



HOUSE OF COMMONS
CANADA

**RESTORING FINANCIAL GOVERNANCE AND
ACCESSIBILITY IN THE EMPLOYMENT
INSURANCE PROGRAM**

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

**Raymonde Folco, M.P.
Chair**

Subcommittee on Employment Insurance Funds

**Rodger Cuzner, M.P.
Chair**

February 2005

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

has the honour to present its

THIRD REPORT

In accordance with the Extract from the Journals of the House of Commons of Thursday November 25, 2004 and its mandate under Standing Order 108(1)(a)(b), your Committee established a Subcommittee and assigned it the responsibility of examining the Employment Insurance Funds.

The Subcommittee submitted their report to the Committee. Your committee adopted the following report which reads as follows:

ORDER OF REFERENCE

Extract from the Journals of the House of Commons of Thursday, November 25, 2004:

By unanimous consent, it was ordered, —That, further to the Address in Reply to the Speech from the Throne, the House instruct the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities to recommend measures that would ensure that all future uses of the Employment Insurance program would only be for the benefit of workers and not for any other purpose.

ATTEST

WILLIAM C. CORBETT
Clerk of the House of Commons

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INTRODUCTION

Since the middle of the 1990s, the cumulative balance in the Employment Insurance (EI) Account — commonly referred to as the EI reserve — has steadily increased and today is regarded by most as excessive. For many, the EI reserve, albeit notional, represents a serious financial governance problem within the EI program. Many, like the Auditor General of Canada, believe that the government has collected much more than it needs to finance EI expenditures irrespective of the period of time considered and that, in this context, the government has not observed the intent of the *Employment Insurance Act*.

The government's unwillingness to limit the size of the cumulative balance in the EI Account and, more importantly, to reduce it, has caused a great deal of consternation among employers and employees who contribute to EI. The growing importance of this issue was also part of a proposed amendment to the recent Speech from the Throne. The Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities, which broached this subject on several occasions in the 37th Parliament, also recognizes the continued importance of this matter and on 21 October 2004 the Committee agreed unanimously to adopt the following motion:

Pursuant to Standing Order 108 and the Order of Reference contained in the address in reply to the Speech from the Throne, the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities study the issue of the Employment Insurance Funds so that the money accumulated is only used for the Employment Insurance Program in the interest of workers and taxpayers by forming a subcommittee charged to undertake this study and that the Committee report back to the House of Commons by December 17, 2004.

Our report begins with a discussion of the role of the Canada Employment Insurance Commission. This is followed by a review of EI's financial governance arrangements, the treatment of the cumulative balance in the Employment Insurance Account and safeguarding EI contributions. The fourth section of the report deals with setting EI premium rates. This is followed by a discussion of other financing-related issues and a number of areas in which program enhancements are needed.

EMPLOYMENT INSURANCE GOVERNANCE AND THE ROLE OF THE CANADA EMPLOYMENT INSURANCE COMMISSION

The Canada Employment Insurance Commission (CEIC) is a “departmental” corporation listed under Schedule II of the *Financial Administration Act*. It is made up of four commissioners. The Chair of the Commission is the Deputy Minister of Human Resources and Skills Development. The Vice-Chair is the Associate Deputy Minister of Human Resources and Skills Development. Obviously, both of these positions represent the interests of the government. A third commissioner represents the interests of employers and a fourth commissioner represents the interests of employees. The latter two commissioners are appointed by the Governor in Council for a period of five years, following consultations with organizations representing premium payers. The commissioners representing employers and employees are supposed to represent their respective constituencies by providing the Department with feedback pertaining to policy development, and program implementation and delivery. Some witnesses advised the Subcommittee that this consultation process is sometimes wanting, as some EI policy reforms have been introduced in the absence of effective consultation. The Committee believes that the commissioners representing employers and employees and their respective constituencies must be kept adequately informed of proposed changes in EI policy and that sufficient time must be given to conduct meaningful consultations in this regard.

... let's not make political decisions. Let's not say, okay, we're going to give extended parental leave for a year, without knowing what the implications are on half the economy that have four or five employees and lose three or four people, they're devastated. **(Garth Whyte, Canadian Federation of Independent Business)**¹

... you have to have consultation. If you're going to change the purposes of the fund, add in a parental leave, you have to consult on that. **(David Stewart-Patterson, Canadian Council of Chief Executives)**²

CEIC's mandate is essentially to assist Human Resources and Skills Development Canada (HRSDC), the Department responsible for administering the benefit provisions under the *Employment Insurance Act*.³ With the help of HRSDC

¹ House of Commons, Subcommittee on Employment Insurance Funds of the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities (hereafter referred to as SEIF), *Evidence*, 1st Session, 38th Parliament, Meeting No. 3 (16:20), Wednesday, 17 November 2004.

² SEIF, Meeting No. 3 (16:30), Wednesday, 17 November 2004.

³ The Canada Revenue Agency is responsible for all matters pertaining to insurability, including the collection of premiums.

staff, the CEIC assists the Department by making regulations; monitoring and assessing the *Employment Insurance Act* each year; appointing members of the boards of referees, the first level of appeal regarding benefit eligibility; and, until 2001, setting the annual premium rate subject to the approval of the Governor in Council on the recommendation of the Minister of Finance and the Minister of Human Resources and Skills Development.

Most of the witnesses who appeared before the Subcommittee expressed the desire to create a more independent CEIC or another entity that operated at arm's length from the government. Committee members agree that CEIC's independence needs to be bolstered, but most of us are hesitant to promote absolute independence in the context of an arm's-length organization. In addition to the fact that, we along with many of our witnesses, would like to see the tripartite configuration of the current Commission continue, complete independence could entail a certain amount of operational inertia given the dichotomy of views that exists among the primary stakeholders of this program. If employer and employee interests are to be equally represented, some mechanism is necessary to break the inevitable deadlock that we suspect would prevail in a bipartite governance structure.

Right now essentially you have a worker and an employer commission that has very little power in regard to its responsibility. Most of the powers have been taken away. We believe the government has to be a central part of the EI fund ... But as to how you'd set up that structure to ensure it meets our commitment, the devil will be in the details, but we're clear that we want to see the government remain as a critical part of it, including both workers and employers. **(Hassan Yussef, Canadian Labour Congress)**⁴

Committee members support a continuation of tripartite representation. However, we do not support a continuation of the government's dominance in the Commission's current organizational structure. Rather, we believe that as the sole contributors to the EI program, employees and employers must be given a much stronger voice in EI program management and policy decisions.

In the view of most Committee members, the Commission must be transformed from its current status as a departmental corporation (akin to a branch of the Department of Human Resources and Skills Development) to a federal government enterprise that offers far more independence and authority to be a real partner in EI governance, especially in terms of overseeing a real EI fund and the restoration of its rate-setting responsibilities. The new EI Commission must also be given a more meaningful role in influencing EI policy decisions. While the Committee acknowledges the government's primary policy-making role in this regard, those who finance EI must have a stronger voice in influencing the future

⁴ SEIF, Meeting No. 2 (20:00), Monday, 15 November 2004.

direction of this very important program. The new Commission must be given the authority to establish its own budget and hire staff, including a chief actuary.

Recommendation 1

The Committee recommends that, in 2005, legislation be tabled in Parliament that would create a new entity called the Employment Insurance Commission. The proposed Employment Insurance Commission would be given the statutory authority to manage and invest employment insurance revenues in the proposed Employment Insurance Fund Account and to transfer these revenues, as required by law, to the Consolidated Revenue Fund in order to cover the cost of employment insurance. This new Crown corporate entity should be governed by commissioners who broadly and equally represent employees and employers. The government should also be represented in the proposed Employment Insurance Commission. The Chair and Vice-chair of the Commission should rotate between employer and employee representatives after serving a two-year term. Commissioners would be appointed by the Governor in Council following consultations with groups representing employment insurance contributors. The operations of the Commission and the funds under its management must be fully accounted for and reported in accordance with generally accepted public sector accounting standards. The Commission should have the authority to make recommendations to the government.

THE CUMULATIVE BALANCE IN THE EMPLOYMENT INSURANCE ACCOUNT AND SAFEGUARDING CONTRIBUTIONS

Section 71 of the *Employment Insurance Act* establishes, in the Accounts of Canada, an account called the Employment Insurance Account (EI Account). While the Act indicates that all EI revenues and expenditures are to be transacted through the Consolidated Revenue Fund (CRF), sections 73 to 78 specifically state that these amounts are to be respectively credited and charged to the EI Account. Therefore, the EI Account is essentially a consolidated accounting entity that tracks EI-related financial transactions.⁵ And since all EI financial transactions are consolidated in the Accounts of Canada, a year-end surplus (deficit) in the EI Account directly increases (decreases) the government's budgetary balance by an equivalent amount. In other words, when EI revenues exceed expenditures, the federal government's fiscal position improves by a corresponding amount. The converse is true when EI expenditures exceed revenues. The year-end balance in the EI Account is also tracked over time and this is represented by the cumulative balance, a notional amount that, according to many, is borrowed from the EI Account in the case of a surplus or owed to the CRF in the case of a deficit. This view is further supported by section 76 of the Act, which authorizes the Minister of Finance to pay interest on the cumulative balance in the EI Account in accordance with such terms and conditions and at such rates as are established by the Minister.⁶

It is important to note that section 77 of the *Employment Insurance Act* limits the government in terms of what can be charged to the EI Account and, in this regard, expenditures outside the purview of EI may not be used to reduce the cumulative balance in the EI Account. In other words, this cumulative balance cannot be wiped out by paying money out of the CRF to finance health care, defence or any other non-EI related use. There is absolutely no question that most of those who appeared before us believe that today's cumulative surplus in the EI Account should be earmarked for EI.

⁵ Prior to 1986, transactions in the Employment Insurance Account (then called the Unemployment Insurance Account) were only partially integrated into the Accounts of Canada. Since then, the Employment Insurance Account has been fully integrated into the Accounts of Canada.

⁶ Currently, the rate paid on the cumulative balance in the EI Account is set at 90% of the monthly average of the three-month Treasury bill rate. Interest is calculated monthly, based on the 30-day average of the cumulative balance in the EI Account. Like the cumulative balance in the EI Account, these interest payments are also notional. Although they constitute part of the cumulative balance in the EI Account, they are not recorded as a public debt charge in the Accounts of Canada. Between 1996-1997 and 2003-2004, the government has made a cumulative notional interest payment totalling some \$7.1 billion.

... in my view, Parliament did not intend for the EI account to accumulate a surplus beyond what could reasonably be spent on the EI program. Thus, I have concluded that the government has not observed the intent of the *Employment Insurance Act*. **(Sheila Fraser, Auditor General of Canada)**⁷

The extra premium revenue collected since 1994 has not been paid out, not into a reserve account and not into the unemployment insurance account. They went directly into the government coffers. What makes this all the more painful is that these surpluses were built by massive cuts in protection to Canada's unemployed, who regard the surplus as money borrowed from EI that must be repaid. **(Hassan Yussef, Canadian Labour Congress)**⁸

I just wanted to say we would object vehemently to erasing that notional account, because it takes the obligation away from the government when we do run into an economic downturn and they are going to have to look for ways to pay increased benefits, that they don't come back to us and raise the rate. If we lose that account, that's exactly what's going to happen. **(Joyce Reynolds, Canadian Restaurant and Foodservices Association)**⁹

With respect to the accumulated surplus, for a number of years now, many groups and organizations, including our own, have loudly denounced the use of employment insurance surpluses for purposes other than those of the system. We believe a broad debate on this question is necessary. Even though those billions of dollars have already been spent, this way of doing things was highly debatable. We therefore think it is imperative, to say the least, that consideration be given to the possibility of reallocating those amounts to the employment insurance account, from which they should never have been withdrawn. **(Pierre Séguin, Centrale des syndicats du Québec)**¹⁰

I want to remind the committee of the zeal of the federal government's counsel in the CSN-FTQ's case against the federal government. They demonstrated that there was no separate unemployment insurance fund ... and the judge agreed with them ... It's not true that the federal government can eliminate this surplus at a single stroke, by means of an act, and say that it no longer exists and we have to start from scratch with a separate fund. We won't accept that. We're going to go to the Supreme Court if necessary. **(Mr. Roger Valois, Confédération des syndicats nationaux)**¹¹

As regards the use of the accumulated surplus, there is no doubt in our view that the money must be returned to the people who contributed. The only thing is that, in the event of a public debate in which the question

⁷ SEIF, Meeting No. 1 (11:20), Thursday, 4 November 2004.

⁸ SEIF, Meeting No. 2 (19:35), Monday, 15 November 2004.

⁹ SEIF, Meeting No. 3 (16:00), Wednesday, 17 November 2004.

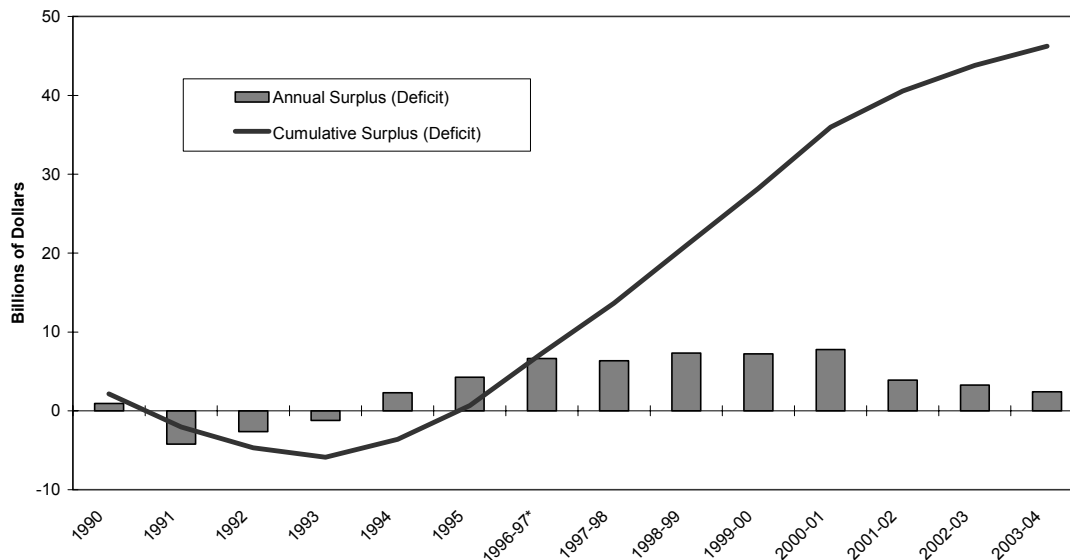
¹⁰ SEIF, Meeting No. 2 (19:25), Monday, 15 November 2004.

¹¹ Ibid. (20:35).

would be whether this money should be strictly handed over to unemployed workers, at the cost of reducing the government's fiscal flexibility for all programs and spending, our priority would clearly be to hand it over to workers on the one hand. (Mario Labbé, Centrale des syndicats du Québec)¹²

As shown in Chart 1, the cumulative surplus in the EI Account has grown rapidly since 1994 and, according to these data, reached \$46 billion as of 31 March 2004. Prior to the implementation of the *Employment Insurance Act* in 1996, the cumulative balance in the EI Account was always moving toward a break-even level, a function of the premium rate-setting process at that time. This rate-setting process was repealed under the *Employment Insurance Act*, a subject that is further discussed in the next section of our report.

CHART 1 - Year-End and Cumulative Balance in the Employment Insurance Account



* Refers to the 15-month period from January 1996 to March 1997.

Source: Public Accounts of Canada, selected years; and the Parliamentary Information and Research Service, Library of Parliament.

Not surprisingly, the origin of this unprecedented cumulative balance in the EI Account was a point of discussion throughout our hearings. Many regard the cumulative balance in the EI Account as a product of numerous changes restricting access to EI since the beginning of the 1990s. There is no doubt that the EI reform in 1996 resulted in a smaller program. In fact, one of the reform's objectives was to reduce EI expenditures by 10%. However, it should be noted that since EI's inception, subsequent reforms have expanded the program as evidenced by, for example, the reduction in the qualifying period for special benefits, the treatment of small weeks, the extension of parental benefits, the elimination of the intensity rule,

¹² Ibid. (19:55).

a relaxation of the benefit repayment provision, the introduction of compassionate care benefits and, most recently, the introduction of a two-year pilot project extending benefit entitlement by five weeks in high unemployment areas of the country. Changes to EI since 1996 have generally contributed to a slightly more generous and accessible program; but despite increased spending on these measures, the cumulative balance in the EI Account has continued to grow.¹³

... in terms of changes to the benefits and their impacts, which is more the question you were raising, there's no question that EI reform going back about 10 years had a number of changes that had the consequence of restricting eligibility requirements. Insofar as more recent years go ... each and every change has had the impact of extending eligibility or benefits to deal with particular issues on which we felt that improvements to the program were warranted. So those are a matter of record and they are policy decisions, policy choices, and they do entail costs in addition to what there would have been had there been no change. **(Andrew Treusch, Department of Human Resources and Skills Development)**¹⁴

Departmental officials cited unanticipated strength in the Canadian economy, and its impact on employment growth, as the primary reason for the burgeoning cumulative balance in the EI Account. Although we acknowledge that Canada's labour market performance may have exceeded private sector forecasters' expectations, we also recognize that projected EI revenues have consistently and substantially exceeded projected EI expenditures during this period. In other words, like the Auditor General and many of our witnesses, we find it difficult to accept that EI premium rates were being set exclusively within the parameters of the Act.

The vast majority of those who appeared before the Subcommittee maintained that the cumulative balance in the EI Account belonged to the EI program and that the government should begin to use the CRF to reduce the cumulative balance in this Account. A few witnesses seemed to be willing to let bygones be bygones, simply in recognition of the fact that other policy objectives would have to compete with the repatriation of EI funds. Committee members do not support a "let bygones be bygones" view and, like the vast majority of our witnesses, we believe that there is a moral obligation on the part of the government to restore integrity to the *Employment Insurance Act*. This necessarily requires that the cumulative surplus in the EI Account be returned to the EI program.

I'd like to add one thing that I'm very concerned about. In my view, the cash surplus in the employment insurance fund absolutely must not disappear, absolutely not. It's money that has been paid by workers ... So the money

¹³ The Bloc Québécois does not consider the EI program as generous and accessible and consequently does not support this statement.

¹⁴ SEIF, Meeting No. 1 (11:45), Thursday, 4 November 2004.

in the fund must absolutely go back to unemployed workers. **(France Bibeau, Confédération des syndicats nationaux)**¹⁵

There is no doubt that for many years the government has been charging employers and employees far more than is necessary to pay the costs of EI benefits ... Whether or not you agree with the way that money was spent it has been spent and we can no more undo the excessive EI premiums charged in the past than we can retroactively reverse the lower tax rates that Canadians enjoyed or reverse the transfers that have already been made to provinces for health care over the same period. **(David Stewart-Patterson, Canadian Council of Chief Executives)**¹⁶

Among the overwhelming majority of witnesses who maintained that the cumulative balance in the EI Account should be returned to the EI program, there was a substantial difference of opinion as to how this should be done. Organizations representing employees generally expressed the view that most, if not all, of the cumulative balance in the EI Account should be used to enhance benefits and coverage under the EI program. Organizations representing employers generally favoured a continued reduction in the premium rate as well as changes to other financing-related measures. Committee members also find themselves with differing views regarding how the repatriated surplus should be used.

In our opinion, the first step in resolving this matter is to immediately halt the growth in the cumulative balance in the EI Account. We recognize that there are large fiscal implications associated with the repatriation of the EI surplus. We also recognize that premium payers, as well as taxpayers in general, have benefited from spending related to year-end surpluses in the EI 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. However, it is impossible to determine who benefited and by how much.

We believe that the reallocation of CRF funds to the EI program must occur over a sufficiently long period of time so as to recognize the existence of other spending priorities as well as changes in Canada's fiscal outlook. Finally, and perhaps most important, repatriated surplus EI revenues and EI premiums collected in the future must be managed and used in such a way so that revenues earmarked for EI are spent on EI.

... we really think the time has come again for the segregation of the fund from consolidated general revenues ... **(Michael Atkinson, Canadian Construction Association)**¹⁷

¹⁵ SEIF, Meeting No. 2 (20:30), Monday, 15 November 2004.

¹⁶ SEIF, Meeting No. 3 (15:35), Wednesday, 17 November 2004.

¹⁷ Ibid. (15:25)

Many witnesses who appeared before the Subcommittee were critical of EI's current governance structure. In their view, and one which is supported by all Committee members, a notional account that is obviously ineffective in guiding the government's use of funds collected for the purposes of EI is in need of fundamental reform. Most witnesses suggested that the EI Account should be replaced by some kind of trust account or segregated fund, although its operation vis-à-vis public sector accounting principles was often unclear. One suggestion was the creation of an insurance fund like that operated by Ontario's Workplace Safety and Insurance Board, an entity that is referred to in the notes of the Consolidated Financial Statements of Ontario as a trust fund under administration. We do not think, however, that an entity like this would be satisfactory, because we believe, as indicated earlier, that EI should continue to be controlled by the federal government. In her appearance before the Subcommittee, the Auditor General of Canada clearly expressed the view that if the federal government continued to have control over EI, then EI should be included in the Accounts of Canada. We want to ensure that this is the case as well.

Of course all premiums are currently deposited to the consolidated revenue account, and all payments come from that same account. So there are two factors: revenue and expenditure accounting and the use of cash on hand. Cash on hand is in a bank account and can be used for all kinds of purposes. I assume it's possible, if Parliament so decides, to establish another, separate account ... In accounting terms, it would probably still be in the government's summary financial statements. **(Sheila Fraser, Auditor General of Canada)**¹⁸

Recommendation 2

The Committee recommends that, in conjunction with the legislation referred to in Recommendation 1, statutory authority be given to establish a new reserve, called the Employment Insurance Fund Account. The Employment Insurance Fund Account, perhaps modelled after the Exchange Fund Account,¹⁹ would exist outside of the Consolidated Revenue Fund and act as a depository for all employment insurance premiums and other transfers from the Consolidated Revenue Fund as required by law. Funds transferred from the Employment Insurance Fund Account to the Consolidated Revenue Fund would by law be used exclusively to cover employment insurance costs.

¹⁸ SEIF, Meeting No. 1 (11:50), Thursday, 4 November 2004.

¹⁹ The operation of the Exchange Fund Account is governed by the provisions of Part II of the *Currency Act*. This Account, administered by the Bank of Canada, represents financial claims and obligations of the Government of Canada as a result of foreign exchange operations. Investment income from foreign exchange transactions and net gains and losses are recorded in foreign exchange revenues on the Statement of Operations and Accumulated Deficit.

Recommendation 3

The Committee recommends that, beginning in 2005-2006, the federal government transfer amounts from the Consolidated Revenue Fund to the proposed Employment Insurance Fund Account. This transfer must occur over a period of time, taking into consideration the year-to-year fiscal position and expected outlook of the federal government. The minimum amount to be transferred to the Fund each year must be no less than one half of the amount remaining in the Contingency Reserve at year's end.²⁰ These transfers would continue until the cumulative balance that existed in the Employment Insurance Account as of 31 March 2004 has been fully transferred to the Employment Insurance Fund Account. When that cumulative balance in the Employment Insurance Account reaches zero, all references to this Account in the *Employment Insurance Act* should be repealed.

²⁰ The Bloc Québécois recommends that at least \$1.5 billion a year be refunded to the Employment Insurance Fund. It also recommends, if needed to cover one full year of contribution, a guaranteed payment of \$15 billion. If this guaranteed payment is not used, it should be refunded at the rate of \$1.5 billion after the payment of the initial \$31 billion.

SETTING THE EI PREMIUM RATE

Between 1972 and 1996, the CEIC (previously known as the Canada Employment and Immigration Commission) was responsible for setting an annual UI (EI) premium rate that served to reduce and eventually eliminate a cumulative surplus or deficit in what was then called the UI Account. Under this rate-setting mechanism, the premium rate was set each year so as to cover what was called the “adjusted basic cost” of UI (EI). This amount was equal to the “average basic cost” of benefit plus (minus) any amount required to remove or reduce a deficit (surplus) in the UI Account. The average basic cost of benefit was equal to a three-year average of UI (EI) costs.²¹ This approach precluded the build-up of a cumulative balance like that which exists today, unless of course the government intervened and established a statutory rate different from that permitted under the *Unemployment Insurance Act*.

Although this rate-setting approach served to reduce or eliminate a cumulative surplus or deficit over time, it was susceptible to pro-cyclical rate-setting. In other words, from time to time the premium rate would increase concurrently with the unemployment rate, a point in the business cycle during which lower, not higher, labour costs were needed to stimulate growth in employment. It should be noted that the adverse impact of this rate-setting mechanism was exacerbated, in some years (e.g., 1990, 1991 and 1992) by the withdrawal of taxpayers’ contributions to the program. As of 1990, all CRF payments for UI (EI) benefits ceased and the program became totally financed through employee and employer premiums.

To address the adverse effects of pro-cyclical rate setting, the *Employment Insurance Act* established a rate-setting process that required the CEIC to set a rate that, to the extent possible, would ensure that enough revenue was available to cover program costs and maintain relatively stable premium rates over the course of the business cycle. Unfortunately, the Act does not define a business cycle or premium rate stability, or set an upper limit on the “reserve,” albeit notional, that would meet these premium rate-setting objectives. Perhaps the greatest shortcoming associated with this rate-setting process is that there is no means of creating a real pool of reserves in order to meet the Act’s rate-setting objectives. While premium rate stability can be achieved in the context of a notional reserve, this approach necessarily has a direct impact on the budgetary balance of the government. By incorporating a cumulative surplus or “look back” component in the rate-setting process, the CRF must be called into service when the “stable” premium rate is unable to generate enough revenue to cover program costs. There is no

²¹ More specifically, the average basic cost of benefit was equal to the average total cost of UI (including administration costs) for the three-year period that ended concurrently with the second year preceding the year for which the average was computed. The premium rate that would cover the average basic cost of benefit was the statutory or minimum premium rate that could be established in a given year.

doubt that the rate-setting mechanism established under section 66 of the *Employment Insurance Act* exposed the government to fiscal uncertainty.

I want to remind you, the whole point of the government deciding to move to a new premium-setting mechanism was that since the account was consolidated under this approach that looked back at accumulated surpluses, this could have significant destabilizing impacts on the fiscal management of the government. **(Louis Lévesque, Department of Finance)**²²

In the absence of a legislated limit on growth in the cumulative balance in the EI Account, EI's Chief Actuary set about to estimate the magnitude of the notional reserve that would satisfy EI's rate-setting objectives. According to the Chief Actuary's *Report on Employment Insurance Premium Rates for 1998*, an estimated notional reserve of \$10 to \$15 billion attained just before a downturn would suffice. This estimate was reiterated in subsequent reports covering the period 1999 to 2001. This estimate has not been revised since then, as CEIC's rate-setting responsibilities were suspended in 2002.

Although this notional reserve (i.e., cumulative balance in the EI Account) was reached around 1997-1998, EI premium rates continued to be set at levels well in excess of those required to cover program costs, as shown in Chart 2. Moreover, between 1998 and 2001, a period during which CEIC remained responsible for setting the premium rate, the government continued to set a premium rate that exceeded the upper end of the Chief Actuary's estimated long-term stable rate and the recommended rate.²³

With mounting pressure to address the continued growth in the cumulative balance in the EI Account, the government suspended section 66 of the *Employment Insurance Act* in 2001. In its place, section 66.1 allowed the Governor in Council on the recommendation of the ministers of Human Resources Development (now Human Resources and Skills Development) and Finance to set the EI premium rate for the years 2002 and 2003. The government indicated that during this period it would consult with Canadians and introduce a new premium rate-setting process by the end of 2003.

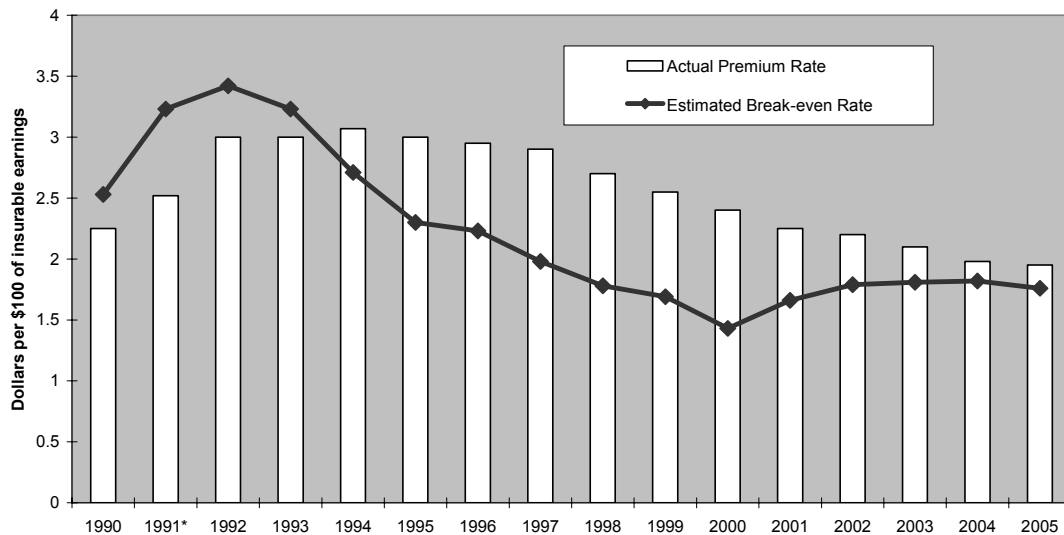
As this public consultation had not taken place by the time the February 2003 budget was tabled, the government reiterated its intention to consult the public on the creation of a new rate-setting process and extended its rate-setting authority to 2004. The budget also announced that interested parties could submit their views on a new rate-setting process until 30 June 2003. The new rate-setting process

²² SEIF, Meeting No. 1 (12:10), Thursday, 4 November 2004.

²³ In 1998, 1999, 2000 and 2001, the Chief Actuary's recommended rate was \$2.40, \$2.30, \$2.25 and \$2.10 respectively per \$100 of insurable earnings; while actual rates were \$2.70, \$2.55, \$2.40 and \$2.25 respectively.

would be guided by five principles: (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 on the business cycle; and (5) premium rates should be relatively stable over time.²⁴ Moreover, it was assumed that this new rate-setting process would be in place for 2005. However, in the event that the new process was not in place, the government extended by one year its rate-setting authority in the March 2004 budget. In doing so, it would set the premium rate in a manner consistent with the principles underlying the new rate-setting mechanism.

CHART 2 - Actual and Estimated Break-even Employee Premium Rates Since 1990



* In 1991, the premium rate for the first half of the year was \$2.25 and was raised to \$2.80 for the remainder of the year. The rate in the above chart is an average of these premium rates.

Source: Human Resources and Skills Development Canada, *Chief Actuary's Report on the Employment Insurance Premium Rates for 1998*, Appendix III; Human Resources and Skills Development Canada, *Outlook on the EI Account in 2005*; and the Parliamentary Information and Research Service, Library of Parliament.

Since superseding CEIC's rate-setting responsibilities, the government has continued to set an EI premium rate above that necessary to cover EI program costs (see Chart 2).²⁵ While the Committee acknowledges that the government has reduced the EI premium rate every year since implementing the *Employment Insurance Act*, the speed at which these rates declined, especially after 1998, pales in comparison to the rate of growth in the cumulative balance in the EI Account; the average break-even EI premium rate (including interest payments) for the period,

²⁴ Department of Finance, *The Budget Plan 2003*, 18 February 2003, p. 183.

²⁵ According to the Chief Actuary's *Outlook for the EI Account in 2004*, estimated break-even premium rates (including interest payments) for 2002, 2003 and 2004 were \$1.79, \$1.77 and \$1.81 respectively per \$100 of insurable earnings; actual rates, on the other hand, were \$2.20, \$2.10 and \$1.98 respectively.

1998 to 2004 was around \$1.70 per \$100 of insurable earnings, some \$0.61 per \$100 of insurable earnings below the average actual rate for the same period.

The Committee recognizes that some of the gap between actual and estimated break-even premium rates is attributable to the fact that the latter includes interest payments. The government does not include interest payments in setting the premium rate, a somewhat odd approach in view of the fact that it pays interest, albeit notionally, on the cumulative balance in the EI Account. Of perhaps greater importance, the government has certainly levied real, not notional, interest charges in the past whenever the Account was running a deficit.

... from a fiscal management standpoint the interest credit is a notional transaction in the sense that it's the accounting within the EI account, but it has no impact on the fiscal position of the government. What has an impact on the fiscal position of the government is the premium revenues coming in from employers and employees, the benefits in terms of going out, and the administration cost. It's clear the intent in terms of the new premium-setting mechanism is to take those elements into account, because these are the elements that have a direct impact in any given year on the fiscal position of the government. **(Louis Lévesque, Department of Finance)**²⁶

I. Looking Ahead: A New Approach to Setting EI Premium Rates

Most witnesses supported the idea of establishing a premium rate on the basis of expected program costs over a specific period of time, say between five and seven years. Others mentioned the business cycle as the rate-setting reference period. Irrespective of the reference period, all seemed to be in agreement that whatever period is selected, it must have a legislative basis.

There was also general support for a look-forward rate-setting process, and, in most cases, the proposed rate-setting model incorporated the concept of a rate stabilization reserve to offset the shortfall in revenues whenever the established rate failed to generate enough funding to cover program costs. Unfortunately, this rate-setting feature was not included in the five principles governing consultations on a new rate-setting process, although it should be noted that most participants addressed this issue anyway.

²⁶ SEIF, Meeting No. 1 (11:40), Thursday, 4 November 2004.

i. Establishing a Real Premium Rate Stabilization Reserve

As recommended earlier in our report, we believe that the government should enact the necessary legislation to create an Employment Insurance Fund Account. We also propose that the newly created Employment Insurance Commission establish and manage a premium rate stabilization reserve within this Fund, and that this reserve be estimated every five years to ensure that its size is sufficient to cover the cost of estimated program liabilities during the period over which premium rate stability is sought. Moreover, this stabilization reserve should be recalibrated following a major change to the EI program, especially when the change directly affects the program's cyclical sensitivity.

Some witnesses suggested that a premium rate stabilization reserve should be set at \$10 to \$15 billion, the estimated, albeit dated, notional reserve that EI's Chief Actuary deemed sufficient to meet program costs and maintain relatively stable premiums over the business cycle. Most Committee members believe that the Chief Actuary should re-estimate the size of the premium rate stabilization reserve that is necessary to satisfy the aforementioned rate-setting objectives over the rate-setting reference period.

Recommendation 4

The Committee recommends that a premium rate stabilization reserve be created and maintained within the proposed Employment Insurance Fund Account. This reserve should be estimated by the Chief Actuary of the proposed Employment Insurance Commission and re-estimated every five years. It should be managed prudently, provide the required liquidity needed to maintain premium rate stability over a five-year period, and should never exceed 10% of the most recent estimated premium rate stabilization reserve requirement.

ii. Role of the Chief Actuary

Many witnesses either explicitly or implicitly indicated that EI's Chief Actuary should play an important role in the new rate-setting process. This role would entail estimating the size of the premium rate stabilization reserve, as well as the premium rate that, given this reserve, would meet program costs and maintain stable premiums over the estimation period.

We've heard talk of eliminating the actuarial position. That would be outrageous. You need that. If you do not have that, some sort of arm's-length person, you'll run into a Workers Compensation Board scenario, where they don't even do their cost claims studies, some of them, appropriately, and then you get all sorts of mischief happening. **(Garth Whyte, Canadian Federation of Independent Business)**²⁷

General support also appears to exist for the principle that the premium rate be set on the basis of independent expert advice. We believe that the Chief Actuary should identify and use the necessary independent expert advice in fulfilling the proposed Employment Insurance Commission's rate-setting mandate.

Committee members, and our witnesses, also support a transparent rate-setting process. In this context, the Chief Actuary would publish, not later than three months prior to the coming year for which the premium rate is to be set, a report outlining the details of the analysis underlying the recommended rate. We recognize that this rate must be approved by the Governor in Council, but Committee members are reluctant to afford the government a great deal of flexibility in revising the Chief Actuary's and, by association, the proposed Commission's recommended rate.

Many of those who appeared before the Subcommittee want future premium rates to increase or decrease in order to achieve objectives beyond those associated with the rate-setting process itself. For example, most of the witnesses representing employees recommended that the current premium rate be maintained or even increased so as to help finance, in conjunction with a reduction in the cumulative balance in the EI Account, numerous program enhancements. Groups representing employers, on the other hand, sought a continued reduction in EI premiums via a reduction in the cumulative balance in the EI Account, a rebalancing of employer/employee cost sharing, and higher premium refunds. It was also proposed that the new rate-setting process incorporate experience rating, a feature that would result in higher premium rates being charged to companies that generate above-average program liabilities compared to companies that tend to have relatively greater employment stability.

We think the premium rate should be increased. If we want to improve the employment insurance system, as we wish, the premium rate absolutely must be approximately \$2.20 per \$100. **(René Roy, Fédération des travailleurs et travailleuses du Québec)**²⁸

²⁷ SEIF, Meeting No. 3 (16:35), Wednesday, 17 November 2004.

²⁸ SEIF, Meeting No. 2 (19:30), Monday, 15 November 2004.

Given that employers and employees have already paid in over \$47 billion in extra premiums to the government for the sole purpose of achieving rate stability, CFIB recommends that the government continue to lower the rates beyond 2004 and take the responsibility for future unexpected program shortfalls associated with the business cycle. **(Garth Whyte, Canadian Federation of Independent Business)**²⁹

Most Committee members feel that the premium rate should be set annually so as to ensure that the proposed rate stabilization reserve is solvent, that program liabilities can be met and that premiums can remain relatively fixed over a look-forward period of five years. The costs associated with future program enhancements or other changes pertaining to program financing would necessarily be reflected in both the size of the premium rate stabilization reserve and the break-even premium rate covering the rate-setting reference period.

Recommendation 5

The Committee recommends that starting in 2005:

i) the Chief Actuary of the proposed Employment Insurance Commission utilize independent expert advice to estimate annually a break-even premium rate that would ensure program solvency and premium rate stability over a five-year, look-forward period;

ii) the Chief Actuary utilize independent expert advice to estimate quinquennially the size of premium rate stabilization reserve that would insure program solvency and premium rate stability over a five-year period; and

iii) the proposed Employment Insurance Commission publish its recommended break-even premium rate and underlying analysis by 30 September in the year prior to the year for which the recommended rate applies.

²⁹ SEIF, Meeting No. 3 (15:45), Wednesday, 17 November 2004.

Recommendation 6

The Committee recommends that if the rate recommended by the proposed Employment Insurance Commission is, for some extraordinary reason, different from that which the Governor in Council wishes to approve, then the government must, in setting a different rate, amend the *Employment Insurance Act* by establishing a statutory premium rate for a period not exceeding one year. This proposed legislative change must be subject to a vote in the House of Commons.

OTHER FINANCING ISSUES

I. Yearly Basic Insurable Earnings Exemption

Under the *Employment Insurance Act*, individuals who are unlikely to qualify for benefits are entitled to a premium refund if their earnings are less than \$2,000 per year. Employers are not entitled to these refunds, a situation which understandably was regarded as inequitable by business groups, particularly those representing small businesses, who appeared before the Subcommittee.

In addition to the inequitable treatment afforded employers, the premium refund also has some shortcomings with respect to its treatment of employees. While the purpose of this provision is to refund premiums to workers who are unlikely to qualify for benefits because their earnings are insufficient, it undoubtedly fails to perform this task because it is set too low and it is not indexed to growth in earnings. The current threshold of \$2,000 is not high enough to ensure that those with low annual earnings and no chance of meeting EI's minimum qualification requirement receive a premium refund. For example, combining the lowest minimum wage rate (\$5.90 per hour) and the lowest minimum qualification requirement (420 hours of insurable employment), those with annual earnings between \$2,000 and \$2,478 would not qualify for EI or a premium refund. More importantly, the gap between the current premium refund threshold and other minimum wage and minimum qualification requirement combinations rises as the minimum wage rises and/or the unemployment rate falls in EI economic regions.

In view of the fact that the government seems unwilling to augment the premium refund and devise some means for applying it to employers, the issue of introducing a basic insurable earnings exemption, akin to that used under the Canada Pension Plan, surfaced during the Subcommittee's hearings. This issue has been raised on other occasions as well and, in fact, was addressed in a report prepared by this committee in May 2001 entitled *Beyond Bill C-2: A Review of Other Proposals to Reform Employment Insurance*.

... a yearly basic exemption in the EI program would help alleviate the payroll tax burden of all Canadians and all businesses but would most benefit those most punished by high payroll taxes, low wage and entry level workers, and labour intensive businesses. **(Joyce Reynolds, Canadian Restaurant and Foodservices Association)**³⁰

³⁰ Ibid., (15:35)

The Committee agrees that the current limited and one-sided application of the premium refund needs to be addressed, and the introduction of a yearly basic insurable earnings exemption is appealing in at least two respects. Firstly, it alleviates some of the regressivity of EI premiums. Secondly, its application is administratively simple.

However, a yearly basic insurable earnings exemption is wanting in other respects. For one, proponents of this feature assume that exempt earnings would be insurable for the purposes of qualifying, but not for the purposes of premium collection, which seems to be tantamount to free benefit coverage. In addition, if earnings up to the yearly basic insurable earnings exemption are only insurable if earnings exceed the exemption (basically the same treatment afforded pensionable earnings for the purposes of the Canada Pension Plan), then some individuals, for example, multiple job holders might find this approach to be inequitable. In this case, a multiple job holder whose earnings in each of the multiple jobs are less than the earnings exemption could end up with no insurable earnings even though total earnings are well in excess of the insurable earnings exemption. Another issue, although no more serious than that under the Canada Pension Plan, is that a yearly basic insurable earnings exemption might induce some employers to create short-hour jobs that terminate just before the earnings exemption threshold is reached.

Assuming most of the administrative irregularities associated with a yearly basic insurable earnings exemption are adequately addressed and resolved in favour of workers, the Committee is generally supportive of this proposal.

Recommendation 7

The Committee recommends that the government implement a \$3,000 yearly basic insurable earnings exemption to replace the premium refund for contributors with low earnings. This exemption threshold would be indexed upward according to growth in average weekly earnings in Canada. This new provision should be reviewed two years after its implementation to examine its impact on hours of work.

II. Return of Over Contributions to Employers

Along the same lines as the premium refund discussed above, employees are entitled to a return of contributions if they contribute more than the maximum amount in any given year, but employers are not afforded the same treatment. The maximum payment by an employee is calculated as the product of the premium rate and maximum insurable earnings divided by 100 (the maximum payment in 2004 is \$772.20). All EI premiums paid in excess of the maximum contribution are returned to the contributor. Employers, who pay 1.4 times the employee premium rate, are

entitled to a refund of over-contributions only where the actual amount remitted in a given year exceeds the amount they are required to remit on the basis of earnings paid to each employee. Hence, even though an employee has contributed, for example, the maximum amount in previous employment with a different employer in a given year, the employee's current employer must contribute on the basis of current, not previous, earnings paid to the employee in that year. In other words, employers contribute to EI on behalf of a given employee as if they are the first employer to pay premiums on behalf of that employee.

This anomalous and inequitable treatment arises under the rubric of employee privacy, which, of course, we do not take lightly. Nevertheless, Committee members are somewhat puzzled by the fact that the government has been unable to identify some administrative solution to resolve, at least in part, this problem, given its capacity to create a program as administratively complex as EI.

We'd like to see a mechanism for refunding employers for EI over contributions particularly with respect to associated companies who are treated as a single taxpayer for the purposes of other income tax matters and yet for EI are treated as separate employers. **(Michael Atkinson, Canadian Construction Association)**³¹

While it is difficult to quantify the exact level of over-contributions by employers, the level is certainly in the several hundred million dollar range. However, there is currently no mechanism in place to refund employers for over-contributions. Given the fact that EI premiums represent a barrier to job creation, the Canadian Chamber believes that the federal government must immediately implement a system that allows for over-contribution by employers to be refunded by the federal government. **(Michael Murphy, Canadian Chamber of Commerce)**³²

We believe that a more satisfactory approach can be found than currently exists to afford employers, who pay 1.4 times what their employees pay, more equitable treatment regarding over-contribution refunds. The solution, perhaps one that incorporates a first-payer principle, may continue to be inequitable for some employers, but others would be treated far more fairly than is currently the case. Over-contribution refunds need not be paid in reference to specific employees; a lump-sum payment is an option worth considering. In cases involving businesses in which only one employee has worked for the business in a given year, perhaps the permission of that employee could be sought prior to refunding an over-contribution. Finally, and perhaps most important, the solution to this problem should not be administratively complex or costly to deliver. These are but a few suggestions that could be considered in resolving this important matter.

³¹ Ibid. (15:25).

³² Ibid. (15:45).

Recommendation 8

The Committee recommends that in 2005 the government devise and implement a method for refunding employment insurance premiums to employers corresponding to over-contributions to employment insurance from employees.

III. Employee/Employer EI Cost Sharing

Most of the business groups who appeared before the Subcommittee maintained that there should be a more equitable EI cost-sharing arrangement between employers and employees. This view was framed in the context of the current cost-sharing arrangement and/or experience-rating. Employer groups generally maintained that employers should not be required to pay a higher premium, or any premium at all, in relation to social benefits, often intended to mean benefits paid for purposes unrelated to involuntary unemployment. Some groups representing workers recommended that general revenues be used to contribute to the cost of providing regionally extended benefits and additional program costs due to high unemployment.

For more than three decades, employers have contributed 1.4 times employee contributions. This approach has been justified on the grounds that employers have the greatest influence over layoff decisions and hence EI program liabilities related to benefit payments. This rationale is considerably less robust today than in the past, because the relative share of EI program costs unrelated to employers' layoff decisions has increased significantly. In 1972-1973, when this cost-sharing formula was first introduced, regular benefit payments (those benefits paid in relation to involuntary unemployment) constituted roughly 88% of total program costs (excluding interest payments to the CRF). In 2003-2004, regular benefits accounted for about 55%. Not only has regular benefits' share of total program costs plummeted during this period, it has done so in conjunction with a gradual decline in CRF contributions to the EI program. In 1973-1974, the CRF accounted for about one-half of UI revenues. Since then, the CRF has gradually reduced its role as an EI contributor, and in 1990 the program became financed exclusively through employee and employer contributions.

... employers have been paying 1.4 times what employees pay, about 58% of total premiums collected. The multiple of 1.4 was set as a default for all employers until one experience rating system was implemented and although the enabling provision for experience rating was removed, the 1.4 employer multiple has been retained. The apparent rationale behind this is that employers have greater control over layoff decisions and therefore should bear a higher overall share of program costs. In recent years, however, EI benefits totally unrelated to layoffs — for example, parental leave, to name a significant program — have contributed to much higher costs. There was little justification for requiring employers to pay for these benefits, and more so than employees do... The Chamber

recommends the federal government reduce the employer multiple so the premium rate equals the employee premium rate. **(Michael Murphy, Canadian Chamber of Commerce)**³³

Right now we're looking at employers paying 60% and employees paying 40%. We believe that if you keep all the social programs within the EI program, whatever the percentage of those are, government should pay. The structure of the board would reflect the contributions of employers, employees and government. **(Joyce Reynolds, Canadian Restaurant and Foodservices Association)**³⁴

Given the significant decrease in the share of program liabilities related to employers' decisions to lay off workers, some Committee members believe that it is time to rebalance the cost-sharing arrangement under the EI program. Others believe that the current cost-sharing arrangement should be maintained.

Recommendation 9

The Committee recommends that the current cost-sharing arrangement between employers and employees be maintained.

³³ Ibid. (15:40).

³⁴ Ibid. (16:35).

OTHER PROGRAM ENHANCEMENTS

It is clear from our meetings that EI program contributors, at least in terms of those who appeared before the Subcommittee, would like to see major changes to the *Employment Insurance Act*. In terms of future EI reforms, the Subcommittee witnessed the usual dichotomy of views held by employer and employee representatives. Witnesses representing workers indicated that the EI program has been significantly diminished in terms of both accessibility to benefits and the level of support provided. Some Committee members, and many witnesses, consider the retrenchment of EI as a major contributor to the cumulative balance in the EI Account. Proponents of this view maintain that it is time to make amends and have called for significant increases in EI accessibility and, in the level and duration of benefits provided under this program.

... for years now, the government has helped make it so that all Canadians who are unemployed would no longer have access to the employment insurance fund. You ask us today what should be done with the money that you've accumulated at the workers' expense. The answer is very simple: you should give it back to the workers and make sure that the system is able to meet the needs and expectations of people who lose their jobs.
(Pierre Séguin, Centrale des syndicats du Québec)³⁵

Witnesses representing employers, on the other hand, lamented some of the changes that have been made to EI since 1996, particularly in terms of the elimination of the intensity rule and the rapid growth in social benefits. Most of these groups called for a return to the program's original purpose, backed by stronger insurance principles.

The Chamber believes that the government must implement policies that discourage the frequent use of EI. Reinstating the intensity rule, increasing the hours to qualify for EI, and reducing the benefit period in high unemployment regions would enhance labour flexibility, productivity and accelerate industrial and regional adjustments. **(Michael Murphy, Canadian Chamber of Commerce)³⁶**

I. Minimum Qualification Requirements

In moving to an hours-based qualification requirement and extending coverage to the first hour of work, the 1996 EI reform eliminated the concept of a week of insurable employment. Under the old weeks-based qualification requirement, a week was considered insurable if it involved at least 15 hours of

³⁵ SEIF, Meeting No. 2 (19:45), Monday, 15 November 2004.

³⁶ SEIF, Meeting No. 3 (15:40), Wednesday, 17 November 2004.

insurable employment or weekly earnings equal to at least 20% of maximum weekly insurable earnings. There is no doubt about the significance of this change, since today's hours-based qualification requirement is based on a 35-hour week, not a 15-hour week. Many witnesses who appeared before the Subcommittee forcefully noted that this reform has made it more difficult for short-hour and part-time workers to qualify for benefits, particularly in terms of those who reside in high unemployment areas of the country where job opportunities are limited.

Most importantly, members of the Subcommittee were told that the hours-based qualification requirement has been especially problematic for workers — especially those working part-time — who are defined as new entrants or re-entrants. In this case, the hours-based qualification requirement is 910 hours of insurable employment, irrespective of labour market conditions in the EI economic region in which they reside. Furthermore, this hourly threshold is more than 200% higher than the hourly equivalent of the former weeks-based qualification requirement under the minimum insurability rule.

The new rule stated that claimants who are not new entrants into the labour force would need between 420 and 700 hours to qualify for employment insurance. But a new entrant would need 910 hours of insurable employment to qualify. According to our studies, this requirement of 910 hours has a negative impact, particularly on women and young people. Furthermore, it is a major disincentive for people who are thinking about working in agriculture, forestry and a number of other sectors where the work is seasonal. It is just about impossible for these people to accumulate 910 hours of insurable employment in these types of jobs. (Normand Carrier, Comité d'étude sur le travail saisonnier)³⁷

The 360 is essentially 12 weeks times 30 hours. One of the things that happened when they went from UI to EI is that they essentially took a minimum of 15 weeks. Under the old weeks formula, you needed a minimum of 15 hours a week to qualify, so the maximum anybody needed prior to 1996 was 300 hours — and it was, of course, much lower because of the variable formula.

The important thing to keep in mind here is that in the more than doubling from 15 to 35 hours, you caught women who typically work much less than 35 hours a week on average ... **(Kevin Hayes, Canadian Labour Congress)**³⁸

³⁷ SEIF, Meeting No. 4 (15:50), Wednesday, 24 November 2004.

³⁸ SEIF, Meeting No. 2 (20:45), Monday, 15 November 2004.

For a number of years now, people have been going out and demanding that employment insurance should go back to being a plan that compensates people who are out of work. Eligibility for us starts at 350 hours. **(Sébastien Duclos, Mouvement autonome et solidaire des sans-emploi, réseau québécois)**³⁹

Although the policy objective underlying the significant increase in the qualification requirement for new entrants/re-entrants was purportedly to reduce dependency on EI, the integrity of this policy objective was somewhat undermined in 2001 when the government reduced the qualification requirement for special benefits (including new entrants/re-entrants) from 700 to 600 hours of insurable employment. This was done largely in recognition of the fact that the incidence of part-time employment was much higher among women than men and that, compared to men, women tend to enter and exit the labour market more frequently. It is unclear why this reasoning is unique in terms of its application to the qualification requirement for special benefits, since the same rationale, in our view, applies equally to regular benefits.

Committee members are concerned that EI's qualification requirements have become fragmented and inconsistent. In addition to the lower qualification requirement for special benefits, the receipt of these benefits is an important determinant in establishing whether an insured individual is defined as a new entrant or re-entrant for the purposes of qualifying for regular benefits in a subsequent claim. The reason for this is that subsections 7(4) and 7(4.1) of the *Employment Insurance Act*⁴⁰ allow these benefits to be counted in determining whether an insured person is or is not a new entrant or a re-entrant. Obviously, this is very significant, because individuals who are not defined as a new entrant or re-entrant must obtain between 420 to 700 hours of insurable employment (depending on the regional unemployment rate) to qualify for regular benefits; while individuals who are defined as such must obtain 910 hours of insurable work, a considerably tougher challenge in many parts of the country.

Many groups representing workers who appeared before the Subcommittee expressed the desire to replace the existing qualification requirement structure with a uniform requirement of 360 hours of insurable work, irrespective of the type of benefits received, labour market attachment or the unemployment rate. These

³⁹ SEIF, Meeting No. 4 (15:40), Wednesday, 24 November 2004.

⁴⁰ Section 7(4) defines a new entrant or re-entrant as an insured person who during the qualifying period has had fewer than 490 hours of insurable employment, hours for which benefits have been paid (calculated as 35 hours for each week of benefits paid), prescribed hours that relate to employment in the labour force, or hours comprised of any combination of those hours. Moreover, subsection 7(4.1) states that an insured person is not a new entrant or re-entrant if the person has received at least one week of maternity or parental benefits in the 208-week period preceding the 52-week period before the qualifying period.

representatives, however, implicitly or explicitly supported the continuation of a benefit entitlement structure based on insurable hours of work and the unemployment rate.

Most Committee members agree that EI's current qualification requirement is in need of reform. And in the opinion of most, reform should begin with a modification to the qualification requirement for new entrants and re-entrants. We do not believe that individuals who qualify for and receive a certain type of benefit should receive preferential treatment in terms of qualifying for other benefits. Hence, most members of the Committee support the view that the government should re-examine and eliminate any inequities in the existing qualification requirements for EI benefits.

Recommendation 10

The Committee recommends that the government implement a uniform 360 hours qualification requirement, irrespective of regional unemployment rates or the type of benefit. This would establish a qualification requirement based on a 30-hour week over a 12-week period.

II. Benefit Entitlement

The *Employment Insurance Act* reduced the maximum regular benefit entitlement from 50 to 45 weeks of benefits. This reform had its greatest impact on those residing in areas with the highest rates of unemployment in the country. Following the implementation of EI, the maximum entitlement for special benefits was raised from 30 weeks to 50 weeks of benefits, 5 weeks more than the maximum entitlement for regular benefits. Like that observed with respect to the qualification requirement, this reform resulted in preferential treatment for some claimants and moved the EI program further away from its primary purpose, which is to provide wage-loss protection to involuntarily unemployed workers. While supportive of a policy to allow parents an opportunity to provide an extended period of care to their newborn and adopted children, some believe that EI may not be the most appropriate vehicle for achieving this policy objective.

The surplus was paid by the workers and the employers, therefore, it should come back as a surplus to help get more people qualified, higher benefits, to alleviate the situation of black holes and maybe we wouldn't have to bank hours if we had a properly funded employment insurance program that would address the needs of the unemployed. **(John Gagnon, New Brunswick Federation of Labour)**⁴¹

⁴¹ SEIF, Meeting No. 4 (16:15), Wednesday, 24 November 2004.

Groups representing workers expressed the view that the current benefit entitlement structure should be reformed and that maximum benefit entitlement should be restored to 50 weeks, similar to the maximum entitlement for special benefits. We were told that this would address the long-standing problem that is sometimes characterized as a “black hole,” a situation that predominantly affects seasonal workers who exhaust their benefits before the beginning of the next season. While the government has taken some initiative to resolve this issue, some of the testimony provided to the Subcommittee indicated that more needs to be done in this regard. Effective 6 June 2004, claimants who live in one of 24 participating economic regions (i.e., any economic region where the unemployment rate was at least 10% or more in at least one month during the six-month period ending 8 May 2004) will receive a five-week extension of their benefit entitlement (subject to the maximum benefit entitlement of 45 weeks of benefits).

... a portion of Quebec's economy, especially in areas further north, is composed of seasonal industries, and I would like to say that seasonal industries are not the same as seasonal workers, but it is the industries that are seasonal. We end up with these benefit rates and these benefit weeks, and there are people that find themselves in what is called a “black hole” — a period when they have no access to any income or they have to turn to employment assistance, which is the last resort, if we can call it that, in Quebec. However, this is not really qualifying, either. So there are people here on the North Shore who just can't make both ends meet anymore. They are saying it is the last straw, and we have come here to say that it has to change. **(Sébastien Duclos, Mouvement autonome et solidaire des sans-emploi, réseau québécois)**⁴²

We recognize that despite this measure, some workers, specifically older workers, are susceptible to long periods of unemployment following a layoff.

Recommendation 11

The Committee recommends that the maximum benefit entitlement for regular benefits be extended to 50 weeks, the same as that afforded special benefits.

Recommendation 12

The Committee recommends that following an assessment of the pilot project that extends benefit entitlement by five weeks in high-unemployment areas of the country, the government, following consultations with the proposed Employment Insurance Commission, modify benefit entitlement so as to

⁴² SEIF, Meeting No. 4 (15:40), Wednesday, 24 November 2004.

provide an additional incentive to work for a longer period of time than the minimum hours of work required to qualify for benefits.

Recommendation 13

The Committee recommends that the proposed Employment Insurance Commission consult program contributors and report to the government on the feasibility of providing a supplementary benefit beyond the proposed 50-week maximum period so as to help unemployed workers 50 years of age and over cope with extended periods of unemployment. The amount of the supplementary benefit and its duration should depend on lifetime contributions to employment insurance.

III. Weekly Benefits and Average Weekly Insurable Earnings

The *Employment Insurance Act* reduced and fixed maximum annual insurable earnings at \$39,000 until 2000. In 2001, the Act was amended and a method for indexing maximum annual insurable earnings was introduced. According to section 4 of the Act, maximum annual insurable earnings will remain at \$39,000 until the value of annualized average weekly earnings in Canada, as determined by a formula set out in the Act, exceeds this threshold.⁴³ For 2004, the value of annualized average weekly earnings as determined by the formula was \$36,200 (\$696 per week), an amount that is significantly less than the current maximum and indicative of the extent to which maximum weekly insurable earnings exceeded average weekly earnings prior to the EI reform. Although some witnesses suggested that maximum weekly insurable earnings should be raised, others, including employee representatives, did not share this view.

⁴³ The formula is $52 \times A \times B$ where: A = the 12-month average (ending on 30 June of the preceding year) of monthly average weekly earnings; and B = the ratio of A to the 12-month average (ending 12 months prior to 30 June of the preceding year) of monthly average weekly earnings. If the amount produced by this calculation exceeds \$39,000, then maximum yearly insurable earnings (MYIE) for that year would be that amount rounded down to the nearest multiple of \$100. MYIE for years subsequent to this would be equal to MYIE in the preceding year, before rounding down to the nearest multiple of \$100, multiplied by B. If this amount is not a multiple of \$100, it too must be rounded down to the nearest multiple of \$100. The average weekly earnings referred to in this calculation are the industrial aggregate for the nation as a whole as estimated and published monthly by Statistics Canada.

We think an increase in the maximum insurable earnings amount would be premature. On the one hand, it would further inflate the 2005 surplus, which we don't want. On the other hand, it would improve the system, the merits of which we think should be assessed in the context of a comprehensive analysis of all system parameters. **(Pierre Séguin, Centrale des syndicats du Québec)**⁴⁴

Some proposed increasing weekly EI benefits by raising the benefit rate from its current level of 55% of average weekly insurable earnings to 60%.

Another proposal to raise weekly benefits, and one that was unanimously endorsed by witnesses representing workers, is to eliminate the current “divisor” rule and replace it with a more equitable means of calculating average weekly insurable earnings while concurrently providing an incentive to work.

... if there is going to be an amendment or an improvement to the benefit rate, the best way to go at it is to take the best 12 weeks of earnings in the last 12 months and get rid of that silly divisor formula, which is capricious and nasty and does all of the wrong things to the wrong people at the wrong time. **(Kevin Hayes, Canadian Labour Congress)**⁴⁵

In the case of the best 12 weeks, best 10 weeks and best 14 weeks, whatever you see, dump the divisor rule. It punishes people who actually take all available work. **(Robert Blakely, Building and Construction Trades Department, AFL-CIO, Canadian Office)**⁴⁶

Actually what is happening is we have a knee-high system that is a disincentive to people to accept all available work. What is happening is we have people forced to refuse work in order to have a reasonable income in the winter months. We have several examples of real people; two employees working on the same operations, one next to the other, one only works the 14 peak weeks and the next one comes every day that she is called to work, the second employee will have a revenue of about \$4,000 a year less — this is real, this is not fictional — of the person that only works the 14 weeks. So one person works 30 weeks, accepts all available work, is there all the time, very loyal to the company, very loyal to the job, people that are experts at what they do, and the other person does not accept all available work, he is rewarded by a higher income. The more you work under this regime in these types of situations and these types of industries, the less you make. We can prove this with very real situations. **(Gilles LeBlanc, South-East N.B. Committee for Changes to Employment Insurance)**⁴⁷

⁴⁴ SEIF, Meeting No. 2 (19:25), Monday, 15 November 2004.

⁴⁵ Ibid. (20:10).

⁴⁶ SEIF, Meeting No. 4 (16:55), Wednesday, 24 November 2004

⁴⁷ Ibid. (15:50).

... if the government agreed to take the 14 or the 10 best weeks, as Mr. Godin suggested, the divisor would then disappear, because total earnings spread over the 10 or 14 weeks would be divided by 10 or by 14 and that would give a salary average ... the problem we have right now is that when a seasonal worker applies for employment insurance, if when he applies at a time when the unemployment rate in his region is low, the divisor increases. Someone may have worked for 15 or 16 weeks during the season, and this is almost the most that any seasonal worker, in the northwest at least, is going to be working in forestry, except if he has a really specific job. In the forestry sector, you work 14 or 15 weeks during the season ... after working for 15 weeks, if you go to apply for employment insurance and the divisor is 18, for instance, they take the total of your 15 weeks and divide it by 18, which does not result in a weekly average at all. It gives an amount that is less than the average. And it is on the basis of this new figure that the EI benefits are calculated. If you have other questions about this, I can keep going. **(Normand Carrier, Comité d'étude sur le travail saisonnier)**⁴⁸

... we have never said that it should be 10, 12 or 14 weeks. What is clear right now is that the method used to establish the average wage based on the qualifying period, especially with the denominator rule as currently applied, is actually designed to trip up workers. **(Marc Bellemare, Fédération des travailleurs et travailleuses du Québec)**⁴⁹

I think we can all agree the best weeks, whether it's 10 or 14, would work. The problem is nothing's being done yet. **(Rodrigue Landry)**⁵⁰

Members of the Committee acknowledge that the intent of the divisor rule is to strengthen attachments to work. However, virtually every group representing employees that appeared before the Subcommittee viewed the divisor rule as unfair and a major irritant. It is perceived to be inequitable because it penalizes workers who meet the minimum qualification requirement, but who are unable to obtain two additional weeks of work with weekly earnings at least equal to those related to the minimum qualification requirement. Moreover, this rule ignores weeks in which high earnings were paid during the qualifying period, but prior to the beginning of the rate calculation period (i.e., the last 26 weeks of the qualifying period). In addition, and perhaps most importantly, it encourages some workers to restrict their hours of work during the rate calculation period, despite the current treatment of "small weeks."⁵¹

⁴⁸ Ibid. (16:45).

⁴⁹ SEIF, Meeting No. 2, (20:00), Monday, 15 November 2004.

⁵⁰ SEIF, Meeting No. 4 (16:25), Wednesday, 24 November 2004.

⁵¹ As of September 2003, weeks in which a worker earns less than \$225 do not have to be included in calculating average weekly insurable earnings provided that the worker has enough regular weeks to satisfy the regional divisor as set out in section 14(2)(b) of the *Employment Insurance Act*. If not, small weeks are included in the calculation.

Many members of the Committee concur with those who would like to see the divisor rule reformed. However, some of us have mixed views as to the period of time that should be considered in calculating average insurable earnings and the number of weeks that should be included. Although some witnesses strongly endorsed a best-14-week rule within the 52-week qualifying period, this uniform divisor is both arbitrary and potentially harmful to those who can obtain enough hours to qualify, but who are unable to obtain two additional weeks of work with weekly earnings at least equal to those related to the minimum qualification requirement. The selection of “best” weeks within the whole qualifying period seems to offer the fairest reference period for determining average weekly insurable earnings. As for the number of weeks to be averaged within this period, the least arbitrary approach seems to be the weekly equivalent of the lowest minimum hourly qualification requirement.

Recommendation 14

The Committee recommends that the government repeal the current method of calculating average weekly insurable earnings and in its place adopt a new rate calculation period equal to the qualifying period. Only those weeks with the highest earnings in the new rate calculation period would be included, and these earnings would be averaged over the best 12 weeks of insurable employment.

Recommendation 15

The Committee recommends that the government increase the benefit rate from 55% to 60% of average weekly insurable earnings.

Recommendation 16

The Committee recommends that the government, following consultations with the proposed Employment Insurance Commission, establish a nation-wide pilot project to assess the impact of a variable benefit rate that ranges from between 61% to 65% of average weekly insurable earnings, depending on the number of insurable hours worked in excess of the minimum hourly qualification requirement.

IV. Enhancing Workplace Skills

As our labour force ages and grows more slowly, the potential for serious skills shortages in the Canadian labour market is expected to grow. Many small- and medium-sized businesses across the country are already experiencing serious difficulties recruiting the workers they need to stay competitive and realize growth opportunities. According information collected by the Canadian Federation of Independent Business (see *Labour Pains: Results of CFIB Surveys on Labour Availability*—April 2003), close to 60% of small- and medium-sized businesses anticipate difficulties hiring workers in the next three years. This is not good news, because these businesses are responsible for much of this country's job growth.

We also noted the fact that there is a shortage of workers in Canada. It is not the situation everywhere but it does nonetheless indicate that the economy has changed a great deal over the past 20 years. Should we not then examine this dynamic and determine how we can improve the program in order to respond more appropriately to the needs of the unemployed in Canada? **(André Piché, Canadian Federation of Independent Business)**⁵²

While the federal government recognizes the importance of encouraging individuals and firms to invest in human capital, its focus has tended to be on higher learning. Relatively less attention has been paid to workplace training and assisting unemployed workers obtain the right skills in order to become re-employed. In terms of the latter, support for labour market adjustment is primarily provided through employment benefits and support measures, under Part II of the *Employment Insurance Act*. This assistance is delivered under federal-provincial-territorial labour market development agreements. Only unemployed individuals receiving EI benefits or those who have received regular or maternity/parental benefits in the past three or five years respectively are eligible for this support, a clientele that excludes many unemployed individuals. According to section 78 of the *Employment Insurance Act*, the maximum amount that can be spent on employment benefits and support measures in any given year cannot exceed 0.8% of total insurable earnings as estimated by the CEIC. In 2004-2005, planned spending on these measures is \$2.2 billion, or 0.6% of total estimated insurable earnings. Despite the many years of year-end surpluses in the EI Account, expenditures on these measures have been relatively constant and always well below the legislated limit.

⁵² SEIF, Meeting No. 3 (16:45), Wednesday, 17 November 2004.

Several witnesses who appeared before the Subcommittee indicated that more support should be available under EI to help both employers and workers acquire the skills needed in today's workplace. One major suggestion in this regard was that EI should provide 40 hours of training to each worker per year. This training would be modelled after the support that is provided through EI to apprentices while they are enrolled in classroom training.

We're also recommending that regular insurance entitlement currently available to apprenticeship training should be expanded to everyone in the workforce, both employed and underemployed, for workplace training. **(Hassan Yussef, Canadian Labour Congress)**⁵³

Another suggestion was that EI should offset the costs of training workers who replace workers receiving maternity and parental benefits. It was also suggested that EI's role in facilitating active labour market adjustment should be broadened to include the provision of mobility assistance.

I'll talk about parental leave. We had one member with five employees; they lost four employees in one year to parental leave. They had to retrain all the other employees. We're not against parental leave, but no one even thought about those implications on that firm. We think there should be an offset there. There are ways to deal with this. **(Garth Whyte, Canadian Federation of Independent Business)**⁵⁴

What we feel could be done in this area is to offer incentives to employees to accept employment in other areas, such as the temporary mobility program that was part of the EI program in previous years, and similarly, to assist employers with the additional costs that are associated with moving people from one part of the country to another. That's not only the cost of travel, and so on, but sometimes there is licensing and different tests that are required to give that person the status to be able to work in another region of the country. **(Dennis Ryan, Canadian Construction Association)**⁵⁵

There are a significant number of trained people in whom Canada has invested. Spend some money in EI and move them to where there is work. That's in our industry — construction. **(Robert Blakely, Building and Construction Trades Department, AFL-CIO, Canadian Office)**⁵⁶

⁵³ SEIF, Meeting No. 2 (19:35), Monday, 15 November 2004.

⁵⁴ SEIF, Meeting No. 3 (16:00), Wednesday, 17 November 2004.

⁵⁵ Ibid. (15:25).

⁵⁶ SEIF, Meeting No. 4 (16:55), Wednesday, 24 November 2004.

Finally, the Subcommittee was also told that in some instances the effectiveness of adjustment assistance provided under EI is questionable and more needs to be done to ensure that this spending provides genuine training and the skills required to find and keep employment.

There is a famous black hole in the duration in my area. Your benefit runs out and then there's a period of time that you have to go on welfare. For many workers in the fish plants in the Acadian Peninsula, that's a reality. They send them back to school to sit them on school benches doing little things that are not very constructive as training. We have to start looking at that type of money in order to get them trained properly and get some constructive training, not this type of work where people sit down on benches because the system doesn't allow them to have benefits for that duration of time. **(John Gagnon, New Brunswick Federation of Labour)**⁵⁷

Now, we can and we should do better. For example, we are evaluating, as we speak, each of our active-measure programs province by province. We do that in partnership with provinces because, as you're well aware, they typically deliver the active measures. **(Andrew Treusch, Department of Human Resources and Skills Development Canada)**⁵⁸

Recommendation 17

The Committee recommends that following the completion of the evaluation that is currently underway to assess the effectiveness of employment benefits and support measures, the federal government use this information, to the greatest extent possible, to ensure that spending under the next generation of labour market development agreements focuses exclusively on those measures that have achieved their intended results.⁵⁹ In addition, the federal government must negotiate with provincial and territorial governments to establish an appeal process for individuals who are denied access to employment benefits and support measures.

⁵⁷ Ibid. (15:30).

⁵⁸ SEIF, Meeting No. 1 (11:45), Thursday, 4 November 2004.

⁵⁹ The Bloc Québécois maintains that the federal government must respect the Quebec-Ottawa accords on labour market development.

Recommendation 18

The Committee recommends that the *Employment Insurance Act* be amended to include mobility assistance in employment benefits and support measures. Mobility assistance would only be paid once a job is verified and confirmed. As with other employment benefits and support measures, this assistance would be based on voluntary participation.

Recommendation 19

The Committee recommends that the government amend section 78 of the *Employment Insurance Act* to require that at least 0.8% of estimated total insurable earnings be allocated to employment benefits and support measures and that the additional funding that results from this be used to provide meaningful training to those who qualify under a more inclusive definition of “insured participant” pursuant to section 58 of the *Employment Insurance Act*.

Recommendation 20

The Committee recommends that the government initiate a pilot project to assess the effectiveness of providing a premium refund to employers who: (1) provide training to alleviate skill shortages; (2) incur training costs while replacing workers receiving maternity/parental benefits; (3) provide training to seasonal and older workers; and (4) provide workplace literacy training to their employees. If the pilot project finds this training incentive to be effective then it should become a regular feature of the Employment Insurance program and its cost should not be included as part of the expenditure limit contained in section 78 of the *Employment Insurance Act*.

V. Other Recommendations

Recommendation 21

The Committee recommends that the government amend the *Employment Insurance Act* to exempt foreign agricultural workers and their employers from making contributions to employment insurance.

Recommendation 22

In view of the growing incidence of self-employment in the Canadian labour market, the Committee recommends that the government consider developing a framework for extending EI coverage, both in terms of regular and special benefits, to self-employed workers.

Recommendation 23

The Committee recommends that the government amend the *Employment Insurance Regulations* so as to not consider pension, severance and vacation income in the determination of earnings for benefit purposes.

Recommendation 24

The Committee recommends that the government amend subsection 5(3) (and if necessary, section 5(2)(i)) of the *Employment Insurance Act* with a view to remove the presumption of guilt if an employer and an employee are related.

Recommendation 25

The Committee recommends that the government ensure that every district office in the Department of Human Resources and Skills Development employ a claimant's advocate.

Recommendation 26

The Committee recommends that the two-week waiting period be eliminated for those engaged in approved training.

Recommendation 27

The Committee recommends that the government study the possibility of extending sickness benefits by 35 weeks for those who suffer from a prolonged and serious illness.

Recommendation 28

The Committee recommends that the government study the possibility of extending compassionate care benefits for families whose children must receive medical attention outside of the locality in which they reside.

CONCLUSION

Committee members are unanimous in their belief that the government's management of employment insurance funds since the latter part of the 1990s has been seriously wanting. Program contributors — both employees and employers — have been forced to endure excessive costs compared to the benefits that this program is designed to deliver. This must stop and it must stop now.

Our report offers a blueprint for restoring EI's financial governance, enhancing access to EI benefits and providing the level of support that many believe should be available to unemployed workers under this program. It is the responsibility of the federal government to ensure that all EI contributors are well served under this program. And it is our hope that the recommendations contained in this report will help the government fulfill this responsibility.

This study was conducted in a very short period of time and members of the Subcommittee would like to extend their appreciation and thanks to all of the witnesses who took the time, often on short notice, to share their expertise with us. Without their thoughtful consideration and concern for the many issues that currently surround the EI program this report would not have been possible.

LIST OF RECOMMENDATIONS

Recommendation 1

The Committee recommends that, in 2005, legislation be tabled in Parliament that would create a new entity called the Employment Insurance Commission. The proposed Employment Insurance Commission would be given the statutory authority to manage and invest employment insurance revenues in the proposed Employment Insurance Fund Account and to transfer these revenues, as required by law, to the Consolidated Revenue Fund in order to cover the cost of employment insurance. This new Crown corporate entity should be governed by commissioners who broadly and equally represent employees and employers. The government should also be represented in the proposed Employment Insurance Commission. The Chair and Vice-chair of the Commission should rotate between employer and employee representatives after serving a two-year term. Commissioners would be appointed by the Governor in Council following consultations with groups representing employment insurance contributors. The operations of the Commission and the funds under its management must be fully accounted for and reported in accordance with generally accepted public sector accounting standards. The Commission should have the authority to make recommendations to the government.

Recommendation 2

The Committee recommends that, in conjunction with the legislation referred to in Recommendation 1, statutory authority be given to establish a new reserve, called the Employment Insurance Fund Account. The Employment Insurance Fund Account, perhaps modelled after the Exchange Fund Account, would exist outside of the Consolidated Revenue Fund and act as a depository for all employment insurance premiums and other transfers from the Consolidated Revenue Fund as required by law. Funds transferred from the Employment Insurance Fund Account to the Consolidated Revenue Fund would by law be used exclusively to cover employment insurance costs.

Recommendation 3

The Committee recommends that, beginning in 2005-2006, the federal government transfer amounts from the Consolidated Revenue Fund to the proposed Employment Insurance Fund Account. This transfer must occur over a period of time, taking into consideration the year-to-year fiscal position and expected outlook of the federal government. The minimum amount to be transferred to the Fund each year must be no less than one half of the amount remaining in the Contingency Reserve at year's end. These transfers would continue until the cumulative balance that existed in the Employment Insurance Account as of 31 March 2004 has been fully transferred to the Employment Insurance Fund Account. When that cumulative balance in the Employment Insurance Account reaches zero, all references to this Account in the *Employment Insurance Act* should be repealed.

Recommendation 4

The Committee recommends that a premium rate stabilization reserve be created and maintained within the proposed Employment Insurance Fund Account. This reserve should be estimated by the Chief Actuary of the proposed Employment Insurance Commission and re-estimated every five years. It should be managed prudently, provide the required liquidity needed to maintain premium rate stability over a five-year period, and should never exceed 10% of the most recent estimated premium rate stabilization reserve requirement.

Recommendation 5

The Committee recommends that starting in 2005:

- i) the Chief Actuary of the proposed Employment Insurance Commission utilize independent expert advice to estimate annually a break-even premium rate that would ensure program solvency and premium rate stability over a five-year, look-forward period;**

- ii) the Chief Actuary utilize independent expert advice to estimate quinquennially the size of premium rate stabilization reserve that would insure program solvency and premium rate stability over a five-year period; and**

iii) the proposed Employment Insurance Commission publish its recommended break-even premium rate and underlying analysis by 30 September in the year prior to the year for which the recommended rate applies.

Recommendation 6

The Committee recommends that if the rate recommended by the proposed Employment Insurance Commission is, for some extraordinary reason, different from that which the Governor in Council wishes to approve, then the government must, in setting a different rate, amend the *Employment Insurance Act* by establishing a statutory premium rate for a period not exceeding one year. This proposed legislative change must be subject to a vote in the House of Commons.

Recommendation 7

The Committee recommends that the government implement a \$3,000 yearly basic insurable earnings exemption to replace the premium refund for contributors with low earnings. This exemption threshold would be indexed upward according to growth in average weekly earnings in Canada. This new provision should be reviewed two years after its implementation to examine its impact on hours of work.

Recommendation 8

The Committee recommends that in 2005 the government devise and implement a method for refunding employment insurance premiums to employers corresponding to over-contributions to employment insurance from employees.

Recommendation 9

The Committee recommends that the current cost-sharing arrangement between employers and employees be maintained.

Recommendation 10

The Committee recommends that the government implement a uniform 360 hours qualification requirement, irrespective of regional unemployment rates or the type of benefit. This would establish a qualification requirement based on a 30-hour week over a 12-week period.

Recommendation 11

The Committee recommends that the maximum benefit entitlement for regular benefits be extended to 50 weeks, the same as that afforded special benefits.

Recommendation 12

The Committee recommends that following an assessment of the pilot project that extends benefit entitlement by five weeks in high-unemployment areas of the country, the government, following consultations with the proposed Employment Insurance Commission, modify benefit entitlement so as to provide an additional incentive to work for a longer period of time than the minimum hours of work required to qualify for benefits.

Recommendation 13

The Committee recommends that the proposed Employment Insurance Commission consult program contributors and report to the government on the feasibility of providing a supplementary benefit beyond the proposed 50-week maximum period so as to help unemployed workers 50 years of age and over cope with extended periods of unemployment. The amount of the supplementary benefit and its duration should depend on lifetime contributions to employment insurance.

Recommendation 14

The Committee recommends that the government repeal the current method of calculating average weekly insurable earnings and in its place adopt a new rate calculation period equal to the qualifying period. Only those weeks with the highest earnings in the new rate calculation period would be included, and these earnings would be averaged over the best 12 weeks of insurable employment.

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Recommendation 17

The Committee recommends that following the completion of the evaluation that is currently underway to assess the effectiveness of employment benefits and support measures, the federal government use this information, to the greatest extent possible, to ensure that spending under the next generation of labour market development agreements focuses exclusively on those measures that have achieved their intended results.¹ In addition, the federal government must negotiate with provincial and territorial governments to establish an appeal process for individuals who are denied access to employment benefits and support measures.

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The Committee recommends that the *Employment Insurance Act* be amended to include mobility assistance in employment benefits and support measures. Mobility assistance would only be paid once a job is verified and confirmed. As with other employment benefits and support measures, this assistance would be based on voluntary participation.

¹ The Bloc Québécois maintains that the federal government must respect the Quebec-Ottawa accords on labour market development.

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V. Other Recommendations

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APPENDIX A LIST OF WITNESSES

Associations and Individuals	Date	Meeting
Department of Finance Louis Lévesque, Associate Deputy Minister	04/11/2004	1
Department of Human Resources and Skills Development Bill James, Director General, Employment Insurance Policy, Employment Programs Policy and Design Andrew Treusch, Assistant Deputy Minister, Strategic Policy and Planning		
Office of the Auditor General of Canada Nancy Cheng, Assistant Auditor General Sheila Fraser, Auditor General of Canada Jean-Pierre Plouffe, Principal		
Canadian Labour Congress Kevin Hayes, Senior Economist, Social and Economic Policy Hassan Yussef, Senior Economist	15/11/2004	2
Centrale des syndicats du Québec Mario Labbé, Employment Insurance and Pension Plans Advisor Pierre Séguin, Vice-President		
Confederation of National Trade Unions France Bibeau, Union Counsellor, Work Relations Service Roger Valois, Vice-President, Executive Committee		
Fédération des travailleurs et travailleuses du Québec Marc Bellemare, Syndicate Counsellor René Roy, Secretary General		
Canadian Chamber of Commerce (The) Robert McKinstry, Policy Analyst Michael Murphy, Senior Vice-President, Policy	17/11/2004	3
Canadian Construction Association Michael Atkinson, President Dennis Ryan, Senior Director, Industry, Human Resources		
Canadian Council of Chief Executives Sam Boutziouvis, Vice-President, Policy and Director of Research	17/11/2004	3
Canadian Federation of Independent Business André Piché, Director, National Affairs		

Canadian Restaurant and Foodservices Association Joyce Reynolds, Senior Vice-President, Government Affairs	17/11/2004	3
Building and Construction Trades Department, AFL-CIO, Canadian Office Robert Blakely, Director of Canadian Affairs Carol MacLeod, Executive Director, Government Affairs & Communications	24/11/2004	4
Mouvement autonome et solidaire des sans-emploi (réseau québécois) Sébastien Duclos, Coordinator		
New Brunswick Federation of Labour John Gagnon, Member of the Executive Council		
South-East N.B. Committee for Changes to Employment Insurance Gilles LeBlanc, Fish Plant Owner Robert MacKay, Employee, Fish (Lobster) Plant		
Study Committee on Seasonal Work Normand Carrier, President Gérald Clavette, Member		
As an individual Rodrigue Landry		
Department of Human Resources and Skills Development Malcolm Brown, Assistant Deputy Minister, Employment Program Policy and Design Bill James, Director General, Employment Insurance Policy Rick Steward, Director General, Labour Market Policy	07/12/2004	7

REQUEST FOR GOVERNMENT RESPONSE

Your Committee requests that the government table a comprehensive response to this Report by May 15, 2005.

A copy of the relevant Minutes of Proceedings of the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities (*Meetings Nos. 3, 12, 13 and 16*) is tabled.

Respectfully submitted,

Raymonde Folco, M.P.
Chair

DISSENTING OPINION

**Conservative Party of Canada
Peter Van Loan, M.P., York-Simcoe
CPC HRSDC Critic
February 09, 2005**

Introduction

The Conservative Party of Canada (CPC) wishes to submit a dissenting report to the Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities (HUMA) report entitled “Restoring Financial Governance and Accessibility in the Employment Insurance Program”.

The mandate of the sub-committee was to review the matter of the surplus that has accumulated over the past 10 years and currently stands at \$46 billion. The focus of attention at this time must be to stop the government’s decade-long practice of setting premium rates well above the necessary level, and the resultant diversion of the surplus to the government’s general revenues in direct contravention of the spirit of the Employment Insurance Act.

The recommendations put forward in the report go well beyond those relating to the surplus issue and make substantial changes to the program which is an entirely separate matter.

Although this is a dissenting report, we recognize the sub-committee’s hard work in completing this report and add that the intent of this report is to complement the recommendations made in the report rather than oppose it in its entirety.

The Notional EI Surplus

The Conservative Party believes that the government needs to be held accountable for the cumulative balance in the Employment Insurance account which continues to grow year after year, despite repeated objections by the Auditor General that it violates the Employment Insurance Act. Through the continued suspension of a fair and transparent rate setting process, the government continues to allow this surplus to accumulate.

We believe that the slate must not be wiped clean. It is important to all contributors that the government be held accountable. The “notional surplus” (now \$46 billion) has been tracked for a reason – that is to recognize what contributors have paid into Employment Insurance.

The Conservative Party believes that this surplus is the property of those who have made the contributions to Employment Insurance – the workers and employers of Canada.

We believe that any measures to return these funds should be made in an open, fair and transparent means to those who make the contributions. Should the government agree to return the surplus to the EI Account, and find the funds to do so, then the surplus should be returned to BOTH employees and employers in recognition of both shares of the over-payment. This must be done in an open and transparent fashion.

The Conservative Party supports Recommendations 1-8 of the sub-committee report that would establish a regime for a genuinely separate fund, with a reserve, that will not over-tax contributors, and will put an end to the inappropriate accumulation of surpluses, contrary to the Employment Insurance Act.

Any excess of the surplus, beyond that required on an actuary basis for a reserve, should be returned to Canadian workers and employers, over time, through an annual rebate, reflected in a reduced premium rate.

It is at this point where the Conservative Party parts ways with the Liberal, Bloc and NDP members of the Committee. While all Parties were in agreement that the surplus should be returned to a separate EI account it is how this money will be spent that we disagree. The three other parties believe that the way to deal with the repatriated surplus is to spend it on program enhancements. We believe that this money should be returned to the contributors.

CPC Recommendation – should the government determine to repatriate the surplus to the EI account then those funds should be redistributed to employers and employees based on their proportionate contributions.

Program Changes must be Self-Sustaining – Not Funded out of Past Surpluses

The vast majority of the recommendations made in the sub-committee report advocate substantial increases in spending. The rationale is that the funds to cover the proposed increase in spending be drawn from the repatriated ‘notional surplus’ from the EI Account. We fundamentally disagree with this position from a number of perspectives.

- 1) The EI program must be designed to be sustainable on a go-forward basis.
- 2) We must ensure that the new structure of the fund and its rate-setting mechanism actually works before expanding the program.
- 3) Any program changes must be properly costed out by HRSDC to determine the long term costs

Any program changes are long term, and should be funded by premiums on a go-forward basis – not out of the previously accumulated surplus. To use the surplus to fund future program changes is not only inequitable, but invites an expansion of the program that will, by definition, be unsustainable in the long term, once the surplus has been exhausted. A crisis would most certainly result years down the road.

CPC Recommendation – that any major spending increases not be implemented until the EI Account is operating properly and until they have been properly assessed for their financial implications to the fund.

The Changing Role of the Employer in the EI Program

The recommendations for program changes put forward by the Committee report represent a dramatic and radical collection of new expenditures. There has been no proper fiscal assessment of the costs of the changes. To implement wholesale changes to the EI program and incur massive spending increases that will affect workers and employers across the country is short-sighted. Many of the issues sought to be addressed might be more appropriately handled on a regional basis rather than through radical change to the system. The sub-committee heard from employer stakeholders that there was little or no consultation with stakeholders on the impact of expansions to the EI program on employers who contribute the larger share of premiums.

There are very few recommendations in this report which relate directly to the testimony of those witnesses who represent the employer contributors to the program. Employers have been expected to assume the greater share of premium contributions because it was held that employers have greater control over the decision to hire or lay off an employee so they must bear a greater expense.

However, in recent years special benefits have been extended to workers over which the employer has no control (i.e. parental leave). Yet, the employer continues to assume more of the costs associated with these “social program” elements of EI. Fairness and equity demand that the balance be restored in this area.

CPC Recommendation – the government should review the premium rate ratio in light of the social program element to the EI programs to ensure that equity and balance are maintained.

Areas of Unanimous Support

There were several other recommendations that were supported unanimously by the Committee and the Conservative Party would like to be on the record as having supported these recommendations. These recommendations were 17, 18, 20, 21, 26, 27, and 28. These recommendations were supported because they addressed inequities in the system, made the system function more efficiently or addressed matters of compassion. They would not result in massive spending increases and would be supportable within the current premium rate.

Support for Program Changes

We must make it clear that the Conservative Party is not opposed to changes to the EI program in principle but rather feel that any changes must be considered only once the program is functioning properly and only after the costs and impacts have been fully considered. This has not been done at this time. It is our opinion that it would be disrespectful of taxpayers' dollars to recommend substantial spending increases without knowing the full impact.

Conclusion

The \$46 billion accumulated notional surplus from the Employment Insurance system reflects a deliberate program of overtaxing workers and their employers to divert those monies to fund other government priorities.

This practice is intellectually dishonest, violates the law, has attracted the criticism of the Auditor-General, and is an unfair and regressive tax. Instead of funding government spending increases out of more progressive income taxes, the use of EI surpluses for that purpose takes proportionately more from the working poor, and small businesses. As such, it taxes those who can afford it least, shifting the burden from those with the means to do so.

Excessively high payroll taxes represent job-killers, stifling the ability of employers to create new jobs and economic growth. The best form of employment insurance is the creation of new jobs – something that is harmed by the \$46 billion over-taxation through EI premiums over the past decade.

Our priority is to stop this unfair practice that hurts working families and the businesses who have had their money taken by the government, under false pretences. The theft must stop, and their money must be returned.

MINUTES OF PROCEEDINGS

October 21, 2004
(Meeting No. 3)

The Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities met at 11:03 a.m. this day, in Room 209 West Block, the Chair, Raymonde Folco, presiding.

Members of the Committee present: Peter Adams, Eleni Bakopanos, Jean-Claude D'Amours, Barry Devolin, Raymonde Folco, Paul Forseth, Christiane Gagnon, Ed Komarnicki, Tony Martin, Mario Silva and Peter Van Loan.

Acting Members present: Alain Boire for Yves Lessard and Alexa McDonough for Tony Martin.

Associate Members present: Alexa McDonough.

Other Members present: Michel Guimond.

In attendance: Parliamentary Information and Research Service: Chantal Collin, Analyst; Kevin Kerr, Analyst.

Witnesses: Justice Canada: Suzie Beaulieu, Counsel, SDC/HRSDC Legal Services. *Department of Human Resources and Skills Development:* Lenore Burton, Director General, Learning and Literacy Directorate; Marc LeBrun, Director, Canada Education Savings Grant Program. *Department of Finance:* Lise Potvin, Senior Chief, Personal Income Tax Division. *Department of Human Resources and Skills Development:* Marie-Josée Thivierge, Assistant Deputy Minister, Human Investment Programs. *Department of Finance:* David Wurtele, Senior Tax Policy Officer, Deferred Income Plans.

In accordance with its Order of Reference dated October 14 2004 in relation to Bill C-5, An Act to provide financial assistance for post-secondary education savings, the Committee proceeded to a briefing session.

Marie-Josée Thivierge made an opening statement statements and, with the other witnesses, answered questions.

At 12:05, the sitting was suspended.

At 12:13, the sitting resumed.

It was agreed, — That, in the future, an application form be available for the Centennial Flame Research Award.

It was agreed, — That Mr. David J. Hains be the recipient of the 2004 Centennial Flamme Research Award.

The Committee proceeded to the consideration of matters related to Committee business.

It was agreed, — That the Steering Committee will meet Thursday October 26, 2004 to select the witnesses for the study on Bill C-5.

It was agreed, — That the Canadian Federation of Students, the « Fédération étudiante universitaire du Québec (FEUQ) », the Canadian Association of University Teachers, the « Fédération québécoise des professeurs et professeures d'université » and the Canadian Alliance of Student Association be invited to appear Thursday October 28th, 2004 on Bill C-5.

It was agreed, — That « Pursuant to Standing Order 108 and the Order of reference contained in the address in reply to the Speech from the Throne, the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities study the issue of the Employment Insurance Funds so that the money accumulated is only used for the Employment Insurance Program in the interest of workers and tax payers and that the Committee report back to the House of Commons by June 1, 2005 ».

That the motion be amended by adding after the words « interest of workers and tax payers » the words « by forming a sub-committee charge to undertake this study » and by striking out the words « June 1, 2005 » and substituting the words « December 17, 2004 »

By unanimous consent, it was agreed, — That the following motion: « That the Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities Committee, in conformity with the intentions enounced in the Throne Speech voted and adopted on October 20th, 2004, study and recommend measures that would ensure that all future uses of the employment insurance program would only be for the benefit of workers and not for any other purpose, and report back to the House of Commons on December 17, 2004 at the latest » be withdrawn.

It was agreed, — That the meeting continue until 1:15 p.m.

After debate, the question being put on the amendment, it was agreed to on the following division: YEAS: 7 NAYS: 3

The question being put on the main motion, as amended, it was unanimously agreed to.
At 1:17 p.m., the Committee adjourned to the call of the Chair.

Danielle Bélisle
Clerk of the Committee

December 14, 2004
(Meeting No. 12)

The Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities met *in camera* at 11:12 a.m. this day, in Room 209 West Block, the Chair, Raymonde Folco, presiding.

Members of the Committee present: Peter Adams, Jean-Claude D'Amours, Barry Devolin, Raymonde Folco, Paul Forseth, Christiane Gagnon, Ed Komarnicki, Yves Lessard, Mario Silva and Peter Van Loan.

Acting Members present: Yvon Godin for Tony Martin and Derek Lee for Eleni Bakopanos.

In attendance: Parliamentary Information and Research Service: Kevin Kerr, Analyst.

The Committee proceeded to the consideration of the Report of the Subcommittee on Employment Insurance Funds.

It was agreed, — That the Committee submit a partial report to fulfill the Committee's motion to table a report on Employment Insurance Funds and that the Committee re-visit what is not included in the report in February.

At 1:59 p.m., the Committee adjourned to the call of the Chair.

Danielle Bélisle
Clerk of the Committee

December 14, 2004
(Meeting No. 13)

The Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities met *in camera* at 5:07 p.m. this day, in Room 307 West Block, the Chair, Raymonde Folco, presiding.

Members of the Committee present: Peter Adams, Eleni Bakopanos, Jean-Claude D'Amours, Barry Devolin, Raymonde Folco, Paul Forseth, Christiane Gagnon, Ed Komarnicki, Yves Lessard and Peter Van Loan.

Acting Members present: Yvon Godin for Tony Martin and Raymond Simard for Mario Silva.

In attendance: Parliamentary Information and Research Service: Kevin Kerr, Analyst.

The Committee proceeded to the consideration of the Report of the Subcommittee on Employment Insurance Funds.

It was agreed, — That the Committee's partial report include recommendations 1 to 8 inclusive; that the text up to recommendation 8 be tabled, and that the last paragraph of the introduction be substituted with the following: "The Committee has had the opportunity to discuss and adopt the first eight recommendations of the Subcommittee's report which are the main body of this interim Report. The Committee as not yet had the opportunity to consider the balance of the Subcommittee's recommendations which can be found as attached in Appendix A of this Report".

It was agreed, — That recommendations 9 to 28, which have not been voted on, be considered as a matter of priority as soon as the House reconvenes and that additional meetings be scheduled to reach that goal if necessary.

It was agreed, — That the report "Restoring Financial Governance and Accessibility in the Employment Insurance Program - Part 1" (as amended) of the Subcommittee on Employment Insurance Funds be adopted as the Second Report of the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities.

It was agreed, — That, pursuant to Standing Order 109, the Committee request that the Government provide a comprehensive response to this Report within one hundred and fifty (150) days.

At 5:50 p.m., the Committee adjourned to the call of the Chair.

Danielle Bélisle
Clerk of the Committee

February 8, 2005
(Meeting No. 16)

The Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities met *in camera* at 11:07 a.m. this day, in Room 705 La Promenade Building, the Chair, Raymonde Folco, presiding.

Members of the Committee present: Peter Adams, Eleni Bakopanos, Jean-Claude D'Amours, Barry Devolin, Raymonde Folco, Paul Forseth, Christiane Gagnon, Ed Komarnicki, Yves Lessard and Peter Van Loan.

Acting Members present: Yvon Godin for Tony Martin, Dominic LeBlanc for Mario Silva and Denis Paradis for Eleni Bakopanos.

In attendance: Parliamentary Information and Research Service: Kevin Kerr, Analyst.

Pursuant to Standing Order 108(2) and the motion adopted by the Committee on October 21, 2004 and December 14, 2004, the Committee resumed its study on the Employment Insurance Funds.

It was agreed, — That the complete Report (including Part 1 that was tabled in December) be tabled in the House.

It was agreed, — That the report “Restoring Financial Governance and Accessibility in the Employment Insurance Program” (as amended) of the Subcommittee on Employment Insurance Funds be adopted as the Third Report of the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities.

It was agreed, — That the Clerk be authorized to make such editorial and typographical changes as necessary without changing the substance of the Report.

It was agreed, — That the Chair be authorised to table the Report in the House.

It was agreed, — That the Committee print up to 550 copies of its Report in a bilingual format.

It was agreed, — That, the Committee request that the Government provide a comprehensive response to this Report by May 15, 2005.

It was agreed, — That, pursuant to Standing Order 108(1)(a), the Committee authorizes the printing of the dissenting opinion of Conservative Party as an appendix to this report immediately after the signature of the Chair; that the dissenting opinion be limited to not more than 5 pages; (font = 12; line spacing = 1.5) and that the dissenting opinion be delivered in electronic format in both official languages to the Clerk of the Committee not later than twelve noon, Thursday, February 10th, 2005.

At 1:00 p.m., the Committee adjourned to the call of the Chair.

Danielle Bélisle
Clerk of the Committee