

# Submission to ATIPPA Statutory Review Committee

Michael Connors, Legislative Reporter, NTV News  
August 2014

Given the large amount of ground already covered by other presentations to the committee, I have decided to focus my submission on one particular section of the Access to Information and Protection of Privacy Act that has been the subject of some debate during the hearings.

Journalists often make ATI requests for ministerial briefing notes whenever there is a cabinet shuffle. The material prepared for a new minister getting acquainted with a new department can be equally valuable to a reporter seeking to understand the issues a department is facing and the structure of the department itself.

After Bill 29 became law, ministerial briefing notes were blocked from release for five years. Section 7, paragraphs (4), (5) and (6) say the right of access does not extend

(a) to a record created solely for the purpose of briefing a member of the Executive Council with respect to assuming responsibility for a department, secretariat or agency; or

(b) to a record created solely for the purpose of briefing a member of the Executive Council in preparation for a sitting of the House of Assembly.

(5) Paragraph (4)(a) does not apply to a record described in that paragraph if 5 years or more have elapsed since the member of the Executive Council was appointed as the minister responsible for the department, secretariat or agency.

(6) Paragraph (4)(b) does not apply to a record described in that paragraph if 5 years or more has elapsed since the beginning of the sitting with respect to which the record was prepared.

Several other written submissions to the committee have called for Section 7(4)(5)(6) to be struck entirely from ATIPPA, but the committee has raised some concerns during the public hearings, such as in the following question by chairman Clyde Wells on June 26:

You know that the House of Assembly process is at the very least very competitive if it's not adversarial, and probably adversarial is the better description for it. Politics is competitive. Most adversaries don't broadcast to the other side what their thinking is and the way they're thinking in terms of dealing with and preserving and presenting their positions. Is it reasonable to expect that cabinet ministers should nevertheless do it when they're performing in an adversarial circumstance?

This is arguably a concern for records prepared for sittings of the House of Assembly, as described by 7(4)(b), but not necessarily for records prepared for cabinet shuffles as described by 7(4)(a), which I believe are more likely to be the subject of access to information requests from the media.

In November of 2011, I filed an access to information request for "briefing notes for new minister on

creation of new Intergovernmental and Aboriginal Affairs secretariat." The request followed the swearing-in of Premier Kathy Dunderdale's new cabinet after the 2011 general election. On December 20, 2011, I received a response that my request had been granted, but information excepted from disclosure had been severed. Those documents formed the basis of a series of stories I produced later that month.

I have attached some of the briefing notes I received to the end of this submission. They are just a small portion of all the information I received, but they should give a general sense to the committee of the type and proportion of information made available in these notes before the passage of Bill 29 blocked them from release for five years. The documents may be useful to the committee in determining whether the information disclosed could have been harmful to the competitive interests of politicians in the adversarial setting of the House of Assembly.

Much of the information released was background in nature and would have been publicly available elsewhere, but the documents did contain some interesting and useful nuggets. For example, the briefing note on Senate reform gave some insight into the province's position on Bill C-7, a now abandoned piece federal legislation that tried to establish provincially-run Senate elections and impose term limits on Senators without amending the constitution.

The authors of the briefing note wrote that "the notion that the provincial government should pay for elections to a federal chamber is troubling." They also wrote that the prospect of an upper chamber composed of a mixture of elected and appointed Senators "further complicates the Senate's legitimacy problem." They even theorized that Prime Minister Stephen Harper's practice of appointing failed election candidates to the Senate (Newfoundland's Fabian Manning among them) was a "political move" to ensure that calls for Senate reform increase.

Other details about the government's position on Bill C-7 were redacted because they were considered harmful to intergovernmental relations or constituted policy advice. But the note was more forthcoming about the provincial government's views of Bill C-7 than political leaders had been under public questioning.

Although my ATI request had not been targeted at Senate reform, the release of that information was somewhat serendipitous given the government's reluctance to speak publicly about the issue up to that point.

The following extract from Hansard is from May 24, 2011:

MS. YVONNE JONES, Leader of the Opposition: Mr. Speaker, Alberta, Saskatchewan and BC have all introduced senator election laws. These laws enshrine the principles that senators should be elected by the people of the Province before they have the right to go to Ottawa to represent the people of that Province. Mr. Speaker, we feel it is time for Newfoundland and Labrador to follow and establish our own provincial Senate election laws instead of passively allowing the Prime Minister to appoint and reappoint

political favourites to represent this Province in Canada's Upper Chamber. My question today is for the Premier: Will you commit to introduce laws to facilitate the election of senators in Newfoundland and Labrador and look to elect our first senator in this Province come this fall?

PREMIER KATHY DUNDERDALE: Thank you, Mr. Speaker. Mr. Speaker, appointments to the Senate are entirely within the purview of the federal government. We will certainly make our views known as a Caucus to the federal government as to how we feel about this. In terms of applying any particular energy to this file, Mr. Speaker, my time is taken up in the running of the affairs of this Province and promoting wonderful projects like Muskrat Falls, and that is where my attention will continue to be focused.

MS. JONES: Thank you, Mr. Speaker. We know it is a federal responsibility, we are asking the views of the government opposite knowing that other provinces in Canada have moved to elected Senate, Mr. Speaker. We know that just recently with the retirement of Senator Rompkey, the Combined Councils of Labrador passed a resolution in February asking that the Senate seat be elected. I ask the Premier if she supports that request and if she will make way for it to happen?

PREMIER DUNDERDALE: Thank you, Mr. Speaker. Mr. Speaker, this is the very first time I have heard these comments and questions from the Leader of the Opposition. We have had any number of patronage appointments to the Senate of Liberals in this Province over the years, Mr. Speaker, and never heard a squeak. Mr. Speaker, I am not going to be baited into this discussion. We will make our views known to our federal counterparts, Mr. Speaker. That is the position of this government. We have important things to discuss – very important things going on in this Province, Mr. Speaker – and that is where I would like the debate to be focused.

The issue was raised again in the House of Assembly on May 30, 2011:

MR. KELVIN PARSONS, Liberal MHA: Mr. Speaker, last week I asked the Premier if she would consider senatorial elections for this Province. She replied she had more important business of the Province to consider and this matter rested entirely with the federal government. However, it is of course the job of the provincial government to address the federal government on issues related to the people of the Province, regardless of jurisdiction. I ask the Premier: Will you consider holding this fall elections in conjunction with the provincial election to name a provincial senator elect for consideration by the Prime Minister in filling vacant provincial Senate seats?

PREMIER DUNDERDALE: Mr. Speaker, I can only think that I must be doing

such a good job with my colleagues of running this Province that they want to expand my reach onto the federal government. Now, Mr. Speaker, my own personal view is if anybody goes to represent the people of this Province then they should have the blessings of the people of this Province. Now, Mr. Speaker, anybody who read The Globe and Mail this morning knows where the federal government is and the fact that they are going to introduce legislation. We have been aware of that for some time. Mr. Speaker, there are still a lot of questions that need to be answered. For example, who is going to fund it? Who is going to pay for it? Mr. Speaker, when we get the answers to those questions, then we will say whether or not we are in favour of elected senators.

On one of those occasions, reporters made a request after Question Period for the premier to scrum on the issue, but she declined, leaving us with nowhere else to go with the story. The provincial government seemed reluctant to discuss Senate reform in detail, even as other provinces, such as Quebec, were lining up immediately to state their views and challenge the constitutionality of Bill C-7 in court, as The Globe and Mail reported May 30, 2011:

<http://www.theglobeandmail.com/news/politics/quebec-will-challenge-harpers-senate-reform-bill-in-the-courts/article4263558/>

So back in 2011, any additional information that could be gleaned from ministerial briefing notes had value in discerning the Newfoundland and Labrador government's position on this constitutional matter.

After the release of that briefing note, Premier Dunderdale eventually did speak with reporters in greater detail on the subject following the appointment of Norm Doyle to the Senate in January 2012. On another occasion, she would only provide an e-mailed statement with her position, published in The Telegram on May 20, 2012:

<http://www.thetelegram.com/News/Local/2012-03-20/article-2935088/Reform-the-senate,-but-don%27t-make-the-provinces-pay%3A-Dunderdale/1>

The provincial government's full and detailed position on the constitutionality of Bill C-7 did not become publicly known until the province filed its factum with the Supreme Court of Canada in September 2013.

Senate reform is a national issue that other provincial governments seem willing to discuss at length in public, but our provincial government seemed less willing to participate in that discussion during the life of Bill C-7. If allowing access to ministerial briefing notes can shed some light on the government's position, then I think it's worth allowing.

Concerns have also been raised that releasing ministerial briefing notes creates a "chill" for officials, preventing them from offering frank advice to ministers. As the cover letter of the attached access-to-information release indicates, information was severed from the notes that constituted cabinet confidences, policy advice or recommendations, legal advice/solicitor-client privilege, disclosure harmful to intergovernmental affairs, economic harm and personal information. These exemptions as they existed in ATIPPA's pre-Bill 29 form should be enough to prevent "advice chill".

As for the concern about briefing notes releasing competitive information in an adversarial environment, none of the attached notes appear to contain that kind of information in the non-redacted sections. But the opinions of the elected officials themselves may be worth considering. The following is taken from Hansard on May 6, 2014:

MR. JIM BENNETT, Liberal MHA: Mr. Speaker, last week an enlarged Cabinet welcomed a new Justice Minister. Welcome, minister. I ask the minister: Was he provided with the customary briefing book prepared at taxpayers' expense so he could become acquainted with his new department? If so, will he provide a copy to the Opposition, as was the case before Bill 29?

MR. TERRY FRENCH, Justice Minister: Thank you, Mr. Speaker. I want to thank the hon. minister for welcoming me to the Department of Justice. Member opposite. I could call him one of my learned friends, but I am not to that point yet in my Justice Minister's career. I certainly want to thank him. Yes, Mr. Speaker, whatever I have – we just had Estimates this morning, he is more than welcome to that. He spent three hours asking questions. I do not have a book per se but I have all kinds of notes that he is more than welcome to, Mr. Speaker. I would also say, Mr. Speaker, I am still trying to find my way to the bathroom up there, so when I find out that, he is more welcome to have those directions as well.

MR. BENNETT: Mr. Speaker, the minister admits to not having a briefing book or not bothering to read a briefing book. I ask the minister: Does this mean the new minister does not think Justice is important enough for a briefing book, or does he not think he will be in this role long enough to bother to read up on the issues?

MR. FRENCH: Mr. Speaker, no, I do not have a book per se. As the hon. member would notice, I do not bring books but I do bring files, and I am trying to come up to speed on all the files in the department, and anything that I have in writing the hon. member is more than welcome to read, Mr. Speaker; it is public knowledge. As a matter of fact, there was one book that I read on the weekend; it was the layout of the department, Mr. Speaker. He is more than welcome to have that booklet. It is a considerable length. It is in a binder form. I would be more than happy to provide it for him. He can go through it, and he might even learn a few things about the Department of Justice.

I don't know if the written files were ever shared. Notwithstanding the theatrics of the exchange, there is nothing in the justice minister's answers to suggest any competitive concerns about releasing ministerial briefing notes.

Other presenters to this committee, such as the Office of the Information and Privacy Commissioner,

the opposition parties, the Centre for Law and Democracy, and other journalists have recommended a blanket repeal of Section 7(4)(5)(6). I agree with this. But if the committee is concerned about forcing politicians to disclose competitive information in an adversarial setting, then I believe that concern should only apply to paragraph 7(4)(b), dealing with documents prepared sittings of the House of Assembly. Documents prepared for cabinet shuffles as described by paragraph 7(4)(a) do not, in my view, release politically competitive information when the pre-Bill 29 redactions are made, so that line at the very least should be deleted from the act.

December 20, 2011

Mr. Michael Connors  
NTV  
446 Logy Bay Road  
St. John's, NL  
A1C 552

Dear Mr. Connors:

**Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #IGA/003/2011]**

On November 9, 2011, the Intergovernmental and Aboriginal Affairs Secretariat received your request for access to the following records:

“Briefing notes for new Minister on creation of new Intergovernmental and Aboriginal Affairs Secretariat”

I am pleased to inform you that your request for access to these records has been granted, and the appropriate copies have been enclosed.

As required by subsection 7(2) of the Act, we have severed information that is excepted from disclosure while seeking to provide you with as much information as possible. Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the Act):

- Section 18 – Cabinet Confidences
- Section 20 – Policy Advise or recommendations
- Section 21 – Legal Advice/Solicitor-Client Privilege
- Section 23 – Disclosure harmful to intergovernmental relations or negotiations
- Section 24 – Economic Harm
- Section 30 – Personal Information

Section 43 of the Act provides that you may ask the Information and Privacy Commissioner to review this partial refusal of access or you may appeal the refusal to the Supreme Court Trial Division. A request to the Information and Privacy Commissioner shall be made in writing within 60 days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

34 Pippy Place  
P.O. box 13004, Stn A  
St. John's, NL A1B 3V8  
Telephone: (709) 729-6309  
Facsimile: (709) 729-6500

In the event that you choose to appeal to the Supreme Court, you must do so within 30 days of the date of this letter. Section 60 of the Act sets out the process to be followed when filing such an appeal.

If you have any further questions, please feel free to contact Mark Janes at [markjanes@gov.nl.ca](mailto:markjanes@gov.nl.ca) or (709) 729-5036.

Sincerely,



SEAN DUTTON

**Information Note**  
**Intergovernmental Affairs Secretariat**

**Title:** Senate Reform

**Issue:** To provide information on proposed changes to the Senate.

**Background and Current Status:**

- There have been seven attempts at legislative Senate Reform since Prime Minister Harper's election in 2006, but these represent a piecemeal and unilateral approach. Two bills were introduced in 2010, but both died when Parliament was dissolved for the recent federal election. The current bill (Bill C-7, *Senate Reform Act*) was introduced on June 21, 2011.
- Under Part 1 of Bill C-7, it is proposed the Prime Minister would consider names from a list of PT submitted nominees in his or her recommendation to the Governor General. Under this proposal, a PT election would be held in accordance with PT laws enacted to implement the framework as outlined in the Bill's schedule. This process is similar to the process already approved by AB.
- Part 2 of the Bill proposes to modify the tenure of Senators appointed after October 14, 2008. These Senators would serve a term which expires nine years after the Bill coming into force. This nine-year term can be interrupted and the Senator can be reappointed for the remainder of the nine-year term. The mandatory retirement at age 75 remains.
- On May 18, 2011, PM Harper announced three new Senate appointments: Fabian Manning from NL; and, Josée Verner and Larry Smith from QC. Mr. Manning and Mr. Smith were previously Senators who ran unsuccessfully for the Conservative Party in the 2011 election. Ms. Verner was Minister of Intergovernmental Affairs before the 2011 federal election, but lost her seat. The recent Senate appointments have renewed calls for Senate reform, and the politics of appointing failed election candidates may be a political move by the Prime Minister to ensure these calls increase.
- The current composition of the 105-seat Senate is as follows: Conservative Party – 52, Liberal Party – 45, Progressive Conservative – 2, and Independent – 2. There are four vacancies, including one in NL after Senator Bill Rompkey resigned on May 13, 2011 upon reaching the mandatory retirement age of 75. Seats are assigned by Province/Territory as follows: ON and QC – 24 each; NS and NB – 10 each; BC, AB, SK, MB and NL – 6 each; PEI – 4; and, YK, NWT and NU – 1 each.

*PT Positioning*

- QC, ON, PE, and NS have opposed past Senate reform proposals by PM Harper, preferring comprehensive constitutional reforms over limited, unilateral changes on term limits and elections, with ON and NS calling for abolition of the Senate. QC and ON are threatening a constitutional challenge of the current bill given their concerns that the formal amending procedure is necessary. SK Premier Brad Wall has noted the recent Senate appointments could inhibit progress on Senate reform. NB Premier Alward has recently indicated his support for Senate elections and Bill C-7. NL has not yet taken a public position on the Bill.
- While BC Premier Christy Clark stated she prefers abolishing the Senate, she recently offered other suggestions including electing senators, and/or advocating additional seats for the Western provinces, [REDACTED] Sections 23 – Harmful to Intergovernmental Relations
- AB is the only Canadian province to elect nominees for appointment to the Senate. The elections are held under the *AB Senatorial Selection Act*, which looks six years ahead to see how many AB vacancies will exist in the Senate due to the mandatory retirement age. From 1998 onward, Senate nominees have been elected for six year terms. Whenever a vacancy arises in the senate from AB, the AB government formally requests that the Prime Minister advise the Governor General to appoint from the AB list. AB holds its Senate nominee election at the same time as the provincial general election, and estimates that the cost to run the last election in 2004 election was \$1.6M.

- Stan Waters was elected in the first AB Senate election in 1989 and appointed to the Senate in 1990. Bert Brown was appointed in 2007 as a result of AB's 2004 process to identify Senators.
- SK passed Senate legislation similar to AB in 2008, but it has not been proclaimed. Under the SK's *Senate Nominee Election Act*, Cabinet chooses the number of Senators that will be elected in a given election, which may take place concurrent to a general election or on its own. The nominee with the most votes will be the first on a list, with the other nominees ranked by order of votes. While SK had originally contemplated electing senators in tandem with a provincial election, SK will not hold a Senate vote alongside either the upcoming fall provincial election or municipal elections in 2012.
- MB held consultations on Senate reform and published a Report recommending that the costs of Senate elections be borne by the federal government. It differs from AB and SK in proposing Senators from four MB regions, rather than a province-wide nominee list. MB has yet to draft legislation.

Assessment: Section 23 - Harmful to Intergovernmental Relations

- [REDACTED]

Section 20 - Policy Advice

- Administering Senate selection processes may require additional resources. In NL, while there would be little cost associated with holding a provincial Senator election concurrently with a provincial general election, holding independent Senate elections would cost considerably more. Regardless of the costs, the notion that the provincial government should pay for elections to a federal chamber is troubling. NL would have to pass legislation to govern elections should it decide to elect Senators and implement spending rules, as outlined in the Bill's schedule, as AB and SK have already done.
- From a policy perspective, the Senate has a legitimacy problem in that Senators are appointed, rather than elected. The prospect of a Senate, likely comprised of two types of Senators, those selected in PTs with an election-like process and those who would be appointed (from PTs without an election process) further complicates the Senate's legitimacy problem. Section 20 - Policy Advice
- NL has 1.5 percent of the Canadian population, and holds 2.3 percent (7 of 308) of seats in the House of Commons. NL holds 5.7 percent (6 of 105) of seats in the Senate, [REDACTED]
- On May 30, 2011 Premier Dunderdale responded to questions in the House of Assembly on Senate Reform, noting that there were many questions to be answered about Senate reform but that those who represent the people of the Province "should have the blessings of the people of this Province."

**Action being taken**

- NL is carefully monitoring the progress of federal Bills relating to Senate reform.

Prepared by/ Reviewed by/ Approved by: Thom Duggan / John Cowan / Sean Dutton  
 October 4, 2011

**Information Note**  
**Intergovernmental Affairs Secretariat**

**Title:** Federal presence in NL.

**Issue:** This note provides a high level overview of issues and IGAS's approach to federal presence in NL.

**Background and Current Status:**

- The federal government's presence in NL is important to the province's economy, the effectiveness of federal-provincial relations and NL's place in Canada. IGAS committed to advance the province's interests in these matters in its 2008-2011 Activity Plan. Demanding more federal jobs and offices in NL is also a 2007 Blue Book commitment. IGAS's efforts to enhance military presence in the province are dealt with in a coordinated but separate manner.
- There are three general approaches that IGAS uses to maximize federal presence in the province. One is the development of research and analysis to support the Premier and Minister including briefing notes on reports and other available data on federal presence. In order to help inform and advance a consistent and comprehensive approach to federal presence across government, IGAS also communicates general concerns about federal presence through meetings and correspondence at the Ministerial and official levels with various government and non-government entities. IGAS also takes the lead in formulating specific proposals for enhanced federal presence or addressing specific instances of federal job losses.
- IGAS's efforts focus on both the *quantity* and *quality* of federal jobs:

*Quantity*

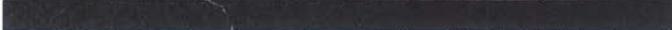
- IGAS advocates for more federal jobs to be located in NL.
- During the period of federal fiscal restraint in the 1990s, federal employment in this province declined at a rate higher than the national average and, since that time, growth has lagged the national average in terms of growth in the federal civil service.
- Despite this the total number of federal jobs in the province is roughly equivalent to NL's proportion of the Canadian population as a whole. A 2010 report from the Atlantic Provinces Economic Council (APEC) on combined federal employment and military personnel shows that the 4 Atlantic provinces would have the top 4 spots for federal employment relative to their respective populations. This suggests the Atlantic region might be at risk of disproportionate impacts if the size of the federal public service is reduced.
- This concern has re-emerged in this new era of federal fiscal restraint, particularly because of statements by the federal government that it will achieve employment reductions through attrition. NL has one of the oldest federal public services in the country.
- The federal government introduced a new expenditure management system in 2007 as part of a commitment to "better manage" government spending. Under this system, all government programs are put through a rigorous evaluation process called "strategic review." As the federal government undertakes strategic reviews of the spending of various departments and agencies in an effort to reduce its budgetary deficit, IGAS is actively monitoring any reductions or elimination of federal programs that could impact federal job numbers in the province, and engages affected departments as needed.
- Exacerbating this threat is the concentration of the federal public service in NL in a small number of departments, in particular the Department of Fisheries and Oceans (DFO) and the Canada Revenue Agency (CRA) which account for 30% and 28% respectively of federal

employees in NL, and as such job reduction initiatives in either of these departments could have a disproportionate effect on NL

- NL's present focus with respect to *quantity* is to press the federal government not to repeat the disproportionate reduction of the 1990s. This subject has been raised with numerous federal Ministers through correspondence and meetings.

*Quality*

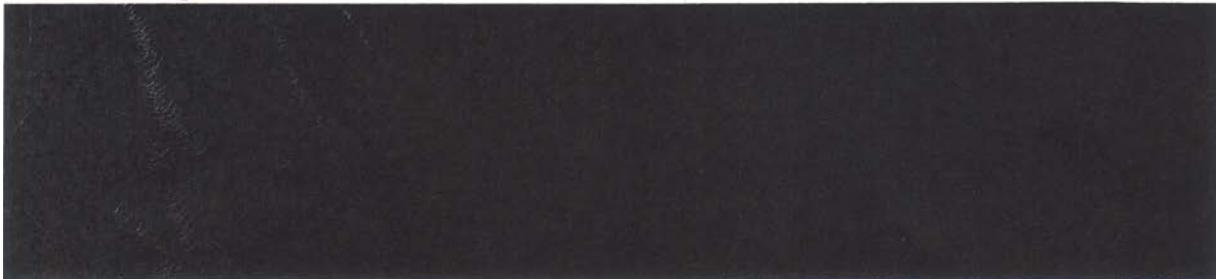
- NL has a disproportionately low number of federal executives based in the province. Moreover, there are more than two dozen federal offices in the Atlantic region that act as an Atlantic regional headquarters but no regional headquarters in NL other than for departments where NL itself is a region (e.g. DFO). There are some offices in the province such as the CRA Tax Centre and Natural Resources Canada's Atlantic Canada Energy Office that provides regional services but these are not regional Atlantic headquarters.



- IGAS's emphasis on the *quality* of federal jobs involves advancing specific proposals for new federal offices and executives while advocating for keeping the ones we have.

Sections 20 and 23

**Action Being Taken:**



Prepared by / Reviewed by / Approved by: Herb Simms / John Cowan / Sean Dutton  
October 4, 2011

**Information Note**  
**Intergovernmental Affairs Secretariat**

**Title:** Federal Strategic Program Review

**Issue:** Federal efforts to balance the Budget may result in decreased transfers to NL.

**Background and Current Status:**

- In Budget 2011, the federal government projected its 2011-12 deficit to be \$32.3 billion. The federal government plans to achieve a balanced Budget by 2014-15 and is targeting up to \$4 billion in annual savings to be achieved by 2014-15.
- In targeting the \$4 billion in savings, Tony Clement has indicated that the principles for the 2011 program review include the following: that core services would not be affected, but programs less “consequential or elemental to Canadians’ way of life” could be eliminated; public service reductions would be “primarily” (not solely) accomplished through attrition; and new user fees are not an “automatic solution” (but apparently aren’t being ruled out). New cutbacks will be identified in Budget 2012. Besides cutbacks to PTs through government-to-government and government-to-citizen transfers, cuts may also affect federal presence.

Major Transfers Section 20 - Policy Advice

- The Conservative Party of Canada (CPC) platform committed to not cutting transfer payments to individuals or to the provinces for essential things like health care, education and pensions. [REDACTED]
- The CPC has made commitments to preserve the 6% escalator on the Canada Health Transfer (CHT) until 2014. No specifics on Equalization or the Canada Social Transfer (CST) were included in the party platform, Speech from the Throne or Budget 2011.

Other Transfers Sections 20 and 23

- In 2010-11, the Province signed 85 intergovernmental agreements, many of which have funding attached. Other multi-year agreements would have also been in effect during that time. NL revenue from “Other Transfers” in 2010-11 amounted to \$512.6M – more than from either the CHT (\$430.4M) or the CST (\$167.1M) for that year. This includes the Labour Market Development Agreement, Labour Market Agreement, Social Housing Agreements, Building Canada agreements, and a host of others – funding for which may also expire. [REDACTED]

- At the July 2011 COF meeting, Premiers agreed to work together to identify key principles that should govern a new agreement on health care with the federal government, and other major fiscal transfers. COF will meet in January 2012 to further discuss major transfer renewal. [REDACTED]

- [REDACTED]

Direct Spending

- Data accessed from Statistics Canada by FIN suggests total federal expenditure in NL in 2008 was \$14,683 per capita, the highest in Canada at that time and more than twice the national average of \$7065. This is the most current data available. While this information contains fiscal transfers and other forms of expenditure, [REDACTED]

- Transfers to individuals, such as Employment Insurance (EI), and direct federal program spending are also important to the provincial economy. Annual EI payments in NL amounted to \$759M in 2009, and changes to duration or amounts of benefits or eligibility requirements could have significant impacts. ON Premier McGuinty and others have argued that differential eligibility requirements and benefits entitlements are unfair to workers in low unemployment regions.

- [REDACTED] In a recent interview, Finance Minister Jim Flaherty said, "no organization should assume in their budgeting that every year the government of Canada is going to give them grants because there's lots of competition, lots of other festivals, and there are new ideas that come along."

- [REDACTED]

- [REDACTED]

**Action Being Taken:**

- IGAS will work with other departments on any pending cutbacks or vulnerabilities.

Prepared by/ Reviewed by / Approved by: Thom Duggan / John Cowan / Sean Dutton  
October 4, 2011

**Information Note  
Intergovernmental Affairs Secretariat**

**Title:** Defence-related Issues in Newfoundland and Labrador

**Issue:** There are a number of defence-related issues ongoing that are important to NL from both a public safety and economic development perspective. The following provides an overview of those defence-related issues that are presently most active. This note has been prepared for information purposes upon the initiative of the Secretariat.

**Background and Current Status:**

- NL is home to three military installations: Canadian Forces Station (CFS) St. John's, Canadian Forces Base (CFB) Gander (9 Wing), and CFB Goose Bay (5 Wing). An overview of each of these installations is appended to this note.

5 Wing Goose Bay

- Low-level flying is no longer a commonly used tactic and since 2006 foreign military training at 5 Wing has declined significantly, with survival training for small groups of paratroopers and German Special Forces soldiers comprising the main activity. Only the Canadian Forces maintains a regular presence at 5 Wing, but does so with very few dedicated fixed wing aircraft. Since the North Atlantic Treaty Organization (NATO) training partners pulled out, the community has been seeking to identify an operational requirement for the Base to ensure its long-term survival.
- Most support services at the Base are delivered by Serco, under a Department of National Defence (DND) contract which expires in 2014.
- In a January 4, 2006 letter to then Premier Williams, then leader of the Opposition Stephen Harper promised, if elected, to station a Rapid Reaction Battalion (RRB) with a complement of 650 regular force personnel for enhanced Atlantic army response at 5 Wing; station a long range Unstaffed Aerial Vehicles (UAVs) squadron at 5 Wing to provide surveillance over the Atlantic Ocean and Eastern Arctic; and maintain a foreign military training (FMT) program and encourage increased allied military training operations at 5 Wing.
- Minister MacKay has since made it clear that the federal government has no plans to station a RRB at 5 Wing. In a June 3, 2009 letter to Minister Denine, Minister MacKay noted that options for RRBs are not included in the Canada First Defence Strategy (CFDS) and furthermore that the 'government currently has no plans for investment in Goose Bay. [REDACTED]

- The June 3, 2009 letter cited above was silent on the promised UAV squadron for 5 Wing. [REDACTED]

- In his April 25, 2011 letter to Premier Dunderdale during the federal election, the Prime Minister noted that the federal government is 'moving ahead' with its commitment to increase operations [REDACTED]

at 5 Wing and will continue its marketing assistance for the foreign military training program. However, the letter did not explicitly reference the UAV squadron commitment. During a campaign stop in NL, the Prime Minister noted that the “[federal government’s] promise on 5 Wing Goose remains our commitment.”

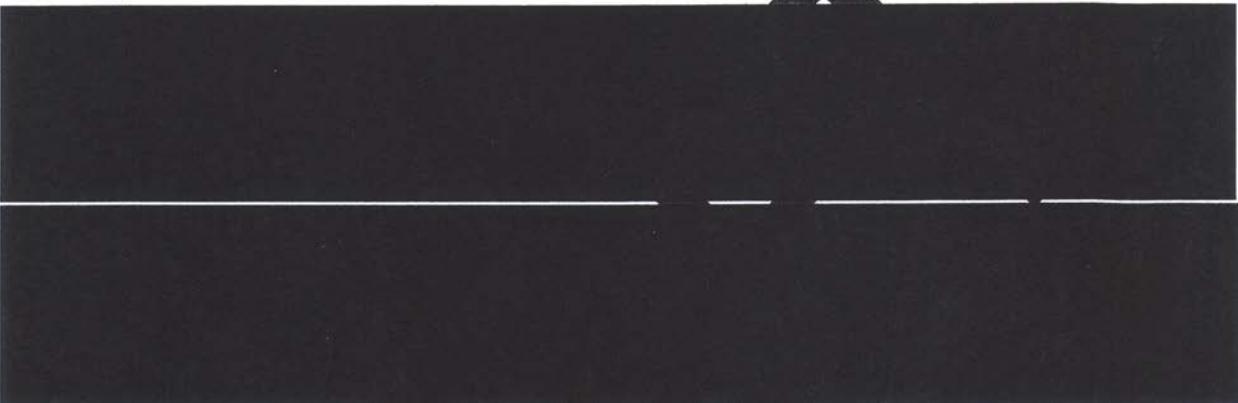
- DND continues to market 5 Wing Goose Bay to NATO countries as a training destination, with limited success. These efforts have been thwarted in recent years by budget constraints facing NATO defence departments.
- In 2010, the Base was advised that it could be selected as the location for a NATO close air support/forward air control training exercise called CASEX 2010. Had this proceeded, the exercise would have brought 600-800 personnel, principally from NATO countries. Ultimately, the training exercise was scaled back and held in the US, at a location closer to the aircraft required to conduct the training. This change was necessary to make the training more economical for the participants. High transportation costs to get equipment to 5 Wing and defence budget reductions in many NATO countries have been cited as the reason why 5 Wing was not selected to host the exercise in 2010.
- 5 Wing Goose Bay was under consideration to host this training event in 2011, though the budgetary concerns present in 2010 persisted and resulted in this exercise again being conducted in the US.
- The Province seeks to assist marketing efforts by providing the Base to Ambassadors and other diplomats from Allied countries when they visit NL. It also assists DND in navigating the provincial system to seek regulatory approvals for its activities.
- DND has registered Supersonic Flying for environmental assessment. While the Base does not have an existing customer for this type of training, supersonic flying is intended to be added to the suite of training options for 5 Wing to make the Base more attractive as a training destination.

#### Search and Rescue (SAR)

#### Section 23 - Harmful to Intergovernmental Relations

- Since the Cougar crash in March 2009, there has been increased scrutiny of all aspects of SAR response.
- The Province’s initial concerns stemmed from the fact that 103 SAR Squadron in Gander, the primary SAR responder in NL, maintains a 30 minute response time (time until airborne) between 8am-4pm Monday to Friday, but only a 2 hour response time thereafter and on statutory holidays.
- On February 8, 2010, Offshore Helicopter Safety Inquiry (OHSI) Chair Justice Wells, advised that establishing a “fully dedicated first response helicopter which can be ‘wheels up’ in 15 to 20 minutes” at Cougar Helicopters is “an essential priority which should be addressed forthwith and implemented as quickly as possible.”

- A DND Task Force struck to study SAR recruitment and retention reported (based on a redacted version of the Task Force's report that was published by the CBC on October 21, 2010) that there is a SAR personnel shortage that could result in 103 Squadron in Gander becoming unable to perform SAR operations without assistance from other DND bases in the near future. This report also noted competition from private sector SAR providers as reason for DND SAR personnel shortages.
- On February 1, 2011 Minister Skinner appeared before the House of Commons Standing Committee on National Defence, which was conducting hearings on SAR response times, to discuss NL concerns. Minister Skinner noted that it is the Province's position that DND should work toward the goal of providing all those who work offshore, whether in the energy sector, in the fishery, or in marine transport, the SAR response times recommended by Justice Wells during the OHSI.



- In his April 25, 2011 letter to Premier Duceppe during the federal election, the Prime Minister conceded that "there is more that could, and should, be done" to improve SAR response in the country, and committed to 'work with [the Provincial government] to ensure that the citizens of Newfoundland and Labrador have secure access to search and rescue capabilities."
- An October 4, 2011 *CBC* article, published after the *Fifth Estate* ran a piece on SAR response times, indicated that Premier Duceppe plans to vigorously pursue the issue of search and rescue with the federal government.

#### Section 23 - Harmful to Intergovernmental Relations

##### 2011 'New Energy' Blue Book

- Government will continue to press the federal government in commissioning a comprehensive review of marine safety in waters off NL. The platform notes that a review of safety may lead to recommendations that some of the safety functions consolidated in Ontario and Nova Scotia might be better consolidated in NL; or that the safety functions of 9 Wing Gander, 5 Wing Goose Bay and CFS John's should be bolstered to improve marine safety; or that NL bases of operation could serve as staging grounds for Northern Gateway operations extending into the Arctic; or that existing expertise in marine technology, R&D, industry and training in NL could be harnessed more effectively to promote Canada's supremacy in maritime search and rescue.

#### **Action Being Taken:**

- IGAS will continue to monitor all defence-related issues which impact the province.

Prepared by/Reviewed by: Mark Janes/Sean Dutton  
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**Appendix I: Overview of Military Installations in NL**

Descriptor	5 Wing Goose Bay	CFS St. John's	9 Wing Gander
Approximate Annual Budget	\$90 million	\$35-45 million	\$17 million
Personnel	Approximately 440 regular force, DND employees, and Serco employees	Approximately 1250 regular force, reservists and civilians	Approximately 260 regular force personnel, reservists, and civilians
Operational Requirement	None	Provides operational support services to Navy vessels and military aircraft transiting St. John's, and 15 Reserve Units attached to the base.	Search and Rescue, and transient aircraft servicing to visiting CF and allied aircraft.
Units	<p>444 Squadron Two Griffon helicopters 42 personnel</p> <p>444 Squadron provides rapid response to local emergencies which occur during military flight operations at 5 Wing.</p> <p>444 Squadron also provides secondary SAR capability to assist SAR operations in the region.</p>	<p>Over 10 Local Reserve Units serviced in addition to 1000 units.</p> <p>1st Battalion Royal Newfoundland Regiment; 2nd Battalion Royal Newfoundland Regiment; 37th Canadian Brigade Group Detachment St. John's; 6 Royal Newfoundland Service Battalion; 7th Field Engineer Squadron; Air Force Flight Team; 7th Communications Squadron; Reserve Medical Detachment; HMCS Cabot Naval Reserve; and, Canadian Forces Naval Engineering School Detachment; as well as four cadet corps.</p>	<p>103 Squadron: Three CH-149 Cormorant helicopters, operated by 50 military personnel (regular complement) and 26 civilian employees</p> <p>9 Air Reserve Augmentation Flight, a reserve unit which helps support the operational, administrative, and technical functions of the base.</p> <p>Airfield Engineering Reserves - reservists who support UN and Canadian Forces deployments worldwide.</p> <p>CFS Leitrim Detachment - operates and maintains signals intelligence collection and geo-location facilities in support of the Canadian cryptologic program. It also operates and maintains radio frequency finding facilities in support of SAR and other programs.</p>

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