

Final Report and Recommendations

# Final Report and Recommendations



Commission on  
Legislative Democracy



Commission  
on Legislative  
Democracy



Commission sur  
la démocratie  
législative

**Commission  
on Legislative  
Democracy**



**Commission sur  
la démocratie  
législative**

December 31, 2004

The Honourable Bernard Lord  
Premier of New Brunswick  
670 King Street  
Fredericton, NB  
E3B 1G1

Dear Premier,

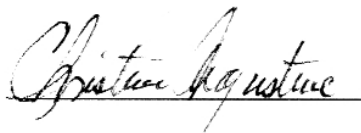
In accordance with the Mandate of the Commission on Legislative Democracy, we are pleased to present you with our Final Report and Recommendations which identifies options for an enhanced citizen-centred democracy in New Brunswick building on the values, heritage, culture, and communities of our province.

Yours sincerely,

  
Lorne McGuigan  
Co-chair


  
Lise Ouellette  
Co-chair

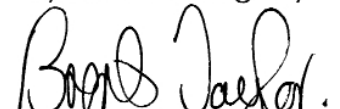
  
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# Preface

## ***Introduction from Commissioners***

The Commission on Legislative Democracy, with this report, concludes a year of exciting challenges, thorough research, extensive consultation, and thoughtful analysis.

Our mandate was broad, and our time was brief. Although in this report we confidently and strongly recommend sweeping changes to our democratic system, we also want to acknowledge that New Brunswick has grown and prospered well under our existing system of government, and we should be thankful to those who have been the guardians of our government institutions, and served the public over the last 220 years.

Yet, while our province has achieved great things under the present system, we feel there is another level that New Brunswickers can reach if given the right tools, better information and more effective access to decision-making.

The recommendations that follow are divided into three broad categories:

In “Making Your Vote Count”, we take on the task of examining our electoral system and suggesting ways to more deeply involve New Brunswickers, by developing a closer connection between the ballots they cast and the governments they elect. We recommend a move to a Mixed Member Proportional representation system, while continuing to honour New Brunswickers’ attachment to local MLAs who represent them directly.

In “Making the System Work”, we make recommendations to raise the role of the Legislative Assembly and its members. We suggest changes to House rules and procedures, MLA responsibilities, committee work, services, and a rebalancing of the powers held by the legislative and executive branches of government.

In “Making Your Voice Heard”, we propose ways to increase the participation and power of women and youth; broaden the public’s understanding of and participation in their local governance institutions; improve access to elected officials through new technologies; and participate in important decisions directly through referendums.

The adoption of our recommendations in their entirety would require many amendments to existing laws, creation of new legislation, further deliberations by elected officials, and perhaps even a referendum. Despite those challenges, we feel strongly that our proposals, if taken together, give each other more strength.

We therefore hope the government, and the people of New Brunswick, will consider our report as a complete package.

None of this large body of work would be possible without the excellent service provided by the Commission’s staff, headed by its Deputy Minister, David McLaughlin. New Brunswickers are very fortunate to have such dedicated people working in the public’s service.

Our thanks are also extended to Dr. Bill Cross, our Director of Research.

His studies, combined with many submissions from Canada’s best and brightest academics, give this report a solid foundation of research that we are sure will become a valuable record for anyone studying the reform of government and its institutions.

And, most of all, we Commissioners are grateful to New Brunswickers who - in groups and individually - took time to be with us and share their ideas with us at our consultation meetings, over the Internet, by correspondence, and through their participation in our surveys. Their dedication to our province enriches us all. We hope in our report, they will see themselves and their ideas. We were moved and enlightened by what they had to say.

## Thank You's and Acknowledgements

The Commission and its Deputy Minister would like to thank sincerely and acknowledge publicly the many people around New Brunswick and across Canada who participated in our work and helped make this report possible.

We had many partners in our work and the Commission is grateful to each of them. We would like to thank Dr. Mary Lou Stirling, Rosella Melanson and staff at the New Brunswick Advisory Council on the Status of Women; Ryan Sullivan, Ivan Corbett and staff at the New Brunswick Advisory Council on Youth; Rebecca Low, Gina Bishop and Denis Gaudet at the Centre for Research and Information on Canada and the Canadian Unity Council; Lisa Hrabluk at Next New Brunswick; Ghislaine Foulem at the Forum de concertation des organismes acadiens; and Rick Hutchins at Policylink NB.

The Commission is particularly indebted to its first-class academic research team led by its Director of Research, Dr. Bill Cross, Director of the Centre for Canadian Studies at Mount Allison University. Participating academics and researchers included: Dr. Chedly Belkhodja - Université de Moncton; Dr. Gail Campbell - University of New Brunswick; Dr. André Blais - Université de Montréal; Dr. Lisa Young - University of Calgary; Dr. Don Desserud - University of New Brunswick, Saint John Campus; Dr. David C. Docherty - Wilfrid Laurier University; Dr. Munroe Eagles - University of Buffalo; Dr. Joanna Everitt - University of New Brunswick, Saint John campus; Dr. Sonia Pitre - University of Ottawa; Dr. Paul Howe - University of New Brunswick; Dr. Roger Ouellette - Université de Moncton; and Dr. Alan Siaroff - University of Lethbridge.

The Commission's work was of great interest across Canada with those governments and individuals engaged in similar democratic renewal projects. This new "fraternity" was helpful in sharing ideas, information and research. We would like to particularly thank Dr. Ken Carty of University of British Columbia and Director of Research for the BC Citizens' Assembly; André Fortier, Associate Deputy Minister, Secrétariat à la réforme des institutions démocratiques du Québec, Government of Québec; Matthew Mendelsohn, Deputy Minister, Secretariat for Democratic Renewal, Government of Ontario; Stephen Zaluski and Stéphane Perrault of the Privy Council Office, Government of Canada; Hon. Norman Carruthers, Commissioner, PEI 2003 Electoral Reform Commission, and Nathalie DesRosiers, past President of the Law Commission of Canada.

The Commission is grateful to each of its outside speakers and experts who traveled to New Brunswick to participate in one of our conferences or roundtables. This includes: Jeffrey Simpson, National Columnist for the Globe and Mail; Hugh Segal, President of the Institute for Research on Public Policy; Hon. Ed Broadbent, MP for Ottawa-Centre;

Peter Dobell, Founding Director of the Parliamentary Centre; Caroline Di Cocco, MPP, Sarnia-Lambton, Ontario; Geoffrey Kelley, MNA for Jacques-Cartier, Québec; Ian McClelland, former MLA, Edmonton-Rutherford, Alberta; Andrew Parkin, formerly at CRIC; Dr. John Courtney, University of Saskatchewan; Dr. Stewart Hyson, UNBSJ; Leslie Siedle, formerly with Elections Canada; and David Moynagh, CCAF.

The Commission would also like to thank several New Brunswick MLAs who met with us or participated at various events. This includes: Hon. Brad Green, Hon. Keith Ashfield, Hon. Bruce Fitch, Hon. Joan MacAlpine, Shawn Graham, Elizabeth Weir, Trevor Holder, Cy LeBlanc, Kelly Lamrock, Eric Allaby, Milt Sherwood, Jody Carr, Michael (Tanker) Malley, John Betts, Wally Stiles, and Michael Murphy.

Dr. Keith Culver from the University of New Brunswick provided welcome advice on the emerging possibilities of e-democracy and assisted in the development of our "Your Turn" questionnaire. Two New Brunswick ICT firms, xwave and CGI, gave us advice, support, and services for our online questionnaire and discussion forum.

We were very fortunate to have the support of universities and community colleges in the province in co-sponsoring several of our events. Thank you to Mount Allison University's Centre for Canadian Studies for hosting our first Academic Conference; the Faculty of Law at the University of New Brunswick for our Roundtable on Electoral Boundaries; the Université de Moncton, which hosted our PR Roundtable and second Academic Conference; and St. Thomas University for hosting our Youth Forum in partnership with the New Brunswick Advisory Council on Youth. As well, thank you to the New Brunswick Community College network for providing us space and administrative support at campuses around the province for our spring consultation process.

This Commission was a 'start-up' with no office, staff, budget or equipment and only a short time to complete our work. Greg Cook at Supply and Services found us space quickly. Rick Phillips and his team at Finance set up our budget and administered all of our requisitions and payments. The staff at the IT help desk at the Department of Finance, was a big help at all times. Human resources assistance and guidance was provided by Cecile Guerrette, Director of Human Resources, Department of Finance and Beth Clark at the Office of Human Resources.

Communications New Brunswick performed tremendous work designing and producing all of our consultation documents, fact sheets, and other materials with very compressed timelines. Our website was a very important part of our consultation process and the CNB website team, comprised of Bonnie Buckingham-Landry, Kevin Lunn, Norman Richard, Keehwan Jee and Paulette Stewart, was innovative and flexible in meeting our needs.

Communications New Brunswick's Design Services, led by Michael Côté, was a key player in the production of our

four public documents. Thank you to Stewart Tower, Lucie El-Khoury, Ed Werthmann, Jill Wishart and Delia Smith.

Many individuals at various government departments assisted the Commission in its work by answering our policy and legal questions, providing data and information, and giving us advice. The Commission would like to thank the following persons in particular for their support: Kim Poffenroth and Heather Hobart (Justice and Attorney General); Kevin Malone, Judy Wagner, and Greg Lutes (Executive Council Office); Katherine D'Entremont and Johnny St. Onge (Environment and Local Government); Margaret Smith (Education); Mary Ogilvie, Judy Ross (Service New Brunswick); and Mirelle Cyr (Intergovernmental and International Relations). Claude Marquis, Director of the Community Access Centres, arranged for posting of our consultation papers and questionnaires on their website.

Sabine Sparwasser, Counsellor of the German Embassy in Ottawa, provided useful background information on Germany's electoral system and arranged for the visit of Karsten Voigt, a former Bundestag Deputy, with the Commission.

Thank you to Peggy Scott at Intergovernmental and International Relations, who was exceptionally helpful in the early days at finding and organizing a wealth of research articles and materials.

Peggy Goss and the staff at the Legislative Library were assiduous in tracking down books, articles, and monographs on New Brunswick and Canadian electoral and democratic reform to help us with our research.

The Speaker, the Hon. Bev Harrison, the Clerk of the Legislative Assembly, Loredana Catalli Sonier, and Peter Wolters, Donald Forestell and Shayne Davies of the Legislative Assembly Office were gracious with their time in meeting with Commissioners and staff, answering our queries, and providing us with information to complete our comparative research and policy analysis of the role of MLAs in legislatures across Canada.

Annise Hollies, Chief Electoral Officer for New Brunswick, Ann McIntosh, David Owens, and Ron Armitage provided helpful information and assistance as we studied election data and results from past provincial elections, and discussed ideas with us for modernizing our electoral laws. Mrs. Hollies participated at several conferences and roundtables contributing her expertise.

Bernard Richard, Ombudsman, was helpful in offering advice and comments on various ideas being considered by the Commission, and he also participated at a Commission event.

Paul Bourque, the Supervisor of Political Financing, met with Commission staff on the operations of his office, giving us useful background information.

Thank you to Translation Services who met our very tight deadlines with courtesy and professionalism. Thanks also to Interpretation Services and AW Tel-Av for their work throughout our public consultation process.

Thanks to Julie Legresley who helped get us up and running, and our summer and co-op students - Kristin Ferguson, Jessica Holt, and Phillip Gammon.

The most special thanks and acknowledgements are reserved for the Commission staff without whom none of this would have been possible - Debbie Hackett (Senior Policy Advisor); Lisa Lacenaire-McHardie (Policy Advisor); Marie-Josée Groulx (Director of Communications and Consultations); and Christyne Duguay (Executive Assistant). All worked long and difficult hours under the most demanding timelines to produce exceptional quality work that was instrumental to the Commission's learning, consultation, and deliberations. Their commitment to this project made a real difference.

Finally, we would like to thank Premier Bernard Lord for his commitment to the issues of democracy. His willingness to invite an open and sincere exploration of how our province's democracy can be made stronger for citizens is testament to his own leadership and desire to make New Brunswick even better.



## How We Did Our Work

The Commission on Legislative Democracy was formally established by Premier Bernard Lord on December 19, 2003. It was given approximately one year - until December 31, 2004 - to report to the Premier and all New Brunswickers. Speaking in the Legislative Assembly that day, the Premier set out the Commission's mandate and invited all New Brunswickers to participate in its process. He stated:

*"This Commission has a mandate whose scope is unparalleled in our history as a province. In fact, it is unique across Canada."*

Specifically, the Commission was instructed to examine and make recommendations on how to strengthen and modernize New Brunswick's democratic institutions and practices in three main areas:

1. **Electoral Reform** - changing our voting system; drawing electoral boundaries; setting fixed election dates; and boosting voter turnout.
2. **Legislative Reform** - enhancing the role of MLAs and the Legislative Assembly; opening up the appointments process for agencies, boards, and commissions.
3. **Democratic Reform** - involving the public more in decision-making; proposing a *Referendum Act*.

The Commission's goal was to present recommendations that would bring about:

- Fairer, more equitable and effective representation in the Legislative Assembly;
- Greater public involvement in decisions affecting people and their communities;
- More open, responsive, and accountable democratic institutions and practices; and,
- Higher civic engagement and participation of New Brunswickers.

This large mandate and relatively short time frame set the stage for how the Commission did its work. While other jurisdictions are focused on examining single reforms to their democratic institutions, New Brunswick is unique in considering each element of democratic renewal fully, at once, and in an integrated way. A comprehensive consideration of democratic renewal in New Brunswick was sought; the Commission was given the challenge to deliver.

To meet this challenge the Commission had to first undertake significant new research and analysis into each of its mandate areas. We had to dissect the issues and conduct our own research and learning. We had to develop consultation and information documents so New Brunswickers could participate in our process and give us their views and suggestions. We had to inform New Brunswickers about our work as we went along. We had to hold public hearings and meetings to hear directly from

citizens. Finally, we had to integrate all of this input into our deliberations to arrive at recommendations that would fulfill the comprehensive mandate we were given.

### Principles

Given the very nature of the topic under study - democracy - the Commission established four key principles to guide its work and involve New Brunswickers.

*Openness* - The Commission's work and progress would be as open as possible for all New Brunswickers to follow through the media, website, and activities.

*Participation* - New Brunswickers would be invited to participate in the work of the Commission at each stage of its progress through as wide a range of events, activities, and materials as possible, many targeted at specific groups and communities around the province.

*Partnerships* - The Commission would establish research or consultation partnerships with provincial and national organizations to give it access to additional expertise, involve even more people in the process, and support our cost-effective approach to managing the budget.

*Research-based* - The Commission's work would be research-based, giving it a strong independent foundation of information and learning to assist it in its deliberations.

### Three Phases

The Commission undertook three basic phases to its work: Research; Consultation; and Deliberation.

#### Research

The Research Phase began with the hiring of Dr. Bill Cross as Director of Research. Dr. Cross is Davidson Chair and Director of the Centre for Canadian Studies at Mount Allison University. He is editor of the *Canadian Democratic Audit* series, a published author, and a commentator on political affairs in Canada.

Dr. Cross directed the Commission's academic research program, bringing together noted academic experts from across Canada and from New Brunswick universities. The aim of the research program was to ensure the Commission had access to informed academic research on our mandate, to stimulate debate and discussion on the subject areas, and to ensure a specific research focus on the impact and implications of changes to New Brunswick's democratic institutions and practices. Each academic prepared an original research article for peer-reviewed publication, and provided important statistical data and insight on each area of the Commission's mandate.

The results of their work and expertise were brought together at two academic research conferences held on February 5-6, 2004, at Mount Allison University and September 24, 2004, at Université de Moncton.

Four expert roundtables, focused on specific areas of the Commission's mandate, were also held over the course of 2004. These included a *Roundtable on the Role of MLAs*

and the Legislature on March 24-25, 2004, held at the Legislative Assembly in Fredericton; a *Roundtable on Electoral Boundaries* held on April 28, 2004, at UNB Law School; a *Roundtable on Proportional Representation* held on September 23, 2004, at the Université de Moncton; and a *Roundtable on Civic Engagement* held on October 7, 2004, in Saint John.

Participating in these events were academic experts from New Brunswick and across Canada; current and former elected officials from New Brunswick, Québec, Ontario, and Alberta; community group leaders and activists; the Chief Electoral Officer of New Brunswick; the Ombudsman; the Speaker; representatives from various provincial associations; and public policy experts from the Centre for Research and Information on Canada, the Institute for Research on Public Policy, and the Parliamentary Centre in Ottawa. Each event was open to the public and media, with simultaneous interpretation.

### Consultation

The Commission undertook a broad consultation process aimed at providing as many New Brunswickers as possible with the opportunity to give the Commission their views. To do so, the Commission produced a wide range of fact sheets and consultation documents, held public meetings for direct input from citizens, created an interactive website to encourage online participation, and organized specific consultation forums for direct dialogue with interested groups and communities.

Agendas for each Commission meeting were published on our website. Presentations prepared for Commissioners or provided by invited experts were also published on our website for all to read.

Fourteen public hearings were held across the province in the spring and fall. Eleven Community Leader Roundtables were also held around the province. Invitations to participate in Commission events, or visit our interactive website, were sent regularly to a provincial mailing list that grew to almost 1,000 names. Given their unique interest in our mandate, MLAs were specifically invited to participate in each event. Synopses of each public consultation event and forum were then prepared and placed on our website to provide additional feedback to people on what was said, and to share those observations with as many New Brunswickers as were interested.

The Commission produced three main consultation documents: *Your Voice. Your Vote* (an introductory paper on the Commission's mandate); *Your Voice. Your Vote. Your Turn! - Citizen's Participation Guide* (a comprehensive background on the issues with an enclosed 50-question questionnaire); and *Options: A Progress Report to New Brunswickers* (a summary of the main options being considered by the Commission).

The aim of these consultation documents was to, *first*, inform New Brunswickers of the mandate of the Commission; *second*, provide useful background information on the key

issues we were studying; and *third*, solicit feedback on the options and issues for change being considered by the Commission. This was designed to ensure a fully-transparent process of consultation with people and obtain the fullest possible public input at all stages through our public hearings, Community Leader Roundtables, and our website. Given the complexity of the issues and the breadth of the mandate, the Commission decided it was particularly important to provide a clear sense of its thinking in advance to New Brunswickers, which we did, through the *Options* progress report, in order to receive a direct response from people on exactly what we were considering.

Copies of the Commission's three consultation documents were distributed by e-mail to thousands of New Brunswickers. *Your Voice. Your Vote* and *Options* were also distributed as newspaper inserts in March and September 2004 respectively, to over 120,000 New Brunswick households each time.

The Commission organized targeted consultation forums based on our formal partnerships with the New Brunswick Advisory Council on the Status of Women, the New Brunswick Advisory Council on Youth, The Centre for Research and Information on Canada, Next NB, the Forum de concertation des organismes acadiens, and others. These included:

- **Youth and Democracy Forum** - May 1-2, 2004. Over 50 youth participated at this forum held at St. Thomas University in partnership with the NB Advisory Council on Youth. The provincial forum was preceded by 13 regional forums in March which brought together over 100 young New Brunswickers to discuss youth democratic participation issues.
- **Your Voice. Your Generation: Young New Brunswickers and Democracy Forum** - September 17, 2004. Over 30 university students participated at this event co-sponsored with Next New Brunswick and UNB.
- **Women and Democracy Forum** - September 25, 2004. Over 65 people participated at this forum in Moncton, in partnership with the NB Advisory Council on the Status of Women.
- **The Reform of Democratic Institutions in New Brunswick: Issues for the Francophone and Acadian Communities** - June 12, 2004. Over 25 participants from the Forum de concertation des organismes acadiens representing a wide and diverse range of Acadian and Francophone associations discussed the implications of democratic renewal for their community.

Formal invitations and follow-up reminders to participate in each event were sent out. All public hearings were advertised and a news release was distributed to all daily and weekly newspapers. All events, conferences, and roundtables of the Commission were open to the public and media.

Each of the 11 public hearings in the spring ran from 4 p.m. to 8 p.m. and included an introductory presentation on the mandate of the Commission. The three public hearings in the fall were held on a Saturday or Sunday from 10 a.m. to 3 p.m. or 4 p.m.

General participation at the public hearings was low. Participation at the invited Community Leader Roundtables, by contrast, was generally high. Comments and interventions were diverse and often detailed in both cases. Through our consultation process, the Commission was able to receive important and valuable input from individual New Brunswickers, students, and a range of provincial and local groups and associations.

### **Deliberation**

Besides participating in each of the public conferences, roundtables, forums, and hearings, the Commission undertook a series of meetings and conference calls to complete its work. The Commission met 12 times as part of its overall research, learning, and deliberation process. Each meeting lasted between two and three days and involved staff presentations on issues with a discussion and review of topics and materials. Outside experts sometimes attended to provide their views on specific issues under discussion.

In the deliberation phase, the Commission considered input received from three main sources: First, public comments and suggestions received through the public hearing process, the Community Leader Roundtables, e-mails, questionnaires, and individual submissions. Second, from the Commission's own academic research program, staff presentations and discussions, and expert input generated from a comprehensive range of meetings conducted by the

Commission. Third, from the various forums and roundtables held by the Commission.

The deliberation phase of the Commission began over the summer and was first reflected in the publication of the *Options* progress report. Response to *Options* was an important part of the Commission's subsequent deliberations.

To guide its consideration of issues, the Commission first set key principles and objectives for each mandate area. It then developed comprehensive issue documents with supporting data and materials for discussion at Commission meetings. Following general discussion on principles and directions, these were turned into specific recommendations with supporting policy frameworks.

### **Conclusion**

Our final report and recommendations is very much the product of the research, consultation and deliberation process the Commission set out from the beginning. Our process was open and transparent with New Brunswickers invited at each step along the way to give us their input. Many did and their views and suggestions can be found throughout this report. We believe the research and policy development work conducted by and for the Commission provides a strong base of support and integrity that will serve New Brunswickers well as they consider our report and recommendations.

# Chapter 1 - Our Province. Our Democracy.

## **Voices and Values: New Brunswickers & Democracy**

Democracy comes from the Greek words “demos” which means people and “kratia” which means power. Democracy is about people having power to take decisions on their own behalf.

Over the centuries, shape and form have been given to this powerful principle, leading to a myriad of democratic institutions, practices, and cultures around the world. There is no one form of democracy - it is as diverse as humanity itself. But common elements and principles exist that form the core of any democracy, whether it is here in New Brunswick, in Britain, Scandinavia, or even in the post-Communist countries of Eastern Europe.

**Free, fair and regular elections. One person, one vote. Representative legislatures.**

These are the original and most basic foundations of any democracy. Variations abound, however, for each. Elections, for example, are held every three years in some countries; every four, five, and six years in others. Voters have one vote for a single candidate under our single member plurality system, but two votes or more under proportional representation or other preferential ballot electoral systems. Legislatures can be composed of directly or indirectly elected representatives.

Each of these variations has emerged in response to a society’s particular political culture. That culture, in turn, has evolved from the social and demographic circumstances and historical experiences of each country. Any form of democracy is therefore unique and singular to the society from which it springs.

As societies have become more open, diverse, and pluralistic, so too have our democracies. Where once Parliament or the legislature was the locus of authority and decision-making, new voices and interests outside the Legislative Assembly are demanding and succeeding in achieving varying measures of influence. No longer are we content to choose a representative to travel some distance to a capital city and take all decisions on our behalf with an electoral accounting every four years. Accountability of our legislators and government institutions is demanded at all times, and independent authorities, such as the Auditor-General, have grown in stature and influence to ensure this occurs. Together, this has given rise to a reformulation as to what constitutes true democracy.

**Inclusion. Engagement. Participation.  
Responsiveness. Accountability.**

These contemporary principles bring a more humanistic and collective focus to the role of our democratic institutions and practices. They reflect our expanded notion of democracy today. For many voters, these have become the new measures of democratic expectation and legitimacy.

## **New Brunswick Democratic Values**

These principles emerge from the basic values of a society. For democracy is, at its most central core, really about values. The shape and form of our democratic institutions and practices are the expressions, indeed, the vision of which democratic values matter most to us.

Such is the case for New Brunswick. Deliberately or not, everything from the way we elect MLAs, to how government operates, to involving people in decision-making, reflects the importance we place on one or more democratic value compared to others.

It is important at the outset of our report to note that, in large measure, New Brunswick has a strong and successful democracy. Social and economic progress in our province since Confederation has been significant. Elections are free and fair. Our elected representatives are, generally, sincerely motivated. Public debate occurs on many important issues. Accountability of government has increased.

The question before us today is not whether our democratic institutions and practices have served us well; rather, it is whether it is time to improve them to meet the changing needs of our society, to allow us to make even stronger social and economic progress, and to address the democratic challenges that exist in our province. The issues behind this question are summed up in the Commission’s mandate:

*To examine and make recommendations on strengthening and modernizing our electoral system and democratic institutions and practices in New Brunswick to make them more fair, open, accountable and accessible to New Brunswickers.*

**What kind of democracy do we want?** Answering this fundamental question begins with determining our democratic values. Which democratic values matter most to us, as New Brunswickers, and as citizens?

Early in its work, the Commission posed eight values to consider when looking at our electoral system, the functioning of the legislature, and how government makes decisions.

### Eight Democratic Values

**Fairness** - Fairness means that the electoral system should be fair to voters, parties, and candidates. It should not benefit one group of voters or one political party at the expense of another.

**Equality** - Equality means that all votes should count equally when electing MLAs.

**Representative** - Our legislature should not just represent voters living in a particular geographic area, but should also represent the diverse faces and voices of our society.

**Open** - Openness is the basis of a transparent and participatory democracy for people. It is an essential ingredient to help keep government accountable to citizens.

**Effective** - An effective government and legislature is one that is able to take decisions, consider diverse viewpoints, and respond to changing economic and social circumstances.

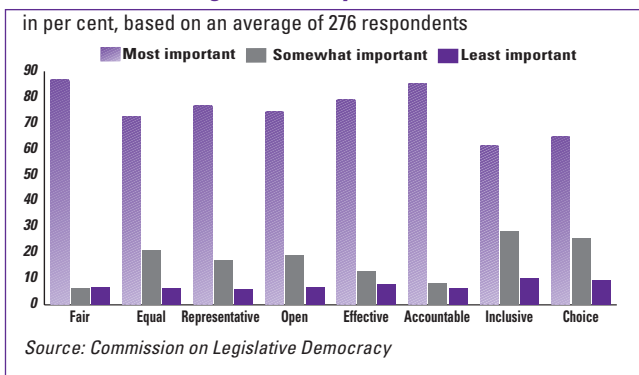
**Accountable** - Accountability requires governments and legislatures to justify their actions on a regular basis, while allowing voters to pass judgment at election time on the performance of their representatives.

**Inclusive** - Inclusion of different types of people and differing viewpoints is at the heart of a participatory democracy.

**Choice** - Choosing candidates, parties, and leaders at election time is the central democratic action of voters. Voters must have real choices in a healthy and vibrant democracy.

New Brunswickers offered the Commission their opinion on these values. Voluntary respondents to the Commission’s questionnaire cited fairness and accountability as their most important democratic values. As can be seen below, other values also received significant levels of support.

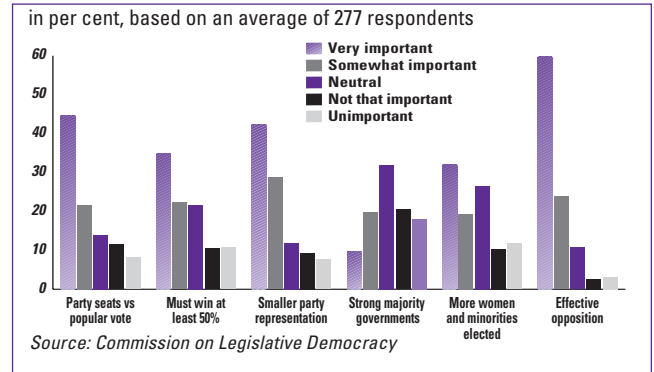
#### How important are the following democratic values to a strong democracy in New Brunswick?



The importance of accountability as a fundamental democratic value was reinforced in other responses. When

asked to consider which value was more important to a strong democracy in New Brunswick, respondents chose “an effective opposition” more than any other.

#### How important are the following values to a strong democracy in New Brunswick?



### Applying Democratic Values to Democratic Renewal

The Commission believes that it is necessary to address democratic renewal through a consideration of democratic values. This is not easy. Values are very personal. Each of the above values therefore relates to our own personal conception of democracy. But by considering which values matter most to us as individual citizens, it helps us determine more precisely what kinds of changes we need to bring to our democratic institutions and practices.

Take the case of our electoral system. If fairness or equality of votes in an electoral system is most important, for example, then it would suggest a change from our present single member plurality system which places more emphasis on effectiveness and accountability. If voter choice rates high for citizens, then a mixed member PR system allowing voters to cast two votes, one for the local candidate of their choice and one for the party of their choice, would likely come out on top.

The Commission believes that all the democratic values listed earlier matter, but it is clear to us that when it comes to making choices about democratic renewal, some values assume greater importance. Over the course of the past year, and through our own research, consultation, and deliberation, the Commission listened to what New Brunswickers had to say about what was wrong, and what was right, with our electoral system, the functioning of the legislature, how decisions are made by government and many other issues. With the broad mandate the Commission was given to strengthen and modernize the institutions and practices of our democracy, it was necessary to apply our list of democratic values to each area of our mandate in order to assess both the need for changes and arrive at specific recommendations.

## Electoral Reform

It is clear to the Commission that the current single member plurality electoral system is not meeting the democratic values and needs of New Brunswickers. *Fairness* and *equality* of the vote, which are central to democratic satisfaction, must be given more weight when votes are translated into seats. Fortunately, it is not necessary to discard the values of *effectiveness* and *accountability* - key benefits of our current system - when making a change. The Commission's made-in-New Brunswick, regional mixed-member proportional representation system would continue to produce effective single party majority governments while maintaining the direct link between voters and their riding MLA - a link that helps keep them accountable to voters.

The Commission believes that setting fixed election dates will reinforce the value of *accountability* by ensuring that elections take place at a regular time and date, well known in advance to voters, rather than at the time and date chosen by the Premier.

Electoral boundary drawing brings together a number of different principles. The Commission's proposed *Representation and Electoral Boundaries Act* will ensure that electoral boundaries in New Brunswick are drawn on the basis of clear values of *equality* of votes, *fairness* to voters and parties, and ensuring our legislature is *representative* of people, communities, and the two official linguistic communities.

Declining voter turnout is for many a barometer of a growing and persistent sense of dissatisfaction and disaffection with our democratic process. Steps being recommended by the Commission to boost turnout, will lead to a reinforcement of the values of *inclusion* and *openness*; in particular, to bringing youth back into the process.

## Legislative Reform

The Commission believes that its recommendations to enhance the role of MLAs and the Legislative Assembly - by reinforcing the independence of the legislature, giving more authority and resources to MLAs, providing more effective scrutiny of government - will help make the legislature more *open*, *effective*, *accountable*, and *representative* of all citizens.

Our recommendations for a new appointments process for positions on government agencies, boards, and commissions will make that process more open and accountable to New Brunswickers.

## Democratic Reform

More *open* and *inclusive* decision-making that involves the participation of New Brunswickers is the focus of the Commission's recommendations in the area of democratic reform.

The Commission's proposed *Referendum Act* is a careful and measured instrument to involve New Brunswickers in decision-making. Allowing referendums on an exceptional basis only with strict financial regulations about spending and disclosure, as is being recommended, will ensure that any referendum held in the province is *fair*, *open*, and *accountable*, while giving voters a clear "yes" or "no" choice.

## Values and Choices

The Commission's recommendations for a citizen-centred democracy in our province are based on our New Brunswick values. These democratic values helped guide the Commission in its own choices and decisions. Ultimately, these same values are the test for whether our current democratic institutions and practices should be changed to make them stronger for citizens, and how this should be done.

Renewing the practice of democracy in our province is essential for the long-term health of our democracy. Each of us has a stake in the outcome - MLAs, political parties, communities, and most of all, citizens. None, however, has a veto on those outcomes, because to do so is to negate the fundamental democratic values we all share. The democratic values of New Brunswickers have made it clear to this Commission what together we need to do.

## Renewing Democracy in New Brunswick - The Context for Reform

There is a democratic disquiet in New Brunswick.

New Brunswickers are participating less and less in the electoral process. Voter turnout is declining. New Brunswickers have less confidence and trust in their political leaders and institutions. Their attitudes towards government are increasingly negative. Young people are less engaged in the democratic process. Their knowledge levels of democracy and how government works have diminished.

The tone of political discourse and debate has changed. People are more demanding and expectant about actions their elected and appointed officials are taking. They are also more educated and discerning today about choices their governments and political leaders make. People want to be heard before decisions are made. They want feedback on these decisions. And they want the opportunity to make some decisions on their own that affect them and their communities. In short, they are less deferential and more critical towards institutions and traditions than before.

The face of New Brunswick society is changing. We are more diverse and pluralistic. We are officially bilingual with two official linguistic communities. Our urban centres are growing. Information and communications technologies have taken root, connecting people, governments, and communities like never before.

As we have changed, so too have the issues facing governments and legislatures. Issues and challenges have become more complex and far-reaching. Decisions and events taking place elsewhere around the world impact us here at home more than ever before. Our democratic institutions have less direct control and accountability over major economic, social, and environmental issues.

New Brunswick has changed and New Brunswickers with it. The system and practices we inherited from Britain and adapted as Canadians more than a century and a quarter ago, do not fully meet the contemporary needs and aspirations of New Brunswickers. In fact, they remain quite similar to their original design. While this has served us well in many ways, certain democratic warning signs are already apparent. One of our responsibilities as citizens is to review our democratic institutions from time to time to ensure they adequately reflect the contemporary values of our society and the public policy needs of our province.

So, the question we must be asking ourselves is, *“Do our current democratic institutions and practices need to change to better reflect the voices of New Brunswick, the values we share, and the issues we must address?”*

The Commission believes the answer is “yes”. We believe the vast majority of New Brunswickers share our view.

Change is not an admission of failure or a sign of disrespect. It is not a departure from tradition, but an updating of tradition. The world of our parents,

grandparents and great-grandparents is vastly different from ours of today. And the world of our children and grandchildren will be different in turn. We must acknowledge this reality and deal with it.

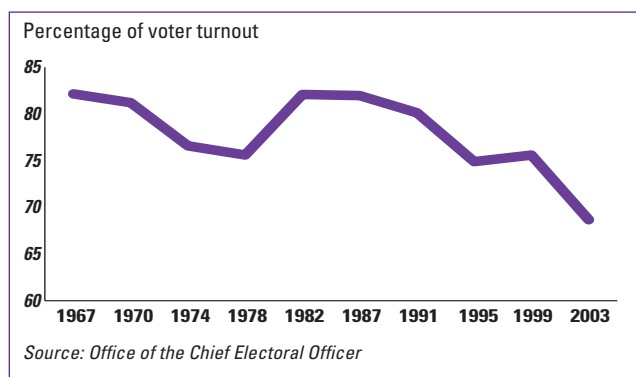
We can update our democracy without altering its basic principles. We can modernize our democracy while retaining the traditions that underpin it. The value of democracy is not just what occurs, but how it occurs. Democratic renewal is never wrong if it is undertaken by citizens in a democratic way.

### Declining Participation, Engagement and Trust

What is some of the evidence of this democratic disquiet?

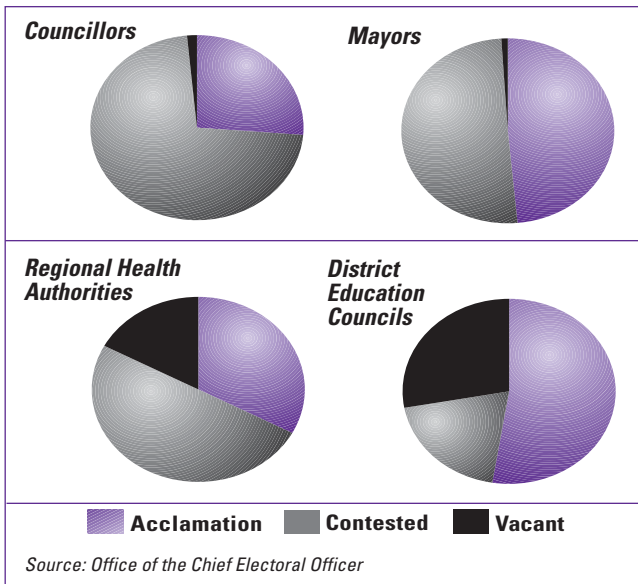
First, fewer New Brunswickers are voting. Turnout in the 2003 provincial election was the lowest ever recorded at 69 per cent. Unfortunately, this is just the lowest point in a trend that has been developing for many years, as the chart below indicates.

#### Voter Turnout in New Brunswick Elections

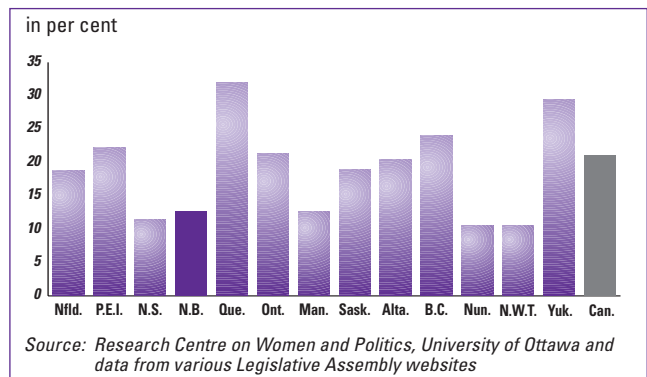


Second, New Brunswickers are not participating in other democratic opportunities. Many elected positions for District Education Councils and Regional Health Authorities went unfilled during the most recent local governance elections, as the chart below indicates.

### Contested Positions Municipal Elections, District Education Councils, Regional Health Authorities - 2004 Elections



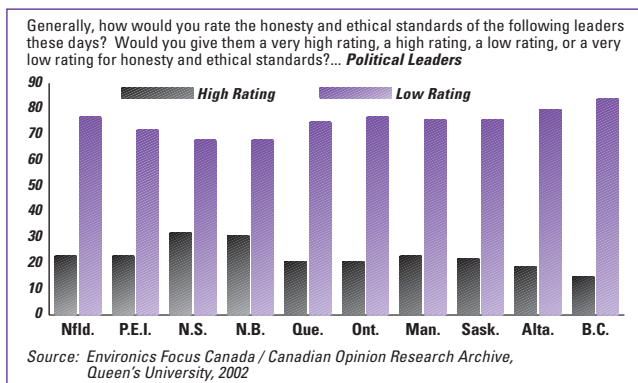
### Percentage of Women Elected to Provincial Legislatures Across Canada – Last Elections



It is important to note that not just New Brunswick is experiencing this phenomenon of political disengagement and discontent. It is occurring in varying degrees across Canada. But our challenge, as New Brunswickers, is to determine what steps we can take to renew our own democracy, on our own terms.

Third, New Brunswickers rate parties and their political leaders low when it comes to honesty and being connected to their concerns. Surveys conducted by the Centre for Research and Information on Canada demonstrate this below.

### Honesty and Ethical Standards of Political Leaders



Fourth, there is a severe under representation of women in the Legislative Assembly. New Brunswick is tied with Manitoba among provinces as having the second-worst results in electing women, as can be seen in the chart below.

### The Special Challenge of our Electoral System

Democratic renewal requires a special look at our electoral system. An electoral, or voting system, translates votes into seats. It is how we determine who will form our government and who will represent us, as MLAs, in the legislature. Our most basic democratic values - fairness, choice, equality, accountability - come together on election night when the votes are counted. A fair electoral system doesn't just produce a government; it produces legitimacy based on consent. Citizens want to know that their votes count; that their choices are reflected in the legislature and government. In short, electoral systems affect citizens' perception of their democracy and their satisfaction with it.

New Brunswick's single member plurality electoral system (also known as first-past-the-post) has distinct advantages and disadvantages. Its winner-take-all effect has produced strong, effective majority governments. This same effect, however, has produced weak official oppositions with fewer seats and third party representation than would be awarded under a more proportional electoral system. Between 1987 and 1999, for example, the opposition never won more than 20 per cent of the seats in the legislature, despite the combined opposition parties winning between 40 per cent and 53 per cent of the vote during this same period. This has produced an imbalance in our system affecting the legislature's ability to hold the government to account.

Original academic research conducted for the Commission across 20 elections in 19 countries between 1996 and 2001, raises interesting questions about the linkage between voter satisfaction with democracy and the choice of electoral system. It shows that the degree of disproportionality of the electoral system affects citizens'



evaluations of fairness and responsiveness of their democracy more generally. The more disproportional an electoral system, the lower the evaluation of the fairness of the election, the less satisfied people were, and the more negative were their feelings about the responsiveness of their elected officials. Changing to a form of proportional representation could positively impact on New Brunswickers' satisfaction with, and participation in, their democracy.

### Electoral and Democratic Reform Across Canada

It is for these reasons - declining turnout, trust, confidence, and satisfaction - that several provinces across Canada are examining their electoral systems and considering changing to a form of proportional representation.

Following a year's study, British Columbia's Citizens' Assembly is recommending a form of proportional representation known as the Single Transferable Vote (STV). This option will be put to voters in the form of a referendum question on May 17, 2005.

Last year, a Prince Edward Island Commission recommended adopting a form of proportional representation known as mixed member proportional. The government has recently announced its intention to hold a plebiscite giving all Islanders the chance to vote on a new electoral system.

The Government of Québec tabled in December 2004, a bill in its National Assembly, which, if adopted, will change that province's electoral system to a mixed member proportional system. This proposal has been developed following a consultation process begun under the previous government. The Minister for Reform of Democratic Institutions has also released major proposals to reform the rules and procedures of the National Assembly to enhance the role of members and the legislative branch.

Ontario has indicated that it will be establishing a Citizens Assembly within a year to consider whether to change its voting system to a form of proportional representation. The results will be put to the people in a referendum. The Ontario government has established a Democratic Renewal Secretariat with a minister responsible, to examine a range of reforms including a fixed election date and political party financing changes.

The federal government is also considering a public process such as a Citizens Assembly to examine changing Canada's electoral system. This issue is now before a House of Commons committee. Steps to increase the role of Parliament and individual Members in policy formulation and to make government more accountable to Parliament have already been taken by the federal government.

The impetus for electoral change varies for each jurisdiction, but all hinge on recent electoral results. In British Columbia and Québec, there have been recent cases where a party

formed a government with a majority of seats but actually received fewer votes than their main rival. This was also the case in New Brunswick in 1974. In four of the past five elections in PEI, the opposition never won more than five per cent of the seats. For its part, the federal government is responding to this wave of provincial reforms and its own democratic deficit with an assessment of democratic renewal initiatives.

Together, these reform initiatives indicate that there is a growing consensus that we must at least consider changing our electoral system to address the broad-based democratic discontent felt by many Canadians. Each province is conducting its examination somewhat differently, but all are considering a form of proportional representation best suited to their circumstances as a possible solution. This indicates that our Commission and province are actually in the mainstream of Canadian thinking, perhaps even leading it, when it comes to electoral reform.

The table on the next page summarizes democratic renewal initiatives across Canada.

Canada is not alone in these reform initiatives. Other Westminster-type democracies, such as in the United Kingdom and New Zealand, have all recently considered and even undertaken similar reform projects. Scotland and Wales adopted forms of proportional representation for their assemblies in 1999. New Zealand adopted a mixed member proportional representation system in 1993. Indeed, a comprehensive report on the UK experience with proportional representation by an independent commission concluded earlier this year that these new electoral systems have not produced an adverse reaction from people, are not too complicated for voters, have produced stable, effective governments and are now broadly accepted.

### The Historical Context

Democratic renewal has always occurred in New Brunswick. Our democratic institutions and practices today resemble, but do not reflect, their original shape or intent. The founders of New Brunswick would recognize some, but by no means all, of how we practice democracy today in our province. From the secret ballot in 1855 to universal suffrage in 1919 to lowering the voting age in 1971, much has changed in how democracy is practiced in New Brunswick. The reason is simple: society evolves and with it, attitudes and expectations about democratic rights. As the Commission's academic expert on the history of democratic reform in New Brunswick, Dr. Gail Campbell of the University of New Brunswick, stated in her research paper for the Commission:

*"Historically, the tendency to revisit definitions of democracy has sometimes reflected a genuine shift in societal attitudes."*

## Democratic Renewal Initiatives Across Canada

Electoral Reform	Enhancing the Role of Elected Officials	New Mechanisms for Citizen Participation in Decision-Making
<b>Key Issues</b>	<b>Key Issues</b>	<b>Key Issues</b>
<ul style="list-style-type: none"> <li>• Electoral system reform</li> <li>• Increasing voter turnout</li> <li>• Fixed election dates</li> <li>• Electoral boundaries</li> </ul>	<ul style="list-style-type: none"> <li>• Free votes</li> <li>• More power to committees and backbenchers</li> <li>• Increased resources for research and consultation</li> <li>• Increased accountability and ethical standards</li> </ul>	<ul style="list-style-type: none"> <li>• Citizen's assemblies/juries/panels</li> <li>• Broader consultation powers for Committees</li> <li>• Binding referendums</li> <li>• Online town halls</li> <li>• Online questionnaires</li> </ul>
<b>Who's doing it?</b>	<b>Who's doing it?</b>	<b>Who's doing it?</b>
<p><b>New Brunswick Commission on Legislative Democracy</b></p> <p>Prince Edward Island Commission on Electoral Reform</p> <p>Québec Democratic Reform Secretariat</p> <p>Ontario Democratic Renewal Secretariat</p> <p>British Columbia Citizen's Assembly</p>	<p><b>New Brunswick Commission on Legislative Democracy</b></p> <p>Québec Democratic Reform Secretariat</p> <p>Ontario Democratic Renewal Secretariat</p> <p>Government of Canada Democratic Reform Agenda</p>	<p><b>New Brunswick Commission on Legislative Democracy</b></p> <p>Québec Democratic Reform Secretariat</p> <p>Ontario Democratic Renewal Secretariat</p> <p>Government of Canada Democratic Reform Agenda</p> <p>British Columbia Citizen's Assembly</p>

New Brunswick has not been afraid to embrace democratic renewal. It is not widely known, for example, but New Brunswick was the first jurisdiction to adopt the secret ballot in what would become Canada. It did so just one year after Australia, which is credited with originating this initiative. By another measure of democratic reform, Equal Opportunity in the mid-1960s sought to give citizens equal access to government services no matter where they lived. The new *Official Languages Act* breaks new ground in the protection and promotion of English and French and the two official linguistic communities in the province.

Each of these steps expanded our concept of democracy to make it more inclusive of society and reflective of who we are. The challenge we are facing today is how the institutions and practices of democracy, put in place a century and more ago, can be renewed to keep up with our expanded concept of democracy and meet the changing expectations and needs of New Brunswickers.

It is for this reason that the Commission on Legislative Democracy was created. We have been given a broad and comprehensive mandate to examine and make recommendations on the full range of issues affecting

democracy in our province. From electoral reform (changing our voting system) to legislative reform (enhancing the role of MLAs) to democratic reform (involving New Brunswickers more in decision-making) - virtually all aspects of our democracy was up for review.

This is important since there is no obvious single answer to any form of democratic malaise. Long-term trends and attitudes cannot be reversed overnight. It will take time and effort. However, by focusing on a specific and comprehensive package of reforms as we are recommending, this Commission is convinced that New Brunswick's democracy can be renewed for its citizens; that citizens will see real benefits from these changes; that New Brunswickers will believe their votes truly count; that they can have a real say in decisions and that government is listening; and that their elected representatives are responding to their concerns.

In recent years, over successive governments, New Brunswick has taken a leading role in the country in governmental reforms dealing with bilingualism, fiscal responsibility and tax competitiveness, information and communications technologies, e-government, quality

education, health care sustainability, and devolution of decision-making responsibility to regional authorities. Leading the country in democratic renewal is part of this strong public policy tradition.

We believe the time has come to renew New Brunswick's democracy. The case for renewal is clear. In many ways the real challenge facing us is how. It is this challenge that is the main focus of this Commission's Final Report and Recommendations.

## ***Towards a Citizen-Centred Democracy in New Brunswick***

*"Mission - To identify options for an enhanced citizen-centred democracy in New Brunswick building on the values, heritage, culture, and communities of our province."*

The Commission received not just a mandate, but also a mission - to make recommendations that would lead to an enhanced citizen-centred democracy in New Brunswick.

Citizens are the central focus of our work - not parties, politicians, or even government itself. "Will it lead to a stronger democracy for citizens?" is the test by which the Commission evaluated each of its recommendations.

Through the prism of democratic values, we concluded our deliberations each time by asking whether our proposed recommendations would lead to an enhanced citizen-centred democracy. Since democracy is fundamentally a citizens' exercise - beginning with the exercise of the franchise or vote - we believe this gave our mandate an important and cohesive focus.

The comprehensive mandate of the Commission - electoral, legislative, and democratic reform - placed virtually all facets of our democracy on the table. The reason is simple: they are all linked. Changing our electoral system will lead to shifts in the roles and responsibilities of MLAs. Involving people more directly in decisions that affect them will impact on how government currently functions. An enhanced role for MLAs will change how decisions are made in government. It is this integrated examination of our democratic system that makes the Commission and its mandate unique to our province and, indeed, the country. There is nothing piecemeal about this report.

### **The Three Themes**

This focus on citizens led the Commission to develop three themes from which our recommendations flow. Common to each is how democracy can be made to work better for "you, the citizen".

- Making Your Vote Count
- Making the System Work
- Making Your Voice Heard

#### **Making Your Vote Count**

Your vote is the most important democratic expression you have. It must mean something. For it to mean something, it must first count. The most obvious counting of votes takes place on election night when we elect MLAs and choose a government. But it is really our electoral system and the way it counts votes that determines who wins and loses by translating those votes into seats. If you voted along with a sizeable minority of New Brunswickers for a candidate or

party that did not win a seat, did your vote actually count towards the final result? Under our single member plurality system, commonly known as first-past-the-post, it counts principally for the winning candidate. Votes cast for other candidates are not factored into the results and are thus 'wasted'. Making your vote truly count means that all votes must be treated equally and none wasted. As we explain in our recommendation to adopt a New Brunswick regional mixed member PR system, this change would clearly make your vote count far more than now towards electing an MLA and the party of your choice.

Making your vote count begins with voting for a candidate in your riding. Electoral boundaries determine the riding in which you cast your vote. But the composition of a riding changes over time as population shifts occur. Today in New Brunswick, some ridings are significantly larger than others, which means a person's vote in that riding has less weight in determining the outcome than a person's vote in a smaller riding. Whether riding boundaries fit with communities of interest can determine whether voters will receive effective representation. Riding boundaries can be the difference between a community having legitimate influence in the riding in which it finds itself, or having its votes overwhelmed by other dominant, majority interests. And since your vote is personal and does not belong to a particular political party, the independence from political parties of the process by which electoral boundaries are drawn can have a real effect as well on the results of elections and who represents you. The Commission's recommendations for a new *Representation and Electoral Boundaries Act* focus on each of these issues to make sure that all citizens' votes count equally.

We vote on election day. But we don't know exactly when that date will be. The timing of an election call can leave some people out of the voting process. Fixed election dates address this problem. They make your vote count since no premier can adjust the date of an election to suit his or her own political preference. The Commission's recommendation for a fixed election date every four years in the fall will help make sure you can plan to vote and you are not left out.

Voting is a right we share as Canadians. But with that right comes responsibility. Democracy cannot function without the consent or participation of voters. Every four years when we choose a government and elect MLAs to represent us, we are in reality giving our consent to be governed to a particular group of representatives. When your fellow citizens do not vote, they are sending a message that this choice does not matter to them. When your fellow citizens do not vote, they are effectively inviting the political parties to pay more attention to some voices rather than others. The Commission's recommendations to boost voter turnout and participation in the democratic process, particularly by young people, will encourage New Brunswickers to vote. Together with changes to the electoral system, and a more meaningful role for MLAs, citizens will have more incentive to vote. The resulting higher turnout will convey a greater

sense of legitimacy to the democratic choices citizens will have made.

For your vote to count, it must first be counted. An effective and independent electoral infrastructure of laws and machinery is essential for free, fair, and efficient elections. Votes should not be lost, or miscounted, or counted twice. People who have the right to vote should have a place on the list of electors. The electoral law should facilitate voting, not place barriers in front of it. The Commission's recommendations for a new electoral commission called Elections New Brunswick, and changes to the *Elections Act*, will modernize our electoral infrastructure to make it easier for people to vote, encourage them to vote, and make sure the administration of the voting process is efficient and effective.

### **Making the System Work**

After your vote is counted, then what? A government is formed, the legislature comes back into session, our MLAs go to work, and decisions are made. How MLAs do their work, how the Legislative Assembly functions, and how political parties operate - the political system - all have an impact on how citizens are served and how they view our democratic institutions and practices. New Brunswickers are no longer prepared to wait four years to use the sole instrument of voting to keep our governments and MLAs accountable. We expect accountability to occur during each of those four years.

Making the system work for citizens begins with the Legislative Assembly. It is at the heart of our democratic system. For the Commission, this means three things: first, giving a new sense of independence and authority in the decision-making process to the legislature so it can be restored to its proper role as the "People's House"; second, giving an enhanced role to MLAs so they can act more effectively as representatives and contribute more effectively to policy and legislative development; and third, making sure government and MLAs are more accountable to us all, as citizens. The Commission's recommendations in this area are comprehensive, covering many aspects of the Legislative Assembly's functions. They will result in a change in approach and behaviour in the legislature. They will help bring people back into the democratic process and lessen democratic discontent.

Political parties are the gatekeepers to the democratic process. They select the candidates and leaders from among whom you, as a citizen, choose your representatives. They receive significant public monies. They are as much a part of the system as government departments. In many respects, they are the public utilities of democracy. How parties operate has a real impact on democratic choices and attitudes in our province. Making political parties more responsive to people and holding them to a high standard of democratic ethics and accountability will help make this aspect of our democratic system stronger. The Commission's recommendations to improve party democracy will cause political parties to be

more accountable and open in how they conduct their business.

Making the system work also means opening it up to more people. Government agencies, boards, and commissions (ABCs) are an integral part of the system of government. They make quasi-legal judgements on our behalf, influence public policy development and decisions, and make important financial decisions that affect us all as taxpayers. Opening up the ABC appointments process to allow more New Brunswickers to apply and be considered for a position, based on a more independent and accountable process, will make the system work better for people. It will help restore trust and confidence in the system.

### **Making Your Voice Heard**

As citizens, we all want our voices heard. But it is not always easy. Government is big and often not easily accessible to people. Decisions taken by government and the legislature can often seem remote and biased. Despite a professional public service and hard-working MLAs who consult and work closely with many groups and communities, some people feel that government does not listen to them when decisions are made.

Making your voice heard is really about engaging citizens in decisions that affect them and their communities. To do so, government needs to put in place additional mechanisms to facilitate hearing the views of people and communities. Participation in decision-making by citizens and communities can and should be enhanced. Civil society can be an important contributor to government policy making. New tools for citizen engagement, such as the Internet, are creating new opportunities for citizens to interact and dialogue with government officials and MLAs. The Commission's recommendations in each of these areas point out where citizen involvement can be increased and improved to make sure your voice and others are heard.

In a democracy, all voices matter. However, some voices are not heard as well as they should be. Women are under-represented in the legislature and therefore in Cabinet, denying their perspective in decision-making. Youth participate far less in the democratic process than other New Brunswickers, thereby diminishing their influence in government. Aboriginal peoples have no dedicated representation in the legislature, as they do in some other countries, and participate little in other aspects of the province's democratic life. For the Commission, making your voice heard means hearing from all these voices. Our recommendations will help fill this democratic gap in our province by encouraging more women to seek elected office, by educating young New Brunswickers about how government works and the importance of voting, and by seeking a meaningful and respectful process with Aboriginal people to determine their interest in electoral and democratic reforms that can benefit all of us.

Making your voice heard can also mean giving New Brunswickers a direct say through referendums on exceptional issues or under exceptional circumstances. Referendums should not be used to displace our current system of representative democracy. As well, in a province like ours, protecting minority rights from possible referendum abuse is very important. Having clear rules and procedures as to how referendums should be conducted and financed is necessary to make sure some voices do not drown others out. The Commission's recommendations for a New Brunswick *Referendum Act* will make certain that when referendums are held in our province, they meet the democratic values of New Brunswickers.

### **Towards a Citizen-Centred Democracy**

The Commission on Legislative Democracy is really all about creating a more citizen-centred democracy. Democracy must work for people. It is worth reminding us that not everyone gets his or her own way in a democracy. Acceptance of decisions that are not always favourable to ourselves but serve a broader public good is essential for a strong, functioning democracy. That is why the process of how decisions are made, how MLAs are elected, and how government listens between elections all contribute to an important sense of public trust and confidence in the institutions and practices of our democracy.

While we cast votes as individuals, the results of those votes are collective, electing a legislature and choosing a government on behalf of New Brunswick as a whole. A stronger citizen-centred democracy is one that is more responsive to people overall. It is one that produces greater participation and legitimacy. It is one that has greater respect and understanding for the work of our elected officials and leaders.

Because our democratic institutions and practices touch our lives as citizens in so many ways, we need to renew our democracy so it reflects our contemporary democratic values. There is no single solution to curing our democratic ills. Attitudes and opinions that have developed over time about what's wrong with our democracy will take time to change. What is constant is the citizen. Maintaining that focus, ensuring that link, is the real solution to renewing democracy in New Brunswick.

# Chapter 2 - Summary of Recommendations

## Making Your Vote Count

### A Mixed Member Proportional Electoral System for New Brunswick



#### Mandate

*To examine and make recommendations on implementing a proportional representation electoral system for the New Brunswick Legislative Assembly, and propose a specific model best suited for our province that ensures fairer representation, greater equality of votes, an effective legislature and government and a continued role for directly-elected MLAs representing specific geographic boundaries.*

The Commission on Legislative Democracy recommends the following made-in-New Brunswick model of proportional representation (PR) as the model best suited for our province:

#### Recommendation 1

That a regional, mixed member proportional representation (MMP) system combining 36 single-member riding seats and 20 list PR seats elected within four approximately equal size multi-member regional districts, as set out below, be adopted as the model of PR best suited for New Brunswick.

#### Recommendation 2

That the MLAs for the 36 single member riding seats continue to be elected using the current first-past-the-post plurality vote system.

#### Recommendation 3

That voters in each of the four multi-member regional districts elect five MLAs from closed party lists on the basis of the party vote received within the region.

#### Recommendation 4

That voters cast two separate ballots: one, as they do now, for the local single member riding candidate of their choice, and a second ballot for the party of their choice.

#### Recommendation 5

That parties be required to reach a minimum five per cent threshold in the separate party vote on a province-wide basis in order to be eligible to win any list PR seats.

#### Recommendation 6

That candidates be required to choose to run either as a single member riding candidate or as a candidate on a regional PR list, but not both.

#### Recommendation 7

That the list PR seats be allocated on a regional basis, based on the D'Hondt electoral formula, so as to partially correct for disproportionality in the single member constituency elections.

#### Recommendation 8

That parties be required to nominate list PR candidates in open conventions based on clear party nomination, financing, and disclosure rules, as recommended by the Commission and set out in detail in the policy framework for Improving Party Democracy contained in Recommendation Appendix "H".

#### Recommendation 9

That the electoral boundaries for the 36 single member ridings and the four multi-member regional districts be drawn by a Representation and Electoral Boundaries Commission based on the principles and procedures recommended by the Commission and set out in detail in the policy framework for a *Representation and Electoral Boundaries Act* for New Brunswick contained in Recommendation Appendix "A".

#### Recommendation 10

That a vacancy in a single member riding be filled through a by-election held no later than six months after the seat has been declared vacant. That a vacancy in a multi-member regional district be filled by the next highest-ranking eligible candidate on the same party list as the previous incumbent from the general election.

#### Recommendation 11

That the recommended new electoral commission, called Elections New Brunswick, initiate a comprehensive public awareness and education campaign prior to the first election under the NB MMP voting system to ensure voters understand how the proposed new system will work.

## Implementing a New Proportional Representation Electoral System for New Brunswick

### Mandate

*To examine and make recommendations on future steps, including amendments to the Elections Act, required to give effect to a new proportional representation electoral system.*

The Commission on Legislative Democracy recommends that the following steps be taken to implement a new proportional representation electoral system for New Brunswickers:

### Recommendation 1

That the government of New Brunswick take the steps necessary to hold a binding referendum no later than at the next provincial general election, to allow the people of New Brunswick to choose whether or not to adopt the Commission's proposed regional mixed member proportional representation electoral system, in order that it be in place in time for the 2011 provincial general election.

### Recommendation 2

That the referendum be held under the rules and procedures recommended by the Commission and set out in detail in the policy framework for a New Brunswick *Referendum Act* contained in Recommendation Appendix "K".

### Recommendation 3

That Elections New Brunswick initiate a comprehensive education and information campaign for New Brunswickers to allow voters to make an informed choice on the proposed question.

### Recommendation 4

That a legislative committee be struck after two elections to publicly review the results and procedures of the new MMP voting system to determine any changes or improvements that might be necessary.

## Drawing Electoral Boundaries in New Brunswick

### Mandate

*To examine and make recommendations on the principles and procedures to guide future changes to New Brunswick's electoral boundaries, including the number of constituencies to be represented in the Legislative Assembly, that will be referred to a Representation and Electoral Boundaries Commission.*

The Commission on Legislative Democracy recommends the following principles and procedures to guide future changes to New Brunswick's electoral boundaries:

### Recommendation 1

That a *Representation and Electoral Boundaries Act* be adopted to establish a regular and independent process to guide redistributions and changes to electoral boundaries in the province.

### Recommendation 2

That the following elements be included in a *Representation and Electoral Boundaries Act*:

- 2.1 **Timing of Redistributions** - would follow every decennial census.
- 2.2 **Appointment of a Representation and Electoral Boundaries Commission** - A five member commission composed of two co-chairs, one from each official linguistic community, who are independent of political parties, along with three other members who are not currently MLAs, MPs or Senators, would be appointed on a two-thirds vote of the Legislative Assembly.
- 2.3 **Terms of Reference of Commission** - A Commission would:
  - 1) Recommend readjustments to the boundaries of electoral districts in the province based on the principles of representation by population, equality of votes, and effective representation of electors.
  - 2) Be permitted to deviate from the quotient for each electoral district by no more than 15 per cent, plus or minus, with a deviation of up to 25 per cent, plus or minus, in exceptional circumstances.
  - 3) Take the following into consideration when drawing boundaries: communities of interest; representation of New Brunswick's two official linguistic communities; geographic considerations, including the accessibility, size and shape of a region of the

province; existing municipal and other administrative boundaries; rate of population growth of any part of the province; and the challenges of representing rural areas.

**2.4 Public Hearings** – A Commission would be required to hold two sets of hearings to allow for substantial public input by New Brunswickers: one before a preliminary report and proposed map of boundary changes is prepared, and one on the proposed map of boundary changes.

**2.5 Final Authority** – To reside formally with the Legislative Assembly. A Committee of the legislature could consider any amendments proposed by MLAs to the final report of a Commission. Any amendments to the Commission’s final report would require a two-thirds vote of the Legislative Assembly.

### Recommendation 3

That the same principles and procedures of a *Representation and Electoral Boundaries Act* be applied to draw boundaries for a new regional, mixed member proportional representation electoral system for New Brunswick.

### Recommendation 4

That the policy framework for a *Representation and Electoral Boundaries Act* for New Brunswick contained in Recommendation Appendix “A” be considered as a proposed framework for a new Act.

### Recommendation 5

That the number of MLAs in the legislature be increased to 56 under the proposed regional mixed-member proportional representation system. That the number of MLAs under the current single member plurality electoral system be approximately 55.

## A Fixed Election Date for New Brunswick

### Mandate

*“To examine and make recommendations on instituting fixed election dates for provincial general elections while proposing a fixed election date and procedures best suited for our province.”*

The Commission on Legislative Democracy recommends the following principles and procedures for the institution of a fixed election date:

### Recommendation 1

That a provincial election be held on a fixed date every four years commencing Monday, October 15, 2007, and on the third Monday of October every four years thereafter.

### Recommendation 2

That the following policy framework be considered for an amendment to the *Legislative Assembly Act* to establish a fixed election date for New Brunswick:

- (1) *Nothing in this section affects the powers of the Lieutenant-Governor, including the power to dissolve the Legislative Assembly, at the Lieutenant-Governor’s discretion.*
- (2) *In order that a general election may be held on a fixed date, as set out herein, every four years:*
  - (a) *The Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on Monday, October 15, 2007, and thereafter, the Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on the third Monday of October in the fourth calendar year following polling day in the most recent general election.*
  - (b) *In the event that a general election is held after the day on which this section receives Royal Assent and before October 15, 2007, because of a dissolution of the Legislative Assembly, the Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on the third Monday of October in the fourth calendar year following polling day in the most recent general election.*

### Recommendation 3

That the *Elections Act* be amended to establish a clear 28-day election period.

### Recommendation 4

That the *Elections Act* be amended to reduce the time period for by-elections from one year to six months of a vacancy occurring in the Legislative Assembly, unless the vacancy occurs during the last calendar year of the legal life of the Legislative Assembly (i.e. between January 1st and the third Monday in October of the year of the next fixed date election).



## Boosting Voter Turnout & Participation and Modernizing our Electoral Infrastructure

### Mandate

*To examine and make recommendations on increasing voter turnout in provincial general elections, particularly amongst young New Brunswickers, and improving accessibility to the electoral process in New Brunswick by modernizing our electoral laws while reinforcing the democratic rights and responsibilities of New Brunswickers to vote.*

The Commission on Legislative Democracy recommends the following initiatives to modernize our electoral laws and infrastructure and boost voter turnout:

### Recommendation 1

That a new, independent electoral commission, called Elections New Brunswick, be established. Elections New Brunswick would combine the current duties and responsibilities of the Office of the Chief Electoral Officer and the Supervisor of Political Financing and have an expanded mandate to: conduct elections and referendums in New Brunswick; supervise political party financing and make it more transparent and accountable; promote awareness and knowledge of, and democratic participation in, New Brunswick's electoral process; and provide regular and comprehensive reporting of results, activities, policy issues and promotional activities to the Legislative Assembly.

### Recommendation 2

That accessibility to and participation in the election process for voters be improved, especially for youth, through the following measures:

- 2.1 An online voter registration system.
- 2.2 Targeted approaches to communicate with high school, university and college students on the registration and voting process.
- 2.3 New electronic tabulation technology that would allow voters who are away from their ordinary place of residence, especially university and community college students, to vote from their current location for a candidate in their home electoral district.
- 2.4 Placing party logos on the ballot next to the names of candidates and the parties they represent.
- 2.5 Identifying and hiring young New Brunswickers to work during elections, so that they may become familiar with and interested in the elections process.
- 2.6 Allowing voters to cast their ballot at any poll within their electoral district.

### Recommendation 3

That, where possible, polling stations be placed in New Brunswick schools as locations that are familiar, cost-efficient, and easily accessible to voters, and in order to create a youth-friendly environment for voting.

### Recommendation 4

That the electoral process be updated and streamlined to make it easier to cast a vote; make the rules around elections more clear and understandable; and provide a more flexible and efficient process for administering elections by:

- 4.1 Giving the Chief Electoral Officer the authority to appoint and train returning officers, election clerks, deputy returning officers, poll clerks, enumerators and other election workers, and the flexibility to assign these workers to polling stations and electoral districts as needed.
- 4.2 Opening up the advance poll process so that the procedures to vote in the advance poll are the same as those for voting on election day.
- 4.3 Giving the Chief Electoral Officer more flexibility to set the details of elections procedures.
- 4.4 Integrating the provisions of the *Elections Act* regarding registration of political parties, district associations and candidates with the provisions of the *Political Process Financing Act* to provide a more seamless approach to supervision of political financing and improving access to information on financing of candidates and political parties.

# Making the System Work

## Enhancing the Role of MLAs and the Legislature



### Mandate

*To examine and make recommendations on enhancing the role of the Legislative Assembly and MLAs in decision-making while ensuring greater accountability of MLAs to their constituents and to New Brunswickers.*

The Commission on Legislative Democracy recommends that the following steps be taken to enhance the role of the Legislative Assembly and MLAs, and increase accountability of government and the legislature to New Brunswickers:

## Enhancing the Role of the Legislative Assembly

### Recommendation 1

That party discipline and partisanship be reduced by encouraging more free votes, fewer confidence measures, and the introduction of a three-line whip voting system in the Legislative Assembly.

### Recommendation 2

That the role of legislative committees in policy-making be enhanced by providing the committees with designated staff and resources allowing them to conduct independent research and undertake public consultations, including mandatory public hearings on important bills.

### Recommendation 3

That the Legislative Assembly committees be restructured to create standing policy committees that would facilitate consideration of bills and encourage stronger MLA policy expertise. The Standing Committees could be:

1. Standing Committee on Natural Resources
2. Standing Committee on Social Policy
3. Standing Committee on Finance and Economic Policy
4. Standing Committee on Public Safety
5. Standing Committee on Government Operations

6. Standing Committee on Public Accounts and Crown Corporations
7. Standing Committee on Legislative Administration, Procedures, Statutory Officers and Legal Issues

### Recommendation 4

That an independent Legislative Library Research Office be created and funded to serve all MLAs, and to support the role of strengthened legislative committees, ensuring that individual MLAs can research policy issues on behalf of constituents and acquire more legislative expertise in specific policy areas.

### Recommendation 5

That MLAs have the time to review bills before they are adopted in final form by allowing for more time between first and third reading of bills.

### Recommendation 6

That a new, designated one-hour dialogue and scrutiny time period every two weeks called, "Interpellation" be provided. Interpellation would be used firstly, to debate reports of committees of the Legislative Assembly and secondly, to allow for more detailed questioning of ministers on specific policy areas.

### Recommendation 7

That Hansard and Legislative Assembly reports be accessible online, in a more up-to-date time frame in both official languages. A transcript of Question Period would be published within 24 hours and a transcript of Hansard within 48 hours.

### Recommendation 8

That the Legislative Assembly be permitted to independently table its own budget through the Speaker on the same day and as a component part of the Main Estimates tabled by the Minister of Finance, as is stated in the *Legislative Assembly Act*.

### Recommendation 9

That the Statutory Officers of the Legislative Assembly be permitted to independently submit the budgets for their offices to the Legislative Administration Committee for review and approval as part of the overall Legislative Assembly budget.

## Enhancing the Role of MLAs

### Recommendation 10

That the formal Code of Conduct for MLAs proposed by the Legislative Administration Committee and set out in detail in the policy framework on the Roles and Duties of an MLA and a Code of Conduct for Members of the Legislative Assembly in New Brunswick contained in Recommendation Appendix "C", be adopted following a debate in the Legislative Assembly, added as an appendix to the Standing Rules of the Legislative Assembly, and published on the Legislative Assembly website.

### Recommendation 11

That the annual constituency budget for each MLA be increased to \$50,000, as set out in the policy framework for MLA Constituency Resources contained in Recommendation Appendix "D", to allow the MLAs to offer more accessible and effective services to their constituents. This budget would be administered by the Legislative Assembly Office to ensure full transparency and accountability. A complete accounting of spending would be published in an annual report by the Legislative Assembly Office.

### Recommendation 12

That MLAs be supported in drafting more Private Member's Bills reflecting their independent policy ideas and constituency concerns, by providing access to legal drafting resources and staff through the new Legislative Library Research Office referred to in Recommendation 4. Government and Opposition members would adopt a process to vote on an agreed upon number of such bills during each legislative session.

### Recommendation 13

That an independent remuneration review committee of three New Brunswick citizens appointed by a two-thirds vote of the Legislative Assembly be established to determine a new consolidated salary level for all MLAs, to better reflect the full-time reality of the occupation, and the need for regular, appropriate increases, as set out in detail in the policy framework for a Review Committee of MLA Remuneration contained in Recommendation Appendix "E". Per diems and other expenses for undertaking committee and other work would be eliminated in favour of this more transparent and realistic salary level.

## Ensuring Greater Accountability of Government and the Legislature to New Brunswickers

### Recommendation 14

That a fixed Legislative Calendar Session as set out in detail in the policy framework contained in Recommendation Appendix "F", be introduced, setting out in advance when the legislature would meet each year. This would allow for more effective and efficient use of House time, ensure that designated days are set aside for legislative committees to do their work, and also allow individual Members to more effectively plan their time to meet both their constituency and legislative obligations.

### Recommendation 15

That a *Transparency and Accountability Act*, as set out in the policy framework contained in Recommendation Appendix "G", be adopted that would set deadlines for the publication of Public Accounts and quarterly provincial financial reports, and would enumerate what information must be contained in each report. This *Act* would also set out Throne Speech and Budget dates.

### Recommendation 16

That up to \$5,000 annually be allocated to each MLA, designated specifically for undertaking direct public consultation with their constituents through town hall meetings and citizens' forums on policy issues. This budget would be administered by the Legislative Assembly Office, with a regular reporting of activities undertaken by members publicized each year.

### Recommendation 17

That the Legislative Assembly promote the use of information and communications technology to improve citizen access, including a more extensive and interactive website, with sites for individual MLAs, as well as creating a new online "e-petition" feature that will allow citizens to start and manage their own petitions through the Legislative Assembly website.

### Recommendation 18

That petitions be given a higher priority in legislative business by adding petitions to the terms of reference of one or more appropriate standing committees, which would regularly examine petitions received, and would be empowered to invite petitioners to committee meetings to discuss their concerns. Committees taking up petitions would include them in their reports to the Legislative Assembly, and require timely and meaningful responses from government on the petitioners' concerns.

## Recommendation 19

That the *Right to Information Act* process be improved *first*, so that where the scope of a request by an applicant under the *Act* is not clear or the request would be best served by a personal inspection of the information by the applicant, the appropriate minister would be permitted to invite the applicant to inspect the information in the offices of the department, if it was practical to do so, within 30 days of the receipt of the application as set out in the *Act*; and, *second*, that Regulation 85-68 under the *Right to Information Act* be amended to include the Legislative Assembly in the list of Departments that are subject to the *Act* as long as providing the information requested does not infringe on the privileges of the Legislative Assembly or the Members of the Legislative Assembly.

## Improving Party Democracy

The Commission on Legislative Democracy recommends that the following steps be taken to improve political party democracy in New Brunswick:

### Recommendation 1

That the *Political Process Financing Act (PPFA)* be amended to set contribution and spending limits for political party leadership and nomination contestants and require public disclosure of information on the financing of leadership and nomination contests. That these limits and disclosure requirements be as follows:

- 1.1 Leadership campaign expenses would be limited to \$300,000 per candidate.
- 1.2 Nomination campaign expenses would be limited to an amount representing 20 per cent of the average of the spending limits that were allowed for a candidate's election expenses in the province's electoral districts during the immediately preceding general election.
- 1.3 Contributions would be limited to \$3,000 in total to one or more contestants in a leadership contest and \$1,000 in total to one or more nomination contestants; these limits would be in addition to the current limit for contributions to parties under the *PPFA*.
- 1.4 Leadership candidates would be required to file a summary financial return four weeks prior to the date of the leadership contest and a final leadership campaign return within 90 days of the date of the leadership contest. Nomination contestants who accepted contributions or incurred expenses over \$1,000 would have to file a nomination campaign return within 90 days of the selection date for the nomination contest.
- 1.5 Elections New Brunswick would publish information disclosed by leadership and nomination contestants on the financing of their campaigns.

## Recommendation 2

That the following new provisions be introduced into the *Elections Act* to set clear, open, and transparent rules and procedures to be followed by political parties during nomination and leadership contests:

- 2.1 All of a party's general election candidates must be endorsed by a vote of eligible party members, in a vote that is open to all eligible party members.
- 2.2 To be eligible for party membership, a person must meet the same eligibility requirements to vote in a provincial election.
- 2.3 To be eligible to vote in a leadership or nomination contest, a person must belong to the political party at least seven days prior to the nomination contest and be a member of the party at the time of the vote.
- 2.4 If fixed election dates are adopted, riding associations must hold a vote of their members for the purpose of choosing their general election candidate no more than 120 days prior to the date of the general election.
- 2.5 Parties must advertise the date, time and location of a leadership or nomination contest at least seven days prior to the closing date for eligible membership.
- 2.6 Parties shall not charge a membership fee greater than \$5 annually.
- 2.7 A declaration, signed by the party leader following a nomination contest and signed by the Party President following a leadership contest, must be filed with the Chief Electoral Officer, certifying that all required procedures were followed and that the nomination or leadership contest was held in a fair and democratic manner.

## Recommendation 3

That the policy framework for administering these new political party financing rules contained in Recommendation Appendix "H" be adopted.

## Recommendation 4

That all political parties be encouraged to establish Policy Foundations as a way to provide a meaningful opportunity for interested party members to engage in policy study and development and to help ensure parties present strong platforms to voters at election time. That Policy Foundations be established on an arm's-length, non-profit basis and be funded through:

- 1) A one-time, start-up allowance in an amount that is 25 per cent of the annual allowance to which the party is eligible under the *PPFA*, in the Policy Foundation's start-up year, or \$25,000, whichever amount is greater,
- 2) An ongoing additional annual allowance of \$0.25 per valid vote received during the preceding provincial general election, and

- 3) Contributions from individuals, corporations and trade unions, not exceeding \$3,000 in a calendar year, to one or more party Policy Foundations, and to which the New Brunswick Political Contributions Tax Credit would be extended. This contribution limit would be in addition to the current limit for contributions to parties under the *PPFA*.

### Recommendation 5

That to be eligible for public funding, a party Policy Foundation would be required to: have a Constitution separate from the political party's Constitution; have a separate board of directors from the provincial party executive; present annual reports to Elections New Brunswick on the Foundation's activities and programs, including full disclosure of all revenues, expenditures, and contributions; prohibit any transfers of funds from the Foundation to the political party for election purposes or operations; and prohibit the director or any full-time personnel from participating directly in the preparation of election-related material or in the conduct of election campaigns.

## Opening up the Appointment Process for Agencies, Boards and Commissions

### Mandate

*To examine and make recommendations on enhancing transparency and accountability in appointments to government agencies, boards, and commissions.*

The Commission on Legislative Democracy recommends that the following steps be taken to enhance transparency and accountability in appointments to government agencies, boards, and commissions (ABCs):

### Recommendation 1

That an ABC Appointments Unit be established within the Office of Human Resources and assigned overall co-ordinating responsibility for appointments to government agencies, boards, and commissions.

### Recommendation 2

That the following practices and procedures for making appointments to ABCs be adopted and implemented by the ABC Appointments Unit:

- 2.1 Setting out specific guidelines and processes for appointments to ABCs, appropriate to the nature of the ABC;

- 2.2 Monitoring and reporting on the appointment process to ensure that the guidelines are followed and appointments are made on an open, transparent and consistent basis;
- 2.3 Advertising vacancies on ABCs in a timely fashion;
- 2.4 Identifying, seeking and reviewing qualified candidates for appointment by the Lieutenant-Governor in Council;
- 2.5 Developing and maintaining a central databank of ABC appointments, vacancies and applications;
- 2.6 Providing human resource expertise and assistance in the process of reviewing applications for appointment;
- 2.7 Publicizing appointments; and
- 2.8 Co-ordinating the development and administration of training and orientation programs for ABC members on their roles and responsibilities.

### Recommendation 3

That a formal process for appointments to the most significant ABCs be established to ensure merit-based appointments, and to give qualified and competent persons the opportunity to serve on these ABCs. Such a process would include the following steps:

- 3.1 Preparing a Board Profile defining the skills, experience, qualifications, and diversity of representation of members required for the effective operation of the ABC;
- 3.2 Developing Position Descriptions which set out the skills criteria for a vacancy on the ABC;
- 3.3 Advertising of vacancies and Position Descriptions;
- 3.4 Identification of potential candidates;
- 3.5 Formal vetting of applications and a due diligence check of candidates;
- 3.6 Preparation of a short-list of qualified candidates with possible rank-ordering for decision by the Lieutenant-Governor in Council;
- 3.7 Advising unsuccessful candidates of outcome of process;
- 3.8 Publication of appointments on government websites.

### Recommendation 4

That, subject to the agreement of the political parties to such involvement, the Legislative Assembly be involved in the preparation and rank-ordering of a short-list of qualified candidates for the most significant ABCs.

### Recommendation 5

That the appointment process facilitate the consideration of qualified people from regionally and culturally diverse backgrounds that are representative of the two official linguistic communities, women, Aboriginal people, and minorities.

## Recommendation 6

That fixed three-year terms for ABC appointments be established across government, while staggering some appointments for an initial two-year term; and consecutive reappointments be limited to no more than two uninterrupted terms.

## Recommendation 7

That the detailed process for appointments to the most significant ABCs, the detailed process for appointments to other ABCs, and the suggested classification of ABCs contained in Recommendation Appendix "I" be considered as frameworks for developing a new appointments process for ABCs.

# Making Your Voice Heard



## Mandate

*To examine and make recommendations on enhancing public involvement in government and legislative decision-making.*

## Stronger Voices for Youth

The Commission on Legislative Democracy recommends that the following steps be taken to increase knowledge and understanding of the democratic process by New Brunswick students and to boost youth voter participation with the goal of increasing the turnout of 18-29 year-olds to at least the provincial average by the 2015 provincial general election:

### Recommendation 1

That the Mission Statement of the Department of Education be amended to formally recognize as a learning outcome for all graduating students the importance of exercising the responsibilities of citizenship. The new Mission Statement would read:

*"To have each student develop the attributes needed to be a lifelong learner, to achieve personal fulfillment, **to exercise the responsibilities of citizenship**, and to contribute to a productive, just and democratic society."*

### Recommendation 2

That a new, mandatory provincial Civics Program from Kindergarten through Grade 12 be fully implemented as part of the current Social Sciences program in schools beginning in the 2007-2008 school year. This new civics program, as outlined in the policy framework on a new Civics Education Program for Kindergarten to Grade 12 contained in Recommendation Appendix "J", would help students graduate with the knowledge, understanding, and critical analysis skills necessary to become "active citizens", able to understand and participate in democratic activities in their community, province, and country.

This new Civics Program would build on and be integrated into the current social sciences program curricula being taught now at various grades under both the anglophone and francophone school systems. The program would be based on the following standards: *mandatory* for all students; *comprehensive* in scope and subject matter;

*integrated* with current offerings; *practical* in application; *non-partisan* in material; and *supported* by teachers, schools, parents, the Department of Education, and the Legislative Assembly.

### Recommendation 3

That the Department of Education work directly with New Brunswick teachers, as well as experts in other provinces, to develop flexible, made-in-NB civics teaching resource kits/learning modules for teachers, students, and schools to facilitate teaching and learning of the new mandatory Civics Program. A designated professional development day or period would be set aside to enable teachers to become comfortable with the course materials and learn how to best teach and engage their students in this new mandatory course.

### Recommendation 4

That a “Teachers in the Legislature” partnership program between social sciences and civics program teachers and the Legislative Assembly be established under the auspices of the Speaker to bring together teachers from across the province to share ideas and learn more about the legislative and political process in our province.

### Recommendation 5

That the following youth education and support activities be developed to promote youth awareness and participation in our democratic system, and support the new focus on civics educational activities in schools and communities:

#### 5.1 “Youth Vote NB”

Creating “Youth Vote NB”, a province-wide mock election program to be held in every middle and high school in the province in conjunction with the next New Brunswick election and subsequent provincial and municipal elections. This youth-run organization, supported by Elections New Brunswick and Student Councils, would help organize the program, work with schools, suggest support activities, and produce and distribute information on issues, candidates, and parties.

#### 5.2 Democracy Awareness Program & “You Can Vote!” Mail Out

Creating a “youth-friendly” democracy awareness program through Elections New Brunswick aimed at informing young New Brunswickers about the importance of the democratic process and voting. Sending a regular mail out from the Chief Electoral Officer to young New Brunswickers as they turn 18 explaining what the act of voting means together with an explanation on our electoral and democratic system.

#### 5.3 “Promoting Democracy in Schools” Program

Developing a “Promoting Democracy in Schools” program involving speaking tours by MLAs, political fairs, election simulations, and debates in schools to promote a more practical understanding of and exposure to how our democratic system works. This would be a uniform policy at the District Education Council level. These activities are to be non-partisan at all times.

#### 5.4 Youth Websites

Creating youth-focused websites by Elections New Brunswick, the Legislative Assembly, and political parties to engage young people to participate in voting, politics, and democracy. The Elections New Brunswick website, in collaboration with Elections Canada, would provide resource materials aimed at youth and at helping students and organizations learn about our democratic institutions and practices. It would also have youth website links.

#### 5.5 Involvement of Parents

Creating a social marketing program to raise the awareness of parents regarding the importance of discussing democratic issues at home and voting with their children. This could be complemented by a “Bring Your Child to Vote” initiative at election time and even a “Bring Your Parent to Vote” initiative.

#### 5.6 Democracy Support Fund

Creating a fund administered by Elections New Brunswick to support events and activities organized by youth groups aimed at promoting the participation of young people in our democratic system. The money could be allocated to a Student Council, for example, to organize a mock election or hold a political fair.

#### 5.7 Student Legislative Seminar and Democracy Camps

Broadening the current Legislative Assembly Student Legislative Seminar to involve more schools and students. Establishing Democracy Camps to give young New Brunswickers who are in high school the opportunity to spend several days to learn more about our electoral, democratic and legislative processes. These camps would be administered by the Legislative Assembly Office and would gather young people from across the province.

### Recommendation 6

That the following steps be taken to facilitate access by youth to the voting process and make it easier for them to vote:

#### 6.1 Online Registration

Encouraging youth voters to register online so as to ease some of the administrative barriers often faced by

youth and students when facing the voting process, particularly for the first time. The Chief Electoral Officer would develop targeted approaches to communicate with high school, university and college students on the registration and voting process. These approaches could include contacting students by e-mail in advance of elections and developing the interactive component to the website of the Chief Electoral Officer to answer queries and provide and receive registration information.

## 6.2 “Vote Where You’re At”

Placing polling stations with electronic tabulation machines on university campuses and in community colleges so student voters residing outside of their home constituency can choose to vote and have their ballot count in their home riding or in the constituency in which they are studying.

### Recommendation 7

That the voting age remain at 18 years.

## Stronger Voices for Women

The Commission on Legislative Democracy recommends the following steps be taken with the goal of increasing the representation of women in New Brunswick’s Legislative Assembly to 35 per cent by the year 2015:

### Recommendation 1

That amendments be made to the *Political Process Financing Act* as a way to achieve gender equality in the Legislative Assembly that would include an increase of the annual allowance to political parties by \$1 per valid vote to any party in which women comprise at least 35 per cent of the candidates in the preceding provincial election. This incentive would be reviewed once the New Brunswick legislature reaches a minimum of 45 per cent women.

### Recommendation 2

That an educational/policy program be created with the objective of financially supporting associations in organizing activities, providing information, or developing programs that would promote the participation of women in municipal or provincial politics.

### Recommendation 3

That the *Elections Act* be amended to require political parties to file with Elections New Brunswick a biannual report on measures taken to increase women’s representation in the legislature. Information on the number and type of positions held by women in provincial and constituency association executives of registered political

parties would be made public by Elections New Brunswick as part of its annual report to the Legislative Assembly.

### Recommendation 4

That the ABC Appointments Unit be required to actively solicit applications from women for vacancies on ABCs, including using established databanks of potential female applicants.

## Stronger Voices for Aboriginal People

The Commission on Legislative Democracy recommends that the following step be taken to increase the voices of Aboriginal people in the democratic life of New Brunswick:

### Recommendation 1

That the Government of New Brunswick invite New Brunswick’s Aboriginal people to meet, discuss and develop an appropriate process to seek the views of Aboriginal people on representation of Mi’kmaq and Maliseet people in the Legislative Assembly of New Brunswick and on their role in the democratic life of New Brunswick.

## A Referendum Act for New Brunswick

### Mandate

*To examine and make recommendations on enhancing direct democracy by proposing a New Brunswick Referendum Act that sets out the rules and procedures for allowing province-wide, binding referendums on significant public policy issues.*

The Commission on Legislative Democracy recommends that the following principles and provisions be adopted as part of any New Brunswick *Referendum Act* in order to ensure that referendums held in New Brunswick are independent, fair, open, transparent and efficient, and encourage the participation and involvement of New Brunswickers:

### Recommendation 1

That the following principles governing the use of referendums in New Brunswick be incorporated in a *Referendum Act*:

- 1.1 **Exceptional Issues** – referendums should be held on exceptional issues only.
- 1.2 **Minority Rights Protection** – no referendums should be held that would have the purpose of undermining or diminishing minority rights as set out in



the Canadian *Charter of Rights and Freedoms*, New Brunswick's *Human Rights Act*, New Brunswick's *Official Languages Act*, *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, or any other act that supports, protects, or advances minority rights in the province.

- 1.3 **Initiated by Government** – referendums should be initiated by government only, not by citizens in the form of citizen initiatives.
- 1.4 **Clear Question** – a referendum question should be clearly written so that it can be answered with either a “yes” or “no” response.
- 1.5 **Binding on Government** – results of referendums should be binding on the government to act.
- 1.6 **Double Majority Support** – referendum results should be binding only when more than 50 per cent of valid votes are in favour of the referendum question and at least 50 per cent of eligible voters voted in the referendum.
- 1.7 **Independent & Transparent** – referendums should be independently supervised by Elections New Brunswick with strict financing, disclosure, and advertising rules to ensure a level playing field for all sides with disclosure to voters of who may be funding or supporting each referendum side.

### Recommendation 2

That the following key provisions regarding the independent supervision and administration of referendums in New Brunswick be incorporated in a *Referendum Act*:

- 2.1 **Timing** – referendums should be held at the same time as provincial or municipal elections. In an exceptional circumstance, government could hold a referendum on a day other than an election day.
- 2.2 **Consultation and Debate on the Question** – Government would consult on the wording of the question with the Leader of the Opposition and the leaders of other political parties represented in the legislature, and the referendum question would be tabled, debated, and adopted by the legislature.
- 2.3 **Referendum Committees** – An official referendum committee for each side of a referendum question be formally established and registered with the Chief Electoral Officer. Only these committees may make expenditures in excess of \$1,000.
- 2.4 **Spending Limits** – Official referendum committees and their affiliates together be limited to spending no more than \$0.75 per voter during the course of a referendum campaign, and all expenditures be audited and reported to Elections New Brunswick.
- 2.5 **Contribution Limits** – limits on contributions to official referendum committees be set at no more than \$3,000 for an individual, corporation, trade union, or political party.

- 2.6 **Financing Rules** – names of contributors of over \$100 to an official referendum committee be disclosed to Elections New Brunswick.
- 2.7 **Registration** – individuals or groups wishing to incur expenses of \$1,000 or less for advertising be required to register with Elections New Brunswick for transparency purposes, but not be required to participate through an official Referendum Committee.
- 2.8 **Information to Voters** – Elections New Brunswick mail to voters a sample referendum ballot and information containing the arguments for and against the referendum question at least 25 calendar days in advance of voting day.

### Recommendation 3

That the policy framework for a draft *Referendum Act* for New Brunswick contained in Recommendation Appendix “K” be considered as a proposed framework for a new *Act*.

## Participatory Democracy and Citizen Engagement in New Brunswick

### Mandate

*To examine and make recommendations on enhancing public involvement in government and legislative decision-making.*

The Commission on Legislative Democracy recommends that the following steps be taken to increase the participation of New Brunswickers in decision-making:

### Participatory Decision-Making

#### Recommendation 1

That the provincial government conduct an awareness campaign with information packages for prospective candidates on the powers and responsibilities of District Education Councils (DECs) and Regional Health Authorities (RHAs), to encourage more candidates to offer to participate in these local decision-making authorities.

#### Recommendation 2

That Elections New Brunswick promote greater voter understanding of how and where to vote for DEC and RHA positions by inserting advertisements similar to the Notice of Grant of Poll advertisements used during provincial elections, that include maps of the boundaries of the various authorities and councils being filled by the elections, the locations of polling stations, and the names, addresses, and contact information of the candidates standing for nomination.

**Recommendation 3**

That Elections New Brunswick publish at least seven days before the date of the quadrennial local governance elections, a short statement prepared by each DEC and RHA candidate.

**Recommendation 4**

That the elected and appointed members of DECs and RHAs receive formal training and orientation so they can more fully understand and exercise their powers and responsibilities.

**Recommendation 5**

That an appropriate per diem be paid to members of DECs and RHAs as compensation for the work and time they undertake as members, and to encourage greater participation in the process.

**Recommendation 6**

That the government initiate a review of DECs and RHAs, in consultation with communities and stakeholders, to determine what is the most appropriate authority for these bodies given community expectations, the need to ensure a more direct correspondence between their mandated responsibilities and actual legislated powers, and to ensure ongoing accountability of public expenditures to taxpayers.

**Recommendation 7**

That following the next municipal elections, the provincial government evaluate the need to create an independent commission to examine local and regional governance in New Brunswick.

**Civic Engagement and Civil Society****Recommendation 8**

That a central Public Dialogue Office with consultation expertise be created within government to assist departments and agencies in undertaking and supporting meaningful consultation and deliberative dialogue with citizens and civil society organizations.

**Recommendation 9**

That a new Civic Engagement Fund, to be administered by the Public Dialogue Office, be created to support civil society groups engaged in various consultation activities with citizens and communities, including conducting research, preparing resource materials, and cost-sharing events.

**Recommendation 10**

That specific guidelines for Open Consultation be developed, shared, published, and utilized across government as an ongoing framework for meaningful consultation with citizens and civil society organizations, and as an important accountability tool.

**Recommendation 11**

That the working group model established by the Minister's Working Group on Violence Against Women be utilized as a model for "best practices" engagement on public policy development for other issues.

**Recommendation 12**

That government explore the value of utilizing "citizens assemblies" and "citizen panels" to engage citizens in deliberative dialogue and/or decision-making on a diverse range of issues.

**Recommendation 13**

That an annual pre-budget consultation process be undertaken by the Minister of Finance that includes a public information document for citizens, province-wide public hearings, and a public appearance before a Standing Committee of the legislature.

**E-Democracy****Recommendation 14**

That a central "e-Town Hall" site be created on the main government website, with a link to the new Public Dialogue Office, listing all consultations being undertaken by government at any one time; their status; how citizens can access information on the consultation issue; and a built-in questionnaire and feedback component for citizens to participate in each process.

**Recommendation 15**

That the results of all e-consultation processes be published on the main government website to share information, demonstrate transparency, and encourage more participation in and use of these engagement tools.



# Chapter 3 - Making Your Vote Count

## A Mixed Member Proportional Electoral System for New Brunswick



### Mandate

*To examine and make recommendations on implementing a proportional representation electoral system for the New Brunswick Legislative Assembly, and propose a specific model best suited for our province that ensures fairer representation, greater equality of votes, an effective legislature and government, and a continued role for directly-elected MLAs representing specific geographic boundaries.*

The Commission believes that the regional form of mixed member proportional (MMP) representation recommended in this report meets the terms of its mandate and represents a significant improvement over New Brunswick's current single member plurality (SMP) electoral system. In reaching this conclusion, the Commission considered the advantages and disadvantages of both the current system and all of the other major systems currently used in democratic nations around the world. This chapter begins with consideration of the principles we believe essential to a New Brunswick electoral system, then examines how both the current system and proportional representation systems reflect these principles. It then explains the *New Brunswick mixed member proportional (NB MMP)* electoral system that we are recommending.

### Electoral Systems and Democratic Principles

Elections are the cornerstone of every democracy. It is largely through elections that citizens exercise their democratic power. Once every four years or so, as New Brunswickers, we engage in a debate of who should lead us, and in what direction. At the end of this discussion, we go to the polls and cast a vote for the government of our choice. The electoral system determines how these individual votes are counted and translated into seats in the legislature.

The electoral system influences many parts of our democratic life, including the kinds of individuals who get elected, the interests that get represented in the legislature, the partisan composition of the legislature, the way voters participate in an election and the functioning of the legislature. These are all important issues, and their

relationship with the electoral system illustrates the importance of the choice of electoral system. Different electoral systems can result in significantly different outcomes without any voters marking their ballot differently.

It is because of the importance of these rules to democratic outcomes that governments across Canada have embarked upon processes aimed at examining the appropriateness of their electoral systems and potentially identifying alternative ways of choosing elected officials. Responding to the general democratic malaise that many Canadians are experiencing, governments are searching for ways to reinvigorate our democracy and many, including the governments of British Columbia, Ontario, Québec, and Prince Edward Island, are engaged in their own electoral reform projects.

We began our process by identifying four key democratic principles that we believe should be reflected in New Brunswick's electoral system if it is to respect the democratic values held by New Brunswickers. These are: **local representation, fair representation, equality of the vote, and effective government.** The electoral system is only one component of our democratic practices and institutions, and it cannot be viewed in isolation, nor can it be expected to single-handedly fix all of the weaknesses one might find with our democracy. That said, the electoral system plays an important role in how each of these principles is addressed.

### Key principles for a New Brunswick electoral system

**Local Representation** - the principle of all geographic areas of the province having a particular representative in the legislature to represent their interests.

**Fair Representation** - ensuring all New Brunswickers' voices are fairly represented in the legislature.

**Equality of the Vote** - ensuring each voter's ballot has equal influence in determining the election's winner.

**Effective Government** - the ability of the system to result in the easy selection of a stable government that is able to govern the province.

All of these principles are related to one another and were considered by the Commission in arriving at its recommendation for a New Brunswick mixed member proportional electoral system. This means that a balanced approach is taken in considering what changes should be made to our current electoral system.

The next sections of this piece examine how both our current system and proportional representation (PR) systems generally measure up against each of these interrelated principles. Our objective is to identify those areas where the current system is serving us well and where it falls short. We then look to proportional representation to see if it offers ways of improving our electoral system. The four identified principles are the criteria for this evaluation.

## The Current System

New Brunswick elections have been conducted using the single-member plurality system since the provincial election of 1974. Prior to then, Members of the Legislative Assembly were chosen on a plurality basis from multi-member districts (normally reflecting county and city boundaries). The Commission believes that the current system has generally served the province well, as New Brunswick has experienced substantial progress during recent decades and has benefited from strong political leadership. Nonetheless, the Commission believes that the current system can be improved by better reflecting the changing democratic norms and values that New Brunswickers currently hold.

### Local Representation

In terms of local representation, there is no doubt that New Brunswickers prefer to have an MLA specifically charged with representation of their geographic community. This is a long-standing tradition in both New Brunswick and Canadian democratic practice that cannot be easily discarded. Local representation ensures that the views and interests of New Brunswick's disparate communities are conveyed to and represented in the provincial capital.

Similarly, local representation provides New Brunswickers with an identifiable representative who they can contact not only with their policy concerns, but also in seeking assistance in accessing provincial government services and programs. To many citizens the constituency service role provided by their MLA is crucial. Approximately one-third of New Brunswickers live in local service districts; these are unincorporated areas of the province with no municipal government. The local MLA takes on added importance in these areas with responsibilities met by municipal councillors in other areas. With each member selected from a relatively small geographic district, voters are able to identify and contact their MLA with little difficulty. In this way, local MLAs provide an important link between New Brunswickers and their government.

While a benefit of the current system is that it provides each area of the province (and thus each voter) with an identifiable representative, one of its weaknesses is that it limits each region (and each voter) to representation in only one party's caucus. Those voters not represented in the government caucus often feel that their voices have less influence. This concern may be particularly salient for residents of local service districts who are dependent upon

the provincial government for delivery of many of their local services.

Somewhat larger, multi-member districts offer the possibility of an area having representation in more than one party caucus in the legislature. Voters could therefore have more than one MLA to turn to when they need assistance from government. In recent elections we have seen our two major parties compete almost evenly within a region, yet because of the workings of the electoral system, one party wins virtually all of the seats in the region. The result is that voters in this area have no representation in the other party's caucus and conversely, that party has no elected official in the region. The last provincial election offers examples of this phenomenon.

In the southeastern part of the province, the Liberals and Progressive Conservatives enjoyed fairly comparable voter support, with the PCs winning 47 per cent of the vote in the 13 ridings in this area and the Liberals 45 per cent. However, when the present electoral system converted these votes into seats in the legislature, the PCs won 10 of the 13 seats. The result is that the Liberal party's legislative caucus has very little representation from this region. No Liberal MLA is speaking for most of this part of the province in the legislature, and Liberal voters in this region do not see their votes resulting in the election of many of their candidates, even though a large number of voters in the area supported Liberal candidates. The same situation, only in the reverse, occurred in the northern part of the province, where the Progressive Conservatives won an equal vote share with the Liberals, but Liberal candidates were elected across most of the region, leaving large areas with no representation in the government caucus. The "winner-take-all" nature of the SMP system encourages these distortions that can lead to voters in a region feeling alienated from one of the major parties, even though a significant number of them may have voted for that party.

### Fair Representation

The single-member plurality system falls short, in representational terms, of ensuring that all New Brunswickers' voices are adequately represented in the legislature. This is true in both descriptive terms (who gets to the legislature) and in terms of which interests or parties are represented. There are too few women, for example, in our Legislative Assembly. The Commission heard, from the NB Advisory Council on the Status of Women and others, that the single member plurality system acts as a barrier to getting women elected to the Assembly. This message was reinforced through the findings of our commissioned research, which concludes that by limiting each constituency to the selection of a single member, it is more difficult for parties and voters to ensure an appropriate gender balance in the legislature. The electoral system is not the only culprit responsible for the under-representation of women; nonetheless, the evidence is clear that single member constituencies make it more difficult for parties to implement plans to increase the number of women candidates and ultimately MLAs. As illustrated in Chapter 5, under *Stronger*

*Voices for Women*, countries with single member plurality systems do not compare favourably with those using other systems in terms of the number of women elected to their legislatures.

The single member constituency system essentially favours candidates who live close to a significant number of voters sharing their political interests, thus allowing them to win a plurality of the vote in a constituency. An interest that is more diverse and spread more thinly throughout the province has little chance of winning a seat. A party can run up a sizable share of the vote in constituency after constituency and not receive any representation in the legislature, because it does not win the most votes in any one constituency. This makes it very difficult for new political interests without a geographic base to break into the system and have their voices heard in the legislature. The New Democratic Party provides an example of this in New Brunswick. While the party routinely wins about 10 per cent of the popular votes cast, it has difficulty in turning these into seats in the legislature because their supporters are found throughout the province and are not concentrated in just a few ridings. The result is that these voters do not have their interests represented in the legislature in numbers comparable to the proportion of the electorate they represent.

**Equality of the Vote**

This leads to a discussion of the equality of the vote, and it is here that we believe the current system is most deficient. As illustrated in the table below, in only one of the past five elections has the current system produced a reasonably equitable conversion of voter preferences into seats in the Legislative Assembly.

**Relationship of votes received by each party and their share of seats in the Legislative Assembly**

	% of popular vote		% of seats in the legislature	
<b>1987</b>				
Liberals	60		100	
PCs	28		0	
NDP	11		0	
<b>1991</b>				
Liberals	47		79	
CoR	21		14	
PCs	21		5	
NDP	11		2	
<b>1995</b>				
Liberals	52		87	
PCs	31		11	
NDP	10		2	
CoR	7		0	

**1999**

PCs	53		80
Liberals	37		18
NDP	9		2

**2003**

PCs	45		51
Liberals	44		47
NDP	10		2

In terms of equality of the vote, several conclusions can be drawn from these five election results. The most obvious is that the current New Brunswick system does not result in an equitable distribution of seats in the Legislative Assembly. The party winning a plurality of the vote tends to receive a significant premium often making its seat share dramatically disproportionate to its share of the popular vote. As a direct consequence, parties finishing second and third typically receive far fewer seats than their share of votes would warrant. This outcome is troubling for a number of reasons, not least of which is that election results should reflect the preferences expressed by voters and not the machinations of an electoral formula.

This disproportionality can lead to serious problems in terms of both equality of the vote and representation in the legislature. Simply put, it is not equitable that 60 per cent of the voters in 1987 elected 100 per cent of the MLAs. The votes cast by the other 40 per cent of New Brunswickers had absolutely no effect on the election results. The outcome would have been identical had these 161,814 New Brunswickers simply stayed home. And while this result is somewhat extreme, the three elections that followed illustrate that it is not anomalous. In each of these three elections, about half of the voters elected 80 per cent of the MLAs while the other half elected just 20 per cent.

The current system results in 'wasted' votes. In each riding, the only votes that count towards deciding the outcome of the election are those cast for the candidate who receives a plurality of the vote in that riding. In a typical New Brunswick riding, candidates of the two major parties may receive 45 and 40 per cent of the vote respectively with 15 per cent spread among other candidates. The 45 per cent of the voters supporting the winning candidate have their votes translated into a seat for that party, while the other 55 per cent of the ballots cast by other voters are essentially unimportant. They have no impact on the election result. Surely, this causes a disincentive to participation in elections. If your favoured party has no chance of winning the most votes in your constituency, you have no way of assisting that party to elect members of the legislature. The sense of political impotency felt by these voters is a serious concern, and we are not surprised to learn, through research conducted for this Commission, that more proportional electoral systems generally lead both to higher voter turnout and to citizens having greater democratic satisfaction. While in both cases the increases are modest (about three to five percentage points in terms of voter

turnout) we cannot ignore the fact that we face declining voter participation rates and significant voter apathy and that the evidence suggests both might be enhanced through an electoral system that treats votes equitably and minimizes the number of wasted votes.

In its most perverse instances, the current system sometimes produces majority governments for parties receiving fewer votes than a single opposition party. This result occurred in New Brunswick in 1974. More New Brunswickers voted for the Liberal party than for the incumbent Progressive Conservative government. Nonetheless, the PCs were returned to comfortable majority status solely because of the way our system translated votes into seats. This outcome is not unique. In the past decade, similar results have occurred in British Columbia, Quebec and Saskatchewan. It is only a matter of time before it happens again in New Brunswick under our current system. We think that voters, and not the machinations of an electoral system, should choose governments.

### Effective Government

In terms of the effectiveness of the legislature and government, the current system receives mixed grades. Supporters of the current system point to the likelihood of it producing strong majority governments. Indeed, New Brunswick has had a long run of consecutive majority governments dating back for almost a century. That the electoral system is an important component in this tradition is illustrated by the results of the 1991 and 2003 elections. Winning parties under the current system are not required to receive a majority of the votes cast in order to win majority government status. Having a majority of the seats in the legislature allows governments to pass their legislative program without legislative gridlock. Nonetheless, the evidence is mixed as to whether voters favour majority or minority governments, and many would prefer to see parties working together in the legislature without one party dictating the legislative agenda, as is often the case in unbalanced legislatures. Similarly, some voters complain that, given the concentration of power on the government side of the legislature, it is inappropriate for a party to receive a majority of the seats, and thus the great bulk of legislative powers, without having received a majority of the votes.

The tendency of the current system to reward winning parties with a seat premium, bringing them to majority status, often comes at the cost of having a sizable opposition within the Legislature. The Commission is concerned with the paucity of opposition representation resulting from several recent provincial elections. Despite the fact that between 40 and 53 per cent of New Brunswickers voted for a party other than the governing one in the four elections between 1987 and 1999, opposition members never comprised more than 20 per cent of the legislature. This makes for a lack of balance in the legislature and in its committee work, as there are often too few opposition members to effectively hold the government accountable - a key function of the Legislative Assembly. And, of course, it is

not that long ago that our current electoral system resulted in a legislature with no opposition members whatsoever. The Commission believes that New Brunswick's electoral system would be improved if it produced a legislature that better reflected the views of voters, thus providing for stronger opposition representation while maintaining the possibility of single-party, majority governments.

The current electoral system, in its production of majority governments, does encourage government stability. Virtually guaranteed of majority support in the Legislature, governments are able to set out long-term plans without fear of facing an early election. Stability is important for the effective governing of the province. The Commission is of the opinion that any change to the electoral system should attempt to preserve this stability and guard against frequent defeats of governments and early election calls.

### Strengths and Weaknesses of our Single Member Plurality System

#### Strengths

- Effective local representation.
- Encourages majority results and stable governments.

#### Weaknesses

- Often severe disproportionality of results, with electoral system, not voters, determining relative competitive position of parties.
- Each constituency represented in only one party caucus.
- Women are significantly under-represented in the legislature.
- Smaller interests without geographic concentration are disadvantaged.
- Often a small or non-existent opposition.

### The Need for Change

*"I believe that the introduction of a tailor-made proportional representation model befitting New Brunswick's political needs is needed." Your Turn Questionnaire, Spring/Summer 2004.*

The Commission did not begin this task as critics of the current system. In fact, we discussed early on the possibility of fulfilling our mandate by recommending the proportional representation system best suited for New Brunswick without passing judgment on whether it would be better than the status quo. However, after lengthy consideration of the single member plurality system and the available alternatives, the Commission believes that the current system is in need of change to better reflect the modern democratic needs and aspirations of New Brunswickers. We believe that a balanced, made-in-New Brunswick system can be

crafted; one that maintains the strengths of the existing system while incorporating new elements that improve upon it. In other words, in opting for change, it is not necessary to throw the baby out with the bath water.

We are not alone in reaching this conclusion. In Prince Edward Island, a year-long study commission led by Judge Norman Carruthers suggested in 2003 that the province would best be served by replacing its single member plurality electoral system with a mixed member proportional representation system. In British Columbia, a Citizens' Assembly of 160 randomly chosen citizens considered this question for almost a year before voting 142 to 11 to recommend that the single member plurality system be replaced by a form of proportional representation. The Government of Québec has also concluded that the current system should be replaced by a regional MMP system and recently introduced draft legislation to this effect. The Ontario government has also announced a process patterned after the B.C. model in which citizens will be asked to consider whether they too recommend a change to their electoral system. The interest in reform is not limited to the provincial level. Earlier this year, the Law Commission of Canada concluded an extensive investigation of the federal version of the single member plurality system with a recommendation to Parliament that the system be replaced by a regional MMP system.

The past decade has also seen other parliamentary democracies moving away from the single member plurality system. In the 1990s, after two referendum votes, New Zealand abandoned its Westminster based SMP system in favour of a MMP electoral system. In the United Kingdom, the new legislatures in Scotland and Wales rejected SMP in favour of a proportional system, and elections to the European Parliament in all parts of the U.K. are conducted using a form of proportional representation. It is also worth noting that in the wake of the demise of the old Soviet Union, not one of the new eastern European democracies adopted SMP as its electoral system. According to a presentation to the B.C. Citizens' Assembly by Dr. David Farrell of University of Manchester, only approximately one in five democratic countries around the world today use SMP compared with three-quarters using some form of proportional representation.

### Evaluating Proportional Representation Systems

There are many forms of proportional representation, and no two are exactly alike. Generally speaking, there are three principal families of proportional representation: the single transferable vote, the party list system, and the mixed member proportional system, and there are many variants of each of these. The Commission studied each of these systems in some depth. Rather than detail each in this section, we identify the general tendencies of proportional representation systems, and evaluate them against the four central principles identified above. The purpose of this investigation is to identify those traits of proportional

electoral systems that would improve New Brunswick's system.

### Local Representation

By definition, proportional representation requires multiple member districts. District magnitudes range from a low of three elected representatives in Ireland's single transferable vote system to cases such as the Netherlands, where the entire country is essentially a single electoral district, electing all 150 members of the legislature. In between are the regional party list systems. A crucial difference in terms of local representation between these systems and our current one is the absence of single member constituencies, and the resulting increase in the size of the electoral constituency.

In our view, it is important for voters to have a strong tie with their representatives, and this is facilitated through relatively small electoral districts. Adopting a system of pure proportional representation would lead to an increase in the size of constituencies, potentially making MLAs more remote from voters. Of course, this varies dramatically depending on the district magnitude of the system. Nonetheless, simply in terms of providing each voter with an identifiable representative from their community, SMP on its own offers more effective and accountable local representation.

PR systems do, however, offer a positive element in terms of local representation. In all of them, each local area has more than one MLA, and in most cases this means representation in more than one party caucus. Under our proposed NB MMP system, this would likely result in voters having representation in both the government and opposition caucuses. This may be a benefit for a number of reasons. First, it provides access to the government caucus for voters in all regions of the province; second, it may spawn competition among MLAs from the same region to provide better constituency service - something voters would likely appreciate. The key in terms of local representation and proportional representation is to ensure that the multi-member districts are not so large as to make MLAs remote and essentially unaccountable.

### Fair Representation

While there are many factors that influence the under-representation of women in our legislature, there is no denying that the electoral system is one of them. Many studies have established that, all else being equal, electoral systems based on proportional representation elect a greater number of women than do those with a single member plurality system. Electoral systems establish the rules governing our elections, and can create either structural barriers or opportunities for the representation of women and other under-represented groups. Essentially, if a party desires to increase opportunities for women, proportional representation offers that party more opportunity to accomplish this objective than does the single member plurality system.



*“Proportional representation aims to provide fairer, more balanced results. One-party sweeps can be avoided, the Opposition will have a stronger voice and smaller parties may find a place in the legislature. A wider range of voter opinion will be represented in the Legislative Assembly. These are the benefits of more proportional representation; they are the objectives that must be kept in mind when designing the reform.”* Response to *Options*, New Brunswick Advisory Council on the Status of Women, October 2004

The first reason for PR’s positive effect on representation is the presence of multi-member constituencies. Parties in these constituencies are able to nominate more than one candidate. This allows for a balancing of candidates on a number of bases including gender. When nominating five candidates in a multi-member district, for example, there would be strong pressure placed upon a party to ensure that women are included on the list. This is in contrast to the SMP system in which each local constituency selects only one candidate. There is no opportunity for gender balancing at the constituency level. Rather, each constituency is charged with nominating only one candidate. Our research and own experience in New Brunswick shows that when given this task, local party associations for a variety of reasons will select a male candidate more often than not.

The second characteristic of PR systems that provides an opportunity for an increase in the number of women being elected is that the central party tends to have more influence over the nomination of candidates than is the case in SMP systems. New Brunswick is typical of Canadian jurisdictions in that authority over the selection of candidates is generally devolved to the local members. This makes it very difficult for a party to take effective steps to increase the number of women nominated. In PR systems, nominations in larger multi-member districts provide a party with more opportunity to ensure an equitable number of women are nominated.

Proportional representation systems also make it easier for relatively smaller, non-geographic interests to achieve representation in the legislature. Essentially, they allow for more diversity in the number and types of voices heard. Because these systems award seats on a proportional basis, interests that are not geographically concentrated are not penalized as they are under the SMP system. Increasing the ability of voters to elect members to the legislature that represent the interests they are concerned with is an advantage of PR. This encourages voters to participate within the electoral and party systems and not to opt out or to participate solely through interest groups and social movements. We heard from young New Brunswickers, in particular, that they are frustrated with an inability for new interests to find a voice in the existing system.

We are also concerned with regional representation within party caucuses. In PR systems, the major parties’ legislative caucuses typically include representatives from all of the

regions of the jurisdiction, providing they win a modest share of the vote in each region. This differs from SMP, which, as illustrated earlier in this chapter, often results in the under-representation of parties in particular regions. We think that broad regional representation in a province as diverse as New Brunswick is important to ensuring that the major parties consider the views of all New Brunswickers in adopting their public policy positions.

### **Equality of the Vote**

Proportional representation systems do a significantly better job than SMP systems in treating all votes equally in two principal ways: first, there is a much closer relationship between the share of votes a party receives and the share of seats it wins in the legislature; and second, virtually all votes influence who gets elected, with substantially fewer being ‘wasted’.

In the simplest of proportional representation systems, the percentage of seats a party wins in the legislature is almost exactly equal to its share of the popular vote. Such a system truly treats each vote equally with none being wasted. Most PR systems offer somewhat less proportional results: by introducing both a threshold share of the vote a party must receive in order to win seats, and by having their list members elected from regions, thus introducing some marginal amount of wasted votes. Nonetheless, all forms of PR produce a much stronger relationship between the share of votes a party receives and its share of seats in the legislature.

An important result of this is significantly greater balance within the legislature. Under any of the PR systems, we would not have a recurrence of the pattern observed in the 1980s and 1990s in New Brunswick, when government parties dominated the legislature. In each of these elections, if voter behaviour remained fairly similar, a PR system would have returned between a third and a half of the seats to the opposition parties - a result considerably more reflective of the votes cast than that achieved under SMP.

*“Winner takes all very poorly represents the voice of citizens. With essentially two major parties in NB, this often leads to compromise voting rather than voting for the candidate of choice.”* Your Turn Questionnaire, Spring/Summer 2004.

Most PR systems include relatively modest thresholds, commonly in the five per cent range, that parties must reach in their share of the popular vote in order to be eligible for seats in the legislature. This is for two reasons: to prevent fragmentation of the legislature with the election of a great number of small or fringe parties, and to minimize the number of wasted votes not counting towards the election outcome. It is important to remember that this threshold, while effective in keeping out such parties, would allow a far greater number of votes to actually count towards the election result than is the case under SMP, where all votes

except those cast for the candidate receiving the most votes are essentially wasted.

### Effective Government

One effect of the greater proportionality in results in PR systems is that they are less likely to produce majority governments. Majority governments only result when a single party receives (or nearly receives) a majority of the vote. As we have seen, the SMP system in New Brunswick has resulted in the winning party receiving a majority of the vote in only three of the past five elections, although in each case a majority government was formed. Under a PR system in which voters have more incentive to support smaller parties than under SMP, it is likely that this frequency would decrease somewhat.

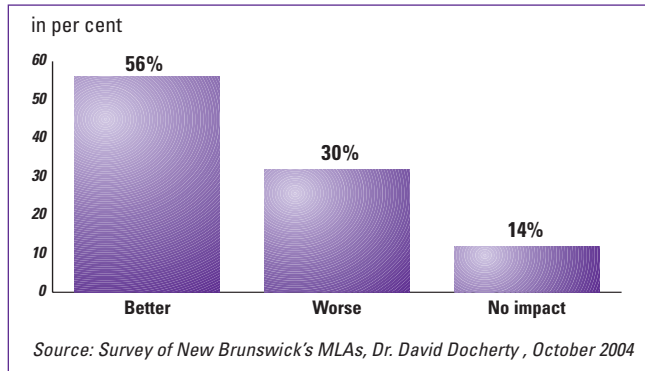
Critics of PR argue that the increase in the number of parties and the increase in minority and coalition governments create democratic instability. While there is some evidence to support this argument, a close examination illustrates that there is a great range of experiences in this regard that seems to depend not only on the details of the PR system in use but also on a country's political culture. PR systems in countries such as Germany, Sweden and Ireland (all with different types of PR) do not appear particularly unstable, while others such as Italy and Israel may raise concerns in this regard. An independent commission examining Britain's experience with PR concluded in 2004 that the Scottish and Welsh coalition governments have not been "necessarily weak or ineffective."

Through original academic research conducted for the Commission by Dr. André Blais, Peter Loewen and Maxime Ricard of Université de Montréal, we learned that there is generally a difference of only seven months in terms of the longevity of governments between SMP and PR systems, with governments under the latter lasting for shorter periods. Again, however, there is substantial range and the difference seems to be largely an effect of whether a minority or coalition government is elected. PR systems that produce majority governments do not appear to change governments significantly more frequently than do SMP systems.

There is also some evidence that Canadians are not opposed to the possibility of minority government. The Commission heard both from MLAs and the public that they would like to see more opportunity for members of different parties to work together in the Legislature.

As seen in the chart below, a majority of New Brunswick MLAs who responded to the Commission survey conducted independently by Dr. David Docherty, of Wilfred Laurier University, believe that minority government might provide opportunities to produce better public policy.

### Do you believe that minority government might provide opportunities to produce better public policy?



Minority and coalition governments create these opportunities. This may partially explain why further research, conducted for the Commission by Dr. André Blais and Peter Loewen of Université de Montréal, found that voters in countries with more proportional electoral systems report greater overall democratic satisfaction than is the case in SMP countries.

### Strengths and Weaknesses of Proportional Representation Electoral Systems

#### Strengths

- Election outcomes closely reflect voters' preferences as expressed through their ballots.
- All votes have equal influence in the result and few are 'wasted'.
- Women and other under-represented groups tend to have an easier time getting elected.
- Legislatures tend to be more balanced between government and opposition members, better reflecting the will of voters.
- Voters often have representation in both government and opposition caucuses.

#### Weaknesses

- Some PR systems lead to considerable fragmentation and thus instability in the legislature.
- Voters do not have a single legislator representing their geographic community and directly accountable to them.

This examination of alternative electoral systems leads us to conclude that there are strengths and weaknesses in both the SMP and PR systems. On balance, we believe that by incorporating some of the benefits of PR systems into our SMP system, we can create a better electoral system for New Brunswickers. That is, a system that regularly produces more balanced legislatures, results in a more proportional translation of votes into seats, removes some of the obstacles women face in seeking election, no longer is a disadvantage to smaller parties, and both maintains the

tradition of single member constituencies and creates opportunity for voters to be represented on both sides of the legislature. To do this, we look to a system called mixed member proportional (MMP).

While commonly considered a type of proportional representation, more accurately, this is a system that brings together the best characteristics of SMP and PR systems. In an MMP system, voters have both a single member constituency representative and representatives chosen in a proportional way from party lists. By maintaining the tradition of local representation, producing broadly proportional results and making it somewhat easier for new entrants and those traditionally under-represented to compete, MMP provides a more balanced electoral system than either the pure PR or SMP systems.

MMP is the system recently adopted by several jurisdictions with both long-standing SMP traditions and governmental systems similar to New Brunswick. New Zealand, Scotland and Wales have all recently adopted MMP in an attempt to keep the benefits of local, single member representation and at the same time improve their system by adding elements of proportionality. Scotland and Wales have even done so on a regional basis, as we are recommending. We believe this to be the best approach for New Brunswick. In the next section, we outline the form of MMP that we believe best suited for our province.

### Fashioning An Alternative Electoral System For New Brunswick

In considering alternative electoral systems, the Commission committed itself at its very first meeting to recommending a system that best reflects the democratic needs and aspirations of New Brunswickers. This approach means that the Commission has not simply considered the various systems used elsewhere and chosen the one it likes best. Rather, we have considered the component parts that comprise an electoral system and in each case are recommending the approach we believe best suited for our province. The electoral system recommended by the Commission, while similar in many respects to the electoral systems used in other countries, is not a carbon copy of any, but rather a made-in-New Brunswick system that best reflects the province's needs, electoral circumstances, and the democratic traditions and aspirations of New Brunswick and its citizens.

As discussed above, we decided early on that any acceptable electoral system would have to include both broad proportionality and local representation. We are not of the opinion that absolute proportionality is essential, but do believe that election outcomes must better reflect voters' preferences. Similarly, while not wedded to the current system of 55 MLAs from single member constituencies, we believe that voters from local communities should continue to elect their representatives to the provincial Legislative Assembly. Given these priorities, and after careful

consideration and study of many different systems, we have ruled out both a pure PR system and continuation of SMP as the best electoral system for New Brunswick. Rather, we recommend the mixed member proportional electoral system as the general type best suited to our needs. We believe this model offers the greatest opportunity of crafting a made-in-New Brunswick electoral system that respects our central principles.

As a further step in our deliberations, and to test the mixed member proportional representation electoral system we are recommending for New Brunswick, the Commission invited leading experts on electoral systems to consider our proposed model at a PR Roundtable at the Université de Moncton in September of 2004. There was a general consensus among those assembled that the elements of our proposed NB MMP system are sound, and that the system we are recommending will meet the tests of providing local representation, fair representation, equality of the vote, and effective government.

### A New Brunswick Mixed Member Proportional System (NB MMP)

*"The mixed member Proportional Representation System is interesting because it corrects some weaknesses of the actual system, while keeping certain advantages, like the single member ridings and the possibility of an efficient government that would not be affected by an overly fragmented Legislature. Another undeniable advantage of this system is to allow all votes to count, by ensuring representation of minority voices with a 5 per cent threshold. Such a system would be more representative of the growing political diversity in our society, therefore would be more democratic."*  
Submission by the Société des Acadiens et Acadiennes du Nouveau Brunswick, October 2004.

In a mixed member proportional system, members are elected in two different ways. Some are chosen through single member constituencies and some through party lists. Those chosen from single member constituencies are elected in precisely the way they are today - the one candidate with the most votes wins. Those chosen from the party lists are chosen on a proportionate basis with adjustment made to correct for disproportionality in the single member constituency elections. In other words, this type of system combines the proportional results of a list PR system with the local representation of a single member riding system.

### Balance of Constituency and Party List MLAs

In crafting a mixed member system, our first task is to consider the appropriate balance of single member constituency representatives and representatives elected from party lists. Essentially, we are faced with two questions: *first*, what is the appropriate size of a single member constituency, and *second*, what proportion of

members need to be chosen from party lists in order to achieve a broadly proportional result?

In considering the first question, we recognize that the average number of electors in a current provincial constituency is 10,238. This gives New Brunswick one of the fewest number of electors per riding in the country. Of course, this reflects the small population of the province and its relatively large geographic size. These numbers suggest that the average constituency size can be enlarged without greatly jeopardizing the quality of local representation.

Concerning the second question, the Commission learned through expert testimony and examination of experiences of other electoral systems that about one-third of the legislature's members have to be elected from party lists in order to ensure broadly proportional results. Accordingly, we recommend that New Brunswick adopt an electoral system with 36 members elected from single member constituencies and 20 elected from party lists. This increase from 55 to 56 members is explained below.

This recommendation increases the population of the average electoral district to 15,641, which is still considerably smaller than most other provinces. In our estimation, 36 is a sufficient number of single member representatives to ensure strong ties between local communities and individual constituents with their elected representatives. The recommended increase in resources for constituency representation set out in the part of Chapter 4 entitled *Enhancing the Role of MLAs and the Legislature*, will assist MLAs in meeting any increase in constituency service demands brought about by this change. It is important to note that the 20 MLAs elected from party lists will also be engaging in constituency service, so this responsibility will not lie completely with MLAs chosen from the single member constituencies.

### **Regional Multi-Member Districts**

We believe New Brunswick's particular circumstances are best served if the MLAs chosen from the party lists are elected on a regional basis. We recommend the creation of four regional districts, with each region electing approximately nine single member constituency MLAs and five MLAs chosen from a region-wide party list. We believe that four is the appropriate number of regions to ensure that party list MLAs represent a distinctive part of the province. While the drawing of regional boundaries should be left to a boundaries commission, it is our view that the regional boundaries should be drawn to create one region across the northern section of the province, one region in the centre of the province, one region in the southwest of the province and one region in the southeast of the province, as contained in Background Appendix "II". We believe that these four regions provide an appropriate reflection of the cultural and linguistic communities comprising the province.

Electing five party list MLAs from each of four regions will also allow for broad proportionality. We heard from experts on electoral systems that electing fewer than five list MLAs from each region would significantly decrease the likelihood

of achieving overall proportionality. Electing at least five party list MLAs in each region is also important in encouraging the election of women and others from under-represented groups. Smaller lists would make this result less likely.

### **Size of the Legislature**

We are recommending an increase in the size of the legislature from 55 to 56 members if the New Brunswick MMP system is adopted. This very modest increase results from three conclusions. First, we believe that there should be no fewer than 36 single member districts. Fewer than this would make our constituencies too large and weaken the advantages of single member representation discussed above. Second, we believe that at least one-third of the total seats must come from party lists in order to achieve broad proportionality and increase the diversity of voices elected to the legislature. And, third, we think it important to leave open the possibility of a boundaries commission drawing four regions with the same total number of MLAs in each. This means that both the number of single member constituencies and the number of list members must be divisible by four. Given all of these constraints, and reflecting our general view that the current legislature size is more or less appropriate, we recommend an increase of one additional MLA.

### **A Two Vote System**

A common frustration heard under SMP is that voters are forced to choose between the party they prefer to govern and the local candidate of a different party that they believe would make the best MLA. In the NB MMP system, voters in future provincial elections will be able to express both of these preferences by casting two ballots: one for the local candidate of their choice, and one for their preferred party. This provides greater voter choice.

As discussed earlier, the province will be divided into 36 single member constituencies. Voters in each constituency will continue to elect an MLA in exactly the way they do under the current system. Parties will nominate a single candidate in each constituency and the one candidate with the most votes will be elected. As illustrated on the next page, this ballot is identical to the one currently used in constituency elections.

**Constituency Vote**

This vote will help to decide the local single member riding candidate of your choice. Vote by marking your preference beside the candidate of your choice.

**Vote for one candidate ONLY**

**John DOE**

Current Government Party

**Lise LEBLANC**

Official Opposition Party

**E.V. (Ed) WHITE**

Other Recognized Party

**Francis LANDRY**

Independent Candidate

**Party Vote**

This vote will help to decide the total number of seats for each party in your region. Vote by marking your preference beside the party of your choice

**Vote for one party ONLY**

**Current Government Party**

candidate 1

candidate 2

candidate 3

candidate 4

candidate 5

**Official Opposition Party**

candidate 1

candidate 2

candidate 3

candidate 4

candidate 5

**Other Recognized Party 1**

candidate 1

candidate 2

candidate 3

candidate 4

candidate 5

**Other Recognized Party 2**

candidate 1

candidate 2

candidate 3

candidate 4

candidate 5

On their other ballot illustrated opposite, voters choose their preferred party. Voters may choose a candidate of one party on their constituency ballot and vote for a different party on the second ballot. The party ballots are counted on a region-wide basis.

The party list seats are allocated in a manner that achieves broad proportionality between a party's share of the party ballot vote and their share of the 14 seats in the region. The underlying principle is that each party's total number of seats in a region should reflect their share of the party vote. Party list seats are used to top up seats won in the single member constituencies to achieve this result.

## D'Hondt Electoral Formula

To calculate the allocation of seats, we recommend the adoption of the D'Hondt electoral formula, as it best strikes the balance of broad proportionality while maintaining the possibility of majority and single party governments. This counting formula, widely used in PR systems in Europe, can be summed up as: the highest average and the lowest divisor in terms of calculating the 'cost' of a seat. The details, along with an example of how this electoral formula operates, are found at the end of this section.

## Vote Threshold

As illustrated in the examples found below, the recommended electoral system has a built-in threshold of approximately six to seven per cent of the vote in each region. This means that in order for a party to win a list seat, it likely needs to receive at least this share of the party vote in a region. We believe this is appropriate in order to protect against undue fragmentation in our party system. This minimal threshold, while not an explicit requirement but rather a result of the electoral formula, ensures that parties with some modest electoral support in a region will have representation in that region, even if they are unsuccessful in all of the single member constituencies.

In addition to this implicit regional threshold, we believe that parties should have some minimal support across the province in order to win list seats on the basis of their party vote. This requirement protects against the rise of parochial, regional parties. We recommend that a party be required to meet a five per cent provincial threshold in its share of the party vote in order to be eligible to elect party list members in any region. A five per cent threshold is consistent with that used in many other western democracies and is the level that was recommended to us by experts on comparative electoral systems.

## Closed Party Lists

Party list systems used in different countries vary in terms of whether the lists are 'open' or 'closed.' In an open list, parties nominate a list of candidates and voters are able to rank order the proposed candidates. In a closed list, the parties determine the rank order of their nominated list candidates. The rank ordering is important, as typically only those names towards the top of a party's list will be elected. In our proposed system, each party would present a list of five names in each region. Often, as illustrated in the examples below, a party would elect one, two or even three names from a regional list. The actual candidates elected are determined by the rank ordering - if a party is entitled to two list MLAs from a region, the top two candidates on their list are elected, either as ordered by the party or as ranked by the voters.

The Commission gave great consideration to the issue of whether an open or closed list is best for New Brunswick and we heard conflicting views. Understandably, voters generally seem to favour open lists as this increases the amount of choice they have. In an open system, voters not

only determine how many list MLAs each party receives, their votes directly determine who these MLAs are. On the other hand, we heard from both the Advisory Council on the Status of Women and from academic experts that closed lists are more likely to result in a substantial increase in the number of women elected. We also heard from both experienced politicians and from students of political parties that open lists would lead to a sharp increase in intra-party competition during general elections that might well lead to a general decline in the health of our parties, and how they are perceived by the public. The Commission is also concerned that an open list might result in voters from a large city within a region ranking candidates from that city at the top of the list, at the expense of candidates from other less populated parts of the region. Finally, we heard that open lists with a preferential ballot could be confusing to voters, requiring them to make as few as three and as many as eight choices for each ballot. This could significantly increase the number of spoiled or invalid ballots.

*"The Advisory Council believes that the advantages of the closed list far outweigh those of the open list." Advisory Council on the Status of Women, Public Hearing, Fredericton, October 2004.*

After much deliberation, the Commission concludes that closed lists would be best for New Brunswick. Closed lists will encourage parties to ensure that their nominated candidates (and the rank order of candidates) in each region best reflects their representational values in terms of gender, geography, language and other important considerations. Voters will judge them accordingly. In reaching this conclusion, the Commission recognizes that this is not really a diminution of current voter choice. In our single member plurality system, party members choose the parties' candidates, not voters. Nonetheless, the Commission believes that the adoption of closed party lists makes it imperative that parties conduct open nomination contests, and voters have easy access to participation in candidate selection processes. Thus, the Commission is recommending in the part of Chapter 4 entitled *Improving Party Democracy*, a series of steps that parties take to ensure that all interested voters are able to participate in a meaningful way in the selection of candidates both in the single member constituencies and on the party lists.

## Prohibition on Dual Candidacies

The Commission recommends that candidates not be able to present themselves in both a single member constituency and on a party list for the same election. The Commission heard that in some jurisdictions where candidates are able to run simultaneously on both ballots, voters are displeased with the case where a candidate is not successful in a single member constituency, but is elected anyway by virtue of being placed on the top of a party's list. This is a particularly salient issue if a closed list is adopted. The Commission is of the view that if a candidate chooses to run

in a single member constituency, the voters in that constituency should determine whether that candidate is elected, and that there should be no back door to the legislature.

### Filling Vacancies

The adoption of a mixed member proportional system requires a new provision for filling vacancies that may result during the term of a legislature. Vacancies in the single member constituencies will continue to be filled through a by-election. There is no need to fill vacancies that result from the departure of an MLA elected from a party list through a by-election. Rather, the highest-ranking eligible candidate from the previous election, on the same party list as the outgoing MLA, will be deemed elected to finish the incumbent's term. As the list MLA is elected by virtue of that particular party's share of the vote, it is that party's candidate who should be deemed elected. In the exceptional event where there is no eligible candidate remaining on a party's list, the party would hold a nomination vote of its members within that region to select an additional candidate to be added to the list, and that person would complete the term of the departing MLA.

### How Does the Proposed New Brunswick Mixed Member Proportional Representation System Work?

To illustrate both how the recommended NB MMP system works and the types of results we can expect it to produce, we have modeled the 1995, 1999 and 2003 provincial elections using this system. It must be said at the outset that these are not predictions of what would have happened in these elections under the recommended system, as voter behaviour can change under a different electoral system. For example, comparative experiences suggest that smaller parties such as the NDP fare better under a more proportional system as some voters who believe they are wasting their vote by supporting such a party in a single member constituency, where its candidate has no chance of winning, are willing to cast their party ballot to support the party. Similarly, we are unable to estimate how many voters would have chosen a candidate from one party in their constituency and supported a different party on their second ballot. Accordingly, in the examples below, we assume that voters cast both of their ballots for the same party as if they had a single vote.

Modeling results under this system also requires defining the borders of the four multi-member districts. The Commission believes that this is the responsibility of an independent boundaries commission. Nonetheless, for illustrative purposes only and consistent with the general guidelines expressed above concerning where these boundaries should be drawn, we have created four multi-member districts. Background Appendix "II" details which current provincial electoral districts fall within each of the four regional multi-member districts. The final boundaries as drawn by a boundaries commission will necessarily differ, as the

boundaries of the single member constituencies, which influence the larger districts, will change to reflect population shifts and the reduction from 55 to 36 single member constituencies.

We begin with the 2003 election and a detailed illustration of how the system would work in one of the four regions.

This example, using the D'Hondt electoral formula, is for the proposed multi-member district in northern New Brunswick. For illustrative purposes, we group the following existing provincial ridings into this district:

Grand Falls Region	Nigadoo-Chaleur
Madawaska-la-Vallée	Bathurst
Madawaska-les-Lacs	Nepisiguit
Edmundston	Caraquet
Restigouche-West	Lamèque-Shippagan-Miscou
Dalhousie-Restigouche-East	Centre Péninsule
Campbellton	Tracadie Sheila

Each of the four multi-member districts elects nine MLAs from single member constituencies and five from party lists. The next step in creating an NB MMP system would be for a boundaries commission to draw nine single member constituencies in this region. As discussed above, these elections will be conducted identically to the way we currently elect our MLAs. The candidate with the most votes in each constituency is elected.

#### Step 1 - Election of single member constituency MLAs.

In the 2003 election, Liberal candidates were elected in nine of the single member constituencies in this region and Progressive Conservative candidates in the other five. We estimate that if this region had been divided into nine single member constituencies the Liberals would have won six of these ridings and the PCs three.

Party	Liberals	PCs	NDP
Const. seats	6	3	0

#### Step 2 - Calculation of the party vote.

	Liberals	PCs	NDP
Party vote	45,116(46.0%)	47,605(48.6%)	5,313(5.4%)

This is the share of the vote received by each party on the second, party ballot in the entire region (combined for all nine constituencies). If a party does not receive at least five per cent of the total provincial party vote, they are eliminated at this stage. In this example, all parties reached this threshold.

#### Steps 3-8 - Allocation of party list seats.

	Liberals	PCs	NDP
	/7	/4	/1

The next step in the allocation of the five list seats is to adjust each party's vote share for seats won in the

constituencies. We do this by dividing each party's total vote by the number of constituency seats won, plus one. Liberal candidates won six seats so we divide their vote total by 7 (6 +1), Progressive Conservative candidates won three seats so we divide their vote share by 4 (3 +1).

	<b>Liberals</b>	<b>PCs</b>	<b>NDP</b>	
<b>Step 4</b>	6,445	<b>11,901</b>	5,313	<b>PC seat</b>

The PCs have the highest 'average' so they win the first list seat.

	<b>Liberals</b>	<b>PCs</b>	<b>NDP</b>	
<b>Step 5</b>	6,445	<b>9,521</b>	5,313	<b>PC seat</b>

Next, we again divide the PC vote - this time by 5 (4 +1) - and award the second seat to the party with the highest average - the PCs.

	<b>Liberals</b>	<b>PCs</b>	<b>NDP</b>	
<b>Step 6</b>	6,445	<b>7,934</b>	5,313	<b>PC seat</b>

We again divide the PC vote - this time by 6 (5 +1) - and award the third seat to the party with the highest average - the PCs.

	<b>Liberals</b>	<b>PCs</b>	<b>NDP</b>	
<b>Step 7</b>	6,445	<b>6,800</b>	5,313	<b>PC seat</b>

We again divide the PC vote - this time by 7 (6+1) - and award the fourth list seat to the party with the highest average - the PCs.

	<b>Liberals</b>	<b>PCs</b>	<b>NDP</b>	
<b>Step 8</b>	<b>6,445</b>	5,951	5,313	<b>Lib seat</b>

We again divide the PC vote - this time by 8 (7+1) - and award the fifth list seat to the party with the highest average - the Liberals.

**Total seats:**

With 48.6 per cent of the party vote, we estimate the PCs would win seven of the 14 seats in this region (three from the constituencies and four from the list).

With 46.0 per cent of the party vote, we estimate that the Liberals would win seven of the 14 seats in this region (six from the constituencies and one from the list).

The NDP, with only 5.4 per cent of the party vote, win no seats in this region.

This is a far more proportional result than that achieved under the current electoral system. The PCs won a plurality of the vote in this region while the Liberals won almost twice as many seats.

We show below the results we estimate with our recommended system for each of the four regions, compared with the actual results from the 2003 election. In each case, the NB MMP system produces a considerably more proportional result at the regional level, where the PCs

and Liberals receive seats in each region in proportion to their vote; and at the provincial level, where the NDP receives seats more in proportion to their share of the vote.

	<b>PCs</b>	<b>Liberals</b>	<b>NDP</b>
<b>District 1 (North)</b>			
Vote share	48.6%	46.0%	5.4%
Seats won	5 (35.7%)	9 (64.3%)	0
Seats won under PR model	7 (50%)	7 (50%)	0
<b>District 2 (Centre)</b>			
Vote share	45.1%	44.1%	10.7%
Seats won	7 (50%)	7 (50%)	0
Seats won under PR model	7 (50%)	6 (42.9%)	1 (7.1%)
<b>District 3 (Southeast)</b>			
Vote share	47.6%	45.1%	7.3%
Seats won	10 (76.9%)	3 (23.1%)	0
Seats won under PR model	7 (50%)	6 (42.9%)	1 (7.1%)
<b>District 4 (Southwest)</b>			
Vote share	40.7%	42.9%	16.4%
Seats won	6 (42.9%)	7 (50%)	1 (7.1%)
Seats won under PR model	6 (42.9%)	6 (42.9%)	2 (14.3%)
<b>Provincial totals</b>			
Vote share	45%	44%	10%
Seats won	28 (50.9%)	26 (47.3%)	1 (1.8%)
Seats won under PR model	27 (48.2%)	25 (44.6%)	4 (7.1%)

The final result in terms of number of seats is similar for both the Liberals and Progressive Conservatives. The principal difference is that the New Democrats' seat total increases from one to four. This overall result, however, masks some important changes within the regions. Note that the actual results from the SMP system produced highly disproportionate results in both the northern and southeastern regions. These worked in opposite directions and essentially cancelled each other out in the overall result. Nonetheless, in the northern region of the province, PC MLAs were elected only in the far corners of that region, even though a plurality of voters supported their candidates. With the introduction of party list seats, all voters in this region would have representation in both the government and opposition caucuses, reflecting the split vote between these two parties.



**1995 Provincial General Election Results Simulation under MMP (4 Regions)**

Multi-member District	Liberals	PC	NDP	COR
<b>Region 1: North</b>	8 seats (1 list; 7 constituency)	5 seats (3 list; 2 constituency)	1 seat (1 list)	
<b>Region 2: Centre</b>	8 seats (8 constituency)	4 seats (3 list; 1 constituency)	1 seat (1 list)	1 seat (1 list)
<b>Region 3: Southeast</b>	9 seats (9 constituency)	3 seats (3 list)	1 seat (1 list)	1 seat (1 list)
<b>Region 4: Southwest</b>	7 seats (7 constituency)	4 seats (3 list; 1 constituency)	2 seats (1 list; 1 constituency)	1 seat (1 list)
<b>TOTAL</b>	32 seats (1 list; 31 constituency)	16 seats (12 list; 4 constituency)	5 seats (4 list; 1 constituency)	3 seats (3 list)
<b>% of seats</b>	57%	29%	9%	5%
<b>% of votes</b>	51.6%	30.9%	9.6%	7.1%
<b>Actual 1995 # and % of seats</b>	48 seats (87%)	6 seats (11%)	1 seat (2%)	0 seat

**1999 Provincial General Election Results Simulation under MMP (4 Regions)**

Multi-member District	Liberals	PC	NDP
<b>Region 1: North</b>	6 seats (3 list; 3 constituency)	7 seats (1 list; 6 constituency)	1 seat (list)
<b>Region 2: Centre</b>	6 seats (5 list; 1 constituency)	8 seats (8 constituency)	0 seats
<b>Region 3: Southeast</b>	5 seats (3 list; 2 constituency)	8 seats (1 list; 7 constituency)	1 seat (list)
<b>Region 4: Southwest</b>	5 seats (4 list; 1 constituency)	8 seats (1 list; 7 constituency)	1 seat (constituency)
<b>TOTAL</b>	22 seats (15 list; 7 constituency)	31 seats (3 list; 28 constituency)	3 seats (2 list; 1 constituency)
<b>% of seats</b>	39%	55%	5%
<b>% of votes</b>	37.3%	53%	8.8%
<b>Actual 1999 # and % of seats</b>	10 seats (18%)	44 seats (80%)	1 seat (2%)

Similarly, in the southeast region, the Liberals won less than a third as many seats as the PCs, despite having an almost equal vote share. The proposed NB MMP system would correct for Liberal under-representation in this district and ensure that voters from each region have representation in both caucuses commensurate with their voting preferences. Similarly, under the NB MMP model, the NDP would elect members from three of the four regions reflecting the breadth of their support.

The tables on the previous page show similar results for the 1995 and 1999 elections. In both cases, the opposition parties fare significantly better under NB MMP, resulting in a legislature with a sizable opposition better reflecting the voters' preferences and desire for accountability. Again, we see better regional and overall provincial representation within party caucuses on both sides of the legislature.

We note that in several cases, parties are electing three, four, and even five members from a regional list. We see this as an advantage as it increases the likelihood of non-traditional candidates such as women being elected.

We also note that our simulations for 1995 and 1999 result in majority governments reflecting the fact that a majority of voters voted for one party. The issue of government stability under the NB MMP system was discussed by experts at the PR Roundtable convened by the Commission at the Université de Moncton. There was a general consensus among those assembled that the proposed system would not lead to dramatic fragmentation in our party system. Analysts suggested that while there may likely be a slight increase in the number of competitive parties, majority and strong single party minority governments remained highly likely results. As Dr. Alan Siaroff of the University of Lethbridge, the Commission's academic expert on electoral systems in smaller jurisdictions, concluded in his original research paper:

*"...how many more relevant parties, how much slower government formations, and/or how much more unstable governments is one willing to accept as a likely trade-off for higher proportionality? The good news here is that these trade-offs are not likely to be as sharp in small legislatures such as that of New Brunswick and the four cases of focus in this analysis."*

### **Advantages of the New Brunswick Mixed Member Proportional Electoral System**

#### **Local Representation**

- All voters will continue to elect a single member from their local electoral constituency.
- Voters will also elect five MLAs from a regional list, making it likely that each voter will have representation on both sides of the legislature.

#### **Fair Representation**

- Parties will receive a share of seats in the legislature broadly corresponding with their share of the popular vote.

- The major parties will have representation from across the province in their legislative caucuses.
- Electing 20 MLAs from closed, party lists increases the likelihood that women and others from under-represented groups will be elected in greater numbers.
- Smaller parties will have a better chance of winning a seat in the legislature.

#### **Equality of the Vote**

- All votes will count equally in determining election outcomes.
- The number of "wasted" votes will be dramatically reduced.
- Election results will be determined by voters and not the electoral system.

#### **Effective Government**

- A more balanced legislature will result, with more opposition members to keep government accountable.
- The length of governments will remain stable, often between three to four years as now.
- A more balanced legislature, with minority and coalition governments, may encourage parties to work together in the legislature.

### **Consequences and Expectations of Changing Electoral Systems**

There is no question that there would be some consequences to changing electoral systems in New Brunswick. Some are likely, even predictable under our proposal, while others are less certain. The experience of other jurisdictions is helpful but not definitive in determining what might occur here. Our political culture differs from others. Our democratic experiences have not been the same. What is most important is managing voters' expectations as to what these changes might be.

Voting behaviour tomorrow cannot be predicted exactly on the basis of behaviour today. That, in fact, has been the case in New Brunswick and Canada for some time. Massive shifts in public opinion even occur over a month-long election period. Voters are far less attached to political parties than in the past, making them far more likely to consider switching their allegiances from election to election. This has occurred in our province recently, as massive swings in public support dramatically changed governments in 1987 and 1999.

The Commission's research does provide some initial indicators of what could occur under our proposed New Brunswick regional MMP system.

Single party majority governments could still occur, although not in every instance. Majority coalition governments or an occasional minority government may emerge from time to time. Governments would remain stable and could last as long as they do now. Stable governments could be equally effective as now in carrying out their electoral platform and

agenda. A rise in third party support would probably occur, but New Brunswick is unlikely to see any substantial increase in the actual number of parties in the legislature. The House should not, therefore, become radically fragmented.

The legislature would matter more. It would possess greater accountability and authority, since our proposed system would produce a more balanced House with a larger opposition than what we have usually seen under SMP. The NB MMP system would clearly prevent the massive sweeps of the past, which reduced the opposition benches to a tiny number.

The face of the legislature would change. The number of women MLAs would likely increase from the current level along with, perhaps, other groups in society.

Each region of the province would have representation in both the government and opposition caucuses - from either the single member MLAs or the list PR MLAs from their region. Voters seeking redress or action on an issue in their region would now have more avenues to raise a concern. They could choose to contact a local MLA from either side of the legislature or both, something they cannot do at present.

If the composition of the Legislative Assembly changes, so too would its conduct. Governments might well be required to negotiate more with the opposition and secure a greater degree of consensus on their legislative program and budget. A majority of the MLAs responding to the Commission's independent survey indicated that a legislature that more accurately reflects the population in terms of gender, Aboriginal people and language can produce legislation and policy that more closely matches the needs of the public.

Voter participation could also rise, along with general satisfaction with our democracy as voting becomes more meaningful. Such an increase in voter turnout might be modest, however, as there are other factors beyond the electoral system that dampen voter turnout. Given the decline in participation we are witnessing, the new electoral system could help arrest that decline as a first step to restoring voter trust and confidence in our democratic process.

The two-vote system would give voters more choice. A significant minority of voters could be expected to exercise that choice and split their ballot, casting one vote for a local candidate from one party, and their second party vote for a different party.

## Recommendations

The Commission on Legislative Democracy recommends the following made-in-New Brunswick model of proportional representation (PR) as the model best suited for our province:

### Recommendation 1

That a regional, mixed member proportional representation (MMP) system combining 36 single-member riding seats and 20 list PR seats elected within four approximately equal size multi-member regional districts, as set out below, be adopted as the model of PR best suited for New Brunswick.

### Recommendation 2

That the MLAs for the 36 single member riding seats continue to be elected using the current first-past-the-post plurality vote system.

### Recommendation 3

That voters in each of the four multi-member regional districts elect five MLAs from closed party lists on the basis of the party vote received within the region.

### Recommendation 4

That voters cast two separate ballots: one, as they do now, for the local single member riding candidate of their choice, and a second ballot for the party of their choice.

### Recommendation 5

That parties be required to reach a minimum five per cent threshold in the separate party vote on a province-wide basis in order to be eligible to win any list PR seats.

### Recommendation 6

That candidates be required to choose to run either as a single member riding candidate or as a candidate on a regional PR list, but not both.

### Recommendation 7

That the list PR seats be allocated on a regional basis, based on the D'Hondt electoral formula, so as to partially correct for disproportionality in the single member constituency elections.

### Recommendation 8

That parties be required to nominate list PR candidates in open conventions based on clear party nomination, financing, and disclosure rules, as recommended by the Commission and set out in detail in the policy framework for Improving Party Democracy contained in Recommendation Appendix "H".

### Recommendation 9

That the electoral boundaries for the 36 single member ridings and the four multi-member regional districts be drawn by a Representation and Electoral Boundaries Commission based on the principles and procedures recommended by the Commission and set out in detail in the policy framework for a *Representation and Electoral Boundaries Act* for New Brunswick contained in Recommendation Appendix "A".

### Recommendation 10

That a vacancy in a single member riding be filled through a by-election held no later than six months after the seat has been declared vacant. That a vacancy in a multi-member regional district be filled by the next highest-ranking eligible candidate on the same party list as the previous incumbent from the general election.

### Recommendation 11

That the recommended new electoral commission, called Elections New Brunswick, initiate a comprehensive public awareness and education campaign prior to the first election under the NB MMP voting system to ensure voters understand how the proposed new system will work.

## Implementing a New Proportional Representation Electoral System for New Brunswick

### Mandate

*To examine and make recommendations on future steps, including amendments to the Elections Act, required to give effect to a new proportional representation electoral system.*

The Commission was asked not only to recommend a system of proportional representation (PR) best suited to New Brunswick, but also the steps necessary to implement such a system. Changing electoral systems is a significant decision for any democratic society and it needs to be considered carefully. Nonetheless, the Commission believes that the necessary changes can be accomplished, within a reasonable period of time, and with voters' understanding and consent.

The challenges involved in shifting electoral systems were an important part of the Commission's deliberations on the choice of PR system that would be best suited for our province. A radically different system that was entirely unfamiliar to voters' experiences would require a different kind of approach to implementation, than one that had more familiar elements. The fact that the Commission's recommended regional MMP system features some of the same aspects of the current SMP system - namely electing local MLAs from single member ridings based on a plurality of votes - should make it more familiar and more easily understood by voters.

### The Commission's Role

This Commission is a study commission. Our mandate was to "examine and make recommendations" to the Premier and all New Brunswickers in the form of this report. Decisions on implementation would then follow. As part of coming to its recommendations, the Commission conducted a thorough examination of proportional representation systems around the world, reviewed the proposals of other provinces considering electoral system reform, developed a proposed model for New Brunswick, and ultimately tested and refined our model based on consultations and expert advice received at our public roundtable discussion and from independent academic research papers. Much of that information has already been made available to New Brunswickers through the Commission's fact sheets, website, and consultation papers. The previous section setting out our proposed New Brunswick regional MMP system is particularly detailed in order to provide readers and decision-makers with useful background context on the issues and considerations of changing to a new electoral system. The Commission believes that much of the analytical work for implementing our proposed NB MMP electoral system can be found in this report. It should be the basis for moving forward.

## Implementing PR in Other Jurisdictions

In coming to our recommendations on how our proposed PR system should be implemented in New Brunswick, the Commission studied the experiences and approaches of other jurisdictions. In each instance, change was preceded by some form of study commission or process which engaged in public consultation and recommended a particular approach that set the stage for public debate. Ratification followed in the form of a referendum and/or a government bill. The time between when a proposal was made to change electoral systems, and when that jurisdiction actually decided on that change, was in most cases relatively short. The table below sets out the procedures undertaken by those countries or provinces that have changed or are considering changing their electoral systems to a form of proportional representation.

Political circumstances were different in each case, causing some differences in approach. New Zealand held two referendums, for example, while the current Québec government is proceeding directly to a draft bill following the reports of the Commission Béland and the États généraux, established just a few years before by the preceding government. British Columbia’s referendum on the STV PR system proposed by the Citizens’ Assembly will be held on May 17, 2005, just five months after the recommendation was made public. Ontario has not, as of release of our report, established a date for the commencement of a Citizens’ Assembly and a referendum, but has indicated its intention to do both. Each jurisdiction, therefore, considered what was best for its own situation and needs. New Brunswick should do the same.

## Considerations to Implementing PR

The Commission believes several key considerations to implementing PR for New Brunswick need to be taken into account.

**First, this Commission’s report.** The Commission’s Final Report and Recommendations should be the basis for any next steps taken by the province. Our research and process was the most extensive ever conducted on this issue in the province. It is clear to the Commission that the principles behind our proposed New Brunswick regional MMP system are best suited to the democratic values of New Brunswickers and the most fundamental realities of our province and democracy, including: our two official linguistic communities, the regional nature of New Brunswick with its urban and rural features, our current dominant two-party system, the progress we have made through effective governments, and the traditions of our current SMP system. A second “ground-up” study would very likely arrive at the same conclusions. The realities of who we are as New Brunswickers, where we live, and what we value most in our democracy will not change.

**Second, knowledge and engagement by New Brunswickers.** As a result of the Commission’s work, there is a stronger base of knowledge and understanding today in New Brunswick of the concept of PR, the issues surrounding it, and the implications of possible change. Nonetheless, we believe voters would benefit from learning more about our report and the proposed New Brunswick regional MMP system. Wide dissemination of the Commission’s report by the government, to encourage broader discussion and debate amongst New Brunswickers, would make more people aware and comfortable with the prospect of change. It would also help boost voter participation in any referendum asking voters to approve a change. Momentum for change is important. Voters must know their political leaders are serious about change. This Commission has taken the first step in response to the invitation from the Premier. The Commission believes that a direct statement on the proposed NB MMP system, with details sent to every household by the government, along with a website dedicated to the report and its issues, would help generate the necessary interest and engagement on the part of New Brunswickers.

	Commission	Referendum	Bill	Citizens Assembly	Timing to Decision
New Zealand	Y	Y(two)	Y	N	6-7 years
Scotland	Y	Y	Y	N	1 year
Wales	Y	Y	Y	N	1 year
B.C.	N	Y	N	Y	1 year
Quebec	Y	N	Y(f)	N	2-3 years
PEI	Y(two)	Y	-	N	2 years
Ontario	N	Y(f)	-	Y(f)	2 years (a)

Y = yes    N = no    f = forthcoming    a = anticipated

**Third, ratification by New Brunswickers.** A change to an electoral system is of such significance to our democracy that the Commission believes it requires the consent of voters. A referendum is the only feasible and legitimate mechanism available to secure that consent. Given the obvious impact of the electoral system on political parties, it is important that voters have the final say on such a change, and not just the current actors in the political system. It would be understandably difficult for parties and elected officials to completely divorce themselves from this debate given their particular interests. The only fair way and democratic way - for them as well as for citizens - is to seek the consent of people for such a change. The Commission believes a binding referendum is necessary to ask New Brunswickers directly for their approval to change electoral systems. The referendum question should be clear with a yes/no choice - 'yes', change to the NB MMP system; 'no', retain the current SMP system. As well, the Commission believes that its proposed *Referendum Act* would provide a fair and effective basis for holding such a referendum in New Brunswick.

**Fourth, timing of implementing PR.** There are two immediate windows of opportunity to implement PR in New Brunswick: the 2007 provincial general election and the 2011 election. Based on our assessment, either is feasible, but one may be more desirable. There are several possible steps that may be taken prior to voters actually participating for the first time in the new system. This includes: drafting a bill to create the new electoral system; engaging in public consultation and discussion; drawing electoral boundaries for the proposed 36 single member ridings and four multi-member regional districts; and holding a referendum to secure voters approval for the new system. A minimum of two years is required to undertake all of these steps. It is therefore possible to have a new electoral system in place in time for the 2007 general election. More time, principally to draw new boundaries and draft a bill for consideration by the legislature, would be offered by a 2011 date.

**Fifth, reviewing the new electoral system.** Just as this Commission has reviewed our current system and recommended a change, there should be the possibility of a review of the new system at a later period. New Zealand conducted a parliamentary review after two elections with its MMP system. The review found the system had many positive features and had achieved several positive results, while acknowledging it had some detractors. Their review went on to identify some improvements that could be made to the new system, but did not recommend reverting back to the previous SMP system. The United Kingdom established an independent commission to study Britain's experience with PR. It concluded: "The Commission's analysis suggested that the impact of using new electoral systems has not been as dramatic, as either supporters and opponents of proportional representation have suggested." Our Commission believes that a formal review, built into any Act that created the new electoral system, would be a useful means of introducing other improvements to the system.

There is no ideal electoral system - in any jurisdiction. Equally, there is no ideal process for implementing a change to a new electoral system. Roadmaps exist, but each has navigated different terrain than that of our province. The Commission believes that a citizen-centred electoral system should flow from citizens. That is why we recommend that New Brunswickers be given the opportunity to decide for themselves through a referendum whether to adopt the Commission's proposed NB MMP system, or retain the current system. We recommend further that the government take the necessary steps to hold a referendum no later than the 2007 provincial general election. This should be preceded by a significant awareness and education campaign conducted by Elections New Brunswick to give voters all possible details of the new system. Finally, we recommend that a public review of the new system be conducted by the Legislative Assembly after two elections to determine how well it is working and what changes or improvements, if any, should be brought to it.

## Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to implement a new proportional representation electoral system for New Brunswickers:

### Recommendation 1

That the government of New Brunswick take the steps necessary to hold a binding referendum no later than at the next provincial general election, to allow the people of New Brunswick to choose whether or not to adopt the Commission's proposed regional mixed member proportional representation electoral system, in order that it be in place in time for the 2011 provincial general election.

### Recommendation 2

That the referendum be held under the rules and procedures recommended by the Commission and set out in detail in the policy framework for a New Brunswick *Referendum Act* contained in Recommendation Appendix "K".

### Recommendation 3

That Elections New Brunswick initiate a comprehensive education and information campaign for New Brunswickers to allow voters to make an informed choice on the proposed question.

### Recommendation 4

That a legislative committee be struck after two elections to publicly review the results and procedures of the new MMP voting system to determine any changes or improvements that might be necessary.

## Drawing Electoral Boundaries in New Brunswick

### Mandate

*To examine and make recommendations on the principles and procedures to guide future changes to New Brunswick's electoral boundaries, including the number of constituencies to be represented in the Legislative Assembly, that will be referred to a Representation and Electoral Boundaries Commission.*

Electoral districts are the basic building blocks of our representative democracy in New Brunswick. It is within each electoral district, or riding, that the essential democratic contest occurs between candidates, parties, and among voters. It is within each electoral district that the basic democratic franchise - the vote - is exercised. And it is from each electoral district that candidates for the Legislative Assembly are elected or defeated, as the most direct expression of voters' choices we have.

Clearly, electoral district boundaries matter. The number, size, shape, and constituent parts of electoral districts are significant factors in determining who represents our interests, and governs our province. Dr. Munroe Eagles of the University of Buffalo, the Commission's academic expert on electoral boundaries, put it this way in his original research paper:

*"Their characteristics, along with those of their residents, define the representational relationship between electors and politicians. The nature of electoral districts comprising an electoral system - and the criteria used in their determination - profoundly shape the kind of political interests that are given privileged expression in the political process."*

Having a fair and effective electoral boundary drawing process in New Brunswick is therefore a crucial element to providing effective representation to citizens and free and fair electoral outcomes.

### The New Brunswick Situation

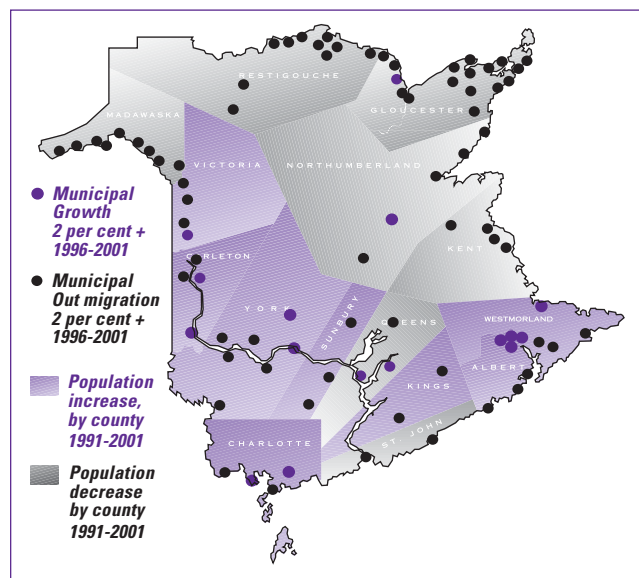
Today, New Brunswick is the only province in Canada not to have an independent, regular electoral boundary drawing process set out in legislation to change the number of MLAs or set new electoral boundaries for each constituency. Past boundary changes and the principles guiding them have been decided on an ad hoc basis. All other provinces and the federal government have passed laws setting out how and when electoral boundaries are redrawn. A comparison of boundary drawing legislation across Canada considered by the Commission may be found in Background Appendix "IV".

*"Electoral boundaries drawing should be revised regularly to reflect the shifting population,"*  
Community Leaders Roundtable, Moncton, May 2004.

New Brunswick's electoral boundaries are set out in the *Elections Act*. Previously, the government established a Representation and Electoral Boundaries Commission to review current boundaries, consult the public, and recommend changes. A Select Committee of the legislature then reviewed the Commission's recommendations. Amendments to the *Elections Act* were subsequently introduced to formally set out the boundary descriptions and make the changes official.

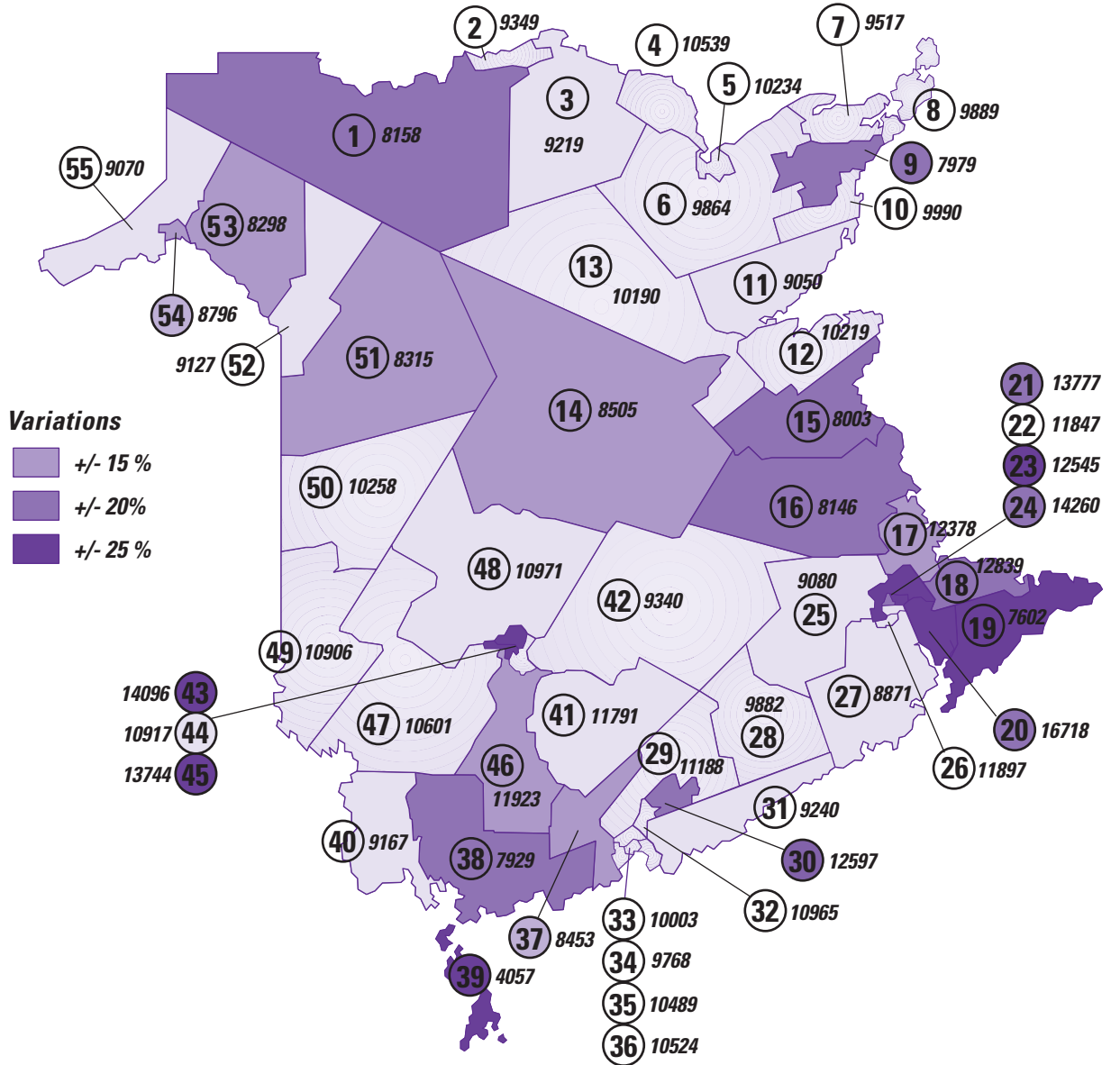
The last time electoral boundaries were changed in our province was just prior to the 1995 election. Three elections have therefore been held under the current boundaries. Since then some obvious population shifts have occurred across the province as can be seen in the maps below.

### Population Growth and Out Migration



These population shifts have led to some significant variances in the size of ridings in the province. Whereas in 1995, two ridings had a variance of +/- 25 percent or greater from the provincial average, by 2003, six ridings did. Currently, 22 ridings have population variances of +/- 15 percent or greater. The map on the next page indicates the current situation.

## Riding Variances from Provincial Average, 2003 Election



- |                              |                              |                         |                              |
|------------------------------|------------------------------|-------------------------|------------------------------|
| 1 Restigouche West           | 15 Rogersville-Kouchibouguac | 29 Hampton-Belleisle    | 43 Fredericton North         |
| 2 Campbellton                | 16 Kent                      | 30 Kennebecasis         | 44 Fredericton Fort Nashwaak |
| 3 Dalhousie-Restigouche-East | 17 Kent South                | 31 Saint John Fundy     | 45 Fredericton South         |
| 4 Nigadoo Chaleur            | 18 Shediac-Cap-Pelé          | 32 Saint John Kings     | 46 New Maryland              |
| 5 Bathurst                   | 19 Tantramar                 | 33 Saint John Champlain | 47 York                      |
| 6 Nepisiguit                 | 20 Dieppe-Memramcook         | 34 Saint John Harbour   | 48 Mactaquac                 |
| 7 Caraquet                   | 21 Moncton East              | 35 Saint John Portland  | 49 Woodstock                 |
| 8 Lamèque-Shippagan-Miscou   | 22 Moncton South             | 36 Saint John Lancaster | 50 Carleton                  |
| 9 Centre-péninsule           | 23 Moncton North             | 37 Grand Bay-Westfield  | 51 Victoria-Tobique          |
| 10 Tracadie-Sheila           | 24 Moncton Crescent          | 38 Charlotte            | 52 Grand Falls               |
| 11 Miramichi Bay             | 25 Petitcodiac               | 39 Fundy Isles          | 53 Madawaska-la-Vallée       |
| 12 Miramichi-Bay du Vin      | 26 Riverview                 | 40 Western Charlotte    | 54 Edmundston                |
| 13 Miramichi Centre          | 27 Albert                    | 41 Oromocto-Gagetown    | 55 Madawaska-les-Lacs        |
| 14 Southwest Miramichi       | 28 Kings East                | 42 Grand Lake           |                              |

Source: Office of the Chief Electoral Officer



In the 1995 election, the average deviation in constituency electoral size above or below the provincial average was 10.9 percent; by the time of the 2003 election, the average deviation had grown to more than 15 percent.

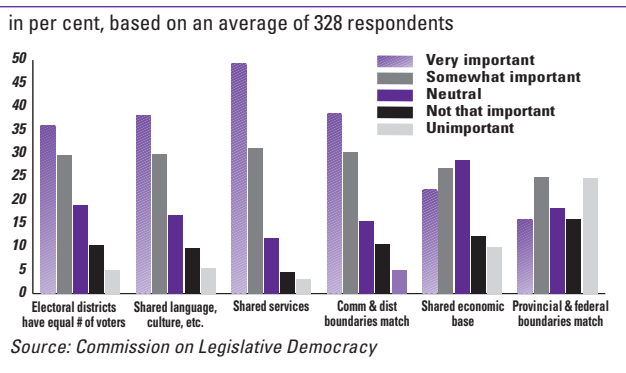
Today, the average constituency size in New Brunswick is 10,238 voters. Constituency sizes range from a high of 16,718 voters in Dieppe-Memramcook to a low of 4,057 voters in Fundy Isles. The largest riding in the province is therefore four times as big as the smallest. In such cases, the value of one vote in smaller ridings is effectively worth more in electing an MLA than one vote in larger ridings. Since all votes should count as equally as possible in electing MLAs, the variance in population sizes between ridings is an important indication of the need to redraw boundaries on a regular basis to account for changing population realities.

### What New Brunswickers Said

Having an independent boundary drawing process was cited strongly by respondents to the Commission’s questionnaire. This was preferred over a committee of MLAs.

Respondents also indicated that it is important that electoral boundaries be based on shared services, shared language and culture, matching community boundaries, and contain an equal number of voters. Matching provincial riding boundaries with federal boundaries or having a shared economic base was cited as much less important.

#### How important are the following electoral boundary statements to you?



*“The problem that I have with restructuring boundaries is that often language, culture, common areas of interest and issues, as well the preservation of important infrastructures, is not included in the thought process,”* Public Hearing, Bathurst, June 2004.

*“A boundary commission should be established every 10 years, and impose redistribution according to local needs and demographics,”* Public Hearing, Fredericton, June 2004.

*“Ridings and regions must take into account communities of interest and linguistic communities,”* submission by the Société des Acadiens et Acadiennes du Nouveau-Brunswick, October 2004

### Boundary Drawing Principles

Boundary drawing processes across Canada have been reinforced and clarified based on important legal rulings and interpretations of the *Canadian Charter of Rights and Freedoms* by the Supreme Court of Canada. Some of these rulings have affected New Brunswick directly. Two key principles have been established in case law that need to be considered in drawing electoral boundaries in New Brunswick. These include:

- Representation by population/Equality of voting power** - The population of each electoral district in New Brunswick should be as close as possible to an average population per district. This is crucial to ensure that the weight of a vote in one electoral district is equal to that of a vote in another electoral district. As stated by the Chief Justice of the Supreme Court of BC as she then was, Beverley McLachlin, in *Dixon v. British Columbia (Attorney General)*: *“The concept of representation by population is one of the most fundamental democratic guarantees. And the notion of equality of voting power is fundamental to representation by population.”*
- Effective representation** - While equality of voting power is the primary principle, deviations from population equality may be justified if they contribute to effective representation of the population leading to better government of New Brunswick as a whole.

Within these two principles, deviation from population equality may be allowed to ensure effective representation. Deviation factors may include, but are not limited to:

- Communities of interest** - it is important that communities sharing a linguistic, cultural or historic identity be kept together in an electoral district.
- Geographic factors** - natural boundaries and the accessibility of certain areas of the province to other areas should be considered and respected.

- *Percentage deviation allowed* - this number should be large enough to allow for flexibility but not so large that significant variances between riding sizes develop, thereby diluting the value of individual votes around the province.

Similarly, several key principles governing the actual process of drawing boundaries have emerged that must be taken into account. Any boundary drawing process should be:

- **Independent** of political parties.
- **Fair** to political parties and voters.
- **Non-partisan** in how it operates.
- **Open** to New Brunswickers to participate.

It is for these reasons that the Commission believes that a made-in-New Brunswick boundary drawing act and process are required.

### Considerations for a Representation and Electoral Boundaries Act

In determining the procedures and principles for drawing electoral boundaries in New Brunswick, the Commission considered a comprehensive range of issues and factors. These included the processes established by other provinces and the federal government; key legal principles which must be taken into account; the most recent provincial and federal New Brunswick boundary drawing experiences; as well as the unique realities and circumstances that make up New Brunswick. The Commission believes that while we must take into account the broader Canadian context and legal requirements, we must apply these to our own priorities, values, and needs.

The Commission is guided by the need to frame any such principles and procedures in a proposed *Representation and Electoral Boundaries Act*. A statute is a fundamental component of ensuring a regular and independent boundary drawing process. This means focusing on two main components that should form the basis of any such Act:

1. The guiding principles and considerations that make up the formation and terms of reference of a Representation and Electoral Boundaries Commission; and
2. The process by which a commission should consider boundary changes and consult the public.

To assist us in this process, the Commission sponsored a Roundtable on Electoral Boundaries at UNB Law School on April 28, 2004, with leading academic and other experts to discuss boundary drawing issues in New Brunswick and across Canada. The main issues that emerged are as follows:

- **Timing of redistributions** - *how often and on what basis should boundaries be redrawn?*

*"New Brunswick needs its boundaries revised every ten years,"* Community Leaders Roundtable, Shippagan, May 2004.

Redistributing electoral districts and drawing electoral boundaries at regular intervals is important to take account of population shifts leading to variances in riding size and the changing composition of our population. Two possibilities exist: redistribution could be held after every two elections or after every decennial (10-year) census. The Commission considers that it would be better to redraw boundaries on the basis of accurate population figures emerging from a decennial census. This timing would ensure that new boundaries would be in place in time for every third election, which is a reasonable period to allow for population changes.

- **Composition of a Commission** - *how should a Representation and Electoral Boundaries Commission be appointed, and who should be eligible to be appointed to such a commission?*

Electoral boundaries should be drawn to reflect population, community, and representational interests, not to reflect political party interests. A boundary commission's composition is therefore a key assurance of its independence. In New Brunswick, it is also necessary to reflect the realities of the two official linguistic communities. Composition should also take into account the specific legal, political, academic, and community expertise needed by the commission to do its work. Involving the legislature in choosing members will foster multi-party support for the commission and its work.

We believe that a future Representation and Electoral Boundaries Commission should be composed of five persons: two co-chairs, one from each official linguistic community, and three other members. The co-chairs should be independent with no affiliation with any political party. No other member may be serving as an MLA, Member of Parliament or Senator. All members should be approved by a two-thirds vote of the legislature. Five persons are necessary to give the Commission the appropriate balance and perspective, as well as to lessen the prospects of a minority report, which has occurred under the three-person federal boundaries commission model.

- **Terms of Reference of a Commission** - *what specific principles and considerations should guide the work of a commission?*

The terms of reference of a commission will determine what factors it must consider when drawing electoral boundaries. Statutes across Canada are usually framed around the core legal principles of representation by population, equality of voting power, and effective representation. These guiding principles also provide the framework for allowing any deviations from population equality among ridings. Since

these principles will be set out in law, they provide an important avenue of appeal for affected citizens, should disputes arise. The terms of reference will also allow a commission to consider “New Brunswick-specific” issues above and beyond the core legal principles that we share as Canadians.

The Commission believes that comprehensive and specific terms of reference should be set out in a new *Representation and Electoral Boundaries Act*. These terms of reference should reflect the core legal principles for boundary drawing of representation by population/ equality of voting power and effective representation. In applying these principles, a commission should be required to take into account specific other factors unique to New Brunswick such as community of interest, representation of both official linguistic communities, rural representation challenges, population growth, and existing municipal and administrative divisions. Deviation in riding size should normally be allowed up to + /- 15 percent, and up to +/- 25 percent only under exceptional circumstances.

- **Public Hearings** - *how and when should a commission seek public input on new boundaries?*

Gathering public input is an essential part of any boundary drawing process. It allows individuals and communities to speak to the representational issues and requirements they feel most important to them. As drawing boundaries can sometimes be contentious, it is important to give the public sufficient opportunity to provide their views and have them considered.

The Commission believes that two sets of public hearings should be conducted by a representation and electoral boundaries commission: one set before a preliminary report and proposed map is prepared, and a second set based on the proposed map so the public can view exactly what changes are being proposed. This two-step process will maximize public input and allow citizens and communities ample opportunity to put their views forward.

- **Final Authority** - *who should have the final say on the new boundaries - the legislature or the commission itself?*

Granting final authority on any boundary changes to the commission itself would ensure the full independence of a boundary commission. It would, however, remove MLAs from a process that fundamentally affects them and the people they are elected to represent. Our elected representatives bring an important and realistic perspective to representing citizens and this should be factored into any final determination of electoral boundaries. The most recent New Brunswick boundary drawing process involved MLAs at the final stage and produced what is widely considered to be a fair electoral map. Having independent co-chairs, as we recommend, will mitigate against any political influences, as well.

The Commission believes that since the legislature is ultimately sovereign, it is important to grant our MLAs the

final authority in determining any boundary changes. Such authority should be limited, however, to making only minor adjustments to a proposed map within a defined time frame. The legislature should not be allowed to redo, rewrite or veto the work of the independent Representation and Electoral Boundaries Commission.

A specific legislative committee process conducted in public would be required to allow for any objections by MLAs to the recommendations of a boundaries commission to be considered. This committee would have equal representation between government and opposition parties. Finally, there would be a requirement for a two-thirds vote in the Legislative Assembly for any amendments to the final report of the boundaries commission to reinforce the need for multi-party support.

### Drawing Boundaries for a Mixed Member Proportional Voting System

Under the Commission’s proposed regional MMP model, a representation and boundaries commission would be required to first draw the boundaries of the 36 single member ridings and then group these into four approximately equal size regions with five list PR seats each. As the issues of boundary drawing set out above are valid for any electoral system, the Commission believes the principles and procedures contained in its proposed *Representation and Electoral Boundaries Act* could serve as the basis to draw boundaries for the NB MMP voting system as well.

### Number of MLAs

*“Our population does not merit having 55 MLAs, I propose 53 for the present.” Your Turn! questionnaire, Spring/Summer 2004.*

The number of MLAs in New Brunswick has been reduced gradually over the past 35 years. Currently, New Brunswick has the third smallest size ridings in Canada based on population, after PEI and Newfoundland and Labrador.

The Commission heard quite divergent views on whether the current number of MLAs is too many or too few. Some thought the size of our population warranted a reduction in MLAs, while others worried about the need for our elected officials to be close to the people they represent.

The Commission believes that the size of the legislature should not be reduced if New Brunswick decides to adopt a new regional mixed member proportional voting system. In fact, the Commission’s proposed model would work best if the legislature increased by one seat to 56: 36 single member seats and 20 list PR seats. This would allow for approximately equal size regions and ensure no diminution of representation now enjoyed by communities and regions around the province. It would also allow the proposed 36

single member ridings to be small enough for voters to receive effective representation from their MLAs.

Should New Brunswick retain the current single member plurality system, then the Commission believes that the size of the Legislature should be approximately 55. Significantly lower than this number would impact on the effective operation of the House and its committees.

*"(55) might be too high, but if we take the number down, people might feel removed from their MLA."*, "Your Turn" questionnaire, Spring/Summer 2004.

## Recommendations

The Commission on Legislative Democracy recommends the following principles and procedures to guide future changes to New Brunswick's electoral boundaries:

### Recommendation 1

That a *Representation and Electoral Boundaries Act* be adopted to establish a regular and independent process to guide redistributions and changes to electoral boundaries in the province.

### Recommendation 2

That the following elements be included in a *Representation and Electoral Boundaries Act*:

- 2.1 **Timing of Redistributions** - would follow every decennial census.
- 2.2 **Appointment of a Representation and Electoral Boundaries Commission** - A five member commission composed of two co-chairs, one from each official linguistic community, who are independent of political parties, along with three other members who are not currently MLAs, MPs or Senators, would be appointed on a two-thirds vote of the Legislative Assembly.
- 2.3 **Terms of Reference of Commission** - A Commission would:
  - 1) Recommend readjustments to the boundaries of electoral districts in the province based on the principles of representation by population, equality of votes, and effective representation of electors.
  - 2) Be permitted to deviate from the quotient for each electoral district by no more than 15 percent, plus or minus, with a deviation of up to 25 percent, plus or minus, in exceptional circumstances.

- 3) Take the following into consideration when drawing boundaries: communities of interest; representation of New Brunswick's two official linguistic communities; geographic considerations, including the accessibility, size and shape of a region of the province; existing municipal and other administrative boundaries; rate of population growth of any part of the province; and the challenges of representing rural areas.

2.4 **Public Hearings** – A Commission would be required to hold two sets of hearings to allow for substantial public input by New Brunswickers: one before a preliminary report and proposed map of boundary changes is prepared, and one on the proposed map of boundary changes.

2.5 **Final Authority** – To reside formally with the Legislative Assembly. A Committee of the legislature could consider any amendments proposed by MLAs to the final report of a Commission. Any amendments to the Commission's final report would require a two-thirds vote of the Legislative Assembly.

### Recommendation 3

That the same principles and procedures of a *Representation and Electoral Boundaries Act* be applied to draw boundaries for a new regional, mixed member proportional representation electoral system for New Brunswick.

### Recommendation 4

That the policy framework for a *Representation and Electoral Boundaries Act* for New Brunswick contained in Recommendation Appendix "A" be considered as a proposed framework for a new Act.

### Recommendation 5

That the number of MLAs in the legislature be increased to 56 under the proposed regional mixed member proportional representation system. That the number of MLAs under the current single member plurality electoral system be approximately 55.

## A Fixed Election Date for New Brunswick

### Mandate

*To examine and make recommendations on instituting fixed election dates for provincial general elections while proposing a fixed election date and procedures best suited for our province.*

*"A four-year guaranteed term is a step in the right direction", participant, Bathurst Public Hearing, October, 2004.*

Election day is the culmination of our democratic process. It marks simultaneously the end of one electoral cycle and the beginning of another. On this day, citizens choose their representatives, their government and opposition, and the policies and directions that find most favour with them. And, on this day of decision, citizens effectively choose whether to participate in the democratic process by voting, or not.

When elections are held - the day, the month, the year - can have a significant impact on voter participation and turnout. Some times of the year are busier and more inconvenient than others for voters. Summer or winter or holiday periods will find voters on vacation or otherwise away from their place of residence where they would normally vote. The timing of an election can also affect the participation of election workers needed to staff polls, act as scrutineers, or enumerate voters.

Election timing has another important impact: on credibility and trust. The choice of an election date is often seen by voters as a source of political manipulation by political leaders and parties. This has the effect of increasing cynicism about the political process and contributing to a lack of confidence in many facets of our democracy.

For all these reasons, the Commission believes that adopting fixed election dates in New Brunswick is necessary. We believe in doing so that New Brunswickers will be taking a concrete step towards restoring political trust in our province.

### The Basis of Election Dates in New Brunswick & Canada

The timing of elections is traditionally the prerogative of the Premier. Under our Westminster or British parliamentary system the only legal constraint on when elections must be held is the length of term of the legislature in question. In New Brunswick and elsewhere in Canada, the term of a legislature cannot extend beyond five years. The New Brunswick *Legislative Assembly Act* states:

*2(1) The present and every future Legislative Assembly of this Province shall, subject to the provisions contained in subsection (2), continue for five years from the day of the issue of the writ for choosing the same, unless sooner dissolved by the Lieutenant-Governor; and no Legislative Assembly of this Province shall be affected by the demise of the Crown.*

In other words, the term of a legislature cannot extend more than five years, plus the length of the election writ period. But as to the exact timing of when that election must be held, our election law is silent. This means, for all intents and purposes, that an election can be called at any time during this five-year period.

### The Prerogative of the Lieutenant-Governor

There is an additional legal and constitutional factor to be considered in the setting of a fixed election date: the prerogative of the Lieutenant-Governor, as the Queen's representative, to formally dissolve a legislature and issue the writs of election. This power of dissolution forms part of the constitutional convention of election law in Canada, again as an inheritance of our British parliamentary system. In practice, the Lieutenant-Governor dissolves a legislature on the basis of a formal request by the Premier, in the form of "advice." As Dr. Don Desserud of UNBSJ, the Commission's academic expert on fixed election dates, stated in his original research paper:

*"Responsible government dictates that the governor general or lieutenant-governor will only dissolve the legislature if so requested to do so."*

Under our system of responsible government, governments govern only when they have the confidence of the legislature. A majority vote of non-confidence in the government by MLAs, such as on a budget, would require the government to resign. At that time, the Lieutenant-Governor would in almost every circumstance dissolve the legislature and issue the writs of election. That this would be done on the advice of the Premier does not detract from the principle that only the Lieutenant-Governor can legally initiate an election.

In practice in New Brunswick, the Lieutenant-Governor has never refused to act upon the advice of the Premier to dissolve the legislature and hold an election. The power to call an election has, therefore, accrued directly and fully to the Premier.

Historically, elections in New Brunswick have been held on average every 48.3 months, or four years, since 1785. Only once in the past 65 years has the government of the day gone the full five-year mandate - in 1987. Elections have been held in New Brunswick in almost every month of the year, but most often in either the spring or fall. The most popular months for holding elections have been June (14 times) and October (11 times).

In fact, New Brunswick already has fixed election dates for municipal elections as well as for District Education Council (DEC) and Regional Health Authority (RHA) positions. These take place every four years on the second Monday in May. As noted, the average time span between elections is almost exactly four years or, put another way, the average electoral term for a government is four years. This has become the accepted norm. A fixed election date that set a fixed electoral term of four years would thus be consistent with current practice.

The choice for citizens, therefore, is between an open-ended provincial general election date called at any time by the Premier within a five-year term, or a fixed election date that sets regularized election dates based on a four-year cycle, which has become the accepted norm for the electoral life of a government.

An open-ended election date really means that the Premier of the day can call an election at any time he or she deems fit. That is exactly what happens. An election will be called at a certain time for a certain date because that is usually viewed as the most politically advantageous time to hold an election for the governing party. This has become a contributing factor to heightened voter cynicism about the democratic process.

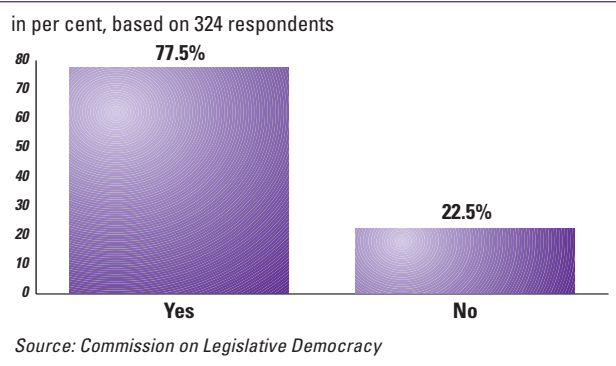
### What New Brunswickers Said

*"L'AFMNB thinks that this particularity of our Westminster parliamentary system is not relevant in today's world and does not reflect the needs and values of a more equitable and democratic system as requested by New Brunswick's citizens,"* Submission, Association francophone des municipalités du Nouveau-Brunswick, October 2004.

Increasingly, the majority of New Brunswickers no longer accept this way of doing business. Setting a specific constraint on the current open-ended political and legal prerogative of the Premier to call an election at his or her discretion is viewed as a reasonable limitation on an arbitrary form of political self-interest that puts parties ahead of voters. Repeatedly, New Brunswickers told the Commission that they favoured a fixed election date and term for their legislature and government. They see it as more democratic, transparent, and fair to all political parties.

Responses to the Commission's questionnaire and website also showed strong support for legislating four-year fixed election dates in the province.

### Are fixed election dates every four years a good idea for New Brunswick?



### Advantages to a Fixed Election Date

*"Fixed election dates would allow people who do not have the financial ability or time availability to start to make arrangements to be able to run. It would make it easier for women in particular to run,"* Participant, Saint John Community Leaders Roundtable, May 2004.

There are many advantages to setting a four-year fixed election date for provincial general elections in New Brunswick:

- Citizens would be better able to plan to participate or involve themselves in the elections process - as voters, as candidates, and as volunteers for political parties.
- Women candidates, in particular, would be better able to plan and organize their time to run as candidates knowing the exact date of the election.
- Particular groups of voters, such as seniors and students, who are most affected by when an election is held, would not be effectively disenfranchised by an inconvenient election date.
- By knowing the actual election date, all New Brunswickers could judge the actions of governments and political parties knowing that an election was forthcoming.
- Elections planning, such as preparing an up-to-date voters list through an earlier enumeration, hiring and training staff, and producing elections materials by the Chief Electoral Officer, would be made simpler and more efficient.
- Political parties would be in a better position to attract qualified candidates willing to serve as MLAs, knowing that they could better plan their career and personal lives around the certainty of when an election was coming.

- Legislative sessions and the work of MLAs could be better organized around the certainty of a fixed election date.
- By-election dates could now take place on a reduced time frame from the vacancy occurring, knowing exactly when the general election date is going to be, ensuring citizens do not go an unreasonable time without legislative representation.
- The length of the actual election campaign could now be standardized and reduced as the necessary preparatory work by the Chief Electoral Officer could now take place in advance.

### Getting to a Fixed Election Date

There are several specific questions and issues that must be addressed when deciding a fixed election date for New Brunswick.

*“A fixed date every four years, in the Spring or the Fall, seems to be the better choice. However, it seems to us that provincial elections should not be held at the same time as others in order to avoid that the latter become less important,”* Submission, Association des enseignants et enseignantes francophones du Nouveau-Brunswick, September 2004.

**First, timing.** *When should elections be held in the province?*

Spring and fall are the only viable options. Views and comments provided to the Commission preferred both times. As noted, New Brunswick has experienced elections during both periods. Two key factors should be taken into account: *first*, municipal, DEC, and RHA elections are already held in the spring in May and avoiding a conflict is desirable; *second*, student participation, which is already lower than the provincial average, could be affected by having an election at the close of the university year when students are preoccupied with exams or are in the process of moving, making it difficult for them to be enumerated in either their home riding or at their university location.

For these reasons the Commission believes a fall election date would be better. New Brunswickers are comfortable voting in the fall, the weather is usually accommodating, there would be no conflict with local governance elections in the spring, and the possibilities of turnout would likely be greater.

*“Fixed election dates would be preferable in the Fall,”* Community Leaders Roundtable, Shippagan, May 2004.

**Second, legislation.** *Is new legislation required to set a fixed election date for New Brunswick?*

Getting to a fixed election date is relatively straightforward. A whole new act would not be required. It would simply require amendments to existing legislation, setting out a specific date for holding elections in the future. The *Legislative Assembly Act* and the *Elections Act* are the governing pieces of legislation for the length of a Legislative Assembly’s life and conduct of elections in New Brunswick. They would need to be amended to set out the date for the next general election, the process for dissolving the legislature, and provisions around holding subsequent elections.

**Third, the powers of the Lieutenant-Governor.** *Can the constitutional authority of the Lieutenant-Governor to dissolve the legislature and issue the writs of election for any date be fettered?*

There is no need to amend the Constitution or formally affect the powers and authority of the Lieutenant-Governor to establish a fixed election date. Legislation could simply require the Premier to formally advise the Lieutenant-Governor to dissolve the legislature for a certain date every four years, thereby preserving the formal prerogatives of the Lieutenant-Governor. This would create a clear political imperative on the part of the Premier to adhere to the fixed election date schedule. The Commission believes this can be accomplished by appropriate wording in a fixed election date amendment to the *Legislative Assembly Act*.

**Fourth, non-confidence elections.** *What would happen to the fixed election date if an election were held before the next fixed date, such as in the spring, due to a vote of non-confidence in the legislature?*

Providing for such an eventuality in the fixed election date legislation would preserve the formal authority of the Legislative Assembly to determine if a government has the confidence of its members. The fixed election date “clock” would simply be re-set so that the next election would take place four years later at the fixed date.

**Fifth, ongoing election campaigns.** *Would a fixed election date result in parties campaigning earlier and for a longer period?*

There is a demonstrable rise in political rhetoric and activities in the run-up to a possible election, all of which is covered by the media at present. Instead of “guessing game” stories as to when the Premier will call an election, this would be replaced by demands for all leaders and parties to provide their platforms and responses to issues sufficiently in advance of the known election date for voters to consider. Parties are already limited by the *Political Process Financing Act* to nominal non-election period advertising spending of \$35,000 in any one year. The Commission believes this provision should remain.

## Other Provinces

New Brunswick is not alone in considering a fixed provincial general election date. British Columbia has passed legislation setting its fixed election date for May 17, 2005. The Ontario legislature has a bill before it that would set the next provincial election for October 4, 2007. Newfoundland and Labrador is about to consider a fixed election date bill. The Commission has studied carefully the legislative provisions of these and other jurisdictions in making its own recommendations.

## It's Time for Fixed Election Dates

*"The FÉECUM is in favour of fixed election dates. When elections are called in the Summer, we are not able to act and motivate young people to vote. In the Fall, our membership is on campus and we could produce awareness campaigns, in partnership with Elections New Brunswick, in order to motivate youth to vote." Submission, Fédération des étudiants et étudiantes de centre universitaire de Moncton, October 2004.*

The Commission believes fixed election dates are an idea which most New Brunswickers are ready for and support. New Brunswickers deserve to know in advance when an election is being held so they can weigh their vote accordingly. A fixed election date would help restore confidence and trust in the political process. By removing the absolute authority over the timing of elections from the Premier and restoring it to the legislature and people through legislation, citizens would come first.

The Commission believes that this departure from tradition is far outweighed by the benefits and advantages set out above. In fact, our recommendations go some distance to preserving important elements of this tradition, including the formal prerogative of the Lieutenant-Governor and the possibility of non-confidence motions in the House leading to an earlier election date.

The Commission also believes that voter participation will likely be enhanced by a fixed date. Elections planning would be smoother and more efficient.

## Recommendations

The Commission on Legislative Democracy recommends the following principles and procedures for the institution of a fixed election date:

### Recommendation 1

That a provincial election be held on a fixed date every four years commencing Monday, October 15, 2007, and on the third Monday of October every four years thereafter.

### Recommendation 2

That the following policy framework be considered for an amendment to the *Legislative Assembly Act* to establish a fixed election date for New Brunswick:

- (1) *Nothing in this section affects the powers of the Lieutenant-Governor, including the power to dissolve the Legislative Assembly, at the Lieutenant-Governor's discretion.*
- (2) *In order that a general election may be held on a fixed date, as set out herein, every four years:*
  - (a) *The Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on Monday, October 15, 2007, and thereafter, the Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on the third Monday of October in the fourth calendar year following polling day in the most recent general election.*
  - (b) *In the event that a general election is held after the day on which this section receives Royal Assent and before October 15, 2007, because of a dissolution of the Legislative Assembly, the Premier shall advise the Lieutenant-Governor that the Legislative Assembly be dissolved so that a general election may be held on the third Monday of October in the fourth calendar year following polling day in the most recent general election.*

### Recommendation 3

That the *Elections Act* be amended to establish a clear 28-day election period.

### Recommendation 4

That the *Elections Act* be amended to reduce the time period for by-elections from one year to six months of a vacancy occurring in the Legislative Assembly, unless the vacancy occurs during the last calendar year of the legal life of the Legislative Assembly (i.e. between January 1st and the third Monday in October of the year of the next fixed date election).



## Boosting Voter Turnout & Participation and Modernizing our Electoral Infrastructure

### Mandate

*“To examine and make recommendations on increasing voter turnout in provincial general elections, particularly amongst young New Brunswickers, and improving accessibility to the electoral process in New Brunswick by modernizing our electoral laws while reinforcing the democratic rights and responsibilities of New Brunswickers to vote.”*

Voting is our most basic democratic expression. It is at the heart of our democracy. Voting is the instrument by which we choose who will represent us and who will govern us. Strong voter turnout gives legitimacy to democratic outcomes. It acts as an accountability measure on governments and MLAs.

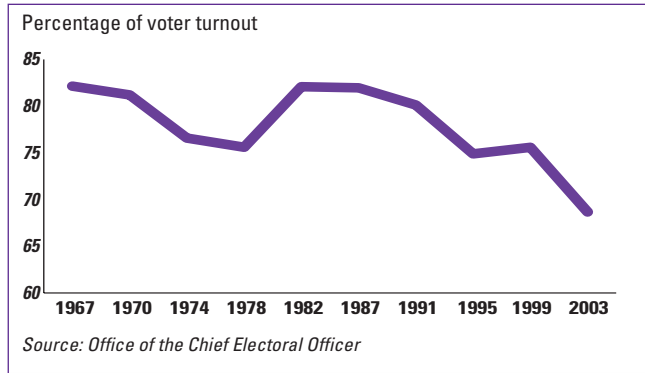
A healthy and vibrant democratic society begins with participation by citizens. Voter turnout is therefore a key barometer of democratic satisfaction. Voting must be supported by a strong electoral infrastructure - laws and procedures - not just to ensure free and fair elections, but to encourage voter participation in the first place. In our modern society, voters face many daily pressures and conflicts that can distract from the need or responsibility to vote when it comes to voting day. Some voters, such as seniors and youth, face particular administrative obstacles that make the voting system less accessible to them.

### Voter Turnout & Participation in New Brunswick Elections

Participation in provincial general elections in New Brunswick is declining. Fewer people are voting overall, and young people are voting at a lower rate than other New Brunswickers. Disturbingly, as can be seen in the part of Chapter 5 entitled *Stronger Voices for Youth*, there is little evidence to suggest that as younger New Brunswickers age, they will automatically start voting at a significantly higher rate.

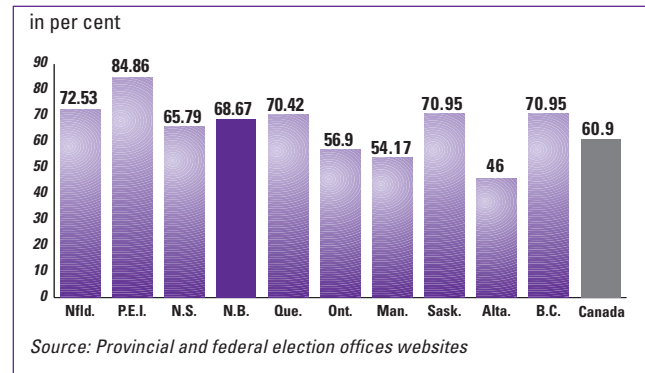
Turnout in the 2003 election was the lowest ever recorded at just 69 percent. Twenty years ago, it was around 80 percent. The chart below indicates voter turnout in every provincial election since 1967.

### Voter Turnout in New Brunswick Elections



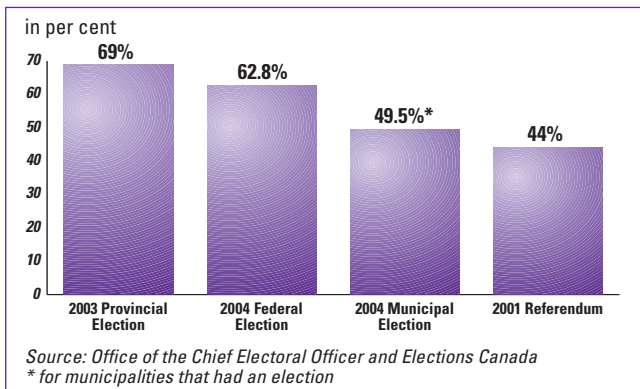
Voter participation is dropping across Canada, not just in New Brunswick. With the exception of PEI, turnout in each of the most recent federal and provincial elections has dropped.

### Provincial participation rate across Canada (most recent elections)



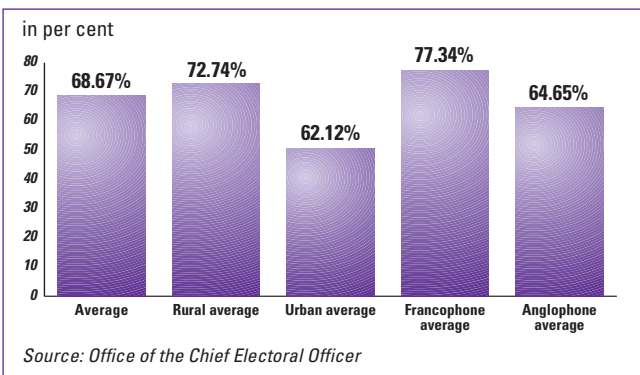
Low voter participation is not confined to provincial elections. The most recent federal and municipal elections, as well as the 2001 referendum, show an even lower level of voter participation by New Brunswickers.

**Comparison of voter participation rates across various elections in New Brunswick**



It is revealing that New Brunswickers vote at different rates depending upon where they live. Based on the 2003 provincial election, voter participation is higher in rural New Brunswick and in ridings with a predominantly francophone population. This may suggest that, in fact, the issue of voter turnout varies depending upon where people live.

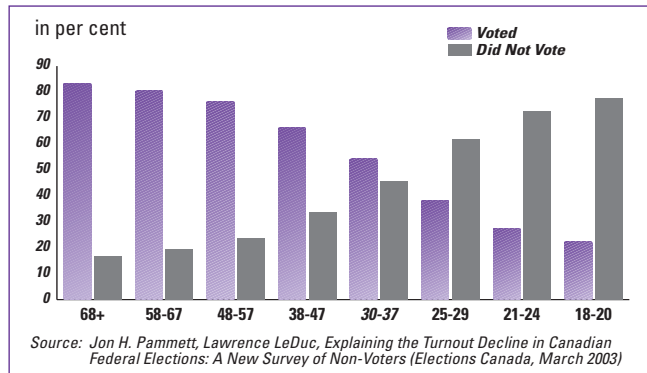
**Comparison of Voter Participation Rates by Category, 2003 Election**



education, generation, and gender. It cross-references each factor with general interest in politics, knowledge, comfort with online technology or the digital divide, and membership in voluntary associations. It reinforces the profile noted above.

Age is the most pronounced indicator of voting. Young people vote at a lower rate than the Canadian average, while seniors vote at a much higher rate than the Canadian average. The chart below from the 2000 federal general election study clearly illustrates this pattern.

**Voter Turnout by Age Group - 2000 Federal Election**



Preliminary results from the 2004 federal general election indicate a slight increase in youth voting from 2000.

No statistics are collected in New Brunswick on age or demographic participation in voting during provincial elections. However, original academic research conducted for the Commission on youth participation indicates that in the 2003 provincial election, turnout amongst 18-29 year olds was around 50 percent, compared to the provincial average of 69 percent.

In the past, many more Canadians voted due to a stronger sense of civic duty. This was at a time when more Canadians were members of political parties or, at least, considered themselves as steady supporters of a party at election time. Fewer Canadians are members of political parties today and identification or attachment with one party or another has significantly declined.

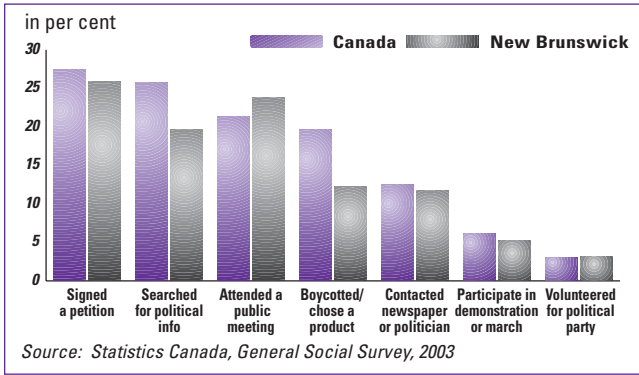
New Brunswickers are no more likely to belong to a political party than other Canadians. Overall political engagement by New Brunswickers, when measured on a range of activities, is also no higher than other Canadians, as a recent Statistics Canada survey shows.

**Who Votes? Who Doesn't?**

The most important indicators of voter participation are age, education, and income. Other participation indicators are knowledge of issues, leaders, and parties; civic literacy; participation in volunteer and community organizations; and a sense of civic duty. A profile of the most likely voter therefore would be someone who is older, with a post-secondary education, higher income, and involved in community or volunteer associations.

The table contained in Background Appendix V, *Voting Participation – Ranked by Social Background*, ranks participation in the 2000 federal general election by a range of social background factors including age,

**Political Engagement:  
Canadians and New Brunswickers**



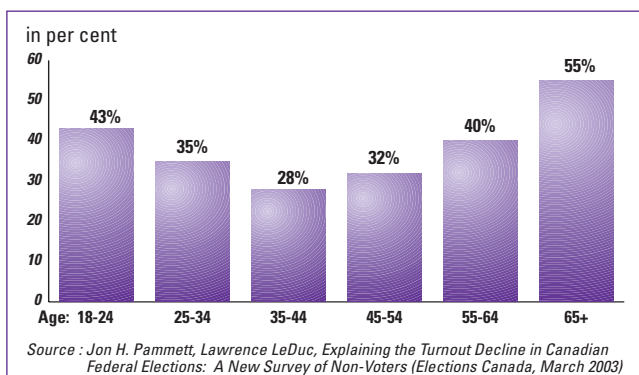
**Why Are Citizens Choosing Not To Participate?**

There are many reasons why people decide not to vote. They may sense that their vote does not matter, that it really will not make a difference. They may hold a view that their vote is wasted, that it does not really count towards electing a government or MLA. Finally, they may be concerned that our political leaders and institutions cannot be trusted. A recent Elections Canada study found that 67 percent of non-voters from the 2000 federal election cited negative public attitudes towards political institutions and leaders as reasons for people not voting.

Some Canadians choose not to vote because they believe their vote or the election does not matter or they did not like the choices. This was the view of 37 percent of the respondents to the Elections Canada study, while 34 percent gave the reason of being unable to vote due to work, illness or travel.

That same study also gave the breakdown by age group. It showed that personal and administrative reasons were the factors most often given for not voting by the younger and the older age groups. In fact, 55 percent of the 65+ age group, and 43 percent of the 18-24 aged group, cited this as the main reason they did not vote in the 2000 federal general election.

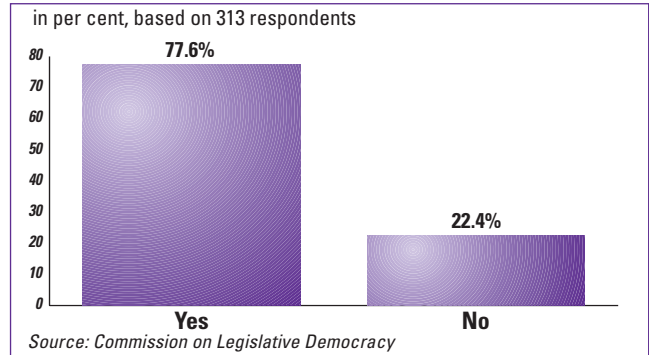
**Percentage of people, by age, who said they did not vote because of personal / administrative reasons in the 2000 election**



**What New Brunswickers Said**

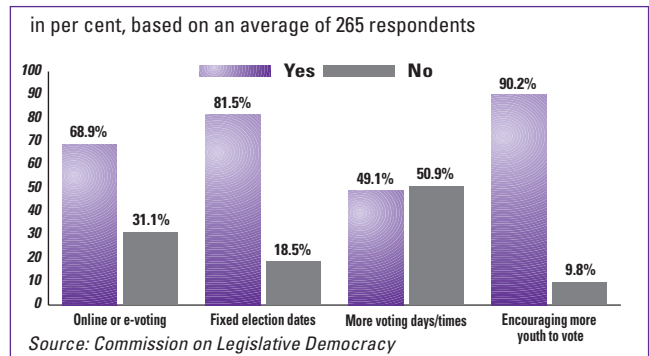
The decline in voter turnout was a matter of real concern to those individuals who met or responded to the Commission. A range of solutions were commented on through the Commission’s questionnaire. Changing our voting system so there was a better relationship between votes cast and seats won was favoured by over 77 percent of respondents. As mentioned in the part of Chapter 3 titled *A Mixed Member Proportional Electoral System for New Brunswick*, a form of proportional representation electoral system such as the one we are recommending could result in higher voter turnout.

**Would voter turnout increase if our electoral system were changed so there is a better relationship between votes cast and seats won?**



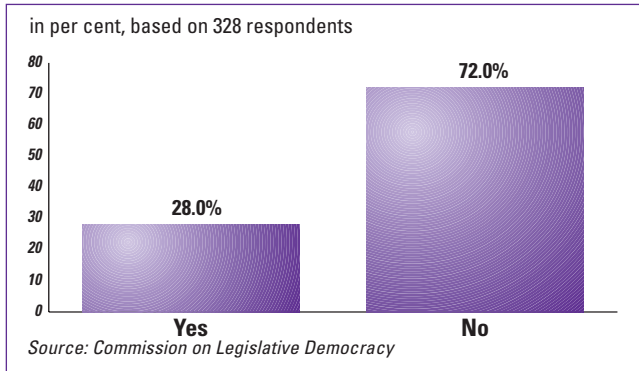
When offered a menu of steps to make voting easier, respondents favoured fixed election dates, encouraging more youth to vote, and online or e-voting.

**Which of the following steps do you think should be taken to make voting easier and more meaningful in New Brunswick?**



Voting is not just a right, but also a responsibility. It has been suggested that compulsory voting would increase voter turnout by reinforcing this broader societal obligation and sense of civic duty. Australia has had compulsory voting for decades and enjoys a turnout rate of around 95 percent. The Commission considered this idea but does not recommend it. Just as there is a right to vote, it can be argued that there is a right not to vote. The vast majority of respondents to our questionnaire were of the same view.

### Is compulsory voting a good idea?



### Addressing the Problem

No single solution exists to boost voter turnout in New Brunswick or across Canada. It will take time to reverse the current trend, a trend that has taken years to develop and appears quite deeply embedded. That's why the Commission believes that a comprehensive and long-term approach with a variety of solutions is necessary to arrest this decline in voter turnout. A change to our electoral system that more exactly translates votes cast into seats awarded could be one component of a solution. Raising awareness and knowledge about our democratic system and the importance of voting can help motivate people to vote. Taking concrete steps to modernize our electoral process and make access to voting easier and more "voter-friendly" can also make a difference. Fundamentally, voting must matter to people. We must, as a society, reinforce the sense of civic duty that comes with voting.

The Commission believes that, taken together, all of our recommendations will help boost voter turnout and participation by New Brunswickers in their democracy. We have seen that changing to a regional mixed member proportional voting system could help increase voter participation, as voters see their votes counting more directly towards seats in the legislature. Enhancing the role of the legislature and MLAs so voters can see that it works better for them would be a positive step. A fixed election date that reduces voter cynicism about election timing can also help. Specific measures aimed at youth will bring a positive benefit over time with greater youth participation.

Specifically, the Commission believes that we must focus on two key areas to boost voter turnout and participation. First, we must modernize our electoral infrastructure - agencies and laws - so it can effectively support the electoral process. Second, we must facilitate access to voting, by making it easier for people to vote and removing administrative barriers that can get in the way.

### Modernizing Our Electoral Infrastructure

A modern democracy requires a modern electoral infrastructure. This is essential to ensure a free and fair

exercise of the franchise. As voting is a voluntary act of democratic participation, it is essential that we promote the value of voting and facilitate participation by making it easier for citizens to register and cast a ballot. The Commission heard from the Office of the Chief Electoral Officer on suggestions we could take to modernize our current electoral laws and procedures to make them more accessible to voters.

There are two main components of any electoral and political process: elections management and administration, and political party financing and conduct. Both must be examined when considering modernizing our electoral infrastructure.

The legal basis for voting and elections in New Brunswick is the *Elections Act*. It sets out the rules and procedures for administering provincial general elections, as well as municipal and local governance elections. The Office of the Chief Electoral Officer is the independent agency responsible for managing the electoral process. The CEO is an officer of the legislature and is appointed on the recommendation of the members of the Legislative Assembly.

Political party financing is regulated through the *Political Process Financing Act*. Individuals, corporations, and unions are limited in the amount of money they can donate to a political party; parties are obligated to disclose and provide audited statements on the amounts they receive; and parties are limited in the amount of money they can spend during an election. A Supervisor of Political Party Financing is appointed to enforce the Act and receive information from political parties for review and approval. The Supervisor is also an officer of the legislature and is appointed on the recommendation of the members of the Legislative Assembly.

These two offices have worked well to date based on the legal frameworks they have been given. But new challenges and demands are emerging that are having an impact on voter participation and the conduct of political parties within the electoral and political process.

New Brunswick's Office of the CEO operates basically as a provincial returning office. Its mandate is "to exercise general direction and supervision over the administrative conduct of elections, to enforce on the part of the election officers fairness, impartiality and compliance with the *Elections Act* and to issue to election officers such instructions as are necessary to ensure effective execution of the *Elections Act*."

Unlike other electoral agencies or commissions, the Office of the CEO has no mandate to promote awareness or participation in the electoral process or even conduct research on voting patterns or issues. The office relies heavily on political party support and participation in the recruitment of election workers - a carry-over from the period when political parties essentially ran elections. It has piloted some new technologies and practices in an attempt to make voting easier and more accessible, but has not done so on a province-wide basis.

The Supervisor's mandate is clear: it is to administer the *Political Process Financing Act* and monitor compliance with its provisions. To that end, financial contribution limits and disclosure rules were put in place to enhance accountability of political parties and overall trust in the political process. Transparency of reporting and easy access to information is an essential ingredient of this accountability.

At present, the Supervisor has no website on which documentation or summaries of disclosed information can be posted and viewed. The information contained in the Supervisor's annual reports is limited and does not cover the most recent years for which information has been filed by parties. Citizens may access the information filed by parties, in its original form, but only by attending in person at the Supervisor's office. The Office of the Supervisor simply does not have adequate resources to enhance transparency and accessibility of information on political financing.

New Brunswick is the only province in Canada that keeps separate these two electoral regulatory functions. All other provinces and the federal government combine the responsibilities of elections management with political party financing oversight in one office.

### Elections NB

The Commission believes a concerted effort to boost voter participation must start at the top with the creation of a new independent electoral commission called Elections New Brunswick. This agency would combine the current duties and responsibilities of the Office of the Chief Electoral Officer and the Supervisor of Political Financing in all aspects. It would be responsible for administering provincial and municipal elections and referendums in the province. It would also be responsible for supervising the increased financial and political conduct obligations on political parties we are recommending for leadership selection and nomination contests, as contained in Recommendation Appendix "H", and reporting on political financing. It would have the responsibility to raise awareness and knowledge of the electoral process, especially with young people through education and information programs, and promote the value and importance of voting to all New Brunswickers. Finally, it would report publicly and regularly to the Legislative Assembly to ensure transparency and the involvement of MLAs in its work.

The Commission's proposed detailed mandate for Elections New Brunswick may be found in Recommendation Appendix "B".

### Facilitating Access to Voting

Access to voting is regulated through the *Elections Act*. This is a highly detailed and complex statute. As written, it does not provide the Chief Electoral Officer with flexibility to independently manage the electoral process in a more efficient and effective way. Streamlining and updating the

*Elections Act* to meet the demands of our modern society is a necessary part of making it easier for people to vote and encouraging them to do so.

Over 5,000 New Brunswickers are hired to work in every provincial election. They are essential to running a smooth and fair election. Yet, the CEO does not currently have the authority to hire and train workers and assign them to the ridings and positions needed. A truly independent electoral commission able to meet the modern needs of administering an election today requires that authority.

The processes set out in the *Elections Act* are in some cases archaic; for example, the current advance poll process. In today's busy society, people should be allowed to vote when they can, not when they are told to. Opening up the advance poll process so voters can vote just as they would on election day, even if they did not plan to be away from the riding on election day, would send an additional message that voting is valued and supported. Similarly, voter literacy is a reality we must acknowledge. Placing party logos on the ballot will provide an easy visual cue for voters to assist when marking their ballot.

Technology today is a great enabler. Yet, elections are conducted very much as they were when we first started voting with paper ballots and hand-counting. Tradition and safeguarding against voter fraud or party manipulation are some good reasons for this. Voting technology has evolved, however, increasing the speed and accuracy in which counting can occur. It has also enabled greater flexibility in how and where people can vote. This is a matter of some interest to more transient populations like students. Online registration through the Internet is also now a possibility. Electronic voter tabulation technology was used successfully in the recent Saint John municipal election. It can serve as a pilot for applying this technology on a province-wide basis with the resultant flexibility for voters and appropriate safeguards for security and accuracy.

The Commission believes each of these measures are important and should be explored and applied to facilitate access to voting by New Brunswickers.

### Higher Turnout and Modern Infrastructure

The Commission believes a modern electoral infrastructure is essential to contributing to a boost in voter turnout. The two work together. The steps recommended will help meet this overall goal and are necessary now. A general increase in participation will take time to accomplish. Lower turnout is the result of numerous factors - some institutional, others related to the election issues and choices at any given time. No one single measure recommended by the Commission will "fix" the problem. Taken together, however, our solutions will make a difference.

## Recommendations

The Commission on Legislative Democracy recommends the following initiatives to modernize our electoral laws and infrastructure and boost voter turnout:

### Recommendation 1

That a new independent electoral commission, called Elections New Brunswick, be established. Elections New Brunswick would combine the current duties and responsibilities of the Office of the Chief Electoral Officer and the Supervisor of Political Financing and have an expanded mandate to: conduct elections and referendums in New Brunswick; supervise political party financing and make it more transparent and accountable; promote awareness and knowledge of, and democratic participation in, New Brunswick's electoral process; and provide regular and comprehensive reporting of results, activities, policy issues and promotional activities to the Legislative Assembly.

### Recommendation 2

That accessibility to and participation in the election process for voters be improved, especially for youth, through the following measures:

- 2.1 An online voter registration system.
- 2.2 Targeted approaches to communicate with high school, university and college students on the registration and voting process.
- 2.3 New electronic tabulation technology that would allow voters who are away from their ordinary place of residence, especially university and community college students, to vote from their current location for a candidate in their home electoral district.
- 2.4 Placing party logos on the ballot next to the names of candidates and the parties they represent.
- 2.5 Identifying and hiring young New Brunswickers to work during elections, so that they may become familiar with and interested in the elections process.
- 2.6 Allowing voters to cast their ballot at any poll within their electoral district.

### Recommendation 3

That, where possible, polling stations be placed in New Brunswick schools as locations that are familiar, cost-efficient, and easily accessible to voters, and in order to create a youth-friendly environment for voting.

### Recommendation 4

That the electoral process be updated and streamlined to make it easier to cast a vote; make the rules around elections more clear and understandable; and provide a more flexible and efficient process for administering elections by:

- 4.1 Giving the Chief Electoral Officer the authority to appoint and train returning officers, election clerks, deputy returning officers, poll clerks, enumerators and other election workers, and the flexibility to assign these workers to polling stations and electoral districts as needed.
- 4.2 Opening up the advance poll process so that the procedures to vote in the advance poll are the same as those for voting on election day.
- 4.3 Giving the Chief Electoral Officer more flexibility to set the details of elections procedures.
- 4.4 Integrating the provisions of the *Elections Act* regarding registration of political parties, district associations and candidates with the provisions of the *Political Process Financing Act* to provide a more seamless approach to supervision of political financing and improving access to information on financing of candidates and political parties.



# Chapter 4 - Making the System Work

## Enhancing the Role of MLAs and the Legislature



### Mandate

*To examine and make recommendations on enhancing the role of the Legislative Assembly and MLAs in decision-making while ensuring greater accountability of MLAs to their constituents and to New Brunswickers.*

The Legislative Assembly is at the centre of the democratic process and our system of responsible government. We elect Members of the Legislative Assembly (MLAs) to represent our interests, give us a voice in the legislature, help solve our problems with government, and take decisions on our behalf. The legislature is the essential link between citizens and their government. Improving this aspect of our democracy so that our Legislative Assembly becomes more relevant, responsive, and accountable to citizens is a key focus of making the system work for New Brunswickers.

### What are the Issues?

Much has changed in our province and country since New Brunswickers adopted the present form of representative government and sent their first MLAs to the capital. A new set of issues is creating a new set of demands for change.

#### **Government and governing have changed.**

Governing is much more complex and the issues are more far-reaching. Legislation and regulations are more comprehensive and detailed, touching our lives more than ever before. The sums of public monies spent by government are enormous. This tremendous growth in public expenditures has, in turn, made legislative oversight and scrutiny not just more complicated but essential.

**Society and citizens have changed.** It's not just the business of governing that has become more complex; society has too. Diverse voices in our society demand to be heard about decisions. Civil society organizations have emerged insisting their views be taken into account. Different urban and rural needs, and regional and linguistic issues, all require attention. The media's impact on government and politics has grown influencing not just how politicians are perceived, but often how and when decisions are taken. Information and communications technology access - from the cellular phone to the Internet - has exploded, giving citizens and government more power to

communicate with each other. Collectively, this has significantly increased the pressures and demands on government to be more responsive to voices and views from outside the legislature and the traditional legislative process.

#### **Party discipline has taken root in our political system.**

MLAs don't just represent ridings, they represent their political parties. Supported by an increasingly sophisticated campaign apparatus and a media focus on the leader, modern political parties have constrained the role and influence of the private member and in turn, the traditional purpose of legislative debate and decision-making. Question Period has more questions than answers. Set speeches and arguments precede entirely predictable outcomes. This cycle goes on year after year, reinforcing the adversarial political system where the government proposes and the opposition opposes.

#### **The executive branch overwhelms the legislative branch.**

This development has contributed to the most significant change of all: the enormous expansion in power and influence of the executive branch - the Premier, ministers, the civil service, and the Premier's office - at the expense of the legislative branch. A majority government can develop policy, write legislation, and pass bills through the House without a meaningful role for the legislature. The legislature now matters less. Real debate and discussion occurs rarely in the legislature as a result of party discipline. With key decisions increasingly taken by the Premier and Cabinet away from the legislature, except in a minority or close majority government situation, its role as a forum for debate and decision-making has withered.

*"There is a lack of accountability from MLAs, it's hard for them to represent their constituents when they have to follow the party line. Once elected, they disappear from the radar screen," Community Leaders Roundtable, St. Andrews, June 2004.*

**Finally, citizens are more disenchanted.** Our own expectations as citizens about what we want from our governments and MLAs, and when we want it, have also changed. These changing expectations have, not surprisingly, coincided with declining confidence and trust in our political leaders and institutions. It is this that has led to the charge that a "democratic deficit" exists at the legislative level with too little accountability from our MLAs, too much authority resting with the government, and not enough responsibility given to the legislature.



## What is the Role of an MLA?

MLAs are first and foremost, representatives. They represent the people who live in a geographic area - a riding. They also represent the political party to which they belong as a member. Finally, they represent themselves with individual judgment and principles. On this basis, there are three ways of looking at the representative role of an MLA.

1. **Trustee** - This traditional role requires MLAs to rely on their own independent judgment and opinion to take decisions. They will represent the broader provincial interest, even if this conflicts with the local wishes of their constituents. Therefore, they act as a "trustee" for their constituents.
2. **Delegate** - This populist role suggests MLAs act as the direct voice of their constituents and represent them directly, even if this conflicts with the broader provincial interest or their own personal views. Therefore, they act as their constituents' "delegate".
3. **Politico** - This contemporary political role assumes MLAs are party representatives acting as an advocate for their political party. Therefore, they act as a "politico" operative tied to party discipline.

As no formal job description exists for MLAs in New Brunswick, a conflict between these roles is inevitable. To act as either a trustee or a delegate, an MLA must become more independent of party discipline. A delegate role requires an MLA to suspend his or her own judgment in some matters - a difficult task when citizens are also calling for leadership from their elected officials. Together, this leaves some citizens cynical about how MLAs carry out their roles, their performance and behaviour as legislators, and their real obligations to the people who elected them.

The role of an MLA is tied closely to the role of the legislature. The legislature has the responsibility to debate issues, pass laws, and scrutinize government to hold it accountable. And, as we have seen, it represents citizens through individual MLAs. From this perspective, MLAs have three main jobs:

*First*, to represent their constituents and their ridings by raising issues within the legislature, cabinet, or caucus and acting as an ombudsman to help people solve problems.

*Second*, to hold government accountable by asking questions and scrutinizing legislation and expenditures.

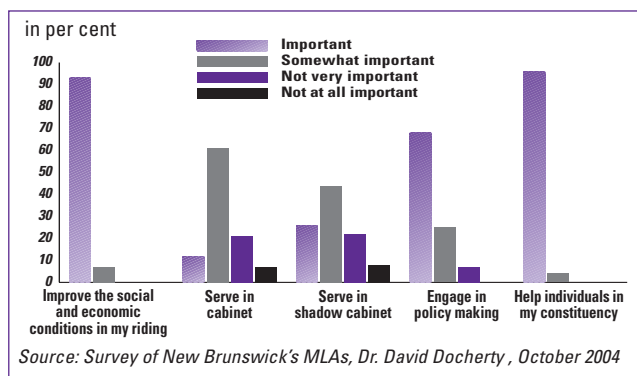
*Third*, to pass laws by debating and voting on them in public.

The representative role is strongly felt by New Brunswick MLAs. An independent survey of members, conducted for the Commission by Dr. David Docherty of Wilfrid Laurier University, found that the vast majority of respondents considered their most important role is to represent their constituents and riding. For example, of those MLAs responding:

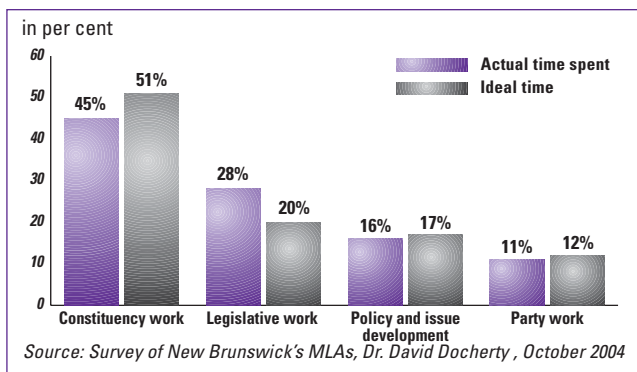
- 90 per cent said they entered politics first to improve conditions in their riding.
- 45 per cent of their time was spent dealing with constituency matters, compared to 28 per cent on legislative work, 16 per cent on policy development, and 11 per cent on party work.
- 84 per cent of MLAs said they would devote more resources, if they had them, to hiring a full-time person to deal with constituency matters.

This is illustrated in the charts below:

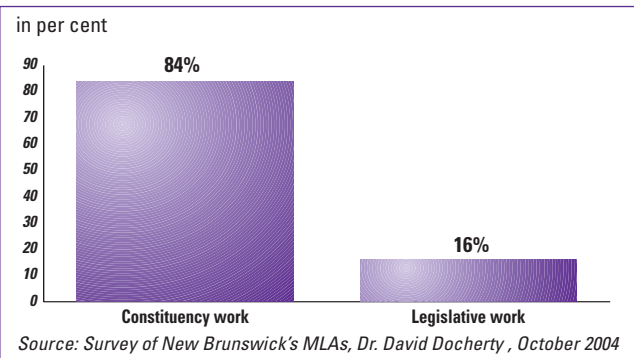
### Why Enter Politics and Career Goals?



### How MLAs spend their time on duties



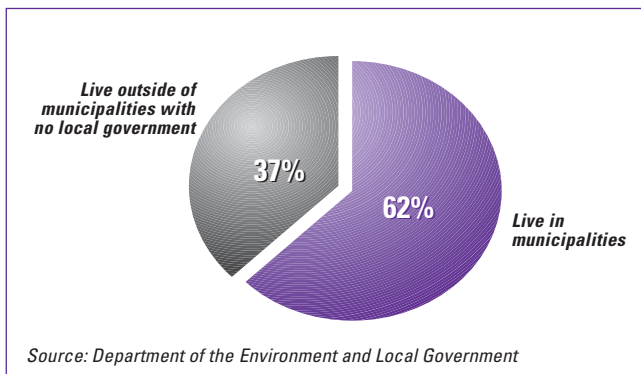
**If members of the NB Legislature were provided with a budget to hire an additional full-time staff person, what percentage of that person's time would you dedicate to constituency versus legislative work?**



*"It is difficult in rural areas to differentiate between the role of the mayor and the role of the MLA,"*  
Public Hearing, Bathurst, June 2004.

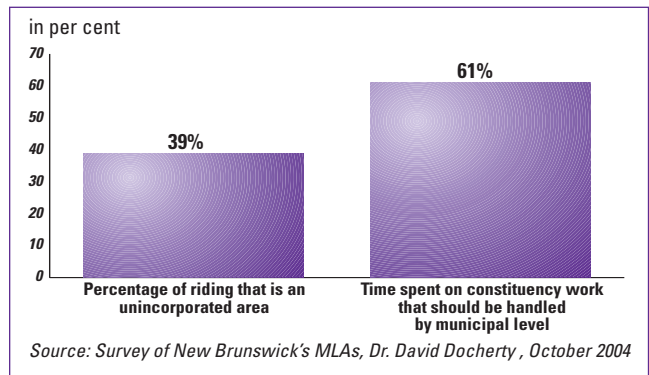
A particular representation challenge in New Brunswick is posed for MLAs whose riding includes a significant portion of unincorporated areas. Thirty-seven per cent of New Brunswickers live outside of municipalities with no formal local government.

### Where people live in NB



These MLAs find they must spend more time dealing with constituency matters that would normally be handled by a municipal entity. This is indicated in the next chart.

### Unincorporated areas in riding



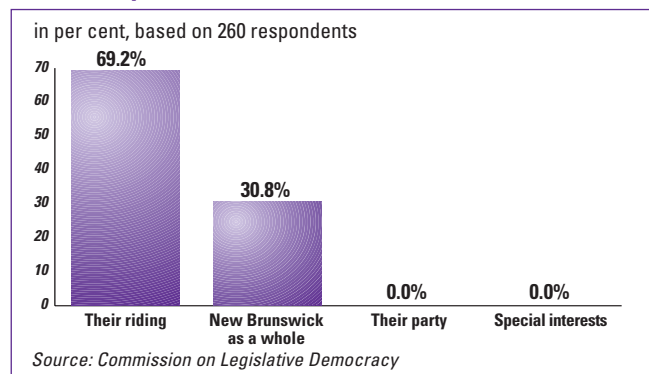
The small size of the province and the relatively small ridings reinforces this focus on constituency service by our MLAs. Based on his research, Dr. Docherty concluded that, "In New Brunswick, members spend slightly more time on constituency work than the typical Canadian MLA." A more complete presentation of the survey may be found in Background Appendix VIII.

### Hearing From New Brunswickers

*"If MLAs had an opportunity to vote the way we want, it would be an improvement."* Community Leaders Roundtable, Sussex, May 2004.

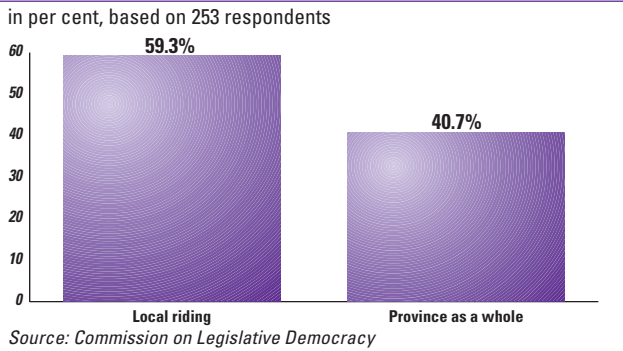
New Brunswickers responding to the Commission's questionnaire expressed a strong view that MLAs should represent their ridings first. When asked whether it was more important for an MLA to represent their riding or New Brunswick as a whole, respondents chose the riding.

### What is the most important role for an MLA? Is it to represent:



This view tempered somewhat when respondents were asked how an MLA should vote if there is a conflict between the interests of their riding and the broader interest of the province.

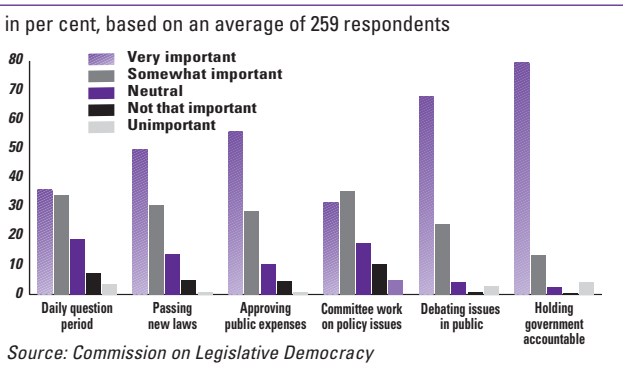
**How should an MLA vote if there is a conflict between the local interests of their riding and the broader interest of the province as a whole (for example balancing the budget)?**



*"MLAs should be focused on moving the province forward, not just parochial/local concerns. They shouldn't just argue with each other."* Community Leaders Roundtable, Saint John, May 2004.

Respondents were also quite clear in what they thought was the most important part of the legislature's business. Holding government accountable and debating issues in public - forms of accountability - were selected more than others, including the daily question period and legislative committee work.

**What is the most important part of the legislature's business?**

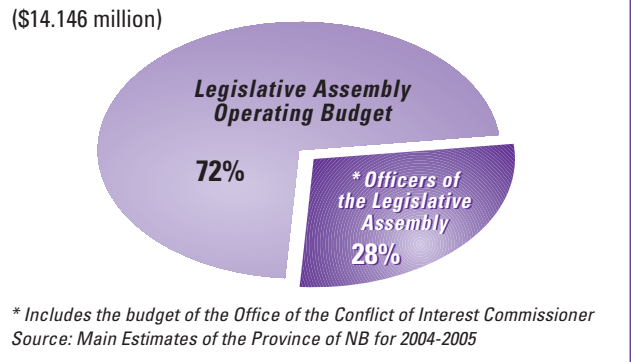


Comments provided to the Commission from citizens indicated a desire that MLAs should be freed of party discipline and be able to vote as they see fit. We want "representation, not regurgitation", as one individual put it. People want to see their MLA more - they "should appear more than once every four years on my doorstep", said another.

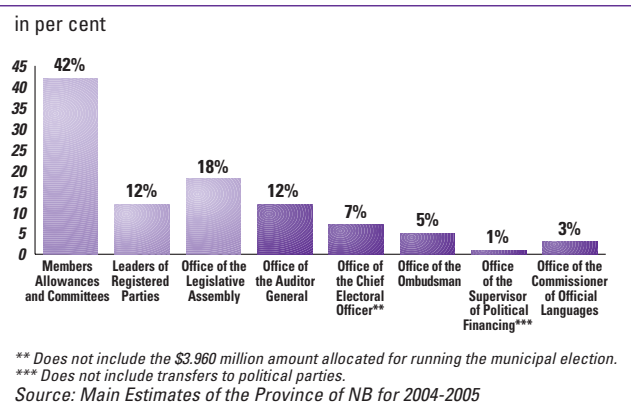
**A Profile of New Brunswick's Legislature**

The budget in 2004-2005 for Legislative Assembly operations (Members pay and allowances, Legislative Assembly Office, and caucus research offices) is \$10.3 million. The budget in 2004-05 for officers of the Legislative Assembly (Chief Electoral Officer, Ombudsman, Auditor-General, Commissioner of Official Languages, and Superintendent of Political Financing) is \$4.015 million. This represents approximately 0.3 per cent of total provincial spending in this fiscal year. The chart below sets out the share of funding each receives.

**Budget of the New Brunswick Legislative Assembly, 2004-2005**

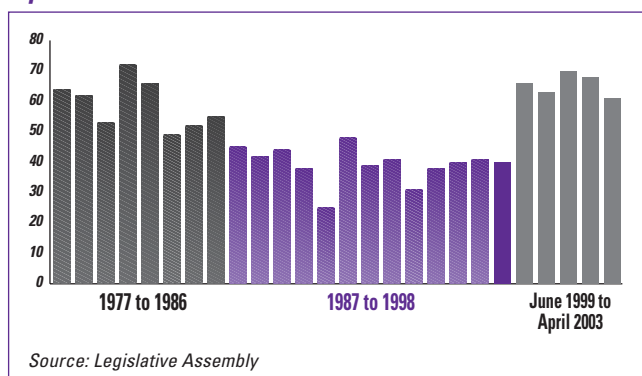


**Legislative Assembly Operating Budget**



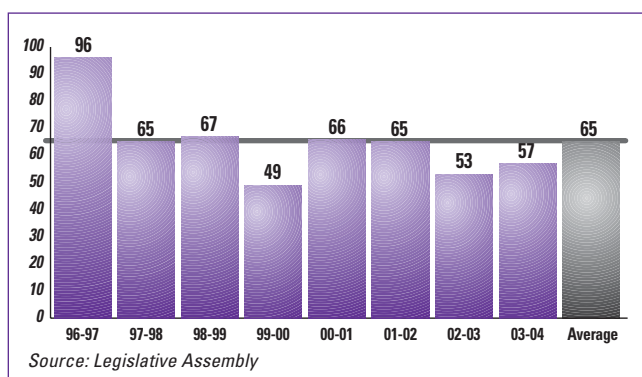
Since 1999, the Legislative Assembly sits an average of 66 days per year, within the range of most legislatures. As can be seen in the chart below, this is a significant increase from the 1980s and 1990s.

### Sitting days of the New Brunswick Legislature per session



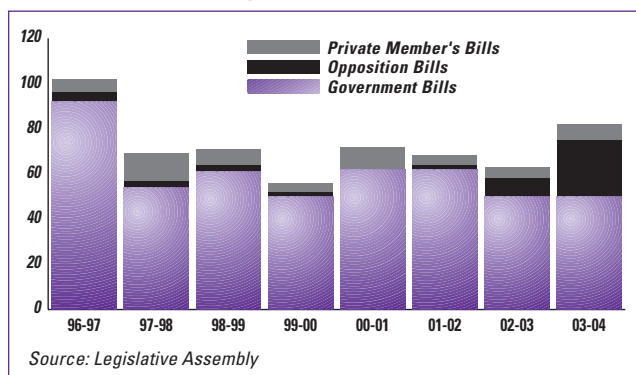
The average number of bills adopted over the past eight years has been 65, from a high of 96 in the 1996-97 session, to a low of 49 in the 1999-2000 session.

### Number of Bills adopted by session



While the legislature is efficient in passing government bills, it is far less responsive to passing private member's bills, as the chart below shows. It is only in the past two years that an increase in the number of private member's bills tabled has occurred. It is worth noting that this is happening when the party standings in the House have been close.

### Number of bills introduced in the New Brunswick Legislature



New Brunswick MLAs are not extravagantly paid. Out of 16 jurisdictional comparisons, remuneration figures indicate that in 2003-04, their basic salary (\$40,565) was 12th-lowest, and their total salary was ninth-lowest. This is set out in Background Appendix VI.

Constituency resources are another issue. New Brunswick MLAs receive \$25,000 per year to staff and operate a constituency office. This is the lowest in the country for jurisdictions that provide such funding despite, as we have seen, MLAs spending a higher proportion of their time on constituency matters than the typical MLA in Canada. A comparative table is set out in Background Appendix "VIII".

New Brunswick is the only jurisdiction in Canada that does not publish a timely record of its daily proceedings and deliberations. In fact, all other provinces provide online, up-to-date access to Hansard. In New Brunswick, the last published volumes date back to the 1995-1996 session. The volumes of the next four sessions are almost ready for publishing, while the 1999-2000 and the 2000-2001 sessions still need to be translated. The last three sessions have not yet been completely transcribed.

While our legislature can be said to operate efficiently and effectively on behalf of taxpayers with the resources it receives, the question can be asked, "At what cost to citizens?" There is a financial cost to democracy; a cost that perhaps can only be measured when it is lacking.

*"Roles of MLAs and their responsibilities should be increased, as well as the number of free votes they have." Public Hearing, Fredericton, June 2004.*

### Roundtable on Empowering the People's House

On March 25, 2004, the Commission held a one-day expert roundtable discussion on how we could enhance the role of MLAs and the legislature. This event was co-sponsored with the Centre for Research and Information on

Canada. MLAs from Alberta, Ontario, and Québec gave us their perspective on legislative reform initiatives occurring in their provinces. A panel with a government and an opposition MLA from New Brunswick discussed their own experiences and some of the realities of being an MLA in this province. Academic experts from the Parliamentary Centre in Ottawa and elsewhere set out the issues and challenges in this area. The discussion was rounded out by the participation of the Ombudsman and a representative of the media.

There were many common concerns expressed by participants about the partisan nature of politics today and the adversarial system in the legislature. Virtually all stated these were barriers preventing private members from having more influence, and causing people to look more negatively upon their political leaders and institutions. One elected official expressed a desire to return to the original ideals that made it the “People’s House”. Many participants believed there was a need to circumscribe partisanship, and allow more time for thoughtful consideration of bills and issues. The New Brunswick MLAs participating called for more resources for MLAs to serve their constituents better. There were suggestions for more public input into the legislative process and to make debates more relevant and meaningful.

The need to change the culture in the legislature was seen as critical to successfully enhancing the role of MLAs. All participants at the Commission’s roundtable felt this was necessary to help correct the current state of citizen disengagement and cynicism about politics and politicians in the country.

### Making the Legislature More Relevant and Effective

The Commission believes that enhancing the role of MLAs really begins with enhancing the role of the legislature in democratic governance. Simply put, the legislature must matter more. It must become more relevant to decision-making in our province and more effective in how it functions. A rebalancing of authority away from the executive branch back to the legislature is required. In the process, our MLAs must become even more accountable to the people they serve.

There are several major barriers to achieving these goals.

- **Party Discipline.** Votes along party lines are entirely predictable today. There are no free votes in today’s legislature. Party discipline reinforces the adversarial nature of our political system. It creates a sense that legislators do not listen to people; that MLAs cannot act independently on behalf of their constituents. Free votes and a more relaxed definition of what constitutes a vote of “non-confidence” could help address this issue.

- **Adversarial Politics.** Governments propose and oppositions oppose. This traditional formula leaves little room for bipartisan compromise and can prevent good ideas from being adopted in a collaborative way. It causes MLAs to engage in personal attacks and political grandstanding that devalues the currency of political life. A stronger focus on legislative committee work and private members bills, offering more possibilities for cross-party co-operation, could help make the House less adversarial in these areas at least.

*“I used to bring my class to the Legislative Assembly but I no longer do. I am embarrassed with the way MLAs act and speak during Question period. I would discipline my students if they behaved in such ways.”* Teacher, Colloque provincial de l’Association des enseignants et enseignantes francophones du Nouveau-Brunswick, Bouctouche, September 2004.

- **Legislative Assembly Resources.** From legislative committees to policy research and legislative drafting, the New Brunswick legislature does not have the resources to allow MLAs to fulfill their broad role as legislators and fulfill their professional obligations to the quality New Brunswickers deserve. This is contributing to the current lack of influence of the legislature. Providing adequate resources to the legislature to do its job of legislative review and government scrutiny is necessary to redress this.
- **MLA Resources.** Individual MLAs have few professional resources to provide effective constituency services to citizens. Recent improvements have not kept pace with either the ongoing demands from constituents or the desire of MLAs to serve their ridings more effectively. Providing sufficient resources to individual MLAs to represent and communicate with their constituents more effectively is important. Adequately fulfilling their representative function is the top priority of citizens, as it is of MLAs.
- **House Rules.** Traditions and practices have been established over time that reinforce the adversarial system and make it difficult for MLAs to act outside this culture. Providing more flexibility in the rules of the House would allow MLAs to more effectively carry out their scrutiny and accountability functions as well as take on more policy development and legislative review roles. At the same time, a more efficient and accountable House could emerge from fixed legislative calendars and set Budget and Throne Speech dates.

- **The “full-time” MLA.** MLAs have historically been “citizen politicians”, spending time in the capital city when the legislature is in session, but otherwise remaining in their ridings. Today, the demands of constituency representation, legislative and policy work, and the media, make even the private member’s role a full-time one. Members work longer hours than the average person in the province. It has become in fact, if not in name, a formal full-time profession in our province and should be considered as such. Accordingly, it requires a different approach than at present, with appropriate remuneration and support to allow MLAs to perform the roles that are now expected of them.

### Strategies for Enhancing the Role of MLAs and the Legislature

The Commission believes that the following six strategies should be implemented to achieve our goals of enhancing the role of MLAs and the legislature:

**First, give the legislature more independence and authority.** The Commission believes that the House must matter more. This means reinforcing its independent ability from government to manage its own business, to debate bills and issues, scrutinize government and hold it accountable, and interact with citizens. The Commission believes, as a first step, that the legislature should be allowed to set its own budget, together with the budgets of the officers of the Legislative Assembly. The legislature and legislative officers are independent of government and should be treated as such. The Commission is also recommending the creation of a new Legislative Library Research Office to provide dedicated access to professional research expertise for members. More resources for research and committee work are necessary to give members the ability to study issues, engage citizens, and offer their own solutions to public policy challenges. Our recommendation for restructuring legislative committees along policy lines will underline the authority and expertise of these committees and their members. The Commission believes that the legislature needs to operate more efficiently as well. Fixed legislative calendars with set Budget and Throne Speech dates will contribute to a stronger sense of legislative independence and authority, requiring the government to plan its business around the legislature rather than the other way around.

**Second, give private MLAs more independence and authority.** The Commission believes MLAs must matter more. MLAs need to be reinforced in their roles as both legislators and constituency representatives. This means giving them the resources to draft private members bills and provide more effective representation to their constituents. Private members should, as legislators, be able to introduce bills on public policy and constituency matters of importance to them and have them debated. Access to drafting expertise is required for this to occur. Citizens and MLAs want closer interaction with each other. This is a strong part

of New Brunswick’s political culture. That is why the Commission is recommending, in both instances, that MLAs be supported in drafting private members bills through more resources at the new Legislative Library Research Office, and that the annual constituency budget for MLAs be increased from one of the lowest amounts in the country to a more appropriate and meaningful amount that reflects the needs and expectations of their job.

**Third, reduce party discipline and the adversarial political culture of the legislature.** The Commission believes a less partisan dynamic is essential to restore true independence and authority to the House and raise people’s trust and confidence in their political institutions and officials. The Commission is recommending several specific measures aimed at reducing overt party discipline and contributing to a less adversarial political atmosphere. This particularly includes allowing more free votes on issues and instituting a three-line whip system. Not every bill should automatically divide along party lines. Established procedures and traditions exist in our form of parliamentary system to give more freedom to private MLAs to exercise their “trustee” and “delegate” roles while still allowing a government to carry out its legislative agenda and program. Similarly, partisan ties can be less acute in legislative committees where members work more closely together over a longer period of time on issues. This can lead to more consensus building and unanimous reports to government for action. The Commission believes that encouraging policy development and legislative review through committees will help reduce rampant party discipline, give MLAs more flexibility to work together in a more collaborative manner, and demonstrate to the public how effectively the system can work for citizens.

**Fourth, make MLAs more accountable to the legislature.** The Commission believes that ongoing accountability of MLAs to the legislature is an essential component of legislative democracy. It would enhance public trust. Simply providing more resources without requiring accountability for the expenditure of those resources would not meet this obligation. The Commission is therefore recommending that MLAs provide a complete accounting on an annual basis of increased constituency and communications expenditures to the Legislative Assembly Office, the independent administrative office of the legislature. Annual reports of these expenditures would be made public by the Speaker.

**Fifth, make the legislature and MLAs more accountable to New Brunswickers.** The Commission equally believes that ongoing accountability of MLAs and the legislature to New Brunswickers is essential to a renewed democracy. New Brunswickers need to know more about what their MLAs do, and how they conduct their business. The public performance of our elected officials has a strong bearing on how citizens perceive their democratic institutions. Since accountability starts with conduct, the Commission believes that MLAs need to adopt a clear Code of Conduct for MLAs through a public debate, and make this Code a formal part of their Standing Rules. The work of

the Legislative Administration Committee already completed in this regard should serve as this Code. Equally important to accountability is how MLAs set their salaries and remuneration. The Commission believes that citizens should have their say, rather than leave it entirely to MLAs themselves. Our recommendations for a three-person citizens commission to independently recommend the remuneration for MLAs will achieve this objective. They should do so on the basis of an MLA as a full-time profession, consolidating the current confusing structure of per diems, indemnities, and expenses into a single, transparent salary befitting the importance of the job, the need to attract quality individuals and qualified candidates, and the expectations of citizens. Similarly, the Commission is also recommending that the *Right to Information Act* now apply to MLAs by adding the Legislative Assembly to the list of departments designated as coming under the provisions of the Act. Together, these steps will make for a more accountable legislature, which will help restore the essential commodity of political trust so necessary in a democracy.

**Sixth, promote more citizen engagement with the legislature.** The Commission believes that MLAs need to be more engaged with citizens if the legislature's role is to be truly enhanced in their eyes. New Brunswickers want to interact more with their elected officials on issues that matter to them. The Commission is recommending that several steps be taken to promote more citizen engagement with the legislature, including a stronger public consultation role for committees, greater use of petitions, including e-petitions, and more online consultation and interaction by MLAs with their constituents. As well, the Commission believes that MLAs should be encouraged to engage citizens directly on issues to hear their views. To do so, we are recommending a small, dedicated budget for each MLA to access as required to hold town hall meetings, engage in mini citizens' assemblies, or other means that work best to communicate with their constituents.

The Commission believes that these strategies, together with the specific recommendations set out below, will go a long way toward enhancing the role of MLAs and the legislature in the democratic life of our province. Changing the culture of an institution is quite difficult. Changing a political culture is probably most difficult of all. Nevertheless, the Commission heard clearly from New Brunswickers, including MLAs themselves, that they are not satisfied with the present situation. It has helped contribute to a rise in discontent with the current political system and with our political leaders. Individually and collectively, they are being held responsible for a situation that has developed over time and are now paying the professional and personal price for it. It is a price that involves significant sacrifices of personal and family time, for an uncertain future and an often angry and frustrated set of voters with which to deal.

All the evidence suggests our MLAs are positively motivated and sincere about their desire to serve their constituents and to make our province stronger. We believe that they need

more resources to do their job and serve us, as citizens. We believe they are in many ways underpaid for what they do and what we, as citizens, expect of them.

At the same time, it is sometimes true that MLAs' strongly partisan behaviour, perhaps as a result of the system in which they find themselves, creates a sense of mistrust with voters and contributes to this more pervasive lack of confidence in our democratic process. This is helping to erode the legitimacy of our democratic institutions and processes.

The Commission believes the time has come to bring about change.

### Who Can Make Changes?

MLAs themselves are first and foremost responsible for bring about the changes we are recommending. There is an ancient privilege that the House is sovereign; in its own matters, it is its own master. This is a fundamental guarantee of the legislature's independence from outside influences and, by extension, anything that gets in the way of members representing their constituents. Standing on traditional prerogatives, however, is no answer to the desire for change being expressed by New Brunswickers. The history and internal mechanics and business of legislative operations should not act as a barrier to change.

Our changes will make a positive difference. They will make private members matter more. The legislature will become once again the central focus of our democracy. The roles and responsibilities of MLAs will become clearer and more supported. We believe it will lead to a stronger understanding by New Brunswickers of what MLAs do, which should lead to an increase in confidence in our political system.

But our report comes with a warning too. Adopting these recommendations on a piecemeal basis, particularly those that lead to higher expenditures for MLAs without, for example, giving them real responsibility and making them more accountable for their actions, will only heighten cynicism. The Legislative Assembly matters too much to our democracy. It is worth the effort to make it matter even more.

## Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to enhance the role of the Legislative Assembly and MLAs, and increase accountability of government and the legislature to New Brunswickers:

### Enhancing the Role of the Legislative Assembly

#### Recommendation 1

That party discipline and partisanship be reduced by encouraging more free votes, fewer confidence measures, and the introduction of a three-line whip voting system in the Legislative Assembly.

#### Recommendation 2

That the role of legislative committees in policy-making be enhanced by providing the committees with designated staff and resources allowing them to conduct independent research and undertake public consultations, including mandatory public hearings on important bills.

#### Recommendation 3

That the Legislative Assembly committees be restructured to create standing policy committees that would facilitate consideration of bills and encourage stronger MLA policy expertise. The Standing Committees could be:

1. Standing Committee on Natural Resources
2. Standing Committee on Social Policy
3. Standing Committee on Finance and Economic Policy
4. Standing Committee on Public Safety
5. Standing Committee on Government Operations
6. Standing Committee on Public Accounts and Crown Corporations
7. Standing Committee on Legislative Administration, Procedures, Statutory Officers and Legal Issues

#### Recommendation 4

That an independent Legislative Library Research Office be created and funded to serve all MLAs, and to support the role of strengthened legislative committees, ensuring that individual MLAs can research policy issues on behalf of constituents and acquire more legislative expertise in specific policy areas.

#### Recommendation 5

That MLAs have the time to review bills before they are adopted in final form by allowing for more time between first and third reading of bills.

#### Recommendation 6

That a new, designated one-hour dialogue and scrutiny time period every two weeks called, "Interpellation" be provided. Interpellation would be used firstly, to debate reports of committees of the Legislative Assembly and secondly, to allow for more detailed questioning of ministers on specific policy areas.

#### Recommendation 7

That Hansard and Legislative Assembly reports be accessible online, in a more up-to-date time frame in both official languages. A transcript of Question Period would be published within 24 hours and a transcript of Hansard within 48 hours.

#### Recommendation 8

That the Legislative Assembly be permitted to independently table its own budget through the Speaker on the same day and as a component part of the Main Estimates tabled by the Minister of Finance, as is stated in the *Legislative Assembly Act*.

#### Recommendation 9

That the Statutory Officers of the Legislative Assembly be permitted to independently submit the budgets for their offices to the Legislative Administration Committee for review and approval as part of the overall Legislative Assembly budget.

### Enhancing the Role of MLAs

#### Recommendation 10

That the formal Code of Conduct for MLAs proposed by the Legislative Administration Committee and set out in detail in the policy framework on the Roles and Duties of an MLA and a Code of Conduct for Members of the Legislative Assembly in New Brunswick contained in Recommendation Appendix "C", be adopted following a debate in the Legislative Assembly, added as an appendix to the Standing Rules of the Legislative Assembly, and published on the Legislative Assembly website.

#### Recommendation 11

That the annual constituency budget for each MLA be increased to \$50,000, as set out in the policy framework for MLA Constituency Resources contained in Recommendation Appendix "D", to allow the MLAs to offer more accessible and effective services to their constituents. This budget would be administered by the Legislative Assembly Office to ensure full transparency and accountability. A complete accounting of spending would be published in an annual report by the Legislative Assembly Office.



### Recommendation 12

That MLAs be supported in drafting more Private Member's Bills reflecting their independent policy ideas and constituency concerns, by providing access to legal drafting resources and staff through the new Legislative Library Research Office referred to in Recommendation 4. Government and Opposition members would adopt a process to vote on an agreed upon number of such bills during each legislative session.

### Recommendation 13

That an independent remuneration review committee of three New Brunswick citizens appointed by a two-thirds vote of the Legislative Assembly be established to determine a new consolidated salary level for all MLAs, to better reflect the full-time reality of the occupation, and the need for regular, appropriate increases, as set out in detail in the policy framework for a Review Committee of MLA Remuneration contained in Recommendation Appendix "E". Per diems and other expenses for undertaking committee and other work would be eliminated in favour of this more transparent and realistic salary level.

## **Ensuring Greater Accountability of Government and the Legislature to New Brunswickers**

### Recommendation 14

That a fixed Legislative Calendar Session as set out in detail in the policy framework contained in Recommendation Appendix "F", be introduced, setting out in advance when the legislature would meet each year. This would allow for more effective and efficient use of House time, ensure that designated days are set aside for legislative committees to do their work, and also allow individual Members to more effectively plan their time to meet both their constituency and legislative obligations.

### Recommendation 15

That a *Transparency and Accountability Act*, as set out in the policy framework contained in Recommendation Appendix "G", be adopted that would set deadlines for the publication of Public Accounts and quarterly provincial financial reports, and would enumerate what information must be contained in each report. This *Act* would also set out Throne Speech and Budget dates.

### Recommendation 16

That up to \$5,000 annually be allocated to each MLA, designated specifically for undertaking direct public consultation with their constituents through town hall meetings and citizens' forums on policy issues. This budget

would be administered by the Legislative Assembly Office, with a regular reporting of activities undertaken by members publicized each year.

### Recommendation 17

That the Legislative Assembly promote the use of information and communications technology to improve citizen access, including a more extensive and interactive website, with sites for individual MLAs, as well as creating a new online "e-petition" feature that will allow citizens to start and manage their own petitions through the Legislative Assembly website.

### Recommendation 18

That petitions be given a higher priority in legislative business by adding petitions to the terms of reference of one or more appropriate standing committees, which would regularly examine petitions received, and would be empowered to invite petitioners to committee meetings to discuss their concerns. Committees taking up petitions would include them in their reports to the Legislative Assembly, and require timely and meaningful responses from government on the petitioners' concerns.

### Recommendation 19

That the *Right to Information Act* process be improved *first*, so that where the scope of a request by an applicant under the *Act* is not clear or the request would be best served by a personal inspection of the information by the applicant, the appropriate minister would be permitted to invite the applicant to inspect the information in the offices of the department, if it was practical to do so, within 30 days of the receipt of the application as set out in the *Act*; and, *second*, that Regulation 85-68 under the *Right to Information Act* be amended to include the Legislative Assembly in the list of Departments that are subject to the *Act* as long as providing the information requested does not infringe on the privileges of the Legislative Assembly or the Members of the Legislative Assembly.

## Improving Party Democracy

### Mandate

To examine and make recommendations on strengthening and modernizing our electoral system and democratic institutions and practices in New Brunswick to make them more fair, open, accountable and accessible to New Brunswickers and to seek the views of New Brunswickers on more open, responsive, and accountable democratic institutions and practices.

### Overview

Political parties are central players in New Brunswick's democratic life. Many New Brunswickers experience politics almost exclusively through our parties. Parties choose leaders from among whom we select our Premier, they nominate candidates from among whom we select our MLAs, and they organize our legislature along party lines. The manner in which parties conduct these key activities has a significant impact on our democratic culture. The Commission believes that efforts to create a more citizen-centered democracy in New Brunswick must include steps to make parties more open, democratic and accountable. Therefore, we are making recommendations concerning the conduct of parties in candidate nomination, leadership selection and policy study and development.

### Public or Private Organizations?

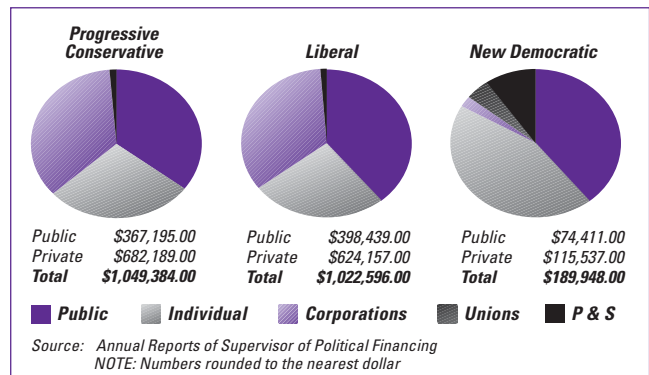
Some will argue that political parties are private organizations and thus should be left to regulate themselves. We do not agree with this sentiment for two reasons. The first is that our political parties engage in decision-making that has a profound effect on public affairs in the province and the second is that they receive substantial amounts of New Brunswickers' tax dollars. In 2004, the three principal parties received approximately \$646,000 in direct public subsidies - the annual allowances that the political parties receive under the *Political Process Financing Act (PPFA)* - as well as significant additional public funding through the tax credit for contributions to parties estimated to cost the provincial treasury more than \$500,000 in 2003.

The annual allowance to which each party is entitled is calculated using a formula set out in the *PPFA*, indexed for inflation, to obtain a dollar amount per valid vote (currently \$1.73) received by each party in the previous provincial general election. Parties also receive public funding through an election expense reimbursement and a reimbursement for the cost of auditing their financial returns to the Supervisor. In terms of private financing, the *PPFA* allows parties to accept contributions, for which income tax receipts are issued, from individuals, corporations and trade unions. All these contributions must be reported to the Supervisor of

Political Financing along with the value of contributions of property and services, or "in-kind contributions".

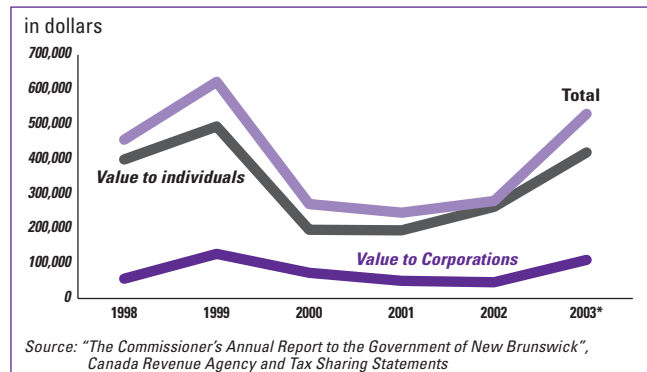
As the chart below shows, public funding made up on average between 35 and 40 per cent of the total financing of each of the three main political parties in New Brunswick over the five-year period 1997- 2001. In terms of private financing, the Progressive Conservative and Liberal parties both received approximately one-quarter of their overall financing from individuals and one-third from corporations for this same period. The NDP received most of its private contributions from individuals.

**Average Annual Political Financing Amounts in NB: 1997 – 2001**



The value of the political contributions tax credit to both individuals and corporations - which is funded by taxpayers - from 1998 to 2003, totalled \$2,436,891. The chart below shows the value of this tax credit over this period.

**New Brunswick Political Contributions Tax Credit 1998-2003**



We believe public support of our political parties is appropriate given the important role they play in our society. In fact, in other parts of this report, we recommend an increase in the amount of public funds available to parties. However, these dollars should not simply be handed over without greater assurance that our parties are meeting the democratic expectations of our citizens.

Through the selection of candidates and leaders and the drafting of policy platforms, the activities of New Brunswick's political parties have significant impact on the quality of our democratic practices and institutions. Citizens have the right to believe that these activities are conducted in a fair, open and transparent manner.

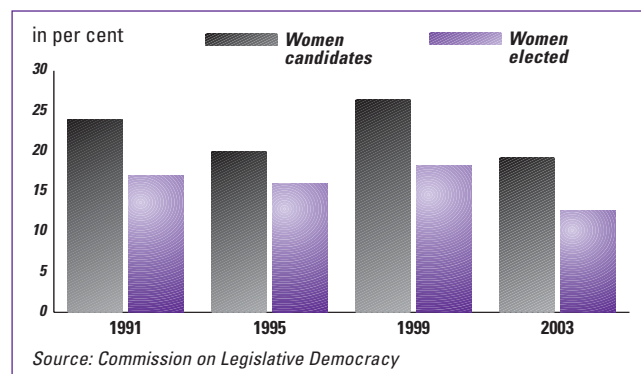
### Party Nomination and Leadership Contests

Among the central activities of our political parties is the selection of general election candidates and party leaders. Both of these activities have a significant impact on our politics. It is only by first winning a party nomination contest that a candidate has any realistic chance of being elected to the legislature. In the 12 provincial elections held since 1960, every successful candidate was first nominated by a political party. This means that when voters go to the polls to select their MLA, the political parties have already narrowed the choice down to three candidates from among whom voters get to choose. In 'safe' seats, where one party is almost certain to win the general election, the nomination contest is arguably more important than the general election.

In terms of leadership selection, the parties again narrow the field down to a small group of individuals from among whom we choose our premier. On occasion, the parties directly choose a premier. For example, when Premier McKenna resigned in 1997, his successor, Camille Thériault, was chosen by Liberal party members and served as premier for one year before the next general election. This is not to suggest that this is inappropriate; rather, it makes clear the importance of these events in our democratic life.

Similarly, when we concern ourselves with access to elected office for under-represented groups, such as women, we must begin our investigation with an examination of candidate nomination and leadership selection contests. The parties act as gate keepers, determining who has access to public office. As illustrated in the chart below, women are under-represented among the groups of candidates nominated by our political parties, leading almost inevitably to an under-representation of women in our legislature.

### Comparison of Women Candidates vs Women Elected – Provincial Elections



### Financing

*"To ensure a true democracy, we must introduce measures that would prevent wealthy groups to be able to influence, through money, citizens' vote,"*  
 Submission by l'Association acadienne et francophone des aînés et aînées du Nouveau-Brunswick, May 2004.

New Brunswick's *Political Process Financing Act* provides a comprehensive and effective regulatory scheme for the financing of our provincial general elections. There are limits on contributions to and election expenditures of candidates and parties, and full public disclosure is required. These requirements of the *PPFA* work toward providing a level playing field between candidates and parties, restricting the influence of non-voters, and ensuring transparency in the financial dealings of the parties and their candidates. However, the *PPFA* falls short in not covering the financial activities of party leadership and candidate nomination contests. As suggested above, these events are as consequential as general elections, and the rationale supporting regulation of general election financing applies readily to these contests as well. Therefore, the Commission recommends that the relevant provisions of New Brunswick's *PPFA* be amended, as described below, to set limits on contributions to and expenditures of leadership and nomination candidates.

### Spending limits

In general election campaigns, there are limits on the amount candidates and parties are able to spend. In the case of individual candidates, while the limit is calculated based on the number of voters and thus varies by constituency, the average spending limit was \$26,756 in the 2003 election. The principal rationale for this is to ensure that one candidate or party with easy access to financial resources is not able to spend enormous amounts gaining an unfair advantage over their opponents. We believe that the same logic that supports limiting candidate spending in a general election applies equally to nomination contests. The Commission heard that women are

dissuaded from entering nomination contests because of the uncertain financial costs and the possibility of being dramatically outspent by an opponent. We also note that the federal government moved in 2003 to limit the amount candidates for party nominations at the federal level can spend to 20 per cent of the amount they are allowed to spend in a general election campaign. We are in agreement with the approach taken at the federal level and recommend a similar formula for New Brunswick. This would result in limiting spending by a candidate for a party's nomination to approximately \$5,300.

The evidence suggests that this spending ceiling would not be a limiting factor in most nomination contests. Our survey of MLAs suggests that the mean amount spent by a successful candidate in a nomination contest prior to the 2003 provincial election was about \$2,000. Nonetheless, the Commission heard some evidence that this amount increases dramatically in a few cases, particularly those where a party has an open seat in a riding where it stands a good chance of being successful. It is in these cases where a spending limit is required to protect against a well-heeled candidate raising and spending an inappropriate amount of funds, and by doing so, gaining an unfair advantage.

The rationale supporting a limit on candidate nomination spending applies with even greater force to leadership selection contests. These are among the most consequential activities in our democratic politics. As illustrated above, they occasionally result directly in the selection of a premier and in every case, choose men and women who will be influential players in our democratic life. The Commission believes that it is important that all legitimate candidates be able to compete in these contests without fear of being vastly outspent by an opponent. Simply put, the ability to raise vast amounts of money should not determine the outcome of these contests. At the same time, because these are such important events, and because we encourage leadership candidates to engage large numbers of citizens, it is important that they be permitted to spend enough funds to campaign vigorously throughout the province. Given that leadership candidates must campaign in all 55 ridings, an appropriate spending limit is arrived at by multiplying the amount a nomination candidate is allowed to spend by fifty-five. This amount is approximately \$300,000 ( $\$5,000 \times 55$ ), which we believe is an appropriate level at which to cap spending in a party leadership contest.

The Commission respects the fact that individual parties may have different values that they wish to reflect in the spending rules governing their nomination and leadership contests. There is nothing in these recommendations to prevent a party from establishing a lower spending ceiling. The proposed limits are the outer amounts above which candidates in these contests would be prohibited by law from exceeding.

### **Contribution limits**

The *PPFA* limits the amount any individual, corporation or trade union may contribute to a political party or general election candidates to \$6,000 per annum. The rationale for

this provision is to attempt to ensure that no candidate or party is overly dependent on one source of campaign funding. The concern is that if one person or corporation is able to contribute excessive amounts, the recipient candidate or party may be overly dependent on continued financial contributions from this source and thus may be overly responsive to their influence. By limiting contributions to relatively modest amounts, we are able to protect against the possibility of quid-pro-quo arrangements.

At present, a donor may contribute an unlimited amount to nomination and leadership candidates. The absence of contribution limits for candidate nomination and leadership contests essentially negates any potential benefits achieved by the general election limits. A donor seeking influence, who is limited in the amount she or he can contribute to a candidate during a general election, can easily circumvent this limit by making the contribution during the nomination period. Given that we are proposing a spending limit of approximately \$5,000 for nomination campaigns, the Commission recommends that no single donor be able to contribute more than \$1,000 to nomination candidates. This ensures that no candidate, in a highly contested race, is overly dependent on a single contributor and that no single contributor has undue influence over the nomination contest.

Given the considerably larger fund raising demands on leadership candidates and their significantly larger campaign budgets, the Commission recommends a \$3,000 limit be placed on the amount any one individual, corporation or trade union may contribute to the candidates for a party's leadership. In both cases, we also recommend that these contributions not count against the limits already in place for contributions to political parties and general election candidates, so as not to impact the abilities of parties to raise funds for their own campaigns.

### **Disclosure**

Financial disclosure requirements serve two main purposes. First, they provide transparency into a candidate or party's financial relationships, and second, they facilitate enforcement of spending and contribution limits. The *PPFA* currently requires financial disclosure from general election candidates and parties, but not from nomination and leadership contestants. The Commission sees no justifiable reason why these contests should be excluded from disclosure requirements. Voters have as much, and perhaps more, interest in knowing who is funding a leadership campaign as they do in knowing who is funding the campaigns of their local general election candidates. Disclosure requirements are also necessary to ensure compliance with the proposed spending limits.

The Commission recommends that nomination candidates be required to file a full financial disclosure report with Elections New Brunswick, consistent with the provisions of the *PPFA*, within 90 days of the date of the nomination contest in which they were a candidate. In the case of leadership contests, we recommend both pre and post contest reporting. Given that these contests often last for several months, which is longer than general election campaigns, we recommend that candidates file a first

## Summary Table of Recommended Changes to PPFA

	<b>Nomination Contestants</b>	<b>Leadership Contestants</b>
<b>Contribution Limits</b>	<b>\$1,000</b> from an individual, corporation or trade union, in the aggregate, to the nomination contestants of each registered political party.	<b>\$3,000</b> from an individual, corporation or trade union, to one or more of a party's leadership contestants.
<b>Spending Limits</b>	Approximately <b>\$5,300 per nomination contestant</b> (based on 2003 election spending limits).  Formula: 20% of the average of the limits that were allowed for a candidate's election expenses in the province's electoral districts during the immediately preceding general election.	<b>\$300,000</b> per leadership contestant in a contest.
<b>Disclosure Requirements</b>	Nomination contestants to file with Elections New Brunswick a full financial disclosure report <b>90 days after</b> the date of the nomination contest in which they were a candidate.	Leadership contestants to file with Elections New Brunswick: a) a first financial report, detailing financial transactions to date, <b>four weeks prior</b> to the date of the leadership vote, and b) a second, full disclosure report <b>90 days after</b> the leadership vote.

financial report with Elections New Brunswick four weeks prior to the date of the leadership vote, and a second report 90 days after the leadership selection contest. The first report should include all relevant financial transactions to that date, and the second report should include the period between the filing of the two reports. These reports should be made public by Elections New Brunswick as soon as practical after their receipt.

The Commission recognizes that these proposals will place an additional administrative burden on those seeking public office, and is concerned that this burden not be placed unnecessarily on those nomination candidates who do not raise or spend considerable amounts of money in support of their candidacy. And, given that our MLA survey respondents, all of whom were successful nomination and general election candidates, suggest that their mean spending in nomination contests was \$2,000, we propose that the disclosure and reporting requirements be limited to candidates who raise or spend in excess of \$1,000 on their nomination campaign. Candidates should have the option of filing a signed affidavit stating that they both raised and spent less than \$1,000 on their nomination campaign in lieu of filing a full financial disclosure report.

The table below summarizes the Commission's proposed change to financial rules governing party leadership and nomination contests:

### Rules Governing Nomination and Leadership Contests

At present, party nomination and leadership contests are subject to no public regulation. The parties conduct these contests as they deem appropriate. The Commission heard from New Brunswickers that there should be a standard set of rules to ensure that these contests are conducted in a fair, open and transparent manner. We suspect that the public attention brought to these issues during the 2004 federal election, both in and out of New Brunswick, has heightened the saliency of these concerns with voters. Given the importance of these contests, the Commission recommends that there be a standard set of basic rules governing both of these types of contests.

Our recommendation for a New Brunswick mixed member proportional representation electoral system with closed party lists makes it especially important that each party's general election candidates be chosen in a fair, open and transparent process. Our first recommendation is that all of a party's general election candidates be chosen through a vote of the party membership in the relevant constituency or multi-member district. This is the norm today. Most often a party holds a nominating convention to which all of its members are invited to attend and vote for their preferred candidate. Our current laws also allow for a party leader to unilaterally appoint a candidate without first holding a vote of the membership. In order to ensure that candidates are chosen by party members in an open and transparent manner, the Commission recommends that all of a party's general election candidates be endorsed by a vote of eligible party members. This provision should apply both to

the current single member constituency nominations and to nominations in party lists in the proposed New Brunswick MMP system.

Voting in New Brunswick general elections is restricted to those at least 18 years of age who are resident of the province and hold Canadian citizenship. As we commented on above, party leadership and nomination contests are every bit as consequential as general elections, and voters should have the same confidence that only appropriate, qualified electors are participating in them. The Commission sees no valid reason why the eligibility for voting in these contests should differ from general elections. We note that parties have in the past used participation in these contests as a way of recruiting younger New Brunswickers into party activity, and we find this a laudable objective. However, we do not find this rationale compelling enough to justify a different set of voter eligibility rules than those used for general elections.

While being an eligible voter should be a requisite for voting in these contests, it must be coupled with party membership. The parties are right to insist that only their supporters choose their leaders and candidates. However, membership requirements inevitably lead to recruitment drives, which can lead to complaints regarding the fairness of the contests. Given the consequential nature of these decisions, we believe that long cut-off dates serve no purpose other than to impose an unnecessary obstacle on would-be voters. Similarly, the absence of a cut-off date leads to an influx of instant members and little ability to confirm their voting eligibility. Therefore, the Commission recommends that any eligible New Brunswick voter who belongs to a political party seven days prior to a nomination or leadership contest be eligible to vote in that contest. Consistent with this, and in order to encourage full participation in these contests, we further recommend that parties be required to advertise the date, time and location of a leadership or nomination contest at least seven days prior to the closing date for eligible membership. This will allow sufficient notice for interested New Brunswickers to become members of the party and participate in the contest.

New Brunswick's political parties have been at the forefront in imposing little financial barrier to participation in candidate nomination or leadership contests. Parties in other jurisdictions have imposed relatively large fees, essentially poll taxes, on those wishing to participate in these contests. We think it important to ensure that this not occur in New Brunswick, and accordingly recommend that parties not charge a membership fee greater than \$5 annually, and that there be no other fee charged in relation with voting in a nomination or leadership contest.

There is currently no standard timetable for candidate nomination contests. To some extent this results from the uncertainty surrounding election dates. We have heard from women's groups that this lack of predictable timing, together with the possibility of a long lead time between a nomination contest and a general election, raises another obstacle for the participation of women in our politics. Very early nomination contests might also catch voters unaware

and potentially lower participation rates. Consistent with our recommendation in this report for fixed election dates, the Commission recommends that the timing of candidate nomination contests be standardized through an amendment to the *Elections Act* requiring that they be held no more than 120 days prior to the date of a general election.

Recognizing that these contests essentially will continue to be conducted by the political parties themselves, albeit consistent with the general regulatory system recommended here, the Commission recommends that each party's leader be charged with filing a declaration with the province's Chief Electoral Officer certifying that each nomination candidate was chosen in a fair and democratic process that was consistent with the requirements set out above. Such a certification should be a prerequisite to a candidate having party affiliation noted on a general election ballot. In the case of leadership selection, the declaration should be made by the Party President.

### Party Policy Foundations

We believe that our political parties need to be reinforced as institutions for policy study and development. Because parties play such a significant role in the selection of our elected officials and the operation of our legislature, it is important that they be capable of ongoing policy study and development. Generating new and dynamic policy options is imperative to the long term progress of our province, and we believe that parties should be encouraged to play a central role in this activity.

The Commission is particularly concerned to learn that voters generally, and young citizens in particular, do not see parties as effective instruments of policy advocacy and often prefer interest groups instead. This is troubling, as New Brunswick's political parties have traditionally played an important role in building consensus across the various communities that make up our province, and it is important that they remain vital institutions, capable of accomplishing this important task. Interest groups often do not have this accommodative function as one of their central concerns. We also believe that strengthening the policy development capacities of parties will make them more attractive to young voters who are interested in policy questions and who the evidence suggests often view parties as too hierarchical. To accomplish these objectives the Commission recommends that parties be supported in establishing arm's-length, non-profit policy foundations. Policy foundations with grassroots participation from across the province and regions will help to ensure that all voices are heard and considered in the development of public policy.

The establishment of policy foundations will provide a more meaningful opportunity for interested citizens to engage in policy study and development within our political parties. This will provide stronger ties between voters and their political parties and help to revitalize parties. We think it important that much of this activity occur within parties, as it is parties that are charged with governing and in this capacity with finding accommodations across different

interests. Party policy foundations can also play an educating function in increasing information levels regarding both public policy and the operation of our democratic institutions. In order to attract the best and brightest to participate in political parties, it is important that they have the opportunity to play a meaningful role in policy development.

Policy foundations would provide parties with an arm's-length vehicle for policy study and development between election campaigns. This will prove most useful to parties in developing thoughtful, detailed election platforms, developing policy alternatives while in government and in transition-to-government preparation while in opposition. As arm's-length organizations, they may be able to attract participants not wanting to engage directly in partisan electoral activity, and will be somewhat removed from the daily cut-and-thrust of political life, encouraging more long term thinking.

### Key Benefits of Party Policy Foundations

- They provide a meaningful opportunity for interested party members to engage in policy study and development.
- They provide parties with wider connections to traditionally non-partisan groups in universities, think tanks, private and non-profit sectors.
- They provide the space to re-examine policy directions in a manner that does not imply that a change is necessarily forthcoming and does not require immediate response by competing parties.
- Their advice to the party is not based solely on short term electoral considerations.
- They provide political/policy education to their members and to the general public, generally increasing information levels regarding public policy.

### Funding Policy Foundations

In order to meet the objectives set out above, party policy foundations will require financial support. Given the important role they can fill in helping to advance public policy in our province, we believe it appropriate that they be funded through a mix of public financial support and private contributions.

We recommend the following public support to party policy foundations:

- Political parties currently represented in the legislature be entitled to a one-time start-up allowance equal to 25 per cent of their 2005 eligible annual allowance under the *PPFA*, or \$25,000, whichever amount is greater, for purposes of starting a policy foundation.
- In each subsequent year, established policy foundations of all registered parties represented in the legislature will receive an annual allowance equal to 25 cents per valid vote received by the party in the previous provincial election.

- The New Brunswick Political Contributions Tax Credit be extended to include contributions made to party policy foundations as an incentive for individuals and others to make contributions.

These provisions will provide the start-up funds necessary for the parties to get a policy foundation off the ground and a modest amount of guaranteed annual funding to support their activities. The extension of the tax credit will assist parties in raising private funds to support their foundation's ongoing activities.

Consistent with the spirit of the contribution limits found in the *PPFA*, the Commission recommends that contributions to party policy foundations be limited to no more than \$3,000 and that this be separate from limits on contributions to candidates and parties. We recommend that in order to protect the integrity of these limits, there be no permissible commingling or transferring of funds between political parties and their policy foundations. In order to ensure compliance with these requirements, and to provide full disclosure of their financial dealings, the Commission also recommends that party policy foundations be required to file annual financial disclosure reports with Elections New Brunswick consistent with the requirements of the *PPFA*.

### Improving Party Democracy

Party democracy is a matter that concerns all New Brunswickers. It is not just a private matter to political parties. How parties choose candidates and conduct their business is an essential ingredient to a strong citizen-centred democracy for our province. It contributes to citizens' perception of the political process and our elected officials. Ensuring parties function in an open, accountable way, and are healthy and vibrant, reinforces the importance we attach, as citizens, to their role in a renewed democracy in New Brunswick. The Commission's recommendations will improve party democracy in our province and make the system work better for citizens.

### Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to improve political party democracy in New Brunswick:

#### Recommendation 1

That the *Political Process Financing Act (PPFA)* be amended to set contribution and spending limits for political party leadership and nomination contestants and require public disclosure of information on the financing of leadership and nomination contests. That these limits and disclosure requirements be as follows:

- 1.1 Leadership campaign expenses would be limited to \$300,000 per candidate.

- 1.2 Nomination campaign expenses would be limited to an amount representing 20 per cent of the average of the spending limits that were allowed for a candidate's election expenses in the province's electoral districts during the immediately preceding general election.
- 1.3 Contributions would be limited to \$3,000 in total to one or more contestants in a leadership contest and \$1,000 in total to one or more nomination contestants; these limits would be in addition to the current limit for contributions to parties under the *PPFA*.
- 1.4 Leadership candidates would be required to file a summary financial return four weeks prior to the date of the leadership contest and a final leadership campaign return within 90 days of the date of the leadership contest. Nomination contestants who accepted contributions or incurred expenses over \$1,000 would have to file a nomination campaign return within 90 days of the selection date for the nomination contest.
- 1.5 Elections New Brunswick would publish information disclosed by leadership and nomination contestants on the financing of their campaigns.
- 2.7 A declaration, signed by the party leader following a nomination contest and signed by the Party President following a leadership contest, must be filed with the Chief Electoral Officer, certifying that all required procedures were followed and that the nomination or leadership contest was held in a fair and democratic manner.

### Recommendation 3

That the policy framework for administering these new political party financing rules contained in Recommendation Appendix "H" be adopted.

### Recommendation 4

That all political parties be encouraged to establish Policy Foundations as a way to provide a meaningful opportunity for interested party members to engage in policy study and development and to help ensure parties present strong platforms to voters at election time. That Policy Foundations be established on an arm's-length, non-profit basis and be funded through:

- 1) A one-time, start-up allowance in an amount that is 25 per cent of the annual allowance to which the party is eligible under the *PPFA*, in the Policy Foundation's start-up year, or \$25,000, whichever amount is greater,
- 2) An ongoing additional annual allowance of \$0.25 per valid vote received during the preceding provincial general election, and
- 3) Contributions from individuals, corporations and trade unions, not exceeding \$3,000 in a calendar year, to one or more party Policy Foundations, and to which the New Brunswick Political Contributions Tax Credit would be extended. This contribution limit would be in addition to the current limit for contributions to parties under the *PPFA*.

### Recommendation 2

That the following new provisions be introduced into the *Elections Act* to set clear, open, and transparent rules and procedures to be followed by political parties during nomination and leadership contests:

- 2.1 All of a party's general election candidates must be endorsed by a vote of eligible party members, in a vote that is open to all eligible party members.
- 2.2 To be eligible for party membership, a person must meet the same eligibility requirements to vote in a provincial election.
- 2.3 To be eligible to vote in a leadership or nomination contest, a person must belong to the political party at least seven days prior to the nomination contest and be a member of the party at the time of the vote.
- 2.4 If fixed election dates are adopted, riding associations must hold a vote of their members for the purpose of choosing their general election candidate no more than 120 days prior to the date of the general election.
- 2.5 Parties must advertise the date, time and location of a leadership or nomination contest at least seven days prior to the closing date for eligible membership.
- 2.6 Parties shall not charge a membership fee greater than \$5 annually.

### Recommendation 5

That to be eligible for public funding, a party Policy Foundation would be required to: have a Constitution separate from the political party's Constitution; have a separate board of directors from the provincial party executive; present annual reports to Elections New Brunswick on the Foundation's activities and programs, including full disclosure of all revenues, expenditures, and contributions; prohibit any transfers of funds from the Foundation to the political party for election purposes or operations; and prohibit the director or any full-time personnel from participating directly in the preparation of election-related material or in the conduct of election campaigns.



## Opening up the Appointments Process for Agencies, Boards and Commissions

### Mandate

*"To examine and make recommendations on enhancing transparency and accountability in appointments to government agencies, boards, and commissions."*

Agencies, boards, and commissions (ABCs) are an integral part of providing provincial government services to people and developing public policy. They also decide on important matters affecting all New Brunswickers, such as increases to our electricity bill and the cost of our car insurance. They make decisions on employment appeals as well as major financial investments of our tax dollars. It is important, therefore, that appointments to and representation on these ABCs reflect the needs and interests of all New Brunswickers, and not just those of the political party in power.

### Why Look at ABC Appointments?

There are three main reasons why we need to look at how appointments are made to government agencies, boards, and commissions. *First*, there is an overall need to improve public trust and confidence in the integrity of the political process and ABCs themselves, in the face of a widespread perception that patronage is the deciding factor in appointments. *Second*, there is a need to ensure the competence of arm's length governance boards that have significant regulatory, adjudicative and service responsibilities. *Third*, there is a need to ensure quality governance for these ABCs to avoid putting the public purse at risk.

Together, these objectives - trust and confidence, competence, quality governance - suggest a new approach to ABC appointments in New Brunswick is required: one that is more transparent and accountable than at present; one that opens up the appointments process to all New Brunswickers.

The Commission's mandate is to recommend a more transparent and accountable process for making appointments to the approximately 130 government agencies, boards, and commissions. By transparent, we mean a process that is more open and independent than at present and allows New Brunswickers to apply for a position. By accountable, we mean a process that leads to consideration of qualified candidates, has oversight and monitoring, and provides information to the public.

*"Depoliticize the Agencies, Boards and Commissions. Make places for citizens according to their competencies and not their political preferences." Your Turn questionnaire, Spring/Summer 2004*

### ABCs in New Brunswick

There are approximately 130 agencies, boards, and commissions existing through legislation to which government makes appointments. Together, these ABCs include over 1,000 positions. Not every appointment is a "public" appointment, open to anyone. Some positions are reserved for public servants or representatives of professional bodies, based on the purpose of the ABC.

The size, type, and mandate of each ABC can vary significantly. Some have significant regulatory and adjudicative authority or control the expenditures of tens of millions of dollars each year. Examples of these include the NB Power Board, the Public Utilities Board, and the Labour and Employment Board. Other ABCs have an important public policy influence and representative function. These include the various advisory councils on issues related to women, disabled persons, youth and seniors. Still others, such as certain environmental and farm commodity boards, provide a useful vehicle for government to communicate with and receive advice from individuals and groups having specific technical and professional expertise.

ABCs in the province may be grouped into four basic categories:

1. Crown agencies (such as NB Power)
2. Adjudicative tribunals (such as the New Brunswick Human Rights Commission)
3. Operational (such as the NB Forest Products Commission)
4. Advisory (such as the New Brunswick Advisory Council on the Status of Women)

A complete listing of ABCs by category may be found in Recommendation Appendix "1".

Differences may be found within each category. Not all Crown agencies, for example, have the same type of mandate or significance. This is notable since the appointment qualifications for a position obviously vary depending upon the nature of the ABC itself. The process for making these appointments should also then vary depending upon the significance of the ABC.

There are several factors that determine an ABC's significance. The most obvious are:

**Financial** - does the ABC control or influence a significant amount of tax dollars?

**Policy** - does the ABC have a significant, direct impact on public policy?

**Adjudicative** - does the ABC have a significant adjudicative or legal impact on individuals, businesses, or organizations?

**Regulatory** - does the ABC have a significant regulatory function for consumers, businesses, communities, or regions?

On this basis, the Commission considers the most significant ABCs are:

**Crown Agencies**

1. New Brunswick Investment Management Corporation
2. New Brunswick Liquor Corporation
3. New Brunswick Power Corporation
4. Service New Brunswick
5. Workplace Health, Safety and Compensation Commission

**Adjudicative Tribunals**

(Those making decisions with a province-wide, precedent-setting impact)

1. Assessment and Planning Appeal Board
2. Criminal Code Board of Review
3. Human Rights Commission
4. Labour and Employment Board
5. New Brunswick Insurance Board

6. New Brunswick Securities Commission
7. Public Utilities Board of Commissioners
8. Workplace Health, Safety and Compensation Commission - Appeals Tribunal

The Commission does not consider this a closed list. Government may feel that the proposed list should be expanded in the future to include other agencies, boards and commissions.

**The Current ABC Appointment Process**

Appointments to ABCs currently are made by the Lieutenant-Governor in Council (Cabinet) on the basis of advice received from the Premier or a minister. Cabinet makes an Order-in-Council for each appointment, which is then published in the Royal Gazette. In most cases, no formal search or vetting process is undertaken. Names are recommended to Cabinet, approved, and then published. This has been the practice for many, many years.

Changes to this practice have been occurring. Several of the recent appointments to the NB Power Board, for example, were made following a formal executive search process using an outside consultant.

The figure below sets out how the current ABC appointment process in New Brunswick works.

**Current Process for ABC Appointments:**



## Reform Efforts Across Canada and in New Brunswick

Reform of the way ABC appointments are made is occurring across Canada. The federal government now allows for prior Parliamentary review of appointments of Crown Corporation CEOs, chairs, and directors. Nova Scotia advertises all vacancies in newspapers and on its government website. Appointments to the Nova Scotia Utility and Review Board are now made through formal advisory committees of human resource professionals, the Public Service Commission, and other independent representatives who recommend a short-list of candidates to Cabinet. Alberta allows ministers to appoint a citizen-based Review Panel to review candidates and prepare a short-list for the minister or Cabinet.

The most extensive reforms have been put in place in British Columbia. A central appointments agency, called the Board Resourcing and Development Office (BRDO), establishes guidelines for all provincial appointments to government agencies. It monitors the process to ensure appointments are based on merit and conducted through an open, transparent, and consistent process. The BRDO recommends qualified candidates for appointment following a formal vetting process. Vacancies are advertised and appointments are posted online.

Here in New Brunswick, an all-party Select Committee was formed to review appointments to key ABCs between 1999 and 2000. Its mandate was to “highly recommend, recommend, or not recommend” names provided to them from the government. Members had no authority to propose alternate names or to call nominees to appear before the Committee and review qualifications. This committee ceased meeting and reviewing any names after 2000.

The 2003 Report of the Auditor General reviewed Crown Agency governance practices. The Auditor General made the following recommendations, amongst others, regarding appointments to Crown agency boards:

- “Crown agency boards of directors should be providing responsible departments with selection criteria against which to evaluate candidates for board appointments.”
- “Selection of a Crown agency board member should be primarily based on the demonstrated ability of a candidate to contribute to improved outcomes for the organization, and not their membership in a particular stakeholder or demographic group.”
- “Processes should be established to ensure the expiry dates of board appointments are staggered to ensure continuity on Crown agency boards.”
- “The level of compensation currently provided to board members should be reviewed to ensure it is sufficient to attract the best candidates to directorial positions and to adequately reward board members for their efforts.”

These types of recommendations fit entirely within the approach being recommended by the Commission for a new ABC appointments process.

## What New Brunswickers Said

*“We need to change the appointment process to Agencies, Boards and Commissions; it’s too political.”* Community Leaders Roundtable, Miramichi, May 2004.

How people are appointed to ABCs is a matter of concern to New Brunswickers. Virtually every respondent to the Commission’s questionnaire on this subject (97 per cent) said the current process was not open or transparent. Almost 80 per cent said MLAs should have less say in the appointment process. Respondents were attracted to a range of solutions proposed by the Commission including advertising publicly all positions, having fixed terms for appointments, requiring legislative review, and making appointments based on merit.

Submissions to the Commission reinforced these views. Several organizations supported our options to recommend an appointments process that was open to the public, and resulted in the appointment of qualified individuals as well as more women, Aboriginal people, and others.

*“One of the ways to improve transparency and accountability regarding nominations to Agencies, Boards and Commissions is to implement clear directives to that effect that are non-partisan and known from the general public.”* Submission by Association des enseignants et enseignantes francophones du Nouveau-Brunswick, August 2004.

It is clear to the Commission that the current process for ABC appointments does not find general public favour or support. It is fair to say that many New Brunswickers believe the appointments process should be above politics and parties; that there is a stated desire for qualified individuals to fill these positions; and that all New Brunswickers should be allowed to apply for such positions.

*“Regular New Brunswickers should have the opportunity to apply for a position on an Agency, Board or Commission,”* Public Hearing, St. Andrews, June 2004.

## Issues and Principles for a New ABC Appointments Process

*“There needs to be a central location or office responsible for appointments to ABCs...It needs to be opened to everyone,”* Public Hearing, Bathurst, October 2004.

Recommending a new appointments process requires consideration of a series of issues and possible trade-offs. These include:

- **Independent** - how independent from government can the process be without compromising ministerial accountability?
- **Merit** - should only the most qualified candidates be appointed even if this means excluding some candidates who could bring about greater representation and diversity of groups, regions, and gender?
- **Legislative review** - can this be realistically accomplished in an adversarial political system based on partisan politics?

The table below illustrates these kinds of trade-offs:

The Commission believes that these issues must be realistically considered in drawing up a new appointments process that can work well and meet expectations. At the same time, we are of the view that the current appointments process must clearly be improved to respond to the concerns expressed by New Brunswickers. To accomplish this goal, the Commission believes the following six key principles and approaches should be adopted:

First, make the process more **accountable** by establishing a central agency of government to co-ordinate and monitor the application process.

Second, make the process more **appropriate** to the nature and importance of the ABC itself, as with significant ABCs.

Third, make the process more **independent** by establishing formal application guidelines and procedures to identify potential candidates and review their qualifications.

Fourth, make the process more **open** by advertising vacancies in newspapers and on the government website, seeking out potential candidates, and setting fixed terms for appointments and re-appointments.

Fifth, make the process more **transparent** by posting appointments and remuneration on the government website.

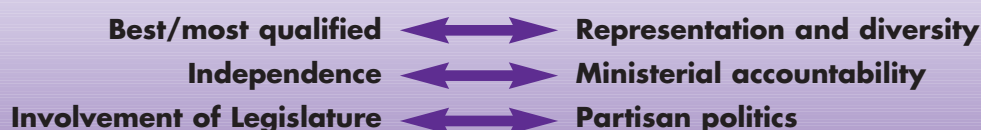
Sixth, make the process more **representative** of New Brunswick by encouraging consideration of a diverse set of individuals and backgrounds.

Certain steps must be put in place to make these principles and procedures reality. A unit or branch of government must be assigned co-ordinating responsibility. Specific, formal application processes with guidelines and procedures will have to be instituted. Regular monitoring and oversight of the process must be conducted. Information on vacancies and remuneration must be gathered and made public. To assist in drawing up these steps, the Commission is recommending consideration of the detailed ABC Appointments Process it has developed, which is set out in Recommendation Appendix “I”.

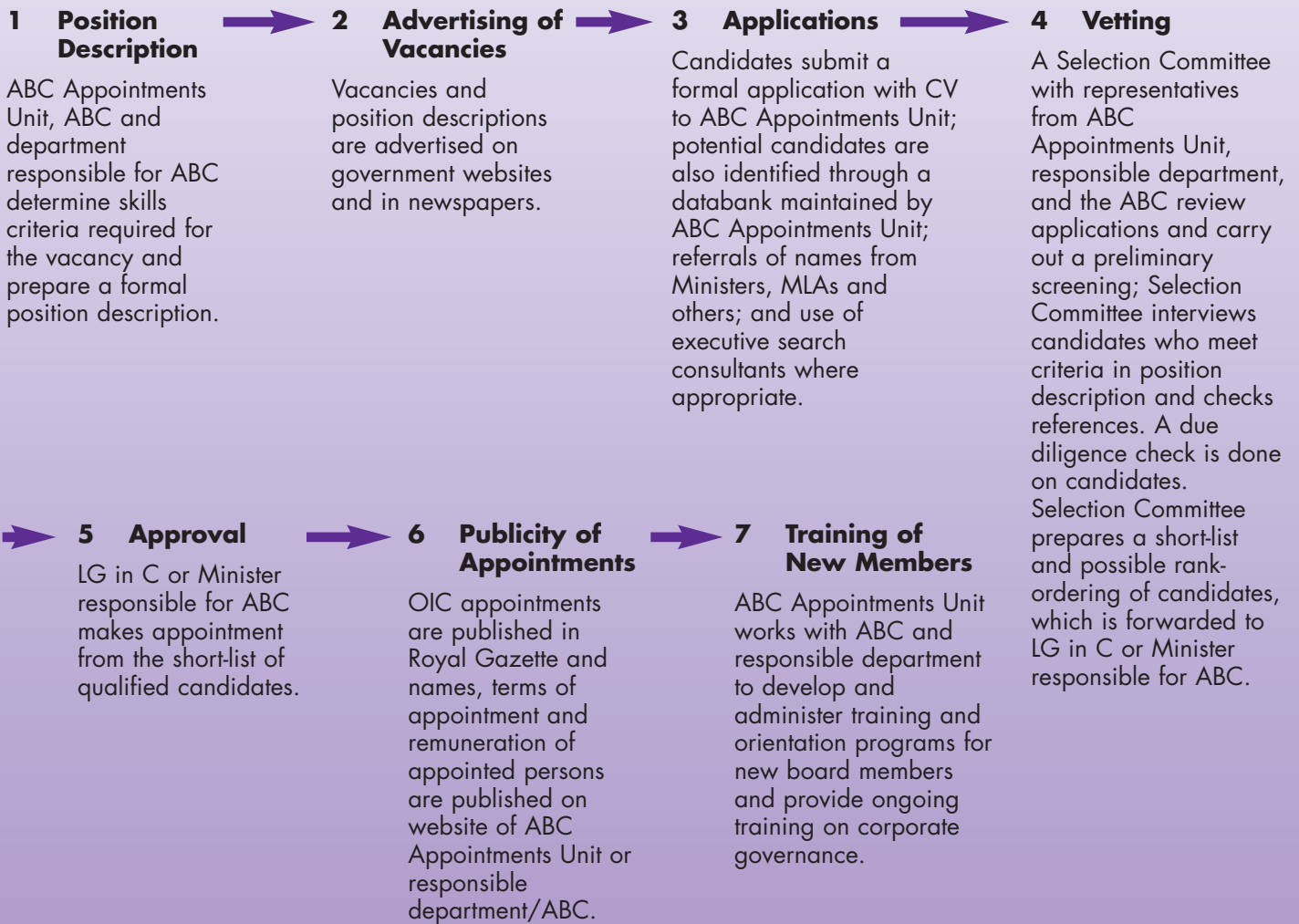
The Commission does not believe that an overly rigid and bureaucratic set of processes should be put in place to make appointments for every ABC. Rather, the process should be appropriate to the type of ABC involved and the particular skill sets and competencies required for each position. This requires an appointments process that is more intensive and detailed for the most significant ABCs and less so for others. Common guidelines and procedures, co-ordinated by the ABC Appointments Unit, however, would apply to all ABCs.

The flowchart on the next page summarizes the process the Commission is recommending for the most significant ABCs:

### Trade-offs in Appointments



## Recommended New Process for Appointments to the Most Significant ABCs:



### Involving the Legislature

Legislative oversight of some ABC appointments is a desirable objective in principle. It would improve accountability of the process by making it more public. It would encourage the submission of names of candidates who are more likely to receive approval, if that was the authority granted to any Legislative Assembly process. It would also enhance the role of the Legislative Assembly - another key part of the Commission's mandate.

There are several difficult issues to consider for such a step. Under our system of responsible government, accountability for ABCs and their membership resides, often by statute, with the executive branch or minister, not the legislature. The minister is accountable for the actions of these boards and their members to the legislature. Preserving that accountability principle, or at least not compromising it, is therefore quite important.

Partisan politics can intrude very quickly into any appointments process. The government's duty to propose and the opposition's duty to oppose can lead both to adopt adversarial positions. Candidates may not wish to subject themselves to a public review where their qualifications and reputation may be questioned. The image of the legislature could wind up being diminished even more in people's eyes, rather than enhanced.

Nevertheless, the Commission believes an appropriate middle ground can and should be found. Any role for the legislature should be meaningful and not simply a rubber stamp. But such a role must emerge from and be accepted by the political parties themselves. There may well be merit in proceeding on an incremental basis at first to establish trust and procedures that work for all involved. Our recommendation that, subject to the approval of all political parties, the Legislative Assembly be involved in the preparation and rank-ordering of a short-list of candidates for significant ABCs meets this test.

## A New ABC Appointments Process

The Commission believes it is time to institute a new appointments process for ABCs in New Brunswick. Our recommended principles and procedures will give more New Brunswickers a chance to apply for positions and help ensure qualified individuals are appointed. It will lead to a renewed trust and confidence in the institutions of government. It will help make the system work better for citizens.

## Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to enhance transparency and accountability in appointments to government agencies, boards, and commissions (ABCs):

### Recommendation 1

That an ABC Appointments Unit be established within the Office of Human Resources and assigned overall co-ordinating responsibility for appointments to government agencies, boards, and commissions.

### Recommendation 2

That the following practices and procedures for making appointments to ABCs be adopted and implemented by the ABC Appointments Unit:

- 2.1 Setting out specific guidelines and processes for appointments to ABCs, appropriate to the nature of the ABC;
- 2.2 Monitoring and reporting on the appointment process to ensure that the guidelines are followed and appointments are made on an open, transparent and consistent basis;
- 2.3 Advertising vacancies on ABCs in a timely fashion;
- 2.4 Identifying, seeking and reviewing qualified candidates for appointment by the Lieutenant-Governor in Council;
- 2.5 Developing and maintaining a central databank of ABC appointments, vacancies and applications;
- 2.6 Providing human resource expertise and assistance in the process of reviewing applications for appointment;
- 2.7 Publicizing appointments; and
- 2.8 Co-ordinating the development and administration of training and orientation programs for ABC members on their roles and responsibilities.

### Recommendation 3

That a formal process for appointments to the most significant ABCs be established to ensure merit-based appointments, and to give qualified and competent persons the opportunity to serve on these ABCs. Such a process would include the following steps:

- 3.1 Preparing a Board Profile defining the skills, experience, qualifications, and diversity of representation of members required for the effective operation of the ABC;
- 3.2 Developing Position Descriptions which set out the skills criteria for a vacancy on the ABC;
- 3.3 Advertising of vacancies and Position Descriptions;
- 3.4 Identification of potential candidates;
- 3.5 Formal vetting of applications and a due diligence check of candidates;
- 3.6 Preparation of a short-list of qualified candidates with possible rank-ordering for decision by the Lieutenant-Governor in Council;
- 3.7 Advising unsuccessful candidates of outcome of process;
- 3.8 Publication of appointments on government websites.

### Recommendation 4

That, subject to the agreement of the political parties to such involvement, the Legislative Assembly be involved in the preparation and rank-ordering of a short-list of qualified candidates for the most significant ABCs.

### Recommendation 5

That the appointment process facilitate the consideration of qualified people from regionally and culturally diverse backgrounds that are representative of the two official linguistic communities, women, aboriginal people, and minorities.

### Recommendation 6

That fixed three-year terms for ABC appointments be established across government, while staggering some appointments for an initial two-year term; and consecutive reappointments be limited to no more than two uninterrupted terms.

### Recommendation 7

That the detailed process for appointments to the most significant ABCs, the detailed process for appointments to other ABCs, and the suggested classification of ABCs contained in Recommendation Appendix "I" be considered as frameworks for developing a new appointments process for ABCs.



# Chapter 5 - Making Your Voice Heard

## Stronger Voices for Youth



### Mandate

To examine and make recommendations on increasing voter turnout in provincial general elections, particularly amongst young New Brunswickers, and improving accessibility to the electoral process in New Brunswick by modernizing our electoral laws while reinforcing the democratic rights and responsibilities of New Brunswickers to vote.

*"The high level of cynicism of youth toward our institutions is expressed through their low participation rate to the democratic process. Our democracy is sick, we must act quickly."* Reactions, from the Fédération des étudiants et étudiantes du centre universitaire de Moncton, to *Options*, November 2004.

The Commission was given the specific mandate of making recommendations on boosting voter turnout and participation of young New Brunswickers in the electoral process. Young Canadians and young New Brunswickers are today more disengaged and disconnected from the traditional political process than ever before. A significant and serious decline in electoral participation by young people has occurred.

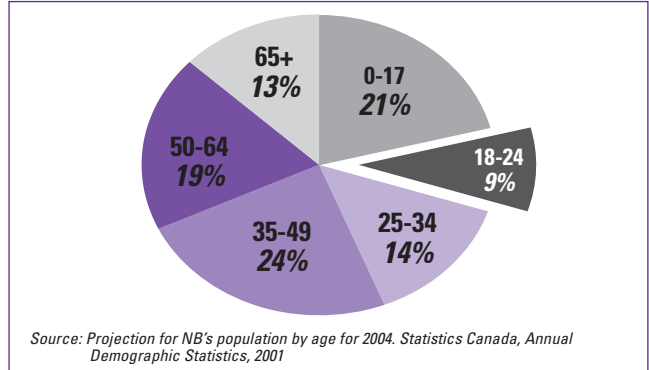
The challenge this represents to our democracy is profound: since voting is a habit based on an acquired sense of civic duty, we are in danger of "growing a generation" of non-voters. Having not voted the first time they were eligible, many will not vote at subsequent elections. Renewing our democratic institutions and practices demands that we examine urgently what is behind this phenomenon and determine what steps we can take as a province to reverse this very disturbing trend and address perhaps the most important democratic challenge facing our province.

*"Politics is a turn-off. Politicians would say anything to get elected. It's all about a popularity contest."* Participant, Regional Youth Forum, March 2004.

### Youth Voting and Participation

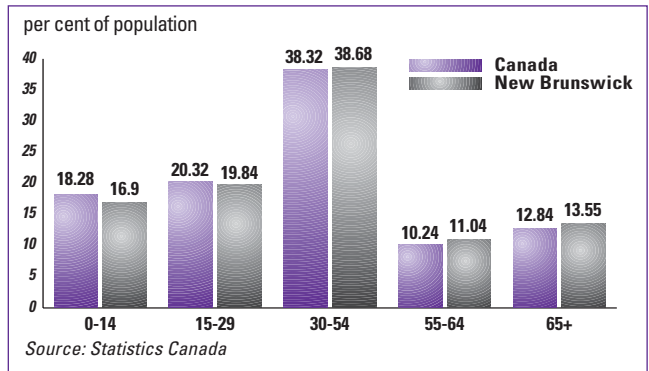
Youth, aged 18-24, make up nine percent of the New Brunswick population today, a proportion that has been declining over the years.

### Age Profile of New Brunswick's population, 2004

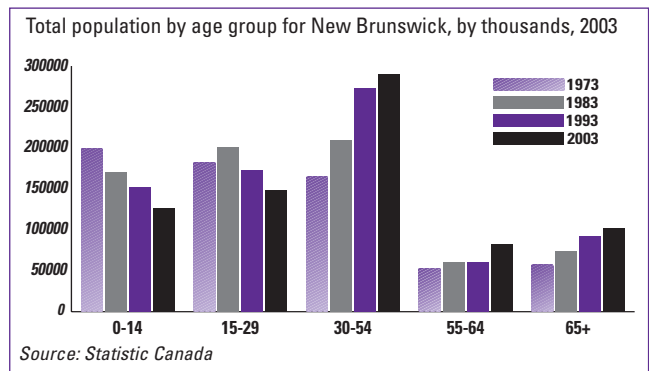


Compared to Canada as a whole, New Brunswick's population is older, a trend that has been growing for many years, as the following two charts indicate.

### 2003 Snapshot of Age Populations: Canada vs. New Brunswick:



### NB is Getting Older





There will be about 39,500 new voters at the 2007 provincial general election. The table below shows an estimation of the number of youth who will be new voters for the next three provincial elections.

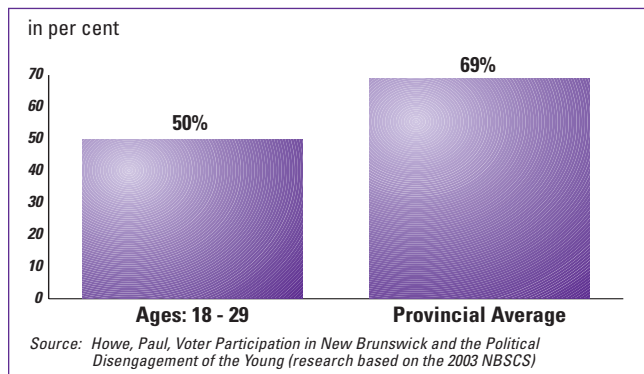
**Number Of Youth Who Will Be Turning 18\***

Years	Number
2004 - 2007	39, 455
2008 - 2011	38, 984
2012 - 2015	34, 957

\* Based on the 2004 demographic projections for New Brunswick numbers, from Statistics Canada, Annual Demographic Statistics 2001.

Like other young Canadians, young New Brunswickers participate in elections at a much lower rate than the provincial average. This age gap can be seen clearly in the chart below based on original research conducted for the Commission by Dr. Paul Howe of the University of New Brunswick. It shows that while 69 per cent of New Brunswickers voted in the 2003 provincial election, this number is estimated to have dropped to approximately 50 per cent of those aged 18-29.

**Adjusted Youth Voter Turnout in the 2003 Provincial General Election**



This is consistent with national trends, although perhaps not as pronounced. An Elections Canada study entitled: "Explaining the Turnout Decline in Canadian Federal Elections: A New Survey of Non-Voters" found that voter turnout in the 2000 federal election amongst young Canadians between the ages of 18 and 24 was estimated at around 25 per cent. National turnout for the same election was 61.3 per cent. Preliminary data from Elections Canada shows a slight decrease in overall voter turnout for the 2003 federal election, but a slight increase in turnout amongst first time voters, which rose by three or four percentage points. Even with this slight increase, youth voter turnout remains much lower than the national average.

Young voters have always voted at lower rates than older voters. This life-cycle effect suggests that voting habits will eventually assert themselves as voters age. However, the evidence is that the current generation of young voters are voting at a significantly lower rate than previous generations of young voters did. The growing difference in this age gap suggests that a generational effect is occurring; an effect that will persist as they age and not automatically correct itself.

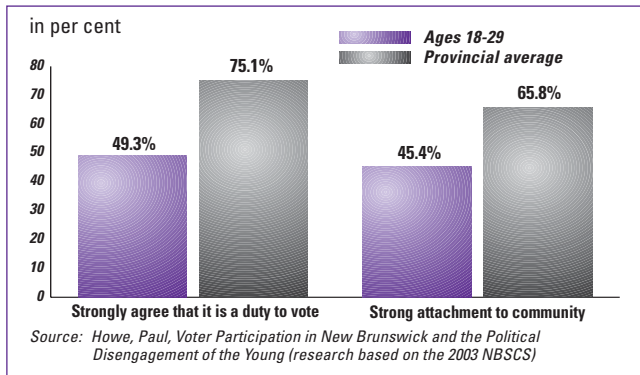
What's driving this? Many theories have been offered from a decline in young people's involvement in community networks and associations, or social capital, to an increase in post-materialist values by youth who take prosperity for granted and place greater value on personal autonomy and quality of life issues instead. It is also suggested that the general decline in deference among Canadians towards their institutions and authority is stronger among youth, causing them to opt out of voting. A decline in deference and community sentiment coupled with a rise in individualism - if younger voters are in fact growing up under these influences, it reinforces the generational effect noted above.

The strongest factors, however, can be summed up in three words: *duty*, *attachment*, and *interest*. Young New Brunswickers are far less likely than others to agree that voting is a civic duty. Similarly, they exhibit a weaker attachment to their community that makes voting an ongoing investment in that community. Finally, they have less interest and knowledge in politics and pay less attention to it than older New Brunswickers - in other words, less civic literacy.

*"Voter apathy is due to the lack of political conversation at home and/or school. The youth respect the process too much to damage it by participating and making a bad decision, the key is education."* Your Turn! Questionnaire, Spring/Summer 2004.

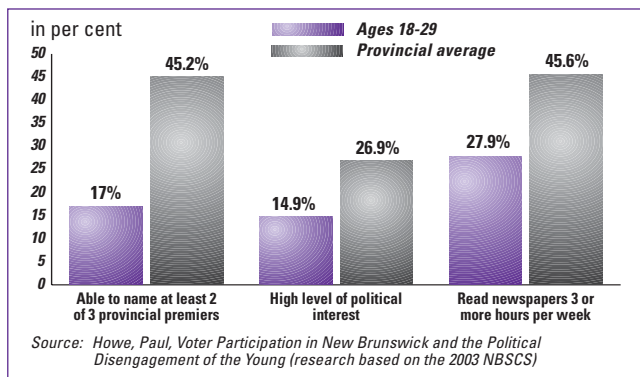
Dr. Howe's research indicates that each of these factors has a direct impact on voting participation by young New Brunswickers, as the charts below illustrate. When it comes to duty, only 49.3 per cent of young New Brunswickers aged 18-29 strongly agree that voting is their duty as a citizen, compared to 75.1 per cent of all New Brunswickers. The research also indicates that 65.8 per cent of New Brunswickers cite a strong attachment to their community, compared to only 45.4 per cent of young New Brunswickers aged 18-29.

### Factors that impact youth voter participation



The same research also finds that young New Brunswickers are significantly less able than other New Brunswickers to name some provincial premiers; they express a lower level of interest in politics; and are less likely to read newspapers three or more hours per week, as the chart below indicates.

### Civic Literacy



When it comes to voting, Dr. Howe’s research finds that the likelihood of voting is greater amongst those age groups who score higher on each of the above indicators. This is not surprising. Information and interest are clearly linked to both a willingness and ability to participate in the voting process.

This indicates that a range of solutions must be sought to reverse this trend of non-participation in the democratic process by young New Brunswickers. Increased political knowledge and interest, greater overall civic literacy, together with a stronger sense of civic duty, must all be reinforced to boost voter turnout and participation of New Brunswick youth.

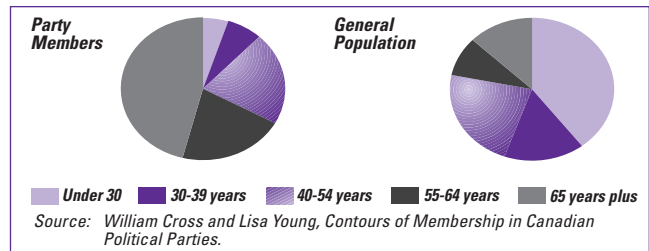
### A Profile of Youth and Politics Today

Based on a CRIC presentation in August 2003 prepared from academic articles and published research, it is possible to construct a more complete profile of youth participation and attitudes towards politics.

Youth are far more likely to express confidence in environmental groups, youth and women’s groups, and business leaders before expressing confidence in their political leaders. This confidence declines with those Canadians who are older, reinforcing the age divide in attitudes, not just voting. Youth are also somewhat less likely to agree that voting matters and that their vote counts.

When it comes to participation in organized politics another divide appears. In their article entitled: *Contours of Political Party Membership in Canada*, Dr. William Cross and Dr. Lisa Young show that only about five percent of federal political party membership is made up of youth under the age of 30, compared to 46 percent of members who are 65 years of age and older. The chart below illustrates this.

### Political Participation: Political Parties Distribution of Party Members, by Age Group



A further difference in opinion and attitude appears between younger and older Canadians when it comes to what might be called “political idealism”. Here, the shoe is on the other foot. Youth aged 18-24 have a more positive view of political parties and are less likely to say they are disconnected from the concerns of average voters compared to every other age group. In this instance, the most “cynical” are those aged 55-64. Youth are also more likely to say that government can be a force for good - 32 percent from the CRIC survey said government can have a positive impact, compared to 21 percent in the 55-64 age group. Tellingly, only 25 percent of youth said government has a negative impact on people’s lives compared to 44 percent of the older age group.

The more nuanced picture is as follows: youth are much less engaged in the act of voting or participating in the political process. They think their vote does not matter that much. They have far less confidence in political leaders than other leaders and groups. But they retain, or have yet to lose, their early ideals about the positive impact of government. This suggests, in the most general way, that there remains an opportunity to bring those disaffected youth back into the electoral process.

## Hearing from Young New Brunswickers

Given the importance of this issue in our mandate, the Commission established a comprehensive consultation process to hear directly from young New Brunswickers. We partnered with the New Brunswick Advisory Council on Youth to hold 13 regional meetings and a provincial youth forum; with Next NB at the University of New Brunswick to hold a one day student forum; with the Centre for Research and Information on Canada to receive focus group research they conducted with young New Brunswick leaders; and with the Canadian Unity Council's Young Leaders series through presentations and group discussions. We also received formal submissions from the New Brunswick Advisory Council on Youth, the Fédération des étudiants et étudiantes du centre universitaire de Moncton, and two grade 12 classes, one from Oromocto High School and the other from Fredericton High School.

Young New Brunswickers told us the following:

- Youth do not see the connection between voting and government decisions that affect them.
- There is a disconnect between politicians and young people. They do not relate, engage, or interact effectively with youth.
- Young people don't care about voting the way older people do.
- Youth don't feel qualified to vote. They believe they lack the political knowledge of how the system works including some of the fundamentals of democracy.
- Youth do not receive formal civics education.
- It is not the time to go voting when you are starting a family, buying a house, or going to school.
- Politicians don't talk about youth issues.
- Youth are more interested in issues rather than organized political parties.
- The process of politics is too negative, especially the media coverage.
- The political and voting process is too traditional and not interesting to youth.

*"Young people don't feel included or comfortable in the current system,"* Your Voice, Your Generation. Young New Brunswickers and Democracy Forum, Fredericton, September 2004.

These types of comments indicate a deep sense of frustration, discomfort and even disillusionment with the current political process. It is clear that many young New Brunswickers are alienated from the way politics is conducted and the relevance to them of voting in the first place.

## Solutions & Strategies

The Commission believes that increasing voter turnout amongst young New Brunswickers is an urgent issue requiring comprehensive, long-term, and targeted strategies. Realistically, no single solution exists and just as it took time to develop, reversing the current trend will take time to correct. But we must begin now if we are to achieve lasting results, by first setting a provincial goal to focus and mobilize us. That goal must be to raise youth voter participation to the provincial average within three elections.

To start us down the path of achieving this goal, the Commission believes we need to implement the following four strategies:

**First**, we must create "active citizens" through the education system. Students graduating from high school must have a greater formal knowledge and awareness of democracy and the political process taught through a mandatory civics program. They must have the analytical skills to participate more fully in that process through voting or other means. In this way, we can reinforce the concept of civic duty so necessary to voting. The Commission's recommendations for a new, mandatory Civics Education Program, a revised mission statement for the Department of Education, and working closely with teachers and schools are aimed at creating "active citizens".

*"Schools must be more opened to society. In the same line of thought, schools must produce young citizens capable of interacting within our society,"* Reactions, from the Fédération des étudiants et étudiantes du centre universitaire de Moncton, to *Options, A Progress Report to New Brunswickers*, November 2004.

**Second**, we must bring the democratic process into the schools and classroom giving students practical and fun exposure to what it is and how it works. It is in the schools that youth first socialize and participate in many group activities. We need to bring the world of politics, government, and democracy to students so they can experience and learn about it and from it. Initiatives like mock elections, political fairs, democracy camps, and legislative seminars will all help make the process more real, interesting and alive to youth. The Commission's recommendations for a "Promoting Democracy in Schools" program, "Youth Vote NB" (a province-wide mock election initiative), and a "Democracy Support Fund", focus on the important role the school environment can play in giving students positive exposure to the political and democratic process.

**Third**, we must raise awareness of the importance of voting and the electoral process for young New Brunswickers. To reinforce the concept of civic duty, the proposed Elections NB electoral commission can play a crucial role in this area. Turning 18 should be a rite of citizenship, with a

formal reminder and information from the Chief Electoral Officer that you can now vote. Numerous websites aimed at youth exist that can be linked to provide helpful, interesting, and easily accessible information on voting and democracy in a form that young people are familiar and comfortable with. The Commission's recommendations for youth websites, involving parents, the student legislative seminar and democracy camps, and a "You Can Vote!" program will increase awareness amongst young people of democracy.

**Fourth**, we must make it easier for youth to vote in ways they relate to. Fixed election dates in October will facilitate voting for university and community college students by giving them more time to register or get enumerated for voting in a more settled environment. Political parties will be better able to organize and mobilize them to vote. Online registration of voters should bring more young people into the electoral process. New electronic tabulation technology that allows a voter to choose to have their vote counted in either their home riding or at the university or community college where they are studying should facilitate access to the voting process for students in particular. The Commission's recommendations for online registration of youth, and a "Vote Where You're At" initiative are aimed at reducing those barriers to voting that youth cite as an issue for them.

### Stronger Voices for Youth

The future health of democracy depends upon the interest and participation of the next generation of voters. That interest and participation is now lacking. It is so well documented that the only issue is really what should be done about it. We have many clues as to the core, underlying social and educational factors affecting youth participation in the political and electoral process. These will take time to correct. But a comprehensive range of initiatives - as recommended by the Commission - aimed directly at youth beginning in the classroom will, over time, reap dividends for New Brunswick's democracy.

## Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to increase knowledge and understanding of the democratic process by New Brunswick students and to boost youth voter participation with the *goal of increasing the turnout of 18-29 year-olds to at least the provincial average by the 2015 provincial general election*:

### Recommendation 1

That the Mission Statement of the Department of Education be amended to formally recognize as a learning outcome for all graduating students the importance of exercising the responsibilities of citizenship. The new Mission Statement would read:

*"To have each student develop the attributes needed to be a lifelong learner, to achieve personal fulfillment, **to exercise the responsibilities of citizenship**, and to contribute to a productive, just and democratic society."*

### Recommendation 2

That a new, mandatory provincial Civics Program from Kindergarten through Grade 12 be fully implemented as part of the current Social Sciences program in schools beginning in the 2007-2008 school year. This new civics program, as outlined in the policy framework on a new Civics Education Program for Kindergarten to Grade 12 contained in Recommendation Appendix "J", would help students graduate with the knowledge, understanding, and critical analysis skills necessary to become "active citizens", able to understand and participate in democratic activities in their community, province, and country.

This new Civics Program would build on and be integrated into the current social sciences program curricula being taught now at various grades under both the anglophone and francophone school systems. The program would be based on the following standards: *mandatory* for all students; *comprehensive* in scope and subject matter; *integrated* with current offerings; *practical* in application; *non-partisan* in material; and *supported* by teachers, schools, parents, the Department of Education, and the Legislative Assembly.

### Recommendation 3

That the Department of Education work directly with New Brunswick teachers, as well as experts in other provinces, to develop flexible, made-in-NB civics teaching resource kits/learning modules for teachers, students, and schools to facilitate teaching and learning of the new mandatory Civics Program. A designated professional development day or period would be set aside to enable teachers to become comfortable with the course materials and learn how to best teach and engage their students in this new mandatory course.

### Recommendation 4

That a "Teachers in the Legislature" partnership program between social sciences and civics program teachers and the Legislative Assembly be established under the auspices of the Speaker to bring together teachers from across the province to share ideas and learn more about the legislative and political process in our province.

### Recommendation 5

That the following youth education and support activities be developed to promote youth awareness and participation in our democratic system, and support the new focus on civics educational activities in schools and communities:

**5.1 “Youth Vote NB”**

Creating “Youth Vote NB”, a province-wide mock election program to be held in every middle and high school in the province in conjunction with the next New Brunswick election and subsequent provincial and municipal elections. This youth-run organization, supported by Elections New Brunswick and Student Councils, would help organize the program, work with schools, suggest support activities, and produce and distribute information on issues, candidates, and parties.

**5.2 Democracy Awareness Program & “You Can Vote!” Mail Out**

Creating a “youth-friendly” democracy awareness program through Elections New Brunswick aimed at informing young New Brunswickers about the importance of the democratic process and voting. Sending a regular mail out from the Chief Electoral Officer to young New Brunswickers as they turn 18 explaining what the act of voting means together with an explanation on our electoral and democratic system.

**5.3 “Promoting Democracy in Schools” Program**

Developing a “Promoting Democracy in Schools” program involving speaking tours by MLAs, political fairs, election simulations, and debates in schools to promote a more practical understanding of and exposure to how our democratic system works. This would be a uniform policy at the District Education Council level. These activities are to be non-partisan at all times.

**5.4 Youth Websites**

Creating youth-focused websites by Elections New Brunswick, the Legislative Assembly, and political parties to engage young people to participate in voting, politics, and democracy. The Elections New Brunswick website, in collaboration with Elections Canada, would provide resource materials aimed at youth and at helping students and organizations learn about our democratic institutions and practices. It would also have youth website links.

**5.5 Involvement of Parents**

Creating a social marketing program to raise the awareness of parents regarding the importance of discussing democratic issues at home and voting with their children. This could be complemented by a “Bring Your Child to Vote” initiative at election time and even a “Bring Your Parent to Vote” initiative.

**5.6 Democracy Support Fund**

Creating a fund administered by Elections New Brunswick to support events and activities organized by youth groups aimed at promoting the participation of young people in our democratic system. The money could be allocated to a Student Council, for example, to organize a mock election or hold a political fair.

**5.7 Student Legislative Seminar and Democracy Camps**

Broadening the current Legislative Assembly Student Legislative Seminar to involve more schools and students. Establishing Democracy Camps to give young New Brunswickers who are in high school the opportunity to spend several days to learn more about our electoral, democratic and legislative processes. These camps would be administered by the Legislative Assembly Office and would gather young people from across the province.

**Recommendation 6**

That the following steps be taken to facilitate access by youth to the voting process and make it easier for them to vote:

**6.1 Online Registration**

Encouraging youth voters to register online so as to ease some of the administrative barriers often faced by youth and students when facing the voting process, particularly for the first time. The Chief Electoral Officer would develop targeted approaches to communicate with high school, university and college students on the registration and voting process. These approaches could include contacting students by e-mail in advance of elections and developing the interactive component to the website of the Chief Electoral Officer to answer queries and provide and receive registration information.

**6.2 “Vote Where You’re At”**

Placing polling stations with electronic tabulation machines on university campuses and in community colleges so student voters residing outside of their home constituency can choose to vote and have their ballot count in their home riding or in the constituency in which they are studying.

**Recommendation 7**

That the voting age remain at 18 years.

## Stronger Voices for Women

### Mandate

*Fairer, more equitable and effective representation in the Legislative Assembly.*

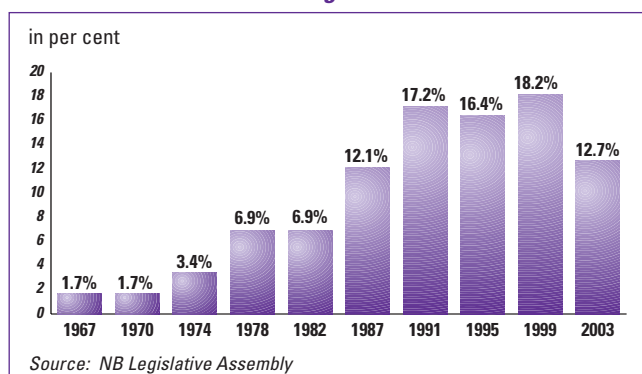
The Commission was given a mandate to make recommendations that would result in “fairer, more equitable and effective representation in the Legislative Assembly”. Women are one of the most under-represented voices in the legislature and our democratic process. A 2004 survey by the Centre for Research and Information on Canada found that nine out of ten Canadians support “increasing the number of women in elected office in order to achieve a well-functioning political system.” Fairer, more equitable representation in the legislature clearly means electing more women to the legislature. The record to date in New Brunswick, however, has been dismal. Unfortunately, there is little evidence this will change for the better soon without specific measures taken to redress this problem.

The Commission believes that the time has come to take significant new steps to ensure the voices of women are heard in New Brunswick politics.

### Representation of Women in New Brunswick

Women received the right to vote in New Brunswick provincial elections in 1919. It took almost 50 years to elect the first woman MLA in 1967. It was a slow start that has remained slow. Despite comprising 51 percent of the population, at no time in our history have women won more than 19 percent of the Legislative Assembly seats. More disturbingly, the last provincial election saw a decline in the number of women that were elected to the legislature. It now stands at 12.7 percent, the lowest since 1987.

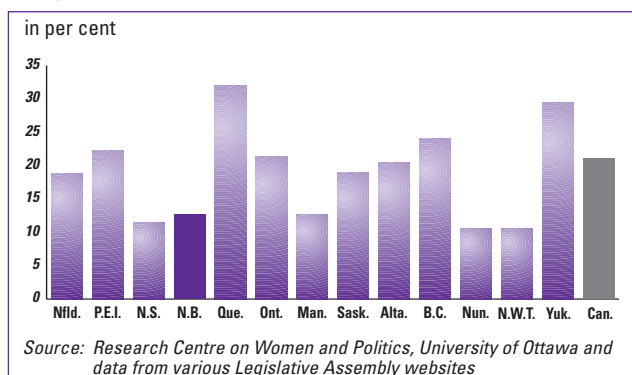
#### Percentage of Women MLAs in the New Brunswick Legislature 1967-2003



At 12.7 percent, New Brunswick is currently tied with Manitoba as having the second-lowest level of women’s representation in a provincial legislature in the country. It is well below the level for the Parliament of Canada, at 21 percent. Québec has the best level of representation

amongst provinces at 32 percent, principally because the political culture in that province encourages the nomination of women by political parties.

#### Percentage of Women Elected to Provincial Legislatures Across Canada – Last Elections



*“New Brunswick women were only 19 percent of the candidates in the last provincial election and just 13 percent of the elected MLAs, down from recent years. This imbalance means that the different experiences and concerns of women are not adequately represented and undermines the very legitimacy of government,”* Submission by the Advisory Council on the Status of Women, June 2004.

It is not just in the Legislative Assembly that women are under-represented. Women make up only ten percent (1/10) of the Members of Parliament from New Brunswick, 12 percent of mayors, 25 percent of municipal councillors, and 28 percent of elected Regional Health Authority’s members. It is only at the District Education Council level that we see a more acceptable level of representation with 44 percent of women being elected on District Education Council positions.

### The Views of Women

To ensure the Commission heard the perspective of New Brunswick women in legislative reform, the Commission struck a formal partnership with the New Brunswick Advisory Council on the Status of Women to share research and co-sponsor a provincial forum. The Advisory Council held a series of regional meetings around the province and the Council and the Commission jointly sponsored a forum on “Women and Democracy” in Moncton with over 65 participants. The Advisory Council also submitted two briefs to the Commission on ways to increase women’s representation.

Here are some of the main points that were made by a majority of participants during our different meetings with women:

- The electoral system needs to be changed to a form of proportional representation.

- The political system and culture is very adversarial which discourages women from running.
- Politics is an “old boys club” that is uninviting to women.
- There is little effort by political parties to recruit women.
- Quotas are not the solution to electing more women.
- Financial incentives for parties to nominate women could be effective.
- There needs to be more education for young people, especially young women, if we want to change attitudes.
- Women need to organize to become more effective.
- There must be clear objectives for women’s representation in the legislature.
- Fixed election dates and fixed legislative sessions would make it easier for women to plan to seek elected office.

### Institutional Barriers to Women’s Representation

The Commission’s own research shows that numerous barriers exist to women running for a party’s nomination and getting elected to the legislature. These include the present single member plurality electoral system; party nomination processes and financial requirements that can discriminate against female candidates; the adversarial political culture and environment; and the timetable of elections. There is no grand conspiracy that keeps women out. But singly and together, each of these factors acts as a significant barrier that effectively makes it much less likely and fundamentally more difficult for women to run and get elected to the New Brunswick legislature. Each of these issues is examined below with specific recommendations to bring these barriers down.

#### The Electoral System

There is a direct relationship between our single member plurality electoral system and electing more women. Comparisons across countries and electoral systems demonstrate clearly that countries with proportional representation electoral systems elect a greater number of women than countries that use the single member plurality system, as can be seen in the table below.

#### Percentage of women elected under different electoral systems in representative western democracies\*

Sweden	45.3	list PR
Denmark	38.0	list PR
Finland	37.5	list PR
Netherlands	36.7	list PR
Norway	36.4	list PR
Argentina	34.0	list PR
New Zealand	28.3	MMP
Australia	25.3	Alternative Vote
<b>Canada</b>	<b>21.1</b>	<b>SMP</b>
United Kingdom	17.9	SMP
United States	14.3	SMP
Ireland	13.1	STV
<b>New Brunswick</b>	<b>12.7</b>	<b>SMP</b>

\* (As of 31 July 2004, [www.ipu.org/wmn-e/classif.htm](http://www.ipu.org/wmn-e/classif.htm))

*“This “first-past-the-post” or single-member plurality system also tends to discourage the election of women and other under-represented groups, since parties usually run candidates with the broadest appeal. The Advisory Council supports the introduction of a mixed member proportional system for electing provincial politicians ,” Submission by the Advisory Council on the Status of Women, in reaction to Options, a Progress Report to New Brunswickers, October 2004.*

Original academic research conducted for the Commission by Dr. Joanna Everitt of the University of New Brunswick (Saint John) and Dr. Sonia Pitre of the University of Ottawa, identified district magnitude - the number of elected positions per electoral district - as a principal reason for the low number of women elected under SMP systems. Under SMP, the parties can only nominate one member per riding and will therefore look for who they consider the candidate most likely to win. More often than not, this turns out to be a man.

By contrast, under a PR system a party can nominate more than one candidate on its party list. Accordingly, parties will almost always nominate a significant portion of women on their party lists in response to the political pressure from voters to be as representative of society as possible. Since votes are allocated under a PR system principally on the basis of the popular vote a party receives, this means that more women get elected. A higher position on the list is a stronger guarantee of getting elected, and it is here that parties have often adopted internal rules for list nominations to ensure women have equitable positioning on the list.

New Zealand, Scotland, and Wales have all recently adopted mixed member proportional representation voting systems. All have elected more women than under our single member plurality system. New Zealand actually changed from SMP to MMP in the 1990s. In response, the percentage of women elected rose from 21.2 percent in 1993 to 29.1 percent at the first MMP election in 1996. Scotland and Wales were new legislatures dominated by major parties that adopted proactive measures to ensure more women were nominated in either the list or single member seats. Again, the results show a far greater proportion of women elected in these two legislatures using a regional mixed member proportional voting system (similar to what the Commission is recommending) than New Brunswick's current single member plurality system.

Percentage of Women Representatives in Legislatures in Wales and Scotland, 2003 Elections	
National Assembly for Wales	50%
Scottish Parliament	39.5%

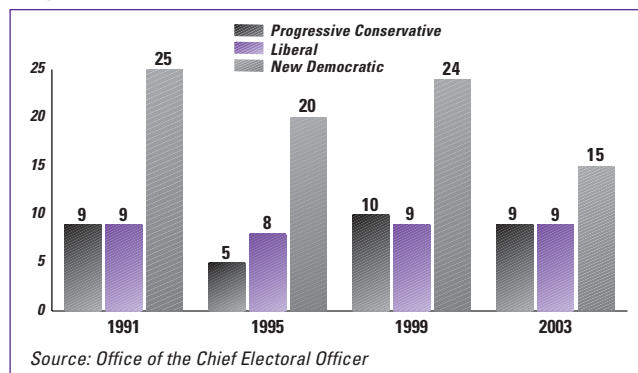
Under the Commission's proposed New Brunswick regional mixed member proportional system, our simulations have shown that it is very likely that even a woman placing second or third on the regional list will get elected. The Commission believes that changing from the single member plurality system to our proposed regional mixed member proportional system is essential to electing more women to the New Brunswick legislature. We further believe that no significant improvement in the level of women's representation is likely to occur in the near future under the current electoral system.

### Party Nominations

Through the nomination process, parties are the real gatekeepers to the legislature. Women cannot get elected if they are not first nominated. Since there is no evidence that women are discriminated against in Canada by voters once they have become candidates, we must look to the party nomination process as the first and most significant barrier outside the electoral system itself.

The experience of women being nominated by parties in New Brunswick tells the tale. As very few are nominated, very few are elected. The table below shows the performance of each political party over the past four elections in nominating women candidates.

**Number of Female Candidates by Party, by Provincial Election 1991-2003**



Party culture and attitude has a lot to do with whether or not women are successfully nominated. The NDP has adopted a policy of striving for equality in nominations. But as they have typically been unable to elect more than one member, it has had little effect on increasing the number of women MLAs elected.

### Strategies

The Commission believes that four strategies must be adopted to nominate more women: *first*, encouraging parties to do so through financial incentives; *second*, encouraging women to run by levelling the financial playing-field and making it easier for women to serve in politics; *third*, adopting timetables for elections and the legislature; and *fourth*, educating women on how to get involved in the political process.

The Commission does not believe that party incentives should include any form of legislated or mandatory quotas or penalties. That is anathema to our political tradition. Politics is still a voluntary profession and women should be encouraged to offer for elected office. It is not clear that quotas would even work, since nominations are typically the responsibility of the local riding association. Instead, it is the parties themselves that should be encouraged to seek out and nominate more women. This is in recognition of the central role parties play in our political life, and that a concerted effort must take place at the party level under the present single member plurality electoral system if we are to ever change the current situation. As parties receive a significant portion of their funding from the province through tax credits and an annual allocation from the legislature, there is an obvious obligation on their part to strive to meet certain democratic goals - including the nomination of more women. Parties cannot elect women, only voters can. But parties control the nomination process and it is here that the Commission believes we must focus most.

### Financial Incentives for Parties

The Commission believes that parties should receive additional funding through the annual allocation they are entitled to under the *Political Process Financing Act* if they nominate more women. Under this allocation formula,



parties are entitled to an annual monetary amount for each vote they won during the previous provincial election. In 2004 this amounted to approximately \$646,000 in total to the three main parties. This amount is based on a formula that is adjusted annually with the Consumer Price Index and is currently \$1.73 per valid vote. This provides them with ongoing financial support from provincial taxpayers for their operations. It is an investment by the province in the democratic health and well-being of political parties as the principal vehicles for democratic expression in New Brunswick.

This funding formula has been in place for approximately 25 years. Accordingly, it is an established, effective, and publicly regulated mechanism to support political parties. The Commission believes that the most effective financial incentive for parties to nominate more women is one with which they are most familiar and has proven effectiveness. The Commission recommends that the amount per valid vote be increased by \$1.00 for parties nominating a certain percentage of women candidates in future elections. We believe this would be a significant and effective financial incentive for political parties to nominate more women.

Two eligibility thresholds for parties to receive this funding would have to apply: basically, when it kicks in and when it kicks out. The Commission's research indicates that a critical mass in the legislature of women would be around one-third of all members. This would have a pronounced effect upon the public discourse in the province and the conduct of the legislature. The Commission therefore believes that parties must be "stretched" and should receive the additional financial incentive only if women constitute at least 35 percent of their candidates in a general election. With an overall goal of equality of representation in the legislature in the future, this incentive should be reviewed once the legislature's composition reaches 45 percent women. The Commission believes that with these incentives in place, New Brunswick can reach an initial goal of electing women to 35 percent of the seats in the Legislative Assembly within three elections, or by 2015.

### Spending Limits for Nominations

Levelling the nomination playing field will also have a positive effect on nominating more women. The Commission heard that many women do not have access to established fundraising networks. This acts as a deterrent to seeking a nomination. By setting a spending limit of approximately \$5,000 for nomination contests, as we are recommending in our chapter on improving party democracy, this will help level the playing field for women to finance a competitive nomination campaign.

### Timetables for Elections and the Legislature

*"That the provincial government set fixed dates for elections so that candidates and politicians can make plans to reorganize their paid work and family commitments to meet their political obligations."* Submission by the New Brunswick Advisory Council on the Status of Women, June 2004.

The Commission heard that planning is a particular challenge for women interested in running for elected office. The uncertainty of when an election will be held or when the legislature may meet and conduct business, again acts as a deterrent to women seeking a nomination. The reality is that women have more pronounced family or child care obligations. Political life is difficult and demanding. MLAs are expected to be "on call" every day, with events and meetings taking place most weekends and evenings. This lifestyle is not for everyone and is unlikely to change no matter who is elected. The Commission's recommendation for a fixed election date every third Monday in October, and for a fixed legislative calendar with set opening and closing dates of the House, will help alleviate this problem for women.

### Education

It is not enough to simply create the opportunity to participate - that opportunity must be encouraged. Many qualified women do not run for elected office because the political process is unfamiliar to them. They often do not have the contacts needed to discuss a possible candidacy. Political parties themselves may not know women who are possibly interested in running. And they may not be fully aware of the barriers and challenges within their own parties to women running for office.

There are several third-party groups in the province at the provincial, regional, or local level who could act as facilitators for women interested in entering politics. They could also help provide information to parties. The Commission believes that supporting such groups to operate in a non-partisan way, with the objective of providing information, education, and mentoring to interested women, would help create a talent pool of qualified potential candidates.

### Stronger Voices for Women

Our legislature is meant to represent who we are as a society. A modern conception of democracy supports hearing more voices in the decision-making process. To make our voice heard as New Brunswickers, we must ensure those voices are elected to the public forum that counts most: the Legislative Assembly of New Brunswick. The Commission's recommendations for direct financial incentives to parties to nominate more women, establishing spending limits for party nominations, setting fixed election dates and legislative calendars, and instituting an education

program for women and parties will together have a real and positive effect on encouraging and supporting more women to seek elected office. The role of parties as gatekeepers to the legislature cannot be overstated. Focusing efforts on the party nomination process, as the Commission is recommending, is a necessary step to bring about results.

Similarly, the Commission believes these same voices should, wherever possible, be represented in positions on government agencies, boards and commissions. Encouraging the new ABC Appointments Unit to use, as we are recommending, established databanks with the names of women as potential applicants for such positions would facilitate this objective.

Finally, there is the question of accountability. The most obvious outcome of these measures will be the most visible: more women sitting in the Legislative Assembly. Parties should take the proactive step of telling New Brunswickers what steps they are doing in this whole area. A bi-annual reporting to the legislature through Elections New Brunswick of measures they are taking to increase women's representation will underscore the importance of this feature of our democracy and help make your voice heard.

## Recommendations

The Commission on Legislative Democracy recommends the following steps be taken with the *goal of increasing the representation of women in New Brunswick's Legislative Assembly to 35 percent by the year 2015*:

### Recommendation 1

That amendments be made to the *Political Process Financing Act* as a way to achieve gender equality in the Legislative Assembly that would include an increase of the annual allowance to political parties by \$1 per valid vote to any party in which women comprise at least 35 percent of the candidates in the preceding provincial election. This incentive would be reviewed once the New Brunswick legislature reaches a minimum of 45 percent women.

### Recommendation 2

That an educational/policy program be created with the objective of financially supporting associations in organizing activities, providing information, or developing programs that would promote the participation of women in municipal or provincial politics.

### Recommendation 3

That the *Elections Act* be amended to require political parties to file with Elections New Brunswick a biannual report on measures taken to increase women's representation in the legislature. Information on the number and type of positions held by women in provincial and

constituency association executives of registered political parties would be made public by Elections New Brunswick as part of its annual report to the Legislative Assembly.

### Recommendation 4

That the ABC Appointments Unit be required to actively solicit applications from women for vacancies on ABCs, including using established databanks of potential female applicants.

## Stronger Voices for Aboriginal People

Aboriginal people in New Brunswick have not traditionally been active in participating or voting in the democratic process in the province. Aboriginal voter turnout in New Brunswick provincial elections between 1978 and 1991 was below 50 percent, and turnout by Aboriginal voters in the 1991 provincial general election was measured at 27.6 percent. This compares with a turnout rate for all New Brunswickers ranging from 75.6 to 82 percent over that same 1978-1991 period.

Participation by Aboriginal people in the democratic life of their own First Nation communities is much higher. Over the 1972 to 1992 period, voter turnout in New Brunswick band elections ranged from 81 percent to 97 percent.

More recently, as part of a study on Youth and Leadership, the Centre for Research and Information on Canada carried out in-depth discussions with young leaders in New Brunswick in April 2004. The Aboriginal participants in the Fredericton groups were more likely than non-Aboriginal participants to be interested in politics at the community-based level; were more aware of local government and politicians and better able to see the relationship between government and politics and their everyday life; and were more likely to feel ownership and responsibility in terms of their community.

## Views of Aboriginal People

In order to seek the views of Aboriginal people in New Brunswick on the issue of their participation and representation in provincial politics, the Commission partnered with the University of New Brunswick's Next NB project to hold Talking Circles with First Nations in New Brunswick.

A Talking Circle is a traditional way that Aboriginal people discuss issues, concerns, and problems. In a Talking Circle all persons are equal. The person holding an Eagle Feather is the only one to speak in the circle on the subject of the discussion, while the others in the circle listen and learn. Talking Circles are based on the principles of respect, harmony, interdependence and balance.

Talking Circles were held at Tobique First Nation and St. Mary's First Nation. Planned Talking Circles with members of the Elsipogtog and Burnt Church First Nations and one

with off-reserve Aboriginal people were not held. David Perley, a member of the Tobique First Nation, facilitated the Talking Circles. Mr. Perley was a consultant on Aboriginal education with the provincial Department of Education and is currently a lecturer with UNB's Mi'kmaq-Maliseet Institute. Participants in the Talking Circles were asked to discuss their views on the reasons for lack of participation by Aboriginal people in provincial politics, and on having designated seats in the Legislative Assembly for Aboriginal representation.

During the Talking Circles, we heard that many Aboriginal people see participation in provincial elections as going against their rights, autonomy and goal of self-governance. While this was not a unanimous view of all Aboriginal people, it was strongly held and expressed by many of the participants. It is clear that the idea of designated seats for representation of Aboriginal people in the New Brunswick legislature needs much more discussion among Aboriginal people and the provincial government before any firm conclusions can be drawn.

In the past, provincial governments have raised the idea of designating seats in the Legislative Assembly for Mi'kmaq and Maliseet representatives. The 1991 Representation and Electoral Boundaries Commission was charged with considering this idea, but was unable to secure Aboriginal support for their process or this idea.

The Commission on Legislative Democracy heard that any further discussion of such representation should envisage a model wherein Aboriginal representation is full representation, unlike the Maine model where Aboriginal representatives in the State legislature do not have full voting rights. We also heard that such a model would likely have two designated seats: one for a representative of the Mi'kmaq people and one for a representative of the Maliseet people. In addition, any such discussion would likely have to address the concern that representation of Aboriginal people in the New Brunswick Legislative Assembly would not be a revocation of Aboriginal and treaty rights and claims.

However, the primary message the Commission heard is that if Aboriginal people in New Brunswick choose to have discussions on participation and representation in the legislature, the provincial government should open the door to such discussions. The most important first step is to determine if there is interest among Aboriginal people in having such discussions. From there, a process to engage in such discussions could be developed collaboratively by Aboriginal people and representatives of the provincial government. The focus of any further discussion must be to bring Aboriginal people into provincial government decision-making and to help non-Aboriginal people understand the culture and unique realities of Aboriginal people.

## Recommendation

The Commission on Legislative Democracy recommends that the following step be taken to increase the voices of Aboriginal people in the democratic life of New Brunswick:

### Recommendation 1

That the Government of New Brunswick invite New Brunswick's Aboriginal people to meet, discuss and develop an appropriate process to seek the views of Aboriginal people on representation of Mi'kmaq and Maliseet people in the Legislative Assembly of New Brunswick and on their role in the democratic life of New Brunswick.

## A Referendum Act for New Brunswick

### Mandate

To examine and make recommendations on enhancing direct democracy by proposing a New Brunswick Referendum Act that sets out the rules and procedures for allowing province-wide, binding referendums on significant public policy issues.

We live in a representative democracy where we elect members to represent us in the Legislative Assembly. However, public trust and confidence in our political institutions and in our elected representatives is quite low. As a result, people want a stronger voice in decision-making by their governments. This has led governments and others to consider the use of referendums.

Referendums provide perhaps the most direct form of public input into decision-making that exists in a democracy. They have been used by governments in New Brunswick and in Canada as a means to complement representative democracy, by allowing the government and the legislature to seek public guidance on important and often controversial issues, and allowing voters to participate more directly in decisions affecting them. In the past ten years, Canadians have voted in national and provincial referendums on issues ranging from constitutional change to Sunday Shopping.

### Recent Referendums Across Canada

- 2004 – Nova Scotia on allowing Sunday Shopping
- 2001 – New Brunswick on retaining VLTs
- 1997 – Newfoundland and Labrador on retaining denominational schools
- 1995 – Quebec on sovereignty-association
- 1992 – Canada on approving the Charlottetown Constitutional Accord

The principle of direct democracy embedded in referendums is, however, contrary to the principle of representative or indirect democracy where we elect MLAs to take decisions on our behalf. No government in Canada has resorted to referendums as a regular or effective tool of decision-making, or even public consultation. Numerous concerns surround the use of referendums to take political decisions or make public policy, particularly as they affect minorities and their rights. They can be divisive in outcome and unclear in results. Instead of fostering political legitimacy, they can undermine it. Nevertheless, there may be some issues and certain exceptional circumstances in which the decisions of people exercised through a referendum process can be sought and acted upon.

### Use of Referendums in New Brunswick

*“There is no doubt that referendums can breathe new life into representative democracy. These days, it seems that they have become the panacea for the infamous “democratic deficit”. However, it is necessary to proceed with caution and be mindful of certain issues associated with the use of referendums.”* Draft research paper, “The Referendum Experience in New Brunswick” by Dr. Chedly Belkhodja for the Commission on Legislative Democracy.

Referendums have been used infrequently in New Brunswick on a province-wide basis. In the past 40 years there have been two provincial referendums: one in 1967 on whether the voting age should be lowered from 21 to 18 years, and one in 2001 on retaining Video Lottery Terminals (VLTs) in the province. In the first case, the results of the referendum were advisory only, while in the second, specific legislation drafted for the holding of the referendum made the result binding on government.

In 2003, the New Brunswick legislature passed a *Taxpayer Protection Act*. It would require a referendum to be held if the government wants to introduce a new tax, increase the HST, or place tolls on a provincial highway. The results of any such referendum would be binding on the government to act. This *Act* has not been proclaimed.

The *Municipalities Act* also has a “plebiscite” provision allowing for individual municipalities to ask voters to decide on a particular local governance issue. To pass, a question must receive at least 60 percent of votes cast.

However, New Brunswick has no general legislation setting out consistent principles and procedures to be applied if a referendum is held. The federal government and five provinces have this type of specific referendum legislation. A table comparing referendum legislation in other jurisdictions is found in Background Appendix “XII”.

Should New Brunswick wish to hold referendums in the future, a specific *Referendum Act* is essential. It is important that clear rules of the road exist for the holding of referendums, the participation of various interests, the development of a clear question, and the counting of votes. This is the case for elections. It should also be the case for referendums.

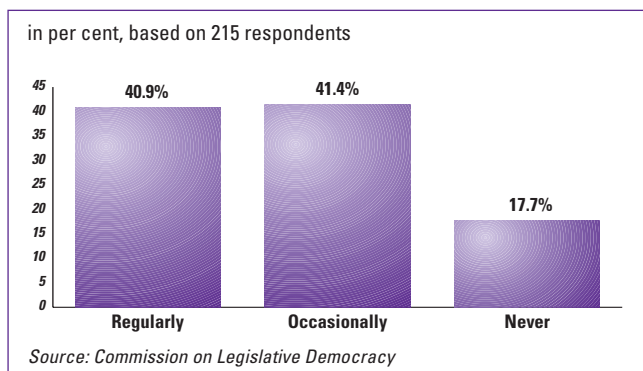
## What We Heard From New Brunswickers

*“Non-elected people should have the right to participate in government decision-making process by either plebiscite or referendum.”* Community Leaders Roundtable, Miramichi, May 2004.

*We expect our elected officials to make the decisions, not the public through referendums,”* Community Leaders Roundtable, Saint John, May 2004

New Brunswickers were by no means unanimous in their views on referendums, as the quotes above suggest. Respondents to our website questionnaire were also split on the appropriateness of referendums.

### Should referendums be held regularly, occasionally, or never?



Several of the associations which submitted briefs to the Commission, especially those from francophone organizations in the province, cautioned strongly against the use of referendums in general because of their potential to divide, and to allow majorities to override the rights of minorities in the province. Others, like the Advisory Council on the Status of Women, were more disposed to the use of referendums, but only if they were limited to exceptional circumstances, had appropriate financial and spending guidelines, and were binding on government to act. The Commission considered all of these views in arriving at its recommendations.

## Key Considerations Around a Referendum Act for New Brunswick

Several important questions must be addressed in proposing a *Referendum Act* for New Brunswick to ensure that referendums held in our province are fair, open and efficient.

### What kinds of issues should be decided by referendum?

A criticism of the use of referendums is that they can weaken the will of legislatures and governments to deal with

difficult issues. Governments can and should address complex and controversial matters by seeking the views of citizens on these matters, deciding on a course of action and allowing a full debate on the issue in the legislature. Also, referendums can lead to divisions among the population and can potentially undermine minority rights through the votes of the majority. This is discussed in more detail below.

The Commission is of the view that resorting to referendums on a regular basis and using them as a tool to replace decision-making by the legislature and government would be an unacceptable practice. As we have seen, referendums are not a regular feature of our democracy in this province, which indicates that governments have implicitly acknowledged their exceptional nature.

The Commission believes that a *Referendum Act* for New Brunswick must state explicitly that referendums should be used under exceptional circumstances only and for exceptional issues only. In the Commission’s view, issues that would be considered exceptional would be those that have a significant impact on the province as a whole, such as seeking ratification by voters of an amendment to the Canadian Constitution or of a fundamental change to the province’s electoral system as recommended in this report.

*“Clearly, direct democracy in a province comprising two linguistic communities has the potential to stir division and confrontation. That makes it an instrument to be handled with much circumspection and discernment. Having said this, the use of referendums in New Brunswick should not be systematically ruled out, but referendums should be subject to strict rules regarding compliance with the Canadian Charter of Rights and Freedoms and the four underlying constitutional principles mentioned earlier [federalism, democracy, constitutionalism and the rule of law, and respect for minority rights].”* Issues for New Brunswick’s Acadian Community, Draft research paper by Dr. Roger Ouellette for the Commission on Legislative Democracy.

### How can minority rights be protected?

We heard from academic experts and representatives of community organizations, especially francophone and Acadian associations, that referendums can create and exacerbate divisions among linguistic, cultural, and religious communities. While this does not need to be true, there is a very real, serious, and legitimate concern that the majority could override the rights of minority groups through referendums. It is an issue to which the Commission has given much consideration in its deliberations on referendums.

New Brunswick has been at the forefront of the protection of minority rights, especially the rights of francophones and of the francophone linguistic community. Through the *Canadian Charter of Rights and Freedoms* (“the Charter”), New Brunswick’s *Official Languages Act*, and *An Act Recognizing the Equality of the Two Official Linguistic*

*Communities in New Brunswick*, the English and French languages have equality of status and equal privileges as to their use in all provincial institutions, and the equality of the province's two linguistic communities is expressly recognized. Other minority rights are protected through the *Charter* and the *New Brunswick Human Rights Act*.

The Commission believes that limiting referendums to exceptional issues only is an important component of addressing the concern that established minority rights could be overridden by a majority of voters in a referendum. The Commission further believes that the use of a referendum should be prohibited in any case where the purpose of the referendum question is to undermine or diminish the minority rights protected through the *Charter* and the other legislation mentioned above, or any other act that supports, protects, or advances minority rights in the province.

### **Who should initiate a referendum?**

In some jurisdictions in Canada, for example British Columbia, citizens may initiate a referendum to introduce a new piece of legislation or amend an existing law by obtaining a certain level of support from voters in the province, as evidenced by their signatures on a petition.

In BC, the threshold of signatures required on a petition for an initiative to proceed to a vote is ten percent of the registered voters in each of the electoral districts of the Province, who were registered to vote on the date the petition was issued, obtained within a 90-day canvassing period. Although six initiatives have been approved in principle by the Chief Electoral Officer since BC's *Recall and Initiative Act* was introduced, none has succeeded, either because the proponent did not receive the required number of signatures or they failed to file the petition in the time frame required.

The BC experience indicates that referendums initiated by citizens - or citizen's initiatives as they are commonly called - can be quite problematic. The threshold of support for the initiative must be high enough to prevent a proliferation of initiatives and therefore not create the divisiveness discussed above.

In the interests of ensuring that referendums are only used in exceptional circumstances, and that they create the least amount of division among communities possible, the Commission believes that only government should be able to initiate a referendum.

### **How should the question be set?**

#### **Yes or No**

A referendum is a vote on an issue. It is essential that the question put to voters in the referendum be clear and easily understood. The Commission believes that a *Referendum Act* for New Brunswick should require that the question put to the people be one which can be answered by simply marking, yes or no. The recently-announced PEI Electoral Reform Commission was given a specific mandate to develop "a clear and concise" plebiscite question on adopting a new proportional representation electoral system, demonstrating the importance of this aspect of referendums.

### **Approval of Question**

As noted above, the Commission believes that government should not propose any referendum question, which has as its purpose the undermining or diminishing of minority rights. The Commission believes a further approval process involving the Legislative Assembly is necessary to ensure the referendum question is clear, unambiguous and free of any bias, unintended or not.

To this end, the Commission recommends that prior to any referendum being held, the government should submit its proposed referendum question to the legislature for its approval. Following a period of consultation with the Leader of the Opposition and the leaders of other parties represented in the House, the government would table the question in the Legislative Assembly and a Committee of the House would then be established to consider the wording of the referendum question.

It would be open to the Committee to hold public hearings on the question and hear from expert witnesses on the issues related to the question, if necessary to assist the Committee in its work. The Committee would report back to the Legislative Assembly with its recommendations on the wording of the question, for debate and a vote of all members.

### **What size of majority is required for a referendum to pass?**

Because of the exceptional nature of referendums, and the desire to ensure minority rights are not undermined, some jurisdictions in Canada and around the world require more than a simple majority of votes (50 percent + one) for a referendum question to pass. For example, BC has introduced special legislation for a referendum to be held at the time of the next provincial election on changing the electoral system in that province. For the referendum to pass and become binding on the provincial government, the referendum would have to win with a "double majority" of 60 percent of valid votes cast province-wide representing 60 percent of total ridings. This is known as a "super majority".

Other jurisdictions demand a "double majority" requiring both a majority of votes in favour of the question, and a minimum level of voter turnout, for example, 50 percent. The rationale for adopting this type of double majority is to ensure legitimacy of the referendum results. If a referendum was held and voter turnout was extremely low, it may be that the people who stayed home were in fact against the referendum question. Therefore, even if a majority of those who voted cast their ballots in favour of the question, the validity of the result is called into question.

The Commission does not agree that a super majority requiring both a majority or greater of votes cast and the support of a majority of areas of the province, is necessary. In light of our recommendations that referendums only be held on exceptional issues, that they never be held on a question that has as its purpose the undermining or diminishing of minority rights, and that the referendum question be approved by the members of the legislature, we

believe these provisions would provide sufficient protection for minorities in the province.

However, the Commission is concerned with the legitimacy of referendum results and therefore recommends a double majority with a turnout threshold, as follows: the referendum would pass if more than 50 percent of valid votes are in favour of the referendum question and at least 50 percent of eligible voters voted in the referendum.

### ***Should the results be binding on the government?***

Since referendums should only be used under exceptional circumstances for exceptional issues only, a government that initiates such a referendum will have thought long and hard about the consequences prior to taking steps to hold a referendum under the principles and procedures the Commission is recommending. Therefore, the Commission believes that, provided the double majority described above is reached, the result of the referendum should be binding on the government that initiated the referendum to take the steps necessary to implement the result.

### ***Timing - when should referendums be held?***

Referendums are a huge administrative undertaking. Every eligible voter must have the opportunity to vote at a referendum, making the cost of administering a referendum approximately equivalent to the cost of holding a provincial general election. The Commission therefore recommends that referendums be held at the same time as a provincial general election or with the quadrennial municipal elections. This would realize cost savings and reduce the burden on the Office of the Chief Electoral Officer, as the election machinery required to prepare the voters list, staff polling stations, count ballots and so forth will already be in place.

### ***How should referendums be administered?***

The legitimacy of a referendum depends on it being administered in a fair, transparent, and neutral way. Since it is the government that makes the decision to initiate the referendum and proposes the referendum question, the legitimacy of the result would be called into question if it is perceived that the referendum was controlled or directed by the government in order to achieve a certain outcome. The Commission therefore recommends that all referendums be administered independently by Elections New Brunswick.

### ***What rules should govern financing and spending in a referendum?***

New Brunswick has extensive regulation of political parties and spending by parties and candidates during election campaigns to make them fair and free of influence. Similar rules should apply to the conduct of referendums and be administered by Elections New Brunswick. However, political parties are not the main actors in a referendum campaign. Interest groups or 'third parties' who have a stake in the outcome of the referendum are usually the ones who take the lead in campaigning for or against the referendum question. The interest groups on either side of the question involved may have vastly different resources to

work with. This raises the fear that a referendum can be 'bought' by the side with the most money and influence.

The Commission believes that referendum campaigning, like election campaigning, should be regulated in order to level the playing field. The Commission believes that such regulation needs to include spending limits, contribution limits, and disclosure requirements along the same lines as those in the *Political Process Financing Act*. These should include:

#### **Registration**

A first step in regulating the referendum campaign is to provide a mechanism for the Chief Electoral Officer (CEO) to know who the players are. To do this, any individual or group that plans to incur expenses for the purpose of supporting or opposing the referendum question should be required to pre-register with the CEO. This will promote transparency in the process.

#### **Referendum Committees**

Campaigning should be conducted through official Referendum Committees established for each side of a referendum question and registered with the Chief Electoral Officer. Only these committees may make expenditures in excess of \$1,000. Individuals or groups wishing to incur expenses of \$1,000 or less for advertising should be required to register with Elections New Brunswick for transparency purposes, but not be required to participate through an official Referendum Committee.

#### **Spending Limits**

The Referendum Committees and their affiliates should be limited to spending no more than \$0.75 per voter during the course of a referendum campaign. This amount would be approximately \$400,000 on a province-wide basis, which is about one-half of what a political party may spend in the course of a general election campaign. At the same time, this amount will allow effective province-wide campaigns to be conducted by the Referendum Committees.

#### **Contribution Limits**

We recommend that limits on contributions to official Referendum Committees be set at no more than \$3,000 for an individual, corporation, trade union, or political party. (Again, one-half of the current amount permitted on an annual basis for each political party.) All contributions over \$100.00 to an official referendum committee would be disclosed.

#### ***How should voters get information?***

Elections New Brunswick should be mandated to provide the public with appropriate information from both the "yes" and "no" committees, to assist voters in making an informed decision.

## A Referendum Act for New Brunswick

The Commission believes that referendums should only be held in New Brunswick on an exceptional basis. Any referendum should be initiated by government only and be binding. Minority rights should be protected. Referendums should be independently administered with clear financial rules and procedures governing contributions and spending. The Commission's recommendations set out how, when, and on what basis referendums should be undertaken in New Brunswick. They will ensure that referendums held in New Brunswick are fair, open, and transparent - to make your voice heard.

## Recommendations

The Commission on Legislative Democracy recommends that the following principles and provisions be adopted as part of any New Brunswick *Referendum Act* in order to ensure that referendums held in New Brunswick are independent, fair, open, transparent and efficient, and encourage the participation and involvement of New Brunswickers:

### Recommendation 1

That the following principles governing the use of referendums in New Brunswick be incorporated in a *Referendum Act*:

- 1.1 **Exceptional Issues** – referendums should be held on exceptional issues only.
- 1.2 **Minority Rights Protection** – no referendums should be held that would have the purpose of undermining or diminishing minority rights as set out in the *Canadian Charter of Rights and Freedoms*, *New Brunswick's Human Rights Act*, *New Brunswick's Official Languages Act*, *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, or any other act that supports, protects, or advances minority rights in the province.
- 1.3 **Initiated by Government** – referendums should be initiated by government only, not by citizens in the form of citizen initiatives.
- 1.4 **Clear Question** – a referendum question should be clearly written so that it can be answered with either a "yes" or "no" response.
- 1.5 **Binding on Government** – results of referendums should be binding on the government to act.
- 1.6 **Double Majority Support** – referendum results should be binding only when more than 50 percent of valid votes are in favour of the referendum question and at least 50 percent of eligible voters voted in the referendum.
- 1.7 **Independent & Transparent** – referendums should be independently supervised by Elections New Brunswick with strict financing, disclosure, and advertising rules to ensure a level playing field for all sides with disclosure to voters of who may be funding or supporting each referendum side.

## Recommendation 2

That the following key provisions regarding the independent supervision and administration of referendums in New Brunswick be incorporated in a *Referendum Act*:

- 2.1 **Timing** – referendums should be held at the same time as provincial or municipal elections. In an exceptional circumstance, government could hold a referendum on a day other than an election day.
- 2.2 **Consultation and Debate on the Question** – Government would consult on the wording of the question with the Leader of the Opposition and the leaders of other political parties represented in the legislature, and the referendum question would be tabled, debated, and adopted by the legislature.
- 2.3 **Referendum Committees** – An official referendum committee for each side of a referendum question be formally established and registered with the Chief Electoral Officer. Only these committees may make expenditures in excess of \$1,000.
- 2.4 **Spending Limits** – Official referendum committees and their affiliates together be limited to spending no more than \$0.75 per voter during the course of a referendum campaign, and all expenditures be audited and reported to Elections New Brunswick.
- 2.5 **Contribution Limits** – limits on contributions to official referendum committees be set at no more than \$3,000 for an individual, corporation, trade union, or political party.
- 2.6 **Financing Rules** – names of contributors of over \$100 to an official referendum committee be disclosed to Elections New Brunswick.
- 2.7 **Registration** – individuals or groups wishing to incur expenses of \$1,000 or less for advertising be required to register with Elections New Brunswick for transparency purposes, but not be required to participate through an official Referendum Committee.
- 2.8 **Information to Voters** – Elections New Brunswick mail to voters a sample referendum ballot and information containing the arguments for and against the referendum question at least 25 calendar days in advance of voting day.

## Recommendation 3

That the policy framework for a draft *Referendum Act* for New Brunswick contained in Recommendation Appendix "K" be considered as a proposed framework for a new *Act*.



## Participatory Democracy and Citizen Engagement in New Brunswick

### Mandate:

To examine and make recommendations on enhancing public involvement in government and legislative decision-making.

New Brunswickers want their voices heard when governments take decisions. They want a direct say in certain aspects of decision-making. Civil society organizations - voluntary and community-based organizations - are also seeking more involvement in policy development and greater political access to decision-making. People are asking for information when decisions affect them directly. They are increasingly insisting on receiving feedback from government when they are consulted.

It is not the case that citizens want to displace their elected representatives and public servants with themselves as the ultimate decision makers. There are no calls for a move to systematic direct democracy in our province. Rather, it is a desire to make our form of responsible government and representative democracy more responsive to people. Citizens are unwilling to write government and MLAs a 'blank cheque' every four years after one election and simply wait until the next election to pass judgment. To many people, government is seen as an 'interest' like any other, with its own motivations and objectives that may not completely reflect those of citizens. People want an ongoing opportunity to interact with government, have their views sought, and give their opinion. In short, citizens are demanding democracy more and more on their own terms.

The challenge for government is clear: to connect better with citizens; to hear their views, and seek their input into decisions, while ensuring government's ongoing ability to take decisions in the best interests of the province as a whole. The objective for government is equally clear: to have more meaningful engagement with citizens leading to improved trust and confidence in government.

### The "Big Picture" Problem

What's behind this state of affairs? What's the 'big picture' problem with which we are dealing?

Many of the reasons have been noted earlier in this report. Lower trust and confidence in governments and leaders and a general decline in deference towards institutions are major contributing factors. A disconnect between citizens and their governing institutions is apparent. There is no question that people look at their politicians far differently than before. A recently released survey by the Centre for Research and Information on Canada shows how

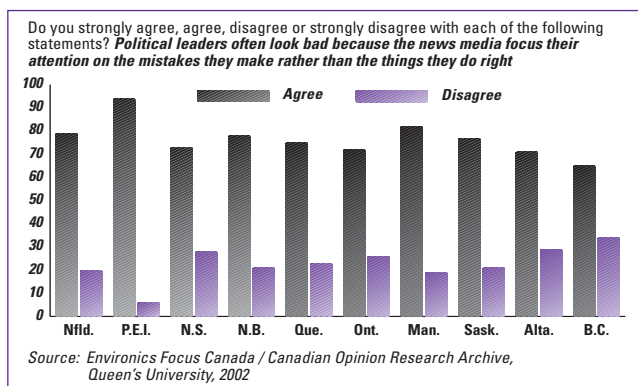
confidence in political leaders remains below that of other leaders in our society, although the more recent trend line has been positive.

### Confidence in Leaders (1983 - 2004)



Similarly, there is some evidence that the way the media reports the activities of politicians and governments has been a contributing factor to this decline in trust in the view of many Canadians.

### The Media and Politics



An additional factor appears to be information and the sense of empowerment that goes with it. Citizens have far more avenues - from the Internet to e-mail to 24-hour news channels - to gather information and communicate than ever before.

The problems faced by governments - health care sustainability, education achievement, fiscal capacity, economic growth - are large and complex. They are difficult to explain quickly to people and do not lend themselves to obvious consultation processes. They defy instant or easy solutions. Yet, the demand for the latter from people often outpaces the realities of the former, causing people to become disenchanted. To complicate matters, these long-term challenges are themselves challenged by various short-

term interests and time pressures upon government to take any sort of action, even if this appears contradictory to the long-term need.

The most effective mechanisms and processes for meaningful engagement by government with citizens vary from issue to issue. Some work better than others. The Working Group on Violence Against Women was cited by many to the Commission as a model mechanism to collaboratively develop solutions with stakeholders. But to many civil society groups, this is too often the exception, rather than the usual way of doing business.

### The 'Small Picture' Problem

There's a 'small picture' problem as well - how citizen engagement actually happens. For citizens willing and able to engage in consultation with government, there are still barriers to effectively doing so. Often there is a lack of easily accessible information on the issues being discussed. Insufficient time may be provided to give views. The consultation method is sometimes 'forced' upon groups and citizens, requiring them to fit the model or process, rather than having a process crafted around their needs. When asked for their input, citizens and groups might receive no guarantees that it will actually be listened to by government. In turn, the feedback they want in exchange for their input can equally be lacking. These problems can compromise any consultation or engagement process, fostering even more frustration on the part of people.

### Citizen Engagement - What Do We Mean?

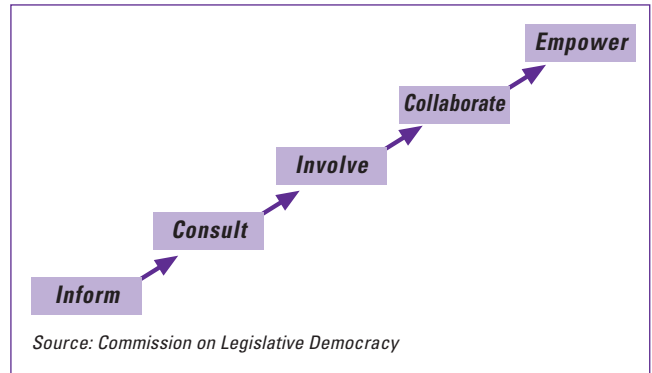
There are several definitions of citizen engagement. The Organization for Economic Co-operation and Development gives this definition:

*"Active participation recognizes the capacity of citizens to discuss and generate policy options independently. It requires governments to share in agenda-setting and to ensure that policy proposals generated jointly will be taken into account in reaching a final decision."*

Many of the small and big picture problems cited above find their way into this definition - "capacity" implies the need for information as well as the ability of civil society to actually be able to participate; "jointly" implies collaboration between government and citizens; "taken into account" implies some form of guarantee of listening by government; "share in agenda-setting" implies a mutually-developed consultation process.

There is a way of situating public participation and citizen engagement processes in decision-making, as the figure below demonstrates.

### Public Participation Spectrum

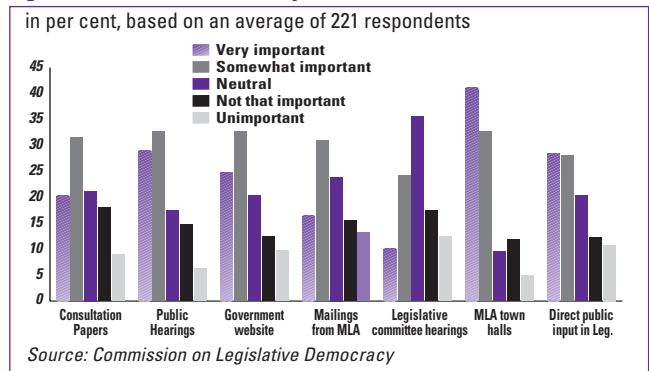


At the low end of participation is "information" provided by government. This could take the form of government statistics or a background policy paper. But information without a process to hear from citizens is useful, but not really helpful to bring citizens more directly into the process. At the high end is "empowerment", where citizens are actually given authority to make decisions. Examples of this include District Education Councils (DECs) and Regional Health Authorities (RHAs). Moving upward along this scale leads to more active citizen engagement.

### What New Brunswickers Are Saying

The Commission heard from many New Brunswickers saying they wanted more of a say in decisions affecting them and their communities. Interestingly, respondents to the Commission's website questionnaire were not insisting on a say on all issues, just ones that were most important to them. This typically included health care, education, local governance, and the environment. Respondents also had suggestions on the best means to engage with them. The table below shows that town hall meetings with their MLA and public hearings were most preferred.

### How effective are the following ways for government to listen to your concerns?



*"You need to get out and meet people where they are at."* Roundtable on Civic Engagement, Saint John, October 2004.

The Commission co-sponsored a Roundtable on Civic Engagement in Saint John on October 7, 2004, with PolicyLink NB, a multi-sectoral network of federal and provincial departments, voluntary associations, business groups, and academics. Over 25 participants gathered to discuss the challenges and solutions to better citizen engagement in the province. Roles and responsibilities were assessed. The main themes reached by participants were:

- There is a need for more overall and regular engagement by government with community groups.
- Community groups should be seen as experts in their areas who can facilitate understanding of community issues for government.
- It is difficult under current structures and processes to access politicians as key decision-makers.
- There is a need to move beyond consultation to collaboration and empowerment.
- No one model of effective consultation or engagement exists; it needs to be adapted to groups and issues.
- Relationship-building to build trust is necessary for successful civic engagement.
- The capacity of civil society organizations to engage in meaningful consultation is limited by their resources and time of staff and volunteers.

### Changing Relationship - Changing Needs

The implication of more meaningful citizen engagement is a stronger participatory democracy in which citizens share more of a role in setting the agenda of government and participating in the decisions of government. This means a changed relationship between government and “the governed” that is not easily defined.

*“We recommend that the New Brunswick government actively promote and expand mechanisms for bridging the gap between citizens and government, so that groups and women from diverse realities may become true players in the decision-making process.”* submission by the NB Advisory Council on the Status of Women, October 2004

It also raises substantial questions about the current capacity of citizens and civil society to actually engage with government, however much they may want to. People are busy with their own lives. Many are already active in their community, giving what spare time they have. Civil society groups at the community level are in many ways closer to people and problems. They can bring a practical perspective on issues and solutions. Many, however, have limited means and resources to engage in broad-based policy development. Association volunteers are stretched providing services, often preferring this commitment of their

time to attending meetings with government, particularly if they are not convinced it will lead to something.

Government itself can be hampered by its own culture and procedures. Getting information from government on policy issues, options, and statistics is not always easy. Public servants are often on the front lines dealing with people and communities, particularly at the regional level. But policy making is typically a central function of a department or government as a whole that may not effectively bring these views into the process. At the same time, public servants are for the most part accountable ‘upwards’ in their departments, and not always measured for their performance in dealing with citizens. Individual departments have their own policy branches that operate in silos, but public policy issues today cut across departments. Skills development issues, for example, could touch the departments of Training and Employment Development, Education, Family and Community Services, Health and Wellness, Finance, and Business New Brunswick. Citizens and groups do not fit into departmental silos. This suggests that the structures and processes of government policy development requires a ‘re-think’ as to how it is can best be organized to seek meaningful input on a regular, consistent basis from citizens and communities.

Consultation occurs, but how well is it practiced? Consultation is a professional skill requiring specific tools and expertise. Again, some departments are better equipped than others to undertake this task. There is a need to build up this capacity government-wide so it can effectively meet the demands and expectations of citizens and civil society.

### The Prospect of e-Democracy

Rapid advances in information and communications technologies (ICTs) are redefining how we communicate, work, live, and play. Can it redefine our democracy and how we engage with each other? Is e-democracy just around the corner?

Information and knowledge have become the principal drivers of economic growth and prosperity worldwide. ICTs are realigning traditional governance relationships and the notion of service to citizens. From paying your tax bill to getting a moose licence, more and more online services are now being provided. Service New Brunswick is increasingly recognized as a Canadian and world leader in the provision of online services, recently signing agreements with the Government of Québec and the International Teledemocracy Centre in Scotland.

The boundaries between government and citizens are changing. With government as the single largest producer of information, there is a need to consider information as a public resource, essential for citizens to engage with government with new standards of transparency and accountability. Evidence of this is the formation of the Crossing Boundaries National Council

(www.crossingboundaries.ca). This unique national forum brings together federal and provincial governments, elected officials and public servants, the private and non-profit sectors, municipalities and Aboriginal organizations to consider how ICTs are changing traditional democratic governance and the citizen's interaction with government.

Because ICTs provide citizens with virtually instant access to information and the ability to communicate with government and each other, there is the possibility that these same technologies can be used on a systematic basis to create a more informed and engaged citizenry. ICTs can be used to disseminate information, to engage in two-way consultation with online questionnaires for example, and even deliberative dialogue with discussion forums. An e-petition feature pioneered by the Scottish Parliament allows citizens to engage directly into the legislative process. These are enhanced forms of participatory democracy. Traditional consultation is top-down; ICTs offer the potential for bottom-up consultation. They can make time and distance irrelevant and lower the cost of entry to democracy for citizens. Everyone with access to a computer and Internet - and New Brunswick has one of the fastest-growing access networks in the country - can participate, provided the tools are put in place by government. Even then, simply providing information via the Internet and government website (as all governments now do) is still just a form of top-down consultation. In that sense, ICTs are to date really just strengthening existing democratic institutions at present, rather than redefining them. Much more has to be done to realize the full potential of these new technologies.

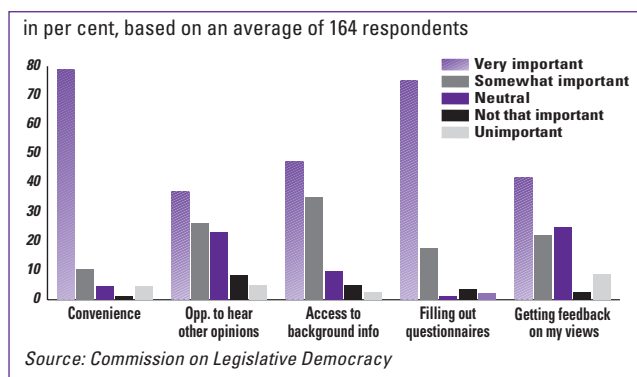
Who participates in this form of e-democracy also matters. A digital divide between those who understand and use ICTs and those who do not has already grown up across Canada. Education, income, and generational differences all show through. The 2000 General Election Survey found that almost a third of university graduates used the Internet to search for political information, but only about five percent of individuals with less than high school education did so. Similarly, those with higher incomes were almost three times as likely to use the Internet compared to those with lower incomes, while post-Generation X individuals (youth) were more than two and one-half times more likely to use the Internet compared to pre-baby boomers (seniors). Finding ways to bridge that divide is essential if e-democracy is going to prove a real option for citizens and government.

The Commission extensively utilized ICT tools through its website (see Background Appendix XVII *Website and e-Consultation*). Our online questionnaire provided useful feedback as to how users rated the value of this medium to communicate with the Commission in particular and government in general. A full 93 percent of respondents said that the discussion questions posted by the Commission were either "very useful" or "somewhat useful". Eighty percent of respondents said there was "the right amount" of information in the Commission's Citizen's Participation Guide for them to answer the discussion questions and 70 percent said the information provided by the Commission

"was easily understood". Interestingly, people were willing to spend time through this tool to fill out a rather long questionnaire and offer their input. Fifty percent said they spent between 20 and 30 minutes on the questionnaire, while approximately 30 percent spent one hour or more.

Not surprisingly, respondents saw great value in online questionnaires as a means of receiving input and feedback from citizens. Over 95 percent of respondents said it was a "valuable addition" to traditional consultation methods. Specific advantages cited were "convenience", and "filling out questionnaires" as the table below indicates.

**How important are the following features of online consultation?**



At present, the Government of New Brunswick does not systematically utilize the Internet as a two-way consultation mechanism. But the trends are positive. The government website has improved significantly with video of news events, for example. Since the Commission began its own examination of this issue, there has been a noticeable rise in the number of departments and agencies offering online questionnaires and discussion papers. Indeed, the Commission was the first government entity to utilize the website for systematic online consultation. Nevertheless, there is much more that could be done by government.

### Examples of online consultation offered by departments and other government agencies over the past year:

#### Quick Quiz – short question

- Commission on Legislative Democracy
- NB Advisory Council on Youth

#### Speak Up! – email comments

- Commission on Legislative Democracy
- Legislative Assembly Committees
- Finance
- NB Advisory Council on Youth

#### Online Questionnaires

- Commission on Legislative Democracy
- Auditor General
- NB Advisory Council on Seniors
- Executive Council (Violence prevention)
- Finance

Not everyone uses ICTs. That should not be a reason for them to be avoided. Traditional mechanisms should continue to exist for those who choose not to use ICTs or do not have access to them. Waiting for everyone to be 'ready' will leave our province behind and perhaps contribute to the existing sense of democratic disconnectedness amongst young New Brunswickers.

### Participatory Democracy and Citizen Engagement

The Commission believes our province needs to take more definitive steps towards engaging citizens and communities in decision-making and democracy. We have identified three main areas for democratic renewal to help make citizens' voices heard:

- **Participatory Decision-Making** - encouraging more New Brunswickers to offer for DEC and RHA positions and making these authorities more effective and accountable;
- **Civic Engagement and Civil Society** - building the capacity of civil society organizations to engage in consultation with government and the expertise of government to engage with citizens in consultation;
- **E-Democracy** - utilizing more effectively ICTs to engage New Brunswickers in dialogue and decisions with their government.

#### Participatory Decision-Making

New Brunswickers have, in certain respects, enviable opportunities to participate in the public affairs of their province. New decision-making authorities, such as DEC and RHAs, exist with locally elected positions. But

participation in these contests, as we have seen, is low with numerous vacancies, raising questions about the extent of their actual authority in the eyes of citizens.

The Commission believes that more New Brunswickers should be encouraged to serve on DEC and RHAs. The Commission heard from a number of people that these authorities do not have enough real power, and this acts as a deterrent to participation. Our assessment has shown that this is not entirely correct, but the perception persists. The Commission believes that government needs to take real steps to address this perception by *first*, supporting candidates running for these positions through Elections New Brunswick; *second*, paying an appropriate per diem to attract qualified individuals to run and serve on these bodies; and *third*, conducting a more formal review of the powers and responsibilities of these local authorities prior to the next DEC and RHA elections. At that point, each body will be over five years old, which seems to the Commission to be an appropriate time to consider how to improve their effectiveness.

Local government issues were also raised by New Brunswickers during the Commission's public hearings and Community Leader Roundtables. Questions of effective democratic governance were mentioned, as well as appropriate authority to make decisions. The Commission believes that a more extensive review of local and regional governance might be necessary following the next municipal elections.

#### Civic Engagement and Civil Society

The Commission believes that more effective consultation methods are necessary to bring New Brunswickers into the public policy development process. Government itself needs to acquire more specific expertise in this area. Civil society must have its own capacity strengthened so it too can participate effectively. The Commission concluded that a number of steps needed to be taken.

There is a need for a central support mechanism to assist all departments and agencies across government to engage in more meaningful consultation with citizens, communities, and civil society. The Commission believes the creation of a Public Dialogue Office having specific consultation expertise within government would meet this need. This office would act as a resource to public servants seeking expertise and support to initiate or carry out consultations with citizens or groups, particularly on a time-sensitive basis. It could organize the consultation process, hire independent consultants or facilitators to participate, and meet with third-party groups to determine how to incorporate their needs and expectations into a particular consultation process. Similarly, it could act as a resource for civil society groups needing financial support through a consultation fund in carrying out research, conducting preliminary consultations, or producing a discussion paper. Supporting civil society organizations to participate in consultations is important given their actual capacity to do so.

There is no one best method to consult New Brunswickers. Each method should be adapted to the issues and

audiences. Models such as the Working Group on Violence Against Women appear to be a positive one that works. The Commission believes that serious consideration should be given to adapting it across government as a means to engage stakeholders and public servants in horizontal or integrated policy development.

While there is no common model of consultation, common characteristics for successful consultations exist. Specific guidelines and principles for Open Consultation should be developed and shared across government to foster more 'sincere' consultation and engagement and address expectations with people as to the process and results. Such guidelines should be based on the following principles:

### Guidelines for Open Consultation

**Openness** - The process should be open and transparent in how it is conducted with clear parameters and guidelines.

**Honesty** - Participants should be honest with each other about their expectations and perceptions so mutual trust and confidence in the process can be developed leading to successful results.

**Adaptable** - The process should be adapted to the particular needs of participants by arranging the consultation process at times and locations that maximize participation.

**Dialogue** - Participants should arrive at each consultation process prepared to dialogue and exchange ideas and viewpoints rather than simply state prepared positions.

**Respect** - Participants should be respectful of each other's opinion and in their conduct throughout the consultation process.

**Information** - Adequate and timely information should be made available to participants in order to achieve positive outcomes based on accepted data.

**Feedback** - Participants should receive direct regular feedback on the results of the consultation process, both during and after it is completed.

While consultation and citizen engagement should occur regularly, the Commission believes that some issues, such as the budget, require a higher level of legislative and public consultation than other types of issues. Indeed, some of this has recently taken place, but we believe it needs to be formalized as a regular occurrence. The Commission therefore recommends that the Minister of Finance undertake annual pre-budget consultations with a formal discussion paper for citizens. Public hearings should also be held around the province to receive input. The Minister should appear before the proposed new Standing Committee on Finance and the Economy to allow MLAs to question the Minister and provide their comments as well.

### e-Democracy

The Commission believes that there is great potential to utilize ICTs to engage New Brunswickers more directly in public policy development and democratic discussion. Important steps have already been taken and the technology currently exists. Many people in the province are both willing and able to communicate with government via this means.

But government's efforts remain fragmented with its engagement potential unrealized. Expertise is not readily available in each department or agency. This will change over time. The prospects are for greater use, not less. The Commission believes this should be enhanced by creating a central space in government for public dialogue through the use of ICTs. Attaching an "e-democracy" function to the proposed new Public Dialogue Office would help accomplish this. Innovative uses should be encouraged such as e-town halls, and student discussion forums connecting schools. Training of public servants on how best to utilize these technologies should commence. Best practices on what works should be shared. The Commission's recommendation elsewhere in this report to promote the use of e-petitions in the legislature also fits into this overall effort.

Government undertakes consultation all the time, on many subjects. New Brunswickers should be made aware of this activity. The Commission believes a central consultation portal should be created on the government website - such as [www.ETownHall.gnb.ca](http://www.ETownHall.gnb.ca) - so visitors are able to find out easily the status of any consultation process. Regular updates should also be provided on this site.

### Participatory Democracy & Citizen Engagement

Democracy is about citizens and their relationship with government. With our changing democratic values and society attitudes, governments and legislatures need to think differently about how they engage citizens in their democracy. An essential part of renewing democracy in New Brunswick is finding new, meaningful ways for people's voices to be heard. This is not an easy task. It requires commitment on the part of government as well as citizens. Participating in democratic decision-making does not always mean getting your own way - for government or every citizen. The strength of our democracy will come from our ability to engage citizens, communities, and civil society in a more effective way to make government and legislative decision-making more open and responsive to the needs of citizens. The Commission's recommendations will increase the opportunities for New Brunswickers to participate more in their democracy and have their voice heard by government.

## Recommendations

The Commission on Legislative Democracy recommends that the following steps be taken to increase the participation of New Brunswickers in decision-making:

### Participatory Decision-Making

#### Recommendation 1

That the provincial government conduct an awareness campaign with information packages for prospective candidates on the powers and responsibilities of District Education Councils (DECs) and Regional Health Authorities (RHAs), to encourage more candidates to offer to participate in these local decision-making authorities.

#### Recommendation 2

That Elections New Brunswick promote greater voter understanding of how and where to vote for DEC and RHA positions by inserting advertisements similar to the Notice of Grant of Poll advertisements used during provincial elections, that include maps of the boundaries of the various authorities and councils being filled by the elections, the locations of polling stations, and the names, addresses, and contact information of the candidates standing for nomination.

#### Recommendation 3

That Elections New Brunswick publish at least seven days before the date of the quadrennial local governance elections, a short statement prepared by each DEC and RHA candidate.

#### Recommendation 4

That the elected and appointed members of DECs and RHAs receive formal training and orientation so they can more fully understand and exercise their powers and responsibilities.

#### Recommendation 5

That an appropriate per diem be paid to members of DECs and RHAs as compensation for the work and time they undertake as members, and to encourage greater participation in the process.

#### Recommendation 6

That the government initiate a review of DECs and RHAs, in consultation with communities and stakeholders, to determine what is the most appropriate authority for these bodies given community expectations, the need to ensure a more direct correspondence between their mandated responsibilities and actual legislated powers, and to ensure

ongoing accountability of public expenditures to taxpayers.

#### Recommendation 7

That following the next municipal elections, the provincial government evaluate the need to create an independent commission to examine local and regional governance in New Brunswick.

### Civic Engagement and Civil Society

#### Recommendation 8

That a central Public Dialogue Office with consultation expertise be created within government to assist departments and agencies in undertaking and supporting meaningful consultation and deliberative dialogue with citizens and civil society organizations.

#### Recommendation 9

That a new Civic Engagement Fund, to be administered by the Public Dialogue Office, be created to support civil society groups engaged in various consultation activities with citizens and communities, including conducting research, preparing resource materials, and cost-sharing events.

#### Recommendation 10

That specific guidelines for Open Consultation be developed, shared, published, and utilized across government as an ongoing framework for meaningful consultation with citizens and civil society organizations, and as an important accountability tool.

#### Recommendation 11

That the working group model established by the Minister's Working Group on Violence Against Women be utilized as a model for "best practices" engagement on public policy development for other issues.

#### Recommendation 12

That government explore the value of utilizing "citizens assemblies" and "citizen panels" to engage citizens in deliberative dialogue and/or decision-making on a diverse range of issues.

#### Recommendation 13

That an annual pre-budget consultation process be undertaken by the Minister of Finance that includes a public information document for citizens, province-wide public hearings, and a public appearance before a Standing Committee of the legislature.

## ***E-Democracy***

### **Recommendation 14**

That a central “e-Town Hall” site be created on the main government website, with a link to the new Public Dialogue Office, listing all consultations being undertaken by government at any one time; their status; how citizens can access information on the consultation issue; and a built-in questionnaire and feedback component for citizens to participate in each process.

### **Recommendation 15**

That the results of all e-consultation processes be published on the main government website to share information, demonstrate transparency, and encourage more participation in and use of these engagement tools.





# Chapter 6 - Recommendation Appendices

## Recommendation Appendix: A

### ***Policy Framework - A Representation and Electoral Boundaries Act for New Brunswick***

#### Summary of Contents

This appendix contains a suggested legal framework for a statute governing the drawing of electoral district boundaries in New Brunswick. It is organized into the following sections:

- 1. Definition Section**
- 2. Process for Establishment of a Commission**
- 3. Terms of Reference of a Commission**
- 4. Preliminary Report**
- 5. Final Report**
- 6. Final Authority/Adoption of New Boundaries**

The text in the shaded boxes is suggested language for provisions of a *Representation and Electoral Boundaries Act* applicable under the New Brunswick Mixed Member Proportional (MMP) electoral system recommended by the Commission on Legislative Democracy in this report.

#### 1. Definition section

*“Census” means a census conducted by Statistics Canada under the Statistics Act (Canada).*

*“Commission” means a Representation and Electoral Boundaries Commission established under this Act.*

*“Commissioners” means the co-chairpersons and other members appointed to a Commission under this Act.*

#### **Under MMP**

*“Multi-member district” means a grouping of single member ridings, as determined under this Act, from which members are returned to the Legislative Assembly under the Mixed Member Proportional electoral system provided for in the Elections Act.*

*“Multi-member district lists” means the lists determined by the registered political parties for the return of members to the Legislative Assembly from multi-member districts under the Mixed Member Proportional electoral system provided for in the Elections Act.*

*“Single member riding” means an electoral district in the Province from which one member is returned to the Legislative Assembly.*

*“Total population” means the total population of New Brunswick as determined pursuant to the census that a Commission is established to consider.*

#### 2. Process for Establishment of a Commission

*The Lieutenant-Governor in Council shall appoint a Representation and Electoral Boundaries Commission for the census taken in 2001 and for each decennial census taken after 2001.*

##### **a) Role of Commission**

*A Commission shall examine representation of the population of New Brunswick in the Legislative Assembly based on the census and propose readjustments to the boundaries of single member ridings in the province.*

**Under MMP**

A Commission shall examine representation of the population of New Brunswick in the Legislative Assembly based on the census, and propose readjustments to the boundaries of single member ridings and multi member electoral districts in the province.

**b) Trigger to Start Process to Establish Commission**

As soon as practicable after this Act comes into force, and thereafter for each decennial census taken after 2001, the Clerk of the Executive Council for New Brunswick shall obtain from the Chief Statistician of Canada a copy of the part of the census showing the total population and distribution of the population of New Brunswick.

The Clerk of the Executive Council shall then transmit a notice to the Lieutenant-Governor in Council that the part of the census showing the total population and distribution of the population of New Brunswick has been received.

Within 30 calendar days of receipt of the notice from the Clerk of the Executive Council, the Lieutenant-Governor in Council shall appoint a Commission pursuant to this Act.

**c) How Commission is Appointed**

A Commission shall be appointed by the Lieutenant-Governor in Council, through an Order-in-Council:

- a) Following consultation by the Premier or the Premier's designate with the Leader of the Opposition and the leaders of the other political parties represented in the Legislative Assembly, and
- b) Upon a resolution of the Legislative Assembly carried by a vote of at least two-thirds of the members of the Legislative Assembly voting thereon.

**d) Composition of Commission**

Each Commission shall consist of:

- a) Two co-chairpersons, one from each of New Brunswick's official linguistic communities, and
- b) Three other members, who are residents of New Brunswick.

**e) Persons Ineligible for Appointment**

The following persons are ineligible to be appointed as a Commissioner:

- a) A member of the Legislative Assembly
- b) A member of the House of Commons
- c) A member of the Senate

A co-chairperson must not:

- a) Have been a candidate in any of the last two general provincial or federal elections or in a by-election held following any of the last two general provincial or federal elections;
- b) Have served in the Legislative Assembly, Parliament or Senate in any of the last two legislatures or Parliaments prior to the current session of the Legislative Assembly or Parliament; or
- c) Have been an official agent, chief agent or campaign manager of a candidate or of a political party in any of the last two general provincial or federal elections or in a by-election held following any of the last two general provincial or federal elections.

**f) Publication of Appointments**

The Lieutenant-Governor in Council shall publish a notice of the appointment of Commissioners in the Royal Gazette as soon as practicable following the appointment.

**g) Remuneration of Commissioners**

Commissioners are entitled to be paid:

- a) An amount to be fixed by the Lieutenant-Governor in Council, and
- b) An allowance for travel and other expenses incurred in the performance of the duties of the Commissioner at a rate approved by the Lieutenant-Governor in Council.

**h) Assistance to Commission**

A Commission may retain employees and advisors to enable it to discharge its duties, subject to the approval of the Lieutenant-Governor in Council.

**3. Terms of Reference of Commission****a) Transmission of Part of Census Showing Population of New Brunswick**

Within 14 calendar days of the appointment of the Commission, the Clerk of the Executive Council shall transmit to the Co-chairpersons the part of the census showing the total population and distribution of the population of New Brunswick.

On receipt of the part of the census showing the total population and distribution of the population of New Brunswick, the Commission shall prepare, in accordance with this Act, a preliminary report and a final report containing the Commission's proposals for the boundaries of single member ridings in the province.

**Under MMP**

On receipt of the part of the census showing that total population and distribution of the population of New Brunswick, the Commission shall prepare, in accordance with this Act, a preliminary report and a final report containing the Commission's proposals for the boundaries of single member ridings and multi-member districts in the province.

**b) Division of Province into Electoral Districts**

In determining the proposed boundaries of electoral districts, the Commission shall divide the province into approximately 55 single member ridings.

**Under MMP**

In determining the proposed boundaries of electoral districts, the Commission shall divide the province into 36 single member ridings.

After determining the proposed boundaries of the single member ridings, the Commission shall determine the proposed boundaries of four multi-member districts, of approximately the same size, in which the 36 single member ridings will reside.

Each single member riding shall be wholly included in one multi-member district.

Each multi-member district shall be allocated five Legislative Assembly seats, which shall be filled at an election by members returned from multi-member district lists.

The Commission shall follow the guiding principles set out in this Act for the purpose of determining the boundaries of the multi-member districts.

**c) Establishment of a Quotient**

The Commission shall determine a quotient for each proposed single member riding by dividing the total population of the province as determined by the census by the total number of single member ridings.

**d) Guiding Principles**

In determining the boundaries of the proposed single member ridings, the Commission shall be guided by the principle of representation by population, and shall proceed on the basis that the vote of every elector in the province shall have a weight equal to that of every other elector.

The Commission shall further be guided by the principle of effective representation of electors as guaranteed by the Canadian Charter of Rights and Freedoms leading to better government of the populace as a whole, in considering deviations from parity of voting power.

**e) Acceptable Variance**

The Commission shall be permitted to deviate from the quotient for each single member riding by no more than 15 per cent, plus or minus.

**f) Considerations**

The Commission shall consider the following in determining the proposed boundaries of the single member ridings:

- a) Communities of interest within the province;
- b) Representation of New Brunswick's two official linguistic communities;
- c) Geographic considerations, including the accessibility, size and shape of a region of the province;
- d) Existing municipal and other administrative boundaries;
- e) The rate of population growth of any part of the province;
- f) The challenges of representing rural areas of the Province; and
- g) Other considerations the Commission determines appropriate.

**g) Exceptional Variance**

In exceptional circumstances, the Commission may depart from the quotient for each single member riding by up to 25 per cent, plus or minus, where the Commission concludes that such a departure is necessary in order to ensure effective representation of electors and better government of the populace as a whole.

Special considerations which may justify such a deviation include:

- a) A special diversity or community of interest of the residents of an area of the province.
- b) Special geographic considerations including the accessibility, size and shape of any region of the province.

**4. Preliminary Report****a) Time to Prepare Preliminary Report**

Within 90 calendar days of its establishment, the Commission shall prepare a preliminary report.

**b) Public Hearings**

Prior to preparing the preliminary report, the Commission shall hold public hearings throughout the province at such times and places as the Commission considers appropriate. The Commission shall hear representations from persons on the existing boundaries of electoral districts of the province and the establishment of new single member ridings.

The Commission shall provide reasonable public notice of the time, date and purpose of such hearings.

**c) Contents of Preliminary Report**

The Commission's preliminary report shall include the proposed boundary descriptions and names for each of the single member ridings.

**Under MMP**

The Commission's preliminary report shall include:

- a) Proposed boundary descriptions and names for each of the 36 single member ridings, and
- b) Proposed boundary descriptions for each of the four multi-member districts.

**d) Preliminary Report to be Made Public**

Upon completion of the preliminary report, it shall be made public.

**e) Requirement for Public Hearings on Preliminary Report**

As soon as practicable following the completion of the preliminary report, the Commission shall hold public hearings throughout the province at such times and places it considers appropriate to hear representations on the proposals set out in the Commission's preliminary report.

The Commission shall provide reasonable public notice of such hearings, and the public notice shall contain:

- a) Details of the date, time, place and purpose of the hearings,
- b) A map showing the proposed boundaries of single member ridings as recommended in the Commission's preliminary report, and
- c) Such other information as the Commission considers appropriate.

**Under MMP**

The Commission shall provide reasonable public notice of such hearings, and the public notice shall contain:

- a) Details of the date, time, place and purpose of the hearings,
- b) A map showing the proposed boundaries of the single member ridings and of the multi-member districts as recommended in the Commission's preliminary report, and
- c) Such other information as the Commission considers appropriate.

**5. Final Report****a) Time to Prepare Final Report**

The Commission shall hold the public hearings on the preliminary report, consider any representations made during the public hearings and prepare its final report within 90 calendar days of completing the preliminary report.

**b) Contents of Final Report**

The Commission's final report shall include the Commission's final proposals for the boundary descriptions and names of each of the single member ridings.

**Under MMP**

The Commission's final report shall include the Commission's final proposals for:

- a) The boundary descriptions and names for each of the 36 single member ridings.
- b) The boundary descriptions for each of the four multi-member districts.

**6. Final Authority/Adoption of New Boundaries****a) Transmission of Final Report to Legislative Assembly**

Immediately upon completion of its final report, the Commission shall transmit the report to the Legislative Assembly and make it public.

If the Legislative Assembly is in session when the final report is transmitted, the Speaker shall cause the report to be laid before the Legislative Assembly forthwith.

If the Legislative Assembly is not in session when the final report is transmitted, the Clerk of the Legislative Assembly shall ensure each member of the Legislative Assembly receives a copy forthwith, and the Speaker shall cause a copy of the final report to be laid before the Legislative Assembly upon the commencement of the next ensuing session of the Legislative Assembly.

**b) Notice of Objection to Final Report**

Within 14 calendar days of the final report being transmitted to the Legislative Assembly, an MLA may file a notice of objection, in writing, with the Clerk of the Legislative Assembly, specifying the provision(s) of the final report the member objects to and proposes to amend, the reasons for the objection and the substance of the proposed amendment.

**c) Final Report Transmitted to the Clerk of the Executive Council if No Notices of Objection Filed**

If no notices of objection to the final report are filed with the Clerk of the Legislative Assembly within the allotted 14-day period, the Clerk of the Legislative Assembly shall transmit a copy of the final report of the Commission forthwith to the Clerk of the Executive Council.

**d) Referral of any Notices of Objection to Final Report to Committee of the Legislative Assembly**

Any notices of objection filed with the Clerk of the Legislative Assembly shall be referred at the close of the allotted 14-day period to a Committee established by the Legislative Assembly, composed of equal representation from government and opposition members, for the purpose of considering objections and proposed amendments to the final report of a Representation and Electoral Boundaries Commission.

Such a Committee shall consider any such notices of objection referred to it and make its report to the Legislative Assembly within 30 calendar days of the date of the referral of the notices of objection to the Committee.

If the House is not sitting when the Committee makes its report, the Committee report shall be filed with the Clerk of the Legislative Assembly, who shall ensure that each member of the Legislative Assembly receives a copy forthwith.

A report of a Committee shall include the Committee's recommendations with respect to the disposition of the notices of objection, the minutes of the Committee and evidence of the Committee with respect thereto.

**e) Disposition of Committee Report**

At the earliest opportunity after the Committee makes its report, a motion of concurrence in the Report of the Committee shall be brought.

If the Committee report is adopted by two-thirds of the members of the Legislative Assembly voting on a recorded vote, the Clerk of the Legislative Assembly shall forthwith transmit to the Clerk of the Executive Council the final report of the Commission, with the report of the Committee attached.

If the Committee report is not adopted by two-thirds of the members of the Legislative Assembly, the Clerk of the Legislative Assembly shall transmit to the Clerk of the Executive Council the final report of the Commission forthwith upon disposition of the motion of concurrence.

Within 14 calendar days of receipt of the final report of a Commission, with or without the report of a Committee attached, the Clerk of the Executive Council shall prepare and present to the Lieutenant-Governor for signature an Order-in-Council setting out the electoral districts in accordance with the recommendations in the final report of the Commission, and in a Committee's report, if attached.

**f) Contents of Order-in-Council**

The Order-in-Council shall set out the boundary descriptions and names for each of the single member ridings.

**Under MMP**

The Order-in-Council shall set out:

- a) The boundary descriptions and names for each of the 36 single member ridings.
- b) The boundary descriptions for each of the four multi-member districts.

**g) Coming into Force of the Order-in-Council**

Within five calendar days of the Order-in-Council being signed by the Lieutenant-Governor, the Lieutenant-Governor in Council shall by Proclamation declare the Order-in-Council to be in force, effective on the first dissolution of the Legislative Assembly that occurs after the day the Proclamation declaring it to be in force was issued, and on the issue of the Proclamation, the Order-in-Council has the force of law.

The Order-in-Council and Proclamation declaring it to be in force shall be published in the Royal Gazette.

## Recommendation Appendix: A-1

### Flowchart for a Representation and Electoral Boundaries Act Process

#### Summary of Contents

This appendix is a flowchart showing the steps and related time frames in the process set out in the proposed *Representation and Electoral Boundaries Act* for New Brunswick. The example used is a Representation and Electoral Boundaries Commission appointed to make recommendations on the electoral boundaries of the province based on the 2001 census.

The flowchart is organized into the following sections:

- 1. Getting Ready/Preparatory Stage**
- 2. Public Hearings /Preparation of Preliminary and Final Reports**
- 3. Final Approval by Legislative Assembly /Adoption of New Boundaries**

#### 1. Getting Ready/Preparatory Stage

The Clerk of the Executive Council obtains from the Chief Statistician of Canada a copy of part of the 2001 Census relating to NB and transmits it to the L-G in C.

**30 calendar days**

Following consultation with the Leader of the Opposition and leaders of other parties in the House and on approval by the Legislative Assembly on a 2/3rds vote, the L-G in C appoints a Representation and Electoral Boundaries Commission.

**14 calendar days**

The Clerk of the Executive Council obtains from the Chief Statistician of Canada a copy of part of the 2001 Census relating to NB and transmits it to the L-G in C.

**90  
calendar  
days**

#### 2. Public Hearings/Preparation of Preliminary and Final Reports

The Commission holds public hearings on the existing electoral boundaries and establishment of new electoral districts in the province.

The Commission prepares and makes public its preliminary report containing proposals for boundaries of electoral districts in the province.

The Commission holds public hearings on the preliminary report.

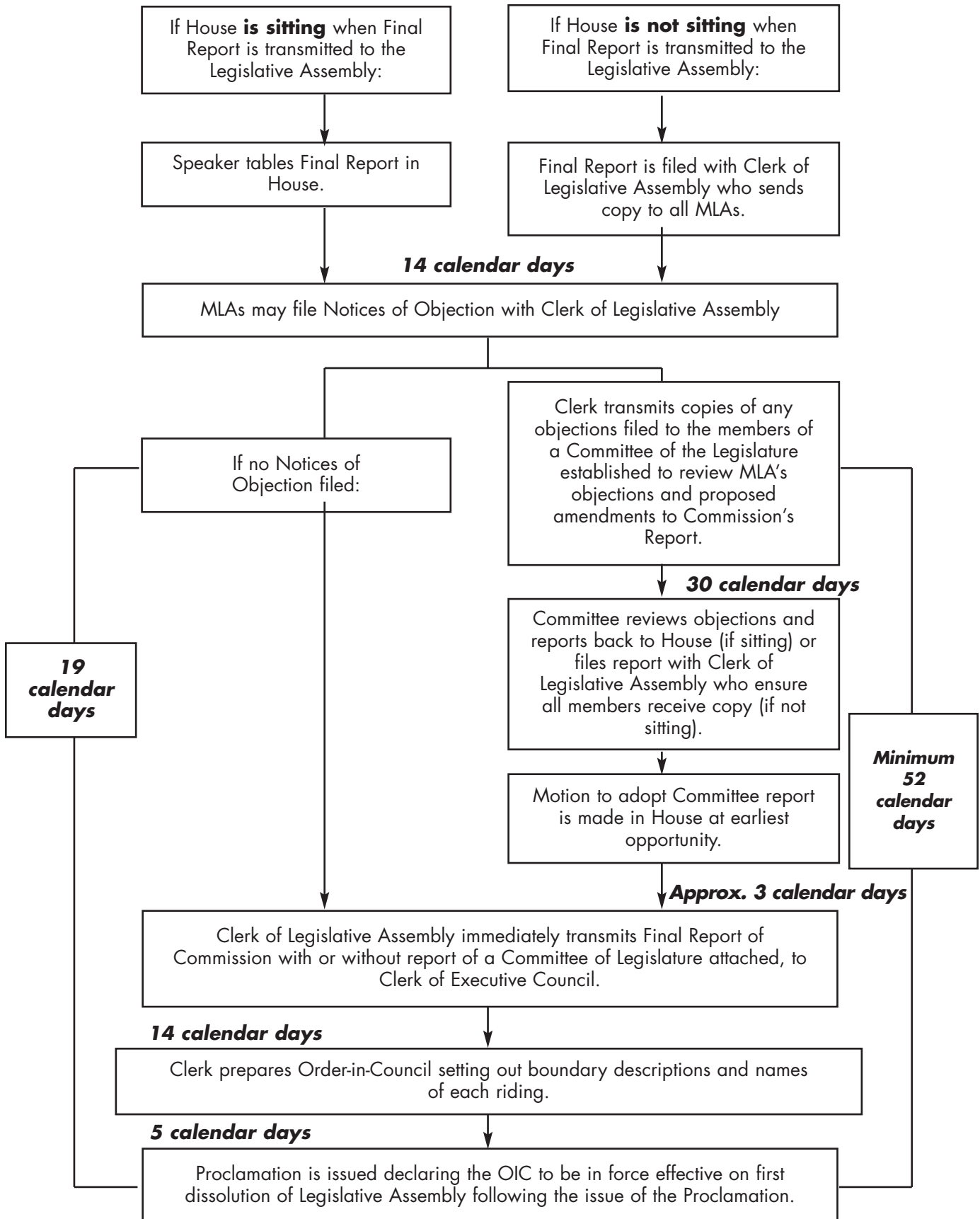
Commission prepares its Final Report, containing recommendations for boundary descriptions and names of ridings and transmits copy to Legislative Assembly immediately.

**180  
calendar  
days  
(six  
months)**

**90  
calendar  
days**



**3. Final Approval by Legislative Assembly/Adoption of New Boundaries**



## Recommendation Appendix: B

### Proposed Mandate - Elections New Brunswick

#### Summary of Contents

This appendix contains a proposed mandate for a new independent electoral commission, called Elections New Brunswick. Elections New Brunswick would combine the current duties and responsibilities of the Office of the Chief Electoral Officer and the Supervisor of Political Financing and have an expanded mandate as described in this document and set out in the following sections:

- 1. Elections Administration (*Elections Act*)**
- 2. Political Party Financing (*Political Process Financing Act*)**
- 3. Information, Education & Promotion (*a new Elections Commission Act*)**
- 4. Reporting (*new Elections Commission Act*)**

#### 1. Elections Administration (*Elections Act*)

- *Conducting, administering and managing provincial general elections, municipal elections, referendums*
- *Enumeration and electoral rolls/lists*
- *Appointment and training of elections officers*
- *Supporting the Representation & Electoral Boundaries Commission*
- *Producing electoral district maps*
- *Enforcing relevant legislation*

#### 2. Political Party Financing (*Political Process Financing Act*)

- *Registering political parties, electoral district associations, and third-party groups engaged in political activities and advertising*
- *Monitoring and supervising election and political party contributions, expenses, and disclosures by registered political parties and third-party groups*
- *Administering allowances paid to political parties*
- *Receiving reports and information by political parties on progress towards gender equity and other priorities*
- *Enforcing relevant legislation*

#### 3. Information, Education & Promotion (*new Elections Commission Act*)

- *Producing and distributing information and promotional materials to the public on the mandate and activities of the Commission, the conduct and results of elections and referendums*
- *Promoting the value and importance of voting and participating in elections and the democratic process*
- *Providing educational programs to young New Brunswickers in schools and elsewhere on the value and importance of voting and participating in elections and the democratic process*
- *Conducting research and other activities to assist the Commission in the exercise of its responsibilities and mandate.*

#### 4. Reporting (new Elections Commission Act)

- *Reporting to the Legislative Assembly annually on the activities and expenditures of Elections NB, the administration of elections and referendums, and providing recommendations for amendments and improvements to the legislation and procedures governing the conduct and administration of elections, political party financing, and other activities for which the Commission is responsible*
- *Producing timely and accurate reporting of election, by-election, and referendum results*
- *Publishing and making accessible to the public financial information provided by registered political parties, electoral district associations, and third-party groups related to elections, by-elections, referendums, nomination contests, and leadership selections*
- *Enforcing relevant legislation*

## Recommendation Appendix: C

# Policy Framework: The Roles and Duties of an MLA and a Code of Conduct for Members of the Legislative Assembly of New Brunswick

### Summary of Contents

This appendix contains a policy framework outlining a code of conduct for MLAs in New Brunswick as proposed by the Legislative Administration Committee. It is organized in the following sections:

- 1. The Key Roles and Duties of an MLA**
- 2. Code of Conduct**

### 1. The Key Roles and Duties of an MLA

*As Members directly elected by the People of New Brunswick to represent them in the Legislative Assembly, we acknowledge and accept the responsibility thereby entrusted to us to serve the people of the province honestly and conscientiously to the best of our abilities. In furtherance of this commitment, the Members of the Legislative Assembly of New Brunswick further acknowledge that in carrying out their legislative duties, Members have the following responsibilities:*

1. *to first and foremost represent conscientiously the interests of the constituents of his or her electoral district;*
2. *to be accessible to the constituents of his or her electoral district and to assist his or her constituents regardless of their political affiliation;*
3. *to perform the duties of a legislator in the Assembly, by attending and participating in the proceedings of the Legislative Assembly;*
4. *to work for the advancement of the people and the Province of New Brunswick;*
5. *to uphold the principles of democratic governance;*
6. *to represent faithfully and loyally the Province of New Brunswick in all venues, be they local, provincial, national or international.*

### 2. Code of Conduct

1. *The key principle of this Code is to maintain and promote public confidence and trust in the integrity of Members of the Legislative Assembly of New Brunswick as well as the respect and confidence that citizens place in the New Brunswick Legislature as an institution.*
2. *A further purpose of this Code is to provide guidance to the Members of the Legislative Assembly as to the standard of conduct expected of them in the discharge of their obligations to their constituents, the Legislative Assembly and the public at large.*
3. *This Code applies to Members in all aspects of their public life.*

#### **Public Duty**

4. *By virtue of their oath or affirmation of allegiance, Members have a duty to be loyal to the people of New Brunswick and to perform the duties of Members honestly and justly in conformity with the laws of the Province of New Brunswick and the rules of the Legislative Assembly.*

#### **Duty as a Representative**

5. *Members have a duty to be accessible to the people of the areas for which they have been elected to serve and to represent their interests conscientiously.*
6. *In representing people's interest, Members have a duty to respect individual privacy, unless there are overwhelming reasons in the wider public interest for disclosure to be made to a relevant authority, for example where a Member is made aware of criminal activity.*

## **General Principles of Personal Conduct**

### 7. Selflessness

Members should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### 8. Integrity and Honesty

- a) Members should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.
- b) Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### 9. Accountability and Openness

- a) Members are accountable for their decisions and actions to the public. They have a duty to consider issues on their merits, taking account of the views of others.
- b) Members should be as open as possible about their decisions and actions that they take and give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### 10. Respect and Courtesy

In respect of the responsibilities outlined in this Code, the conduct of Members shall demonstrate respect and courtesy

- a) in all communications with constituents, regardless of political affiliation;
- b) in all interventions in the Legislative Assembly and towards its Members and Officers;
- c) by showing compassion and fairness toward all who seek their assistance;
- d) for the cultural diversity of the Province of New Brunswick.

### 11. Leadership

Members have a duty to promote and support these principles by leadership and example.

## **Generally**

12. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
13. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Legislature, and never undertake any action which would bring the Legislative Assembly or its Members generally into disrepute.
14. The provisions of this code shall be taken into account by the Legislative Assembly in any proceeding relating to the conduct of an MLA.
15. This Code of conduct is not designed to be exhaustive and there will be occasions when Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.

## Recommendation Appendix: D

### Policy Framework - MLA Constituency Resources

#### Summary of Contents

This appendix contains a suggested policy framework for the financing of MLA Constituency Offices.

#### **Total Budget for Constituency Offices**

*A total maximum budget of \$50,000 annually shall be allocated to every member of the Legislative Assembly for the purposes of operating a constituency office. This money shall be allocated to pay for such office related expenditures as: supplies, rent, furniture, telephone, computers, and one full-time employee in the member's constituency.*

*No other funds shall be allocated for the purpose of running a constituency office unless approved by the Legislative Administration Committee in its review every three years. Any new allocation or increase in allocation shall be presented on a comparative basis from one fiscal year to the next and the total budget shall be presented as such in the Legislative Administration Committee report to the Legislative Assembly or any other reporting required by legislation.*

*Every member of the Legislative Assembly shall receive the same amount of money for the purpose of running a constituency office.*

#### **Constituency Offices for Ministers**

*Ministers shall not be permitted to use departmental budgets for the purpose of running a constituency office. The constituency office shall be used by the member in his or her role of representing his or her constituents.*

#### **Employees**

*Employees of constituency offices shall be paid through the Legislative Assembly Office but hired by the members. The Office shall ensure that all employees of constituencies receive uniform benefits and protection. The new method of remuneration shall follow the payment of employee salaries as set out by Revenue Canada.*

#### **Employee benefits**

*The Legislative Administration Committee shall decide the benefits constituency employees may receive.*

#### **Office**

*The constituency offices shall be rented according to provincial government guidelines with the rent paid directly by the Legislative Assembly Office. Members of the Legislative Assembly shall be responsible for finding their constituency office space pursuant to these guidelines.*

#### **Furniture, Telephones, Computers, and other Supplies**

*Furniture, telephone, computers and other supplies used for the purpose of running a constituency office shall be bought centrally by the Legislative Assembly Office.*

#### **Process of Review**

*The Legislative Administration Committee shall review the total budget allocated for constituency resources every three years and shall make the appropriate changes to the constituency office budget.*

*The Legislative Administration Committee shall report back to the Legislative Assembly and there shall be a 60-minute debate in the Legislature before changes to the total constituency budget shall come into effect.*

#### **Annual Report**

*A complete accounting of spending shall be published in the annual report of the Legislative Assembly.*

## Recommendation Appendix: E

### Policy Framework - Review Committee of MLA Remuneration

#### Summary of Contents

This appendix contains a framework suggesting the implementation of an independent Review Committee for the remuneration of MLAs. It is organized into the following sections:

- 1. Possible draft amendments to the *Legislative Assembly Act***
- 2. Possible changes to the mandate of the Legislative Administration Committee**

#### 1. Possible draft amendments to the *Legislative Assembly Act*

##### a) Appointment of a Review Committee of MLA Remuneration

*The Lieutenant-Governor in Council shall, following consultation by the Premier or the Premier's designate with the Leader of the Opposition and the leaders of the other political parties represented in the Legislative Assembly, appoint a committee to:*

- 1) *Review the annual indemnities and allowances of Members of the Legislative Assembly and recommend a single global remuneration that will encompass all indemnities and allowances for the Members of the Legislative Assembly;*
- 2) *Review and make recommendations on the amount of additional Members' indemnities, salaries and allowances of the following presiding officers as defined under this Act:*
  - a) *Speaker;*
  - b) *Deputy speakers;*
  - c) *Leader of the Official Opposition;*
  - d) *Leaders of other recognized parties;*
  - e) *Government whip;*
  - f) *Opposition whip;*
  - g) *Whip of any other recognized parties*
  - h) *House leader;*
  - i) *Opposition house leader; and*
  - j) *Any other presiding officer who might receive an indemnity, allowance or salary determined by the Legislative Assembly Act.*

##### b) Composition of Committee

*The Review Committee of MLA remuneration shall be composed of three residents of New Brunswick.*

##### c) Committee members

*The committee members shall not be:*

- a) *a Member of the Legislative Assembly;*
- b) *a Member of Parliament of Canada; or*
- c) *a Member of the Senate.*

##### d) Remuneration of Committee members

*Committee members are entitled to be paid:*

- (a) *a salary to be fixed by the Lieutenant-Governor in Council, and*
- (b) *an allowance for travel and other expenses incurred in the performance of the duties of the Commissioner at a rate approved by the Lieutenant-Governor in Council.*

**e) Assistance to the Committee**

The Committee may retain employees and advisors to enable it to discharge its duties, subject to the approval of the Lieutenant-Governor in Council.

**f) Mandate of Committee**

The Review Committee of MLA Remuneration shall be implemented to review the annual indemnity and allowances of the Members of the Legislative Assembly, while ensuring that the new remuneration reflects the true full-time nature of the role of Members of the Legislative Assembly. The committee shall also recommend a single global remuneration that will encompass all indemnities, committee allowances and salaries and shall recommend an annual adjustment formula.

**g) Committee to report**

After the nomination of the Review Committee of MLA Remuneration, the committee shall have six months to review the indemnities, allowances and salaries and make recommendations.

**h) Report to be introduced in the Legislative Assembly**

Immediately upon completion of its final report, the Committee shall transmit one copy of the final report to the Clerk of the Legislative Assembly and one copy to the Speaker of the Legislative Assembly.

If the Legislative Assembly is in session when the copies of the report are transmitted, the Speaker shall cause the copy of the report to be laid before the Legislative Assembly forthwith.

If the Legislative Assembly is not in session when the copies of the reports are transmitted, the Clerk of the Legislative Assembly shall provide a copy to each member of the Legislative Assembly, and the Speaker shall cause a copy of the final report to be laid before the Legislative Assembly within 7 calendar days following the commencement of the next ensuing session of the Legislative Assembly.

**i) Legislative Administration Committee to consider the report**

The report of the Review Committee of MLA remuneration shall be referred to the Legislative Administration Committee, which shall review the report and make recommendations to the Legislative Assembly.

The Legislative Administration Committee shall report back to the Legislative Assembly within 90 calendar days if the Legislative Assembly is sitting.

If the Legislative Assembly is not in session when the report is transmitted, the Clerk of the Legislative Assembly shall provide a copy to each member of the Legislative Assembly, and the Speaker shall cause a copy of the final report to be laid before the Legislative Assembly within seven calendar days following the commencement of the next ensuing session of the Legislative Assembly.

**j) Final authority**

The Legislative Assembly shall take into consideration the recommendations of both the Review Committee of MLA Remuneration and the Legislative Administration Committee and shall adopt a new global remuneration to take effect after the next election.

**2. Possible changes to the mandate of the Legislative Administration Committee**

Make changes to the Legislative Administration Committee's mandate to reflect these changes by adding a **new paragraph (d)**:

The Legislative Administration Committee is responsible for:

- (a) for the administration, operation, management, maintenance and control of the Legislative Buildings, the Legislative Library and such other lands, buildings and facilities connected with the Legislative Assembly;
- (b) for such duties and responsibilities that had been undertaken by the Standing Committee on Contingencies and Library;
- (c) generally for all matters relating to the Legislative Assembly and to the Members of the Legislative Assembly; and

**(d) for setting and reviewing salaries, allocations and indemnities as set out in the Legislative Assembly Act.**



## Recommendation Appendix: F

### Policy Framework - Fixed Legislative Calendar Session

#### Summary of Contents

This appendix contains a suggested policy framework proposing changes to the Standing Rules of the Legislative Assembly for a fixed calendar session setting out when the House and Legislative Assembly Committees shall sit:

#### Proposed changes to the Standing Rules:

##### 1. House shall not sit

*The House shall not meet on New Year's Day, the week of March break as identified in the New Brunswick regulation 97-150 under the Education Act, Good Friday, the week of Easter, the last full week of April, the day fixed for the celebration of the birthday of the Sovereign, July 1st, New Brunswick Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day or Boxing Day.*

##### 2. House calendar

*Unless otherwise stated, the House shall meet:*

- i) From the first Tuesday after March break as identified in the New Brunswick regulation 97-150 under the Education Act to the second last Friday before Canada Day, inclusive. (Spring session)*
- ii) From the second Tuesday after Remembrance Day to the last Friday before Christmas Day unless Christmas Day is on a Saturday at which time the House shall meet until the Thursday before Christmas Day, inclusive. (Fall session)*

##### 3. Recall of the House

*If the House is prorogued, the Lieutenant- Governor can issue a proclamation to call the House to meet at any time. If the House is adjourned, and if the Speaker believes, after consultation with government, that the public interest requires that the House should meet at an earlier time during the adjournment, the Speaker may give notice that he is so satisfied and in such notice shall state a time at which the House shall meet.*

##### 4. House Calendar tabled by the Legislative Administration Committee

*The Legislative Administration Committee shall, by November 30, table in the House a calendar for the following year setting out the sitting and non-sitting weeks between the first Tuesday after March break, as identified in the New Brunswick regulation 97-150 under the Education Act, and the day before Canada Day and between the second Tuesday after Remembrance Day, and the last Friday before Christmas Day.*

##### 5. House to keep the right to make changes to the calendar

*When the Speaker is in the Chair, a Member may propose a motion to change the sitting calendar of the House. When the Speaker puts the question on such a motion, those Members who object shall be asked to rise in their places. If five or more Members then rise, the motion shall be deemed to have been withdrawn, otherwise the motion shall have been adopted.*

##### 6. Time for a review of the Legislative Administration Committee report

*Sixty (60) minutes of the period reserved for the Orders of the Day on the third Friday of the fixed fall Legislative Session shall be reserved to debate the Legislative Administration Committee report.*

## 7. Committees of the Legislative Assembly shall not meet

*Committees of the Legislative Assembly shall not meet on New Year's Day, the week of March break, as identified in the New Brunswick regulation 97-150 under the Education Act, Good Friday, the week of Easter, the day fixed for the celebration of the birthday of the Sovereign, July 1st, New Brunswick Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day or Boxing Day.*

## 8. Calendar for Committees of the Legislative Assembly

*Unless otherwise stated, committees of the Legislative Assembly may meet:*

- i) From the second Tuesday in January to the last Friday before March break as identified in the New Brunswick regulation 97-150 under the Education Act*
- ii) For the last full week of April inclusive*
- iii) From the third Tuesday in October to the Friday of the week following Remembrance Day unless the House is sitting, at which time the committee shall sit until the Friday before the House sits.*

*Committees of the Legislative Assembly may also sit on Tuesday and Thursday mornings, from 9 a.m. until 12 p.m. on days when the House is sitting.*

## 9. Committees Calendar tabled by the Legislative Administration Committee

*The Legislative Administration Committee shall, by November 30, table in the House a calendar for the following year setting out the sitting and non sitting weeks for committees of the Legislative Assembly between the second Tuesday in January and the last Friday before March break, as identified in the New Brunswick regulation 97-150 under the Education Act, and the last week in April inclusive, and between the second Tuesday in September and the Friday of the week following Remembrance Day, unless the House is sitting, at which time the committees shall sit until the Friday before the House sits.*

## 10. Legislative Administration Committee to keep the right to make changes to the calendar

*The Legislative Administration Committee shall have the right to make changes to the Legislative Assembly Committee calendar if the public interest requires it.*

## 11. Other sittings of Committees of the Legislative Assembly

*A committee of the Legislative Assembly shall meet if the public interest requires it and may meet at a time that has not been fixed by the Legislative Administration Committee.*

## Recommendation Appendix: F-1

### **Possible Legislative Assembly Calendar for 2006 with Committee Days and Prescribed Events**

Colour key for calendar:

Purple – Constituency days

Lilac – Legislative Assembly days

Dark Grey – Days set for certain prescribed events

Light Grey – Committee days

January 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 New Year's	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28 Quarterly Financial Report				

March 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5 March Break	6	7	8	9	10	11
12	13	14 BUDGET	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14 Good Friday	15
16 Easter	17 Easter Monday	18	19	20	21	22
23	24	25	26	27	28	29
30						

May 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22 Victoria Day	23	24	25	26	27
28	29	30	31 Quarterly Financial Report			

June 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 Canada Day
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7 NB Day	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 Labour Day	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30 Quarterly Financial Report

October 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9 Thanks- giving	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
85	6	7	8	9	10	11 Remem. Day
12	13	14	15	16	17	18
19	20	21 THRONE SPEECH	22	23	24	25
26	27	28	29	30 Quarterly Financial Report		

December 2006						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8 Debate of LAC Report	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25 Christmas	26 Boxing Day	27	28	29	30
31						



## Recommendation Appendix: G

### Policy Framework - Transparency and Accountability Act

#### Summary of Contents

This appendix contains a framework for a proposed *Transparency and Accountability Act*. It contains the following elements:

- 1. Date of the Speech from the Throne**
- 2. Date for tabling the Budget and Main and Capital Estimates**
- 3. Date for the publishing of Public Accounts**
- 4. Dates for the publishing of the Quarterly Financial Reports**

#### 1. Date of the Speech from the Throne

*A Speech from the Throne shall be held on the second Tuesday after Remembrance Day.*

#### 2. Date for tabling the Budget and Main and Capital Estimates

*The Budget and Main Estimates of the Province shall be tabled on the Tuesday after March Break, as identified in the New Brunswick regulation 97-150 under the Education Act.*

*The Capital Estimates shall be tabled on or before this date.*

#### 3. Public Accounts

*Public Accounts for the Province of New Brunswick shall be made public by September 30th for the preceding fiscal year.*

#### 4. Quarterly Financial Reports

*Quarterly Financial Reports of the Province of New Brunswick shall be prepared and made public by the Department of Finance by:*

- a) *September 30th for the first three months of the fiscal year;*
- b) *November 30th for the first six months of the fiscal year;*
- c) *February 28th for the first 9 months of the fiscal year;*
- d) *May 31st for the preceding fiscal year.*

*Quarterly Financial Reports must include:*

- a) *The anticipated amounts of revenues and expenses for the quarter in question;*
- b) *The revenues and expenses of the quarter in question and of the period starting April 1st through the quarter in question;*
- c) *A comparison of the matching quarter from the previous fiscal year;*
- d) *The forecast of revenues and expenses and the resulting surplus or deficit for the fiscal year in which the quarterly report applies;*
- e) *The forecast of the debt as at the end of that fiscal year;*
- f) *The debt at the end of the quarter; and*
- g) *Other information.*

## Recommendation Appendix: H

### Policy Framework - Improving Party Democracy

#### Summary of Contents

This appendix contains a suggested policy framework to improve party democracy in New Brunswick. Its objectives and principles are to make the process and financing of nomination and leadership contests more open and transparent to New Brunswickers; to encourage greater openness, transparency, and accountability by political parties in their conduct; to encourage more women to seek nominations by setting spending limits for party nominations; and to enhance the role of political parties and their members in policy development. It is organized into the following sections:

**1. Regulating Financing of Political Party Nomination and Leadership Selection Contests - Policy Framework for Possible Amendments to the *Political Process Financing Act* (PPFA)**

**2. Regulating Political Party Nomination and Leadership Selection Contests - Policy Framework for Possible Amendments to the *Elections Act***

#### 1. Regulating Financing of Political Party Nomination and Leadership Selection Contests - Policy Framework for Possible Amendments to the *Political Process Financing Act* (PPFA)

##### A) Definitions

In this part:

“Leadership contest” means a competition in which a political party selects a leader.

“Leadership contestant” means an individual who accepts contributions for or incurs expenses in relation to his or her campaign to seek the leadership of a political party.

“Nomination contest” means a competition to select a person to be presented to the political party for endorsement as that party’s candidate in an electoral district.

“Nomination contestant” means a person who accepts a contribution or incurs a nomination contest expense.

“Personal expenses” of a leadership contestant or a nomination contestant means his or her expenses that are reasonably incurred in relation to his or her leadership or nomination campaign and include:

- (a) travel and living expenses;
- (b) childcare expenses;
- (c) expenses relating to the provision of care for a person with a physical or mental incapacity for whom the contestant normally provides such care; and
- (d) in the case of a contestant who has a disability, additional personal expenses that are related to the disability.

“Political party” means a registered political party or a political party that intends to seek registration.

##### B) Provisions for Leadership Contests

###### 1. General

###### a) Political party to give notice of leadership contest

When a political party calls a leadership contest, the political party shall give notice forthwith to the Chief Electoral Officer by filing a statement setting out the date when the leadership contest was officially called, and the date upon which the leadership vote shall be held.

The Chief Electoral Officer shall give immediate notice to the Supervisor of Political Financing of any notice of a leadership contest filed by a political party.

**b) Leadership contestants must register**

Every person who accepts contributions for or incurs expenses in relation to his or her campaign to seek the leadership of a political party shall register with the Chief Electoral Officer as a leadership contestant immediately upon accepting a contribution or incurring an expense.

An application for registration as a leadership contestant must include:

- a) the name of the leadership contestant;
- b) the address of the place at which the records of the leadership contestant are maintained and to which communications may be addressed;
- c) a declaration signed by the chief agent of the political party holding the leadership contest, certifying that the party accepts the applicant as a leadership contestant; and
- d) a statement of any contributions received or leadership contest expenses incurred before the application for registration is made.

Where a leadership contestant meets the requirements for registration, the Chief Electoral Officer shall register the contestant.

In the case of a refusal to register, the Chief Electoral Officer shall indicate which of the requirements have not been met.

The Chief Electoral Officer shall give immediate notice to the Supervisor of the registration or withdrawal of any leadership contestant.

**c) Appointment of Financial Agent**

Immediately upon being registered as a leadership contestant, the leadership contestant shall appoint a financial agent. The leadership contestant shall provide to the Chief Electoral Officer/ Supervisor the financial agent's name, address and telephone number and the financial agent's signed consent to act in that capacity.

**d) Replacement of Financial Agent**

In the event of the death, incapacity, resignation or revocation of the appointment of the financial agent, a leadership contestant shall without delay appoint a replacement.

**e) Role and Duties of the Financial Agent**

The financial agent is responsible for administering the leadership contestant's financial transactions for the leadership contest and for reporting those transactions in accordance with this Act, including:

- a) Keeping records of eligible contributions to the leadership contestant including the contributor's name and address and the amount of the contribution;
- b) Keeping records of all eligible expenses incurred and paid in relation to the leadership contest;
- c) Preparing and submitting reports to the Chief Electoral Officer/ Supervisor as required under this Act; and
- d) Such other duties as are set out in this Act.

**f) Bank Account**

The financial agent of a leadership contestant shall:

- a) Open an account in a financial institution in the name of the leadership contestant, which is to be used solely for the purpose of the leadership contest;
- b) Deposit all contributions to and make all payments of money for expenses in relation to the contestant's leadership campaign from the account;
- c) Close the account after the end of the leadership contest or the withdrawal or death of the contestant and after the disposal of any surplus leadership campaign funds in accordance with this Act.
- d) Provide the Chief Electoral Officer/Supervisor with the final statement of the account, on closing the account.

**g) Appointment of an Auditor**

Within 10 days of being registered as a leadership contestant, the leadership contestant shall appoint as an auditor:

- a) A person who is a member in good standing of an association, institute or society of professional accountants in the province, or
- b) A partnership of which every partner is a member in good standing of an association, institute or society of professional accountants.

The leadership contestant shall provide to the Chief Electoral Officer/ Supervisor the auditor's name, address and telephone number and the auditor's signed consent to act in that capacity.

#### **h) Replacement of Auditor**

In the event of the death, incapacity, resignation or revocation of the appointment of the auditor, a leadership contestant shall without delay appoint a replacement and obtain their signed consent to act in that capacity.

#### **i) Registry to be maintained by Chief Electoral Officer/Supervisor**

The Chief Electoral Officer/Supervisor shall maintain a registry of leadership contestants that contains for each contestant:

- a) The information required in the application for registration as a leadership contestant;
- b) The name and contact information for the financial agent; and
- c) The name and contact information for the auditor.

Any changes in the information reported to the Chief Electoral Officer/Supervisor shall be reported by a leadership contestant in writing to the Chief Electoral Officer/Supervisor as soon as practicable after the change occurs.

The reporting of a replacement of a financial agent or auditor of the leadership contestant must include a copy of the signed consent.

The Chief Electoral Officer/Supervisor shall enter any change in the information referred to in this section in the registry of leadership contestants.

The information contained in the registry is public information.

#### **j) Withdrawal of a leadership contestant**

A leadership contestant who withdraws from the leadership contest shall file with the Chief Electoral Officer/Supervisor a statement in writing to that effect, signed by the contestant and indicating the date of the withdrawal. The Chief Electoral Officer/Supervisor shall indicate the withdrawal in the registry of leadership contestants.

#### **k) Withdrawal of acceptance by political party**

A political party that withdraws its acceptance of a leadership contestant shall file with the Chief Electoral Officer/Supervisor a statement in writing to that effect signed by the chief agent of the party and indicating the date of the withdrawal. The Chief Electoral Officer/Supervisor shall enter the withdrawal of acceptance in the registry of leadership contestants.

A leadership contestant who withdraws or whose acceptance is withdrawn by a political party shall file a return in accordance with this Act for the period during which he or she was a contestant.

#### **l) Chief Electoral Officer/Supervisor to notify party of failure by contestant to comply with Act**

If the Chief Electoral Officer/ Supervisor becomes aware that a leadership contestant of a political party has failed to comply with any requirement under this Act, the Chief Electoral Officer/ Supervisor shall provide written notification of the failure to the leadership candidate and to the political party as soon as practicable.

## **2. Contributions to a Leadership Contestant**

#### **a) Who may solicit or accept contributions**

No person, other than a leadership contestant or the financial agent of the leadership contestant or a person authorized in writing by the financial agent, may solicit or accept contributions to the contestant's leadership campaign.

Only individuals, corporations and trade unions as defined in this Act may make a contribution to a leadership contestant.

**b) Issuance of receipts**

Any person who is authorized to accept contributions on behalf of a leadership contestant shall issue a receipt to the contributor, in accordance with the provisions of this Act, and the financial agent shall keep a copy of each receipt issued.

**c) Contribution limits**

No individual, corporation or trade union shall make contributions totaling more than \$3,000 to one or more leadership contestants.

A leadership contestant is subject to the contribution limit, and any money that is used for a leadership campaign out of a contestant's own funds is considered to be a contribution for the purposes of this Act.

**d) Exception**

Money out of contestant's own funds used for the contestant's personal expenses is not considered to be a contribution for the purposes of this Act.

**e) Provision of goods or services or transfers of funds from political party or district association**

No political party and no district association shall provide goods or services or transfer funds to a leadership contestant, unless the goods or services or funds are offered equally to all contestants.

**f) Deemed contributions**

For the purposes of this Act, contributions made to a leadership contestant within 18 months after a leadership contest are deemed to be contributions for that contest.

**3. Expenses of a Leadership Contestant**

**a) Who may incur leadership campaign expenses**

No person, other than a leadership contestant or his or her financial agent, shall incur leadership campaign expenses of the contestant.

**b) Who may pay leadership expenses**

No person, other than the financial agent of a leadership contestant, shall pay leadership campaign expenses, other than personal expenses, of the contestant.

No person, other than a leadership contestant or his or her financial agent, shall pay the contestant's personal expenses.

**c) Limits on expenses**

No leadership contestant or financial agent of a leadership contestant shall incur leadership campaign expenses - other than personal expenses - in an amount that is more than \$300,000.

**4. Disclosure Requirements**

**a) Summary Return on Contributions**

For the period beginning on the day the candidate becomes a leadership contestant and ending on the day that is four weeks before the end of the leadership contest, the financial agent shall provide the Chief Electoral Officer/ Supervisor with a summary return that includes:

- a) The total contributions received to date by the leadership contestant and the number of contributors;
- b) Disclosure of all financial loans for the purposes of the campaign, including interest rates, repayment schedules and the name of the lender;
- c) The name and address of each contributor who made contributions of a total amount of more than \$100 to the leadership contestant, that total amount, as well as the amount of each such contribution and the date on which it was received by the contestant;
- d) A statement of the commercial value of goods or services provided and of funds transferred to the leadership contestant from a political party or a district association.

The summary return on contributions shall be provided no later than one week after the end of the period to which it relates.

The information contained in the summary return on contributions is public information.

**b) Leadership campaign return**

Within 90 days of the leadership contest date, the financial agent of a leadership contestant shall provide the Chief Electoral Officer / Supervisor:

- a) A leadership campaign return on the financing and leadership campaign expenses for the leadership contestant;
- b) An auditor's report on the return, if one is required under this Act;
- c) A declaration made by the financial agent that the return is complete and accurate; and
- d) A declaration made by the leadership contestant that the return is complete and accurate.

**c) Contents of leadership campaign return**

The leadership campaign return shall include the following information in respect of the leadership contestant, for the period beginning on the day he or she becomes a leadership contestant and ending 90 days after the leadership contest date:

- a) A statement of leadership campaign expenses;
- b) The total contributions received by the leadership contestant and the number of contributors;
- c) Disclosure of all financial loans for the purposes of the campaign, including interest rates, repayment schedules and the name of the lender;
- d) The name and address of each individual who made contributions of a total amount of more than \$100 to the leadership contestant, the amount of each such contribution and the date on which it was received by the contestant, and the name of each corporation and trade union that made a contribution to the leadership contestant and the amount of each such contribution.
- e) A statement of the commercial value of goods or services provided and of funds transferred to the leadership contestant from a political party or a district association; and
- f) A statement of contributions received but returned to the contributor or otherwise dealt with in accordance with this Act.

**d) Supporting documents**

Together with the leadership campaign return, the financial agent shall provide to the Chief Electoral Officer/ Supervisor documents evidencing expenses set out in the return, including bank statements, deposit slips, and cancelled cheques.

**e) Auditor's Report**

The auditor of a leadership contestant who has accepted contributions of \$30,000 or more in total or incurred leadership campaign expenses of \$30,000 or more in total shall report to the contestant's financial agent on the leadership campaign return and shall, in accordance with generally accepted auditing standards, make any examination that will enable the auditor to give an opinion in the report as to whether the return presents fairly the information contained in the financial records on which it is based.

**f) Statement**

The auditor's report shall include any statement that the auditor considers necessary if:

- (a) The return does not present fairly the information contained in the financial records on which it is based;
- (b) The auditor has not received from the leadership contestant or his or her financial agent all the information and explanation that the auditor required; or
- (c) Based on the examination, it appears that proper accounting records have not been kept by the financial agent.

**g) Right of access**

The auditor shall have access at any reasonable time to all documents of the leadership contestant and may require the contestant and his or her financial agent to provide any information or explanation that, in the auditor's opinion, is necessary to enable the auditor to prepare the report.

**h) Surplus of leadership campaign funds**

The surplus amount of leadership campaign funds is the amount by which the sum of any contributions accepted by the financial agent of the leadership contestant, and any other amounts that were received by the contestant for his or her leadership campaign and that are not repayable, is more than the sum of the contestant's leadership campaign expenses.

**i) Disposition of surplus by financial agent**

Within 30 days of filing the leadership campaign return, the financial agent of a leadership contestant who has a surplus of leadership campaign funds shall transfer the surplus to the political party that held the leadership contest, or a district association of that party, and report to the Chief Electoral Officer/ Supervisor the amount and date of the disposal and to whom the surplus was transferred.

**j) Reporting of deemed contributions**

Where a contribution is made to a leadership contestant after the date the leadership campaign return is filed, and within 18 months of the leadership contest date, the leadership contestant shall file a report with the Chief Electoral Officer/ Supervisor at the end of the 18 month period, setting out the date and amount of any contributions received in this period and, for contributions more than \$100 from individuals, the name and address of the contributor; and the name of each corporation and trade union that made a contribution in this period.

**k) Publication**

The Chief Electoral Officer/ Supervisor shall, in the manner that he or she considers appropriate, publish for a leadership contest held by a political party:

- a) Information on the contest as filed by the political party;
- b) The information contained in the leadership campaign return of each leadership contestant,
- c) Information on the transfer of any surplus of leadership campaign funds by a leadership contestant's financial agent, and
- d) Information on any further contributions reported by the leadership contestant.

**C) Provisions for Nomination Contests****1. General****a) Interpretation**

In this part, "selection date" means the date on which a nomination contest is decided.

For the purposes of this part, a nomination contestant is deemed to have been a nomination contestant from the time he or she accepts a contribution or incurs a nomination campaign expense.

**b) Appointment of Financial Agent**

No nomination contestant shall, in relation to his or her nomination campaign, accept contributions or incur nomination campaign expenses unless he or she has appointed a financial agent.

**c) Consent**

A nomination contestant shall obtain from the financial agent, on appointment, his or her signed consent to so act.

**d) Replacement of Financial Agent**

In the event of the death, incapacity, resignation or revocation of the appointment of the financial agent, a nomination contestant shall without delay appoint a replacement.

**e) Role and Duties of the Financial Agent**

The financial agent is responsible for administering the nomination contestant's financial transactions for the nomination contest and for reporting those transactions in accordance with this Act, including:

- a) Keeping records of contributions to the nomination contestant, including the contributor's name and address, and the amount of the contribution;

- b) Keeping records of all expenses incurred and paid in relation to the nomination contest;
- c) Preparing and submitting reports to the Chief Electoral Officer / Supervisor as required under this Act; and
- d) Such other duties as are set out in this Act.

**f) Bank Account**

The financial agent of a nomination contestant shall:

- a) Open an account in a financial institution in the name of the nomination contestant, which is to be used solely for the purpose of the nomination contest;
- b) Deposit all contributions to and make all payments of money for expenses in relation to the contestant's nomination campaign from the account;
- c) Close the account after the end of the nomination contest or the withdrawal or death of the contestant, and after the disposal of any surplus nomination campaign funds in accordance with this Act.
- d) Provide the Chief Electoral Officer/ Supervisor with the final statement of the account, on closing the account.

**2. Contributions to Nomination Contestant**

**a) Who may solicit or accept contributions**

No person, other than a nomination contestant or the financial agent of the nomination contestant, or a person authorized in writing by the financial agent, may solicit or accept contributions to the contestant's nomination campaign.

Only individuals, corporations and trade unions as defined in this Act may make a contribution to a nomination contestant.

**b) Issuance of receipts**

Any person who is authorized to accept contributions on behalf of a nomination contestant shall issue a receipt to the contributor, in accordance with the provisions of this Act, and the financial agent shall keep a copy of each receipt issued.

**c) Contribution limits**

An individual, corporation or trade union may make a contribution, which in the aggregate does not exceed \$1,000, to the nomination contestants of each political party in the nomination contests for an upcoming provincial election.

A contribution not in excess of \$1,000 may be made so that:

- a) A portion is given to one or more nomination contestants in one nomination contest of a political party, or
- b) Portions are given to one or more nomination contestants in more than one nomination contest of a political party.

A nomination contestant is subject to the contribution limit, and any money that is used for a nomination campaign out of a contestant's own funds is considered to be a contribution for the purposes of this Act.

**d) Exception**

Money out of contestant's own funds used for the contestant's personal expenses is not considered to be a contribution for the purposes of this Act.

**e) Provision of goods or services or transfers of funds from political party or district association**

No political party and no district association shall provide goods or services or transfer funds to a nomination contestant, unless the goods or services or funds are offered equally to all contestants.

**3. Expenses of a Nomination Contestant**

**a) Who may incur nomination campaign expenses**

No person, other than a nomination contestant or his or her financial agent, shall incur nomination campaign expenses of the contestant.



**b) Who may pay nomination campaign expenses**

No person, other than the financial agent of a nomination contestant, shall pay nomination campaign expenses, other than personal expenses, of the contestant.

No person, other than a nomination contestant or his or her financial agent, shall pay the contestant's personal expenses.

**c) Limits on expenses**

No nomination contestant or financial agent of a nomination contestant shall incur nomination campaign expenses - other than personal expenses - in an amount that is more than twenty (20) per cent of the average of the limits that were allowed for a candidate's election expenses in the province's electoral districts during the immediately preceding general election.

**d) No circumvention of limit**

No person shall

- a) circumvent, or attempt to circumvent, the limit referred to or,
- b) act in collusion with another person for that purpose.

**4. Disclosure Requirements****a) Report of nomination contest**

When a nomination contest is held, the political party or the district association that held the nomination contest shall, within 30 days after the selection date, file with the Chief Electoral Officer/Supervisor a report setting out:

- a) The name of the electoral district, the district association and the political party that the nomination contest concerned;
- b) The date on which the nomination contest began and the selection date;
- c) The name and address of each nomination contestant as of the selection date and of his or her financial agent; and
- d) The name of the person selected in the nomination contest.

**b) Nomination campaign return**

Within 90 days of the nomination selection date, the financial agent of a nomination contestant who has accepted contributions of \$1,000 or more in total, or incurred nomination campaign expenses of \$1,000 or more in total, shall file with the Chief Electoral Officer/ Supervisor the following in respect of a nomination contestant:

- a) A nomination campaign return on the financing and nomination campaign expenses for the nomination contestant;
- b) A declaration made by the financial agent that the return is complete and accurate; and
- c) A declaration made by the nomination contestant that the return is complete and accurate.

**c) Contents of return**

The nomination campaign return shall include the following information in respect of the nomination contestant, for the period beginning on the day the candidate becomes a nomination contestant, and ending 90 days after the nomination selection date:

- a) A statement of nomination campaign expenses;
- b) A statement of the total contributions received by the nomination contestant and the number of contributors;
- c) The name and address of each individual who made contributions of a total amount of more than \$100 to the nomination contestant, the amount of each such contribution and the date on which it was received by the contestant, and the name of each corporation and trade union that made a contribution to the nomination contestant and the amount of each such contribution.
- d) A statement of the commercial value of goods or services provided and of funds transferred to the nomination contestant by a political party or a district association;

- e) A statement of the contributions received but returned to the contributor or otherwise dealt with in accordance with this Act.

**d) Supporting documents**

Together with the nomination campaign return, the financial agent of a nomination contestant shall provide to the Chief Electoral Officer / Supervisor, documents evidencing expenses set out in the return, including bank statements, deposit slips, and cancelled cheques.

**e) Nomination campaign return not required where contributions accepted and expenses incurred are less than \$1,000**

A nomination campaign return need not be filed in respect of a nomination contestant if the financial agent of that nomination contestant files with the Chief Electoral Officer/ Supervisor an affidavit stating that:

- a) The contributions accepted on behalf of the contestant did not exceed \$1,000 in total, and
- b) The expenses incurred on behalf of the contestant did not exceed \$1,000 in total.

The affidavit must be filed with the Chief Electoral Officer/Supervisor in the time period required to file a nomination campaign return.

**f) Surplus of nomination campaign funds**

The surplus amount of nomination campaign funds is the amount by which the sum of any contributions to the nomination contestant's campaign is more than the sum of the contestant's nomination campaign expenses.

**g) Disposition of surplus by financial agent**

The financial agent of a nomination contestant who has a surplus of nomination campaign funds shall, within the time period for filing a nomination campaign return, transfer the surplus to

- a) the official agent of the candidate endorsed by the political party in the electoral district in which the nomination contest was held, or
- b) the district association that held the nomination contest or the political party for whose endorsement the contest was held.

The financial agent shall notify the Chief Electoral Officer/ Supervisor of the amount and date of the disposal, and to whom the surplus was transferred.

**h) Publication**

The Chief Electoral Officer/Supervisor shall, in the manner that he or she considers appropriate, publish for each nomination contest held by a political party or district association:

- a) The information on the contest as filed by the political party or district association;
- b) The information contained in the nomination campaign return of each nomination contestant, and
- c) Information on the transfer of any surplus of nomination campaign funds by a nomination contestant's financial agent.

## **D) Summary of Likely Consequential Amendments to the PPFA**

### **1. Application of Act**

**Repeal of Section 3** of the *PPFA*, which provides that the Act does not apply to campaigns and conventions carried on or held in relation to the leadership of any political party or to the nomination of a candidate.

### **2. Duties and Powers of Supervisor**

**Expansion of Section 14** - duties and powers of the Supervisor - to include:

- Determining if leadership and nomination contestants are complying with the Act;
- Issuing guidelines on the records to be maintained by the leadership contestants and nomination contestants;
- Determining whether leadership contest expenses and nomination contest expenses have been made in accordance with this Act;
- Carrying out studies on the financing of leadership and nomination contests.

**Expansion of Section 15** - which allows a person to apply to the Supervisor for an inquiry to determine whether any expenses have been made in accordance with this Act - to leadership or nomination contest expenses.

**3. Contributions (Section 37 to 47)**

Expansion of these provisions, where not inconsistent with provisions set out above, to cover contributions made to leadership contestants and nomination contestants.

**4. Offences and Penalties (Section 85 - 90)**

Extension of these provisions, where applicable and with necessary modifications, to cover offences committed with respect to the contribution limits, spending limits and disclosure requirements for leadership and nomination contestants.

**5. Other Housekeeping/Procedural**

**Extension of Sections 81(3), 81(4), 82 (3) and 82(4)** - which include provisions on how long Supervisor must keep statements, invoices, receipts and vouchers filed with him - to cover such material filed with Supervisor by financial agent of leadership or nomination contestant.

**Extension of Section 83** - which sets out process for rectification of error in any statement submitted to Supervisor made through inadvertence - to cover any such error in a report filed with the Supervisor by the financial agent of leadership or nomination contestant.

**Extension of Section 91** - which allows for actions to be brought in a court of competent jurisdiction in respect of contested claims for election expenses against a party or candidate to cover contested claims for leadership or nomination campaign expenses.

**2. Regulating Political Party Nomination and Leadership Selection Contests - Policy Framework for Possible Amendments to the Elections Act**

**1. Adoption of Rules by Party**

- a) A political party must adopt clear and consistent rules outlining a fair and democratic process for the selection of their general election candidates and the party leader.
- b) These rules must be adopted by a vote of the party membership and be consistent with the provisions outlined herein.
- c) These rules must include a clear appeal mechanism for the bringing of any complaints that the rules were not followed.
- d) Specific remedies for rules violations shall also be included.

**2. Candidates Selected by Party Meeting - no appointments**

In order to appear on a general election ballot as a candidate of a political party, a candidate must be endorsed by eligible party members in the electoral constituency where the candidate is seeking office, in a vote that is open to all eligible party members in that constituency.

**3. Membership Eligibility Rules to Vote**

- a) Eligible voters in candidate nomination and party leadership contests shall be all current members of the party who meet the eligibility requirements to vote in a provincial general election (e.g., 18 years of age, resident in New Brunswick and a Canadian citizen).
- b) Members must belong to their political party at least seven days prior to a candidate nomination or leadership vote in order to be eligible to participate and the list of eligible voters must be filed with the Party President and made available to any candidate at least four days prior to the nomination or leadership vote.

**4. Timing of Nomination Meeting**

If fixed election dates are adopted, constituency associations of political parties shall hold a vote of their members for the purpose of choosing their general election candidate no more than 120 days prior to the date of the general election.

## **5. Membership Fees**

- a) Parties may not charge a membership fee in excess of \$5 per annum.
- b) No additional fee may be charged as a requisite to voting in a candidate nomination or party leadership election.

## **6. Notice of Meetings**

Political parties must advertise the date, time and location of candidate nomination contests and party leadership votes at least seven days prior to the closing date for eligible membership.

## **7. Declaration for a Nomination Contest**

- a) For each nomination contest held, the political party or district association must file with the Chief Electoral Officer a declaration, signed by the party leader, providing full details of the nomination contest including:
  - Date and location of nomination contest;
  - Number of members voting;
  - Result of the vote; and
  - Details of any appeals of the process.
- b) The declaration must certify that:
  - The candidate was endorsed by eligible party members in the electoral district where the candidate is seeking office, in a vote that was open to all eligible party members in that electoral district.
  - The date, time and location of the nomination contest were advertised at least seven days prior to the closing date for eligible membership.
  - All voters in the nomination contest met the eligibility requirements to vote in a provincial general election, belonged to the political party at least seven days prior to the nomination contest, and were members of the party at the time of the vote.
  - The nomination contest was conducted in a fair, open and democratic manner.
- c) The declaration for each nomination contest shall be filed no later than 14 days after the conclusion of the nomination contest and prior to the deadline for completion of candidate nominations under the *Elections Act*.

## **8. Declaration for a Leadership Contest**

- a) For each leadership contest held, the political party that held the leadership contest must file with the Chief Electoral Officer a declaration, signed by the Party President, providing full details of the leadership contest, including:
  - Date and location of leadership contest;
  - Number of members voting;
  - Result of the vote; and
  - Details of any appeals of the process.
- b) The declaration must certify that:
  - The successful leadership candidate was endorsed by eligible party members in a vote that was open to all eligible party members in the province.
  - The date, time and location of the leadership contest were advertised at least seven days prior to the closing date for eligible membership.
  - All voters in the leadership contest met the eligibility requirements to vote in a provincial general election and belonged to the political party at least seven days prior to the date of the leadership vote and were members of the party at the time of the vote.
  - The leadership contest was conducted in a fair, open and democratic manner.
- c) The declaration for a leadership contest shall be filed no later than 14 days after the conclusion of the leadership contest.

- d) A political party that had already selected a leader and nominated candidates for an election would have to demonstrate that it had met the above requirements before it could be registered by the Chief Electoral Officer in the Registry of Political Parties under the *Elections Act*.

**9. Enforcement**

- a) Penalties for non-compliance with reporting requirements under the *Political Process Financing Act* would be extended to cover a failure on the part of a nomination contestant or leadership contestant to file a declaration.
- b) Additionally, if a declaration is not filed with respect to a nomination contest, or if the declaration does not demonstrate compliance with the requirements for nomination contests as set out above, there should be no party affiliation of the candidate on the ballot until a satisfactory declaration is filed.

## Recommendation Appendix: I

### ***Policy Framework - Appointments to Agencies, Boards and Commissions***

#### Summary of Contents

This appendix contains a suggested framework for the future appointments process to government Agencies, Boards and Commissions, setting out the principles and objectives of establishing a formal process for appointments and giving more New Brunswickers the opportunity to apply to serve on ABCs and to be considered for appointment. It is organized into the following sections:

- 1. Suggested Practices and Procedures for Making Appointments to ABCs**
- 2. Suggested Appointment Process For the Most Significant ABCs**
- 3. Suggested Appointment Process for other ABCs**
- 4. Suggested Classification of ABCs**

#### 1. Suggested Practices and Procedures for Making Appointments to ABCs:

Interested members of the public should be able to easily find out what vacancies on ABCs exist, how to make an application to be considered for appointment, what qualities and skills are required for the position, the steps in the appointment process itself, and the outcome of their application. To this end, the following practices and procedures are recommended:

##### **a) Assign co-ordinating responsibility for ABC Appointments to a central agency of Government**

In order to bring transparency, consistency and oversight to the appointment process, overall co-ordinating responsibility for appointments to ABCs should be assigned to a central agency of government, namely, the Office of Human Resources.

An ABC Appointments Unit would be created within the Office of Human Resources to administer the appointments process.

The mandate of the ABC Appointments Unit would include:

- Establishing specific guidelines for appointments to ABCs, which are appropriate to the nature of the ABC.
- Preparing and publishing a checklist of steps to be followed in the appointment process for a candidate.
- Monitoring the appointment process to ensure that the guidelines are followed and appointments are made on an open, transparent and consistent basis.
- Advertising vacancies on ABCs in a timely fashion, and providing information on the requirements of the position, remuneration and time commitment involved, and how interested persons may apply.
- Developing and maintaining a central databank of ABC appointments, vacancies and applications.
- Identifying or seeking out potential candidates for appointment to an ABC.
- Accepting and acknowledging applications for positions on ABCs, following up with individuals who are recommended for appointment by others, and maintaining a databank of individuals who have submitted an application for a specific position or have submitted a general expression of interest in serving on an ABC.
- Providing human resource expertise and assistance to ABCs and the minister/department responsible for the ABC in the process of reviewing applications for appointment.
- Publicizing appointments, including the name and a brief biographical sketch of an appointee, the term of their appointment, and the remuneration to which they are entitled.
- Co-ordinating the development and administration of training and orientation programs for board members on board roles and responsibilities.

**b) Provide people with information on upcoming appointments**

The ABC Appointments Unit would publish on its website and update regularly:

- A list of upcoming vacancies and links to obtain more information on a specific vacancy.
- Information on how to apply for a position on an ABC.
- Details of the appointment process.

In addition to being listed on the ABC Appointments Unit website, vacancies would be advertised on the website of the responsible department and the ABC itself, if it has one.

Individual vacancies for significant ABCs would be advertised in provincial newspapers.

For other ABCs, the ABC Appointments Unit would advertise in provincial daily newspapers, every three to six months, a list of upcoming vacancies, with contact information on how to find out more information and apply for a specific position.

**c) Provide a mechanism by which anyone interested in serving on an ABC may make an application**

The ABC Appointments Unit would develop and publish a general application form to be filled out by persons interested in an appointment to an ABC.

The form could be completed online or by other means, and would require the following information:

- Name of candidate;
- Candidate's contact information;
- Candidate's education, professional designations, employment experience, and community service experience;
- Names and contact information of references;
- Name of ABC to which they are applying, or
- In the case of a general expression of interest to serve on an ABC, the type of ABC they wish to be considered for appointment to;
- Any other identifying information the applicant wishes to provide.

Applicants could attach a copy of their curriculum vitae to their application form.

All applications would be entered into a databank maintained by the ABC Appointments Unit.

**d) Identify a pool of qualified candidates from a variety of sources**

Candidates should be identified from as many sources as possible, including:

- Responses to advertising of vacancies.
- The databank maintained by the ABC Appointments Unit, containing names of individuals who have submitted an expression of interest in an appointment (specific or general).
- Referrals of names from the ABC chair, members and CEO, the responsible Minister and Cabinet, MLAs, stakeholder and community organizations, and members of the public.
- Executive search consultants (usually only for appointments to boards of Crown agencies and significant adjudicative tribunals).

**e) Keep people informed of the progress of their application**

All applicants for a position on an ABC should be advised:

- That their application has been received, and
- Of the outcome of their application when the vacancy is filled.

The ABC Appointments Unit, the department responsible for the ABC or the ABC itself would publish on their websites:

- The name and a biographical sketch of all appointees to ABCs,
- The term of the appointments, and
- The remuneration to which the person appointed is entitled.

## 2. Suggested Appointment Process For the Most Significant ABCs

### Appointments Process Summary - Most Significant ABCs

1. **Assign co-ordinating responsibility for the appointment process to the ABC Appointments Unit, while leaving the authority to appoint with the Lieutenant-Governor in Council or Minister responsible for the ABC.**
2. **Undertake a needs assessment and prepare a Board Profile for the ABC.**
3. **Identify skills criteria and develop a Position Description for vacancies.**
4. **Identify potential candidates.**
5. **Undertake a formal vetting and due diligence process.**
6. **Preparation of a short list of qualified candidates, with possible rank-ordering for decision by the Lieutenant-Governor in Council or Minister responsible for the ABC, as specified in the enabling legislation of the ABC.**
7. **Advise unsuccessful candidates of outcome and their right to request a statement of reasons they were not appointed.**
8. **Publicize appointments.**
9. **Provide training and orientation for new board members.**

### 1. Assign co-ordinating responsibility for the appointment process to the ABC Appointments Unit

The ABC Appointments Unit of the Office of Human Resources would be assigned overall responsibility for the appointment process. The authority to make the appointment would remain with the Lieutenant-Governor in Council or Minister responsible for the ABC, as set out in the enabling legislation of the ABC.

### 2. Undertake a needs assessment and prepare a Board Profile for the ABC

The ABC Appointments Unit would work with the department responsible for the ABC and the chair and CEO of the ABC to:

- 1) Undertake a general review of the role and mandate of the ABC.
- 2) Identify the ABC's strategic objectives, key initiatives and challenges facing the board (economic, social, political etc.).
- 3) Identify any statutory requirements for the composition of the ABC in the enabling legislation.
- 4) Prepare a " Board Profile" for the ABC, which defines the mix of skills, experience, qualifications, and diversity of representation of members required for the effective operation of the ABC in light of the ABC's mandate, objectives, initiatives, challenges and legal requirements.

### 3. Identify skills criteria and develop a Position Description for vacancies

Upon identification of an upcoming vacancy, the ABC Appointments Unit would work with the responsible department and the chair/ CEO of the ABC to:

- 1) Establish the specific qualifications required for the position, consistent with the Board Profile, for example, financial or legal expertise; regional, gender, or minority representation; a requirement set out in the enabling legislation.
- 2) Prepare a Position Description setting out:
  - The position to be filled.
  - The purpose and mandate of the ABC.



- The terms of reference of the position on the ABC to be filled (an outline of specific responsibilities and expectations of appointees).
- A detailed list of the qualifications, skills and attributes an individual must possess to carry out the position effectively.
- A brief summary of pertinent information on the ABC - i.e. the responsible department and minister, annual budget, number of employees, approximate number of meetings per year.
- Type of position - full time or part time, expected time commitment.
- Compensation.
- Location of meetings.
- Closing date for applications.
- Information on how to apply.

#### 4. Identify potential candidates

Potential candidates would be identified from a variety of sources including:

- **Advertising** of the vacancy and Position Description on the website of the ABC Appointments Unit, the responsible department, and the ABC itself, if it has a website, as well as in newspapers.
- The **databank** maintained by the ABC Appointments Unit, which would contain names of individuals who have submitted an expression of interest in an appointment (specific or general) and names of individuals nominated by others.
- **Referrals** of names from the ABC chair, members and CEO, the responsible Minister and Cabinet, MLAs, stakeholders and relevant community organizations, and members of the public.
- Through the use of **executive search consultants**, where appropriate.

Potential candidates identified in any manner would submit to the ABC Appointments Unit an application form and curriculum vitae providing the following information:

- Name of candidate
- Contact information
- Who they were recommended by (if applicable)
- Education and professional designations
- Employment experience
- Community service experience
- Names and contact information of references

As the ABC Appointments Unit receives applications, they would be reviewed to ensure that all required information is completed, and if information were missing the applicant would be contacted and asked to provide the information in order for their application to go forward to the vetting process.

In the case of candidates who are referred to the ABC Appointments Unit, the unit would follow up directly with the individual referred to ascertain if they do wish to be considered for appointment and to provide them an application form to be completed.

All applicants would receive a written acknowledgement of receipt of their application.

#### 5. Undertake a formal vetting and due diligence process

In order to select qualified and suitable candidates, it would be imperative to carry out a thorough and objective review of applicants.

##### Checklist

A checklist developed by the ABC Appointments Unit, setting out the required steps in the appointment process, would be completed as each step in the screening process is finished, for each potential candidate.

## Selection Committee

A selection committee would be struck to consider names of potential candidates.

The selection committee would include representatives from the ABC Appointments Unit, the responsible department, and the ABC itself.

## Screening and assessment

The selection committee would assess the candidates against the Position Description through:

- A preliminary screening of application packages of candidates to identify those candidates who do not demonstrate sufficient knowledge or skills in the competency areas identified in the Position Description.
- Interviews, over the telephone or in person.
- Other forms of assessment the selection committee deemed appropriate, as long as they were applied consistently to all applicants. These could include such things as written tests and submissions, or completion of a detailed questionnaire to obtain more information on the competencies, skills and experience of the candidates.
- Reference checks.

## Due diligence process

Where appropriate, the ABC Appointments Unit would contact candidates and invite them to undertake a due diligence process for further consideration for appointment to an ABC.

The due diligence process would include:

- A security check/ criminal records check.
- Having candidates fill out a declaration to identify any conflicts of interest.

## **6. Preparation of a short list of qualified candidates, with possible rank-ordering for decision by the Lieutenant-Governor in Council or Minister responsible for the ABC**

Upon completion of the screening process the selection committee would prepare a short list of qualified candidates, with a possible rank-ordering. It would be passed on to the ABC Appointments Unit for verification that all steps on the checklist had been completed.

If any steps had not been completed for a particular applicant, the ABC Appointments Unit would send the short list back to the Selection Committee with directions to complete the outstanding steps.

Upon completion of the vetting and due diligence process, the short list and possible rank-ordering of candidates would be forwarded to the appointing body specified in the ABC's enabling legislation (the Lieutenant-Governor in Council or the Minister), along with the following information:

- A copy of the Board Profile.
- A copy of the Position Description.
- Information on potential candidates and a short summary providing the number of other applicants and the reasons they were screened out.
- A copy of the application package of each short listed candidate and a checklist indicating the proper steps were followed.

The appointing body would offer the position to the candidate it ranked highest on the short list prepared by the Selection Committee.

If the candidate declined the offer, the appointment would be offered to the next highest ranked candidate.

Upon acceptance of the offer, the appointment would be ratified by Order-in-Council or by Ministerial Order.

## **7. Advise unsuccessful candidates of outcome and their right to request a statement of reasons they were not appointed**

The ABC Appointments Unit would advise all unsuccessful applicants, in writing, that they were not selected for appointment, and that they may contact the ABC Appointments Unit in writing for a statement of the reasons why they were not appointed.

Such statement of reasons would be provided within 30 days of the request.

## 8. Publicize appointments

The ABC Appointment Unit or the responsible department/ABC would publish on its website:

- The name and a biographical sketch of appointees to ABCs,
- The term of the appointments, and
- The remuneration to which the appointed person is entitled.

## 9. Provide training and orientation for new board members

In order to ensure that board members of ABCs have the necessary understanding of corporate governance principles - the role of the ABC, their responsibilities as board members, the accountabilities of the ABC to government and the taxpayers - the ABC Appointments Unit would:

- Work with the ABC itself and with the responsible departments to develop and administer training and orientation programs for board members on board roles and responsibilities.
- Provide ongoing educational opportunities for board members through workshops on corporate governance.

## 3. Suggested Appointment Process for other ABCs

### Appointments Process Summary - Other ABCs

1. Identify upcoming vacancies.
2. Prepare a brief Position Description for vacancies.
3. Identify potential candidates.
4. Undertake basic screening.
5. Preparation of a list of qualified candidates for decision by the Lieutenant-Governor in Council or Minister responsible for the ABC, as specified in the enabling legislation of the ABC.
6. Advise unsuccessful candidates of outcome.
7. Publicize appointments
8. Provide training and orientation for new board members.

### 1. Identify upcoming vacancies

The department/minister responsible for the ABC (the responsible body) would advise the ABC Appointments Unit of upcoming vacancies, so that the Unit could advertise groups of upcoming vacancies and forward to the responsible department names of potential candidates from its databank and any referrals it received. The ABC Appointments Unit would monitor the appointment process and provide assistance where needed to the responsible department.

### 2. Prepare a brief Position Description for vacancies

Upon identification of an upcoming vacancy, a brief Position Description would be prepared by the responsible body. The Position Description would include:

- The position to be filled.
- The role of the ABC.
- Summary of general skills and experience required (ie: experience in the sector in which the ABC operates)
- Type of position - full time or part time, expected time commitment.
- Compensation.
- Location of meetings.
- Closing date for applications.
- Information on how to apply.

### 3. Identify potential candidates

Potential candidates would be identified from a variety of sources including:

- **Advertising** of the vacancy and Position Description on the website of the ABC Appointments Unit or the responsible department and the ABC itself, if it has one.
- A **databank** maintained by the ABC Appointments Unit, which would contain names of individuals who have submitted an expression of interest in an appointment (specific or general) and names of individuals nominated by others.
- **Referrals** of names from the ABC chair and members, the responsible Minister and members of Cabinet, MLAs, stakeholders and community organizations, and members of the public.

Potential candidates identified in any manner would submit an application form and /or curriculum vitae to the responsible body providing the following information:

- Name of candidate.
- Contact information.
- Who they were recommended by (if applicable).
- Education and professional designations.
- Employment experience.
- Community service experience.
- Names and contact information of references.

As applications are received, they would be reviewed to ensure that all required information is completed. If information were missing, the applicant would be contacted and asked to provide it in order for their application to go forward.

In the case of referred candidates, the responsible body would follow up directly with the individual to ascertain if they wish to be considered for appointment and if the information has not already been provided, to request a completed application form or CV.

All applicants would receive a written acknowledgement of receipt of their application.

### 4. Undertake basic screening

The responsible body would review all applications received and ensure that the applicant meets the general criteria set out in the position description.

### 5. Preparation of a list of qualified candidates for decision by the Lieutenant-Governor in Council or Minister responsible for the ABC

Upon completion of the basic screening process, the responsible body would forward to the appointing body specified in the ABC's enabling legislation (the Lieutenant-Governor in Council or Minister responsible for the ABC) a list of qualified candidates (those candidates that meet the general criteria set out in the position description) along with:

- The application packages of those qualified candidates.
- A copy of the Position Description.
- A short summary providing the number of other applicants and the reasons they were screened out.

The Lieutenant-Governor in Council or Minister would make the appointment from among the list of qualified candidates.

The appointment would be ratified by Order-in-Council or by Ministerial Order.

### 6. Advise unsuccessful candidates of outcome

The responsible body would advise all unsuccessful applicants, in writing, that they were not selected for appointment.

## 7. Publicize appointments

The ABC Appointments Unit or the responsible department would publish on its website the name and a brief biographical sketch of all persons appointed to ABCs, the term of the appointments, and remuneration to which they are entitled.

## 8. Provide training and orientation for new Board members

In order to ensure that board members of ABCs have the necessary understanding of governance principles - the role of the ABC, their responsibilities as board members, the accountabilities of the ABC to government and the taxpayers - the ABC Appointments Unit would:

- Work with the ABC itself and with the responsible departments to develop and administer training and orientation programs for board members on board roles and responsibilities.
- Provide ongoing educational opportunities for board members through workshops on corporate governance.

## 4. Suggested Classification of ABCs

### **Most Significant ABCs:**

#### **Crown Agencies**

1. New Brunswick Investment Management Corporation
2. New Brunswick Liquor Corporation - Board of Directors
3. New Brunswick Power Corporation
4. Service New Brunswick – Board of Directors
5. Workplace Health, Safety and Compensation Commission – Board of Directors

#### **Adjudicative Tribunals**

(Those making decisions with a province-wide, precedent-setting impact)

1. Assessment and Planning Appeal Board
2. Criminal Code Board of Review
3. Human Rights Commission
4. Labour and Employment Board
5. New Brunswick Insurance Board
6. New Brunswick Securities Commission
7. Public Utilities - Board of Commissioners
8. Workplace Health, Safety and Compensation Commission - Appeals Tribunal

At present the following Crown agencies are made up of government employees only, by statute or matter of practice. In the event of a change in mandate and membership for boards of these Crown agencies, it is recommended that the appointment process for significant ABCs be applied to them:

1. Lotteries Commission of New Brunswick
2. New Brunswick Highway Corporation
3. New Brunswick Housing Corporation - Board of Directors
4. New Brunswick Industrial Development Board
5. New Brunswick Municipal Finance Corporation
6. Municipal Capital Borrowing Board
7. Regional Development Corporation - Board of Directors

**Other ABCs**

**Crown Agencies**

1. Algonquin Golf Limited
2. Algonquin Properties Limited - Board of Directors
3. Kings Landing Corporation
4. Maritime Municipal Training & Development Board
5. NB Coal Ltd. Board of Directors
6. New Brunswick Research & Productivity Council

**Adjudicative Tribunals**

(Those not making decisions with a province-wide, precedent-setting impact)

1. Appeal Board on Teacher Certification
2. Dental Advisory Board
3. Family Income Security Appeal Board
4. Farm Land Identification Program Appeal Board
5. Farm Practices Review Board
6. Insured Services Appeal Committee
7. Judicial Council
8. Livestock Operations Appeal Board
9. Management Committee (Hospital Liability Protection Plan)
10. Medical Advisory Board
11. Mental Health Review Board - Region 1 and 7 - Moncton & Catchment Area
12. Mental Health Review Board - Regions 2&3 - Saint John & Catchment Area
13. Mental Health Review Boards - Regions 4, 5, 6 - Campbellton & Catchment Area
14. Mental Health Services Tribunal - Regions 1 to 7
15. Mining Commissioner
16. New Brunswick Farm Products Commission
17. New Brunswick Police Commission
18. Panel of Persons who may serve on a Small Claims Complaint Committee
19. Private Investigators and Security Services Licensing Commission
20. Review Board Centre Hospitalier Restigouche Hospital Center Inc
21. Salvage Dealers Licensing Commission

**Operational**

1. NB Credit Union Deposit Insurance Corporation
2. New Brunswick Crop Insurance Commission
3. New Brunswick Forest Products Commission
4. New Brunswick Grain Commission
5. New Brunswick Transportation Authority
6. Turkey Farmers of New Brunswick
7. New Brunswick Chicken Marketing Board
8. New Brunswick Egg Marketing Board
9. Maritime Provinces Harness Racing Commission

10. New Brunswick Greenhouse Products Marketing Board
11. Advisory Committee of the Political Process Financing Act
12. New Brunswick Museum
13. Product Selection Committee
14. Beaverbrook Art Gallery - Board of Governors
15. Board of Examiners for Compressed Gas
16. Board of Examiners under the Scaler's Act
17. Power Engineers, Board of Examiners
18. NB Private Occupational Training Corporation
19. St. Croix International Waterway Commission
20. Beaverbrook Auditorium - Board of Governors
21. Brunswick Credit Union Federation Stabilization Board Limited
22. Office de Stabilization des caisses populaires acadiennes
23. Seven (7) RHA
24. Fourteen (14) DEC
25. Twelve (12) District Planning Commissions
26. Commission de gestion des déchets solides de la Péninsule acadienne (COGEDES)
27. Commission de gestion enviro ressources du nord - ouest (COGERNO)
28. Fredericton Region Solid Waste Commission
29. Fundy Region Solid Waste Corporation
30. Kent County Solid Waste Corporation
31. Kings County Region Solid Waste Corporation
32. La Commission des Égoûts d'Allardville
33. Musquash Sewerage Commission
34. Nepisiquit - Chaleur Sewerage Commission
35. Northumberland Solid Waste Corporation
36. Restigouche Solid Waste Corporation
37. South West Solid Waste Commission
38. The Apohaqui Sewerage Commission
39. The Fredericton Area Pollution Control Commission
40. The Greater Moncton Sewerage Commission
41. The Greater Shediac Sewerage Commission
42. The Michaud Sewerage Commission
43. The St. Margarets Water and Wastewater Commission
44. The Val D'Amour Sewerage Commission
45. Valley Solid Waste Corporation
46. Westmorland-Albert Solid Waste Corporation

**Advisory**

1. Advisory Council on the Status of Women
2. Agricultural Development Board
3. Ambulance Services Advisory Committee
4. Apprenticeship and Occupational Certification Board
5. Atlantic Provinces Special Education Authority Board of Directors (APSEA)
6. Boiler & Pressure Vessel Safety Advisory Committee
7. Cancer Services Advisory Committee
8. Comité consultatif provincial de la mesure et de l'évaluation (francophone)
9. Comité consultatif provincial des programmes d'études (francophone)
10. Electrical Safety Advisory Committee
11. Elevator Safety Advisory Committee
12. Environmental Trust Fund Advisory Board
13. Fisheries Development Board
14. Judicial Remuneration Commission
15. Le Centre Communautaire Sainte-Anne - Community Board
16. Major Project Advisory Committee
17. Maritime Forestry Complex Corporation - Board of Directors
18. Medical Education Committee
19. Medical Review Board
20. Mental Health Services Advisory Committee
21. Military Compound Board
22. Minimum Wage Board
23. Ministerial Advisory Committee on Expedited Arbitration
24. Minister's Advisory Committee on Teacher Licensing and Certification
25. Mount Allison University Foundation
26. New Brunswick Advisory Council on Seniors
27. New Brunswick Advisory Council on Youth
28. New Brunswick Arts Board
29. New Brunswick Public Libraries Board
30. New Brunswick Public Libraries Foundation-Board of Trustees
31. New Brunswick Tire Stewardship Board
32. New Brunswick Wildlife Council
33. Nursing Resources Advisory Committee
34. Physician Resource Advisory Committee
35. Plumbing Safety Advisory Committee
36. Premier's Council on the Status of Disabled Persons
37. Prescription Drug Program Advisory and Utilization Committee
38. Professional Review Committee



39. Provincial Curriculum Advisory Committee (anglophone)
40. Provincial Testing and Evaluation Advisory Committee (anglophone)
41. Registered Nursing Assistants Advisory Board
42. Rehabilitation Services Advisory Committee
43. Resource Services Advisory Committee
44. St. Thomas University Foundation - Board of Trustees
45. Student Aid Review Board
46. Uniform Contributory Pension Plan - Pension Board
47. Université de Moncton Foundation - Board of Trustees
48. University of New Brunswick Foundation - Board of Trustees

## Recommendation Appendix: J

### ***Policy Framework - New Civics Education Program from Kindergarten to Grade 12***

#### **Summary of Contents**

This appendix contains a suggested policy framework for a new civics education program for Kindergarten to grade 12 students to be fully implemented for the 2007-2008 school year. It is organized into the following sections:

- 1. Beliefs and Values**
- 2. Objective**
- 3. Purpose**
- 4. Approach**
- 5. Supporting Teachers and Schools**
- 6. Program Outcomes**

The curriculum for social studies would be amended to include the following:

#### **1. Beliefs and Values**

- Democracy is the cornerstone of New Brunswick's and Canada's society.
- Participating in elections and the democratic process is an important responsibility of citizenship.
- Every citizen should have the knowledge and skills to actively participate in the democratic process.

#### **2. Objective**

To ensure that all young New Brunswickers graduate with the knowledge and skills required to participate fully in our province's democratic life as active citizens.

#### **3. Purpose**

The new civics education curriculum is intended to give young people the knowledge, understanding and the skills needed to participate as active citizens in New Brunswick democracy. Students need to know why democracy is important, how it was developed, how it works, what is our system of government, how elections function, and which basic democratic values are essential to a truly democratic society. Students need to know why it is important to participate in democratic life and how they, as active citizens, can make a difference.

#### **Knowledge**

The civics education program would increase students' basic knowledge and understanding of our democratic process, political life, and the electoral system. Students would learn the key concepts and terms surrounding democracy. They would gain a greater understanding of how our different democratic institutions function.

#### **Skills**

Students graduating from the civics education program would have obtained the critical analysis skills necessary so they may have a strengthened capacity to become "active citizens", able to understand and process information they receive on government, politics and democracy and to participate more fully in democratic activities in their community, province, and country.

## 4. Approach

The new civics education program would have the following standards:

- **Mandatory** - The civics education program would be mandatory for all students at all/most grades to ensure that every graduating student has the knowledge and critical skills to participate fully in our democracy.
- **Comprehensive** - The civics education program would cover a full range of subjects regarding our democracy. It would have precise practical objectives outlined in the curriculum for each grade level, to ensure that every student receives a similar education throughout the province.
- **Integrated** - The civics education program would be built on the existing social sciences program, integrated into current course offerings, and therefore would not be an additional course.
- **Practical** - The civics education program would involve real-life examples and activities, giving students active exposure to elected officials, political parties, and the legislature. It would utilize existing democratic practices in the school such as the election of student councils to inform students how democracy functions. The new program would be easy to understand and apply for both teachers and students.
- **Supported** - The civics education program would be actively supported with learning materials and resources by teachers, schools, parents, the Department of Education, and the Legislative Assembly.
- **Non-partisan** - The civics education program would have made-in-New Brunswick learning and course materials that are non-partisan.

## 5. Supporting Teachers and Schools

To be effective, the new civics program must support teachers and students in the classroom. This requires creating made-in-New Brunswick course materials, including teaching modules that teachers can easily apply in the classroom. Learning kits containing ideas for classroom activities would also be created. Information and materials from other provinces could be adapted as necessary. Professional development days would be utilized to inform teachers about the objectives of the program and assist them with the new curriculum and course materials. The aim is to make civics “alive” and real to students.

A “Teachers in the Legislature” program would also be created. This new program, modeled on the Teachers’ Institute on Canadian Parliamentary Democracy, would gather teachers from across the province on a regular basis to give them first-hand knowledge and a better understanding of how our provincial institutions actually function.

The Department of Education should look at how the Internet could be used to encourage teachers to share their teaching experiences and suggestions with others. It should also begin discussions with the various education programs at universities to ensure that graduating teachers will have exposure to this subject area and are qualified to teach it.

## 6. Program Outcomes

The civics education program would have specific program outcomes to be attained at each grade. The exact curriculum would be developed through the regular curriculum development process of the Department of Education and be approved by the Provincial Curriculum Advisory Committee. The table below sets out a possible menu of knowledge outcomes.

### General Outcomes

### Specific Outcomes

#### Knowing basic vocabulary of democracy

Knowledge of terms such as:

- Democracy
- Member of the Legislative Assembly
- Legislative Assembly
- Government
- Bills/statutes
- Parliament
- Responsible government
- Political parties
- Parliamentary system (Westminster)
- Referendums
- Premier/ministers

#### Understanding of electoral system

- Understand the basic concepts of our first-past-the post system or mixed member proportional system (when implemented)
- Origins of our electoral system
- When do we vote?
- Where do we vote?
- What is a polling station?
- What does a ballot look like?
- How are results tabulated to give us a winner?
- How do we elect MLAs/MPs from ridings?
- Understanding the riding system (55 geographic ridings in NB at the provincial level and 10 for NB at the federal level)
- Knowing which riding is your provincial riding and which is your federal riding

#### Understanding the difference between various governments

- We have three levels of government: levels of municipal, provincial and federal
- Understanding what each level does
- Understanding how they are linked together

#### Understanding the role of MLAs

- What is an MLA?
- How many MLAs in NB?
- What does an MLA do?
- Who is my MLA?

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**Understanding political parties**

- The names of the various political parties
- What each party stands for
- Who are their leaders?
- General knowledge of their platforms

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**Knowing the functions of the Legislative Assembly**

- Understanding the different roles of groups in the legislature (government, opposition)
- General knowledge of how the legislature works
  - Question period
  - Adoption of bills
  - Committees
- Knowledge of how a bill becomes law
- Who are the key people in the legislature:
  - Premier
  - Leader of the Opposition
  - Speaker
  - Clerk
  - Whips
  - House leaders

---

**Understanding how government works**

- Who forms the government?
- What does a government do?
- Who and what is the Premier?
- General knowledge of what is a Cabinet
- General knowledge of different departments
- How does government relate to the legislature?

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**Knowledge of citizen engagement**

- How can one participate in the democratic process?
- What other participation mechanisms of government (DECs, RHAs)?

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**Understanding policy development**

- What is a public policy?
- How are government policies developed?

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**Knowledge of social movements**

- What are interest groups?
- What do they do?
- What is their relationship with government?

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**Current events**

- What subjects are being debated in the Legislative Assembly?
- Review of government announcements.
- What's in the news?

## Recommendation Appendix: K

### Policy Framework - A Referendum Act for New Brunswick

#### Summary of Contents

This appendix contains a suggested policy framework for a *Referendum Act* for New Brunswick. It is based on the principles and objectives of ensuring that referendums are independent, fair, open, transparent and efficient; and encouraging the participation and involvement of New Brunswickers.

The framework is organized into the following sections:

- 1. Definition Section**
- 2. Initiation of Referendum**
- 3. Administration of Referendum**
- 4. Timing of Referendum**
- 5. Referendum Question**
- 6. Order for the Holding of the Referendum**
- 7. Result of Referendum**
- 8. Conduct of Referendum**
- 9. Financing and Advertising Rules**
- 10. Provision of Information to Electors**
- 11. Reporting Obligations**
- 12. Offences and Penalties for Non-Compliance with Act**

#### 1. Definition section

*“Corporation” means any corporation incorporated under the laws of the Province and any corporation having its head or other office or doing business or any part of its business in the Province.*

*“Elector” means a person qualified to vote under the Elections Act.*

*“Political party” means a political party registered under the Political Process Financing Act.*

*“Referendum” means a vote by electors on a question as ordered pursuant to this Act.*

*“Referendum period” means the period beginning on the day on which the order for the holding of the referendum question is made under this Act and ending on polling day at the referendum.*

*“Trade union” means a trade union as defined by the Industrial Relations Act and the Canada Labour Code, chapter L-1 of the Revised Statutes of Canada, 1970, that holds bargaining rights for employees in the Province to whom those Acts apply.*

#### 2. Initiation of Referendum

*Where the Lieutenant-Governor in Council considers that a matter is of exceptional importance to the province of New Brunswick, and it is in the public interest to obtain by means of a referendum the view of electors on a question related to the matter, the Lieutenant-Governor in Council may order the holding of a referendum in accordance with the provisions of this Act.*

*An order for the holding of a referendum may not be issued before the referendum question has been approved by the Legislative Assembly in accordance with this Act.*

### 3. Administration of Referendum

*The Chief Electoral Officer shall exercise general direction and supervision over the administrative conduct of referendums, and shall enforce fairness, impartiality and compliance with this Act in the conduct of referendums.*

### 4. Timing of Referendum

*A referendum shall be held in conjunction with a provincial general election under the Elections Act or in conjunction with the quadrennial elections under the Municipalities Act, unless the Lieutenant-Governor in Council deems it advisable and necessary to hold a referendum separately on a date provided for in the Order for the holding of the referendum.*

### 5. Referendum Question

#### a) Wording of Question

*A referendum question shall be worded so that each elector may express an opinion on the question by marking a cross, an "X", a check mark, or other mark after the word "yes" or "no" on the ballot paper.*

#### b) Tabling of Proposed Referendum Question

*No referendum question shall be submitted for consideration by the Legislative Assembly if its purpose is to detract from, remove or deny a right or rights under the Canadian Charter of Rights and Freedoms, New Brunswick's Human Rights Act, New Brunswick's Official Languages Act, or An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick.*

*Upon certification by the Attorney General that the purpose of the proposed referendum question is not to detract from, remove or deny a right or rights under the Canadian Charter of Rights and Freedoms, New Brunswick's Human Rights Act, New Brunswick's Official Languages Act, or An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick, a member of the Executive Council shall cause to be laid before the Legislative Assembly a copy of the proposed referendum question.*

*The Leader of the Opposition and the leaders of the other political parties represented in the Legislative Assembly shall be provided with, and be consulted about, the proposed text of a referendum question at least three calendar days before a copy of the proposed referendum question is laid before the Legislative Assembly.*

#### c) Motion to establish Committee of Legislative Assembly to consider wording of Referendum Question

*Upon tabling of the proposed referendum question, a member of the Executive Council shall introduce a motion for the establishment of a Committee of the Legislative Assembly to consider the wording of the referendum question and any issues related thereto.*

*The proposed text of the referendum question shall be set out in the notice of motion to establish the Committee.*

#### d) Committee of Legislative Assembly

*A Committee established by the Legislative Assembly to consider the wording of the referendum question and any issues related thereto, may hold public hearings and hear from expert witnesses.*

*The Committee shall report back to the Legislative Assembly within 21 calendar days of the establishment of the Committee.*

#### e) Motion for the Adoption of the Referendum Question

*A member of the Executive Council shall introduce a motion for the adoption of the referendum question, the text of which shall be set out in the body of the motion.*

*Upon a resolution of the Legislative Assembly adopting the referendum question, the Lieutenant-Governor in Council shall issue an order for the holding of a referendum on the question as approved by the Legislative Assembly.*

## 6. Order for the Holding of the Referendum

The order for the holding of the referendum shall specify whether the referendum is to be held:

- a) In conjunction with a general election under the Elections Act;
- b) In conjunction with the quadrennial elections under the Municipalities Act; or
- c) Separately on a date provided in the order.

Where a referendum is held separately on a date provided in the order, the referendum polling date must not be more than six months after the adoption of the referendum question by the Legislative Assembly.

## 7. Result of Referendum

### a) Threshold for passage

A referendum question shall be considered to have passed if more than 50 per cent of valid votes are in favour of the referendum question and at least 50 percent of eligible electors voted in the referendum.

### b) Binding

Where more than 50 per cent of valid votes are in favour of the referendum question, and at least 50 per cent of eligible electors voted in the referendum, the government that initiated the referendum shall take any steps within the competence of the government that it considers necessary or advisable to implement the result on the question submitted to referendum, including any or all of the following:

- a) Changing programs or policies, or introducing new programs or policies that are administered by or through the executive government.
- b) Introducing legislation in the Legislative Assembly during its first session after the results of such a referendum are known.

Notwithstanding any other provision of this Act, a government that is subsequent to the government that initiated the referendum may take any steps within the competence of the government that it considers necessary or advisable to implement the result on the question submitted to referendum.

## 8. Conduct of Referendum

### a) Adoption of Provisions of the Elections Act

Where the referendum is ordered to be held in conjunction with a general election under the Elections Act, the provisions of the Elections Act and the regulations under it, other than provisions inconsistent with this Act, are adopted for the purposes of this Act, and apply with the necessary modifications to all aspects of the conduct of, voting on and determination and declaration of the result of a referendum and to any other matter in relation to a referendum under this Act.

### b) Adoption of provisions of the Municipal Elections Act

Where the referendum is ordered to be held in conjunction with the quadrennial elections under the Municipalities Act or separately on a date provided in the order, the provisions of the Municipal Elections Act and the regulations under it, other than provisions inconsistent with this Act, are adopted for the purposes of this Act, and apply with the necessary modifications to all aspects of the conduct of, voting on and determination and declaration of the result of a referendum and to any other matter in relation to a referendum under this Act.

## 9. Financing and Advertising Rules

### a) Definitions for this part

**“Contribution”** means a sum of money donated to a Referendum Committee for the purpose of supporting or opposing, directly or indirectly, a referendum question.

The following are not considered contributions under this Act:

- a) The donation by an individual of his personal services, talents or expertise, or the use of his vehicle and the product of that donation, where it is given freely and not as part of his work in the service of an employer;



- b) A loan granted to a Referendum Committee at the current rate of interest in the market at the time it is granted;
- c) The right to the use of time on the facilities of any broadcasting undertaking or of the right to space in a newspaper or other periodical made available free of charge to Referendum Committees by a broadcaster or any owner of a newspaper or other periodical provided that such services are offered equally to each Referendum Committee.

**“Referendum Committees”** mean the Committees in support of or in opposition to the referendum question to be established by the Chief Electoral Officer under this part.

**“Referendum expenses”** means all expenditures incurred or authorized by an individual, group or Chief Agent of a Referendum Committee during a referendum period, for the purpose of supporting or opposing, directly or indirectly, a referendum question, and include:

- a) The cost of acquiring the right to the use of time on the facilities of any broadcasting undertaking or of acquiring the right to the publication of an advertisement in any newspaper or other periodical;
- b) The cost of acquiring the services of any person, including remuneration paid to the person;
- c) The cost of acquiring meeting space, of providing refreshments and of acquiring and distributing promotional materials.

The following are not considered referendum expenses:

- a) The cost of publishing in a newspaper or other periodical, editorials, news, reports, or letters to the editor, if
  - (i) they are published in the same manner and under the same standards as prevail outside the referendum period without payment, reward or promise of payment or reward, and
  - (ii) the newspaper or other periodical is not established for the purpose of the referendum or with a view to the referendum.
- b) The cost of transmission by a broadcasting undertaking of a broadcast of news or comment, if such broadcast is made in the same manner and under the same standards as prevail outside the referendum period, without payment, reward or promise of payment or reward.
- c) The reasonable expenses incurred by a person, out of his or her own money, for his or her own lodging and food for referendum purposes, if such expenses are not reimbursed to the person.
- d) The reasonable expenses incurred by a person for his or her own transportation for referendum purposes, if such expenses are not reimbursed to the person.
- e) The reasonable expenses incurred for the publication of explanatory commentaries on this Act and any regulations under it, if such commentaries are strictly objective and contain no statements of such a nature to support or oppose a question submitted to referendum.

**b) Individuals and Groups Intending to Incur Expenses for Purpose of Participating in Referendum Must Register**

An individual or group which intends to incur referendum expenses not exceeding \$1,000 during the referendum period for the purpose of participating in the referendum campaign, and which is not part of a Referendum Committee, must register with the Chief Electoral Officer/Supervisor of Political Financing prior to incurring such expenditures.

Where an individual or group, which is not part of a Referendum Committee, intends to incur referendum expenses not exceeding \$1,000 during the referendum period for the purpose of using time on the facilities of any broadcasting undertaking or for the publication of an advertisement in any newspaper or other periodical, the individual or group must register with the Chief Electoral Officer/Supervisor of Political Financing at least five working days before the broadcast is undertaken or the advertisement appears.

In order to be registered, an individual or group must provide the Chief Electoral Officer /Supervisor with:

- a) The full name, address and telephone number of the individual; or
- b) The name of the group, and the name, address and telephone number of a contact person within the group, and a list of the names of individuals comprising the group.

On receipt of the above noted information, the Chief Electoral Officer/Supervisor shall register the individual or group and so inform the person who signed the application.

**c) Establishment of Referendum Committees**

*When an order is made for the holding of a referendum, the Chief Electoral Officer shall establish Referendum Committees, one of which is in support of the referendum question and the other of which is in opposition to the referendum question.*

*No person or entity, other than a Referendum Committee, shall accept contributions during a referendum period.*

*No person or entity, other than a Referendum Committee, shall incur referendum expenses exceeding \$1,000 during a referendum period.*

**d) Registration with a Referendum Committee**

*In the 14 days following the order for the holding of the referendum, an individual or group may apply for registration with the Referendum Committee in support of the referendum question or the Referendum Committee in opposition to the referendum question by filing with the Chief Electoral Officer an application setting out:*

- a) The full name, address and telephone number of the individual; or*
- b) The name of the group, and the name, address and telephone number of a contact person within the group, and a list of the names of individuals comprising the group.*

*On receipt of an application for registration with a Referendum Committee, the Chief Electoral Officer shall examine the application and determine whether the individual or group can be registered as such and shall*

- a) if the individual or group can be registered as a member of the Referendum Committee, register the individual or group as such and so inform the person who signed the application; or*
- b) if the individual or group cannot be registered as a member of the Referendum Committee, inform the person who signed the application that the individual or group cannot be so registered and indicate the reason why the individual or group cannot be so registered.*

**e) Chief Electoral Officer to call Preliminary Meeting of each Referendum Committee**

*At the end of the 14 day registration period, the Chief Electoral Officer shall, without delay, call a preliminary meeting of the registered members each Referendum Committee at the place, date and time for each as indicated by the Chief Electoral Officer.*

**f) Appointment of Chairperson of Referendum Committee**

*Each Referendum Committee shall appoint a Chairperson by a resolution of the members of the Committee at the preliminary meeting.*

**g) Adoption of By-laws of Referendum Committee**

*Each Referendum Committee shall adopt the by-laws to govern the operation of the Committee, including the name by which it shall be known and its officers, by a resolution of the members of the Committee at the preliminary meeting.*

**h) Affiliated Groups**

*The by-laws of each Referendum Committee must allow for the affiliation to the Referendum Committee of groups favourable to the position of the Committee on the referendum question, and shall set out the conditions governing the affiliation and financing of these groups.*

*A group must make an application to the Referendum Committee with which it wishes to affiliate 14 days after the by-laws of the Referendum Committee are adopted.*

*The Referendum Committee must decide whether or not to accept the application within seven days after the application is made.*

**i) Local Committees**

*The by-laws of each Referendum Committee may also provide for the establishment of Local Committees of the Referendum Committee, provided that the establishment of such Local Committees are authorized by the Chairperson of the Referendum Committee.*

**j) Certification of Resolutions of members**

*The resolutions adopting the by-laws and appointing the Chairperson of the Referendum Committee shall be certified by the signature of a majority of the members at the preliminary meeting of the Referendum Committee, and shall take effect when received by the Chief Electoral Officer.*

**k) Amendments**

Any amendments to the by-laws of a Referendum Committee or the replacement of its Chairperson shall be done through a resolution of the officers of the Referendum Committee and shall be certified by the signature of a majority of the officers, and shall take effect when forwarded to the Chief Electoral Officer.

**l) Auditor**

The Chairperson of a Referendum Committee shall appoint as an Auditor:

- a) a person who is a member in good standing of an association, institute or society of professional accountants in the Province, or
- b) a partnership of which every partner is a member in good standing of an association, institute or society of professional accountants.

**m) Chief Agent**

The Chairperson of a Referendum Committee shall appoint a Chief Agent who shall be responsible for the financial transactions of the Referendum Committee and for reporting those transactions in accordance with this Act.

The Chief Agent may, with the approval of the Chairperson of the referendum committee, authorize persons in writing to act as the Chief Agent's deputy.

**n) Local Agent**

The Chief Agent may, with the approval of the Chairperson of the Referendum Committee, appoint a Local Agent for any Local Committees of the Referendum Committee.

**o) Chairperson to file Information with Chief Electoral Officer**

The Chairperson of each Referendum Committee shall file with the Chief Electoral Officer:

- a) A copy of the Committee's by-laws and the resolution adopting the by-laws and the resolution appointing the Chairperson, certified by the signature of a majority of the members at the preliminary meeting of the Committee;
- b) The name, address, and telephone number of the officers of the Committee;
- c) The name, address and telephone number of the Chief Agent of the committee;
- d) The name, address and telephone number of any persons authorized in writing to act as the Chief Agent's deputy;
- e) The name, address and telephone number of any Local Agent appointed for Local Committees;
- f) The name, address and telephone number of the Auditor of the committee;
- g) The name of any affiliated groups and the name, address and telephone number of the leader of each affiliated group; and
- h) The address and telephone number of the office of the Referendum Committee where its books and records are kept, and of the office to which communications may be addressed.

**p) Registry to be kept by Chief Electoral Officer**

The Chief Electoral Officer shall maintain a registry in which he or she shall record the above information for each Referendum Committee.

The Chairperson shall inform the Chief Electoral Officer without delay of any changes to the information filed with the Chief Electoral Officer.

**q) Limit on Contributions**

A Referendum Committee may only accept contributions from individuals, corporations, trade unions or political parties.

Only the Chief Agent, persons authorized in writing to act as the Chief Agent's deputy, or a Local Agent may solicit or accept contributions to the Referendum Committee.

Individuals, corporations, trade unions or political parties may make a contribution to a Referendum Committee out of their own property only.

An individual, corporation, trade union or political party may contribute no more than \$3,000 to one Referendum Committee or to each Referendum Committee.

For the purposes of this Act, corporations that are associated with one another under section 256 of the Income Tax Act, chapter 148 of the Revised Statutes of Canada, 1952, shall be considered as a single corporation.

#### **r) Limit on Referendum Expenses**

The referendum expenses of a Referendum Committee shall be limited so as not to exceed an amount equal to the product obtained by multiplying \$0.75 by the total number of electors on the electoral list in the most recent provincial general election, as reported by the Chief Electoral Officer.

Only the Chief Agent or persons authorized in writing to act as the Chief Agent's deputy, or a Local Agent may incur referendum expenses on behalf of the Referendum Committee or a Local Committee.

The referendum expenses of a Local Committee shall count toward the referendum expense limit of the Referendum Committee.

#### **s) Recording of Contributions and Expenses**

The Chief Agent of each Referendum Committee must keep records of all contributions received and referendum expenses incurred.

The Local Agent of a Local Committee must keep records of all contributions received and referendum expenses incurred and report these forthwith to the Chief Agent.

#### **t) Prohibition on Collaborating to Circumvent Limits**

An individual, group, corporation, trade union, political party or Referendum Committee shall not circumvent, or attempt to circumvent any limit set out in this Act in any manner, including by splitting into two or more parties for the purpose of circumventing the limit or acting in collusion with another party.

#### **u) Advertising Must Identify Name of Individual or Group or Referendum Committee Sponsoring It**

Any advertising by an individual or group on broadcasting undertakings or in newspapers, periodicals or other printed matter for the purpose of the referendum campaign must identify the name of the individual or group, as previously registered with the Chief Electoral Officer in accordance with the provisions of this Act.

Any advertising by a Referendum Committee on broadcasting undertakings or in newspapers, periodicals or other printed matter for the purpose of the referendum campaign must identify the Referendum Committee that is the sponsor of the advertisement and indicate that the advertisement is authorized by that sponsor.

#### **v) Financial Return to be Filed**

Within 120 calendar days after polling day at a referendum, the Chief Agent of each Referendum Committee shall file with the Chief Electoral Officer/Supervisor of Political Financing a true return, signed by the Chief Agent, containing detailed statements of:

- (a) All referendum expenses incurred by the Referendum Committee, including a breakdown of those expenses incurred by Local Committees of the Referendum Committee;
- (b) The amount of the contributions received during and after the referendum period by the Referendum Committee, from each of the following classes of contributors:
  - (i) individuals;
  - (ii) corporations;
  - (iii) trade unions;
  - (iv) political parties;
- (c) the number of contributors in each class described in paragraph (b) above; and
- (d) the name of each contributor, listed according to the classes described in paragraph (b), that made one or more contributions to the committee during or after the referendum period that exceeded, or the aggregate of which exceeded \$100 and, in each case, the amount of the contribution or aggregate.

**w) Report of Auditor**

*The Auditor of each Referendum Committee shall make a report to the Chief Agent of the committee on the financial return of the committee, and shall make such examinations as will enable the Auditor to state in the report whether in the Auditor's opinion the return presents fairly the financial transactions contained in the accounting records on which it is based.*

*The Auditor of a Referendum Committee is entitled to have access at all reasonable times to all records, documents, books, accounts, bills, vouchers and receipts of the committee, and is entitled to require from agents and officers of the committee such information and explanations as in the Auditor's opinion may be necessary to enable the Auditor to report as required.*

**10. Provision of Information to Electors****a) Preparation of Arguments in Support of and in Opposition to Referendum Question**

*Where a referendum is ordered to be held, arguments in support of and arguments in opposition to the referendum question shall be submitted to the Chief Electoral Officer by each Referendum Committee, at least 35 calendar days prior to the holding of the referendum.*

*Each argument must be no more than 250 words.*

**b) Information Mail-Out to Electors**

*No later than 25 calendar days prior to the voting day for the referendum, the Chief Electoral Officer shall cause to be printed and to be posted to each elector a sample referendum ballot, and a pamphlet containing the arguments in support of and in opposition to the referendum question as submitted by the Referendum Committees.*

**11. Reporting Obligations****a) Results of Referendum to be Announced**

*The Chief Electoral Officer shall announce the results of a referendum in accordance with the provisions of the Elections Act or the Municipal Elections Act as adopted for the purposes of this Act, whichever is applicable to the referendum.*

*A member of the Executive Council shall announce the results of a referendum to the Legislative Assembly as soon as practicable after they are known.*

**b) Chief Electoral Officer to Prepare Report**

*Within 180 calendar days after polling day at a referendum, the Chief Electoral Officer shall prepare a report that sets out:*

- a) The information set out in the financial returns filed by the Chief Agents of the Referendum Committees;*
- b) A financial report detailing the cost of administering the referendum;*
- c) Any matter or event that has arisen or occurred in connection with the administration of the referendum that the Chief Electoral Officer considers should be brought to the attention of the Legislative Assembly;*
- d) Any amendments that are, in the opinion of the Chief Electoral Officer, desirable for the better administration of this Act.*

*Every individual, group, corporation, trade union, political party or Referendum Committee may send to the Chief Electoral Officer a statement in writing that contains any complaint with respect to the conduct of the referendum, or any suggestion as to changes or improvements in this Act.*

*If the Chief Electoral Officer considers it appropriate, the Chief Electoral Officer may include in the report of the Chief Electoral Officer any document or a part or a summary of one that relates to a complaint or suggestion received.*

**c) Report to be Laid Before the Legislative Assembly**

*Upon completion of the report, the Chief Electoral Officer shall transmit a copy to the Clerk of the Legislative Assembly.*

*The Speaker of the Legislative Assembly shall cause such report to be laid before the House at the earliest opportunity.*

**d) Committee to Consider Report**

*The Report of the Chief Electoral Officer shall be referred to such committee of the Legislative Assembly, which may be established by the Legislative Assembly to review the report, seek public input on the report and make recommendations.*

*A Committee shall report back to the Legislative Assembly within 90 calendar days.*

**12. Offences & Penalties for Non-Compliance with Act**

*(Adopt provisions of Elections Act and Municipal Elections Act, as appropriate, for offences regarding the conduct of the referendum; adopt provisions of PPFA for offences related to infractions of financing and spending rules)*

## Recommendations Appendix: K-1

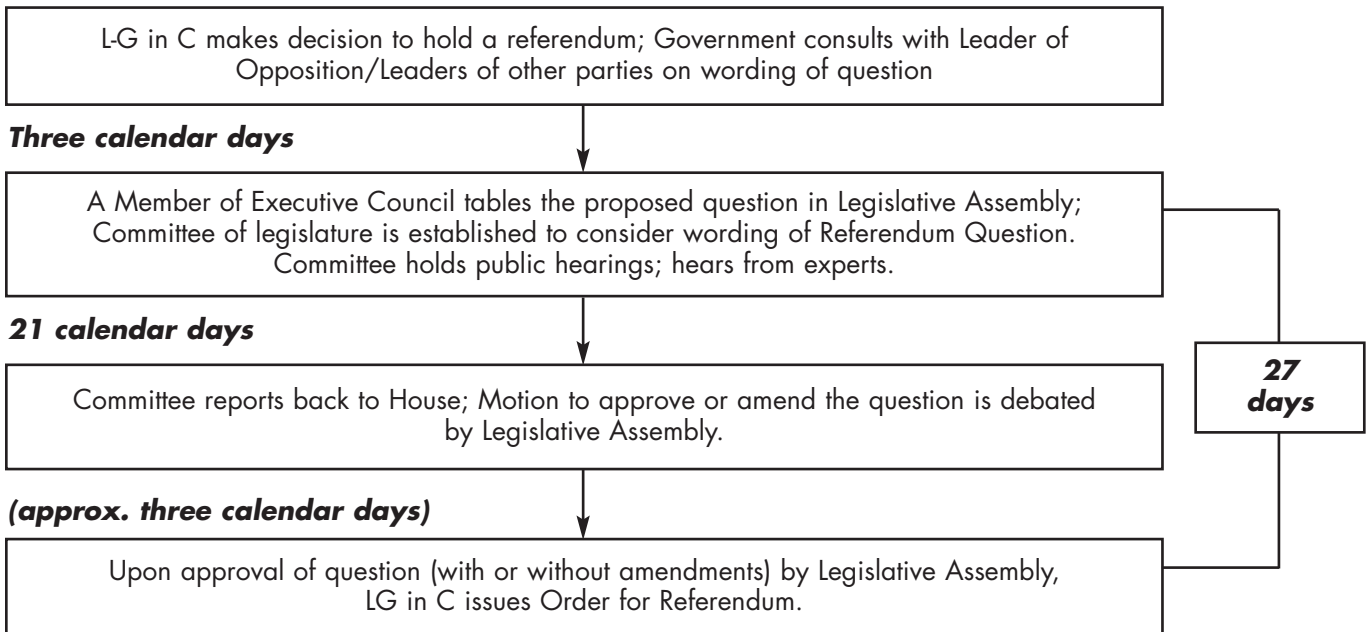
### Flowchart for a Referendum Act Process

#### Summary of Contents

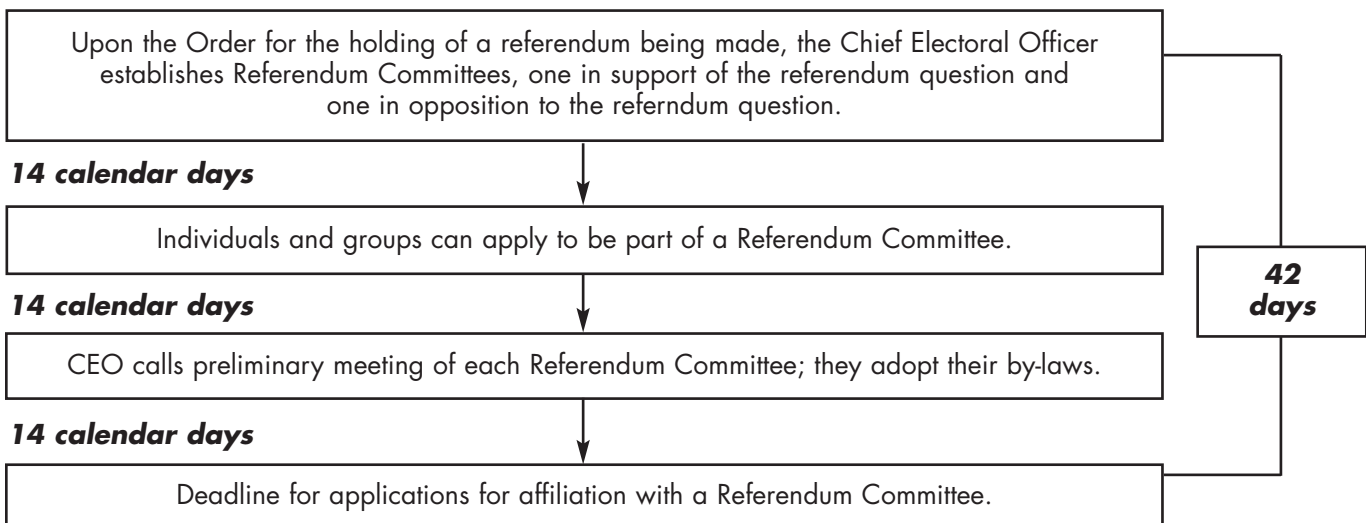
This appendix is a flowchart showing the steps and related time frames in the process set out in the proposed *Referendum Act* for New Brunswick. The example used is a referendum to be held with a provincial general election on a fixed election date of October 15, 2007, as recommended by the Commission. The flowchart is organized into the following sections:

1. Initiation of Referendum/Approval of Question by Legislative Assembly
2. Establishment of Referendum Committees
3. Information to Voters
4. Post-Referendum Reporting Requirements

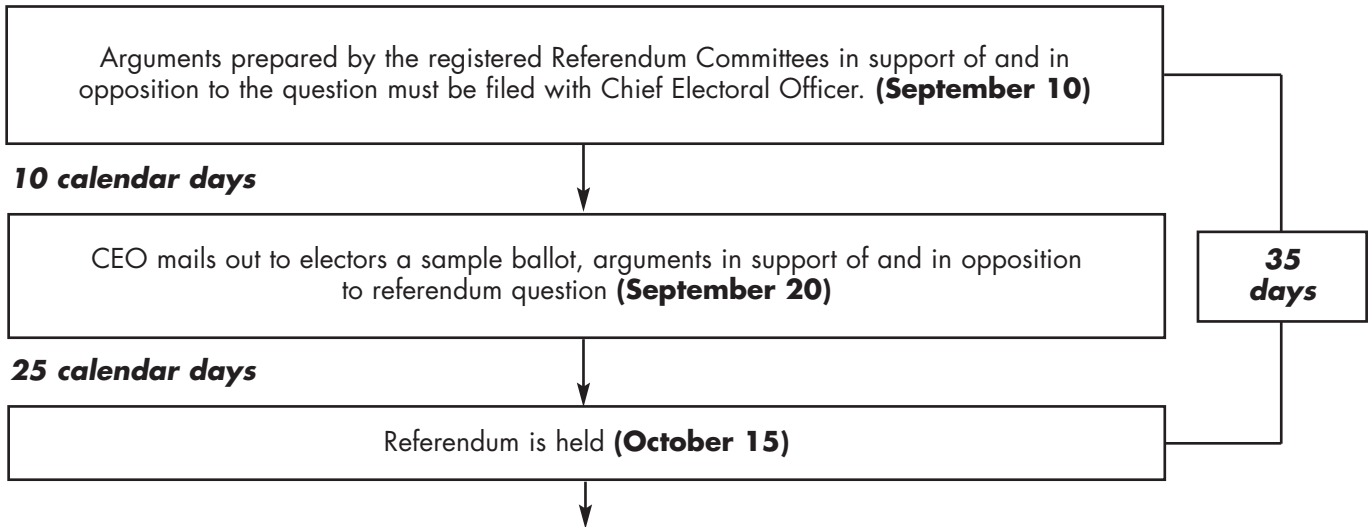
#### 1. Initiation of Referendum/Approval of Question by Legislative Assembly



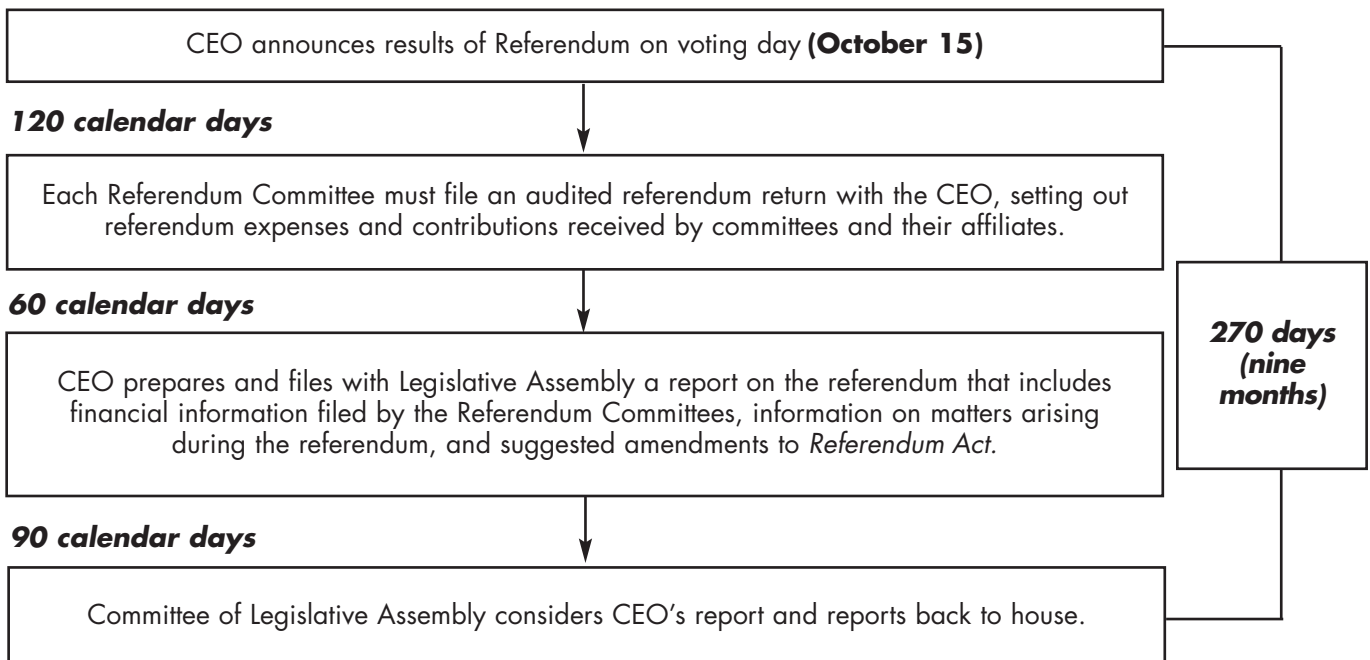
#### (immediately) 2. Establishment of Referendum Committees



**3. Information to Voters**



**4. Post-Referendum Reporting Requirements**







# Chapter 7 - Background Appendices

## Background Appendix: I

### *Mission, Mandate, and Terms of Reference*

#### Mission

To identify options for an enhanced citizen-centred democracy in New Brunswick, building on the values, heritage, culture, and communities of our province.

#### Mandate

To examine and make recommendations on strengthening and modernizing our electoral system and democratic institutions and practices in New Brunswick, to make them more fair, open, accountable and accessible to New Brunswickers.

The Commission on Legislative Democracy will seek the views of New Brunswickers on:

- Fairer, more equitable and effective representation in the Legislative Assembly;
- Greater public involvement in decisions affecting people and their communities;
- More open, responsive, and accountable democratic institutions and practices;
- Higher civic engagement and participation in the democratic processes in New Brunswick.

#### Terms of Reference

Specifically, the Commission on Legislative Democracy will focus on the following areas:

##### Electoral Reform

1. To examine and make recommendations on implementing a proportional representation electoral system for the New Brunswick Legislative Assembly, and propose a specific model best suited for our province that ensures fairer representation, greater equality of votes, an effective legislature and government, and a continued role for directly-elected MLAs representing specific geographic boundaries.
2. To examine and make recommendations on future steps, including amendments to the *Elections Act*, required to give effect to a new proportional representation electoral system.
3. To examine and make recommendations on the principles and procedures to guide future changes to New Brunswick's electoral boundaries, including the number of constituencies to be represented in the Legislative Assembly, that will be referred to a Representation and Electoral Boundaries Commission.
4. To examine and make recommendations on instituting fixed election dates for provincial general elections while proposing a fixed election date and procedures best suited for our province.
5. To examine and make recommendations on increasing voter turnout in provincial general elections, particularly amongst young New Brunswickers, and improving accessibility to the electoral process in New Brunswick by modernizing our electoral laws while reinforcing the democratic rights and responsibilities of New Brunswickers to vote.

##### Legislative Reform

1. To examine and make recommendations on enhancing the role of the Legislative Assembly and MLAs in decision-making while ensuring greater accountability of MLAs to their constituents and to New Brunswickers.
2. To examine and make recommendations on enhancing transparency and accountability in appointments to government agencies, boards, and commissions.

### **Democratic Reform**

1. To examine and make recommendations on enhancing direct democracy by proposing a *New Brunswick Referendum Act* that sets out the rules and procedures for allowing province-wide, binding referendums on significant public policy issues.
2. To examine and make recommendations on enhancing public involvement in government and legislative decision-making.

### **To fulfill its mandate, the Commission on Legislative Democracy will:**

1. Seek the views of New Brunswickers through public hearings and submissions;
2. Hold other meetings and forums as required;
3. Conduct research and analysis as required that is appropriate to all aspects of the Commission's mandate;
4. Report no later than December 31, 2004.

## Background Appendix: II

### **Example of a Regional Mixed Member Proportional (MMP) Electoral System in New Brunswick**

The proposed NB MMP electoral system for New Brunswick would be composed of four regional multi-member districts of approximately the same size. Each regional district would be represented by five list MLAs and would contain nine single member ridings being represented by one MLA each. The total number of seats in the Legislature would be 56.

The multi-member districts would be composed of an average of 140,770 voters while the 36 single member ridings would have an average of 15,641 voters (based on the 2003 provincial election numbers).

Below is an example of how the province could be divided into four regional multi-member districts. Actual boundaries for each of the four regions and each of the 36 single member ridings would be drawn by an independent Representation and Electoral Boundaries Commission.

<b>Multi-Member District Number 1 (North)</b>					
<b>Number of Ridings</b>	<b>Current Ridings</b>	<b>Number of Electors</b>	<b>Regional Health Authority</b>	<b>District Education Council</b>	
				<b>Francophone</b>	<b>Anglophone</b>
1	1 - Restigouche West	8,158	4, 5 & 7	3 & 5	14 & 15
2	2 - Campbellton	9,349	5	5	15
3	3 - Dalhousie - Restigouche East	9,219	5	5	15
4	4 - Nigadoo - Chaleur	10,539	5 & 6	5	15
5	5 - Bathurst	10,234	6	5	15
6	6 - Nepisiguit	9,864	6	5 & 9	15
7	7 - Caraquet	9,517	6	9	15
8	8 - Lamèque - Shippagan - Miscou	9,889	6	9	15
9	9 - Centre - Péninsule	7,979	6	9	15
10	10 - Tracadie - Sheila	9,990	6	9	15
11	52 - Grand Falls Region	9,127	4	3	14
12	53 - Madawaska-la-Vallée	8,298	4	3	14
13	54 - Edmundston	8,796	4	3	14
14	55 - Madawaska-les-Lacs	9,070	4	3	14
<b>Total number of electors for district:</b>		<b>130,029</b>			
Deviation from average number of electors in the multi-member districts: <b>-7.6%</b>					

**Multi-Member District Number 2 (Central)**

Number of Ridings	Current Ridings	Number of Electors	Regional Health Authority	District Education Council	
				Francophone	Anglophone
1	11 - Miramichi Bay	9,050	7	11	16
2	12 - Miramichi-Bay du Vin	10,219	7	9 & 11	16
3	13 - Miramichi Centre	10,190	7	11	16
4	14 - Southwest Miramichi	8,505	7 & 3	11	16
5	41 - Oromocto-Gagetown	11,791	2 & 3	1	17
6	42 - Grand Lake	9,340	3	1 & 11	2/17
7	43 - Fredericton North	14,096	3	1	18
8	44 - Fredericton-Fort Nashwaak	10,917	3	1	18
9	45 - Fredericton South	13,744	3	1	18
10	46 - New Maryland	11,923	3	1	17 & 18
11	48 - Mactaquac	10,971	3	1	14 & 18
12	49 - Woodstock	10,906	3	1	14
13	50 - Carleton	10,258	3	3	14
14	51 - Victoria-Tobique	8,315	3	3	14
<b>Total number of electors for district:</b>		<b>150,225</b>			
Deviation from average number of electors in the multi-member districts: <b>+6.7%</b>					

**Multi-Member District Number 3 (South East)**

Number of Ridings	Current Ridings	Number of Electors	Regional Health Authority	District Education Council	
				Francophone	Anglophone
1	15 - Rogersville-Kouchibouguac	8,003	7 & 1	11	16
2	16 - Kent	8,146	1	11	16
3	17 - Kent South	12,378	1	11	2
4	18 - Shediac-Cap-Pelé	12,839	1	11	2
5	19 - Tantramar	7,602	1	11	2
6	20 - Dieppe-Memramcook	16,718	1	11 & 1	2
7	21 - Moncton East	13,777	1	1	2
8	22 - Moncton South	11,847	1	1	2
9	23 - Moncton North	12,545	1	1	2
10	24 - Moncton Crescent	14,260	1	1	2
11	25 - Petitcodiac	9,080	1 & 3	1	2 & 6
12	26 - Riverview	11,897	1	1	2
13	27 - Albert	8,871	1	1	2
<b>Total number of electors for district:</b>		<b>147,963</b>			
Deviation from average number of electors in the multi-member districts: <b>+5%</b>					

**Multi-Member District Number 4 (South West)**

Number of Ridings	Current Ridings	Number of Electors	Regional Health Authority	District Education Council	
				Francophone	Anglophone
1	28 - Kings East	9,882	2	1	6
2	29 - Hampton-Belleisle	11,188	2	1	6
3	30 - Kennebecasis	12,597	2	1	6
4	31 - Saint John-Fundy	9,240	2	1	6 & 8
5	32 - Saint John-Kings	10,965	2	1	8
6	33 - Saint John Champlain	10,003	2	1	8
7	34 - Saint John Harbour	9,768	2	1	8
8	35 - Saint John Portland	10,489	2	1	8
9	36 - Saint John Lancaster	10,524	2	1	8
10	37 - Grand Bay-Westfield	8,453	2	1	8
11	38 - Charlotte	7,929	2	1	8 & 10
12	39 - Fundy Isles	4,057	2	1	10
13	40 - Western Charlotte	9,167	2	1	10
14	47 - York	10,601	2 & 3	1	10, 14 & 18
<b>Total number of electors for district:</b>		<b>134,863</b>			
Deviation from average number of electors in the multi-member districts: <b>-4%</b>					

## Background Appendix: III

### Comparison of the New Brunswick MMP Electoral System with SMP Electoral System

Values Criteria	NB MMP	SMP
<b>Fairness</b> - the system levels the playing field among candidates and parties; it is free of built-in biases that distort election results.	strong	weak
<b>Equality</b> - the system is meaningful to voters - all votes count equally; votes are not "wasted".	strong	weak
<b>Representative</b> - the system creates legislatures that are:		
1) geographically representative - there are members who are chosen at the local level and are ultimately accountable to the area which they represent.	mixed results	strong
2) representative of parties - they reflect the support of voters for various political parties.	strong	weak
3) demographically representative - they are reflective of the way our society looks	strong	weak
<b>Open</b> - the system ensures a transparent, accountable, and participatory democracy for people.	strong	strong
<b>Accessible</b> - there is ease of voting. It is not difficult to register to vote or to cast a vote and the ballot is not confusing to voters.	strong	strong
<b>Effective government</b> - the system produces stable governments that are effective and able to govern.	mixed results	strong
<b>Accountable</b> - the system allows voters to clearly identify who is responsible for decisions and hold them accountable.	mixed results	strong
<b>Effective Opposition</b> - the system ensures the presence of an effective opposition that can assess the work of the government, hold it to account, and present an alternative to the present government.	strong	weak
<b>Inclusive</b> - the system accommodates smaller parties and minority viewpoints and encourages parties and candidates to reach out to broad segments of the population.	strong	weak
<b>Choice</b> - voters have a range of democratic choices in parties and candidates at election time.	strong	weak

(Source - Commission on Legislative Democracy)

## Background Appendix: IV

### Comparison of Boundaries Legislation Across Canada

Jurisdiction	Legislation	When reviewed?	Composition of Commission (total number of members)
<b>N &amp; L</b>	<i>Electoral Boundaries Act</i>	Every 10 years	Chief Justice of N&L appoints Chair; Speaker of House of Assembly appoints four other members (5)
<b>PEI</b>	<i>Electoral Boundaries Act</i>	After every third general election	LG in C (Cabinet) appoints Chair; Speaker appoints two other members (3)
<b>NS</b>	<i>House of Assembly Act</i>	Every 10 years	Select Committee of House appoints Chair and members (number varies)
<b>PQ</b>	<i>Election Act</i>	After every second general election	Chief Electoral Officer appoints Chair; Premier appoints two commissioners, with approval of 2/3rds of National Assembly (3)
<b>ON</b>	<i>Representation Act</i>	<b>Uses same boundaries as those established by federal redistribution process</b>	
<b>MN</b>	<i>Electoral Divisions Act</i>	Every 10 years	Members must be Chief Justice of Manitoba, President of University of Manitoba, and Chief Electoral Officer of Manitoba (3)
<b>SK</b>	<i>Constituency Boundaries Act</i>	Every 10 years	LG in C appoints Chair; two other members appointed by LG in C on advice of leaders of opposition & other MLAs (3)
<b>AB</b>	<i>Electoral Boundaries Commission Act</i>	After every second general election	LG in C appoints Chair*; Speaker appoints four members - two nominated by Leader of Opposition and two by President of Executive Council (5) *Chair must be ethics commissioner, auditor-general, president of a post-secondary educational institution, judge or retired judge or someone of similar stature.
<b>BC</b>	<i>Electoral Boundaries Commission Act</i>	After every second general election	LG in C appoints a judge or retired judge, the Chief Electoral Officer and a person who is not an MLA or government employee and who is nominated by the Speaker (3)
<b>CAN</b>	<i>Electoral Boundaries Readjustment Act</i>	After every decennial (10 year) census	Speaker appoints a Judge as chair and two other members (3)



<b>Jurisdiction</b>	<b>Terms of Reference</b>	<b>Requirement for Public Hearings?</b>	<b>Who has final authority?</b>	<b>Role for politicians/parties?</b>
<b>N &amp; L</b>	+/- 10%, but can use +/- 25% where warranted by special geographic considerations	Yes: at least one public hearing in Island part of province and one in Labrador	Legislature	Speaker appoints members he/she considers suitable; MNAs, MPS, Senators ineligible
<b>PEI</b>	+/- 25%	Yes: throughout province	Legislature	Leaders of parties consulted on appointments; MLAs, MPS ineligible
<b>NS</b>	Variance not set out in legislation	Yes: two sets, one prior to and one following preparation of preliminary report	Legislature	Select Committee of House appoints members; they must be broadly representative of Province
<b>PQ</b>	+/- 25% (can exceed in certain circumstances, must justify in writing) Exception - Iles de la Madeleine	Yes: within six months of tabling preliminary report. May hold further hearings on proposed amendments	Commission	Appointments need approval of 2/3 <sup>rd</sup> s of MNAs; MNAs may make representations to Commission, which must consider them before submitting final report
<b>ON</b>	<b>Uses same boundaries as those established by federal redistribution process</b>			
<b>MN</b>	+/- 10% for districts south of 53 <sup>rd</sup> parallel; +/- 25% for districts north of it	Yes: at time/places feels necessary and suitable	Legislature	No role for politicians in appointment of members
<b>SK</b>	+/- 5% Two exceptions in north	Yes: after interim report is filed	Legislature	Leader of opposition and recognized parties consulted on appointments.
<b>AB</b>	+/- 25% (up to 4 districts may be -50% if meet certain criteria)	Yes: two sets: one before report is submitted to Speaker and one after report is made public	Legislature	Parties represented in Legislature consulted on appointments; MLAs not eligible
<b>BC</b>	+/- 25% (may be exceeded in very special circumstances)	Yes: may hold before report submitted to Speaker/Clerk, must hold after report made public	Legislature	Premier and Leader of Opposition consulted on one appointment; MLA not eligible; Commission must give all current MLAs opportunity to make a submission to it
<b>CAN</b>	+/- 25% (or more in extraordinary circumstances)	Yes: must hold at least one sitting before completing report	Commission	Speaker appoints two members he/she deems suitable; MLAs, MPS, Senators ineligible; MPs may make objections in H of C, Commission must consider them before finalizing maps

(Source - Commission on Legislative Democracy)

## Background Appendix: V

### Voter Participation - Ranked by Social Background

Social background		Social background and general interests in politics	The digital divide % ever used Internet to be informed about politics	General knowledge about politics	Membership in voluntary associations
<b>Education</b>	Less than high school	3	4	4	4
	Completed high school	4	3	3	2
	Some postsecondary	2	2	2	3
	University graduate	1	1	1	1
<b>Income</b>	Low income	3	3	3	3
	Middle income	2	2	2	2
	High income	1	1	1	1
<b>Generational</b>	Post generation X	4	1	4	4
	Generation X	3	2	3	3
	Baby Boomer	2	3	2	1
	Pre-baby boomer	1	4	1	2
<b>Gender</b>	Women	2	2	2	1
	Men	1	1	1	1

(Source - Commission on Legislative Democracy, adapted from **Citizens**, Gidengil, Blais, Nevitte, Nadeau, *Canadian Democratic Audit*, 2004)

## Background Appendix: VI

### Comparison of MLA Salaries Across Canada

Jurisdiction	Basic Salary 2003-2004	MLA total Salary	Premier Additional Salary	Premier Total Salary	Minister Additional Salary	Minister Total Salary
Canada	\$139,200	\$139,200	\$139,200	\$278,400	\$66,816	\$206,016
BC	\$73,800	\$73,800	\$45,000	\$118,800	\$39,000	\$112,800
AB	\$43,152	\$75,759	\$67,380	\$142,919	\$52,956	\$128,495
SK	\$63,540	\$72,009	\$57,393	\$129,402	\$40,176	\$112,185
MB	\$65,535	\$65,535	\$46,397	\$111,932	\$29,001	\$94,536
ON	\$85,240	\$85,240	\$67,595	\$152,835	\$36,057	\$121,297
QC	\$78,886	\$103,530	\$82,830	\$186,360	\$59,165	\$162,695
<b>NB Rank</b>	<b>\$40,565.95 12/16</b>	<b>\$73,493.95 9/16</b>	<b>\$54,331.23 11/14</b>	<b>\$127,825.18 8/14</b>	<b>\$36,221.57 10/14</b>	<b>\$109,715.52 10/14</b>
NS	\$33,256.30	\$60,040.30	\$55,736.69	\$115,776.99	\$39,708	\$99,748.30
PE	\$33,967	\$53,728	\$58,871	\$112,599	\$41,585	\$95,313
NL	\$46,086	\$86,276	\$66,587	\$152,863	\$48,276	\$134,552
YU*1	\$35,664	\$58,703	\$28,971	\$87,674	\$21,147	\$79,850
YU*2	\$35,664	\$62,001	-	-	-	-
NT*3	\$80,140.86	\$89,990.86	\$60,952	\$150,942.86	\$42,892	\$132,882.86
NT*4	\$80,140.86	\$95,540.86	-	-	-	-
NU	\$60,800	\$62,208	\$63,200	\$125,408	\$53,200	\$115,408

\*1: commuting within Whitehorse

\*2: commuting from outside Whitehorse and Members of Executive Council

\*3: Commuting within Yellowknife

\*4: Commuting from outside Yellowknife and Members of Executive Council

Source: Commission on Legislative Democracy (Data adapted from Report to the Legislative Assembly of Manitoba, by Earl Backman, Commissioner for MLA Pay, Allowance and Retirement Benefits)

## Background Appendix: VII

### Comparison of MLA Resources Across Canada

	Annual Office Allowance	Staffing	Office Facilities	Furniture & Equip.	Tel and Cellular	Internet, Network, E-mail	Printing and Mailing
<b>BC</b>	\$84,000	✓	Additional	Max \$4000 from list of office supplies	Additional	Additional	✓
<b>AB</b>	\$51,809 + (\$0.96 x E1.5) + [2271 + \$0.0757 (C - 14,000)]	✓	✓	✓	✓	✓	\$1,250 postage
<b>SK</b>	\$16,607 + number of voters on voters list x by the amount of 3 first class stamps	May be included	✓	Also have separate fund that they can use	Not included (members unlimited telephone expenses)	✓  (network and e-mail)	✓
<b>MB</b>	\$42,554	✓	✓	✓	✓	✓	3 householders/year
<b>ON</b>	\$236,000	✓	✓	Not included separate budget	Not included separate budget	✓	✓
<b>QC</b>	\$32,800 - \$36,200	\$114,199 - \$132,387	✓	✓	✓	✓	✓
<b>NB</b>	\$25,000	✓	✓	✓	✓	✓	✓
<b>NS</b>	\$48,600 or \$4,050 per month for expenses accounted for by proper receipts and incurred on account of services						
<b>PEI</b>	N/A Provided to caucus offices						
<b>NL</b>	N/A						

✓ = included

Source: Commission on Legislative Democracy adapted from document received from N.B. Legislative Assembly.

## Background Appendix: VIII

### Survey of New Brunswick MLAs

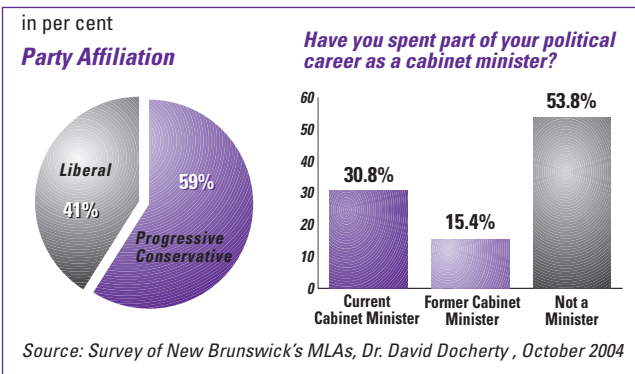
As part of its academic research program, the Commission on Legislative Democracy asked Dr. David C. Docherty, Chair and associate professor for the Department of Political Science at Wilfrid Laurier University, to conduct an independent survey of New Brunswick's MLAs to help the Commission better understand the needs and concerns of New Brunswick's elected officials. In particular, Dr. Docherty's survey examined how members of the New Brunswick Legislature balance their constituency and legislative workloads, and the types of resources that are provided to them.

The questionnaire was sent by Dr. Docherty in the late spring of 2004, to all members of the New Brunswick legislature. At the time, there were 54 sitting MLAs. A follow-up reminder was mailed in July. The response rate was fifty four percent of MLAs responding. This response rate is considered high by Dr. Docherty, compared with other surveys he has completed.

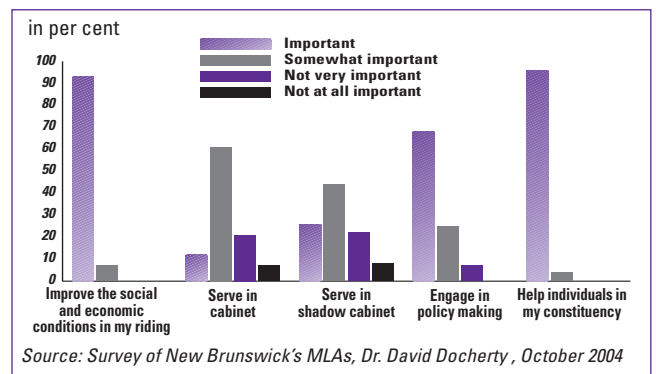
The Commission received data from Dr. Docherty, to create the following charts. Not all answers are reflected in these charts, as some of the questions asked where open-ended or ranked. The Commission did not receive any of the responses in raw data form, to ensure confidentiality and anonymity of the MLAs who responded.

The final results of this analysis will be published by the Commission in the form of an article by Dr. Docherty, in our forthcoming volume of research papers.

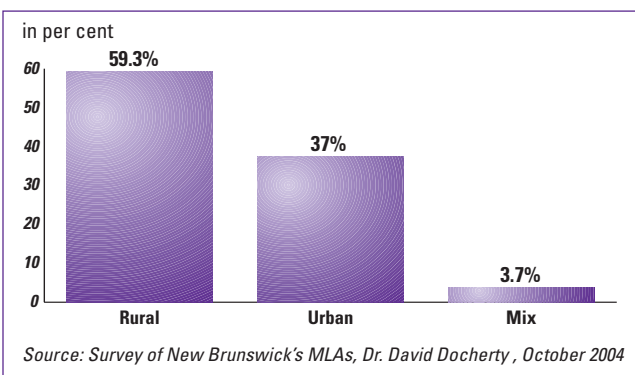
#### Demographic Profile



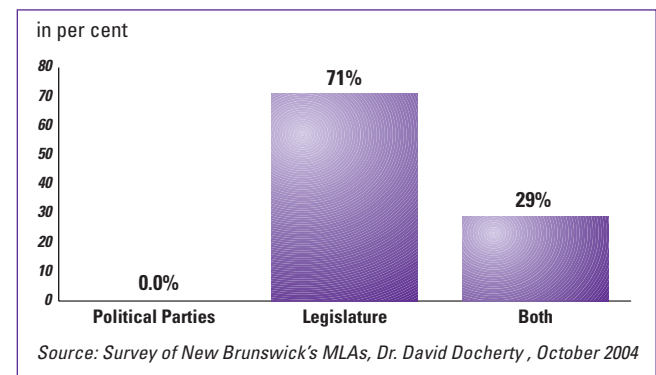
#### Why Enter Politics and Career Goals?



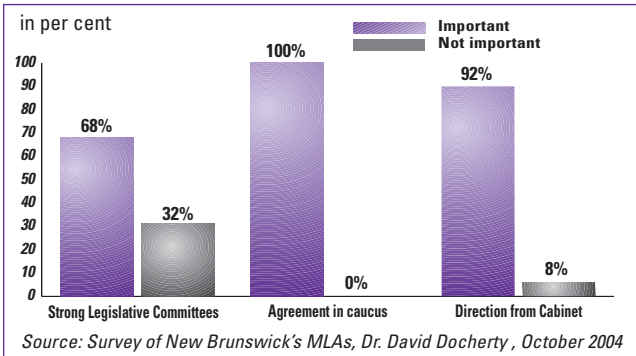
#### Riding Composition



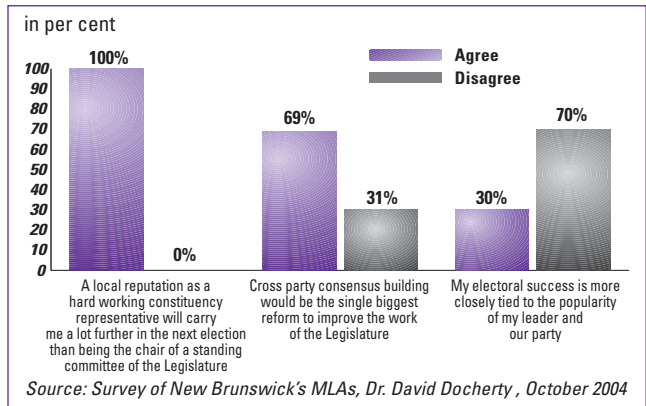
#### Who should provide orientation for new MLAs?



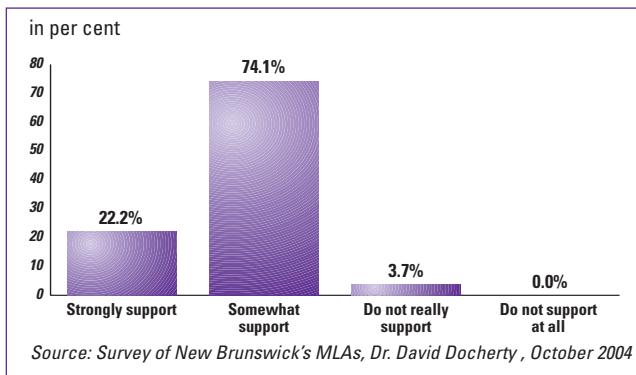
**Thinking just of public policy formation, how important are each of the following in terms of creating policies that serve the best interests of New Brunswick?**



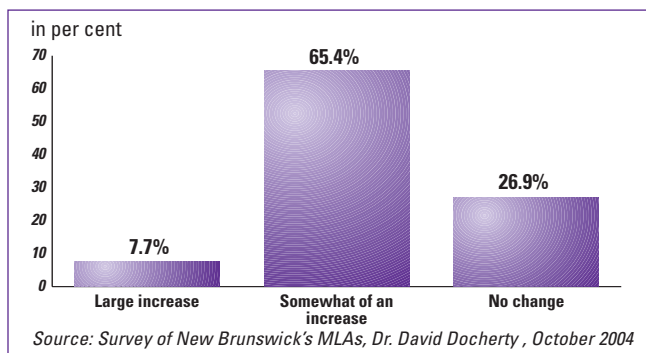
**MLAs, the Legislature & Electoral Success**



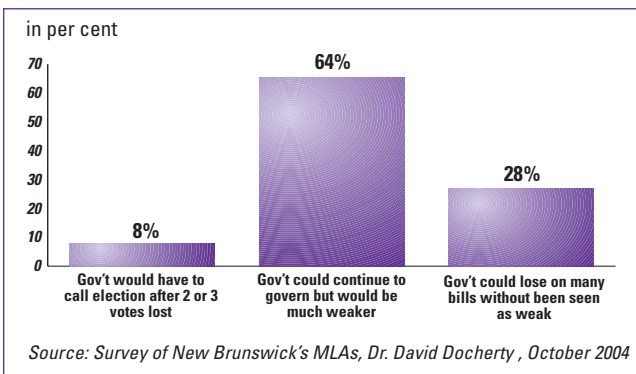
**Do you support more free votes in the provincial legislature on issues that are not matters of confidence?**



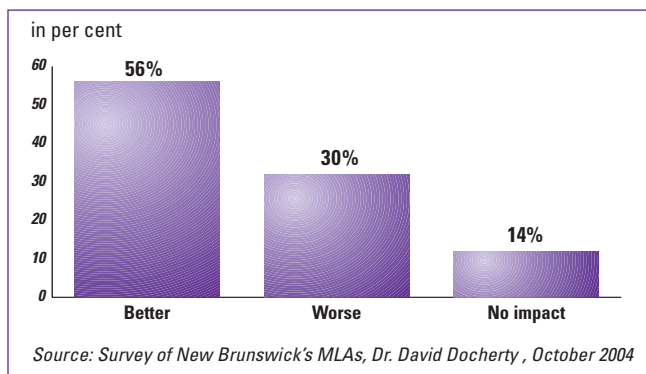
**Do you believe that relaxing the idea of what constitutes confidence would lead to an increase in free votes in the Legislature?**



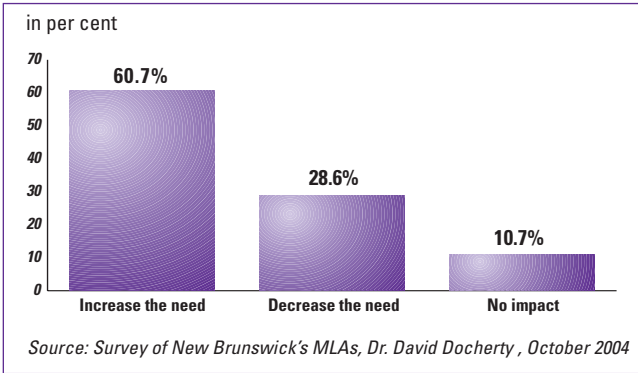
**If there were more free votes, what would be the impact on a government that had some of these bills defeated?**



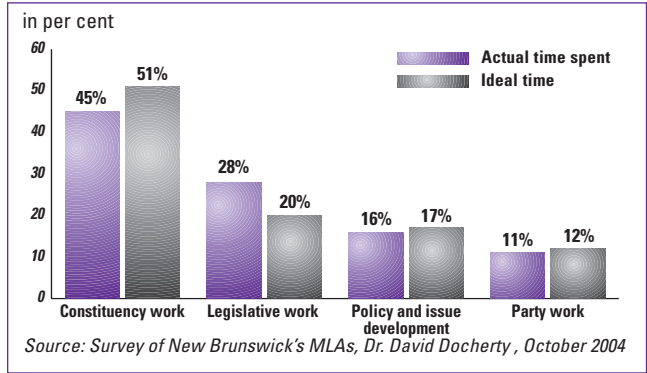
**Do you believe that minority government might provide opportunities to produce better public policy?**



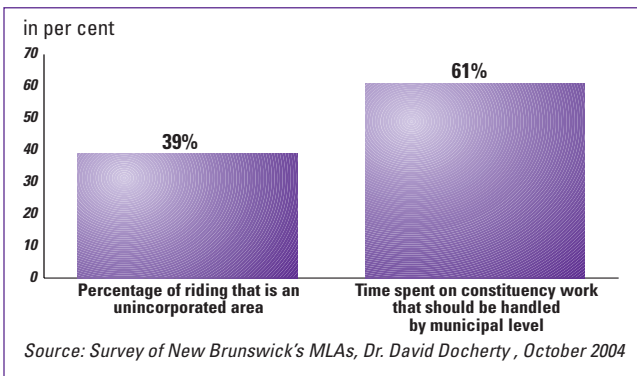
**Would minority government increase, decrease or have no effect on party discipline?**



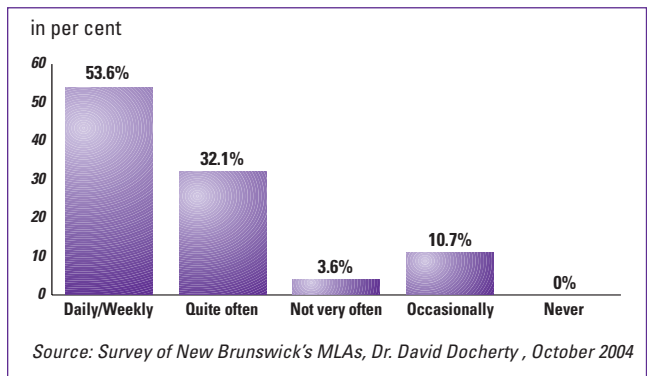
**How MLAs spend their time on duties**



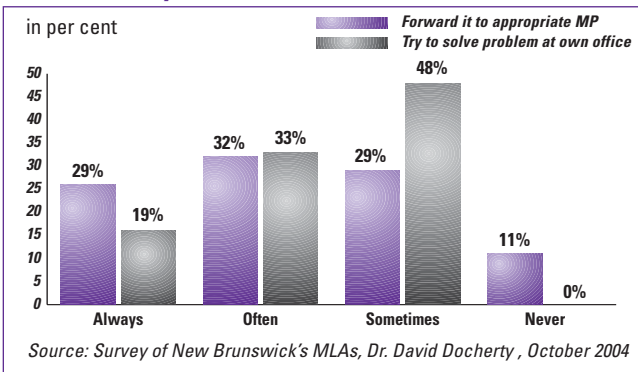
**Unincorporated areas in riding**



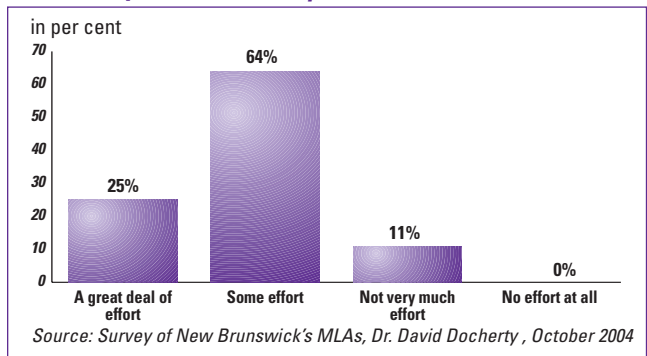
**How often are you approached by constituents on a matter that is outside your responsibility?**



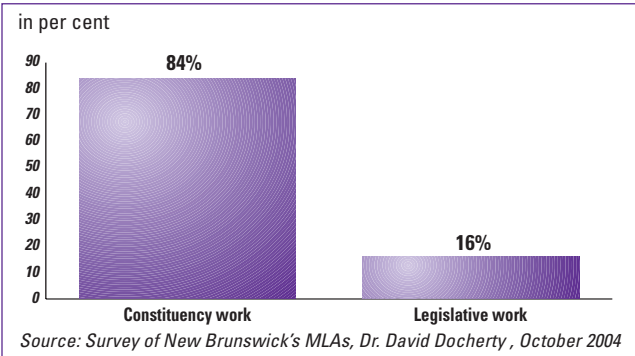
**When approached by a constituent about a matter where responsibility rests with the federal government, how often do you:**



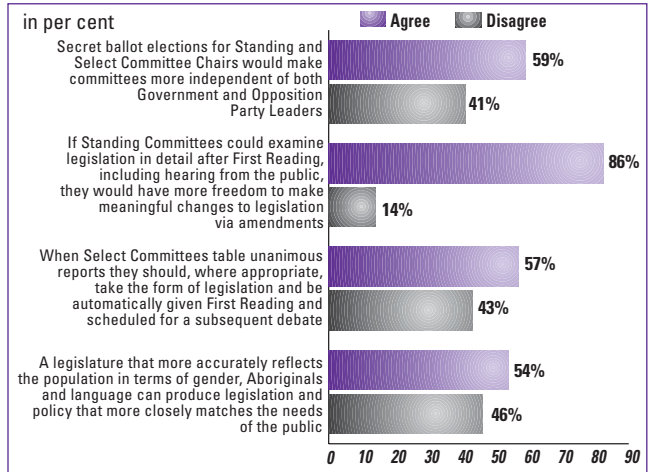
**How much effort do you make to inform your constituents about the types of activities you engage in while you are at the capital?**



**If members of the NB Legislature were provided with a budget to hire an additional full-time staff person, what percentage of that person's time would you dedicate to constituency versus legislative work?**



## Making the Legislature Work Better





## Background Appendix: IX

### Comparison of Limits on Election Spending across Canada

\* All limits adjusted for inflation

Limits on Election Spending*			
	Limits for parties	Limits for each candidate	Limits for third parties
<b>CAN</b>	<p><math>\\$0.70 \times \#</math> of names on preliminary or revised list of electors (whichever is greater) in electoral districts where party has candidates.</p> <ul style="list-style-type: none"> <li>2004 limit for parties running candidates in all ridings: <b>\$17,593,925.32</b></li> </ul>	<p>Aggregate of</p> <ul style="list-style-type: none"> <li><math>\\$2.07 \times</math> first 15,000 electors on preliminary or revised list of electors (whichever is greater)</li> <li><math>\\$1.04 \times</math> next 10,000 electors</li> <li><math>\\$0.52 \times</math> number of remaining electors</li> </ul>	<p><u>Election:</u></p> <ul style="list-style-type: none"> <li><math>\\$150,000</math> nationally</li> <li>not more than <math>\\$3000</math> in a given electoral district</li> </ul> <p><u>Referendum:</u></p> <ul style="list-style-type: none"> <li><math>\\$5000</math> (for individual or group)</li> <li>Referendum Committee = <math>\\$0.30 \times</math> escalator <math>\times</math> # of names of preliminary list</li> </ul>
<b>NB</b>	<ul style="list-style-type: none"> <li><math>\\$1.00 \times \#</math> of electors in electoral districts where party has a candidate</li> <li>2003 limit: <b>\$843,258</b></li> </ul>	<p><math>\\$1.75 \times \#</math> of electors - floor of <math>\\$11,000</math>, ceiling of <math>\\$22,000</math></p>	
<b>N &amp; L</b>	<ul style="list-style-type: none"> <li><math>\\$3.125 \times \#</math> of names on revised list of electors in electoral districts where party endorses a candidate; min. <math>\\$12,000</math> for each electoral district</li> </ul>	<p><math>\\$3.125 \times \#</math> of names on revised list of electors; minimum <math>\\$12,000</math></p>	
<b>NS</b>	<p><math>\\$0.40 \times \#</math> of electors in electoral districts where party endorses official candidate</p>	<p>Aggregate of:</p> <ul style="list-style-type: none"> <li><math>\\$1.00 \times</math> first 5,000 electors</li> <li><math>\\$0.85 \times</math> next 5,000 electors</li> <li><math>\\$0.75 \times</math> number of remaining electors</li> </ul>	
<b>PEI</b>	<p><math>\\$6.00 \times \#</math> of electors entitled to vote in electoral districts where party endorses official candidate</p>	<p><math>\\$1.75 \times \#</math> of electors entitled to vote</p>	
<b>QC</b>	<p><math>\\$0.60 \times \#</math> of electors in electoral divisions where party endorses an official candidate</p>	<p>Must not exceed <math>\\$1.00</math> per elector</p>	
<b>ON</b>	<p><math>\\$0.60 \times</math> indexation factor <math>\times</math> number of electors in electoral districts where party endorses official candidate</p>	<p><math>\\$0.96 \times</math> indexation factor <math>\times</math> number of electors</p>	

<b>Limits on Election Spending*</b>			
	<b>Limits for parties</b>	<b>Limits for each candidate</b>	<b>Limits for third parties</b>
<b>MB</b>	\$1.40 x # of names on final voters list in electoral divisions where party endorses a candidate	Electoral divisions with <ul style="list-style-type: none"> <li>• &gt; than 30,000 sq miles: \$2.20 x # names on final voters list</li> <li>• &lt; than 30,000 sq miles : \$3.50 x # names on final voters list</li> </ul>	
<b>SK</b>	<ul style="list-style-type: none"> <li>• \$651,355 (adjusted)</li> </ul>	Northern constituencies: the greater of \$52,108 or \$5.21 x # of names on voters list. Southern constituencies: the greater of \$39,082 or \$2.60 x # names on voters list.	
<b>AB</b>	No limits		
<b>BC</b>	\$1.25 x # of registered voters in electoral districts where party endorses a candidate	<ul style="list-style-type: none"> <li>• Where 25,000 or fewer registered voters: \$50,000</li> <li>• Where more than 25,000 registered voters: \$50,000 and \$0.50 for every registered voter in excess of 25,000</li> <li>• Where fewer than 2 registered voters/sq. km, add \$0.30 x # of sq. km in electoral district; maximum increase of 25% of electoral district limit as determined by # of registered voters</li> </ul>	

Source: Commission on Legislative Democracy, based on 2003 Elections Canada Compendium on Election Administration in Canada

## Background Appendix: X

### *Comparison of Disclosure of Contribution Requirements Across Canada*

<b>Disclosure Requirements for Contributions</b>	
<b>CAN</b>	<ul style="list-style-type: none"> <li>• Name, address of donor and amount for contributions over \$200 for election campaigns and leadership contests</li> <li>• Nomination contests - \$1,000 or more</li> </ul>
<b>NB</b>	Name, address of donor and amount for: <ul style="list-style-type: none"> <li>• All contributions from individuals over \$100</li> <li>• All contributions from corporations and trade unions</li> </ul>
<b>N &amp; L</b>	Name, address of donor and amount for contributions over \$100
<b>NS</b>	Name, address of donor and amount for contributions over \$50
<b>PEI</b>	Name, address of donor and amount for contributions over \$250
<b>QC</b>	Name, address of donor and amount for contributions over \$200
<b>ON</b>	Contributions over \$100 for election campaigns and leadership contests
<b>MB</b>	Name, address of donor and amount for contributions of \$250 or more for election campaigns and leadership contests
<b>SK</b>	Name of donor and amount for contributions over \$250
<b>AB</b>	Name, address of donor and amount required for contributions over \$375
<b>BC</b>	Name of donor and amount for contributions over \$250 (applies to leaderships)

Source: Commission on Legislative Democracy, based on 2003 Elections Canada Compendium on Election Administration in Canada

## Background Appendix: XI

### Comparison of Limits on Contributions Across Canada

<b>Limits on Contributions</b>					
	<b>Source</b>	<b>Max.</b>	<b>To who/what?</b>	<b>Apply to Leaderships?</b>	<b>Apply to Nominations?</b>
<b>CAN</b>	Individuals	\$5,000/yr	<ul style="list-style-type: none"> <li>• Parties</li> <li>• candidates</li> <li>• nomination contestants</li> </ul>	yes	yes
		\$5,000/election	<ul style="list-style-type: none"> <li>• independent candidates</li> </ul>		
		\$5,000/contest	<ul style="list-style-type: none"> <li>• leadership contestants</li> </ul>		
	Corps./Unions	\$1,000/yr	<ul style="list-style-type: none"> <li>• Candidates</li> <li>• Nomination contestants</li> <li>• riding associations</li> </ul>		
		\$1,000/election	<ul style="list-style-type: none"> <li>• independent candidates</li> </ul>		
<b>NB</b>	<ul style="list-style-type: none"> <li>• Individuals</li> <li>• Corps</li> <li>• Unions</li> </ul>	\$6,000/yr	<ul style="list-style-type: none"> <li>• Parties</li> <li>• riding associations</li> <li>• independent candidates</li> </ul>	no	no
<b>N &amp; L</b>	No Limits on Contributions				
<b>NS</b>	No Limits on Contributions				
<b>PEI</b>	No Limits on Contributions				
<b>QC</b>	<ul style="list-style-type: none"> <li>• Electors (no corps, unions, interest groups)</li> </ul>	\$3,000/yr	<ul style="list-style-type: none"> <li>• Each party, independent candidate</li> </ul>	no	no

<b>Limits on Contributions</b>					
	<b>Source</b>	<b>Max.</b>	<b>To who/what?</b>	<b>Apply to Leaderships?</b>	<b>Apply to Nominations?</b>
<b>ON</b>	<ul style="list-style-type: none"> <li>• Individuals</li> <li>• Corps</li> <li>• Unions</li> </ul>	\$7,500/yr	<ul style="list-style-type: none"> <li>• Each party</li> </ul>	no	no
		\$1,000/yr	<ul style="list-style-type: none"> <li>• Each riding association</li> </ul>		
		\$1,000/campaign	<ul style="list-style-type: none"> <li>• Each candidate</li> </ul>		
		\$5,000 total/campaign	<ul style="list-style-type: none"> <li>• Candidates endorsed by one party</li> </ul>		
<b>MB</b>	<ul style="list-style-type: none"> <li>• Individuals</li> </ul>	\$3,000/yr	<ul style="list-style-type: none"> <li>• Candidates</li> <li>• Riding associations</li> <li>• Political parties</li> </ul>	yes (separate \$3,000 limit)	no
<b>SK</b>	No Limits on Contributions				
<b>AB</b>	<ul style="list-style-type: none"> <li>• Individuals</li> <li>• Corps</li> <li>• Unions</li> </ul>	\$15,000/yr	<ul style="list-style-type: none"> <li>• A party</li> </ul>	no	no
		\$750/yr	<ul style="list-style-type: none"> <li>• Riding association</li> </ul>		
		\$3,750/yr	<ul style="list-style-type: none"> <li>• Riding association of each party</li> </ul>		
		\$30,000/campaign	<ul style="list-style-type: none"> <li>• A party</li> </ul>		
		\$1,500/campaign	<ul style="list-style-type: none"> <li>• A candidate</li> </ul>		
		\$7,500/campaign	<ul style="list-style-type: none"> <li>• Candidates of each party</li> </ul>		
<b>BC</b>	No Limits on Contributions				

Source: Commission on Legislative Democracy, based on 2003 Elections Canada Compendium on Election Administration in Canada

## Background Appendix: XII

### Comparison of Referendum Legislation Across Jurisdictions

Jurisdiction	Name of Act	Who may initiate referendum?	Issue	Binding?	Majority Required for Passage	Spending Limits?
<b>CAN</b>	<i>Referendum Act</i>	Governor in Council	Constitutional matters only	No	N/A	Yes
<b>PEI</b>	<i>Plebiscites Act</i>	Lieutenant Governor in Council	Matter of public concern	No	N/A	No
<b>QC</b>	<i>Referendum Act</i>	Government of Québec	On a question approved or Bill adopted by National Assembly	No	N/A	Yes
<b>SK</b>	<i>Referendum &amp; Plebiscites Act</i>	<ul style="list-style-type: none"> <li>L-G in C (referendum)</li> <li>L-G in C, Legislative Assembly or as a result of citizens petition. (plebiscite)</li> </ul>	<ul style="list-style-type: none"> <li>Matter of public concern.</li> <li>Any matter if petition is signed by 15% of electors.</li> </ul>	Referendum Yes - if receive more than 60% of valid ballots & at least 50% of voters vote.	More than 60% of valid ballots cast by at least 50% of eligible voters.	Yes, if referendum occurs during an election
<b>AB</b>	<i>Constitutional Referendum Act</i>	L-G in C	Relating to Constitution	Yes with more than 50% of the votes	50% + 1	No
<b>BC</b>	<i>Referendum Act</i>	L-G in C	A matter of public interest	Yes with more than 50% of votes	50% + 1	No
	<i>Recall and Initiative Act</i>	Citizens may initiate an "initiative"	Introduction of a new law or amendments to an existing law	Yes with more than 50% of the votes in 2/3rd of all electoral districts	50% + 1 in 2/3 <sup>rd</sup> s of all electoral districts of BC	No

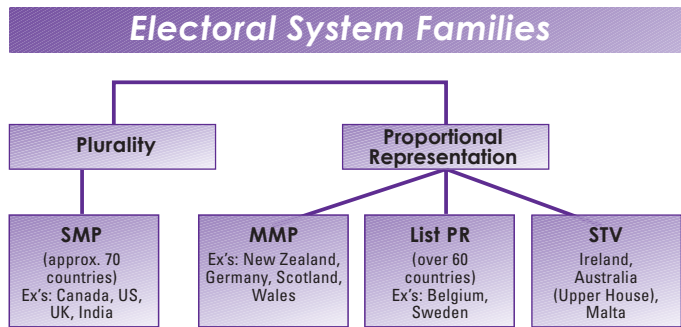
<b>Jurisdiction</b>	<b>Name of Act</b>	<b>Who may initiate referendum?</b>	<b>Issue</b>	<b>Binding?</b>	<b>Majority Required for Passage</b>	<b>Spending Limits?</b>
<b>Australia</b>	<i>Referendum Machinery Provisions Act (1984)</i>	Government	Constitutional matter Any other issue	Yes No	Any alteration to Constitution must be approved by a 'double majority' : a national majority of electors; and a majority of electors in a majority of the States (ie. at least four of the six).	No
<b>New Zealand</b>	<i>Citizens Initiated Referenda Act (1993)</i>	Citizens	Any issue except the election of a Member of Parliament, the way a referendum was held or an issue on which a similar question has already been asked within a five year period.	No	N/A	Yes

Source: Commission on Legislative Democracy

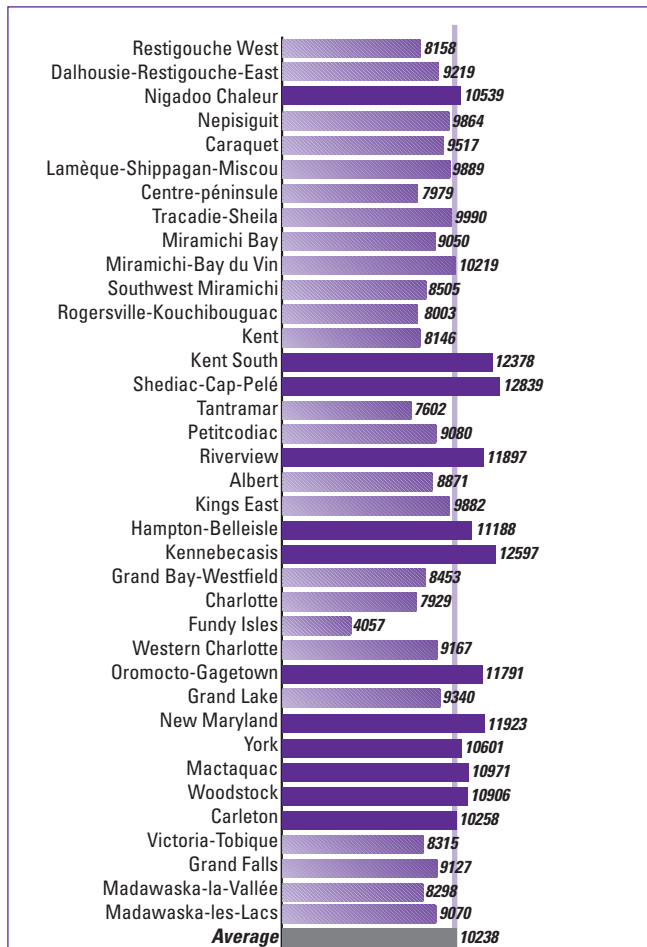
## Background Appendix: XIII

### Other NB Electoral and Democratic Statistics

All charts and tables in this report were created or adapted by the Commission on Legislative Democracy from data as sourced.

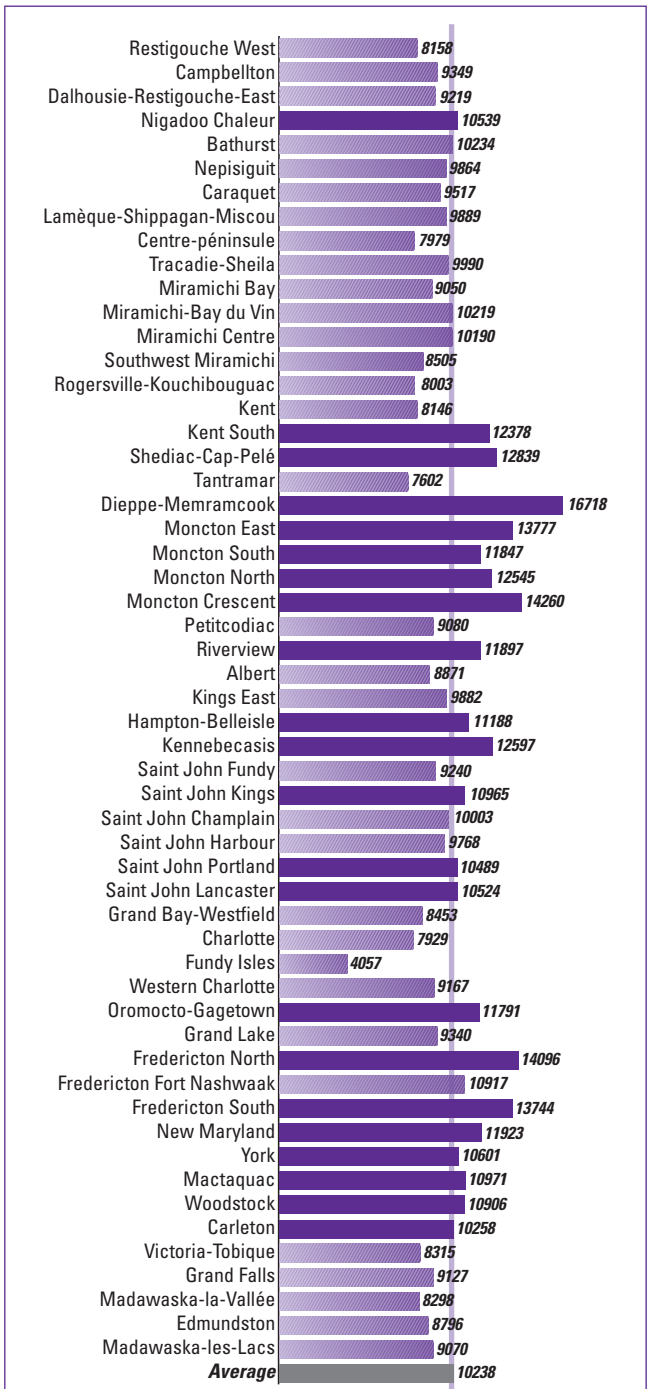


**Number of electors per rural riding, 2003 Election**



Source: Office of the Chief Electoral Officer

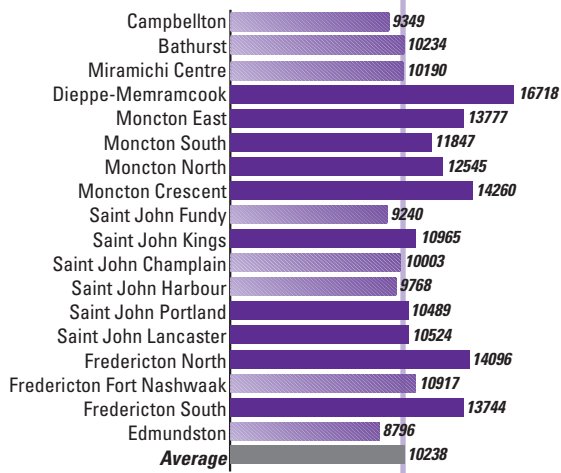
**Number of electors per riding, 2003 Election**



Source: Office of the Chief Electoral Officer

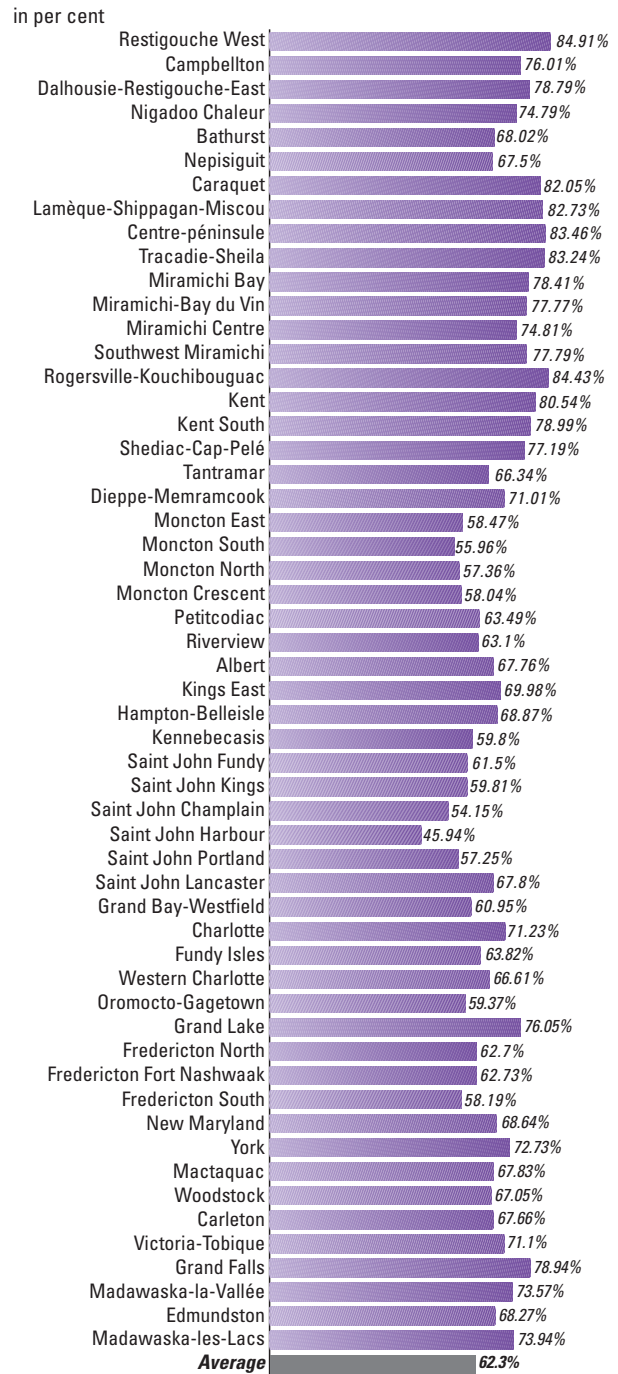


### Number of electors per urban riding, 2003 Election



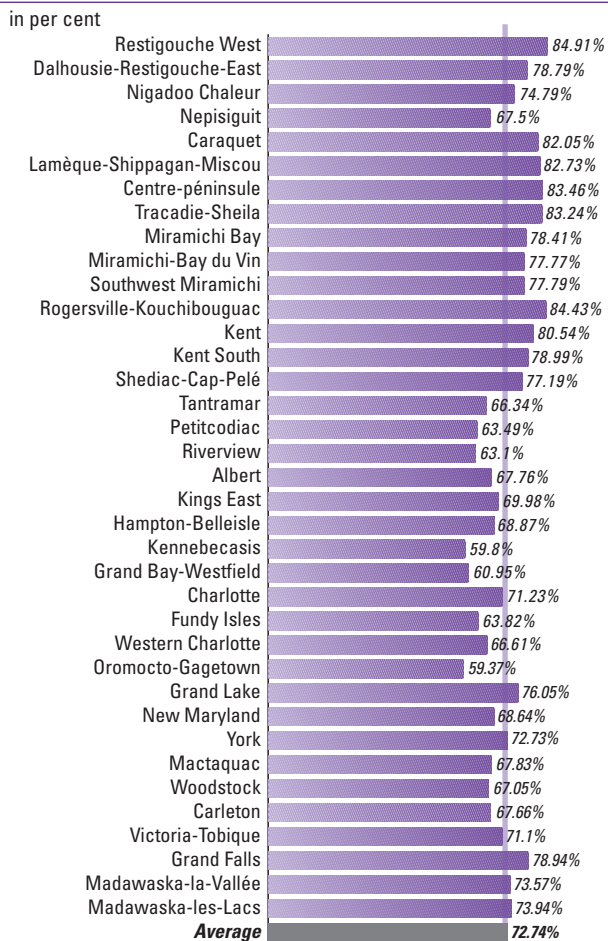
Source: Office of the Chief Electoral Officer

### Participation rate by riding, 2003 Election



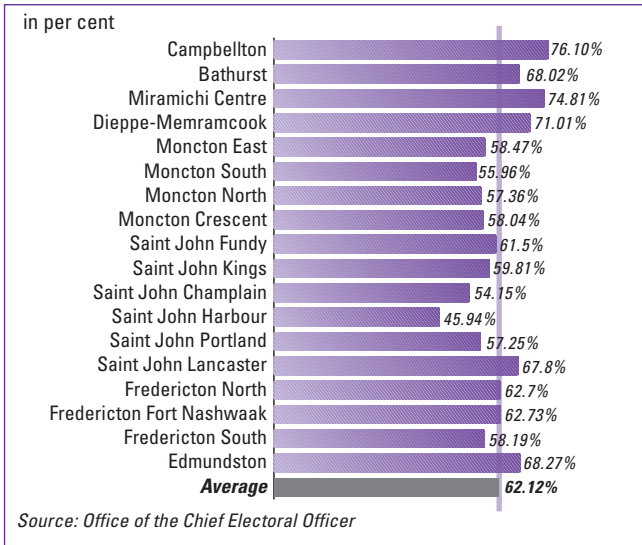
Source: Office of the Chief Electoral Officer

### Participation rate by rural riding, 2003 Election

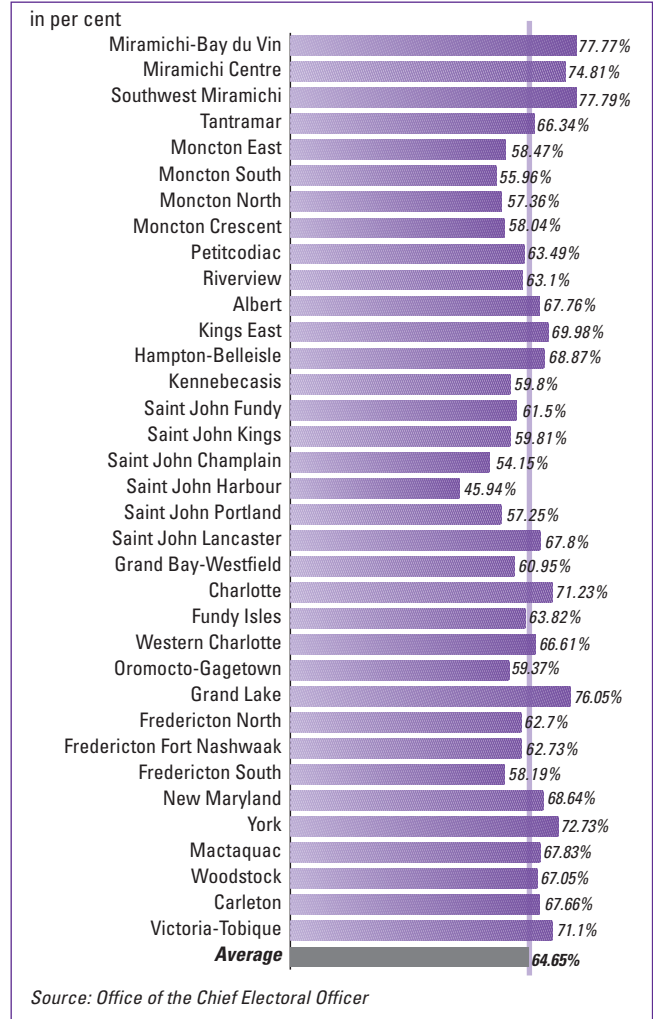


Source: Office of the Chief Electoral Officer

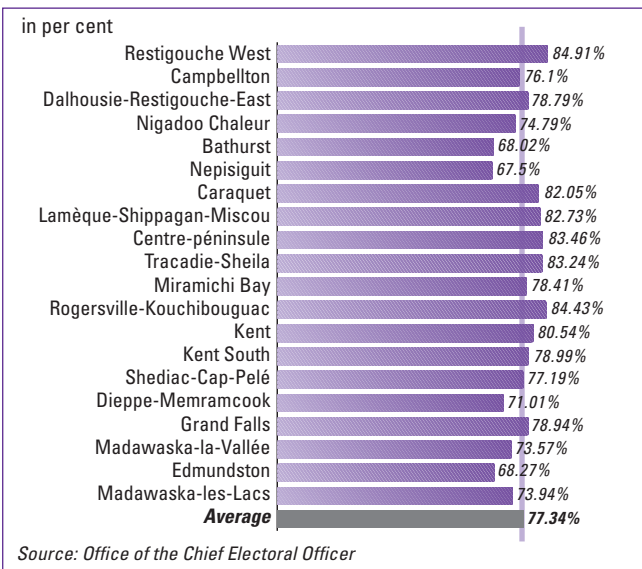
**Participation rate by urban riding  
2003 Election**



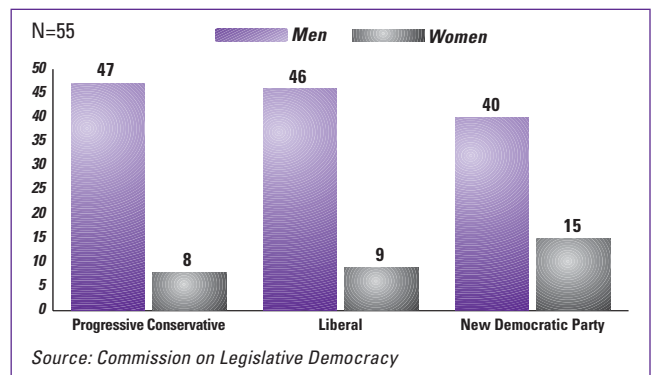
**Participation rate by rural riding with predominantly Anglophone population, 2003 Election**



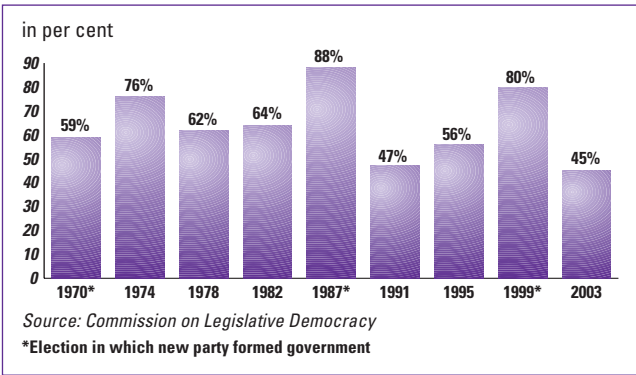
**Participation rate with predominantly Francophone population by riding, 2003 Election**



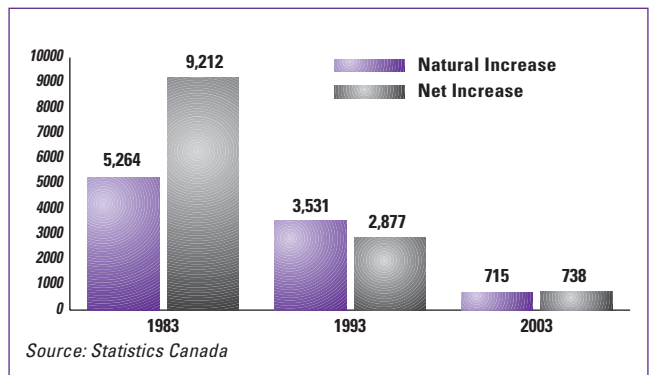
**Gender of candidates by party - 2003 Election**



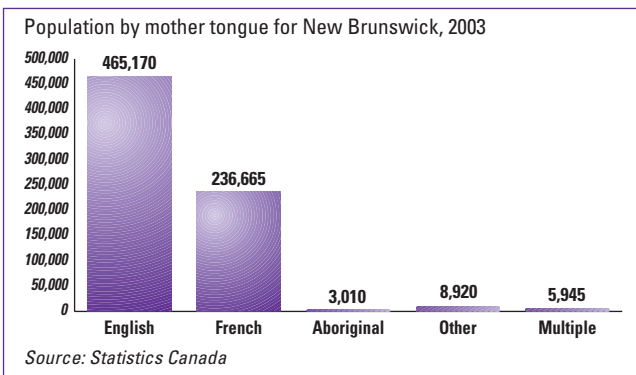
**MLAs with 50% of the vote or more in their riding**



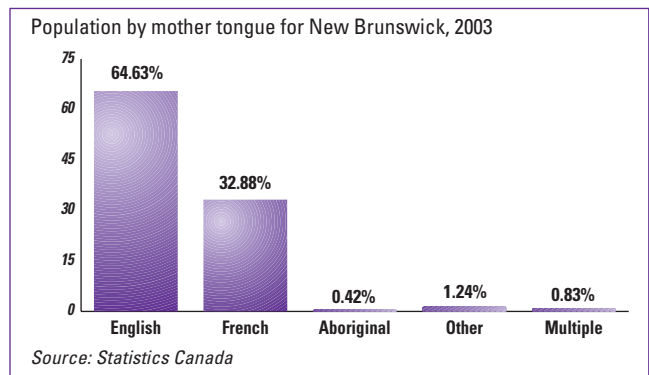
**Declining population growth and immigration**



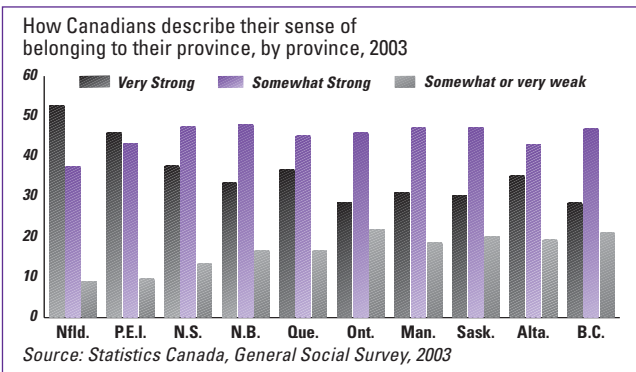
**Profile for New Brunswick by number of people**



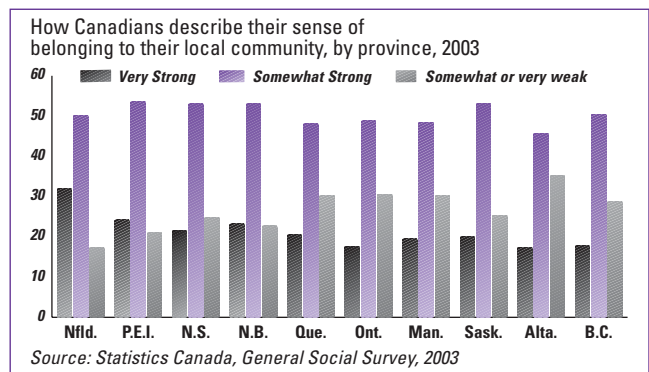
**Profile for New Brunswick by percentages**



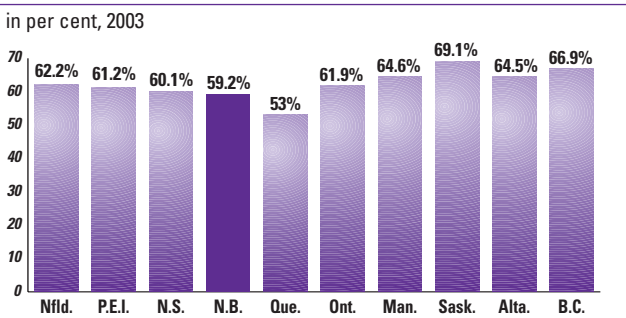
**Sense of belonging across Canada, by province**



**Strong Local Feeling in New Brunswick**

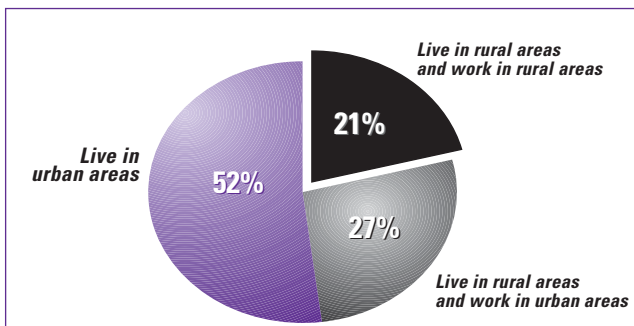


**Individuals aged 25-54 who are involved in at least one organization, by province**



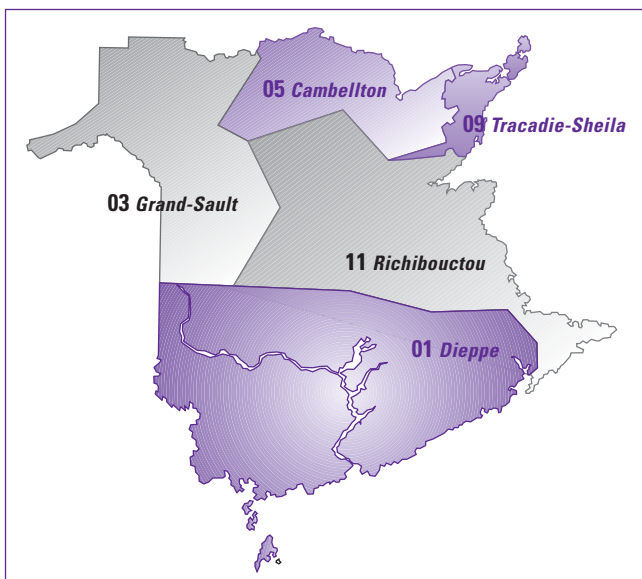
Source: Statistics Canada, General Social Survey, 2003

**Urban Influence in New Brunswick**



Source: Department of the Environment and Local Government

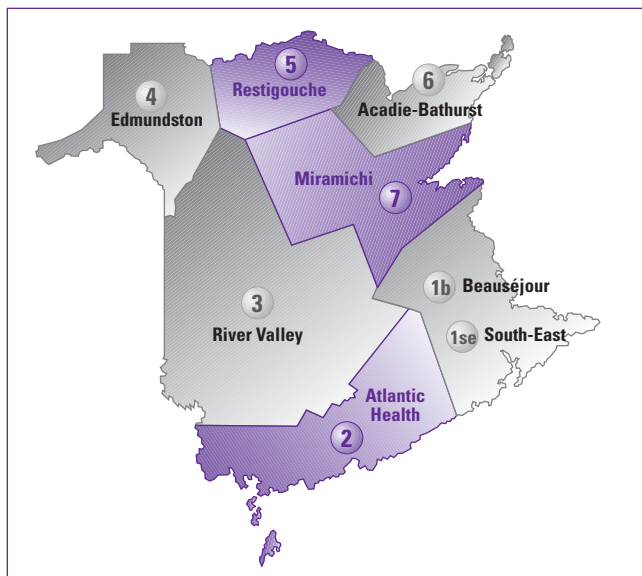
**French School Districts**



**English School Districts**



**Regional Health Authorities**



## Background Appendix: XIV

### Meetings Held

Over the course of its mandate, staff and Commissioners held over 85 meetings with groups, associations, experts, and governments - in New Brunswick and across Canada - to provide information on the Commission, seek participation, obtain research, and listen to views and opinion.

A summary list of meetings held or attended by the Commission is set out below:

#### Governments

##### Canada

- Hon. Mauril Bélanger, PC, MP, Minister Responsible for Democratic Reform
- Andrew Davies, Departmental Assistant to Minister Responsible for Democratic Reform
- Hon. Jacques Saada, PC, MP, Minister Responsible for Democratic Reform
- Stephen Zaluski and Stéphane Perrault, Privy Council Office
- Hugh Finsten, Library of Parliament
- Carmin Bédard, Director of Executive Resourcing, Public Service Commission of Canada

##### Quebec

- André Fortier, Associate Secretary, Secretariat for the Reform of Democratic Institutions, and staff

##### PEI

- Hon. Norman Carruthers, Commissioner, Commission on Electoral Reform

##### Ontario

- Matthew Mendelsohn, Deputy Minister, Secretariat for Democratic Renewal
- Julia Hanigsberg, Executive Assistant to Minister responsible for Democratic Renewal

##### BC Citizens Assembly

- Dr. Ken Carty, Director of Research
- Jack Blaney, Chair
- Gordon Gibson
- Marilyn Jacobson and Don MacLachlan, responsible for communications

##### City of Vancouver

- Hon. Thomas Berger, Commissioner on Electoral Reform
- Syd Baxter, Clerk

##### National Groups, Associations, and Policy Institutes

- Hugh Segal, President, Institute for Research on Public Policy
- Nathalie Des Rosiers, past President, Law Commission of Canada
- Don Lenihan, KTA Centre for Collaborative Government and Chair of Crossing Boundaries
- Rebecca Low, Gina Bishop, Denis Gaudet, Andrew Parkin, Centre for Research and Information on Canada, Canadian Unity Council
- David Moynagh, Michael Eastman, Canadian Council of Auditors Foundation
- Peter Dobell, Canadian Parliamentary Centre
- Judith Maxwell, Canadian Policy Research Networks
- Forum Jeunesse pan-canadien
- Student Vote Canada

**Provincial Groups and Associations**

- Dr. Mary-Lou Stirling, Rosella Melanson, Wendy Johnston, and members of Advisory Council on the Status of Women
- Ryan Sullivan, Ivan Corbett, Nathalie Cormier, Eric Matchett, Miguel LeBlanc, and members of the NB Advisory Council on Youth
- Sister Anne Robichaud and members of NB Advisory Council on Seniors
- Rick Hutchins, Policylink NB
- Brian Baum and Executive, NB Teachers Association
- Gilberte Michaud, Nicole Dupéré and Executive, Association des Enseignants et enseignantes francophones du N.-B.
- Lorne Mitton, Cities Association of New Brunswick
- Tom Mann, NB Public Employees Association
- Bruce Noble, President, and members of Executive, Law Society of New Brunswick
- Board of Directors, Dialogue NB
- Willie Lirrette, Roger Doiron and Board of Directors, Association francophone et acadienne des aînés et aînées du N.-B.
- Association des juristes d'expression française du Nouveau-Brunswick
- Association des jeunes francophones du Nouveau-Brunswick
- Université de troisième âge du Nord-Ouest, chapitre de Grand-Sault, de Saint-Quentin et d'Edmundston
- Dames D'Acadie, Moncton Chapter
- Rothesay Town Council
- Saint John Board of Trade
- Daniel Thériault, Jean-Guy Rioux, Société des acadiens et acadiennes du Nouveau-Brunswick
- Ghislaine Foulem, Forum de concertation des organismes acadiens
- President's Council, PC Party of New Brunswick

**Officers of the Legislative Assembly**

- Hon. Bev Harrison, Speaker of the Legislative Assembly
- Loredana Catalli Sonier, Clerk of the Legislative Assembly
- Annise Hollies, Chief Electoral Officer
- Darryl Wilson, Auditor General
- Paul Bourque, Supervisor of Political Financing
- Michel Carrier, Commissioner for Official Languages
- Bernard Richard, Ombudsman

**Elected Officials**

- Premier Bernard Lord
- PC Caucus:
  - Jody Carr, MLA
  - Trevor Holder, MLA
  - Hon. Bruce Fitch
  - Hon. Keith Ashfield
  - Hon. Brad Green
  - Michael (Tanker) Malley
  - John Betts
  - Wally Stiles
  - Cy LeBlanc
  - Hon. Joan MacAlpine
  - Milt Sherwood
- Liberal Caucus:
  - Kelly Lamrock
  - Eric Allaby
  - Mike Murphy
- Shawn Graham, Leader of the Official Opposition
- Elizabeth Weir, Leader of the New Democratic Party
- Hon. Andy Scott, PC, MP
- Ian McClelland, MLA, Alberta
- Geoffrey Kelley, MNA, Quebec
- Caroline Di Cocco, MPP, Parliamentary Secretary to the Minister responsible for Democratic Renewal, Ontario

**Universities and Academics**

- Dr. John McLaughlin, President, UNB
- Dr. Dan O'Brien, President, St. Thomas University
- M. Yvon Fontaine, Recteur, Université de Moncton
- Lisa Hrabluk, Next NB/Avenir NB, UNB
- Dr. Keith Culver, UNB
- Fédération des étudiants et étudiantes du centre universitaire de Moncton
- Anne LaForest, Dean of UNB Faculty of Law
- Professors Richard Sigurdson, Gary Allen and Dr. Paul Howe, UNB Department of Political Science

**International Representatives**

- Karsten Voigt, former Deputy, German Bundestag
- Sabine Sparwasser, Counselor, German Embassy, Ottawa
- Andrew Staunton, UK High Commission
- Hon. Graham Kelly, High Commissioner for New Zealand
- Barbara Davis & Darryl Wight, Australia Electoral Commission

### **Province of New Brunswick**

- Hon. Herménégilde Chiasson, Lieutenant-Governor of New Brunswick
- Tim Richardson, Chief of Staff to the Lieutenant-Governor
- Kevin Malone, Clerk of the Executive Council and Secretary to Cabinet
- Jean-Guy Finn, former Clerk of the Executive Council and Secretary to Cabinet
- Department of Justice
- Clerk's Office, Legislative Assembly
- Department of Education
- Service New Brunswick
- Environment & Local Government
- (Retired) Justice William Creaghan, Co-Chair of NB Representation and Electoral Boundaries Commission 1991-1993.
- Department of Intergovernmental and International Relations
- Community Access Centres

### **Media Outlets**

- Radio-Canada
- CBC
- Rogers Cable
- Acadie-Nouvelle
- Daily Gleaner
- Telegraph Journal
- Times & Transcript



## Background Appendix: XV

### Partnerships

As part of its mandate to “seek the views of New Brunswickers”, the Commission created partnerships with several important provincial and national organizations. This allowed the Commission to tap into established expertise and networks of these organizations to assist us with our policy development and consultation processes. Most importantly, it helped ensure that the perspective of youth, women, students, and others were brought forward during our consultation process. It also allowed the Commission to operate more cost-effectively by co-hosting special forums and conferences with our partners.

#### Key partnerships included:

##### New Brunswick Advisory Council on Youth

The New Brunswick Advisory Council on Youth and the Commission announced a formal partnership on January 9, 2004 to share resources and information on the subject of youth and democracy. A provincial youth forum was co-organized by the Commission and the Council on May 1st and 2nd in Fredericton, to hear from approximately 50 youth from across New Brunswick on possible ways to increase youth participation in our democratic society. Dr. Patrick Malcomson and Dr. Rick Myers of St. Thomas University spoke to the participants on the issues under discussion, and Paul Kemp of the Underground Royal Commission made a presentation. The New Brunswick Advisory Council on Youth prepared a submission for the Commission to express the views heard from a series of regional forums held in the month of March. A link to the Commission’s website was placed on their site.

##### New Brunswick Advisory Council on the Status of Women

The Commission on Legislative Democracy and the New Brunswick Advisory Council on the Status of Women entered into a formal partnership to share research and information on the subject of women and democracy. The Council developed a handout on key issues of women and legislative democracy and organized a series of regional meetings to discuss this handout. The Commission and the Council co-organized a provincial forum on September 25th, in Moncton, to hear from over 65 people on ways to increase women participation in politics. The Council prepared two briefs for the Commission on ways to increase the participation of women and other parts of the mandate of the Commission. A link to the Commission’s website was placed on their site.

##### Centre for Research and Information on Canada/Canadian Unity Council

The Centre for Research and Information on Canada (CRIC), the research arm of the Canadian Unity Council, was a funding partner for the Roundtable on MLAs and the Legislature held in Fredericton at the legislature on March 25, 2004. Staff from CRIC participated as expert speakers at several of our events. CRIC provided useful research information from its own surveys for consideration by the Commission and conducted original focus group research with young New Brunswick leaders in April, 2004, for use by the Commission. They also placed a link to the Commission’s website on their site.

##### Forum de concertation des organismes acadiens

The Commission on Legislative Democracy and the Forum de concertation des organismes acadiens organized a forum on June 12th in Miramichi to hear the views of Acadian and francophone groups on the implications of the Commission’s mandate on the francophone population of New Brunswick. Specific issues discussed included electoral reform and proportional representation, democratic reform and referendums, and legislative reform and the role of MLAs. Over 25 people representing 19 different groups and associations participated. The columnist Rino Morin Rossignol and former MLA and Minister, Aldéa Landry, were guest speakers.

### **Next NB/Avenir N-B/UNB**

Next NB co-sponsored the student forum on youth and democracy entitled Your Generation. Your Voice, held at UNB on September 17, 2004. Lisa Hrabluk, co-ordinator of Next NB, moderated the event. Over 30 students participated in this event. A link to the Commission's website was placed on their site.

### **Centre for Canadian Studies, Mount Allison University**

The Centre was a financial and logistics partner in hosting our first Academic Research Conference at Mount Allison University in Sackville on February 5-6, 2004. All elements of the Commission's mandate were discussed in presentations and roundtable discussion with over 20 academics and experts.

## Background Appendix: XVI

### *Academic Research Program*

The Commission's work was supported by an ambitious and high quality academic research program. To ensure that we had access to the information necessary to do our work, we engaged a team of leading researchers from across our province and country to conduct both new and synthetic research on the principal areas of our mandate.

The research project was coordinated under the leadership of Dr. William Cross of Mount Allison University. It included contributions from many leading students of Canadian democracy, including: Dr. Chedly Belkhodja, Université de Moncton; Dr. André Blais, Université de Montréal; Dr. Gail Campbell, University of New Brunswick at Fredericton; Dr. R. Kenneth Carty, University of British Columbia; Dr. John Courtney, University of Saskatchewan; Dr. Donald Desserud, University of New Brunswick at Saint John; Dr. David Docherty, Wilfrid Laurier University; Dr. Munroe Eagles, State University of New York at Buffalo; Dr. Joanna Everitt, University of New Brunswick at Saint John; Dr. Paul Howe, University of New Brunswick at Fredericton; Dr. Stewart Hyson, University of New Brunswick at Saint John; Mr. Peter Loewen, Université de Montreal; Dr. Roger Ouellette, Université de Moncton; Dr. Andrew Parkin, Centre for Research and Information on Canada; Dr. Sonia Pitre, University of Ottawa; Mr. Maxime Ricard, Université de Montréal; Dr. Leslie Seidle, Institute for Research and Public Policy; Dr. Alan Siaroff, University of Lethbridge; and Dr. Lisa Young, University of Calgary.

The research program involved several distinct components. In February, the Commission met for two days with a group of more than a dozen leading academics on the Mount Allison University campus in Sackville. The purpose of this conference was to enrich the Commission's learning phase by providing an opportunity for these academics to brief the Commissioners on the state of knowledge on all areas of the mandate, and to allow for wide ranging discussion on these subjects. This conference was followed by a series of one-day roundtables on individual areas of the mandate that brought together academics, practitioners, and interested New Brunswickers to discuss these issues with the Commissioners. These included sessions on electoral boundary drawing, reform of the Legislature, proportional representation, francophone and Acadian issues, and civic engagement. In September, a further one-day conference was held on the campus of the Université de Moncton at which a series of 13 commissioned research papers were presented to the Commission.

The commissioned research papers will be published in a forthcoming, peer-reviewed book. This publication will make a lasting contribution to the work of electoral, democratic and legislative reform in New Brunswick and across the country. A very brief summary of the contributions to this forthcoming volume are found below:

- William Cross, an overview of the history and issues affecting democratic reform in Canada.
- Gail Campbell, an historical overview of previous efforts at democratic and electoral reform in New Brunswick.
- Chedly Belkhodja, an examination of both the principal issues concerning the use of referendums and New Brunswick's prior experience with referendums.
- André Blais and Peter Loewen, an examination of the relationship between voters' democratic satisfaction and their electoral system.
- William Cross and Lisa Young, an analysis of party candidate nomination processes in New Brunswick and international experiences with candidate nomination under different electoral systems.
- Don Desserud, consideration of the pros and cons of fixed election dates and how such a regime might be implemented in New Brunswick.
- André Blais, Peter Loewen and Maxime Ricard, a comparison of government life-cycles and durations in countries using different electoral systems.
- David Docherty, an analysis of the role of the MLA in New Brunswick and consideration of how electoral reform might impact on this. This research is based on a comprehensive mail-back survey of New Brunswick's MLAs.
- Munroe Eagles, an exploration of both the procedural and the substantive aspects of electoral boundary drawing, with consideration of best practices across Canada and New Brunswick's prior experiences.
- Joanna Everitt and Sonia Pitre, consideration of the status of women in New Brunswick politics and the comparative impact of different electoral systems on women's political participation.

- Paul Howe, an assessment of voter participation patterns in New Brunswick and Canada with an emphasis on the issue of declining youth participation.
- Roger Ouellette, a focused consideration on the specific implications of electoral and democratic reform for New Brunswick's Acadian community.
- Alan Siaroff, a wide-ranging analysis of the effects of different electoral systems on party systems and pattern of government formation in the advanced industrial democracies.

## Background Appendix: XVII

### Website and E-Consultation Program

Websites today are an essential consultation and information tool. They provide information to people and receive input directly from interested citizens. Increasingly, people utilize websites to learn about issues, find out what's going on, and engage in direct contact with their government.

The Commission was determined to establish an open, transparent consultative process from the beginning. A comprehensive and interactive website was key to this objective. As this had never been fully developed by any provincial government organization, no template existed for what we were attempting to do. This meant breaking new ground in creating and maintaining an interesting, informative, and accessible website for users. We had to be innovative and timely given our resources, translation requirements, and deadlines.

We established certain guidelines for ourselves.

**First, be open.** All meeting agendas and over 30 different staff and research presentations for Commissioners were put on the website as soon as possible before and after each meeting. Citizens and groups could follow our deliberations along with us.

**Second, provide information.** A comprehensive range of learning materials and information for New Brunswickers were put on the website so citizens could study and learn the issues just as we did. One click on "Learning Corner" opened a wide range of information portals for visitors. Eleven different fact sheets were produced. An "A-Z" glossary of electoral definitions was produced. Over 25 articles and readings links on the most up-to-date research and literature were made available. Links to other governments and research institutes were set up.

**Third, engage New Brunswickers.** A dynamic interactive website component was added to give people the chance to give us direct, anonymous input on the issues. This included two major questionnaires - one in the spring and the second in the fall. Our Citizen's Participation Guide contained a comprehensive 50-question survey entitled *Your Turn*. It ran from April to September. Our *Options* progress report contained a 19-question survey. It ran from September to November. Our interactive website also contained easy-access "Quick Quiz" and "Speak Up" features where visitors could answer a new question every few weeks directly online, or send us an e-mail with specific comments on different issues. An e-democracy "town hall" - based on New Brunswick-developed technology through xwave, CGI, and Service New Brunswick - was even tried, although with only limited success.

**Fourth, provide feedback.** We provided summaries of what we heard from New Brunswickers back to New Brunswickers themselves. A synopsis of each public meeting and community leaders roundtable, as well as major forums, conferences, and roundtables was written, translated, and posted on the website for all to see and read.

### The Response

Visitors to our website responded. As our work progressed through the past year, we got more and more visitors to our website. We were in the top half of the most popular provincial government websites with close to 200,000 hits from January 2004 through to November, 2004. We had more hits than departments like Agriculture, Fisheries and Aquaculture, Training and Employment Development and the New Brunswick Youth Council, but fewer than the larger well established departments such as Education, Health & Wellness and Justice.

We had close to 15,000 downloads of our consultation documents - *Your Voice*. *Your Vote*. *Your Turn!* and *Options*.

Citizens liked the interactive opportunities on our website. Close to 750 New Brunswickers responded to our two major questionnaires. We had over 1,600 responses to eleven different "Quick Quiz" questions. We received numerous direct e-mail comments from New Brunswickers.

All of this became part of the input considered by the Commission.

## Background Appendix: XVIII

### *Submissions*

The Commission received submissions from a wide variety of organizations, groups, and individuals. As expected, the Commission was offered a wide range of views and suggestions on democratic renewal in New Brunswick. Each was helpful as we considered the views of New Brunswickers on steps we should take to strengthen and modernize our democratic institutions and practices.

The following kindly offered submissions to the Commission:

- NB Advisory Council on the Status of Women
- New Brunswick Youth Council
- Eric Allaby, MLA
- Association acadienne et francophone des aînés et aînées du N.-B.
- Association des enseignants et enseignantes francophones du N.-B.
- Association des juristes d'expression française du N.-B.
- Association francophone des municipalités du Nouveau-Brunswick
- Lorraine Bourque, Jean Cadieux, Corinne Galant, Simone LeBlanc Rainville, Arsène Richard et Muriel Roy
- Albert Caune
- Comité pour l'actualisation de la démocratie au N.-B.
- Dr. Thomas J. Condon
- Convention 2004 de la Société des Acadiens et Acadiennes du N.-B.
- Dr. Keith Culver
- District Education Council 18
- Ralph Eldridge
- Keith Estay
- Sylvia Fabiani
- Fédération des étudiants et étudiantes du centre universitaire de Moncton
- Fredericton High School, Political Science 120 Class
- Wendell Fulton
- Richard Gagnon
- Donatien Gaudet
- Jean Gaudet
- R.M. Giza
- Harold Goldsworthy
- Hendrik Groll
- Dr. Barry Jones
- Ian Keddy
- Nick Loenen
- Armando Luis
- Edouard Maltais
- Philip Mavor
- Jack MacDougall

- Rev. Dr. Mark G. McKim
- Oromocto High School, Political Science 120 Class
- Chris Paul
- R. N. Peters
- Nathan D. Phillips
- Raymond Richard
- Réseau des femmes francophones du Nouveau-Brunswick
- Société des Acadiens et Acadiennes du N.-B.
- Sue Rickards
- Lucien Saumur
- C. A. Short
- Anne Soucy
- Robert W. Stewart
- Georgina Wallace

## Background Appendix: XIX

### Glossary

The following Glossary has been developed to assist you in following the Commission's mission, mandate and terms of reference. It is based on definitions found in dictionaries and other glossaries.

#### "A"

#### "B"

#### "C"

**Closed List:** A type of ballot found in a List Proportional Representation (PR) electoral system, in which voters can only vote for a political party and its list of candidates. Voters cannot express a preference for any candidate within a party list. (Opposite of an open list)

**Coalition:** An alliance of two (or more) political parties, usually with the goal of forming a government.

**Compensatory Seats:** The list proportional representation seats in a Mixed Member Proportional electoral system that are awarded to political parties on the basis of their vote share to help correct disproportionality in electoral district seat results.

#### "D"

**Democracy:** From the Greek "demos" meaning the people and "kratia", meaning power. It refers to government in which the supreme power is vested in the people and exercised directly by them or indirectly through a system of representation, usually involving elections. See also Legislative Democracy, Direct Democracy and Representative Democracy.

**Direct Democracy:** The concept of people governing themselves by deciding issues directly through a vote, rather than indirectly through electing representatives. The referendum, recall and the initiative are examples of instruments of direct democracy.

**District Magnitude:** The number of members to be elected in each electoral district.

#### "E"

**E-Democracy:** The way in which the Internet can be used to reinforce democratic principles by enabling people to interact with government and allowing government to seek and receive input from the community, through measures such as online voting and consultation.

**Electoral Boundaries:** The geographic limits of electoral districts.

**Electoral Districts:** The geographic areas from which one or more representatives is chosen during an election. Also known as ridings and constituencies. Currently, New Brunswick has 55 single member electoral districts.

**Electoral System:** The set of procedures that determine how votes are translated into seats. New Brunswick and Canada have what is known as a plurality electoral system commonly referred to as First Past the Post. Key elements in an electoral system are the electoral formula, ballot structure and district magnitude.

#### "F"

**First Past the Post (FPTP) electoral system:** A plurality electoral system, which almost always uses single member electoral districts. The candidates and political party receiving the largest vote share are elected. The winning candidate/party does not have to receive a majority of votes to win. Also known as the Winner Takes All electoral system and the Single member Plurality electoral system. New Brunswick's electoral system is First Past the Post, as is Canada's.

**Fixed Election Date:** A recurring, set date or time frame (i.e. the second Tuesday of a particular month) for a general election, usually within a four-year cycle.

#### "G"

**Government:** Refers to the premier and ministers who are responsible for implementing the policies of the political party with the support of the majority of the members of the Legislative Assembly. Also refers to the ministers and public officials who oversee and undertake the day-to-day operations of departments and agencies.

#### "H"



“I”

“J”

“K”

“L”

**Legislative Assembly:** The Legislative Assembly of New Brunswick is the elected component of our system of legislative democracy. It is currently a representative body of 55 members elected from single member electoral districts for a term of up to five years. The government must maintain the support of a majority of the members of the Legislative Assembly to stay in office. The functions of the Legislative Assembly include passing legislation, authorizing the raising and spending of public money, scrutinizing the activities of government, raising issues of public concern, investigating matters of public interest and acting as a forum to publicize the concerns of individuals and groups throughout the province.

**Legislative Democracy:** The institutions and practices of our democratic system, including our electoral system, our legislature and MLAs, and the processes of legislative and governmental decision-making.

**Legislature:** The law-making component of government. In New Brunswick, the legislature is the Legislative Assembly.

**List Proportional Representation (PR) Electoral System:** An electoral system in which each political party presents to the electorate a list of candidates. Voters vote for a party and the parties win seats in proportion to their overall vote share. Winning candidates are taken from the party lists. (Either open lists or closed lists).

“M”

**Majority Electoral System:** An electoral system family, which uses single member constituencies or electoral districts with the objective of ensuring that the winning candidate receives a majority of votes.

**Majority of votes:** More than half, or at least 50 per cent plus 1, of the votes.

**Majority Government:** A government that has the support of a majority of members of the Legislative Assembly or parliament, all of whom are members of the same political party.

**Minority Government:** A government in which the governing political party does not have a majority of the members of the Legislative Assembly or parliament, and therefore relies on the support of members of parties outside the governing political party to stay in office.

**Mixed Member Proportional Electoral System:** An electoral system in which a proportion (often half) of the members of the Legislative Assembly or parliament are elected using the First Past the Post (FPTP) electoral system, in which candidates are elected to represent electoral districts, and the rest are elected using a list proportional representation (PR) electoral system. The list PR seats compensate for disproportionality produced by the FPTP results.

**Multi-member district:** An electoral district, which returns more than one member to the Legislative Assembly or parliament. Until 1974, New Brunswick had multi-member electoral districts.

“N”

“O”

**Open List:** A type of ballot found in a List Proportional Representation (PR) electoral system in which voters can influence which candidates are elected by expressing a preference for a candidate within a party list in addition to voting for the political party of their choice. (Opposite of a closed list.)

“P”

**Participatory Democracy:** A term used to describe more direct voter participation in government and legislative decision-making, such as referendums. It also refers to more involvement by people in the process of government through consultative forums and mechanisms.

**Party List:** A list of candidates put forward by a political party to the electorate in a List Proportional Representation (PR) electoral system. A party list can be an open list or a closed list.

**Plebiscite:** A direct vote of all electors on an important public question. Originally, the term was used to refer to a consultative or non-binding process as contrasted with a referendum, which referred to a binding process. Now, the two terms are used interchangeably.

**Plurality of Votes:** When a candidate or political party receives more votes than his or her opponents, but less than 50 per cent or a majority of all votes cast.

**Plurality Electoral System:** An electoral system that permits a candidate to win a seat without a majority of votes.

**Political Party:** A group of people, recognized by law, who share a common ideology or set of policy principles and who seek to elect representatives to a legislature with the goal of forming the government

**Premier:** The name given to the head of the government of a province. The premier is almost always the leader of the political party that has won the majority or most of the seats in the Legislative Assembly.

**Proportional Representation (PR) electoral system:** An electoral system in which political parties or candidates win seats in the Legislative Assembly based on their vote share. The goal of a PR electoral system is to ensure that legislatures and governments more accurately reflect the preferences of the electorate.

**Proportionality:** The relative state or measure of the proportion of votes cast to seats gained in a legislature.

**“Q”**

**“R”**

**Rank Ordering:** A method of voting in which a voter indicates his or her first, second, third, etc. preferences among candidates listed on a ballot.

**Referendum:** A method of referring a question or a set of questions to the people for a direct decision through a vote.

**Representation:** The idea that one thing or person can stand for another. Within our democratic system, it refers to the concept that the elected Legislative Assembly can stand for or represent the varied interests of the community (geographic, linguistic, cultural, etc.) as a whole.

**Representation and Electoral Boundaries Commission:** In 1991, the Government of New Brunswick put in place a Representation and Electoral Boundaries Commission which conducted its work in two phases. The first phase was to make recommendations on the number of electoral districts, average number of voters per constituency, the appropriate allowable variation in voter population between districts, and the best way to ensure New Brunswick’s aboriginal people representation in the legislature. The second phase was to fix the boundaries of the proposed electoral districts and hold public hearings on its proposal. Copies of the Commission’s reports are available through the Legislative Library of New Brunswick. (Link to the Legislative Library at <http://www.gnb.ca/legis/leglibbib/index-e.asp> )

**Representation and Electoral District Boundaries Commission:** In 1973, the government of New Brunswick put in place a Representation and Electoral District Boundaries Commission to recommend divisions of the province appropriate as electoral districts for the return of members of the Legislative Assembly, and to consider and make recommendations on matters pertaining to representation and distribution of representation in the Legislative Assembly. Copies of the Commission’s reports are available through the Legislative Library of New Brunswick. (Link to the Legislative Library at <http://www.gnb.ca/legis/leglibbib/index-e.asp> )

**Representative Democracy:** A form of indirect rule, necessary for large populations, in which the people transfer decision-making authority to representatives. The term can be explained as the consent of the governed, to be governed.

**Riding:** A geographic division of the province, from which citizens elect a representative to represent them in the Legislative Assembly. Also called a constituency and an electoral district.

**“S”**

**Seat:** A position within the legislature occupied by a Member of the Legislative Assembly.

**Single member Constituency/Electoral District:** A constituency or electoral district from which only one member of the Legislative Assembly or parliament is elected.

**Single member Plurality Electoral System:** Another term for the First Past the Post (FPTP) electoral system.

**Single Transferable Vote (STV) Electoral System:** An electoral system that uses multi-member districts and preferential proportional representation. Voters vote for candidates by rank ordering the candidates on the ballot according to their preference. To be elected, a candidate must surpass a quota of first preference votes. Voters can alternate preferences among political parties, and they may rank order all candidates, or mark only one if they

wish. A candidate who does not meet the threshold is excluded. When a candidate is excluded, or if an elected candidate has a surplus of first preference votes, voter preferences are then re-allocated among other candidates.

**"T"**

**Threshold:** The minimum level of support a candidate or political party requires to gain representation. Usually expressed as a percentage of the total vote.

**"U"**

**"V"**

**Voter Turnout:** Is calculated in Canada as the percentage of electors on the voters list who marked a ballot during an election or a referendum. Voter turnout is also calculated (for example, in the United States) as the percentage of possible voters (who may or may not be on the voters list) who have marked a ballot during an election or a referendum.

**Voters List:** List of names of possible electors used as a control document during the taking of the vote in the polling stations.

**Vote Share:** The proportion of the total votes won by a political party during a general election.

**"W"**

**Westminster System:** A type of parliamentary system used in countries of British origin.

**Winner Takes All Electoral System:** Another term for a First Past the Post (FPTP) electoral system.

**"X"**

**"Y"**

**"Z"**

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