recommendations of this report. Is that something that the department is also considering with respect to this legislation that we can see come forward?

Mr. Clarkson: We actually agree with the Auditor General on this, that that activity needs to be undertaken, and we are looking at that threshold number, as well, too.

Mrs. Stefanson: Is there any indication about what the threshold is that you're looking at? I know you recommended in the other that it would be—in terms of the salary compensation—that it would be between \$72,000 and \$75,000. What are you looking at in

terms of disclosure, in terms of the amount in this area?

Mr. Clarkson: I'm sorry, we haven't got to that point yet in terms of examining what number that might be. But we're—know there will be a number of different options people will want us to look at.

Mrs. Stefanson: But is that something, too, that you're looking at including in the legislation that you said that will come forward within the course of the next year to deal with the other issues that we've been discussing tonight?

Mr. Clarkson: That threshold is not currently included in the public sector disclosure act. That act just deals with the salary levels, so we will be looking at that in a different fashion to try and achieve that objective.

Mrs. Stefanson: What act does that currently fall under?

Mr. Clarkson: I'm not absolutely positive. I—we think it's under The Financial Administration Act, but it's not under the public sector disclosure act.

Mr. Friesen: And, on that same line of inquiry, would the Auditor General just speculate, in her mind—I know that's a dangerous word to use—but would she indicate at all what she thinks a reasonable threshold would be for contracts?

Mr. Chairperson: I speculate there will be an answer for that.

Ms. Bellringer: It was—what we saw to be a critical element was that it covered the entire government reporting entity so that there wasn't a barrier between what was created as a core versus the rest of government. So that was a critical element.

My understanding of that statement within the volume 2 was it was put in place so that there would be an even reporting from whether somebody was paid for as an employee versus somebody who was hired on a contract, but they wouldn't show up in the employee compensations, but you'd be able to find them within the other disclosure. So one consideration might be something at a similar kind of reporting dollar value, but that's just something to consider.

Mr. Chairperson: Are there any further questions in regards to section 9? Seeing none, I would ask that—does the committee agree that we have completed consideration of section 9? *[Agreed]*

And I would like to note that all sections 7, 8 and 9 have been agreed that the questions have been asked on the sections this evening.

This concludes the business of this committee. What's—the hour being 7:15–8:15, what's the will of the committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Before we rise, I'd appreciate if the members would leave their reports here if you're—the ones that are on the table for use at future meetings, if you are not using it. And committee rise.

COMMITTEE ROSE AT: 8:14 p.m.

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