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Friday, April 2, 2004.

*10 o'clock a.m.*

Prayers.

Mr. Speaker informed the House that, in accordance with Standing Rule 9, he had received notice of a Question of Privilege from the Member for Fredericton-Fort Nashwaak regarding action taken by the Minister of Finance with respect to a number of job cuts and closures of government garages that had occurred since the Minister tabled the budget on Tuesday, March 30, and notice of Mr. Lamrock's intention to move the following motion:

THAT the charge against the Minister of Finance, for anticipating a decision of the House and therefore being in contempt, be referred to the Standing Committee on Privileges.

Mr. Speaker advised the House that he would deal with the matter in two hours time, in accordance with the Rules of the House.

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Ms. Weir rose on a Question of Privilege, in accordance with Standing Rule 9 regarding the leak of a draft report of the Select Committee on Public Automobile Insurance and gave notice of her intention to move the following motion:

THAT the matter of the leaking of the draft report of the Select Committee on Public Automobile Insurance be referred to the Standing Committee on Privileges.

Mr. Speaker advised the House that he would deal with the matter in two hours time, in accordance with the rules of the House.

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Mr. Stiles, the Member for Petitcodiac, laid upon the table of the House a petition signed by citizens of Indian Mountain urging the government to consider the potential risks to the environment of the Northrup Group proposal of the construction and demolition debris disposal site on Route 126. (Petition 23)

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Mr. Stiles, the Member for Petitcodiac, laid upon the table of the House a petition signed by citizens of Salisbury urging the government to resolve the existing traffic problems around the TransCanada Highway and Route 112 interchange. (Petition 24)

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Hon. E. Robichaud, the Member for Tracadie-Sheila, laid upon the table of the House a petition signed by residents of Restigouche requesting that the government support the introduction of a public

non-profit automobile insurance system which would be nondiscriminatory, affordable, and reliable for everyone without exception. (Petition 25)

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Mr. Paulin, the Member for Restigouche West, laid upon the table of the House a petition signed by residents of Restigouche requesting that the government introduce a public insurance system in New Brunswick. (Petition 26)

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Ms. Weir from the Select Committee on Public Automobile Insurance, presented the Final Report of the Committee, which was read and is as follows:

April 2, 2004.

To the Honourable  
The Legislative Assembly of  
The Province of New Brunswick

Mr. Speaker:

Your Select Committee on Public Automobile Insurance has the honour to present its Final Report and commends it to the House. Your Committee was appointed during the First Session of the Fifty-fifth Legislative Assembly by resolution of the House adopted August 5, 2003.

The report is the result of the Committee's public consultation and deliberations to explore the most suitable form of a public insurance system for New Brunswick should the province conclude that a public system is required. Your Committee wishes to thank the many individuals and organizations who appeared before the Committee at the public hearings or submitted written briefs. As well, the Committee wishes to thank everyone who attended the hearings and took part in this important process.

Respectfully submitted,  
(Sgd:) Elizabeth Weir, Chair

Ordered that the report be received.

The full report of the Committee as presented is as follows:

**Executive Summary**

The Select Committee on Public Automobile Insurance was asked to look at the various public automobile insurance systems in Canada and identify the most suitable model of public automobile insurance to ensure fair, accessible and affordable automobile insurance for all New Brunswickers, in the event a decision is made to move to a public system.

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As a result of its research and deliberations, the Committee has developed a unique public automobile insurance model appropriate to the needs of New Brunswickers. This report outlines the key elements of the model as well as the start-up costs, impact on provincial finances and the legal, trade and economic implications of putting in place the proposed model.

The made-in-New Brunswick model provides a comprehensive and high level of no-fault automobile insurance at an affordable rate to all New Brunswickers. Every licenced driver has access to mandatory automobile insurance coverage at a fair price and may choose to augment that coverage if desired. Basic mandatory insurance policy includes full no-fault, also known as personal injury protection plan, benefits and \$200,000 third-party liability coverage.

Under the no-fault model, all New Brunswickers injured in traffic accidents will be entitled to full medical and rehabilitation treatment, income replacement and other benefits depending on the severity of their injuries. Financial compensation for pain and suffering is eliminated under the model. Fault is determined for every traffic accident and at-fault drivers pay higher premiums under the model.

Optional insurance for vehicle damage (collision, theft and comprehensive) will be similar to coverages sold now; consumers can choose to purchase optional coverage, including the specific kind of coverage and deductible level for their individual vehicles. To reduce premiums and ensure that coverage is universally available, all consumers will purchase both mandatory and optional vehicle damage coverages exclusively from the Crown corporation through their licenced community brokers and agents. New Brunswick consumers will have the choice of buying additional third-party liability coverage and higher income replacement benefits from a private insurance company or the Crown corporation.

In the proposed model, vehicle registration and mandatory insurance are purchased together from a licenced private insurance broker or agent. Licence plates must be returned when an automobile insurance policy is cancelled.

Private sector insurance brokers and agents will play a pivotal role in the proposed public model. Brokers and agents will be the exclusive distributors of the public automobile insurance product in New Brunswick and will receive a 7 per cent commission for their services.

The cost of insurance will be based on the personal driving record of the registered owner, vehicle usage, vehicle make and model and any extra coverage purchased beyond the mandatory coverage. Age,

gender, marital status, where one lives, payment history and any lapses in insurance are not to be taken into account when the cost of insurance is determined.

The proposed model includes discounts for safe drivers — 4 per cent per year of safe driving to a maximum of 40 per cent off the price of insurance — and sharply increasing penalties to risky drivers. The financial consequences of accidents and traffic offences are easily understood, predictable and reasonable. Under the made-in-New Brunswick model, premium consequences of an at-fault accident follow the at-fault driver, not the vehicle.

The average premium is estimated at \$993 under the made-in-New Brunswick model; today's average premium is \$1,212. The estimated average premium for drivers with 10 years safe driving under the proposed model is \$834. Some drivers will pay more and some will pay less than the average depending on their individual driving record, vehicle model and usage and coverage level. Risky drivers will pay considerably more and criminal-driving offences will be harshly penalized. All rates are to be subject to the approval of the New Brunswick Board of Commissioners of Public Utilities.

The proposed Crown corporation will be a not-for-profit public entity that will operate at arm's length from the provincial government. The proposed legislation will establish the insurance program, including product characteristics and benefits. It will clearly establish that the financial sustainability of the Crown corporation is the responsibility of automobile insurance ratepayers and not taxpayers. The Crown corporation will pay premium tax, health services levy and HST.

It is estimated that the Crown corporation will employ up to 800 individuals at its headquarters and five regional claim centres. The Crown corporation will look to hire, wherever possible and appropriate, experienced and certified insurance professionals presently involved in the insurance industry in New Brunswick.

The costs of the New Brunswick model are fully explained in this report, including start-up, capital and pre-operating costs. Financing of the total start-up, capital and pre-operating costs of \$82 million will be provided to the Crown corporation by the provincial government at the beginning of Year 1. The loan will be repaid in full with interest, at the beginning of Year 2 when written premiums are converted from private insurance companies to the public automobile insurance Crown corporation.

To ensure transparency and accountability, the Crown corporation will appear before the Standing Committee on Crown Corporations

of the Legislative Assembly of New Brunswick and will distribute audited financial statements and an annual report at a general public meeting to be held each year.

The Committee undertook an initial assessment of the trade implications associated with the introduction of a public automobile insurance corporation in New Brunswick in light of Canada's obligations under the North American Free Trade Agreement (NAFTA) and the World Trade Organization's General Agreement on Trade in Services (GATS). The Committee found that while the NAFTA and the GATS do not expressly prohibit New Brunswick from establishing and maintaining a public automobile insurance regime, they do contain rules that would apply to the creation of a Crown corporation and its activities. The Committee is confident that the model could be implemented in a manner that conforms to Canada's international trade obligations and recommends that the Government of New Brunswick work closely with federal officials, should it decide to proceed.

The implementation of the proposed public automobile insurance model is estimated to have a net positive impact on the provincial economy. The initial displacement of 1,134 people working in New Brunswick's private sector insurance industry will be partially offset by the creation of 800 new automobile insurance jobs at the Crown corporation. Net gains of 1,024 person years in Year 1 and 275 person years in Year 2 in provincial employment are anticipated. The projected gains to the provincial economy in Year 1 (pre-operating) are primarily related to hiring by the Crown corporation and increased capital expenditures as the corporate office and regional claim centres are built. The projected gains in Year 2 (operational phase) are due to the increased spending in the provincial economy triggered by the projected \$103 million reduction in automobile insurance premiums in the province.

The implementation of the proposed model will result in a small increase overall to provincial revenues estimated at \$3.5 million per year. The Province will continue to receive premium tax of 3 per cent, the health services levy and the provincial portion of the HST under the proposed public model.

Based on the experience of other jurisdictions, the implementation of the made-in-New Brunswick model is not expected to have a significant impact on physiotherapists, medical practitioners or those involved in the automobile-repair industry. However, the introduction of a no-fault model will negatively impact the legal community in New Brunswick as persons injured in a traffic accident

no longer sue to receive benefits. Brokers and agents will continue to play a key role in the proposed model. The costing of the model includes resources to remunerate brokers, agents and insurers for the additional transaction costs involved in the transition from private to public automobile insurance.

A summary of recommendations is provided in this report.

### **Introduction**

The Select Committee on Public Automobile Insurance was appointed by resolution of the House, adopted August 5, 2003. The Committee was asked to recommend a public automobile insurance system that is fair, affordable and accessible to all New Brunswick drivers.

The first meeting of the Committee was held in the Legislative Council Chamber on August 7, 2003. On motion of Mr. Claude Williams, Ms. Elizabeth Weir was elected chair of the Committee and on motion of Mr. John Betts, Mr. Wally Stiles was elected vice-chair of the Committee. The members of the Committee are: Ms. Elizabeth Weir (chair), Mr. Wally Stiles (vice-chair), Mr. Cy (Richard) LeBlanc, Mr. Milton Sherwood, Mr. Kirk MacDonald, Mr. Claude Williams, Mr. John Betts, Mr. Michael Malley, Mr. T.J. Burke, Mr. Roland Haché, Mr. Rick Doucet and Mr. Bernard Richard. The membership of the Select Committee was amended by substituting the name of Mr. Kelly Lamrock for Mr. Bernard Richard.

### **Mandate of the Select Committee on Public Automobile Insurance**

The Committee was asked to look at the various public automobile insurance systems in Canada and identify the most suitable model of public automobile insurance to ensure fair, accessible and affordable automobile insurance for all New Brunswickers, in the event a decision is made to move to a public system.

The Committee was asked to make recommendations on key elements of the proposed model for public automobile insurance in New Brunswick, elements such as:

- the type of system: tort, full no-fault or partial no-fault, choice or hybrid;
- the types of coverages and benefits that should be offered;
- a proper risk-rating system for establishing premiums;
- the method of selling and distributing insurance (such as the private sector and government);
- the types of insurers allowed to operate in a public model (such as the private sector and government);
- start-up costs for establishing the proposed model and fixed and recurring costs; and
- the impact on provincial finances.

The Committee was asked to report on the legal, trade and economic implications of putting in place the proposed model. The Committee's report also addresses the issue of interprovincial co-operation and a regional approach to public automobile insurance.

A copy of the Motion appointing the Select Committee on Public Automobile Insurance and its mandate is provided in Appendix A.

### **Methodology**

A discussion paper was made available to the public to provide some guidance on the key issues related to public automobile insurance. The paper describes the current public automobile insurance systems in Quebec, Manitoba, Saskatchewan and British Columbia. An explanation of the current privately operated automobile insurance system in New Brunswick was included in the discussion paper.

The Committee held public hearings and one-on-one information sessions throughout New Brunswick during October and November 2003. The Committee also received comments from the public through written submissions, by e-mail and telephone. A summary of the input received during public consultations is included in Appendix F. Further, the Committee held in-camera technical briefings with senior officials from the four existing public automobile insurance corporations and with senior officials from relevant provincial government departments.

The Committee engaged the professional services of specialists in insurance and business consulting, economic impact assessment and trade policy for objective and expert advice. The Executive Business Plan is in Appendix K, Sample Rates in Appendix L and the Economic Impact Assessment is in Appendix N.

### **Overview of New Brunswick's Current Automobile Insurance Industry**

Presently in New Brunswick, we have a privately run automobile insurance system that uses a tort or fault-based approach to resolving claims and compensating victims of automobile accidents. Consumers in New Brunswick typically buy their automobile insurance from an insurance company through a licenced agent or insurance broker. According to presentations from brokers and insurance companies to the Committee, automobile insurance accounts on average for 60 per cent of the total property and casualty insurance industry in New Brunswick.

According to the Insurance Bureau of Canada, about 2,400 people were directly employed in the New Brunswick property and casualty insurance industry in 2002. Based on the 60 per cent average, about 1,440 person-years employment are directly associated with the provision of automobile insurance. The New Brunswick Department of

Justice, Insurance Branch, reports that there are 330 licenced agents and 291 licenced adjusters who are resident in the province. The Insurance Brokers Association of New Brunswick has 172 member brokerages, with about 939 employees located in 62 different communities.

Independent brokers generally offer a variety of property and casualty insurance products, including automobile insurance, from a number of different companies and are paid a commission on the value of a policy sold. On average, New Brunswick brokers earn commissions on automobile insurance of: 12.5 per cent on regular market policies; 10 per cent on Facility Association policies; and 9 per cent on policies sold to drivers under 25 years of age.<sup>1</sup>

As reported by the New Brunswick Department of Justice in its Insurance Annual Report, 2002-2003, 80 different insurance companies were involved in the automobile insurance industry in New Brunswick in 2002. Total written premiums for automobile insurance for 2002 totalled \$491,205,000, representing an increase of \$84 million or 20 per cent from \$407,167,000 in 2001. According to Canadian Underwriter, 46 insurance companies sold \$482 million in direct written premiums in New Brunswick in 2002. No single company dominates the automobile insurance market in the province. Of the top 10 companies, as determined by the total dollar value of written premiums, market share levels ranged from 11 per cent to 4 per cent for 2002. Insurers writing automobile policies in New Brunswick include Canadian subsidiaries of large United States and Europe headquartered companies. A number of Canadian and New Brunswick companies and mutual insurance companies play a significant role in the current automobile insurance system.

#### **A Made-In-New Brunswick Approach**

The Select Committee received detailed presentations from senior executives from the four provincial public automobile insurance corporations presently operating in Canada. The different systems, benefit levels, rating mechanisms, distribution channels and costs were evaluated by the Committee in developing the best model for a public automobile insurance system for New Brunswick, in the event a decision is made to move to a public system.

#### **Considerations and Deliberations**

The Committee has the significant advantage of being able to draw on the considerable years of experience in public automobile insurance administration — under various systems — to help develop the best model for New Brunswick.

In deliberating on the key elements and features of a made-in-New Brunswick model, the Committee closely considered these features of public automobile insurance systems across the country:

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<sup>1</sup>Source: Insurance Brokers Association of New Brunswick



Premium levels are based largely on the driving record of the registered owner of the vehicle, vehicle make/model and use;

Premium consequences of an at-fault accident follow the at-fault driver, not the vehicle;

Automobile insurance is tied directly to vehicle registration;

Individuals are assessed on their personal driving experience, not that of their peer group;

Premium savings are achieved through lower administration costs and the not-for-profit mandate of a sole provider Crown corporation; and

Introduction of no-fault automobile insurance systems in Saskatchewan and Manitoba in the early 1990s have been successful in providing improved access to medical, rehabilitation and income replacement benefits for all traffic injured as a first priority while also stabilizing rates.

The result of these deliberations is a made-in-New Brunswick approach that incorporates key aspects of the Manitoba model, but with some modifications and unique features to better meet the needs of New Brunswickers.

#### **Objectives of the Model**

Based on the issues raised during the public consultation sessions, advice received and research undertaken, the Committee agreed on the following key objectives to be met by the made-in-New Brunswick model:

**Affordable:** To provide a comprehensive and high level of coverage for all New Brunswickers at a price that is affordable.

**Accessible:** To ensure that all New Brunswickers, regardless of their age, gender or where they live, have access to basic automobile insurance coverage at a fair price.

**Fair:** To ensure that New Brunswickers are evaluated on their individual driving records and that the premium consequences for traffic offences and at-fault accidents are known, predictable and reasonable.

To ensure that all New Brunswickers injured in traffic accidents receive the financial support, medical and rehabilitative treatment required to heal and return to active involvement in society.

**Stable:** To provide a comprehensive and high level of coverage for all New Brunswickers at a price that is affordable both now and in the future.

**Flexible:** To ensure New Brunswickers can choose to add to the basic automobile coverage from a variety of products and providers to meet their individual insurance needs.

**Excellent Customer Service:** To ensure that customers have access to their automobile insurance coverage at all times.

#### **Overview of the Model**

The made-in-New Brunswick model (see Table 1) is a no-fault public automobile insurance system. Under the no-fault model, all New Brunswickers injured in traffic accidents will be entitled to full medical and rehabilitation treatment, income replacement and other benefits depending on the severity of their injuries.

Financial compensation for pain and suffering is eliminated under the model. Individuals no longer sue to get benefits.

**Fault is determined for every traffic accident. At-fault drivers pay higher premiums under the model.**

Under the made-in-New Brunswick model, injured people are compensated for the following:

- Lost income
- Medical costs that are not usually covered by New Brunswick's health services, such as physiotherapy, chiropractic treatments, medication, prosthetics
- Rehabilitation expenses to help injured people to return as close as possible to the pre-accident condition. These include physical and occupational therapy and employment retraining
- Personal care expenses to cover costs of paying helpers to provide the injured with personal care, housekeeping, shopping and such essential services. These benefits can continue throughout the injured person's life
- Death, funeral benefits and grief counselling for spouses, common-law partners and dependents
- Special expenses that include compensation for a person whose main occupation at the time of the injury was taking care of others without pay; who was working full time while caring for someone under the age of 16 or not employable; or who was working without pay in a family business. The benefit provides funds to hire someone to do the work the injured person can no longer do and includes travel expenses for medical purposes
- Students are compensated for each term of the school year they can't complete because of injury in an accident
- Permanent impairment is a lump sum paid to an injured person (in addition to lifelong benefits described above) who has permanently reduced body function from an accident, such as paraplegia.

In the proposed model, vehicle registration and mandatory insurance are purchased together from licenced private insurance brokers and agents in New Brunswick. Under the New Brunswick public automobile insurance model (hereinafter referred to as NBPI), licence plates must be returned when insurance is cancelled.

| <b>Table 1: Made-In-New Brunswick Model Summary</b>          |  |
|--|--|
| <b>Automobile insurance distribution</b>                     | Driver licence (through Service New Brunswick)<br>Vehicle registration and insurance (through licenced insurance brokers and agents)   |
| <b>Vehicle registration &amp; insurance policy</b>           | Registration/insurance certificate is proof of registration, mandatory and optional coverage(s) purchased from the public automobile insurance corporation<br>Separate policy issued when optional coverage(s) is purchased from private insurers                              |
| <b>Driver premiums</b>                                       | Additional premiums are assessed directly to higher risk drivers   |
| <b>Mandatory vehicle coverage</b>                            | Pure no-fault injury benefits similar to benefits in Quebec, Manitoba and Saskatchewan – injured persons cannot sue<br>\$200,000 third-party liability coverage – covers property damage in New Brunswick and property damage and bodily injury outside New Brunswick          |
| <b>Optional vehicle coverage</b>                             | Higher levels of income replacement benefits<br>Additional third-party liability coverage<br>Own vehicle damage including collision, theft, comprehensive, etc.  |
| <b>Coverage sold by the public insurance corporation</b>     | Mandatory vehicle coverage<br>Additional injury benefits – higher income replacement benefits<br>Additional third-party liability coverage<br>Own vehicle damage including collision, theft and comprehensive  |
| <b>Coverage sold by private insurers</b>                     | Additional injury benefits – higher income replacement benefits<br>Additional third-party liability coverage   |
| <b>Risk-rating factors for insurance premiums</b>            | New Brunswickers' individual driving records (years of driving experience, at-fault accidents and traffic offences)<br>Vehicle usage<br>Vehicle make/model<br>Optional coverage purchased<br>All rates for mandatory and optional insurance approved by public utilities board |
| <b>Prohibited risk-rating factors for insurance premiums</b> | Age, gender or marital status<br>Territory<br>Vehicle owners' premium payment history  |
| <b>Average premium</b>                                       | Average premium levels will decrease from today's street price of \$1,212 <sup>2</sup> to an average premium level of \$993. Average premiums for drivers with 10 or more years safe driving will be \$834. Risky drivers will pay more.                                       |

<sup>2</sup> KPMG LLP, July 28, 2003. Report on the Impact of Tort Reform on Private Passenger Automobile Insurance Rates in New Brunswick.

Mandatory insurance will include a no-fault, also known as personal injury protection, plan and \$200,000 third-party liability coverage to cover damage to the property of New Brunswickers inadvertently affected by an accident.

Optional insurance for vehicle damage (collision, theft and comprehensive) will be similar to coverages sold now; consumers will decide if they wish to purchase optional coverage, including the specific kind of coverage and deductible level for their individual vehicles.

To reduce premiums and ensure that coverage is universally available, all consumers will purchase both mandatory and optional vehicle damage coverage exclusively from NBPI through their licenced community brokers and agents. New Brunswick consumers will have the choice of buying additional third-party liability coverage (more than the mandatory \$200,000) and higher income replacement benefits from a private insurance company or NBPI.

Drivers' licences will be processed through Service New Brunswick as they are now. Under the proposed model, fees for drivers' licences are unchanged.

New Brunswick drivers with safe driving records will receive discounts on their vehicle insurance.

New Brunswick drivers whose bad driving record puts them in the penalty zone will also be charged an additional premium fee whether they own a vehicle or not. The amount will vary depending on their relative positions on the safe driving discount scale (see Figure 2).

Insurance rates will be based on a New Brunswicker's individual driving record, vehicle usage, vehicle make/model and optional coverage purchased. Age, gender and marital status are prohibited rating factors.

The Committee decided to use a single rating territory for the entire province for the introduction of the new plan; there is no variation in rates because of where you live. The Committee recommends that after five years, the NBPI claims experience be reviewed to see if it is appropriate to maintain a single territory.

#### **Basic Mandatory Coverage Levels**

All New Brunswickers injured in traffic accidents in the province or elsewhere will have equal access to no-fault benefits under the NBPI personal injury protection plan.

**However, fault will be determined for every traffic accident and recorded in the system as part of the at-fault driver's driving record.** An individual's driving record is the primary factor in determining premium levels under the made-in-New Brunswick model.

The basic, or mandatory, coverage provides generous, personal injury protection plan coverage and

\$200,000 third-party liability coverage to protect the property of an innocent New Brunswick bystander.

The **personal injury protection plan** includes:

- high medical and rehabilitation benefits - to a maximum of \$5 million for each New Brunswick resident injured in an automobile crash;
- income replacement benefits to replace 90 per cent of the first \$55,000 of net income earned, indexed and payable until age 70, if necessary;
- high levels of death benefits and an impairment benefit for serious and permanent injuries, for example, \$150,000 to \$200,000 for quadriplegic injury in addition to life-long medical intervention and rehabilitation (see Figure 1).

Figure 1 compares the minimum compulsory coverage levels under the current New Brunswick tort-based system and those proposed under the made-in-New Brunswick no-fault model.

Under the made-in-New Brunswick model, all persons injured in a traffic accident, regardless of fault, are eligible for higher medical and rehabilitation, income replacement and death benefits depending on the seriousness of their injuries and individual income levels. Fault is not a factor in determining benefit entitlements.

Under the current New Brunswick tort-based system, all persons injured in a traffic accident, regardless of fault, have access to the lower benefit levels listed in Figure 1 through their Accident or Section B benefits. Only those persons injured in an automobile accident and who are determined to be not at-fault can sue the at-fault driver for compensation for their full economic loss and pain and suffering (up to \$2,500 minor injuries).

Personal injury protection plan benefit levels included in the NBPI basic mandatory plan will be established through legislation and indexed to inflation. Below is a description of what is included as no-fault benefits or a personal injury protection plan.

Under the proposed New Brunswick public automobile insurance plan, the priority is to provide support to New Brunswickers injured in traffic accidents in order to facilitate recovery and rehabilitation in a timely manner. Individuals will no longer have the right to sue for financial compensation or for general damages such as pain and suffering.

| <b>Figure 1: Comparison of Compulsory Minimum Insurance Coverages for Private Passenger Vehicles: Current New Brunswick System and Made-in-New Brunswick Model</b> |  |  |
|--|--|--|
|  | <b>New Brunswick</b>   | <b>Made-in-New Brunswick Model</b>   |
| <b>Compulsory minimum third-party liability:</b>   | \$200,000 is available for any one accident; however, if a claim involving both bodily injury and property damage reaches this figure, payment for property damage would be capped at \$20,000 | \$200,000 is available for any one accident; however, if a claim involving both bodily injury and property damage reaches this figure, payment for property damage would be capped at \$20,000 |
| <b>Medical payments:</b>   | \$50,000/person, including rehabilitation, excluding health insurance plans; time limit 4 years  | Maximum of \$5 million per person, no time limit; includes rehabilitation  |
| <b>Funeral expense benefits:</b>   | \$2,500  | \$6,545  |
| <b>Disability income benefits:</b>   | 104 weeks partial disability; life time if totally disabled; maximum \$250/week; seven-day wait; unpaid housekeeper \$100/week, maximum 52 weeks   | 90 per cent of net income wages; maximum income net \$55,000/year; seven-day wait; indexed.<br><br>Impairment benefits scheduled up to \$200,000   |
| <b>Death benefits:</b>   | Death within two years; head of household \$50,000 plus \$1,000 each for all dependants beyond first; spouse \$25,000; dependent child \$5,000   | Death anytime; depends on wage and age; minimum \$48,034; maximum \$320,000 plus \$22,815 - \$42,030 to dependants according to age.   |
| <b>Right to sue for pain and suffering?</b>  | Yes. Maximum amount recoverable as damages for non-economic loss for all minor personal injuries: \$2,500  | No   |
| <b>Right to sue for economic loss in excess of no-fault benefits?</b>  | Yes  | No   |
| <b>Administration:</b>   | Private insurers   | Crown corporation (NBPI and private insurers compete for additional coverage)  |

Immediate access to medical treatment is the first priority. A person injured in a traffic accident develops a treatment plan with medical advisers of choice and submits that plan to the Crown corporation. The costs of all eligible medical procedures, rehabilitative treatments, services or necessary medical equipment as outlined in an individual's treatment plan are covered by the public automobile insurance Crown corporation. All costs to the public health care system are charged back to the Crown corporation through the health services levy; now, these costs are charged back to private insurance companies and are spread out over all insured drivers.

Under the New Brunswick public automobile insurance plan, personal injury benefits paid will be divided into four key categories:

1. medical and rehabilitation services will comprise 46 per cent of total personal injury benefits paid;
2. income replacement will comprise 41 per cent;
3. permanent impairment compensation will comprise 8 per cent; and,
4. death benefits will comprise 5 per cent of the total personal injury benefits paid.

Income replacement benefits are paid for the time the injured person is unable to return to normal activity; if needed, additional home care or childcare is available. Typically, the basic coverage entitles an injured person to 90 per cent of net income up to a pre-set maximum, for example, \$55,000 a year,<sup>3</sup> for the time that they are unable to function normally. Additional income replacement coverage for those New Brunswickers with higher income levels can be purchased from private insurers or NBPI through a licenced broker or agent.

New Brunswickers who suffer a permanent loss of use of a body part in an automobile accident are entitled to financial compensation for that loss. Financial compensation rates will be pre-set in legislation.

Death benefits are paid to eligible family members according to their relationship to the deceased and to the deceased's contribution to family income levels. Death benefit levels under the NBPI plan will be higher than those now in place under the current system. (See Appendix D for an overview of mandatory no-fault benefit levels in Canada.)

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<sup>3</sup> According to Statistics Canada, 6.8 per cent of New Brunswickers' had gross annual earnings equal to or greater than \$60,000 to 2001. The average gross annual earnings for the province was \$34,700 for the same year. (Source: Survey of Labour Income Dynamics, Income Trends in Canada, 1980-2001)

**Mandatory \$200,000 Third-Party Liability**

The mandatory \$200,000 third-party liability coverage provides protection to New Brunswickers in case they are involved in an accident that causes property damage to something other than an automobile, such as a house, a traffic signal or other property in the province. This mandatory coverage also protects a New Brunswicker involved in a traffic accident while travelling outside the province, and who is determined to be at-fault, from third-party liability claims.

**Optional Vehicle Damage Coverage**

In the made-in-New Brunswick model, vehicle damage coverage such as comprehensive, collision and all perils, is optional and is sold exclusively by the Crown corporation through licenced New Brunswick brokers and agents. Presently, about 25 per cent of New Brunswickers choose not to buy vehicle damage coverage when insuring their automobiles.<sup>4</sup> The Committee wanted to allow New Brunswick consumers to continue to have this choice under the New Brunswick public automobile insurance system.

To ensure that vehicle damage insurance is available at an affordable price, the coverage is available only from the Crown corporation. NBPI will offer a variety of vehicle damage coverages, including lower deductibles, to New Brunswick consumers.

**Role of the Private Sector**

Licensed insurance brokers and agents in New Brunswick will be the exclusive distributors of the public automobile insurance product in the province. Support from the public automobile insurance Crown corporation for those brokers and agents will include program and product training, communication and point-of-sale materials and telephone support. New Brunswick brokers and agents are vital to the effective distribution of the products and to assist clients to understand the new system so as to make choices appropriate to their insurance needs.

The implementation of a new rating system and the adoption of a new computer operating system will simplify the transaction process involved in purchasing automobile insurance in New Brunswick. NBPI will pay licensed insurance agents and brokers a 7 per cent commission. Resources will be set aside to remunerate insurers and agents/brokers for the additional work involved in the transition year.

Private insurers are encouraged to compete with the NBPI to provide consumers choices in extended coverages and additional third-party liability coverage.

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<sup>4</sup>Insurance Bureau of Canada Automobile Experience (Green Book) 2002



### Rating Factors

Under the proposed New Brunswick public automobile insurance plan, rates will be based on the individual driving record of the registered owner of a vehicle, as well as on the driver's claims experience, vehicle usage, vehicle make/model and any optional coverage purchased. Age, gender, marital status and where the driver lives are not used to set premium levels.

Vehicle registration and insurance are tied together in the proposed model. Cost of insurance will be based on the owner's position on the safe driving discount scale (see Figure 2), vehicle usage, vehicle make/model and any optional coverage purchased. The driving records of other members of a household will not affect the cost of insurance for the owner of the vehicle.

### Figure 2: Safe Driving Discount Scale - See Original Report

Individual driving records play an important part in the determination of how much drivers will pay for insurance. The base point premium will be determined by the vehicle usage, make/model and optional coverage purchased and then the appropriate level of safe driving discount is applied.

A new driver will enter the premium scale at the neutral zone and earn a 4 per cent discount for each year of claims – and offence-free driving to a maximum of 10 years or a total discount of 40 per cent.

**Table 2: Number of New Brunswick Drivers by Licence Class by Age Group  
2002-2003**

| Licence Class | Age Group     |               |               |                |                |               |               |               | Total          |
|---------------|---------------|---------------|---------------|----------------|----------------|---------------|---------------|---------------|----------------|
|               | 16-19         | 20-24         | 25-34         | 35-44          | 45-54          | 55-64         | 65-74         | 75+           |                |
| Commercial    | 47            | 1,074         | 7,083         | 12,276         | 13,327         | 8,260         | 1,744         | 144           | 43,955         |
| Passenger     | 9,644         | 36,333        | 78,486        | 97,456         | 94,340         | 65,778        | 41,151        | 26,309        | 449,497        |
| Graduated     | 17,350        | 5,199         | 3,021         | 1,117          | 457            | 188           | 83            | 26            | 27,441         |
| Motorcycle    | 1             | 9             | 21            | 29             | 32             | 12            | 6             | 2             | 112            |
| <b>Total</b>  | <b>27,042</b> | <b>42,615</b> | <b>88,611</b> | <b>110,878</b> | <b>108,156</b> | <b>74,238</b> | <b>42,984</b> | <b>26,481</b> | <b>521,005</b> |

Note: 49,550 drivers also have a motorcycle endorsement and are included in the commercial, passenger or graduated driver licence counts. (Source: New Brunswick Department of Public Safety, 2003.)

Drivers with a record of at-fault claims or traffic offences will pay more and will not earn a good-driver discount until their poor driving records have been corrected – about three years. Licenced drivers who do not register vehicles but accumulate enough demerit points to enter the driver penalty zone, will be billed an additional premium to ensure they contribute to the provincial insurance pool.

The financial consequences of one at-fault accident are less for a long-time driver with a safe record than for an inexperienced driver. To ensure that drivers are not penalized for an unreasonable time for one accident or traffic offence, drivers work their way back to their position on the premium scale if their driving records remain unblemished for three years.

There are more severe penalties for criminal driving offences.

Described in Table 3 are three examples of how the scale works after a driver has been involved in a traffic accident.

**Table 3: Moving Up and Down the Safe Driving Discount Scale: Three Examples.**

**Example 1**

A New Brunswick driver with a record of 10 years safe driving has an at-fault accident. Because of his or her position at the top of the safe driver discount zone, he or she receives three demerit points moving from a +10 to a +7 position on the scale. Next year when he or she registers and insures their vehicle they will receive a 28 per cent discount and move back up the scale (32 per cent, 36 per cent and 40 per cent discount respectively) with each subsequent year of safe driving.

The not-at-fault driver's premiums are not affected by the accident.

**Example 2**

A New Brunswick driver with a recent history of unsafe driving, having been responsible for one at-fault accident two years ago, has a second at-fault accident in less than three years. He or she moves from -5 to -15 in the penalty zone. He or she will be assessed an additional premium of \$1,050 at the time of the accident. Provided this driver can maintain a safe driving record for three consecutive years, he or she will be eligible for a safe driving discount on his or her fourth renewal. However, in the interim three-year time period he or she will be charged the base rate.

The not-at-fault driver's premiums are not affected by the accident.

**Example 3**

A New Brunswick driver with only two years of safe driving experience has an at-fault accident with the family vehicle, which is registered and insured in the parent's name. Under the made-in New Brunswick model the at-fault driver, not the vehicle owner, pays an additional premium. In this example because the driver has two years safe driving, he or she is assessed eight demerit points and goes from a +2 position in the safe driving zone to a -6 position in the penalty zone, where he or she pays an additional contribution to the insurance pool of \$250. Additionally, the driver will need to maintain a safe driving record for three consecutive years to be eligible to re-earn a safe driving discount. If he or she were to register and insure a vehicle before the end of the three-year time frame they will pay the base rate related to the make/model and use of the vehicle to be insured.

The premium of the not-at-fault driver and the owner of the car (the driver's parent) are not affected by the accident.

The Committee recommends a scale for safe drivers that offers a discount of 4 per cent for each year of claims – and offence-free driving to a maximum discount level of 40 per cent. Vehicle owners with a 10-year clean driving record would receive a discount of 40 per cent as compared to a new driver who would get a 4 per cent discount after the first year of safe driving.

The Committee recommends a scale for a poor driving record to include a modest \$25 for each of the first two positions on the scale, followed by sharp increases in costs as demerit points are accumulated.

The objective is to collect higher premiums from drivers who have poor driving records. The exact scale, including demerit points for traffic offences, must be set out in the appropriate legislation.

**Average Premium Levels**

Under the New Brunswick public automobile insurance system, it is estimated that there will be a decrease from the current street price of \$1,212 to an average premium of 2003. The average premium is the total premium paid by all customers for all of the coverages purchased on their vehicles divided by the total number of vehicles. The average is weighted for all of the mandatory coverages that everyone must buy and the optional coverages that only some customers buy. Therefore, some drivers will pay more than the

average premium level and some will pay less, depending on their individual driving records, claims histories, type and uses of vehicles.

Figure 3 compares the average premium levels by years of safe driving under the current New Brunswick system and those estimated under the made-in-New Brunswick public model. To determine the precise rate to be paid by an individual vehicle owner would require an actuarial ratemaking exercise. The Committee felt it was premature and beyond the scope of its mandate to take this next step at this time.

**Figure 3: Estimated Average Premium Levels - See Original Report**

The average premium of \$993 is an all-in price. Estimated average premium levels include provisions for NBPI to pay provincial health services levies, premium taxes, all operating costs and a 5 per cent surcharge, to be imposed for the first four years of operation, to pay for all pre-operating and start-up costs and to build a reserve fund. The result is an average premium for drivers insuring a vehicle at the base rate of about \$1,390 and an average premium of \$834 for drivers with 10 years of safe driving. More than 80 per cent of New Brunswick drivers have safe driving records of six years or more. Figure 4 shows the estimated average premium level by years of safe driving for the made-in-New Brunswick model.

**Figure 4: Estimated Average Premium Levels by Years of Safe Driving - See Original Report**

This estimate is based on New Brunswick consumers purchasing a similar pattern of coverage as they do now, that is, mandatory coverage and often, supplemental coverage such as higher third-party liability coverage and lower deductibles.

In order to provide New Brunswickers with a better idea of the range of premium levels they could anticipate under the proposed model, a sample of hypothetical drivers and their estimated premium levels are described in Figure 5. These estimates have been developed from the best available information to give New Brunswickers a better idea of the range of premiums for a sample of vehicle makes and models, vehicle usage, levels of coverage and driving experience. However, an actuarial ratemaking exercise is required before premium levels under the made-in-New Brunswick model can be determined.

Figure 5: Made-in-New Brunswick Model Sample Rates

| Scenario       | Age & Gender                                      | Driving Experience                    | Driving Record  | Other Drivers  | Vehicle                    | Coverages  | Location    | Rate    |
|----------------|---|---------------------------------------|---|--|----------------------------|--|-------------|---------|
| 1              | 45 year old female                                | 10 years plus safe driving            |   | 16 year old daughter, brand new driver just completed driver education<br>18 year old son has 2 years good driving | 2002 Dodge Caravan         | \$2 million PLPD<br>Collision and Comprehensive \$250 deductible | Campbellton | \$1,228 |
| 2              | 22 year old unmarried male                        | 5 years safe driving                  | 1 windshield claim last year  | None   | 2001 Toyota Corolla        | \$1 million PLPD<br>Collision and Comprehensive \$500 deductible | Tracadie    | \$1,358 |
| 3              | 18 year old unmarried female (university student) | 2 years safe driving                  |   | None   | 1994 Honda Civic Hatchback | \$200,000 PLPD<br>No vehicle damage coverage                     | Saint John  | \$1,007 |
| Vehicle 1<br>4 | 60 year old male                                  | 10 years safe driving<br>Pleasure Use |   | None   | 2002 Pontiac Grand Prix    | \$2 million PLPD<br>Collision and Comprehensive \$250 deductible | Miramichi   | \$1,006 |
| Vehicle 2      | 57 year old female                                | 6 years safe driving<br>Pleasure use  | 1 comprehensive claim 4 years ago   | None   | 1997 Pontiac Grand AM      | \$2 million PLPD<br>No vehicle damage coverage                   | Miramichi   | \$528   |
| 5              | 77 year old female                                | 10 years safe driving<br>Pleasure use |   | None   | 2000 Ford Taurus           | \$1 million PLPD<br>Collision and Comprehensive \$500 deductible | St. Stephen | \$812   |
| 6              | 30 year old male                                  | 10 years driving                      | 1st at-fault accident 3 years ago<br>2nd at fault accident last year.<br>Previously 7 years of safe driving | None   | 2001 Jeep Cherokee         | \$1 million PLPD<br>Collision and Comprehensive \$500 deductible | Fredericton | \$1,906 |

| Figure 5: Made-in-New Brunswick Model Sample Rates |                                 |                       |  |   |                            |   |              |  |
|--|---------------------------------|-----------------------|--|---|----------------------------|---|--------------|--|
| Scenario   | Age & Gender                    | Driving Experience    | Driving Record   | Other Drivers   | Vehicle                    | Coverages   | Location     | Rate   |
| 7  | Vehicle 1<br>29 year old male   | 10 years safe driving | 1 not-at-fault accident 3 years ago 1 windshield claim last year                                   | None  | 2004 Mazda pick-up truck   | \$1 million PLPD Collision and Comprehensive \$500 deductible | Petit-Rocher | \$1,150  |
|  | Vehicle 2<br>28 year old female | 7 years safe driving  | One-at-fault accident 7 years ago  | None  | 1999 Chevrolet Cavalier    | \$1 million PLPD Collision and Comprehensive \$500 deductible | Petit-Rocher | \$1,242  |
| 8  | 54 year old male                | 10 years safe driving |  | None  | 1994 Oldsmobile 98 Regency | \$1 million PLPD No vehicle damage coverage                   | Grand Bay    | \$678  |
| 9  | 47 year old male                | 10 years safe driving |  | 21 year old daughter 3 years safe driving 23 year old son 1 at-fault accident 2 years ago and 1 speeding ticket | 1996 VW Jetta              | \$1 million PLPD Collision and Comprehensive \$500 deductible | Edmundston   | \$1,038  |
| 10   | 24 year old female              | 8 years safe driving  | 1 speeding ticket 3 years ago  | None  | 2002 Honda Accord          | \$1 million PLPD Collision and Comprehensive \$250 deductible | Woodstock    | \$1,360  |
| 11   | 42 year old male                | 22 years driving      | 1 at-fault accident 3 years ago 1st Driving Impaired 5 years ago 2nd Driving Impaired 2 years ago* | None  | 1994 Chevrolet Impala      | \$200,000 PLPD No vehicle damage coverage                     | Memramcook   | \$1,094 (vehicle)<br>\$2,550 (driver)<br>\$3,644 (total) |
| 12   | 39 year old female              | 20 years driving      | 1 at-fault accident 3 years ago 2nd at-fault accident 12 months ago                                | None  | 1997 Nissan Altima         | \$1 million PLPD Collision and Comprehensive \$500 deductible | Doaktown     | \$1,624  |

\*This driver would be billed an additional premium amount after each traffic or criminal code infraction. He would only be permitted to register his vehicle under this scenario if he had a valid driver's licence and his insurance account was in good standing.

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**Road Safety Initiatives**

The philosophy guiding the public automobile insurance systems includes concerted efforts to reduce collisions, injuries, deaths and claims. Under the proposed model for New Brunswick, an annual budget dedicated to road safety is estimated at \$4 million.

There are many road safety initiatives in place in Canada's public automobile insurance systems for a New Brunswick public system to emulate. The Committee recommends that NBPI in partnership with relevant organizations and institutions such as governments, law enforcement agencies, seniors organizations and schools, develops a series of safety initiatives targeted to the needs of New Brunswick drivers.

**Governance**

An Act of the New Brunswick Legislative Assembly to establish a New Brunswick Public Insurance Crown corporation will have to be written and given assent before the transition of New Brunswick drivers from the private system to the public system. The legislation will establish the insurance program, including product characteristics and benefits, as well as the parameters for the Crown corporation. The legislation is to undergo a full review at the end of Year 5 of operations.

A minister responsible for the public automobile insurance corporation, with no oversight or role in operations, will be appointed and a board of directors will be established. The board will be responsible for policy development and oversight of the Crown corporation.

Although a public entity, the Crown corporation will operate at arm's length from the provincial government. This relationship will be important in ensuring that the financial sustainability of the New Brunswick public insurance Crown corporation is the responsibility of automobile insurance ratepayers and not taxpayers. Similar to the New Brunswick Workplace Health, Safety and Compensation Commission, the liabilities and assets of the NBPI would not be included on the Province's financial statements, except for the initial loan during the start-up period.

**Accountability**

Although the Crown corporation will operate at arm's length from government, a number of mechanisms to ensure full public accountability and transparency are recommended by the Committee:

1. The NBPI will be required to submit insurance rates to the public utilities board for approval. Rate changes will be subject to review and hearings where public participation and scrutiny are encouraged;
2. The enabling legislation establishing the NBPI will provide for a third-party dispute resolution process whereby all injury claims decisions can be reviewed by an independent panel to ensure disputes are resolved in an appropriate and fair manner;
3. The NBPI will appear before the Legislative Assembly of New Brunswick's Standing Committee on Crown Corporations on an annual or as required basis; and
4. The NBPI will issue an annual report, including audited financial statements, at a general public meeting of the Crown corporation to be held each year.

#### **Costing the Model**

Based on legislation, and to deliver the mandate of NBPI, an infrastructure and organization would be built, including people, facilities and information systems. The start of these activities would mark the beginning of the pre-operating period, anticipated to last 12 months, after which operations would

commence and transition of New Brunswick drivers from the old system to the new would occur. Capital costs would also be incurred during the pre-operating phase.

It is estimated that NBPI would directly employ about 800 individuals in the province of New Brunswick in a variety of roles including clerical, technical/professional, supervisory and management. The organization of NBPI would include: executive offices; finance; insurance operations; claims; information technology; human resources; legal/regulatory; and public relations/prevention. Recruiting and hiring of employees is assumed to take place over a 24-month period, with close to 90 per cent of the workforce being recruited and hired in the first 12 months.

NBPI will look to hire, wherever possible and appropriate, experienced and certified insurance professionals presently involved in the provincial insurance industry.

A summary of total costs is provided below in Table 4



| <b>Table 4: Summary of Project Costs</b> |                     |
|--|---------------------|
|  | Estimated Costs     |
| Start-up                                 | \$13,300,000        |
| Pre-Operating                            | \$32,010,000        |
| Capital                                  | \$35,250,000        |
| <b>Total</b>                             | <b>\$80,560,000</b> |

### **Start-up Costs**

Start-up costs are non-operating and non-capital costs incurred during the 12-month pre-operating period, and are necessary to create the infrastructure and processes required to operate NBPI. These costs will be capitalized and amortized over a five-year period. Start-up costs are estimated as follows:

|   |                     |
|---|---------------------|
| Recruitment costs                             | \$ 800,000          |
| System and business process development costs | \$ 7,900,000        |
| Communication costs                           | \$ 3,000,000        |
| Consulting service costs                      | \$ 1,600,000        |
|   | <b>\$13,300,000</b> |

The Manitoba Public Insurance Corporation (MPI) has offered to assist NBPI with customizing and conversion of MPI insurance, financial and claims systems to meet the needs of New Brunswick, thus eliminating the need to build the systems from scratch (see Letter of Intent in Appendix M).

This partnership will also result in a new, integrated online motor vehicle registration system for the Province of New Brunswick.

Other partnering or contracting opportunities will be explored by NBPI during the pre-operating period and may lead to further efficiencies and potential cost savings.

### **Pre-Operating Period Costs**

For Year 1, estimated operating expenses will consist mainly of employee compensation, training costs and other operating expenses (data processing, building expenses, printing, stationery, office supplies, postage, travel expenses, telephone, etc.). Compensation represents an estimated 75 per cent of the operating expenses incurred during Year 1, with the remaining 25 per cent represented by training costs and other operating expenses. Employee compensation is based on the assumption of staggered hiring of 700 staff during Year 1.

Total Year 1 operating expense is calculated below:

|                                    |                      |
|------------------------------------|----------------------|
| Estimated employee compensation    | \$ 23,700,000        |
| Estimated training expense         | \$ 500,000           |
| Estimated other operating expenses | \$ 7,810,000         |
|                                    | <u>\$ 32,010,000</u> |

Although not a pre-operating period cost, to assist the various stakeholders with the transition from the old to new insurance model, it is estimated that NBPI would make a one-time transition expenditure of up to \$20,000,000 in Year 2 of operations.

### Capital Costs

Property and equipment additions are required and will be made during Year 1 pre-operating period for the following assets:

|   |                      |
|---|----------------------|
| Construction cost of five claim centres                   | \$ 10,125,000        |
| Construction cost of corporate office                     | \$ 18,225,000        |
| Furniture and equipment allowance                         | \$ 4,000,000         |
| Information technology systems<br>(desktop hardware only) | \$ 2,900,000         |
|   | <u>\$ 35,250,000</u> |

### Project Financing

During the pre-operating period, NBPI will require financing of \$82,000,000. It is assumed that this will be debt-financed, with money borrowed from the Province of New Brunswick. It is estimated that amounts will be advanced to NBPI over the 12-month pre-operating period in equal instalments. The expected capital structure and use of funds are as follows:

#### Sources of financing

|                           |               |
|---------------------------|---------------|
| Province of New Brunswick | \$ 82,000,000 |
|---------------------------|---------------|

#### Use of funds

|                                      |                      |
|--------------------------------------|----------------------|
| Start-up costs                       | \$ 13,300,000        |
| Capital costs                        | \$ 35,250,000        |
| Pre-operating period operating costs | \$ 32,010,000        |
|                                      | <u>\$ 80,560,000</u> |

This debt financing will bear interest at 5 per cent and will be repayable, in full, at the beginning of Year 2, the first year of NBPI's operations. On Day 1 of operations of Year 2, NBPI will experience a significant inflow of cash from the conversion of written premiums from private insurance companies to NBPI, allowing repayment of the provinces advance, in full, at the beginning of Year 2.

### Financial Projections for the First Five Years

The projections presented below are inclusive of all vehicle types and are based on the assumption that there will be a 5 per cent surcharge on premiums during years 2 to 5. The projections include the usual items included in the financial statements of insurance companies (premiums, claims, claims adjusting expenses, commissions, premium taxes, operating expenses and investment income, etc.) as well as the start-up costs, which are non-operating and non-capital costs incurred during the 12-month pre-operating period necessary to create the infrastructure and processes required to operate NBPI.

|  | (\$000s)   |            |            |            |           |
|--|------------|------------|------------|------------|-----------|
|  | Year 1     | Year 2     | Year 3     | Year 4     | Year 5    |
| Net earnings (loss) from operations            | (\$34,482) | (\$9,546)  | \$18,751   | \$25,392   | \$31,518  |
| Retained earnings (deficit), beginning of year | -          | (\$34,482) | (\$44,028) | (\$25,457) | (\$65)    |
| Retained earnings (deficit), end of year       | (\$34,482) | (\$44,028) | (\$25,457) | (\$65)     | \$31,453  |
| Cash resources, end of period                  | \$1,627    | \$224,666  | \$374,978  | \$508,232  | \$632,957 |

### International Trade Implications

The Select Committee has assessed the made-in-New Brunswick model in the light of Canada's obligations under the North American Free Trade Agreement (the "NAFTA") and the World Trade Organization's (the "WTO") General Agreement on Trade in Services (the "GATS"). In conducting its assessment, the Select Committee consulted with international trade experts, and reviewed various analyses of the consistency of a public auto insurance scheme with Canada's international trade obligations.

It is clear that the NAFTA and the GATS do not expressly prohibit New Brunswick from establishing and maintaining a public automobile insurance regime. Both agreements do, however, contain rules that would apply to the creation of the Crown corporation (NBPI) and to its activities.

The Crown corporation would have to be designed to meet certain requirements that are intended to minimize adverse trade effects. As well, Canada would likely be asked by its WTO trading partners to

make trade-related adjustments in their favour. Additionally, the rights of U.S. and Mexican investors with investments in New Brunswick's auto insurance sector would have to be taken into account (although the NAFTA does not require governments to mitigate any and all negative effects on such investors/investments).

The Committee cannot predict, however, whether a WTO or NAFTA challenge would be brought or whether a challenge would succeed. The creation of a provincial Crown corporation offering services previously provided solely by the private sector has never been challenged under the WTO nor the NAFTA. There are many legal and factual hurdles that would have to be cleared by a trading partner (or a United States or Mexican investor) in order to challenge successfully the creation of a public automobile insurance system. There is also a broad range of policy and political factors, as well as individual parent companies' overall commercial interests (beyond just those of the provision of automobile insurance services in New Brunswick) that would influence whether and how a claim might be made.

The WTO and NAFTA rules mean that there are issues to be investigated further should the Province decide to move ahead. However, the Select Committee is confident that a public automobile insurance system, such as the made-in-New Brunswick model, could be implemented in New Brunswick in a manner that conforms with Canada's international trade obligations.

Consequently, the Select Committee recommends that the Government of New Brunswick work closely with federal officials to design a strategy that would ensure that the establishment of a public automobile insurance system (NBPI) in New Brunswick would be consistent with Canada's international trade obligations.

#### **Provincial Economic Impact Analysis**

The Committee engaged the services of an economist to assess the impact on the provincial economy of the proposed model for public automobile insurance. The economic impact analysis report is attached as Appendix N.

The implementation of the proposed public automobile insurance model is estimated to result in 1,134 fewer people working in New Brunswick's private sector insurance industry. This decrease will be partially offset by the creation of 800 new jobs in the proposed New Brunswick public insurance Crown corporation. Despite the direct displacement of jobs in the insurance industry in Year 2, the overall net economic impact of implementing the proposed model is estimated to be positive due to growth induced in other sectors of the provincial economy.

The projected gains to the provincial economy, as measured by increased person years employment and increased gross domestic product (GDP), in Year 1 (pre-operational phase) are primarily related to hiring by the Crown corporation and increased capital expenditures of over \$35 million as the corporate office and regional claim centres are built. The projected net increases to employment and GDP for Year 2 (operational phase) is due to the increased consumer spending in the provincial economy triggered by the projected \$103 million reduction in automobile insurance premiums in the province.

### **Summary of Findings**

#### **Start-Up Year (Year 1):**

- Net increase of \$109 million of gross output in New Brunswick
- Net increase in employment of 1,024 person years
- Net increase of \$46 million in New Brunswick's gross domestic product (GDP)
- Net increase of \$6 million in federal government revenues resulting from increased economic activity in New Brunswick
- Net increase of \$4.4 million in provincial government revenues resulting from increased economic activity in New Brunswick.

#### **Regular Operation Year:**

- Net increase of \$144 million of gross output in New Brunswick
- Reduction of 1,134 private insurance sector jobs
- Creation of 800 jobs at the proposed public insurance corporation
- Net increase in employment of 275 person years (taking into account direct, indirect and induced impacts)
- Net increase of \$37 million to New Brunswick's gross domestic product (GDP)
- Net increase of \$6.7 million in federal government revenues resulting from increased economic activity in New Brunswick
- Net increase of \$3.5 million in provincial government revenues resulting from increased economic activity in New Brunswick

### **Impact on Provincial Finances**

The implementation of the made-in-New Brunswick model will result in a decrease in provincial government revenues directly related to the automobile insurance industry. This decrease is estimated at about \$3.7 million: \$3 million is explained by a decrease in automobile insurance premium tax revenues collected due to the decrease in total premiums charged to New Brunswickers; and \$700,000 represents the loss of provincial corporate income tax currently paid by the private automobile insurance industry in the

province. However, this shortfall will be exceeded by the projected increase in provincial government revenues (see economic impact analysis) due to the increase in provincial economic activity generated through the implementation of the model. The overall net increase in provincial government revenues is estimated at \$3.5 million per regular year of operation.

**Health Services Levy**

The New Brunswick public automobile insurance Crown corporation will continue to pay the health services levy to the government of New Brunswick on the same basis and in the same amount as now being paid by private insurance companies in New Brunswick. Provincial health services levies are estimated to be about \$ 27.5 million a year.

**Premium Tax**

The New Brunswick public automobile insurance Crown corporation will continue to pay premium tax of 3 per cent on total premiums collected to the provincial government. Total premium tax to be paid by NBPI is estimated at about \$14 million.

**Corporate Income Tax**

The New Brunswick public automobile insurance Crown corporation, as a not-for-profit public entity, will not pay provincial corporate income tax. Based on the corporate income tax estimates for the automobile insurance industry paid in New Brunswick, as estimated in the Atlantic Canada Insurance Harmonization Task Force Report (Vol. 2) to the Council of Atlantic Premiers 2003, this represents a loss of provincial revenue of \$700,000. Corporate income tax received from the automobile insurance industry in New Brunswick represented less than 4/10ths of 1 per cent of total provincial corporate income tax collected in 2001-2002

**Cost Recovery and Licencing**

NBPI will pay all appropriate costs and licence fees involved in recovering the regulatory costs for the Superintendent of Insurance's office and the New Brunswick Board of Commissioners for Public Utilities associated with the provision of automobile insurance under the new system as well as fees for the licencing of its professional staff.

**Provincial portion of the HST**

NBPI will pay the HST (including the provincial portion) on its taxable expenditures.

**Other Potential Impacts**

The Committee was asked to investigate the impact on other professionals such as the legal community, brokers and agents, physiotherapists, medical practitioners and those involved in the

automobile-repair industry. The Committee finds there will be no significant change in the way the NBPI Crown corporation and/or its customers would interact with these professionals, with two exceptions: the legal community and licenced brokers or agents. Based on the available information and the experiences of other jurisdictions, the following impacts are expected:

#### **Legal Community**

Under the NBPI no-fault model, all New Brunswickers injured in traffic accidents will be entitled to full medical and rehabilitation treatment, income replacement and other benefits depending on the severity of their injuries. Financial compensation for pain and suffering is eliminated under the NBPI model.

Individuals no longer sue to get benefits and thus, there will be no business related to automobile accident personal injury claims for New Brunswick lawyers. After the introduction of a no-fault system in Manitoba in the mid-1990s, legal professionals tended to shift the balance of their practice to other areas of the law or moved to practice personal injury law elsewhere.

This decrease will be incremental to the impact of the \$2,500 cap on financial compensation for pain and suffering associated with a minor soft-tissue injury, implemented on July 1, 2003. Although it is too early to understand the full impact on the legal community of this measure, recent reports have estimated a decrease in the level of new claims of over 40 per cent as compared to the same time in 2002.

#### **Brokers and Agents**

Brokers play a critical role as the main distribution channel for public automobile insurance in British Columbia, Manitoba and Saskatchewan. They are paid a commission of 7 per cent, 5 per cent and 4 per cent, respectively. Experience in other jurisdictions would suggest that brokerages are profitable under a public automobile insurance system.

In the NBPI model, licenced brokers and agents will receive a 7 per cent commission on the public policies they sell. This represents a decrease from 12.5 per cent to 7 per cent. However, the time and resources required for brokers or agents to sell the NBPI product will be considerably less in the public system. Although there will be a transition period to adjust staff and overhead requirements, the Committee finds that New Brunswick brokers and agents will continue to provide a service to New Brunswickers and make a profit under the proposed system.

To assist in the transition phase the Committee recommends that public automobile insurance be sold through existing licenced brokers and agents resident in New Brunswick and that transactions are required to be done in person for the first five years of operation. Additional transaction costs to be incurred during the transition year will also be recognized by the NBPI.

#### **Other Potential Impacts**

Another concern expressed during the public hearings was the impact of the introduction of public automobile insurance on the availability of other property and casualty insurance products in New Brunswick. Should the Province of New Brunswick decide to implement public automobile insurance, there is the possibility that individual companies may decide to withdraw completely from the market.

Although we are unable to predict the behaviour of individual companies, based on a review of experience in other jurisdictions, the Committee is confident that New Brunswick consumers will continue to have access to other property and casualty insurance products at a competitive price.

As reported in the 2003 Statistical Review of Canadian Underwriter, of the leading 20 property and casualty insurance companies now doing business in New Brunswick, 12 are also in the top 20 in British Columbia, 11 are also in the top 20 in Manitoba, 10 are also in the top 20 in Saskatchewan and 15 are also in the top 20 in Quebec. Additionally, eight (Manitoba), 10 (British Columbia, Saskatchewan) and 12 (Quebec) of the leading 20 property and casualty insurance companies operating in New Brunswick sell optional or extension automobile insurance coverage in competition with a public automobile insurance Crown corporation.

Another potential impact associated with the introduction of the public automobile insurance model recommended by the Committee would result in lower claims costs over time for individual/employer health and disability insurance plans. Under the personal injury protection plan of the made-in-New Brunswick model, the public insurer is the first payer of benefits. Therefore, the full medical and rehabilitation costs associated with traffic accidents are paid by the automobile insurance system and not subsidized by an individual's personal or workplace health and/or disability insurance plans.

#### **Legal Implications**

As concluded by the Atlantic Canada Insurance Harmonization Task Force Report to the Council of Atlantic Premiers, there are no legal



obstacles to the creation of a provincial public automobile insurance Crown corporation.

The Committee recognizes that new legislation as well as significant reform/amendments to existing legislation will be required to implement the NBPI model in the province. A preliminary review would suggest the need for a new Act to create the Crown corporation and establish its mandate and all other necessary specifications for its operation. Subsequent amendments to the Insurance Act and the Motor Vehicles Act are also anticipated to implement the model.

#### **Inter-Provincial Co-operation**

The made-in-New Brunswick model recommended by the Committee is in large part a result of the very strong and close relationship and history of interprovincial co-operation between the Province of New Brunswick and the Province of Manitoba.

This spirit of interprovincial co-operation has led to significant cost savings associated with adapting the MPI operating system to implement the NBPI model. The Committee recommends continued close relations between the two provincial governments and the two Crown corporations. This could include, for example, training, assignment of senior MPI staff to assist in the transition phase, mentoring of NBPI board members by their MPI counterparts as well as co-development of future systems.

The issue of implementing an Atlantic regional public automobile insurance Crown corporation has been explored on a conceptual basis by the Atlantic Insurance Harmonization Task Force.

Although the Committee agrees that there is no legal reason to prevent a regional approach to public automobile insurance, we feel a phased approach to implementing public automobile insurance in the region is warranted. The scope of change and legislative reform required to implement the NBPI model suggests a focused and provincial effort is the most prudent approach for the initial implementation phase. The Province and the Crown corporation, once established, could then evaluate any requests to extend the New Brunswick system to any or all of its Atlantic counterparts.

#### **Transition Issues**

The implementation of the NBPI model, in the event a decision is made to move to a public automobile insurance system, will generate a number of transition issues.

The Committee recommends that:

An Act to establish the Crown corporation, mandate, governance

structure, benefit levels, operating policies, etc. be developed and introduced into the Legislative Assembly as soon as possible.

The Act to create a New Brunswick public automobile insurance Crown corporation and all other proposed legislation be reviewed to ensure it is consistent with Canada's international trade commitments.

A senior executive team is hired to begin the pre-operating phase of NBPI as soon as the Crown corporation has been established.

A specific date is chosen for the switch to the new system. All policies sold under the existing system would be converted to the new system of public automobile insurance on that date with a staggered renewal date tied to a vehicle owner's birth date.

The NBPI establish a number of advisory committees with stakeholders, such as private sector brokers and agents, private insurance companies, medical and rehabilitative treatment professionals and vehicle repair professionals to explain and determine how the new system will operate.

The NBPI work closely with private sector employers and the Department of Training and Employment Development to ensure that a worker transition strategy is developed and that all reasonable efforts are undertaken to assist displaced workers in making a successful work transition either to the NBPI or to a different career or employer.

### **Summary of Recommendations**

1. The Committee recommends the made-in-New Brunswick model of public automobile insurance, in the event a decision is made to move to a public system, that offers extensive coverage at an affordable rate for all drivers with:
  - no reference to age, gender, marital status, territory, payment history or lapses in insurance to determine insurance costs;
  - rates to be determined by driving record, vehicle usage, vehicle make and model, optional coverage purchased;
  - oversight of the public utilities board for mandatory and optional insurance rates.
  - pure, no-fault injury benefits with no option to sue;
  - drivers licences to continue to be sold by Service New Brunswick;
  - vehicle registration and insurance sold through brokers and agents at a 7 per cent commission;
  - mandatory vehicle coverage, additional injury and income

replacement benefits, third-party liability coverage and collision, theft and comprehensive sold by the Crown corporation through private sector agents and brokers; and

- additional injury and income replacement benefits and third-party liability coverage are sold by private insurers in competition with the Crown corporation.
2. The Committee recommends a scale for safe drivers that offers a discount of 4 per cent for each year of claims and offence-free driving to a maximum discount of 40 per cent. Vehicle owners with a 10-year clean driving record would receive a discount of 40 per cent as compared to a new driver who would get a 4 per cent discount after the first year of safe driving.
  3. The Committee recommends a scale for a poor driving record to include a modest \$25 for each of the first two positions on the scale, followed by sharp increases in costs as demerit points are accumulated. The objective is to collect higher premiums from drivers who have poor driving records. The exact scale, including demerit points for traffic offences, must be set out in the appropriate legislation.
  4. The Committee recommends under the proposed model that a significant amount of resources be dedicated to road safety initiatives to reduce collisions, injuries, deaths and claims. NBPI in partnership with relevant organizations and institutions such as governments, law enforcement agencies, seniors organizations and schools develop a series of safety initiatives targeted to the needs of New Brunswick drivers.
  5. The Committee recommends an Act to establish a public automobile insurance Crown corporation, mandate, governance structure, benefit levels, operating policies and whatever is necessary to establish in law such a corporation in a timely manner.
  6. The Committee recommends that the public automobile insurance corporation be required to submit insurance rates to the public utilities board for approval. Rate changes are subject to review and hearings where public participation and scrutiny are encouraged.
  7. The Committee recommends the public automobile insurance corporation appear before the Legislative Assembly of New Brunswick's Standing Committee on Crown Corporations as required.

8. The Committee recommends the public automobile insurance Crown corporation issue an annual report with audited financial statements at an annual general public meeting.
9. The Committee recommends that the Province of New Brunswick work closely with the Government of Canada to ensure the proposed public automobile insurance model meets all obligations under international trade agreements.
10. The Committee recommends a team be put in place to begin the pre-operating phase of the public automobile insurance system as soon as the Crown corporation has been established.
11. The Committee recommends that a specific date be chosen for the move from the private to a public automobile insurance system. All policies sold under the present system would be converted to the public system on that date.
12. The Committee recommends that the public automobile insurance Crown corporation establish advisory committees to include stakeholders to explain the public system and determine how it will operate. These stakeholders include insurance brokers and agents, private insurance companies, medical professionals, vehicle repair professionals and other such parties to the insurance process.
13. The Committee recommends that the public automobile insurance Crown corporation work closely with private sector employers and the Department of Training and Employment Development to ensure that a worker transition strategy is developed and that all reasonable efforts are undertaken to assist displaced automobile insurance workers in making a successful work transition.

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The following Bills were introduced and read a first time:

By Hon. E. Robichaud,  
Bill 37, *Human Tissue Gift Act*.

By Hon. Ms. Fowlie,  
Bill 38, *An Act Respecting Sunday Shopping*.

Ordered that the said Bills be read a second time at the next sitting.

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Hon. Mr. Green announced that following second reading, it was the intention of the government that the House resolve itself into a Committee of the Whole and, with the unanimous consent of the

House, take into consideration Bill 28, ordered for second reading at today's sitting.

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Pursuant to Standing Rule 75, it was agreed by unanimous consent that following second reading, Bill 28 be taken into consideration by the Committee of the Whole at today's sitting.

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The Order being read for second reading of Bill 28, *An Act to Amend the Municipal Elections Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 28 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 28, *An Act to Amend the Municipal Elections Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 29, *An Act to Amend the Mental Health Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 29 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 29, *An Act to Amend the Mental Health Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 30, *An Act to Amend the Medical Services Payment Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 30 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 30, *An Act to Amend the Medical Services Payment Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The required two hours' notice having been given earlier in the sitting, Mr. Speaker invited the Member for Fredericton-Fort Nashwaak to state his Question of Privilege.

In stating his Question of Privilege, Mr. Lamrock submitted that the Minister of Finance had disregarded due process and anticipated the decision of the House by implementing the budget reductions prior to the budget being approved by the Legislative Assembly.

After hearing comments from the Government House Leader, Mr. Speaker informed the House that he would take the matter under advisement.

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Mr. Speaker then invited the Member for Saint John Harbour to state her Question of Privilege.

In stating her Question of Privilege, Ms. Weir submitted that it is an accepted principle that a Committee of the House has the right to have its confidential deliberations and reports protected by privilege and submitted that the disclosure and publication of the Committee's draft report constitutes a breach of privilege of the House and its Members.

Mr. Speaker delivered the following ruling with respect to the Question of Privilege raised by Ms. Weir, the Member for Saint John Harbour:

STATEMENT BY SPEAKER

Honourable Members,

The Member for Saint John Harbour, in her role as the Chair of the Select Committee on Public Automobile Insurance, has raised a very valid matter concerning the confidentiality of committee deliberations. There is no doubt that the deliberations of all committees are to be respected and to remain confidential until the committee reports to the House.

Based on the information presented and previous precedents of the House, I am satisfied that there is a *prima facie* case that a breach of privilege has been committed and that the matter is being raised at the earliest opportunity.

Pursuant to the Standing Rules, I would therefore invite the Member for Saint John Harbour to proceed with her motion.

Ms. Weir moved, seconded by Mr. Stiles:

THAT the matter of the leaking of the draft report of the Select Committee on Public Automobile Insurance be referred to the Standing Committee on Privileges.

Mr. Speaker, having read the motion, put the question, and the motion was carried in the affirmative.

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It was agreed by unanimous consent to vary the hours of sitting, to recess at 12.30 o'clock p.m., to resume at 1.15 o'clock p.m. and to adjourn no later than 4.30 o'clock p.m.

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At 12.30 o'clock p.m., the Speaker left the chair to resume again at 1.15 o'clock p.m.

1.20 o'clock p.m.

Mr. Speaker resumed the chair.

The Order being read for second reading of Bill 31, *An Act to Amend the Employment Standards Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 31 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 31, *An Act to Amend the Employment Standards Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 32, *An Act to Amend the Custody and Detention of Young Persons Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 32 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 32, *An Act to Amend the Custody and Detention of Young Persons Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 33, *An Act to Amend the Clean Water Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 33 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 33, *An Act to Amend the Clean Water Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 34, *An Act to Amend the Fish and Wildlife Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 34 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 34, *An Act to Amend the Fish and Wildlife Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 35, *An Act to Amend the Assessment Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 35 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 35, *An Act to Amend the Assessment Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 36, *An Act to Repeal the Bulk Sales Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 36 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 36, *An Act to Repeal the Bulk Sales Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The House resolved itself into Committee of the Whole with Mr. Holder in the chair.

At 2.37 o'clock p.m., the Chairman declared a recess and left the chair.

2.45 o'clock p.m.

The Committee resumed.

And after some time, Mr. Speaker resumed the chair and Mr. Holder, the Chairman, after requesting that Mr. Speaker revert to Presentations of Committee Reports, reported:

That the Committee had directed him to report progress on the following Bill:

Bill 28, *An Act to Amend the Municipal Elections Act*.

And the Committee asked leave to make a further report.

Pursuant to Standing Rule 78.1, Mr. Speaker put the question on the motion deemed to be before the House, that the report be concurred in, and it was resolved in the affirmative.

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And then, 2.50 o'clock p.m., the House adjourned.