



**HOUSE OF COMMONS
CANADA**

STRENGTHENING THE EMPLOYMENT INSURANCE PREMIUM RATE-SETTING PROCESS

**Report of the Standing Committee on
Human Resources, Social Development and the
Status of Persons with Disabilities**

**Dean Allison, MP
Chair**

JUNE 2008

39th PARLIAMENT, 2nd SESSION

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THE STANDING COMMITTEE ON HUMAN RESOURCES, SOCIAL DEVELOPMENT AND THE STATUS OF PERSONS WITH DISABILITIES

has the honour to present its

EIGHTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the subject of the Canada Employment Insurance Financing Board and presents its findings and recommendations.

TABLE OF CONTENTS

| | |
|---|----|
| INTRODUCTION..... | 1 |
| THE PROPOSAL TO REFORM THE EMPLOYMENT INSURANCE PREMIUM RATE-SETTING PROCESS | 3 |
| The Canada Employment Insurance Financing Board..... | 3 |
| The Reserve | 5 |
| Premium Rate Setting..... | 6 |
| WHAT WE HEARD | 9 |
| The Board’s Mandate and Powers..... | 9 |
| Board Representation | 12 |
| Board Independence..... | 13 |
| Administration Costs | 15 |
| The Reserve and Pro-cyclical Rate Setting | 16 |
| Advances to the Employment Insurance Account..... | 19 |
| CONCLUSION | 23 |
| LIST OF RECOMMENDATIONS..... | 25 |
| APPENDIX A: LIST OF WITNESSES | 27 |
| APPENDIX B: LIST OF BRIEFS | 29 |
| REQUEST FOR GOVERNMENT RESPONSE | 31 |
| DISSENTING OPINION OF THE CONSERVATIVE PARTY OF CANADA | 33 |
| COMPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS | 37 |
| DISSENTING OPINION OF THE NEW DEMOCRATIC PARTY | 41 |

INTRODUCTION

Following a prolonged period of surplus contributions by employees and employers to the Employment Insurance (EI) program, a new premium rate-setting process was implemented in June 2005. Although this new process respected the rate-setting principles outlined in the 2003, 2004 and 2005 budgets,¹ it continues to generate criticism largely because it sets the premium rate on a one-year, forward-looking basis and there is no mechanism for ensuring that program contributors benefit fully from premium revenues collected in excess of those required to finance the EI program.

In the Speech from the Throne on October 16, 2007, the federal government announced its intention to take measures to improve the governance and management of the Employment Insurance Account. These measures are contained in Part 7 of Bill C-50, the *Budget Implementation Act, 2008*.²

On April 1, 2008 the House of Commons Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities agreed to hold several meetings on “the Government of Canada’s intent to create a Crown Corporation for the purpose of administering the Employment Insurance Fund and that the Committee call such witnesses as deemed necessary to assess the implications of transferring the administration of Employment Insurance from the department of Human Resources and Social Development Canada to a Crown Corporation.”³

The Committee held hearings on this matter between May 1 and May 27, 2008, during which employer and employee representatives along with other EI program stakeholders presented their views on the government’s proposal to establish the Canada Employment Insurance Financing Board, a “reserve” to be managed by the Board and a modified premium rate-setting process, as well as other EI-related matters.

1 These principles were: (1) premium rates should be set transparently; (2) premium rates should be set on the basis of independent expert advice; (3) expected premium revenues should correspond to expected program costs; (4) premium rate setting should mitigate the impact of the business cycle; and (5) premium rates should be relatively stable over time (see: Department of Finance, *The Budget Plan 2003*, February 18, 2003, p. 183 <http://www.fin.gc.ca/budget03/pdf/bp2003e.pdf>).

2 See: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3365116&Language=e&Mode=1>.

3 House of Commons, Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities (hereafter *Evidence*), *Evidence*, 2nd Session, 39th Parliament, Meeting No. 20, April 1, 2008 at 1015 <http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?SourceId=233085&Lang=1&PARLSES=392&JNT=0&COM=13190>.

Our report begins with a brief overview of the government's proposal to strengthen the EI premium rate-setting process. This is followed by a discussion of the key concerns raised by witnesses during our hearings, including those regarding the proposed Board's mandate, independence, representation and cost; the proposed reserve; and the need for greater clarity in some areas of the proposed legislation.

THE PROPOSAL TO REFORM THE EMPLOYMENT INSURANCE PREMIUM RATE-SETTING PROCESS

The proposed reform to the EI premium rate-setting process entails the establishment of a new Crown corporation, called the Canada Employment Insurance Financing Board (hereafter referred to as the Board). This Board would be responsible for:

- managing a reserve; and
- setting the EI premium rate each year, on a one-year go-forward basis, to ensure that premium revenues are sufficient to cover EI program costs, that the reserve is maintained at its legislated level, and that any advances made from the Consolidated Revenue Fund in situations where the reserve is insufficient to cover program costs are repaid.

The Canada Employment Insurance Financing Board

The Board would be established as a parent Crown corporation listed under Part I, Schedule III of the *Financial Administration Act* and located in the National Capital Region. Its mandate and powers (discussed further in the next section of our report), are outlined in sections 4 and 5 of the proposed *Canada Employment Insurance Board Financing Act*. The Board's mandate is limited to setting the premium rate under section 66 of the *Employment Insurance Act*, maintaining and managing a "reserve" (discussed in the next section of our report) and managing funds paid to it under section 77.1 of the Act (i.e., interim and final payments to and by the Board). The Board may only borrow money from the federal government.

The Board would be managed by a board of directors made up of seven directors, including the chairperson. Each director would be appointed by the Governor in Council and hold office during good behaviour for a term not exceeding four years. Directors would be eligible for reappointment. Board directors would be selected from a list of candidates proposed by a nominating committee consisting of a chairperson appointed by the Minister of Human Resources and Social Development (hereafter referred to as the Minister), and the Canada Employment Insurance Commissioners representing employers and employees.

The board of directors shall, after consulting with the Minister, appoint a chief executive officer (who cannot be a director) who would be responsible for the day-to-day operations of the Board. In addition, the board of directors must appoint a Fellow of the Canadian Institute of Actuaries as the chief actuary of the Board. The chief actuary's

primary responsibility would be to forecast an EI premium rate (by October 31 of each year) in accordance with section 66 of the *Employment Insurance Act* for the following year, as well as forecast the fair market value of the “reserve” at the end of the following year.

The board of directors must establish three committees — an audit committee, an investment committee and a human resources committee. Among other duties, the audit committee shall require the Board’s management to implement and maintain appropriate internal control procedures, and review all investments and transactions that could adversely affect the return on the Board’s investments, as brought to the committee’s attention by the Board’s auditor or officers.⁴ The investment committee must, among other duties, approve the engagement of investment managers empowered with discretionary authority to invest the assets of the Board.⁵ In addition to other duties, the human resources committee shall approve candidates for senior positions reporting to the chief executive officer, and develop and recommend selection criteria for the position of chief actuary.⁶

Subject to regulations, the board of directors must establish and, the Board must adhere to, investment policies, standards and procedures that a person of ordinary prudence would implement in dealing with the property of others.⁷ The Board’s financial year is the period beginning on April 1 in one calendar year and ending on March 31 in the next calendar year (note that the premium rate is set for a calendar year).

The Board shall cause books on account and a record of investments to be kept, internal audits to be conducted, and financial statements to be reported quarterly and annually. Among other things, these statements must include a statement of the investment portfolio and the change in net assets for the financial year.

The Board shall also cause an annual auditor’s report to be prepared and the Minister shall cause a special examination to be carried out at least once every five years.⁸

4 See: Bill C-50, Budget Implementation Act 2008, p. 105.

5 Ibid., pp. 106-107.

6 Ibid., p. 107.

7 According to section 36 of the proposed *Canada Employment Insurance Financing Board Act* the Governor in Council, on the joint recommendation of the Minister of Human Resources and Social Development and the Minister of Finance, may make regulations respecting the investments the Board can make and the limitations to which the Board is subject when it makes investments.

8 Clause 121 of Bill C-50 (see proposed subsection 3(7) of the *Canada Employment Insurance Financing Board Act*) cites several sections of the *Financial Administration Act* as not applying to the Board. As no reference is made to section 134 of the *Financial Administration Act*, it is assumed that the Auditor General would be the Board’s auditor or at the every least a joint auditor of the Board.

The Board must prepare an annual report (within 90 days of the end of each financial year) and provide it to the Minister and the President of the Treasury Board. This report must contain, among other things, the required financial statements for the financial year, the annual auditor's report and a statement of the Board's objectives for the financial year and the extent to which these objectives were met.

On the day the Board sets the EI premium rate, it must make public a premium rate-setting report that sets out a detailed analysis in support of that rate, including any information that was provided to the board of directors under section 14(3) of the proposed *Canada Employment Insurance Financing Board Act* and information provided to the Board by the Minister under the proposed section 66.1(1) of the *Employment Insurance Act*.

The Reserve

As noted above, the Board would be responsible for managing a reserve. It is worth noting that the legal wording regarding the creation of this reserve conveys a sense of choice rather than an obligation, as the legislation states specifically that "there may be paid out of the Consolidated Revenue Fund, on the requisition of the Minister of Finance, an amount of two billion dollars to the Board."⁹ Thereafter, the value of this reserve would be equal to the Board's financial assets less its financial liabilities.

According to the proposed subsection 66(5) of the *Employment Insurance Act*, the size of this reserve would be effectively capped at two billion dollars and indexed annually beginning in 2009, on a compound basis, in accordance with regulations.¹⁰ In setting the premium rate for the following year, the Board would be required to establish a rate that, among other things, respects this cap.

The proposed *Canada Employment Insurance Financing Board Act* places restrictions on the types of banks and bank accounts that may be used for the purposes of managing this reserve. The Board would only be allowed to have accounts with banks listed under Schedule 1 of the *Bank Act*. Moreover, the Governor in Council may, on the recommendation of the Minister of Finance, make recommendations prescribing the types of account that the Board may have and the financial institutions with which it may have those accounts.¹¹

9 Usually the word "shall" is used to denote an obligation. See: clause 128 of Bill C-50, Budget Implementation Act 2008, p. 119.

10 Ibid., clause 127, pp.115-116.

11 Ibid., pp. 107-108.

Subject to regulations, the board of directors must establish, and the Board must adhere to, investment policies, standards and procedures that a person of ordinary prudence would implement in dealing with the property of others. Moreover, according to section 24 of the proposed *Canada Employment Insurance Financing Board Act*, every investment manager who invests the assets of the Board must do so in accordance with the proposed Act and the Board's investment policies, standards and procedures.¹²

Premium Rate Setting

The Board would set a premium rate for each year such that premium revenues are just sufficient to cover the cost of payments made under subsection 77(1) of the *Employment Insurance Act* in that year, repay advances made in accordance with subsection 80(2) of the *Employment Insurance Act* in that year, and ensure that the forecast fair market value of the Board's reserve at the end of that year is equal to the indexed value, beginning in 2009, of the two billion dollars that may be paid to the Board, as indicated above. The Board must set the premium rate for the following year on or before November 14 in a year.¹³

The Board must consider a myriad of factors and information in setting the premium rate. This includes, for example, information provided by the Minister (e.g., forecast change in payments made under paragraphs 77(1)(a), (b) and (c) of the *Employment Insurance Act* as a consequence of changes announced by the Minister on or before September 30 in a year and forecast costs related to EI administration); the Minister of Finance (e.g., most current forecast values of economic variables that are relevant to the determination of the premium rate and the estimated amounts credited to the Employment Insurance Account under sections 73 to 75 of the *Employment Insurance Act*); the difference between amounts credited to and charged to the Employment Insurance Account;¹⁴ and investment

12 Ibid., p. 107.

13 In addition to setting the premium rate, clause 132 states that the Canada Employment Insurance Commission may request the Board to calculate maximum yearly insurable earnings (s. 4 of the *Employment Insurance Act*) and premium reduction wage loss plans (s. 69 of the Act).

14 According to clause 130 of Bill C-50, the Minister of Finance would on or before September 30 in a year forecast the amount credited to the Employment Insurance Account under sections 73 to 75 of the Act during the year and the amount charged to the Account under subsection 77(1) and subsection 80(3) (i.e., repayment of advances plus interest). If the amount credited exceeds the amount charged, an interim payment of the difference would be made to the Board on or before October 31 in the year, and this amount would be charged to the Employment Insurance Account. The opposite (i.e., the Board would pay the Consolidated Revenue Fund) would occur if forecast amount credited to the Employment Insurance Account was less than the amount charged. A final payment to reconcile the interim payment would be made on or before March 31 in the second year following the year in which the interim payment is made. This clause also provides regulation-making authority to the Governor in Council on the recommendation of the Minister of Finance regarding, among other things, the method of determining the final payment and the method of calculating interest on it, if any.

income earned by the Board. The Board would not be permitted to consider the balance in the Employment Insurance Account when setting the rate for a year, a characteristic of the rate-setting process that was criticized during our hearings.

The Board would not be allowed to set a premium rate in any given year that is more than 0.15 per cent (i.e., 15 cents per \$100 of insurable earnings) higher or lower than the rate in the previous year. However, according to the proposed subsections 66(8) and 66.3(1) of the *Employment Insurance Act*, the Governor in Council may substitute a premium rate which exceeds the allowed maximum change in the premium rate set by the Board if it considers it to be in the public interest to do so. This is different from the current Act which limits the rate set by the Governor in Council to a maximum year-to-year increase or decrease of 15 cents per \$100 of insurable earnings.

In the event that amounts credited to the Employment Insurance Account after December 31, 2008 and the amount of the Board's reserve are not sufficient to pay for amounts authorized to be charged to the Account, the Minister of Finance may, at the request of the Minister, authorize an advance to the Employment Insurance Account from the Consolidated Revenue Fund. The advance shall be repaid in the time and manner and on the terms and conditions that the Minister of Finance may establish.

WHAT WE HEARD

A vast majority of the witnesses who appeared before the Committee indicated that the government's proposal to strengthen the EI premium rate-setting process was a step in the right direction. However, many witnesses raised one or more concerns about this proposal and suggested ways to strengthen it. These are discussed below.

Many witnesses also indicated that the need for EI reform extends well beyond the proposal to strengthen the premium rate-setting process. In this context, employee representatives called for changes in program coverage and benefit eligibility, while employer representatives sought further reforms to EI financing and the program's capacity to address skills shortages. These matters have also been addressed in recent reports prepared by the Committee.¹⁵

The Board's Mandate and Powers

Some witnesses expressed concern about the scope of the Board's mandate and powers, which are clearly outlined in sections 4 and 5 of the proposed *Canada Employment Insurance Financing Board Act*. When the Minister of Human Resources and Social Development appeared before the Committee on April 29 and May 27, 2008, he assured the Committee that the Board has no EI policy-making authority and that the federal government retains exclusive responsibility for the design and delivery of the EI program.

In the Budget Implementation Act, we are proposing to establish the Canada Employment Insurance Financing Board, which will implement an improved EI premium rate-setting mechanism to ensure that EI revenues and expenditures break even over time. The board will also be managing a new bank account, separate from the government's general revenues, where any excess EI premiums from a given year will be held and invested until they are used to reduce premium rates in subsequent years. The

15 House of Commons, Human Resources, Skills Development and the Status of Persons with Disabilities, *Restoring Financial Governance and Accessibility in the Employment Insurance Program*, February 2005 <http://cmte.parl.gc.ca/Content/HOC/committee/381/huma/reports/rp1624652/humarp03/humarp03-e.pdf>; and House of Commons, Human Resources, Social Development and the Status of Persons with Disabilities, *Employability in Canada: Preparing for the Future*, April 2008 <http://cmte.parl.gc.ca/Content/HOC/committee/392/huma/reports/rp3369345/humarp03/humarp03-e.pdf>.

government will provide \$2 billion to establish a real cash reserve, which the board will maintain. Of course the Government of Canada and the existing Employment Insurance Commission will continue to have full responsibility related to EI benefits and program delivery, including eligibility and benefit levels.¹⁶

The Honourable Monte Solberg,
Minister of Human Resources and Social Development

Subsection 5(2) of the proposed *Canada Employment Insurance Financing Board Act* states that the “Board shall not, directly or indirectly, carry on any business or activity or exercise any power that is inconsistent with the Board’s objects, including any power in relation to benefits or other payments made under subsection 77(1) of the *Employment Insurance Act* or to the employment insurance program design or delivery ...” Despite these seemingly clear limits on the Board’s powers, some witnesses sought greater assurance that the Board would not undertake analysis or make recommendations with respect to EI policy or program delivery. Others were concerned that the potential influence of the Board might somehow affect adversely the level and type of financial support provided under the EI program in the event that the Board encountered difficulties achieving its premium rate-setting objectives. A small minority of witnesses indicated that the Board’s mandate was too narrow.

[T]he mandate of this new board should be very narrow and confined solely to financing the program and managing the investment fund. ... In our view, all of the basic design features of the program, such as who qualifies for what period, how the premium is divided between employers and workers, should be the role of the Minister of Human Resources and Social Development. I don't believe it's the intent of the government to change that, but we suggest a specific wording that I think is important to clarify it. So with this new board, there are questions of accountability to Parliament and about its function. I think it's extremely important to be very precise on what the mandate is.¹⁷

Mr. Andrew Jackson,
Canadian Labour Congress

As I said, in spite of the bill's pompous title, the Board will not provide funding. Its mandate will be very limited: it will not set premiums or manage the reserve. Ultimately, the government will be responsible for premium levels. ...This bill has a number of perverse effects. The Board may not get directly or indirectly involved in the coverage provided by the scheme. The bill expressly provides that the Board may not address that question.¹⁸

M. Georges Campeau,
Mouvement autonome et solidaire des Sans-Emploi

16 *Evidence*, Meeting No. 26, April 29, 2008 at 0910.

17 *Evidence*, Meeting No. 29, May 8, 2008 at 0910.

18 *Ibid.*, at 0915.

One issue that came up in another committee, with respect to the composition and mandate of the board, was to what extent it would have the capability to kind of conduct independent analysis. In our view, the board should have the mandate, in fact, to not just look very narrowly at the rate-setting exercise, but I think to conduct analysis and offer advice to the government.¹⁹

Mr. David Stewart-Patterson,
Canadian Council of Chief Executives

While most members of the Committee believe that the proposed legislation outlining the Board's mandate and powers is clear, we understand that some groups and individuals would like to have greater assurance that the Board's mandate and powers are limited exclusively to setting the premium rate and managing the reserve. Moreover, we believe that an adequate EI policy-development capability already exists within Human Resources and Social Development Canada and the Canada Employment Insurance Commission. Hence, there is no strong rationale for assigning this task to the proposed Board. It is also important to mention that Parliament decides which policies are implemented.

In the event that the Board's mandate and powers are not further clarified in the proposed law, we suggest that, at the very least, this clarification be provided in a detailed description of the Board's mandate and powers in the annual report that the Board would be required to prepare pursuant to section 34 of the *Canada Employment Insurance Financing Board Act*.

Recommendation 1

The Committee recommends that the *Canada Employment Insurance Financing Board Act* be amended to explicitly state that the Board is not permitted to undertake analysis for or make recommendations to the federal government regarding Employment Insurance program policy, including benefits, and program delivery.

19 Evidence, Meeting No. 31, May 15, 2008 at 0945.

Board Representation

Several witnesses, mainly those representing employees, indicated that the proposed legislation does not require employee and employer interests to be equally represented on the board of directors of the proposed Board. In their view, this is a significant shortcoming in the Board's governance structure, as the EI program is funded exclusively by employees and their employers.

The board of directors must be independent, and there must be some parity, in other words, both employers and employees must be represented on it.²⁰

M. Michel Kelly-Gagnon,
Conseil du patronat du Québec

However, the bill does not mention that the board of directors must be representative in terms of premium payers. Is it necessary to point out that the program is funded exclusively by the premiums paid by employers and workers? They should certainly have a say in the management of the employment insurance account. Bill C-50 therefore needs to be amended to guarantee fair representation for those who pay premiums into the scheme in the governance structure. We are therefore asking that the board of directors be composed of a large enough, fixed and equal number of representatives of employer and union associations, and that they be chosen from lists supplied by their most representative respective associations.²¹

M. René Roy
Fédération des travailleurs et travailleuses du Québec

If we don't have the tools, if there are no representatives of employers and workers at the board of directors' table to determine needs, this presents a problem. In that sense, the fund is too imperfect for us to approve it as it stands.²²

M. Claude Faucher,
Centrale des syndicats démocratiques

20 *Evidence*, Meeting No. 28, May 6, 2008 at 0935.

21 *Evidence*, Meeting No. 29, May 8, 2008 at 0935 and 0940.

22 *Ibid.*, at 1020.

So we'd like a stable board, if possible. We'd like a non-partisan board, with people with expertise, which I'd like to see a committee agree upon. Informally, it's been identified that the nomination committee will be the EI Commission, but I don't think it's formally stated in the act. I'd like to see it formally stated in the act because that would give employers and employees more say, rather than the political party in power.²³

Mr. Garth Whyte,
Canadian Federation of Independent Business

While the *Canada Employment Insurance Financing Board Act* is silent in terms of employee/employer representation on the board of directors, it should be noted that the proposed law requires that the board of directors be selected from a list compiled by a nominating committee. This nominating committee is composed of a chair (appointed by the Minister), the EI Commissioner representing workers and the EI Commissioner representing employers. Although the proposed legislation does not require members of the board of directors to have specific qualifications, it is important to note that the nominating committee must consider the desirability of having on the board of directors a sufficient number of directors with proven financial ability or relevant work experience to allow the Board to fulfill its mandate. Given that the board of directors would consist of seven directors, members of the Committee believe that this requirement can be fulfilled as well as ensure that program contributors are fairly represented.

Recommendation 2

The Committee recommends that the federal government amend the *Canada Employment Insurance Financing Board Act* to ensure that the board of directors of the Canada Employment Insurance Financing Board include two directors representing employees and two directors representing employers.

Board Independence

Officials from both Finance Canada and Human Resources and Social Development Canada assured the Committee that the proposed Canada Employment Insurance Financing Board would be independent and operate at arm's length from the federal government.

23 Evidence, Meeting No. 31, May 15, 2008 at 0950.

These changes are in keeping with the government's commitment to improving the management and governance of the EI account. As a small crown corporation working at arm's length from the government, the CEIFB will ensure independent decision-making regarding the setting of premium rates ...²⁴

Mr. Louis Beauséjour,
Department of Human Resources and Social Development Canada

While members of the Committee generally agree that the proposed Board appears to be more at "arm's length" from the government than the Canada Employment Insurance Commission, some of us think that the Board's rate-setting process is, in some cases, less independent from the government than the current rate-setting process. This view was also expressed during our hearings, as the observation was made that the Board could be unduly influenced by the requirement that it use specific information from specific sources to estimate the premium rate for the following year.

I think the legislation reflects an extremely strong role by the Department of Finance moving forward, even over this new and so-called independent fund and commission. In terms of what this board does, the economic assumptions that they're allowed to take into account in setting the premium rate are those from the Department of Finance. They're not really allowed an independent role around judging the economic situation we're in.²⁵

Mr. Andrew Jackson,
Canadian Labour Congress

Canada's actuaries believe that the Chief Actuary and Board need to be free to choose and evaluate economic variables from various sources in determining suitable premium levels. In our opinion, these restrictions are completely at odds with accepted actuarial practice and do not support the promise of "independence" put forward by the Minister of Finance in the February 26th Budget.²⁶

Canadian Institute of Actuaries

In addition to the continued requirement that the Board use the information provided by the Minister of Finance regarding the latest economic forecasts to estimate the premium rate in the following year, the proposed law would require the Board to use the forecast change provided by the Minister of Human Resources and Social Development in the

24 *Evidence*, Meeting No. 27, May 1, 2008 at 0905.

25 *Evidence*, Meeting No. 29, May 8, 2008 at 1015.

26 Canadian Institute of Actuaries, *Bill C-50 Fact Sheet*, submitted to the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities on May 6, 2008, p. 2.

event that the Minister has announced changes on or before September 30 in a year, to payments made under paragraphs 77(1)(a), (b) or (c) of the *Employment Insurance Act* during the following year. We observe that the estimation of these costs is currently within purview of the Chief Actuary.

Perhaps the most constraining rate-setting provisions regarding the Board's independence pertains to the proposed subsections 66.1(2)(b) and 66.2(2)(b) of the *Employment Insurance Act*. Both of these subsections would permit the Governor in Council to make regulations specifying the information referred to in subsections 66.1(1) and 66.2(1) that would be binding on the Board in determining the premium rate for the following year. No such provision exists in the current rate-setting process.

Recommendation 3

The Committee recommends that the federal government amend the *Employment Insurance Act* to provide the Board with more flexibility in terms of the information that it may use to determine the premium rate. At the very least, the Board should have the same degree of flexibility regarding the information to be used as that afforded to the Chief Actuary under the current rate-setting process.

Administration Costs

According to the Public Accounts of Canada, Employment Insurance administration costs, for the fiscal year ended March 31, 2007, totalled \$1.6 billion or 10.3% of total EI expenses. Given the cost of administering EI, it is not surprising that several witnesses questioned the need to add to these costs by creating a Crown corporation to perform the duties of what some felt could be provided within the Canada Employment Insurance Commission. The Committee was told by departmental officials that the costs of creating and operating the proposed Crown corporation are not known, but that these costs would probably be recovered by the reserve's return on investment.

The seven-member board was deemed appropriate in light of the very focused mandate of this particular board in relationship to some of the other boards you may be familiar with. It will be run by a board of directors, on a part-time basis, with the necessary skills and experience to carry out the organization's mandate. ... If I may also add to this, the legislation provides that the board may invest the reserve until it is required to pay for benefits. So it's anticipated that the operating costs of the board would be more than covered by any investments they might generate against the reserve.²⁷

Ms. Sherry Harrison,
Department of Human Resources and Social Development Canada

27 Evidence, Meeting No. 27, May 1, 2008 at 0945.

Despite the assurance that the Board would be governed by a board of directors on a part-time basis, this requirement is not specifically outlined in the proposed *Canada Employment Insurance Financing Board Act*. In view of the significant administration costs that are already borne by EI, the Committee feels that the federal government must ensure that the operating costs of the Board are minimized to the greatest extent possible and do not overlap with those incurred by the Canada Employment Insurance Commission.

Recommendation 4

The Committee recommends that, if necessary, the federal government amend the *Canada Employment Insurance Financing Board Act* to ensure that the operating costs of the proposed Crown corporation and its governance structure are commensurate with its focused mandate.

The Reserve and Pro-cyclical Rate Setting

As noted above, the Board would be responsible for managing a reserve, an initial amount equal to two billion dollars and indexed annually beginning in 2009, on a compound basis, in accordance with regulations. In setting the premium rate for the following year, the Board would be required to establish a rate that, among other things, ensures that the fair market value of the reserve at the end of that year is equal to the indexed value of the initial reserve.

We were told by officials from Human Resources and Social Development Canada that the rationale for the size of this reserve was that it would adequately support relative premium rate stability (i.e., the premium rate set by the Board cannot be more or less than \$0.15 per \$100 dollars of insurable earnings in relation to the previous year's rate).²⁸

This \$2 billion amount takes into account different economic scenarios and assessments undertaken in conjunction with the employment insurance Chief Actuary. It was estimated that a cash reserve of this level would be adequate to offset cash shortfalls under the new rate-setting model resulting from a mild recession, such as the one experienced in 2001-2002.²⁹

Mr. Louis Beauséjour,
Department of Human Resources and Social Development Canada

28 In fact, this modicum of premium rate stability could easily dissipate, since the proposed subsection 66.3(1) of the *Employment Insurance Act* would allow the Governor in Council to substitute a premium rate for the one set by the Board if it is deemed to be in the public interest to do so. This is unlike the current provision in the Act which limits the rate set by the Governor in Council to \$0.15 per \$100 of insurable earnings in relation to the premium rate set in the previous year.

29 *Evidence*, Meeting No. 27, May 1, 2008 at 0910.

Many witnesses expressed the opinion that the size of the proposed reserve was inadequate, especially if the Canadian economy were to experience a prolonged recession. Under such a scenario, it is reasonable to assume that the reserve would be depleted very quickly, forcing the Board to increase the premium rate by the maximum allowed until the value of the reserve is restored and any advances to the Employment Insurance Account are repaid. In other words, under the proposed premium rate-setting process, the premium rate (which is part of the cost of labour) would be forced to rise at the same time as employers would be laying off workers and unemployment would be rising. Avoiding this adverse result was purportedly the reason for introducing the “stable” rate-setting process in 1996 under the *Employment Insurance Act*.

Witnesses’ suggestions regarding the size of the proposed reserve ranged from a low of one-fifth of the cost of benefits to a high of \$15 billion, the upper range of the estimated reserve required to achieve premium rate stability under the original premium rate-setting process of the *Employment Insurance Act*. However, the Committee was reminded that labour market conditions today are vastly different from those of the latter 1990s when it was determined that a \$10 to \$15 billion reserve was sufficient to cover program costs over a 15-year period as well as facilitate premium rate stability (at the time, this implied an average premium rate of between \$1.90 and \$2.10 per \$100 of insurable earnings).³⁰ Moreover, we note that the EI tax base has also increased in the interim.

Let's assume that a recession hits Canada and unemployment levels rise to 8% ... The payment to out-of-work Canadians increases by approximately \$3 billion. So the \$2 billion reserve of the board is depleted and the EI account has to borrow \$1 billion from the government ... In this situation we might have to raise the premiums above the legislated limit of 0.15%. Consideration of applying the 0.15% would fall to ministers. It would not be a very easy decision, because if you applied the 0.15% ceiling you would run a deficit and the deficit would accumulate. The impact on Canadian businesses, which pay nearly 60% of the cost of employment insurance, would be huge, because at exactly the same time, profits would be lower and limited. Cash flows would also be lower. Workers would have to pay 40% of the cost when they were already at risk of losing their jobs, and businesses would need to find money somewhere. ... We believe this is significantly pro-cyclical, and as actuaries we are not comfortable with a pro-cyclical mechanism and the one-year-going-forward basis.³¹

Mr. Bruno Gagnon,
Canadian Institute of Actuaries

30 Human Resources Development Canada, *Chief Actuary's Report on Employment Insurance Premium Rates for 1998*, http://www.hrsdc.gc.ca/en/ei/reports/chief_1998.shtml.

31 *Evidence*, Meeting No. 28, May 6, 2008 at 0925.

So on the one hand, while I absolutely agree with all of the witnesses that we have to get a reserve that's reasonable to get us through the recession, to get us over a situation in which there's great demand on the fund, I'm also concerned about having a reserve that's too high and is too tempting, quite frankly, to legislators who want to dump programs and other things off the consolidated revenue fund into a fund that's shouldered only by employers and employees.³²

Mr. Michael Atkinson,
Canadian Construction Association

As we've stated in our presentation, we would hope for at least a 50% increase — so \$3 billion instead of \$2 billion. But we also believe that there's an issue of an equilibrium between what's desirable — and I think in his presentation Mr. Gagnon said that up to \$15 billion would be desirable — and the issue of public finance. I think you, as parliamentarians, will have to decide on an equilibrium between what's desirable and what's doable in terms of public finance.³³

M. Michel Kelly-Gagnon,
Conseil du patronat du Québec

On the notion of adding a bit more into the account in the transitional years — if there's a consensus that \$2 billion, despite what the actuaries say, is a bit dicey and we need a little more — yes, whether we're talking about \$1.5 billion or whatever is available out of a year — end surplus for a couple of years, I can see that kind of repatriation, if you want, as a transitional measure.³⁴

Mr. David Stewart-Patterson,
Canadian Council of Chief Executives

[E]nsure no rate increases for the next five years while you try this project? Keep enough there. Two billion dollars is just not enough of a security cushion. ... put more in there for the next five years.³⁵

Mr. Dannie Hanson,
As an Individual

In addition to increasing the size of the proposed reserve, the Committee was advised that a stable rate-setting process necessarily entails establishing a premium rate over a longer period of time than the proposed one year. Suggestions ranged from a period of between five and seven years to as long as a business cycle.

32 *Ibid.*, at 0945.

33 *Ibid.*, at 0945.

34 *Evidence*, Meeting No. 31, May 15, 2008 at 1000.

35 *Evidence*, Meeting No. 28, May 6, 2008 at 0920.

The one year look forward in developing premium rates is too short and does not foster rate stability; a longer time horizon needs to be put in place. We believe that five to seven years, or approximately a business cycle, would be appropriate.³⁶

Mr. Bruno Gagnon,
Canadian Institute of Actuaries

[W]e've said the premiums should be set at a level designed to break even over the course of a business cycle ...³⁷

Mr. David Stewart-Patterson,
Canadian Council of Chief Executives

Recommendation 5

The Committee recommends that the federal government enhance premium rate stability under its rate-setting proposal by increasing the size of the proposed reserve and amending the *Employment Insurance Act* to establish a forward-looking, rate-setting reference period of five years.

Advances to the Employment Insurance Account

As indicated earlier in our report, if amounts credited to the Employment Insurance Account after December 31, 2008 and the amount of the Board's reserve are unable to cover the cost of authorized amounts charged to the Account, the Minister of Finance may, at the request of the Minister, authorize an advance to the Account from the Consolidated Revenue Fund to cover the shortfall in revenue. This is significantly different from the current wording of subsection 80(1) of the *Employment Insurance Act* which states that "if the amount standing to the credit of the Employment Insurance Account is not sufficient for the payment of amounts authorized to be charged to the Account, the Minister of Finance, when requested by the Commission, may authorize the advance to the Account from the Consolidated Revenue Fund of an amount sufficient to make the payment."³⁸

36 Letter submitted by Mr. Bruno Gagnon, Canadian Institute of Actuaries, to Mr. Dean Allison, M.P., Chair of the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities on May 7, 2008.

37 *Evidence*, Meeting No. 31, May 15, 2008 at 0905.

38 Consolidated Statutes of Canada, 1996, c. 23, *Employment Insurance Act*, Subsection 80(1) <http://www.canlii.org/ca/sta/e-5.6/whole.html>.

Despite the statutory nature of EI benefits and the fact that subsection 80(1) of the *Employment Insurance Act* currently uses discretionary instead of mandatory wording, several witnesses expressed the view that the federal government's commitment to "backstop" the EI program in the event of a shortfall in revenue should be reflected in subsection 80(1) of the *Employment Insurance Act* by replacing the word "may" with "shall".

If you get into a situation like that, where there is a recession and there's a shortfall here.... I don't know who came up with the \$2 billion, but the \$54 billion that was saved up in this plan was put there by employers and contractors or owners. I really feel the government should backstop that. If there's a shortfall, I don't agree that the premiums should go up at all. I think the government should step in and give back some of that money ...³⁹

Cliff Murphy,
Cape Breton Island Building and Construction Trades Council

The key point I would make is that the EI surplus was built up, in significant part, on the justification that it was there to backstop the EI account, that it was there to cover deficits if we entered a prolonged recession. We know that \$2 billion is not enough to accomplish that purpose. I believe this legislation should be amended to explicitly state that the EI account remains available to the Government of Canada to backstop any deficits in the event of a recession. I believe that would actually reflect what Minister Flaherty has said to us — that if indeed expenditures were to exceed revenues over a year, the Government of Canada would make up the difference. I think that should be explicitly stated in the legislation, so that the accumulated EI account isn't just hanging there in limbo.⁴⁰

Mr. Andrew Jackson,
Canadian Labour Congress

I read proposed section 80: I read some of the others. It doesn't say that they're going to maintain some of those things that we think are important. It doesn't say that the Government of Canada is going to backstop this stuff. ... [I]n terms of transparency, I don't read this bill as a transparency bill. It's opaque to me.⁴¹

Mr. Robert Blakely,
Building and Construction Trades Department, AFL-CIO, Canadian Office

39 *Evidence*, Meeting No. 28, May 6, 2008 at 0910.

40 *Evidence*, Meeting No. 29, May 8, 2008 at 0910.

41 *Ibid.*, at 1020.

[W]e are concerned that employers and employees must bear the risk of paying for economic downturns after already building up a \$54 billion surplus. It is shameful and unfair. At the very least, the federal government should cover off any future shortfall in the EI account, if the need arises.⁴²

Mr. Garth Whyte,
Canadian Federation of Independent Business

We propose that these [advances under section 80 of the *Employment Insurance Act*] would not be reimbursable advances but rather “**non-reimbursable payments**” drawn from the accumulated surplus.⁴³

M. Pierre Céré,
Conseil national des chômeurs et chômeuses

Many witnesses also indicated that if advances to the Employment Insurance Account are necessary to cover program costs, contributors to EI should not have to repay these advances, given the fact that “the amount standing to the credit” of the Employment Insurance Account for the year ended March 31, 2007 was \$54.1 billion.⁴⁴

We acknowledge that a report prepared by this Committee in the 38th Parliament recognized that there are large fiscal implications associated with repatriating this notional cumulative surplus in the Employment Insurance Account. Moreover, EI premium payers and taxpayers alike have already benefited from spending related to year-end surpluses in the Employment Insurance Account “via spending on other priorities such as health care, increased assistance for higher education, tax relief and debt reduction, to name just a few.”⁴⁵ We also note that this issue is before the Supreme Court of Canada and many members of the Committee are reluctant to consider this issue in this report prior to a decision being rendered in this case.⁴⁶

42 *Evidence*, Meeting No. 31, May 15, 2008 at 0910.

43 P. Céré, Conseil national des chômeurs et chômeuses, Speaking notes presented to the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities, May 8, 2008.

44 Government of Canada, *Public Accounts of Canada, 2006-2007*, Volume 1, Chapter 4, p. 4.17 <http://www.tpsgc-pwgsc.gc.ca/recgen/pdf/49-eng.pdf>.

45 Human Resources, Skills Development and the Status of Persons with Disabilities (February 2005), p. 11 <http://cmte.parl.gc.ca/Content/HOC/committee/381/huma/reports/rp1624652/humarp03/humarp03-e.pdf>.

46 On May 13, 2008, the Supreme Court of Canada heard Case No. 31810 — Confédération des syndicats nationaux and Syndicat national des employés de “aluminium d’Arvida Inc. v. Attorney General of Canada. This case involved a number of EI-related matters including whether Parliament’s jurisdiction over EI gives it the authority to use money from premiums for purposes other than unemployment benefits. See: http://cases-dossiers.scc-csc.gc.ca/information/cms/docket_e.asp?31810.

Recommendation 6

The Committee recommends that the federal government amend the *Employment Insurance Act* by substituting the word “shall” for the word “may” in subsection 80(1) of the Act.

CONCLUSION

For too many years, employers and employees have been forced to pay premiums in excess of those required to cover the cost of the EI program. While members of the Committee and most witnesses who appeared before us during our study on Part 7 of Bill C-50, the Budget Implementation Act 2008, believe that the federal government's proposal to correct this inequity is a good first step, more remains to be done. It is our hope that the recommendations in this report will encourage the federal government to further strengthen EI's premium rate-setting process.

Given the expeditiousness which the Committee felt was required in conducting this study, all members of the Committee thank the groups and individuals who, on short notice, agreed to share their views and expertise with us on this very important matter.

LIST OF RECOMMENDATIONS

Recommendation 1

The Committee recommends that the *Canada Employment Insurance Financing Board Act* be amended to explicitly state that the Board is not permitted to undertake analysis for or make recommendations to the federal government regarding Employment Insurance program policy, including benefits, and program delivery.

Recommendation 2

The Committee recommends that the federal government amend the *Canada Employment Insurance Financing Board Act* to ensure that the board of directors of the Canada Employment Insurance Financing Board include two directors representing employees and two directors representing employers.

Recommendation 3

The Committee recommends that the federal government amend the *Employment Insurance Act* to provide the Board with more flexibility in terms of the information that it may use to determine the premium rate. At the very least, the Board should have the same degree of flexibility regarding the information to be used as that afforded to the Chief Actuary under the current rate-setting process.

Recommendation 4

The Committee recommends that, if necessary, the federal government amend the *Canada Employment Insurance Financing Board Act* to ensure that the operating costs of the proposed Crown corporation and its governance structure are commensurate with its focused mandate.

Recommendation 5

The Committee recommends that the federal government enhance premium rate stability under its rate-setting proposal by increasing the size of the proposed reserve and amending the *Employment Insurance Act* to establish a forward-looking, rate-setting reference period of five years.

Recommendation 6

The Committee recommends that the federal government amend the *Employment Insurance Act* by substituting the word “shall” for the word “may” in subsection 80(1) of the Act.

APPENDIX A LIST OF WITNESSES

| Organizations and Individuals | Date | Meeting |
|---|------------|---------|
| <p>Department of Finance</p> <p>Yves Giroux, Director, Social Policy, Federal-Provincial Relations and Social Policy Branch</p> <p>Tamara Miller, Chief, Labour Markets, Employment and Learning, Social Policy, Federal-Provincial Relations and Social Policy Branch</p> | 2008/01/05 | 27 |
| <p>Department of Human Resources and Social Development Canada</p> <p>Louis Beauséjour, Director General, Employment Insurance Policy</p> <p>Sherry Harrison, Director General, Canada Employment Insurance Financing Board Task Team</p> | | |
| <p>As an individual</p> <p>Dannie Hanson, Project Manager, Louisbourg Seafoods Ltd.</p> | 2008/06/05 | 28 |
| <p>Canadian Construction Association</p> <p>Michael Atkinson, President</p> <p>Jeff Morrison, Director, Government Relations and Public Affairs</p> | | |
| <p>Canadian Institute of Actuaries</p> <p>Bruno Gagnon, Chairperson, Task Force on Financing of Employment Insurance</p> | | |
| <p>Cape Breton Island Building & Construction Trades Council</p> <p>Cliff Murphy, President</p> | | |
| <p>Conseil du patronat du Québec</p> <p>Youri Chassin, Economic Analyst</p> <p>Michel Kelly-Gagnon, President</p> | | |
| <p>Building and Construction Trades Department, AFL-CIO, Canadian Office</p> <p>Robert Blakely, Director, Canadian Affairs</p> | 2008/08/05 | 29 |

| Organizations and Individuals | Date | Meeting |
|--|-------------|----------------|
| <p>Canadian Labour Congress Andrew Jackson, National Director, Social and Economic Policy</p> <p>Centrale des syndicats démocratiques Claude Faucher, Vice-President</p> <p>Confédération des syndicats nationaux Roger Valois, Vice President, Executive Committee</p> <p>Conseil national des chômeurs et chômeuses Sylvie Caya, Member</p> <p>Pierre Céré, Spokeperson</p> <p>Fédération des travailleurs et travailleuses du Québec René Roy, Secretary General</p> <p>Mouvement autonome et solidaire des sans-emploi (réseau québécois) Georges Campeau, Professor</p> <p>Hugo Desgagné, Coordinator</p> | | |
| <p>Canadian Council of Chief Executives David Stewart-Patterson, Executive Vice-President</p> | 2008/15/05 | 31 |
| <p>Canadian Federation of Independent Business Corinne Pohlmann, Vice-President, National Affairs</p> <p>Garth Whyte, Executive Vice-President</p> | | |
| <p>Department of Human Resources and Social Development Canada Hon. Monte Solberg, Minister</p> <p>Paul Thompson, Associate Deputy Minister, Skills and Employment Branch</p> | 2008/27/05 | 32 |

APPENDIX B LIST OF BRIEFS

Organizations and Individuals

Canadian Council of Chief Executives

Canadian Federation of Independent Business

Canadian Institute of Actuaries

Canadian Labour Congress

Canadian Teachers' Federation

Conseil national des chômeurs et chômeuses

Department of Human Resources and Social Development Canada

Mouvement autonome et solidaire des sans-emploi (réseau québécois)

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 27, 28, 29, 31, 32, 33, 34 and 35](#)) are tabled.

Respectfully submitted,

Dean Allison, MP
Chair

**Dissenting Opinion on the Report on the Canada Employment Insurance Financing Board
of the Conservative Government Members of the
Standing Committee on Human Resources and the Status of Persons with Disabilities**

First and foremost, the Conservative government members of the Standing Committee on Human Resources and the Status of Persons with Disabilities (HUMA) would like to extend their sincere appreciation to all the witnesses who appeared before this committee throughout the course of this study. Their time and efforts are truly appreciated. While we understand that a few witnesses disagree with certain particulars of the creation of the Canada Employment Insurance Financing Board (CEIFB), it is worth noting that “most of the witnesses who appeared before the Committee indicated that the government’s proposal to strengthen the EI premium rate-setting process was a step in the right direction.”¹ We applaud the Ministers of Finance and Human Resources & Social Development for their excellent work on this file. It is good to see that transparency and accountability are finally being restored to the management of the Employment Insurance Account.

While we appreciate the work done by the committee, and the witnesses who appeared before it, we feel that this study was premature, and distracted our committee from other priorities. As the government members stated during the meeting of April 1, 2008, we feel that the time of the committee could have been better used. A concurrent study of the Canada Employment Insurance Financing Board Act has been taking place in the Standing Committee on Finance (the “Finance Committee”) during their study of Bill C-50, with 7 out of the 16 organizations/individuals who appeared as witnesses before our committee appearing before the Finance Committee as well. In addition, a few of the organizations were regional bodies who appeared alongside their national organization.

We do not agree with any of the recommendations of this report. However, prior to addressing the specifics of these recommendations below, it is important to highlight what took place during the meeting of May 27, 2008 of the Finance Committee. During this meeting, a number of the recommendations in this report were put forward in the form of amendments to Bill C-50, the budget implementation bill that includes the CEIFB legislation. None of these amendments were adopted. If the opposition parties who support the recommendations in the HUMA report sincerely wanted these changes implemented, they could have done so during this meeting. They did not. It is for this reason that we believe this report to be a “lame duck” report.

It must, however, again be stressed that we sincerely appreciate the time and efforts exerted by the witnesses who appeared before our committee.

Recommendation 1:

It is clear in section 5(2) of the proposed *Canada Employment Insurance Financing Board Act (CEIFB Act)*, that the CEIFB will be responsible for the management of the Employment Insurance Account. More specifically, it states that the CEIFB is not to conduct any business or activity inconsistent with its mandate, including in relation to benefits and other payments made under subsection 77(1) of the *Employment Insurance Act*. The proposed legislation also explicitly states that the Board will only be responsible for managing a separate bank account, implementing an improved EI premium rate-setting mechanism and maintaining a cash reserve. The Government of Canada will continue to have responsibility related to Employment Insurance benefits and program delivery. For this reason, Recommendation 1 is unnecessary, since it has already been addressed specifically in the proposed legislation.

¹ Page 9

Recommendation 2:

Section 4 of the proposed *CEIFB Act* specifies the Board's objects:

- to set the premium rate under section 66 of the EI Act
- to maintain a reserve in accordance with that section
- to manage amounts paid to it under section 77.1 of that Act
- to invest its financial assets with a view to meeting its financial obligations

The CEIFB therefore requires a board of directors who have the necessary skills and expertise to effectively carry out this mandate. It would be entirely inappropriate – and a dangerous disservice to EI premium payers – to choose directors solely on the basis that they are advocates of particular constituencies. Qualified candidates will be selected following recommendations of a representative Nominating Committee and will be appointed through the Governor-in-Council process. The Nominating Committee includes the EI Commissioner of Workers and EI Commissioner of Employers. Through this process, business and labour play a role in ensuring the most qualified individuals are selected to manage decision-making on the financing of the EI program. With representatives of both employees and employers participating in the selection of potential candidates, it is anticipated the interests of premium payers to be given full consideration by the CEIFB Board of Directors.

Recommendation 3:

The proposed *CEIFB Act* stipulates that the Board must consider certain information in their determination of the premium rate for the following year. In setting the rate for a given year, the CEIFB will receive information from the Ministers of HRSDC and Finance, among other sources, including the most current forecast values of economic variables that are relevant and the estimated amounts credited to the new Employment Insurance account. Section 66(2)(g) of the *CEIFB Act* provides in setting the rate that the Board can consider "any other information that the Board considers relevant". This provides the Board more flexibility in setting rates than the Chief Actuary or the EI Commission have today. Currently, the EI Commission can only take into account "public" input. It will be up to the CEIFB Board of Directors to decide how to use the information it receives or collects. The CEIFB Board of Directors will be accountable to Parliament via the Minister of HRSDC for ensuring the Board fulfills its mandate, which includes ensuring that program revenues and expenditures break even over time. The Board will also report publicly on its activities and results. In light of these facts, we believe this recommendation to be moot.

Recommendation 4:

The proposed CEIFB will be responsible for:

- implementing an improved EI premium rate-setting mechanism that will ensure EI revenues and expenditures break even over time;
- managing a new bank account, separate from the Government's general revenues, where any excess EI premiums from a given year will be held and invested until they are used to reduce premium rates in subsequent years; and
- maintaining a \$2 billion cash reserve as a contingency fund that will support relative premium rate stability.

To support the CEIFB's focused mandate, it will be up to the Board of Directors to develop a corporate plan and an operating budget for consideration by the Treasury Board. The operating budget will include only the businesses and activities of the CEIFB, including investments. A summary of the Corporate Plan will be laid before Parliament and the budget will also be considered by Parliament as part of the Estimates process. The additional costs

for the new activities and responsibilities of the CEIFB will be incremental to the current EI administration costs. Most, but not all of the activities will be new. New activities such as managing the separate account and maintaining the reserve will represent incremental costs to the EI Account. These new costs are expected to be more than offset by investment returns not realized under the old system. Given the CEIFB's focused mandate, and the requirement for Parliament's approval of any operating budget, amendment of the proposed *CEIFB Act* as proposed in Recommendation #4 is unnecessary.

Recommendation 5:

It should be noted that a variant of this recommendation – to change the rate-setting reference period to 3 years – was proposed as an amendment to Bill C-50 by Olivia Chow, M.P. in the April 27, 2008 meeting of the Standing Committee on Finance. This amendment was not passed. Government members voted against this measure, but the amendment failed due to the abstention of the Liberal members. Our disagreement with this recommendation is based on the fact that given the size of the EI program, and the sensitivity to small changes in economic conditions, forecasting the appropriate premium rate for one year alone has proven to be a challenge. Forecasting this premium rate over a 5-year cycle would be subject to more uncertainty, and the usual prudent approach taken by forecasters would likely result in large surpluses. Setting the rate using a one-year cycle is the most transparent approach and is likely to bring more immediate results to Canadians by providing the right premium rate – just sufficient to cover the costs of benefits provided.

During the study leading to the creation of this report, questions were raised about the amount of the \$2 billion reserve. This amount is equivalent to the surplus in the Employment Insurance Account since January 2006. The return of this surplus in the EI account to Canadian workers, through the creation of this reserve, is something which was never done under the previous government.

The \$2 billion cash reserve is being established as a contingency fund that will support relative premium rate stability. This \$2 billion amount takes into account different economic scenarios and assessments undertaken in conjunction with the EI Chief Actuary. It was estimated that a cash reserve of this level would be adequate to offset cash shortfalls under the new rate-setting model resulting from a mild recession, such as the one experienced in 2001-02.

In the event of a premium shortfall, the difference would be funded from the reserve in that year, which would be replenished through the rate-setting process in subsequent years. And in any situation where EI revenues were insufficient to cover EI benefit payments, the Government of Canada would continue to pay EI benefits with funds from the CRF.

It is important to recognize that the \$15 billion figure mentioned in 2000 by the former Chief Actuary was characterized as the amount required to avoid raising premium rates throughout a severe economic downturn, similar to that experienced in the 1980s.

This is not a figure that is consistent with the Government's approach which aims to match program revenues and expenditures each year, nor does the 2000 figure take into account changes to the EI program's structure, size and clientele, or today's improved economic conditions.

Recommendation 6:

Finally, we disagree with the statement in the report that "the legal wording regarding the creation of [the] reserve conveys a sense of choice rather than an obligation"². In the event of a premium shortfall, Section 80(1) of the EI Act provides for advances to the EI Account from the CRF. The use of "may" allows the Minister of Finance to provide an advance

² Page 5

to the EI Account, which would be repaid according to the terms and conditions established by the Minister of Finance.

The use of "shall" would bind the Minister of Finance to only provide the necessary funds in the form of an advance and would limit the ability of the Minister of Finance to make the terms and conditions of repayment as flexible as possible. It is for this reason also that we cannot support Recommendation 6.

Summary:

In summation, while we appreciate the efforts of the committee and the witnesses who appeared before it, we feel that this report was premature, addressed issues which were concurrently being examined by another committee, and distracted the committee from other important work already in progress. We do, however, look forward to the creation of this new and independent body which will finally ensure that EI premiums are managed in the best interests of Canadian workers and employers.

Strengthening the employment insurance premium rate-setting mechanism.
**Report of the Standing Committee on Human Resources, Social Development
and the Status of Persons with Disabilities**

Bloc Québécois Complementary Opinion

Context

The Bloc Québécois would like to thank all the groups and individuals from Quebec and Canada who appeared before the Committee. The Bloc Québécois was struck by the expertise and concerns of the many witnesses who appeared with regard to the establishment of the new Canada Employment Insurance Financing Board.

It is helpful to recall that the Committee on Human Resources, Social Development and the Status of Persons with Disabilities tabled a report during the 38th Parliament, in 2005, regarding the management of the employment insurance program, recommending the establishment of a separate employment insurance fund and the reimbursement of the money used for other purposes. Moreover, the Bloc Québécois introduced Bill C-280, which was supported by the Conservatives and the NDP, to establish a separate fund, increase the powers and representation of workers and employers on the Canada Employment Insurance Commission and require the federal government to reimburse the fund surplus that was used for other purposes. In 2006, we took up the issue again with Bill C-357, which repeated most of Bill C-280, except that it left it up to the government to determine the method of reimbursement. Although the Conservatives had supported Bill C-280, strangely, they voted against Bill C-357.

While the Bloc Québécois for the most part supports this report, we note a number of omissions that we feel the need to point out.

Reimbursement

Since October 23, 1990, when the federal government stopped contributing to the employment insurance fund, it accumulated a surplus of over \$54 billion, according to the Canadian Institute of Actuaries. This astronomical sum, left unmonitored in the consolidated revenue fund, was used by the federal government to pay off the deficit, pay down the debt and interfere in areas of jurisdiction of Quebec and the provinces. The Bloc Québécois has always spoken out publicly against this and has called for this money to be placed in a separate fund to improve the current system. The Employment Insurance Financing Board does not in any way address the scandalous use of this surplus for other purposes. When the Minister of Human Resources appeared before the Human Resources Committee on April 29, 2008, with regard to the Main Estimates, he maintained that the government would provide \$2 billion to the Board. *“I’m going to say that the \$2 billion we put in, I think, does recognize the fact that premiums have come in during the time we’ve been in government and were utilized for things other than employment insurance benefits, and so we are fixing the*

problem going forward.” It is utterly absurd to admit that money was diverted from the employment insurance fund and then claim to be fixing the problem by appropriating \$52 billion of the \$54 billion diverted.

The Bloc Québécois accordingly recommends that the federal government table in the House of Commons a plan to reimburse all the employment insurance contributions that were diverted for purposes other than paying benefits. The amounts reimbursed must be used solely to enhance benefits under the current employment insurance system.

What to do with the surpluses?

The Committee heard from a number of witnesses who called for improvements to the employment insurance program and pointed out that its surpluses have been accumulated at the expense of protection for people who lose their jobs. The Bloc Québécois shares this view. Both in the 38th Parliament and in the 39th, we have proposed substantial improvements to the program with bills C-278 and C-269 respectively. We consider that the premium rate should be high enough to give the unemployed adequate protection: coverage of 60% of their income based on the best 12 weeks, available after 360 hours of work.

But it is all too obvious that the only thing the Conservatives want to do in the event of a surplus is reduce the premium rate, instead of using the surplus to improve living conditions for the unemployed. The Bloc Québécois has always denounced the government's cold and calculating approach. The Conservatives see a reduced premium rate as the best way of pleasing big business, while realizing that it will do very little to help workers.

It is thus vital that the surpluses be large enough to allow a far-reaching reform of the program. **This is why the Bloc Québécois is recommending that the Board be authorized to accumulate surpluses making possible on the one hand establishment of a \$15-billion reserve fund capable of covering one business cycle in the event of a recession, and on the other hand improvements to the system, which was what a majority in the House of Commons showed they wanted when they supported Bill C-269.**

The Board's negative effects

The Bloc Québécois notes that the Employment Insurance Financing Board will significantly reduce the role of the Employment Insurance Commission, which evaluates the system every year in a monitoring and assessment report. The Commission will no longer have the power to make recommendations on premium rates, for example. We consider it essential that the Commission's new responsibilities be defined as soon as possible and that it has the power to recommend improvements to the program.

We also think it is imperative to ensure that there is majority representation of employees and employers among the Board's directors. We support the proposal put forward by a number of witnesses, to the effect that representatives of the two contributor groups should be chosen from lists submitted by themselves. In our view it would be unacceptable for the government to set the overall orientations of a board in which it has invested not one red cent of public money.

Conclusion

In the opinion of the Bloc Québécois, the Employment Insurance Commission could have taken on the role that has been given to the Employment Insurance Financing Board: the government simply wanted to create an additional barrier against any improvements.

As the promoters and defenders of the independent employment insurance fund, the Bloc Québécois's Members of Parliament intend to make sure that their proposal, and the best interests of the jobless, is not distorted to gratify this government's neoliberal obsession. The independent fund, coupled with reimbursement of the \$54 billion, represents an extraordinary opportunity to improve a defective program that is still today leaving thousands of workers destitute. We will not lend ourselves to the government's manoeuvre.

Overall, the Human Resources Committee has fully understood the government's manoeuvre, as the recommendations in the current report show. But we must not forget the fundamental objectives underlying the desire for an independent fund. They are what we wanted to recall in this complementary opinion.

Dissenting Opinion of the New Democratic Party

In light of this report, the New Democratic Party (NDP) wishes to express its views on the creation of the Canada Employment Insurance Financing Board (Part 7 of Bill C-50).

First of all, the NDP is opposed to the establishment of the Board as proposed by the Conservative government. The NDP objects to this move as it is merely a cover-up for the \$54 billion the Liberal and Conservative governments stole from workers and employers.

To set the Board on the right track, the NDP presented thirteen amendments to the Finance Committee to repair the injustice done to the workers and employers who were the victims of this theft and to improve the quality of and access to employment insurance benefits.

Unfortunately, the Conservatives and Liberals rejected the NDP's amendments out of hand, without suggesting any compromise. The NDP seriously questions the Conservative government's real motives and the impact they will have on the employment insurance program.

Moreover, the NDP is of the opinion that the Committee's recommendations in this report are weak and do not sufficiently address the concerns raised by organizations defending workers and the unemployed.

The NDP therefore recommends:

- 1. That the accumulated surplus in the employment insurance fund (approximately \$54.1 billion) be regarded as a debt owed by the Consolidated Revenue Fund to the Employment Insurance Financing Board;**
- 2. That the Minister of Finance accordingly provide the Board with a plan to repay the amounts taken from the Employment Insurance Fund — in addition to the amount required to prevent any increase in premiums during an extended economic downturn — although the Chief Actuary has indicated that it has a credit balance;**
 - a) that this plan include an increase in benefits and active employment measures;**
 - b) that bookkeeping records be kept of this debt, with interest calculated by the Board, with no impact on the balance of accounts or the setting of premium rates;**

- c) that any increase in benefits be funded from the reimbursement of the debt and not be charged to workers and employers.
- 3. That the reserve fund be:
 - a) at least \$15 billion and that annual surpluses may be added to it with no impact on the balance of accounts;
 - b) confirmed.
- 4. That in the event of a shortfall, the government transfer the necessary funds to cover it through non-reimbursable payments:
 - a) drawn from the accumulated surplus;
 - b) to reimburse its debt;
 - c) without claiming interest.
- 5. That, during the consultations conducted by the Board, the public have a say on the setting of premium rates;
- 6. That the Board's board of directors have seven directors, including the chairperson, and:
 - a) three directors chosen from the lists provided by the most representative employer associations;
 - b) three directors chosen from the lists provided by the most representative unions;
 - c) one director representing the federal government;
- 7. That in matters relating to the Board the government put the interests of Canadians ahead of economic performance;
- 8. That the appointment process for the Board's chairperson and directors be subject to approval by the Standing Committee on Human Resources, Social Development and the Status of Persons with a Disability.