

Chapter 5

**Auditor General’s
Access to Vestcor
Significantly Limited**

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Auditor General's Access to Vestcor Significantly Limited

Report of the Auditor General – Volume II, Chapter 5 – 2020

Why Is This Important?

- The *Auditor General Act* requires the Auditor General to inform the Legislative Assembly if she receives all the information required to perform her duties.
- Vestcor declined and restricted the Auditor General's access to information required to perform her duties.
- Before 2016, the Auditor General had complete access to audit the predecessor to Vestcor, the New Brunswick Investment Management Corporation (NBIMC) and, as well, the Legislative Assembly provided independent and publicly accountable oversight of NBIMC.
- Since 2016, the Legislative Assembly no longer provides independent and publicly accountable oversight for over \$18 billion of New Brunswick public sector funds, including over \$14 billion for the Province's two largest pension plans.

Overall Conclusions

Vestcor and its owners believe Vestcor is no longer subject to independent and publicly accountable oversight by the Legislative Assembly. Therefore, the Auditor General recommends:

- The *Auditor General Act* be amended to give the Auditor General unrestricted access to Vestcor
- The *Vestcor Act* be amended to require Vestcor to file annual reports with the Legislative Assembly and appear before PAC
- Legislators revisit what NBIMC/Vestcor told them when Vestcor was created

What We Found

We Believe Vestcor Falls Under the *Auditor General Act*

- *For performance audit:* Vestcor is an auditable entity because, in substance, it is both a service provider on behalf of the Province and a funding recipient from the Province.
- *For financial audit:* The Auditor General is entitled to free access to information that relates to fulfilling her responsibilities, such as the audit of the Province's financial statements, which requires information from Vestcor.

What Legislators were Told

Legislators were:

- provided inconsistent information regarding Auditor General access. This access has been significantly limited.
- told Vestcor would grow to include public sector pension plans outside of the Province. After four years, Vestcor has only added two New Brunswick-based clients.

Vestcor's Annual Reports Highlight Potential Areas the Auditor General Might Audit if Granted Access

- The Auditor General should have unrestricted access to audit:
 - Vestcor's performance in managing over \$18 billion in New Brunswick public sector funds; and
 - the reasonableness of Vestcor's incentive program, operating and capital expenses and annual report disclosures.
- Vestcor has paid over \$30 million in employee incentives (bonuses) since 2010 and incentives have increased by almost 500% since 2010.
- Five senior executives have received almost \$19 million in incentives and salary since 2014.
- Vestcor's employee incentive program was expanded to all employees in 2018.

Key Findings and Observations Table

Auditor General's Access to Vestcor Significantly Limited

Paragraph	Key Findings and Observations
	Vestcor and Its Owners Disagree with the Auditor General Over Access to Vestcor
5.1	<i>We are informing the Legislative Assembly of our concerns as required by section 15(1)(b) of the Auditor General Act</i>
5.2, 5.6	<i>\$18 billion in New Brunswick public sector funds is no longer subject to independent and publicly accountable oversight by Legislative Assembly or audit by the Auditor General and Vestcor's public accountability lacks critical elements</i>
5.4	<i>Vestcor and its owners believe the Auditor General's access to Vestcor is significantly reduced compared to its predecessor, the New Brunswick Investment Management Corporation, as a result of Vestcor's new private legislation</i>
5.7	<i>In our view, Vestcor is, in substance, a public sector entity and the Auditor General should continue to have unrestricted access to conduct both performance audit and financial audit procedures at Vestcor</i>
	Section 1: Why We Believe Auditor General Act Grants the Auditor General Authority to Audit Vestcor
5.24	<i>In our view, Vestcor is a service provider as defined in the Auditor General Act</i>
5.27	<i>In 2020, Vestcor received approximately \$400 million in pension plan contributions and made approximately \$715 million in pensioner payments for two pension plans</i>
5.29	<i>We believe Vestcor is a funding recipient as defined in the Auditor General Act</i>
5.30	<i>The Province's two largest pension plans provided 67% of Vestcor's revenue in 2019</i>
5.34	<i>Vestcor and its owners believe the Auditor General can only conduct performance audit on some (approximately 6% or \$1.8 million) but not all of the money received from the Province</i>
5.38	<i>We believe the Auditor General Act entitles the Auditor General unrestricted access to perform financial audit procedures to support pension plan asset values</i>
5.42	<i>Vestcor cited confidentiality concerns if unrestricted access was granted to the Auditor General</i>
5.45	<i>Vestcor offered access to audit pension plan asset values with unacceptable conditions</i>

	Section 2: Issues We Found When Legislators Reviewed New Vestcor Act
5.48	<i>The Vestcor Act may have unintended consequences</i>
5.50	<i>Legislators asked if the Auditor General was consulted about the proposals contained in the Vestcor bill</i>
5.52	<i>Legislators raised concerns regarding how the Vestcor Act would impact the Auditor General's access to audit</i>
5.53	<i>Legislators were provided inconsistent information regarding Auditor General's access</i>
5.55	<i>Client base at Vestcor has not grown to the extent presented to Legislators</i>
5.63	<i>Legislative Assembly could still provide oversight by calling Vestcor to appear before PAC</i>
5.64	<i>Vestcor Act should be amended to require Vestcor to file annual reports with the Clerk of the Legislative Assembly and appear before PAC</i>
5.65	<i>Some oversight processes appear to contradict what Legislators were told</i>
5.66, 5.67, 5.68	<i>Some oversight of Vestcor is provided by the Boards of Trustees and other entities, but this oversight is missing public accountability by the Legislative Assembly</i>
5.69	<i>Vestcor may choose what it reports publicly</i>
	Section 3: Potential Audit Areas We Identified from Reviewing Vestcor's Annual Reports
5.71	<i>The Auditor General should have unrestricted access to audit Vestcor's performance in managing over \$18 billion in New Brunswick public sector funds</i>
5.74	<i>NBIMC/Vestcor have paid over \$30 million in employee incentives(bonuses) since 2010</i>
5.75	<i>Incentives have significantly increased since Vestcor was created</i>
5.76, 5.77	<i>NBIMC/Vestcor has paid \$4.6 million in incentives to its President and CEO over the past six years</i>
5.78	<i>NBIMC/Vestcor paid a total of \$7.2 million in incentives to four other executives over the past six years</i>
5.81	<i>Incentive program was expanded to all employees in 2018</i>
5.83	<i>Five executives of NBIMC/Vestcor have received almost \$19 million in salary and incentives over six years (2014 – 2019)</i>
5.86	<i>Given Vestcor's focus on providing services to the public sector, Vestcor's operating expenses should be subject to publicly accountable oversight</i>

	Why the Auditor General Should have Access to Conduct Performance Audits at Vestcor
5.60	<i>An audit by the Auditor General could verify and publicly report what steps Vestcor is taking to grow public sector client base</i>
5.72	<i>An audit by the Auditor General could determine and publicly report on if information presented in Vestcor's annual reports is reasonable</i>
5.74	<i>An audit by the Auditor General could determine and publicly report on if it is reasonable employee incentive payments have increased by almost 500% since 2010.</i>
5.80	<i>An audit by the Auditor General could determine and publicly report on how incentive targets are set and if they are reasonable</i>
5.82	<i>An audit by the Auditor General could determine and publicly report on the reasonableness and financial implications of including all employees in Vestcor's incentive program</i>
5.85	<i>An audit by the Auditor General could publicly report on the reasonableness of compensation information disclosed in Vestcor's annual report</i>
5.88	<i>An audit by the Auditor General could determine and publicly report on the reasonableness of Vestcor's operating and capital expenses</i>

Recommendations and Responses

Recommendation	Response	Target date for implementation
We recommend the Minister of Finance and Treasury Board:		
5.9 propose the <i>Auditor General Act</i> be amended to list Vestcor (and all related entities) as auditable entities to ensure the Auditor General has unrestricted access to conduct both performance and financial audits as the Auditor General deems necessary.	<i>The Department of Finance and Treasury Board will work closely with the Office of the Auditor General and Vestcor Inc. to review access requirements and determine if an amendment to the Act is required.</i>	
5.10 under section 12 of the <i>Auditor General Act</i>, request the Auditor General conduct a performance audit of Vestcor (and all related entities) that includes unrestricted access to Vestcor by the Auditor General.	<i>The Department of Finance and Treasury Board will consider the need for a Vestcor Inc. performance audit.</i>	
5.12 propose the <i>Vestcor Act</i> be amended to require Vestcor (and all related entities) to: <ul style="list-style-type: none"> • file an annual report with the Clerk of the Legislative Assembly; and • appear before the Public Accounts Committee. 	<i>The Department of Finance and Treasury Board will work closely with the Office of the Auditor General and Vestcor Inc. to determine if an amendment to the Act is required.</i>	

Recommendations and Responses (continued)

Recommendation	Response	Target date for implementation
<p>We recommend the Public Accounts Committee:</p>		
<p>5.11 revisit what the New Brunswick Investment Management Corporation, the Department of Human Resources and their representatives told Legislators regarding:</p> <ul style="list-style-type: none"> • the Auditor General’s future access to Vestcor; • how Vestcor would grow to include public sector clients outside of New Brunswick; and • how the Province would have indirect oversight through the members it appoints to the Boards of Trustees of the Public Service and Teachers’ pension plans. 	<p><i>The Office of the Clerk of the Legislative Assembly will ensure the Public Accounts Committee is aware of the recommendation. The Committee, or the Legislative Assembly as a whole, is responsible for deciding whether or not to implement the recommendation.</i></p>	
<p>5.13 include Vestcor (and all related entities) as one of the entities who are regularly called to appear before the committee.</p>	<p><i>The Office of the Clerk of the Legislative Assembly will ensure the Public Accounts Committee is aware of the recommendation. The Committee, or the Legislative Assembly as a whole, is responsible for deciding whether or not to implement the recommendation.</i></p>	

Auditor General's Access to Vestcor Significantly Limited

We are informing the Legislative Assembly of our concerns, as required by section 15 (1)(b) of the Auditor General Act

5.1 The purpose of this chapter is to inform the Legislative Assembly of the *difficulties we faced when trying to gain access to Vestcor* in our oversight and salary and benefits work and in our audit of the Province's financial statements. Section 15(1)(b) of the *Auditor General Act* requires the Auditor General to report to the Legislative Assembly if the Auditor General received all the information and explanations required in the course of her work.

Potential impact of Vestcor declining or denying our audit requests

5.2 We also want to inform the Legislative Assembly of our concerns and the *potential impact of Vestcor and its owners declining to participate in our performance audit work and denying the Auditor General unrestricted access to conduct financial audit procedures at Vestcor.*

Why we need to audit Vestcor

5.3 At times, we need to perform audit work at Vestcor to fulfil our legislated responsibilities. In 2020, we required access to Vestcor for the following reasons.

- We asked to include Vestcor among the 15 entities selected in our *oversight and salary and benefit practices work.*
- We needed to obtain appropriate audit evidence for the value of pension plan assets as part of our *audit of the Province's financial statements.*

Vestcor and its owners believe the Auditor General's access to Vestcor is significantly reduced

5.4 Before 2016, the Auditor General had complete access to audit the New Brunswick Investment Management Corporation (NBIMC), the predecessor to Vestcor. In 2016, when the *Vestcor Act* received Royal Assent, Vestcor, from a legal perspective, became a private entity. As a result, *Vestcor and its owners believe the Auditor General's access to audit Vestcor has been significantly reduced.*

Vestcor should not be compared to private-for-profit investment firms because Vestcor's business is public in nature

5.5 Even though Vestcor is considered a private entity from a legal perspective, in our view, Vestcor should not be compared to private-for-profit investment firms as Vestcor often suggests. Regardless of new legislation, Vestcor's business is public in nature. Vestcor continues (as NBIMC did) to focus on the public sector, but Vestcor and its owners believe Vestcor is *not subject to the same independent and publicly accountable oversight as a public sector entity.*

Vestcor's public accountability lacks critical elements

In our view Vestcor is, in substance, a public sector entity

How can we prevent future disagreements over access?

Recommendations:

5.6 Some public accountability of Vestcor is in place (e.g. public annual reports). In our view, however, this accountability lacks critical elements because Vestcor may choose what it reports publicly. ***Vestcor is not being questioned publicly or held to account publicly by the Legislative Assembly for how it manages over \$18 billion in New Brunswick public sector funds.***

5.7 In our view Vestcor is, in substance, a public sector entity regardless of its legal form and should be subject to independent and publicly accountable oversight by the Legislative Assembly. As well, the Auditor General should continue to have unrestricted access to conduct both performance audits and financial audit procedures. For example, unlike private investment firms:

- Vestcor was ***created by an Act of the New Brunswick Legislature***;
- Vestcor is 100% owned ***by the Province's two largest pension plans*** (the New Brunswick Public Service Pension Plan and the New Brunswick Teachers' Pension Plan) and, as a result, will likely never have to compete with other investment management firms;
- Vestcor's ***investment portfolio is derived entirely from New Brunswick public sector funds***;
- essentially all of Vestcor's operating and capital ***funding results from services provided to the broader New Brunswick public sector***; and
- Vestcor ***considers itself to be not-for-profit in nature.***

5.8 In our view, the *Auditor General Act*, as it stands, grants the Auditor General authority to audit Vestcor. To prevent future disagreements over access, however, we propose a regulation be added to the *Auditor General Act* to explicitly list Vestcor as an auditable entity. See Appendix I for a list of proposed changes to the *Auditor General Act*.

5.9 We recommend the Minister of Finance and Treasury Board propose the *Auditor General Act* be amended to list Vestcor (and all related entities) as auditable entities to ensure the Auditor General has unrestricted access to conduct both performance and financial audits as the Auditor General deems necessary.

5.10 We recommend the Minister of Finance and Treasury Board, under section 12 of the *Auditor General Act*, request the Auditor General conduct a performance audit of Vestcor (and all related entities) that includes unrestricted access to Vestcor by the Auditor General.

5.11 We recommend the Public Accounts Committee revisit what the New Brunswick Investment Management Corporation, the Department of Human Resources and their representatives told Legislators regarding:

- the Auditor General's future access to Vestcor;
- how Vestcor would grow to include public sector clients outside of New Brunswick; and
- how the Province would have indirect oversight through the members it appoints to the Boards of Trustees of the Public Service and Teachers' pension plans.

5.12 We recommend the Minister of Finance and Treasury Board propose the *Vestcor Act* be amended to require Vestcor (and all related entities) to:

- file an annual report with the Clerk of the Legislative Assembly; and
- appear before the Public Accounts Committee.

5.13 We recommend the Public Accounts Committee include Vestcor (and all related entities) as one of the entities who are regularly called to appear before the committee.

Impact if recommendations are not implemented

5.14 If our recommendations are not implemented and the Auditor General and Vestcor and its owners continue to disagree over access, *over \$18 billion in New Brunswick public sector funds will not be subject to:*

- independent performance audits by the Auditor General; and
- independent and publicly accountable oversight through the Legislative Assembly.

What You Need to Know Before Reading this Chapter

This chapter is divided into three sections

5.15 We have divided this chapter into three sections.

Section 1: Why we believe the *Auditor General Act* gives the Auditor General authority to audit Vestcor. (paragraph 5.20)

Section 2: Issues we found when Legislators reviewed the new *Vestcor Act*. (paragraph 5.46)

Section 3: Potential audit areas we identified from reviewing Vestcor's annual reports (paragraph 5.70)

Vestcor is ultimately owned by the Province's two largest pension plans

5.16 Vestcor is ultimately ***100% owned by the Province's two largest pension plans*** - the New Brunswick Public Service Pension Plan (NBPSPP) and the New Brunswick Teachers' Pension Plan (NBTPP). Each of these pension plans has a Board of Trustees who are responsible to administer the plans and provide oversight of Vestcor. According to Vestcor's website:

"The Board of Trustees is in place to manage the Plan in the best interest of both active and retired members. It follows industry best practices in terms of governance and administration of the plan^{1 2}."

The Province is responsible to appoint half of the members to each Board. ***Throughout this report, we refer to the Public Service and Teachers' pension plans as Vestcor's owners.***

Vestcor has a complex organization structure

5.17 Vestcor has a complex organization structure which is shown as follows:

- Vestcor Corp is jointly owned by the NBPSPP and NBTPP;
- Vestcor Corp. is a holding company and in turn owns 100% of Vestcor Inc.;
- Vestcor Inc. is the organization responsible to manage investments and administer pensions and benefits;

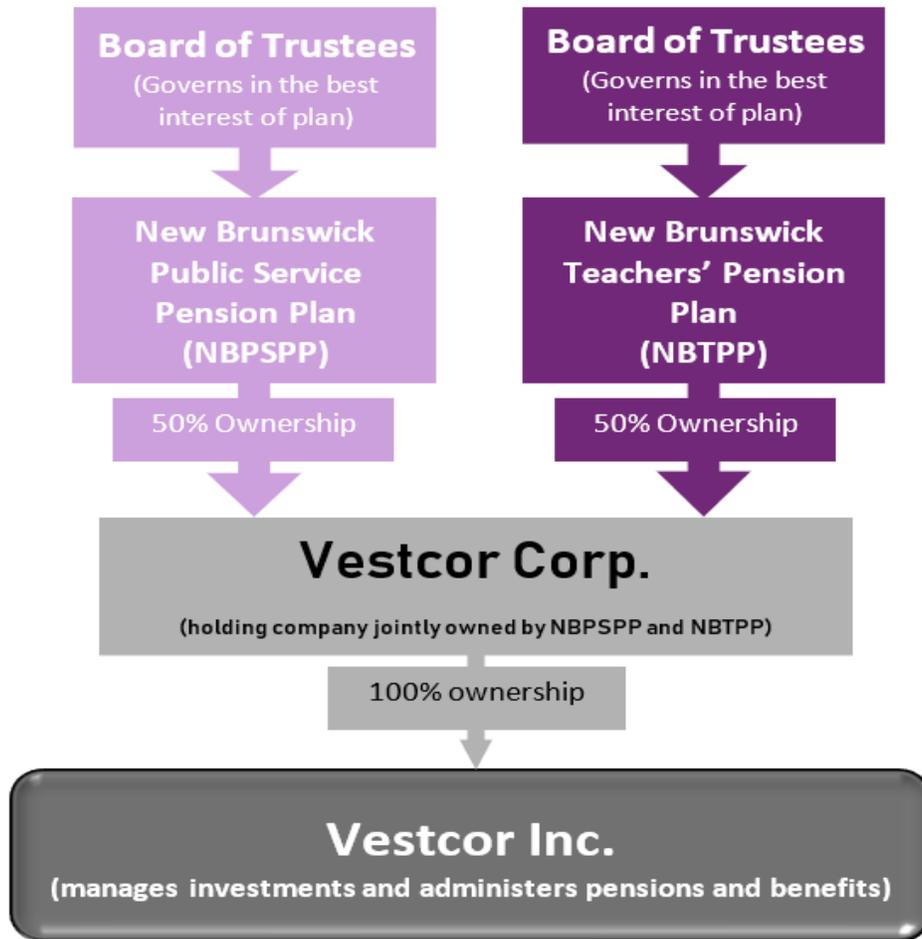
¹ New Brunswick Public Service Pension Plan: Vestcor <https://vestcor.org/en/plans/nbpspp>

² New Brunswick Teachers' Pension Plan: Vestcor <https://vestcor.org/en/plans/nbteacherpensionplan>

- Vestcor Inc. manages Vestcor Investment Entities (VIEs) which are pooled fund entities consisting of open-ended, unincorporated trusts and limited partnerships; and
- Vestcor Inc. serves as the trustee of all entities that are unit trusts and owns 100% of another company, Vestcor Investments General Partner Inc., which serves as the general partner for all limited partnership entities.

Throughout this report, we refer to Vestcor Corp. and Vestcor Inc. collectively as Vestcor. Exhibit 5.1 provides a summary of Vestcor’s complex organization structure.

Exhibit 5.1 - Vestcor Organization Chart



Source: Prepared by AGNB using information from Vestcor’s website

References to public sector funds

5.18 Throughout this report, we refer to how Vestcor is responsible to manage over \$18 billion in New Brunswick public sector funds. These public sector funds are ultimately provided by the Province and are assets specifically used for pension plans, trusts and other funds. The Province does not have a right to, or access to, these assets. Refer to Appendix III for a summary of assets managed by Vestcor.

Entities included in this chapter have different fiscal year-end dates

5.19 The entities we refer to in this chapter have different fiscal year-end dates. We refer to these dates when discussing items such as the value of pension plan assets at a specific a point in time and total incentives (bonuses) paid to employees during the year. The entities and their fiscal year end dates are:

- Vestcor – December 31;
- New Brunswick Management Investment Corporation – March 31; and
- Province of New Brunswick – March 31.

Section 1

Why We Believe the *Auditor General Act* Grants Access to Audit Vestcor

We believe the Auditor General Act grants authority to conduct both performance audits and financial audit procedures

5.20 In this section, we present our reasoning for why the *Auditor General Act* grants authority for the Auditor General to conduct both:

- performance audits at Vestcor; and
- financial audit procedures at Vestcor for our audit of the Province of New Brunswick's financial statements.

We made 11 requests for information and access

5.21 We *spent significant time* requesting information from, and access to, Vestcor between August 2019 and August 2020. For example, we sent 11 letters to Vestcor, the Chairs of the two Boards of Trustees and an external audit firm requesting access to conduct both our oversight and salary and benefit work and our financial audit procedures. Appendix II provides details and a timeline of our 11 letters and responses we received.

Auditor General Act Provides Authority to Conduct Performance Audits

In our view, the Auditor General Act provides authority to conduct performance audits of Vestcor

5.22 In our view, section 9.1 of the *Auditor General Act*, as it stands, grants the authority for the Auditor General to conduct performance audits of Vestcor. It states:

“The Auditor General may conduct a performance audit of an auditable entity or any program, service, process or function of an auditable entity.”

5.23 The *Auditor General Act* also defines the types of entities which are considered an “auditable entity”. They include:

- a) a department;
- b) a public entity;
- c) a trust fund;
- d) *a service provider*; or
- e) *a funding recipient*.

Vestcor is a Service Provider – Auditor General Act Applies

In our view, Vestcor is a service provider as defined in the Auditor General Act

5.24 In our view, Vestcor meets the definition of a service provider, in substance, as defined in the *Auditor General Act*. The Act defines a service provider as a person or an organization that:

- delivers programs or services on behalf of the Province, or
- collects money from the Province or on behalf of the Province.

We believe Vestcor is essentially delivering services on behalf of the Province

5.25 In our view, ***Vestcor is essentially delivering services on behalf of the Province***. Vestcor has direct agreements to manage investments and administer benefits for pension plans with either:

- the Province (e.g. Provincial Court Judges); or
- the trustees of pension plans (e.g. NBPSPP).

Refer to Appendix III where we note which pension plans the Province and Vestcor have a direct agreement.

Essentially all of Vestcor's operations are funded by the New Brunswick public sector

5.26 In our view, ***Vestcor is essentially collecting money from the Province***. At December 31, 2019, approximately \$17.8 billion of the \$18.5 billion of total assets managed by Vestcor was money it ultimately collected from the Province and its employees. In addition, essentially all of Vestcor's operations are funded by New Brunswick public sector funds.

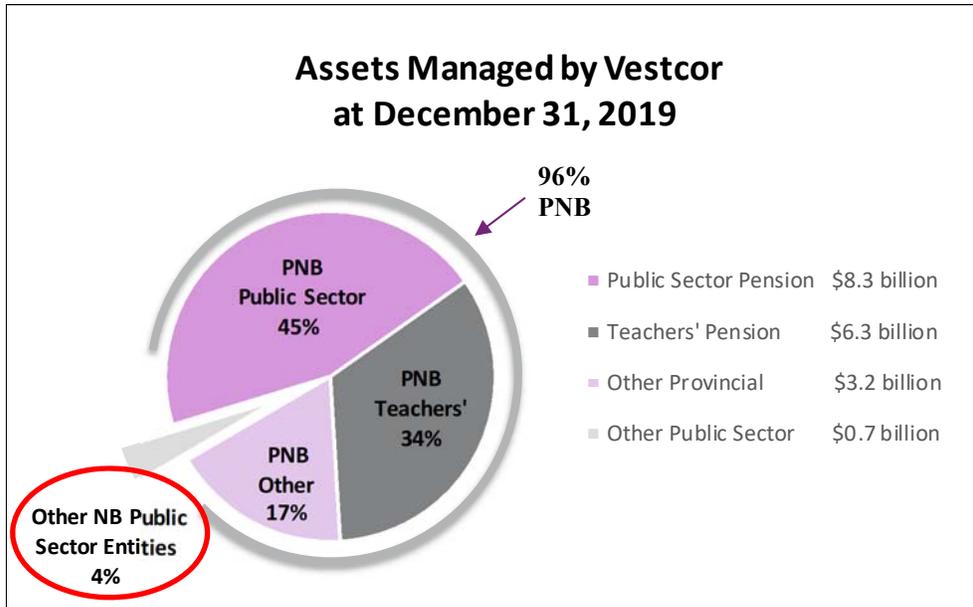
In 2020, Vestcor received approximately \$400 million in pension plan contributions and made approximately \$715 million in pensioner payments for two pension plans

5.27 For the Province's year-ended March 31, 2020, for the Province's two largest pension plans (the Public Sector and Teachers' Plans) Vestcor:

- received approximately \$400 million in pension plan contributions from the Province and its employees; and
- made approximately \$715 million in pension benefit payments to plan members (i.e. retirees).

5.28 Exhibit 5.2 provides a summary of pension plan assets and other provincial fund assets managed by Vestcor at December 31, 2019. The exhibit shows 96% of the assets managed by Vestcor relate to amounts contributed by the Province and its employees and are not subject to independent and publicly accountable oversight through the Legislative Assembly. The remaining 4% is made up of other New Brunswick public sector entities.

Exhibit 5.2 - Summary of Assets Managed by Vestcor at December 31, 2019 (unaudited)



Source: Prepared by AGNB using Vestcor's 2019 annual report - refer to Appendix III for supporting information

"PNB" means Province of New Brunswick related assets

Vestcor is a Funding Recipient – Auditor General Act Applies

We believe Vestcor is a "funding recipient", as defined in the Auditor General Act

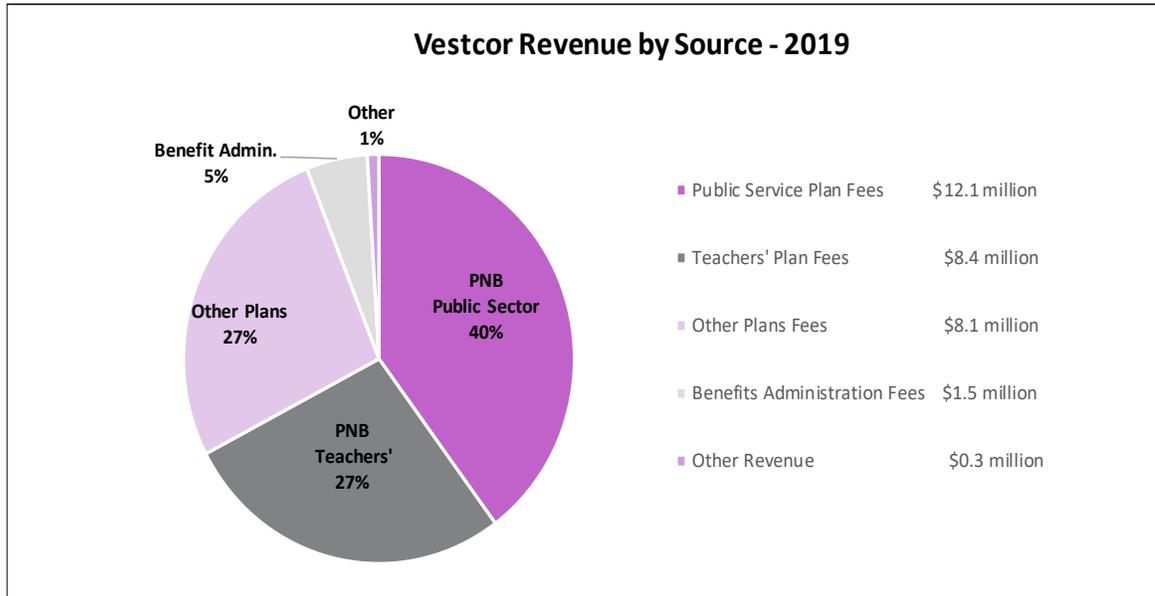
5.29 We believe Vestcor meets the definition of a funding recipient, in substance, as defined in the Auditor General Act. Section 1 of the Act defines a funding recipient as "a person or an organization that has received funding from a department, a public entity or a trust fund."

The Province's two largest pension plans provided 67% of Vestcor's revenue in 2019

5.30 In 2019, approximately 67% of Vestcor's revenue (around \$20 million) came from fees it charged to the Province's two largest pension plans. These fees were charged to manage investments and administer pension benefits. *We believe Vestcor is a funding recipient as it receives money from a public entity (essentially the Province).*

5.31 Exhibit 5.3 provides a summary of Vestcor's total revenue of \$30.4 million by source for 2019.

Exhibit 5.3 - Vestcor Revenue by Source 2019



Source: Prepared by AGNB using Vestcor’s audited financial statements

Vestcor and its Owners Declined to Participate in our Work on Oversight and Salaries and Benefits

Vestcor and its owners do not believe the Auditor General has authority to perform oversight and salary and benefit work

5.32 Vestcor and its owners declined to participate in our work because they do not believe the Auditor General has the authority to perform work, such as a performance audit, related to the oversight of Vestcor or Vestcor’s salaries and benefits. For the purposes of participating in our work on oversight and salaries and benefits, *Vestcor and its owners informed us they do not believe Vestcor meets the definition of a funding recipient or a service provider under the Auditor General Act.*

Vestcor and its owners do not believe Vestcor is a “funding recipient” as defined in the Auditor General Act

5.33 Vestcor and its owners cited the following reasons as to why they believe Vestcor does not meet the definition of a “funding recipient” as defined in the Auditor General Act.

- Vestcor receives pension contributions directly from the Boards of Trustees of pension plans and not the Province. Vestcor and its owners also informed us the Boards of Trustees are independent from and act at arms-length from the Province. Thus, they believe Vestcor is not receiving this funding directly from the Province.
- Vestcor and its owners believe pension contributions do not meet the definition of “funding” as defined in the

Auditor General Act. The Act states funding includes financial assistance, a tax credit and a waiver of fees.

Vestcor and its owners believe the Auditor General may be able to audit some services Vestcor provides

5.34 Vestcor and its owners conceded, however, the Auditor General might have authority to conduct some performance audit work at Vestcor. They believe this performance audit work would be limited to the services Vestcor provides when the Province has a direct agreement with Vestcor. For example, the Province and Vestcor have a direct agreement for Vestcor to provide pension and benefit administration services for the Provincial Court Judges' Pension Plan. Vestcor and its owners estimate direct agreements with the Province make up approximately 6%, or \$1.8 million, of Vestcor's overall revenue. Refer to Appendix III where we note with which pension plans the Province and Vestcor have a direct agreement.

Vestcor and its owners do not believe the scope of our oversight and salary and benefit work was within these services

5.35 Vestcor and its owners informed us they do not believe our work on oversight and salaries and benefits was within the scope of services Vestcor provides as a result of a direct agreement with the Province. They believe oversight and salaries and benefits are part of Vestcor's internal operations and not part of these services.

Auditor General Act Provides Access to Conduct Financial Audit Procedures

We believe the Auditor General Act provides authority to conduct financial audit procedures at Vestcor

5.36 In our view, the *Auditor General Act* provides authority for the Auditor General to conduct financial audit procedures at Vestcor as part of our *financial audit* of the Province's financial statements.

Auditor General is required to audit the Province's financial statements

5.37 Under section 11 of the *Auditor General Act*, the Auditor General is required to audit the Province's financial statements and to express his or her opinion as to the fair presentation of the financial statements.

Auditor General Act entitles Auditor General unrestricted access to perform financial audit procedures to support pension plan asset values

5.38 Section 13 of the *Auditor General Act* states:
“Despite any other Act, the Auditor General is entitled to free access at all convenient times to information, including files, documents, records, agreements and contracts, despite that they may be confidential or private, that relates to the fulfilment of his or her responsibilities.”

In our view, this section of the *Auditor General Act* overrides the *Vestcor Act*. As a result, the *Auditor General Act* entitles the Auditor General unrestricted access to perform financial audit procedures to support the value of pension plan assets.

The Auditor General reviews external auditor working papers for the financial statement audit of the Province of New Brunswick

5.39 The Boards of Trustees engage external auditors to provide an opinion on pension plan financial statements. The Auditor General reviews these external auditor working papers to form an opinion on the fair presentation of the Province's financial statements. At December 31, 2019, Vestcor managed approximately \$17 billion of pension plan assets which are included in the Province's financial statements.

5.40 Given the negative effect of the global pandemic on market values between December 31, 2019 and the Province's fiscal year-end date of March 31, 2020, obtaining support for the value of these pension plan assets at March 31, 2020 was especially necessary.

Vestcor Denied the Auditor General Unrestricted Access to Conduct Financial Audit Procedures

Vestcor denied the Auditor General unrestricted access to audit the value of pension plan assets

5.41 Vestcor denied the Auditor General unrestricted access to the external auditor's audit files supporting the value of pension plan assets managed by Vestcor. As a result, *the Province engaged an external audit firm to perform specific audit procedures on behalf of the Auditor General at a cost of approximately \$30,000*. This resulted in a delay in our audit of the Province's financial statements and the legislated deadline of September 30th was missed in 2020.

Vestcor cited confidentiality concerns if unrestricted access was granted to the Auditor General

5.42 Vestcor believed it was obligated to maintain confidentiality to clients whose assets are not included in the Province's financial statements. Vestcor's investment portfolio (Vestcor Investment Entities) includes investments for the Province's pension plans, as well as two other New Brunswick public sector entities. These two entities make up less than 4% (\$700 million) of the total \$18 billion in assets managed.

Vestcor was confused as to why the Auditor General needed access

5.43 In a letter dated July 27, 2020, Vestcor indicated it was confused by the Auditor General's request to perform audit procedures on the investment portfolio since the Province's financial statements did not explicitly refer to Vestcor's

investment portfolio. Vestcor believed the Auditor General would not need access to the files of the investment portfolio's external auditor.

5.44 In a draft letter dated July 30, 2020 Vestcor further indicated it has “*explicit confidentiality obligations to our [Vestcor] clients.*” Vestcor believed confidentiality may be breached if it granted the Auditor General unrestricted access to the external auditor's audit file of Vestcor Investment Entities. Vestcor's position presents a problem and serious concern to the Auditor General as this information is needed to meet audit requirements.

Restricted access offered with unacceptable conditions

5.45 We do note Vestcor eventually offered to provide the Auditor General *restricted* access to the external auditor audit file of Vestcor Investment Entities in the same draft letter dated July 30, 2020. This restricted access, however, had two conditions that were unacceptable to the Auditor General, as follows.

- Vestcor would not recognize the Auditor General had the authority to perform this work and Vestcor would not guarantee similar access would be granted to the Auditor General in the future. This was not acceptable because the Auditor General believed she has the authority for unrestricted access to this information.
- Vestcor restricted the Auditor General's ability to publicly comment on the investment portfolios. This was not acceptable because the Auditor General may want to report on any matters discovered during audits, as per section 17 of the *Auditor General Act*.

Section 2

Issues We Found When Legislators Reviewed New *Vestcor Act*

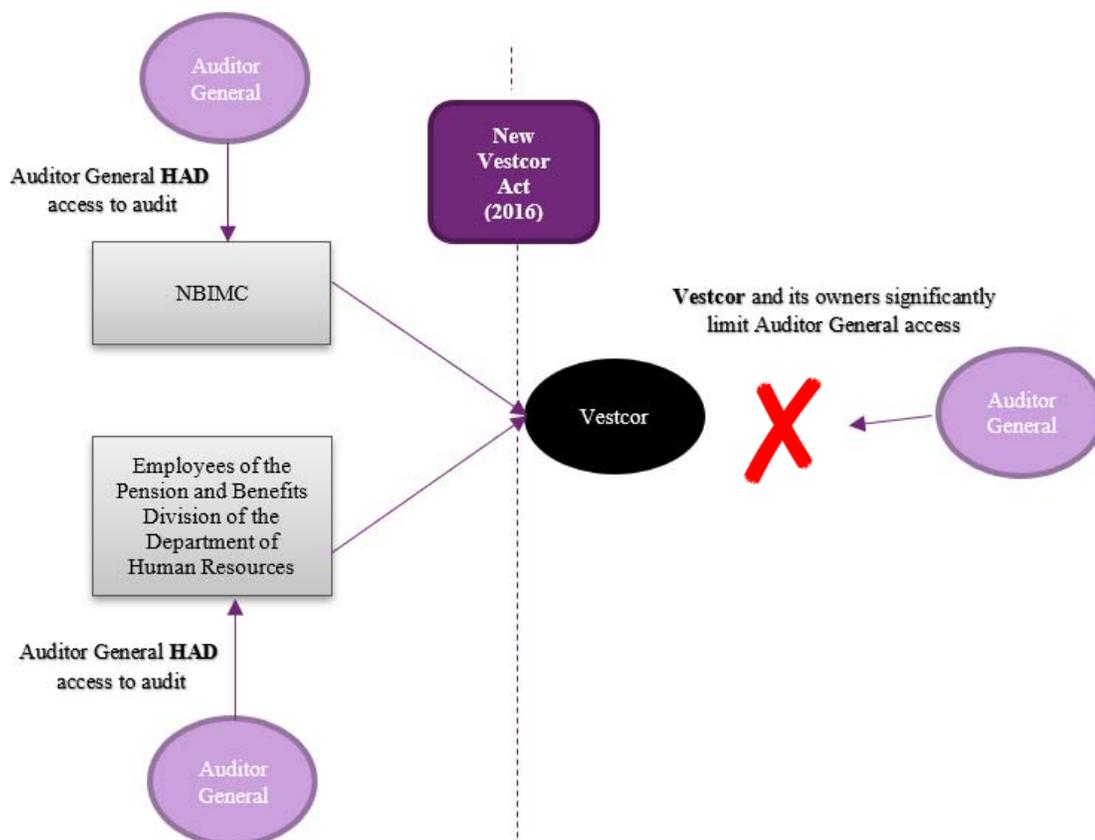
This section summarizes what was presented to Legislators **5.46** In this section, we present a summary of what NBIMC/Vestcor presented to the Legislative Assembly's Standing Committee on Private Bills (Legislators) when Vestcor was created in 2016.

Vestcor Act May Have had Unintended Consequences

Vestcor was created when NBIMC and parts of a government department were combined **5.47** Before the *Vestcor Act* was introduced, the Auditor General had complete access to audit both the *New Brunswick Investment Management Corporation* (NBIMC) and the Province's *Department of Human Resources* (DHR). Once the *Vestcor Act* received Royal Assent on July 8, 2016, NBIMC and the Pension and Benefits division of the DHR were combined to create Vestcor as a new, private entity, from a legal perspective. Once the *Vestcor Act* was passed, Vestcor and its owners significantly limited the Auditor General's access to audit.

The Vestcor Act may have had unintended consequences **5.48** Exhibit 5.4 shows the impact of the *Vestcor Act* and the possible unintended consequences of the Auditor General's access to audit Vestcor.

Exhibit 5.4 - Impact of Creating the Vestcor Act



Source: Prepared by AGNB. Refer to Exhibit 5.1 for the Vestcor Organization Chart

The Standing Committee on Private Bills reviewed the Vestcor Act

5.49 The Legislative Assembly's Standing Committee on Private Bills (Legislators) reviews private legislation (such as the *Vestcor Act*) before it receives Royal Assent. We reviewed the transcript of the Legislators' hearing held on May 3, 2016 where NBIMC, DHR and their representatives presented the proposed *Vestcor Act*. We found one of the reasons to create Vestcor was for the Boards of Trustees of the New Brunswick Public Service Pension Plan and the New Brunswick Teachers' Pension Plan to fulfil their fiduciary duties and take control of the two service providers, NBIMC and the Pension and Benefits division of the DHR. Refer to Appendix IV for an excerpt from the hearing with Legislators which describes this in further detail.

Legislators asked if the Auditor General was consulted about the proposals contained in the Vestcor bill

5.50 We found during our review of the transcript, Legislators asked if the Auditor General was consulted about the proposals contained in the Vestcor bill. NBIMC/Vestcor’s lawyer replied:

“No. We communicate with the Office of the Attorney General.”

In our view, the question the Legislators asked shows they had concerns about the Auditor General’s ability to access and audit Vestcor in the future. Had the Auditor General been consulted, we would have raised concerns and informed Legislators the proposed changes:

- could impact the ability of the Auditor General to conduct independent performance audits of Vestcor; and
- would impact the Legislative Assembly’s ability to provide independent and publicly accountable oversight of billions of dollars of public sector funds.

Inconsistent information was presented and three predictions were made to Legislators

5.51 We also found from our review of the transcript, NBIMC, DHR and their representatives presented inconsistent information and made three significant predictions to the Legislators. Exhibit 5.5 describes each of the three predictions along with our assessment on if the predictions were met.

Exhibit 5.5 - Summary of What NBIMC, DHR and their Representatives Told Legislators, as well as AGNB’s Assessment

What NBIMC, DHR and their Representatives Told Legislators	AGNB Assessment
Legislators were provided inconsistent information regarding Auditor General access.	Auditor General access has been significantly limited.
Legislators were told Vestcor would grow to include public sector clients outside of New Brunswick.	Vestcor has only added two clients, both based in New Brunswick, to its portfolio.
Legislators were told they would have indirect oversight of Vestcor.	Indirect oversight may not be possible through provincially appointed trustee members.

Source: Prepared by AGNB based on the May 3, 2016 Standing Committee transcript

Legislators were provided inconsistent information regarding Auditor General access

Legislators were told the Auditor General would still have access to Vestcor

5.52 Legislators raised concerns regarding how the *Vestcor Act* would impact the Auditor General's access to audit. We found Legislators were led to believe the Auditor General would continue to have access to audit Vestcor. Legislators were told by the CEO of NBIMC/Vestcor:

“It is important to point out that the pension plans are also responsible for reporting an oversight to the Superintendent of Pensions. The Superintendent of Pensions holds them to account with their performance, and obviously, their performance relies very heavily on the performance of their service companies. Obviously, as well, the Auditor General of the province has oversight to the pension plans and would have a line of sight down through to the operating companies [Vestcor] in a similar-type fashion.”

Legislators were also told by legal representatives of NBIMC/Vestcor:

“The extent to which the Auditor General has oversight over the pension plans, they still will.”

In our view, these statements imply the Auditor General would still have full access to audit Vestcor as was the case before with NBIMC and DHR.

On the other hand, Legislators were also told the Auditor General would not have access

5.53 We also found Legislators were presented with inconsistent information regarding the Auditor General's continued access to audit Vestcor. In one instance Legislators were informed by legal representatives of NBIMC/Vestcor:

“The extent to which the Auditor General has oversight over the pension plans, they still will.”

Then later in the hearing the legal representative stated:

“However, the Auditor General has no audit oversight of any third-party service provider, including where Vestcor would be.”

Auditor General's role is not to provide oversight

5.54 We are uncertain of the meaning of “oversight” referred to in the statements in paragraphs 5.52 and 5.53 pertaining to the Auditor General. The role of the Auditor General is not to provide oversight. The Auditor General’s role is to provide objective, timely and reliable information to the Legislative Assembly on government’s and Crown agencies performance. *The Legislative Assembly*, through the Public Accounts Committee, *is responsible to hold government to account through independent and publicly accountable oversight.*

Legislators were told Vestcor would grow to include public sector clients outside of New Brunswick

Vestcor's client base has not grown to the extent presented in the hearing

5.55 *Vestcor's client base has not grown to the extent presented to Legislators.* Since 2016, Vestcor has attracted only two new clients to its client base. One of these clients is a Province of New Brunswick pension plan. The other new client is a pension plan for a municipality in New Brunswick which accounts for less than 2% of Vestcor’s total assets managed.

Potential growth was one of the main arguments for creating Vestcor

5.56 In our view, potential growth outside New Brunswick was one of the main arguments Vestcor and its representatives used to convince Legislators that Vestcor needed to be a private entity (from a legal perspective). Committee members were very interested in the potential growth of Vestcor.

5.57 Exhibit 5.6, shows excerpts from the hearing with Legislators.

Exhibit 5.6 - Excerpts from the Transcript of the May 3, 2016 Standing Committee Hearing on Private Bills

<p>One trustee plan observer* stated: <i>“We believe that we will set up a centre of excellence that other places in this country will look at with favour. We hope to draw other pension plans to make us even more cost effective than we already are.”</i></p>
<p>The CEO stated: <i>“Speaking from the investment management corporation’s perspective, we have been approached by other public sector entities outside of those that we have traditionally managed money for. They are now familiar with our successful track record and the cost efficiencies, and they have asked us whether we could manage money for them.”</i></p>
<p>The CEO further stated: <i>“We have had some preliminary discussions with some fairly big public sector pools of money, even outside the province.”</i></p>
<p>A Legislator stated: <i>“It is exciting to see this happening and the opportunity that it can present to grow the business as a niche opportunity for New Brunswick.”</i></p>

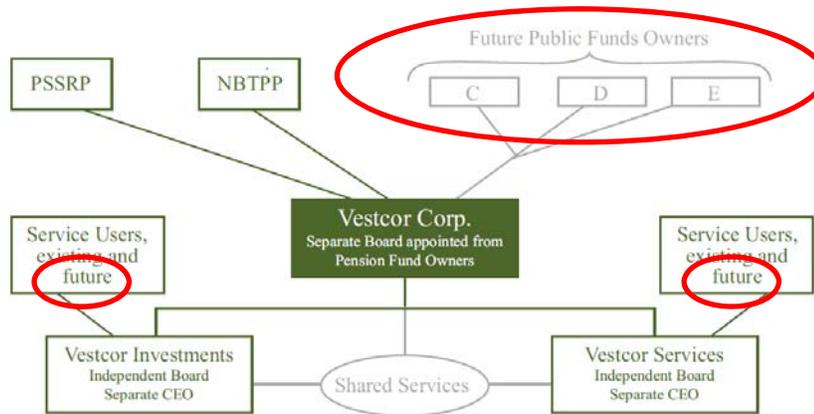
Source: Prepared by AGNB from the transcript of the May 3, 2016 Standing Committee hearing on Private Bills

* Observers have the right to attend meetings of the Board of Trustees, but do not have voting powers. The New Brunswick Teachers’ Federation has appointed two observers to the Board of Trustees for the Teachers’ Plan.³

Plans to grow existed in 2016 **5.58** In our review of the 2016 NBIMC annual report, we noted the structure for Vestcor included plans for other public funds to be added. Exhibit 5.7 shows the planned structure of Vestcor when it was created in 2016.

³ New Brunswick Teachers’ Pension Plan, 2019 Annual Report Page 6.

Exhibit 5.7 - Planned Vestcor Organization Structure



Source: NBIMC 2016 Annual Report, with edits by AGNB

Plans to grow still existed in 2019

5.59 In our review of Vestcor’s five year strategic plan (2019 - 2024), we noted one of Vestcor’s strategic priorities is to “...prudently grow by attracting additional public sector clients in New Brunswick and Atlantic Canada who will provide additional economies of scale and are well aligned with Vestcor’s investment model and administrative capabilities.”⁴

An audit by the Auditor General could verify what steps Vestcor is taking to grow its public sector client base

5.60 Since Vestcor has not grown its public sector client base outside of New Brunswick, **an audit by the Auditor General could verify and publicly report on what steps Vestcor is taking to grow its public sector client base.**

⁴ Vestcor Strategic Plan 2019 to 2024, Page 5

Legislators were told they would have indirect oversight of Vestcor

Legislators had concerns about how Vestcor would be held to account

5.61 Legislators raised concerns Vestcor would no longer be held to account by the Legislative Assembly if Vestcor was created as a private entity (from a legal perspective). Exhibit 5.8 shows excerpts from the hearing where Legislators raised these concerns along with Vestcor's responses.

Exhibit 5.8 - Excerpts from the Transcript of the May 3, 2016 Standing Committee Hearing on Private Bills

A Legislator stated: *"That is all gone [accountability and transparency to the Public Accounts Committee]. It is erased in this model, and that gives me great concern."*

The lawyer for NBIMC/Vestcor stated: *"Ultimately, the control and responsibility is with the two trustee boards [NBPSPP and NBTPP] that have a duty to all their members, whether they are represented on the board or not."*

A Legislator further stated: *"I remain concerned that the accountability and transparency that exists within the current system because of the reporting requirements to the Legislature through the public accounts committee and the Crown corporations committee is being lost in this process."*

"...I remain concerned about the adoption of this bill."

A Legislator further stated: *"...our job is to hold people accountable and ask the right questions. Would it be safe to say that this potentially could be the last time that any of us in this room would have an opportunity to discuss these items and question the goings-on of the business?"*

The lawyer for NBIMC/Vestcor replied: *"That is correct, as far as the actual corporate operations go. I think that the House still has oversight in part..."*

"...it would be well within your purview to say to [question] your representatives on the trustee board...The province's interest is in terms of being the employer contributing to the plan. It still will have a role in that respect, but it is through its appointees on the trustee board. The trustee board [NBPSPP and NBTPP] controls this organization."

The lawyer for NBIMC/Vestcor stated: *"...the accountability, while it is not necessarily directly to this House, is to an organization..."*

"This House has a multitude of statutes to administer and bodies to check up on. The advantage here is that the accountability is to a board that exists for one purpose. That is to manage that pension trust in the best interests of its members. It is not going to be sidetracked by other demands and other issues... I would fully expect that, if the

organization is not being operated in a way that benefits its members, the lever is actually much stronger or at least more direct because of that focused purpose that the trustee board has.”

The trustee plan observer* stated: *“Vestcor Corp. has to report back to the pension plans. Both pension plans [NBPSPP and NBTPP] have a responsibility to report to their members. I think, if anything, you are going to see . . . With so many layers, there is going to be more scrutiny.”*

Source: Prepared by AGNB from the transcript of the May 3, 2016 Standing Committee hearing on Private Bills

* Observers have the right to attend meetings of the Board of Trustees, but do not have voting powers. The New Brunswick Teachers' Federation have appointed two observers to the Board of Trustees for the Teachers' Plan.⁵

5.62 As shown in Exhibit 5.8, Legislators were told the following regarding oversight of Vestcor.

- The Legislative Assembly would no longer be able to directly provide oversight of Vestcor, as Vestcor would no longer appear before the Legislative Assembly.
- The Legislative Assembly could still raise concerns regarding Vestcor. Those concerns would be raised, however, with the members of the Boards of Trustees the Province has appointed, and not directly with Vestcor.
- The Boards of Trustees of the Public Sector and Teachers' plans would be responsible to provide oversight and, as a result, Vestcor would be subject to increased scrutiny more often than the Legislative Assembly could provide.

Legislative Assembly could still provide oversight

5.63 Even though Legislators were told Vestcor would no longer appear before the Legislative Assembly, other avenues exist by which Vestcor could still appear. The Public Accounts Committee (PAC) could include Vestcor as one of the entities who are regularly called to appear before it. For example, in the past PAC called other entities or witnesses outside of the government reporting entity, such as the City of Saint John. Calling Vestcor to appear before

⁵ New Brunswick Teachers' Pension Plan, 2019 Annual Report Page 6.

PAC would allow the Legislative Assembly to provide oversight of the billions of dollars of public sector funds managed by Vestcor.

Vestcor Act should be amended

5.64 Although PAC could invite Vestcor to appear before it, Vestcor may decline on the basis it may not be legally required to appear. Amending the *Vestcor Act* would require Vestcor to:

- file an annual report with the Clerk of the Legislative Assembly; and
- appear before PAC.

Some oversight processes appear to contradict what Legislators were told

5.65 Even though Legislators were told the Province would have some oversight through its appointed members to the Boards, we found this may not be the case. We met with the Chair of the Board of Trustees of the Public Service Pension Plan to understand some of the processes in place to provide oversight of Vestcor. We were informed provincially appointed members of the Boards do not represent the interests of the Province when providing oversight. Instead, as mentioned in paragraph 5.16, the Boards manage the plans in the best interest of both active and retired members. We were also informed these provincially appointed members do not report to the Province with respect to oversight of Vestcor. *In our view, this appears to contradict what Legislators were told regarding the Province's ability to question their appointed representatives on the Boards of Trustees regarding Vestcor.*

Some oversight provided by the Boards of Trustees

5.66 In our interview, the Chair of the Public Service plan indicated processes are in place for the Boards of Trustees to provide oversight of Vestcor. The Chair provided the following oversight examples.

- The Boards meet quarterly with Vestcor to review key performance indicators such as administrative costs, investment rates of return and quality of service.
- The Boards monitor how Vestcor performs compared to similar entities in other jurisdictions.
- The Boards review the investment policy annually.

Other entities provide some oversight

5.67 During our work, we were informed other entities provide specific oversight of Vestcor. We were provided with the following examples of this specific oversight.

- The Boards are required to file information with the pension division of the Financial and Consumer

Services Commission (FCNB) and the Canada Revenue Agency (CRA).

- Vestcor is subject to the *Securities Act* and is overseen by the securities division of FCNB.
- Vestcor's pension clients are subject to oversight under the *Pension and Benefits Act* by the Superintendent of Pensions of FCNB.

This oversight is missing public accountability by the Legislative Assembly

5.68 In our view, however, any oversight provided by the Boards, FCNB and CRA lacks a critical element as Vestcor is *not being questioned or held to account publicly by the Legislative Assembly for how it manages over \$18 billion in public sector funds*.

We found Vestcor is publicly accountable through information published online, but can chose which information it reports

5.69 We also found Vestcor is publicly accountable through the information it publishes online. We found, however, this public accountability lacks objectivity as *Vestcor may choose what it reports publicly for how it manages over \$18 billion in public sector funds*. We found:

- Vestcor makes its annual report available to its stakeholders;
- Vestcor publishes its audited financial statements on its website; and
- Vestcor publishes audited financial statements and annual reports for some of the pension plans in its portfolio on Vestcor's website (e.g. The New Brunswick Public Service Pension Plan and the New Brunswick Teachers' Pension Plan).

Section 3

Potential Audit Areas We Identified from Reviewing Vestcor's Annual Reports

This section shows why the Auditor General should have access to conduct performance audits at Vestcor

5.70 In this section, we show some examples of why the Auditor General should have access to conduct performance audits at Vestcor. We are only able to provide examples we noted when reviewing Vestcor's annual reports. Some of these examples include, but are not limited to the following items.

- Are benchmarks, cost savings, value added by Vestcor and other performance targets reasonable?
- Are incentive (bonus) payments reasonable?
- Are incentive targets reasonable?
- Is providing incentives to all employees reasonable?
- Should Vestcor disclose more compensation details?
- Are Vestcor's operating expenses reasonable?

In our view, the Auditor General should have unrestricted access to audit Vestcor's performance in managing over \$18 billion in New Brunswick public sector funds

5.71 In our view, the Auditor General should have unrestricted access to audit Vestcor's performance in managing over \$18 billion in New Brunswick public sector funds. For example, the Auditor General could verify the accuracy of how benchmarks are calculated and if conclusions reached are reasonable. The Auditor General could also publicly comment on other items Vestcor may not include in its annual reports.

An audit by the Auditor General could determine if information presented in Vestcor's annual reports is reasonable

5.72 **An audit by the Auditor General could determine and publicly report on information presented in Vestcor's annual report including if:**

- benchmarks are reasonable and calculated appropriately;
- benchmarks selected to measure performance are valid and appropriate;
- Vestcor's statements such as cost savings it offers its clients are accurate;
- the value added through active management strategies is reasonable and calculated appropriately; and
- other targets are reasonable and not set at a level where target achievement is likely.

Employee Incentives Have Steadily Increased

Vestcor employee incentives have increased since 2010

5.73 From our review of Vestcor's annual reports, we note Vestcor publishes information regarding its compensation practices including the amount of incentives (bonuses) paid to some employees. We noted the incentive amounts paid to employees have been steadily increasing since 2010. We also noted salaries for senior executives have increased minimally since 2014 while incentives for these senior executives have increased significantly (refer to Exhibits 5.9 to 5.12 for details).

Employee incentives have increased by almost 500% since 2010

NBIMC/Vestcor have paid over \$30 million in employee incentives since 2010

5.74 NBIMC/Vestcor have paid over \$30 million in incentives to its employees since 2010. During this time, annual employee incentive payments have increased from less than \$1 million in 2010 to over \$5 million in 2019, an increase of almost 500%.

An audit by the Auditor General could determine and publicly report on if it is reasonable employee incentive payments have increased by almost 500% since 2010.

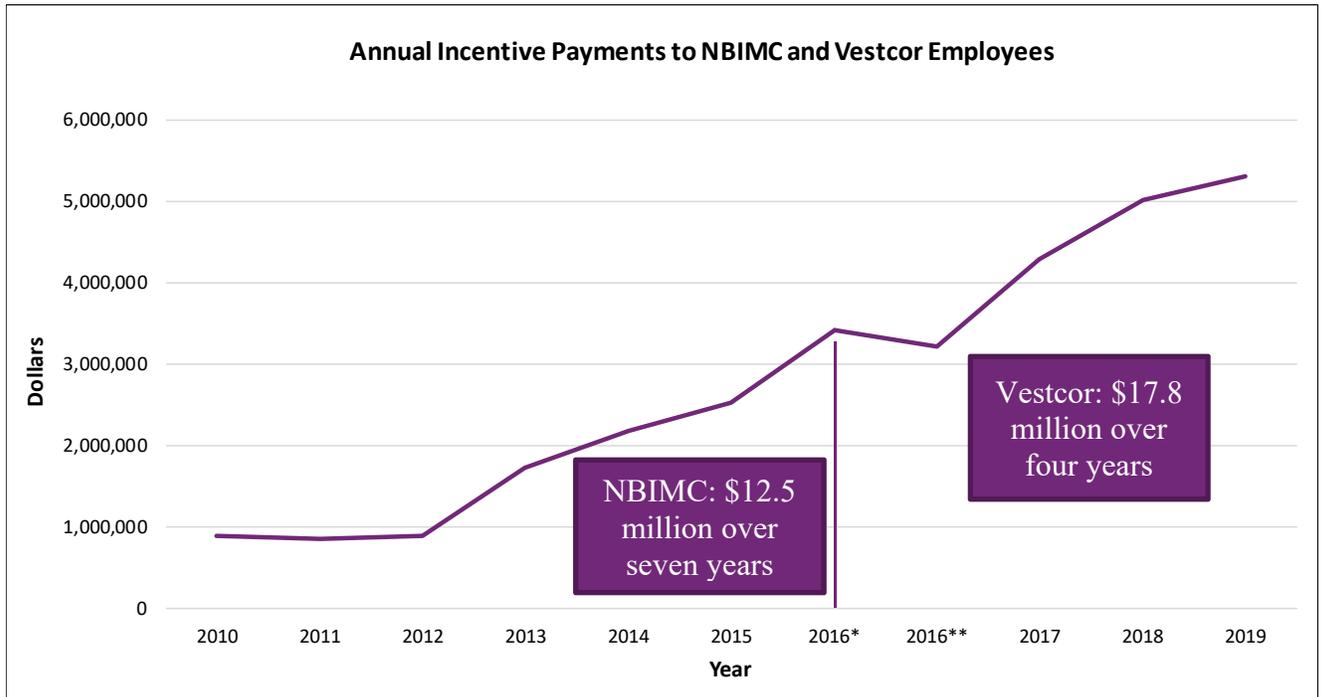
Incentives have significantly increased since Vestcor was created

5.75 Exhibit 5.9 shows total annual employee incentive payments to NBIMC/Vestcor employees since 2010. Exhibit 5.9 also shows employee incentives have significantly increased since Vestcor was created in 2016.

- In the *seven years between 2010 and 2016, NBIMC paid a total of \$12.5 million in incentives* to its employees.
- In the *four years since Vestcor was created, it has paid \$17.8 million in incentives* to its employees.

Refer to Appendix VI for detailed employee incentive information.

Exhibit 5.9 - Annual Incentive Payments to NBIMC and Vestcor Employees
(unaudited)



Source: Prepared by AGNB using NBIMC and Vestcor annual reports - refer to Appendix VI for supporting information.

* Year-ended March 31, 2016

** Nine months ended December 31, 2016

Five executives of NBIMC/Vestcor have received millions of dollars in incentives

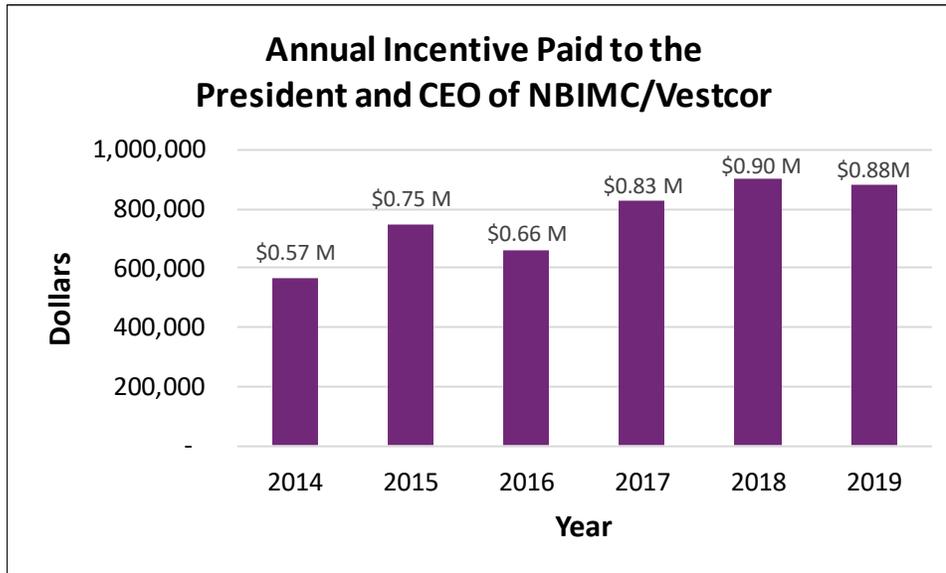
5.76 Vestcor executives receive a significant amount of the total incentives paid each year. In our review of NBIMC's and Vestcor's annual reports, we found NBIMC/Vestcor began disclosing annual incentive payments for five of its executives in 2014. *For the six years between 2014 and 2019*, we found:

- *the President and CEO of NBIMC/Vestcor has received \$4.6 million in incentives; and*
- *four other NBIMC/Vestcor executives have received approximately \$7.2 million in incentives combined.*

NBIMC/Vestcor has paid \$4.6 million in incentives to its President and CEO over the past six years

5.77 Exhibit 5.10 shows the total incentives paid to the President and CEO over the past six years. Refer to Appendix V for detailed information.

Exhibit 5.10 - Annual Incentive Paid to the President and CEO of NBIMC/Vestcor (unaudited)

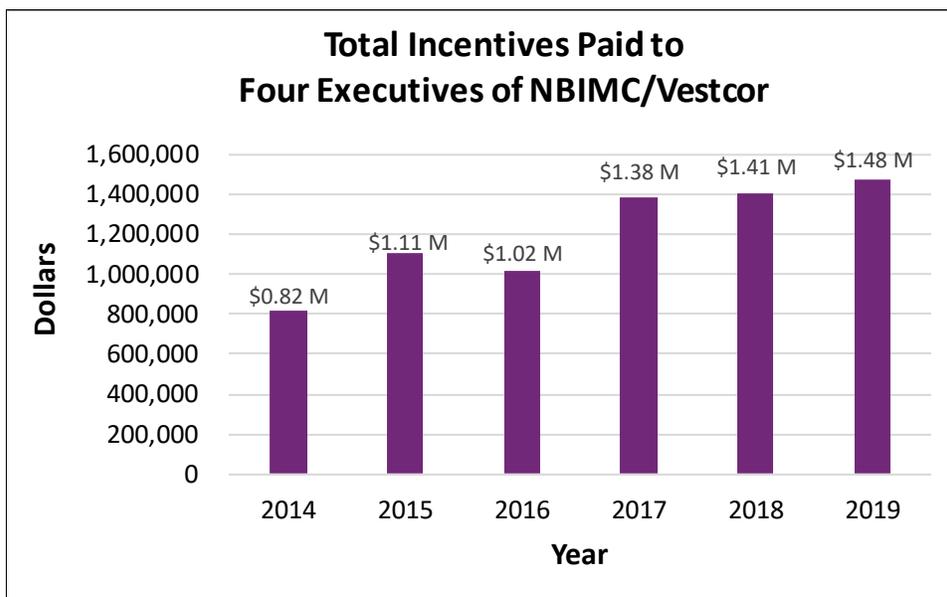


Source: Prepared by AGNB using NBIMC and Vestcor annual reports - refer to Appendix V for supporting information.

NBIMC/Vestcor paid a total of \$7.2 million in incentives to four other executives over the past six years

5.78 Exhibit 5.11 shows the incentives paid to four executives over the past six years. Refer to Appendix V for detailed information.

Exhibit 5.11 - Total Incentives Paid to Four Executives of NBIMC/Vestcor (unaudited)



Source: Prepared by AGNB using NBIMC and Vestcor annual reports – refer to Appendix V for supporting information

Why Vestcor pays employee incentives

5.79 According to its annual reports, Vestcor operates in an industry (managing investments and administering pensions) where employee pay is often an annual salary plus an incentive tied to company performance. Vestcor offers a similar salary and incentive structure to attract and retain qualified employees to manage its investment portfolios. Incentives are partly based on achieving targets approved by Vestcor's Boards of Directors. We also found Vestcor provides several pages of commentary in its annual reports regarding how it meets investment performance targets and how employee incentives are dependant upon investment performance.

An audit by the Auditor General could determine if Vestcor's incentive targets are reasonable

5.80 **An audit by the Auditor General could determine and publicly report on how incentive targets are set and if they are reasonable.**

Why did Vestcor expand its incentive program to include all employees?

5.81 The incentive program at Vestcor was expanded on January 1, 2018 to include all permanent, full time employees. In our view, *this may cause employee incentive payments to continue to increase in the future*. Before this change, incentives were only offered to the President and

CEO, the Chief Financial Officer and research and investment staff.

An audit by the Auditor General could determine if it is reasonable for Vestcor to pay incentives to all employees

5.82 An audit by the Auditor General could determine and publicly report on the reasonableness and financial implications of including all employees in Vestcor’s incentive program.

For example, incentives for some employees are calculated based on investment performance targets and individual achievement, while other employee incentives are based only on individual achievement.

Salaries and incentives paid to five executives were almost \$19 million over six years

Five executives of NBIMC/Vestcor have received almost \$19 million in salary and incentives over six years (2014 – 2019)

5.83 For the six years between 2014 and 2019, we found **five executives of NBIMC/Vestcor have received almost \$19 million in salary and incentives**. In our review of NBIMC/Vestcor annual reports, we found NBIMC/Vestcor began disclosing annual salary payments for five of its executives in 2014.

5.84 Exhibit 5.12 shows total salary and incentives for the top four executives and the Chief Financial Officer (CFO) between 2014 and 2019. Refer to Appendix V for detailed information.

Exhibit 5.12 - Total Salary and Incentives – Top Four Executives and CFO (unaudited)



Source: Prepared by AGNB using NBIMC and Vestcor annual reports

An audit by the Auditor General could publicly report on the reasonableness of compensation information disclosed in Vestcor's annual report

5.85 Given the public nature of Vestcor, we believe Vestcor should publish employee salaries greater than \$100,000 (not just the top four executives and the CFO) to increase transparency and accountability. **An audit by the Auditor General could publicly report on the reasonableness of compensation information disclosed in Vestcor's annual report.**

Operating and capital expenses are not subject to public scrutiny and accountability

Vestcor recorded \$30 million in operating expenses in 2019

5.86 Vestcor recorded operating expenses of approximately \$30 million (including salaries and incentives) in 2019. These expenses are used to provide services to its clients for items such as managing investments and providing pension benefits. In our view, given Vestcor's focus on providing services to the public sector, ***Vestcor's operating and capital expenses should be subject to publicly accountable oversight.*** For example, does Vestcor ensure value-for-money is considered when making capital investments such as buildings for office space.

5.87 Exhibit 5.13 shows the summary of Vestcor's operating expenses for the past three years.

Exhibit 5.13 - Summary of Vestcor's Operating Expenses

Summary of Vestcor's Operating Expenses (\$ millions)

	2019	2018	2017
Salaries and benefits	18.5	17.6	16.3
Information systems	4.5	4.0	4.3
External investment management	3.4	3.0	2.8
Securities custody	1.4	1.5	1.3
Office and business	1.3	1.2	1.1
Professional services	0.5	0.6	0.6
Office rent	0.6	0.7	0.7
Amortization of capital assets	0.2	0.3	0.2
Total Operating Expenses	30.4	28.9	27.3

Source: Prepared by AGNB using Vestcor annual reports

An audit by the Auditor General could determine if Vestcor's operating and capital expenses are reasonable

5.88 *An audit by the Auditor General could determine and publicly report on the reasonableness of Vestcor's operating and capital expenses.*

Appendix I – Proposed Wording Changes to the *Auditor General Act*

Exhibit I.1 shows the wording as it currently exists in the *Auditor General Act* and the proposed wording change to allow for Vestcor to be explicitly included in the *Auditor General Act*.

Exhibit I.1 – Proposed Changes to the Auditor General Act

Existing Wording	Proposed Wording
<p>“auditable entity” means</p> <ul style="list-style-type: none"> (a) a department, (b) a public entity, (c) a trust fund, (d) a service provider, or (e) a funding recipient. 	<p>“auditable entity” means</p> <ul style="list-style-type: none"> (a) a department, (b) a public entity, (c) a trust fund, (d) a service provider, (e) a funding recipient, or (f) any entity designated as an auditable entity under the regulations.
<p>Regulations</p> <p>22 The Lieutenant-Governor in Council may make regulations</p> <p>(a) defining any word or expression used in but not defined in this Act for the purposes of this Act, the regulations or both;</p> <p>(b) respecting any other matter that the Lieutenant-Governor in Council considers necessary or advisable to carry out effectively the intent of this Act.</p>	<p>Regulations</p> <p>22 The Lieutenant-Governor in Council may make regulations</p> <p>(a) defining any word or expression used in but not defined in this Act for the purposes of this Act, the regulations or both;</p> <p>(b) designating an entity as an auditable entity for the purposes of this Act;</p> <p>(c) respecting any other matter that the Lieutenant-Governor in Council considers necessary or advisable to carry out effectively the intent of this Act.</p>

Source: Prepared by AGNB

Appendix II – Summary of Correspondence

Exhibit II.1 summarizes the correspondence between the Auditor General (AGNB) and Vestcor from August 2019 to August 2020 for our oversight and salaries and benefits work and our Province of New Brunswick audit work.

Exhibit II.1 – Summary of Correspondence between AGNB and Vestcor

Oversight and Salary and Benefit Requests			
Date	From	To	Description of Request
8/9/2019	AGNB	Vestcor	Audit introduction and request for preliminary information regarding how the Province provides oversight, direction and guidance to Vestcor.
8/26/2019	Vestcor	AGNB	The response stated Vestcor is non-public in nature and referenced parts of the <i>Vestcor Act</i> , which Vestcor stated does not provide any authority for the Province to provide oversight of Vestcor.
11/14/2019	AGNB	Vestcor	AGNB states Vestcor is a significantly funded public recipient and is subject to audit. AGNB requested Vestcor provide certain policy information and respond to an attached survey by December 13, 2019.
11/25/2019	Vestcor	AGNB	Vestcor responded by stating, it believes it does not fall under the definition “auditable entity” under the <i>Auditor General Act</i> and that any audit of Vestcor as an “auditable entity” would be restricted pursuant to s. 9.1(3) of the Act.
12/11/2019	AGNB	Vestcor	AGNB stated the same disclosure is required by Vestcor as by its predecessors and, therefore, answers to the survey were required by January 6, 2020. AGNB emphasized Vestcor manages a significant portfolio on behalf of the Province, Vestcor is a “service provider” under the <i>Auditor General Act</i> and is thereby subject to audit.
12/31/2019	NBPSPP*	AGNB	NBPSPP indicated they have advised Vestcor to refrain from responding to the request, enclosing a legal memorandum stating Vestcor is not a “public entity” or “funding recipient”, but conceding that it <i>may</i> be a “service provider” subject to performance audit.
12/31/2019	NBTPP**	AGNB	NBTPP indicated they have advised Vestcor to refrain from responding to the request, enclosing a legal memorandum stating Vestcor

			is not a “public entity” or “funding recipient”, but conceding that it <i>may</i> be a “service provider” subject to performance audit.
2/27/2020	AGNB	NBPSPP and NBTPP	AGNB requested NBPSPP and NBTPP instruct Vestcor to allow access to its records and reply to the survey by March 20, 2020.
4/21/2020	NBPSPP	AGNB	NBPSPP informed AGNB their Boards of Trustees decline the AGNB request, stating they do not believe the Auditor General has the authority to conduct such work.
5/31/2020	NBTPP	AGNB	Teachers’ Board of Trustees informed that NBTPP informed AGNB their Boards of Trustees decline the AGNB request, stating they do not believe the Auditor General has the authority to conduct such work.
Financial Audit Requests			
Date	From	To	Description of Request
2/11/2020	AGNB	External Audit Firm	AGNB sets out instructions and procedures the external, independent audit firm is required to perform in relation to the financial statements of NBTPP and requests completion of the Planning Clearance Summary (Appendix A to the letter) by March 2, 2020.
4/27/2020	AGNB	External Audit Firm	AGNB sets out instructions and procedures the external, independent audit firm is required to perform in relation to the financial statements of NBPSPP and requests completion of the Planning Clearance Summary (Appendix A to the letter) by April 30, 2020.
5/25/2020	AGNB	NBTPP	AGNB advised it requires access to the Plan’s investment audit report (prepared by an independent auditor) and requested the Board of Trustees ask for the full cooperation of Vestcor and the independent auditor. AGNB stated it has authority to access this information pursuant to sections 11 and 13 of the <i>Auditor General Act</i> in order to complete the Province’s consolidated financial statements.
5/25/2020	AGNB	NBPSPP	AGNB advised it requires access to the Plan’s investment audit report and audited financial statements (prepared by an independent auditor) and requested the Board of Trustees ask Vestcor and the independent auditor to fully cooperate with AGNB. AGNB stated it has authority to obtain this information pursuant to sections 11 and 13 of the <i>Auditor General Act</i> in order to

			fulfill its mandate and complete the Province's consolidated financial statements.
7/22/2020	AGNB	Vestcor	AGNB advised that it is mandated by legislation to express an audit opinion on the fair presentation of the financial statements of the Province and, therefore, will contact Vestcor's independent auditor for financial statements of Vestcor Investment Entities, citing sections 11 and 13 of the <i>Auditor General Act</i> as authority to do so.
7/22/2020	AGNB	External Audit Firm	AGNB sets out instructions and procedures the independent auditor is required to perform. Completion of the Planning Clearance Summary is requested by July 31, 2020.
7/22/2020	AGNB	External Audit Firm	AGNB requests the independent auditor's work papers in connection with the audit of Vestcor Investment Entities and explains the Auditor General's authority under section 9 of the <i>Auditor General Act</i> .
7/27/2020	Vestcor	AGNB	Vestcor expressed confusion over the request to rely on Vestcor Investment Entities audited financial statements. Vestcor stated it is not fully familiar with Canadian Auditing Standards and that it is asking its independent auditor to contact AGNB to confirm whether reliance on the Vestcor Investment Entities financial statements is required.
7/30/2020	Vestcor	AGNB	Draft letter, for discussion purposes only, wherein Vestcor proposed certain terms and conditions upon granting authorization to its independent auditor to provide the information requested from AGNB.
8/17/2020	External Audit Firm	AGNB	Independent auditor stated it does not believe AGNB requires Vestcor Investment Entities financial statements to satisfy current audit standards.

Source: Prepared by AGNB

* Board of Trustees of the New Brunswick Public Service Pension Plan

** Board of Trustees of the New Brunswick Teachers' Pension Plan

Appendix III – Summary of Vestcor Assets Managed

Exhibit III.1 summarizes the assets managed by Vestcor at December 31, 2019.

Exhibit III.1 – Summary of Assets Managed by Vestcor

Summary of Assets Managed by Vestcor as at December 31, 2019 (\$ millions)

Assets Managed	Amount (\$ millions)	Does the Province have a Direct Agreement with Vestcor?
Assets Managed - Province of New Brunswick Related		
New Brunswick Public Service Pension Plan	8,333.9	No
New Brunswick Teachers' Pension Plan	6,266.3	No
Shared Risk Plan for Certain Bargaining Employees of New Brunswick Hospitals	2,395.0	No
Provincial Court Judges' Pension Plan	54.8	Yes
Management Employees of New Brunswick School Districts Pension Plan	2.5	Yes
New Brunswick Power Corporation Point Lepreau Decommissioning Fund	396.2	N/A Not a pension plan
New Brunswick Power Corporation Point Lepreau Used Fuel Management Fund	221.0	N/A Not a pension plan
New Brunswick Power Corporation Nuclear Fuel Waste Trust	182.9	N/A Not a pension plan
Total - Province of New Brunswick Related	\$17,852.6	
Assets Managed – Other Public Sector Funds		
Shared Risk Plan for Academic Employees of University of New Brunswick	395.4	N/A
Shared Risk Plan for City of Fredericton	230.1	N/A
University of New Brunswick Endowment Fund	58.6	N/A
Total – Other Public Sector Funds	\$684.1	
Total Assets Under Management	\$18,536.7	

Source: Prepared by AGNB

Appendix IV – Excerpt of the Transcript of the May 3, 2016 Standing Committee Hearing on Private Bills

Exhibit IV.1 shows what was presented to Legislators regarding the Boards of Trustees of the New Brunswick Public Service Pension Plan and the New Brunswick Teachers' Pension Plan fulfilling their fiduciary duties and taking control of the two service providers.

Exhibit IV.1 – Excerpt of the Transcript of the May 3, 2016 Standing Committee Hearing on Private Bills

The trustee plan observer* stated: “How did we get here? A couple of years ago, the teachers’ pension plan, public service plan, and some others became joint trustees. The government named half of the trustees, and the members named half of the trustees. Since that time, the trustees have been solely responsible for the policies of investments and also the service expectations.

Public service and teachers’ pensions trustees began talking, doing their due diligence, and living up to their fiduciary responsibilities about a year ago of taking more of an ownership role with our two main service providers, which are the New Brunswick Investment Management Corporation and the Pensions and Employee Benefits Division. The trustees determined that since representatives of these two service groups were meeting with us at every one of our meetings and indeed taking their direction from us, it was the next logical step to take further control of those two service groups. That is why we are here before you today.

This bill will set up an organization that we believe will ensure, going forward, that the funds are in good hands, administered well, and invested well in a cost-effective manner. We believe that we will set up a centre of excellence that other places in this country will look at with favour. We hope to draw other pension plans to make us even more cost effective than we already are. We plan to continue to serve our members in the best possible way.”

Source: Prepared by AGNB from the transcript of the May 3, 2016 Standing Committee hearing on Private Bills

* Observers have the right to attend meetings of the Board of Trustees, but do not have voting powers. The New Brunswick Teachers’ Federation has appointed two observers to the Board of Trustees for the Teachers’ Plan.⁶

⁶ New Brunswick Teachers’ Pension Plan, 2019 Annual Report Page 6.

Appendix V – Summary of Vestcor Salary and Incentive Payments (Top Four Executives and Chief Financial Officer)

Exhibit IV.1 summarizes the annual salary and incentive payments made to Vestcor executives between 2014 and 2019.

Exhibit IV.1 – Summary of Annual Salary and Incentive Payments to Vestcor Executives

Summary of Vestcor Salary and Incentive Payments Top Four Executives and CFO (\$ dollars)

Position	Year	Salary	Annual Incentive (Bonus)	Long Term Incentive (Bonus)	Total Incentive (Bonus)	Total Salary and Incentive (Bonus)
President and CEO	2019	375,047	432,721	450,000	882,721	1,257,768
	2018	351,389	452,438	450,000	902,438	1,253,827
	2017	327,779	334,335	491,669	826,004	1,153,783
	2016	327,779	238,831	421,396	660,227	988,006
	2015	327,779	308,624	440,048	748,672	1,076,451
	2014	327,779	258,707	307,012	565,719	893,498
Chief Investment Officer	2019	255,008	230,518	280,500	511,018	766,026
	2018	245,829	197,128	269,500	466,628	712,457
	2017	233,750	201,076	232,750	433,826	667,576
	2016	208,923	121,088	169,701	290,789	499,712
	2015	175,133	113,602	140,964	254,566	429,699
	2014	155,250	101,783	98,348	200,131	355,381
Vice President – Fixed Income	2019	240,008	147,263	216,000	363,263	603,271
	2018	230,000	121,891	207,000	328,891	558,891
	2017	225,000	145,515	202,500	348,015	573,015
	2016	218,769	114,959	169,701	284,660	503,429
	2015	213,808	150,363	173,184	323,547	537,355
	2014	202,000	120,026	118,017	238,043	440,043

Vice President – Equities	2019	223,035	142,723	200,700	343,423	566,458
Vice President – Private Markets	2018	214,000	173,276	171,200	344,476	558,476
	2017	207,000	173,259	165,600	338,859	545,859
	2016	201,023	100,284	138,846	239,130	440,153
	2015	195,491	155,524	140,695	296,219	491,710
	2014	188,500	106,690	96,047	202,737	391,237
Chief Financial Officer	2019	228,510	122,509	137,088	259,597	488,107
	2018	224,000	131,680	134,400	266,080	490,080
	2017	220,000	132,000	132,000	264,000	484,000
	2016	213,769	93,748	110,563	204,311	418,080
	2015	208,808	118,832	112,771	231,603	440,411
	2014	200,743	99,691	76,805	176,496	377,239

Source: Prepared by AGNB

Appendix VI – Summary of Total Annual Incentive Payments

Exhibit V.1 summarizes the total annual incentive payments made by the New Brunswick Investment Management Corporation (NBIMC) and Vestcor between 2010 and 2019.

Exhibit V.1 – Summary of Total Annual Incentive Payments

Summary of Total Annual Incentive Payments (\$ dollars)

Entity	Year Ended	Total Incentive Amount
NBIMC*	2010	906,052
NBIMC	2011	865,854
NBIMC	2012	906,000
NBIMC	2013	1,728,800
NBIMC	2014	2,194,600
NBIMC	2015	2,524,500
NBIMC	2016	3,411,900
Total NBIMC		12,537,706
Vestcor**	2016***	3,218,800
Vestcor	2017	4,299,800
Vestcor	2018****	5,011,800
Vestcor	2019	5,300,900
Total Vestcor		17,831,300
Total NBIMC and Vestcor		\$30,369,006

Source: Prepared by AGNB

*NBIMC for the year-ended March 31

** Vestcor for the year-ended December 31

***Nine months ended December 31, 2016

**** Incentive program extended to all employees on January 1, 2018