

EMPLOYMENT INSURANCE: NEXT STEPS ON THE ROAD TO RENEWAL

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AUTHOR AND ACKNOWLEDGEMENTS

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FOREWORD

“When life becomes a zero-sum game, when competition is seen as the sole basis for organizing society, when targeting social benefits that should be universal shows that some gain and some don’t but everybody pays, when austerity tells us that there’s less in the pot so what one gets the other loses, when work is increasingly precarious with few benefits and fewer prospects, when household debt is so high that many families couldn’t survive a crisis, when the future looks bleaker for our kids, when we no longer believe the state is able or willing to help, why are we surprised that elections can turn on anger, resentment and despair?”¹

ALEX HIMELFARB

Member of the Board of Directors, Atkinson Foundation
Former Clerk of the Privy Council, Government of Canada

Surprise is no longer a reasonable response to the evidence that Canada’s social infrastructure is crumbling. Like many structures built in the 20th century, it has what realtors would call “good bones” — social services, programs and benefits that can be counted on to provide insurance against the risk of unemployment, illness or disability, and support during individual transitions and economic disruptions. It’s a shared asset that puts Canada among the healthiest and wealthiest countries in the world.²

But there are cracks in the foundation and signs of neglect throughout. Short-term fixes have been favoured over major renovations, deferring costs but not escaping consequences. A 2015 inspection by the Mowat Centre pointed out the “large gaps that now threaten the well-being and economic prosperity of Canadians.”³ Among the most significant challenges can be found in Canada’s Employment Insurance Program.

No one was surprised, therefore, when the Prime Minister did not envision minor repairs or improvements to the program after the 2015 election. Instead, he set a more ambitious goal: wholesale modernization. The cabinet minister responsible received a mandate letter citing the realities of the changing labour market, narrow eligibility requirements, and ambiguity about the use of EI contributions. The letter authorized a broad review based on the premise that renewal is possible.

Renewal is concerned with the revival of the values, principles, feelings and commitment experienced at the conception of a national program like EI. It’s about the restoration of the basis upon which decisions about policy, practice and procedure are made. When the foundation can no longer hold the weight of past decisions or bear unanticipated stresses, it’s time for renewal.

Renewal is concerned with the revival of the values, principles, feelings and commitment experienced at the conception of a national program like EI.

- 1 Himelfarb, Alex, ‘We Need an Antidote to Complacency and Resentment’, *Alex’s blog*, October 14, 2018, available at <https://afhimelfarb.wordpress.com/2018/10/14/we-need-an-antidote-to-complacency-and-resentment/>, accessed January 20, 2019.
- 2 Wilkinson, Richard and Kate Pickett, 2010, *The Spirit Level: Why Equality is Better for Everyone*, Penguin Books, London.
- 3 Granofsky, Thomas, Miles Corak, Sunil Johal and Noah Zon, 2015, *Renewing Canada’s Social Architecture Framing Paper*, Mowat Centre, May 13, 2015, available at <https://mowatcentre.ca/renewing-canadas-social-architecture-framing-paper/>, accessed January 20, 2019.

The Atkinson Foundation agrees that this is the right time to renew EI and, through the process, to renew our belief that collective progress is possible. This belief defines the time in which EI was created as much as the opposite defines ours. It took Joseph Atkinson and his contemporaries three decades to raise public expectations at the start of the last century. They were reduced to rubble by three decades of cutbacks and attacks on the efficacy of government at the start of this century.

Alex Himelfarb has written that the biggest impact of austerity is that it stunts the political imagination. It makes us doubt what we can achieve together. We're left wondering if we're on our own to handle hardship, and worried that no one has our backs.

At Atkinson, we know this is not true. We can imagine a renewed EI because we know people who are in the process of transforming it. A growing number of us are taking responsibility to make sure the next generation knows its value and inherits a social asset, not a liability.

That's why we convened a roundtable in the fall of 2017 to contribute to this renewal process.⁴ And that's why we have collaborated with Dr. Donna Wood and her colleagues to produce this paper as a starting point for an even broader conversation with everyone who has a stake in the future of EI.

This is your invitation to participate in this effort. Your perspective is important if you're jumping into the conversation for the first time or have been seized by the program's challenges for a long time.

The review promised by the Prime Minister in 2016 is our chance to demonstrate that the challenges described in this paper are not unsurmountable. Perhaps more importantly, it's an opportunity to reclaim the program's timeless values as our own. Twice since 1940, EI has been the subject of a comprehensive review in response to profound changes in labour market conditions, public expectations and fiscal priorities. It's our turn to do this kind of work on the road to renewal.

One thing is clear: we can't continue down the road that leads to deeper and more dangerous anger, resentment and despair. What was built as insurance against unemployment in the 1940s and rebuilt as a bridge to training and jobs in the 1990s can become more relevant, fair and effective in the future — one step at a time.

We're calling on the federal government to take the next steps found in this paper before another election, and hope you will do the same. I'm looking forward to being surprised by what all of us working together can accomplish.

COLETTE MURPHY

Executive Director, Atkinson Foundation

JANUARY 2019

One thing is clear: we can't continue down the road that leads to deeper and more dangerous anger, resentment and despair.

4 Atkinson Foundation, 2017, *Employment Insurance @ 75: A Roundtable on Canada's Decent Work Program*, October 20, 2017, available at https://atkinsonfoundation.ca/site/uploads/2018/02/Atkinson_DecentWorkRoundtable-Bundled-1.pdf, accessed January 20, 2019.

OVERVIEW

This paper is about renewing Employment Insurance for a new generation. Like Medicare, EI is highly valued by Canadians as part of our social safety net. It is an expression of our willingness to share risk and take care of each other during work disruptions.

The last time EI was significantly reformed was the 1990s. Through a series of incremental cuts, steps were taken to restrict access, decrease benefit amounts, reduce the length of time for which benefits could be claimed, and lower premiums.

SIX CHALLENGES

The paper focuses on six *policy*⁵ challenges that make today's Employment Insurance program less relevant, fair and effective.

1. **Coverage:** There is a gap between those who are eligible for EI and those who need it.
2. **Variable entry requirements:** There are regional inequities in eligibility for the program.
3. **Adequacy:** Benefits are inadequate to meet workers' needs during a jobless period.
4. **The impact of re-distribution:** Some regions and industries contribute more and benefit more than others. This undermines solidarity toward the program as a whole.
5. **Discrimination:** Many workers pay into the program but cannot ever draw benefits from it.
6. **Governance:** The representatives of workers and employers – the people who finance the program – have been sidelined in the decision-making process.

These challenges are drawn from an extensive Canadian literature assessing and critiquing the reforms of the 1990s. The paper is also informed by those who advocate for workers seeking access to EI today. To compare what has happened to EI in Canada, it also looks outward to how other developed nations provide unemployment insurance to their citizens.

The purpose of this paper is to help inform those who are ready to tackle these challenges within a comprehensive program review. In 2016, the Prime Minister asked the Minister of Families, Children and Social Development to undertake such a review within this mandate. Recommendations for the structure and scope of the review are included at the end of this paper.

The purpose of this paper is to help inform those who are ready to tackle these challenges within a comprehensive program review.

5 EI *administrative* issues are not considered in the paper, as these have been recently explored through the Employment Insurance Quality Review (ESDC 2017) and the Social Security Tribunal Review (KPMG 2018).

THE PROGRAM'S SCOPE AND RECENT HISTORY

Over almost 80 years, EI has become Canada's most important income support program for adults aged 18 to 65. In 2016 it comprised 36% of all government income support expenditures on this target group (Tweddle and Stapleton 2018).

As a national program available to workers wherever they live, Employment Insurance is the Government of Canada's primary policy tool to help workers deal with job change and unemployment. EI also helps the federal government achieve its social and economic goals.

Employment Insurance has three main components:

- regular income support benefits (including fishing and work-sharing benefits)
- special income support benefits (including maternity, parental, sickness, compassionate care, and benefits for those caring for the critically ill)
- employment services (essential training and other adjustment programs for unemployed workers)⁶

In 2016-17 there were 1.8 million new claims for EI income support benefits, with a total benefit payout of \$18.5 billion. That same year 751,872 Canadians took advantage of EI employment services, regardless of whether they were receiving EI income support.

The Canada Employment Insurance Commission (CEIC) oversees the program. The Commission is made up of two senior federal civil servants plus a Commissioner for Workers and a Commissioner for Employers, nominated by their respective communities.

EI income support benefits — known as EI Part I — are delivered directly by federal public servants working for Service Canada. Employment and training services — known as EI Part II — are managed primarily by provinces, territories, and Indigenous organizations through a variety of administrative agreements.

THE REFORMS OF THE NINETIES

EI has been in decline since 1990, when the Government of Canada stopped contributing money to the program, leaving all costs to employers and workers. Around the same time, the Organisation of Economic Co-operation and Development (OECD) and other experts began framing the program as too 'generous'. They raised concerns about how it contributed to 'structural' unemployment and created 'disincentives to work'.

This narrative resulted in a change in the program's name - from *Unemployment Insurance* to *Employment Insurance*. The reforms of the 1990s were meant to focus more resources on 'active' employment supports than 'passive'

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⁶ This paper does not discuss policy issues arising from the employment services side of EI, which is primarily managed by provinces and territories through Labour Market Development Agreements.

measures. The result was a series of deep cuts to income support benefits.⁷ Almost three decades later, the benefits that unemployed workers receive from Employment Insurance are a pale shadow of what was available in the past.

Today, workers and their advocates often describe the program as irrelevant because benefits are so low and the barriers to access are so high. Many workers don't understand why they should be required to pay into a system that is not available to them when they need it. Still others want to know why they are not covered at all by EI and can't access its benefits. Some find the program so confusing that they draw false conclusions about their eligibility, deterring them from making claims.

Many misunderstandings and misconceptions about the program have accumulated over this period. There is an ongoing need to correct facts and call out myths to have a productive conversation — and that is also an objective of this paper.

7 A detailed chronology of UI and EI reforms is appended to this paper.

EMPLOYMENT INSURANCE: THREE FACTS AND A MYTH

1. **FACT: EI is an insurance program.**

EI is currently paid through mandatory contributions levied on workers and employers. It forces savings and shares the risk of unemployment across all contributors. It provides income security to individuals as opposed to families, making it different from programs such as child benefits financed from general tax revenues. It is also highly distinct from last-resort social assistance.

2. **FACT: Unemployment insurance is critical in stabilizing incomes during economic downturns in any country.**

Unemployment insurance has been an important macroeconomic adjustment tool. That means it speeds up the bounce-back after economic recessions. It played a vital role in stabilizing the incomes of Canadian workers during the downturns of the early 1980s, the early 1990s, and 2008 (Dungan and Murphy 1995 and 2012).

However, the reforms of the 1990s eroded the program's capacity to perform as a macroeconomic adjustment tool. In the early 1990s, 84% of the unemployed were eligible for UI/EI benefits. Today, that figure is only around 40%.

3. **FACT: Constitutionally, EI is an exclusive federal responsibility.**

Provincial governments have no veto over EI. When the program was established in 1940, responsibility for governance and costs were shared by business, labour, and government. Today, employers and workers pay 100% of program costs, but their voice in decision-making has significantly diminished.

4. **MYTH: It mostly benefits rural Atlantic Canada.**

EI promotes a more efficient labour market by allowing time for job searches to help all workers find jobs that meet their skills and experiences. That's true for all workers, not just those working in rural and remote communities or in seasonal industries such as agriculture, forestry, or the fisheries.

EI is one of Canada's most important poverty prevention tools. One national study compared the incomes of the unemployed before, after, and during a period on EI from the years 2000 to 2007. Without EI, the percentage of families below the low income cut-off would have doubled from 7% to 14%. (Kapsalis 2010).

THE CASE FOR A REVIEW

Employment Insurance has become a very complex program over time. Every federal budget announces tweaks and adjustments to bolster one constituency or another. We have not adequately dealt with the consequences of earlier reforms for workers and workplaces. Nor have we come to grips with the rising number of workers who are not covered by the program. Freelance and contract workers who do not pay into it cannot benefit from it. Many other low-wage workers pay into it but will never be able to receive benefits.

ACORN Canada is an independent national organization of low and moderate income families. In 2017, they released a report on their member's experiences with EI, [It's Time to Modernize and FIX EI!](#). They have identified these problems:

- It's too hard to access benefits.
- It's too hard to keep receiving benefits that claimants are entitled to.
- It's too intrusive into worker's personal affairs.
- Payments are not enough.
- There is inadequate job training.

Business, labour, provincial and territorial governments, and civil society organizations also have a long list of concerns. In sum, there are six challenges confronting decision-makers today.

CHALLENGE #1: THE COVERAGE GAP

Over the program's lifespan, coverage and access to unemployment insurance has changed considerably. At the beginning of the program in 1940, just over 42% of the workforce was covered by the legislation (Pal 1988, pg. 38-41).

The first set of reforms came in the 1950s, as our elected representatives worried about poor coverage and mass unemployment after the war. They introduced supplementary benefits for those who did not qualify for regular benefits. The result was that the number of Canadians receiving benefits actually exceed the number of unemployed people (Yalnizyan 2009).

The program was opened wider in 1971, adding maternity, sickness and disability, and retirement benefits to the mix.

In 1990 the federal government noted that there were "about 95% of all workers in Canada employed in 'insurable employment' and therefore eligible for unemployment insurance" (Health & Welfare 1991, pg. 180). By 1998, the situation had drastically changed.

USING THE B/U RATIO TO MEASURE THE DROP IN COVERAGE

The traditional technique used to measure UI/EI access and coverage has been through the Beneficiaries-to-Unemployed (B/U) ratio. It provides a 'point in time' snapshot, by:

- calculating the number of workers receiving regular EI benefits, divided by
- the number of workers who are officially unemployed, and
- multiplying the result by 100 to express the ratio as a percentage.

The changes in the B/U ratio before and after the reforms of the 1990s tell a dramatic story. In early 1990, the ratio showed a coverage peak of 84%. By 1997, it had declined to 43% (Gray and Busby 2016). Since then, it has hovered around 40% nationally. It is even lower in urban Canada – less than 30% (Battle 2009, pg.5).

In 1998, the federal government concluded that roughly half of the drop in the B/U ratio was due to the *policy* changes of the 1990s restricting access to EI. The other half of the drop was mainly attributable to *structural* changes in the labour market (HRDC 1998).

POLICY CHANGES AND THE DROP IN COVERAGE

Two policy changes reduced access the most significantly.

Disqualifying voluntary quits and firings: Workers who quit or are fired *for cause* (in other words they did something wrong that led to their firing) are now mostly excluded from benefits. Those who are laid off or fired *without cause* are eligible.⁸ Through the reforms of the 1990s the quit rules became much more restrictive than they had been previously. For example, someone who leaves work for family responsibilities will not be covered unless eligible for maternity and parental benefits (Townson and Hayes 2007).

Changing eligibility criteria from weeks-worked to hours-worked:

The reforms rebased qualifying periods around hours worked in a year, rather than weeks. This change effectively doubled the number of hours needed to qualify.⁹

These access changes were particularly hard on women who, more than men, leave their jobs for family reasons or to avoid workplace sexual harassment. In addition, far more women work part time and therefore qualify for benefits less often under the new rules.

STRUCTURAL CHANGES AND THE DROP IN COVERAGE

Structural changes in the labour market play hand in hand with the EI reforms of the 1990s to further erode coverage. They include:

The growth in non-standard or 'precarious' jobs: These are part-time jobs, full time temporary jobs or contracts, and self-employment. The share of non-standard jobs in total employment increased from 28 per cent to 34 per cent from 1989 to 1994 and has been stable since then.¹⁰ Non-standard work provides firms with a flexible workforce that adjusts to their needs. Some

EI CHALLENGED: CHARLOTTE

Charlotte has worked as a legal secretary for the past five years. Her employer sexually harassed her, so Charlotte quit her job. She is refused EI benefits since her employer says she quit for no good reason. Charlotte can appeal but this will take time. Besides, it is her word against his.

8 Just cause for quitting includes health and safety reasons, a spousal move for employment to another area, sexual harassment and so on. MASSE (2018, pg. 8) believes that government decisions are often prejudiced in favour of employers' versions of events.

9 For a detailed explanation of this effect, see [MASSE 2018](#), and Townson and Hayes 2007.

10 Some studies predict that non-standard jobs will be 40% of all jobs by 2020 (Neuner 2013). The jobs are also hard to classify, with many people identified as independent contractors when they are really employees.

people prefer non-standard work for the flexible arrangements, while others would prefer to work full time (Busby and Muthukumaran 2016). For workers in the 'gig' economy, EI is meaningless. They do not pay into the program and are therefore ineligible for benefits.

The growth in the number of long-term unemployed: These are people who have been searching for a job for at least 12 consecutive months. Canada's long-term unemployment rate increased from 7.1% in 2008/09 to 12.1% in 2016/17. Likewise, the percentage of unemployed Canadians without recent work experience increased from 29% in 2008/09 to 38.3% in 2016/17 (CEIC 2016/17). Without enough hours of insurable employment accumulated over the previous 52 weeks, these workers cannot qualify for EI benefits.

Growing employment in the service-producing industry: Workers in service-producing (as opposed to goods-producing) industries work fewer hours each week on average. Some are also subject to seasonal layoffs. As a result, they may have more difficulties qualifying for EI benefits. Because they earn less on average, they also receive lower benefit rates when an EI claim is established (CEIC 2016-17).

Which of these factors played more significant roles in reducing EI coverage? Gray and Busby (2016) concluded that, of those not eligible for EI, the greatest number had not worked in the past 12 months. This was followed by those who had quit or been fired from their jobs, were self-employed, or had insufficient hours to qualify.

ONE BARRIER PARTIALLY CLEARED AWAY

EI recipients participated in focus groups as part of the evaluation of EI Part I in the late 1990s. They were critical of the two-week waiting period, a gap during which many had difficulty making their monthly payments. While many other countries have a waiting period, Canada's was found to be the longest. Some countries had none (HRSDC 2006).

In 2017 the federal government reduced the two-week waiting period to one week. This was expected to ease financial strain on EI claimants, giving them an additional \$650 million annually (Telegram 2016).

A NEW MEASUREMENT TOOL MASKS THE DECLINE IN COVERAGE

There are differences of opinion over measuring the EI coverage gap. When they assessed EI reform post-1996, federal officials concluded that the B/U ratio was not an appropriate indicator. Working with Statistics Canada, the federal government developed an alternative measure: the Employment Insurance Coverage Survey (EICS).

The EICS looks at how effectively the EI program serves *contributors*, as opposed to the *people who are unemployed*. This narrower definition excludes by design people who:

- have little to no attachment to the labour force, such as many immigrants and youth;

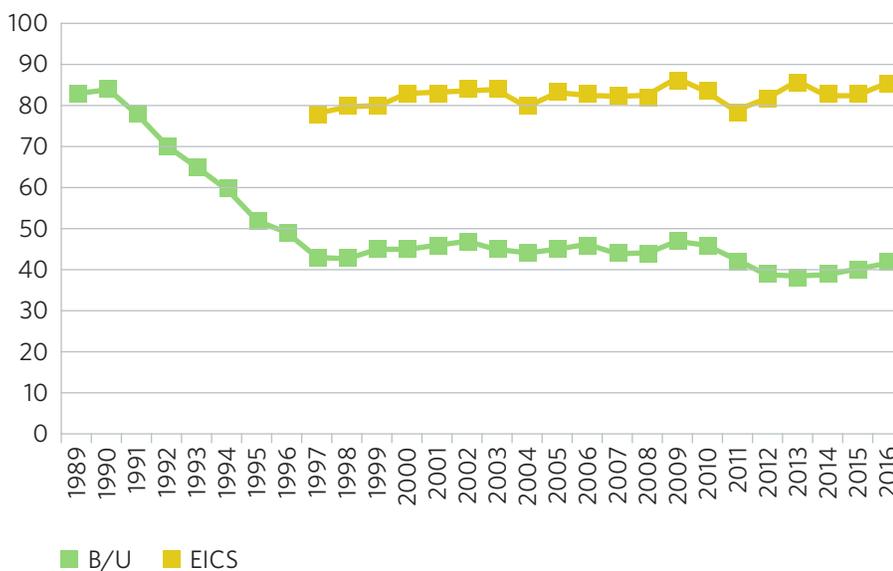
EI CHALLENGED: FRIEDA

Frieda works as an Uber cab driver. She is not eligible to pay into EI because she is not considered to be an employee, even though she works for no other employer. She has been forced to stop work due to illness. She cannot qualify for EI sickness benefits as she does not pay into the program.

- are not contributing to EI; and,
- have quit their jobs without just cause.

Figure 1 compares the trajectory of the B/U ratio with that of the EICS over the period 1989 to 2016. In 1997 — the first year the EICS was calculated — the EICS was 78%. By 2001, it had increased to 83 per cent. This provided federal officials with the evidence they needed to declare that the EI program was “meeting its main objective of providing temporary benefits to Canadians between jobs” (Shillington 2001, pg. 23).

FIGURE 1
 Comparing the Beneficiary to Unemployed (B/U) Ratio to the Employment Insurance Coverage Survey (EICS)



Source: Employment Insurance Monitoring & Assessment Reports

Many stakeholders and advocates disagree with this rosy assertion. The 1998 HRDC report that concluded “the B/U ratio is a bad indicator” created considerable backlash. The dissenters pointed out that the B/U ratio allowed for longitudinal comparisons with UI coverage in earlier decades. It also provided critical information about who is not covered by EI, highlighting ‘non-standard employment’, which EI does not serve well.

The debate over measurement continues. While the government’s annual EI Monitoring and Assessment reports do identify the B/U ratio, it is noted as an inferior measure to the EICS.

In contrast, most advocates and stakeholders use the B/U ratio to illustrate problems with EI access and coverage. The question of who “deserves” versus who “needs” coverage is at the centre of this measurement challenge. When people cannot agree on how to measure a problem, it is unlikely they will take action to rectify it.

When people cannot agree on how to measure a problem, it is unlikely they will take action to rectify it.

CHALLENGE #2: VARIABLE ENTRY REQUIREMENTS

El's Variable Entry Requirements (VER) have been in place since 1977. The principle behind these requirements remained unchanged through the various El reforms of the 1990s, and remains in place. Today, the VER is one of the most contentious features of Canada's El program.

The idea behind the VER is this: The greater the regional unemployment rate, the job search difficulties of unemployed people must be greater.

There are 64 El regions in Canada. These are superimposed on the 13 provinces and territories. VERs stipulate that people living in regions with an unemployment rate of less than 6% require 700 or more hours of insurable employment to qualify for El benefits. By contrast, workers living in regions with an unemployment rate of more than 13% require only 420 hours to qualify.

The VER also impacts the length of benefits. Workers in high-unemployment regions of over 13% are entitled to collect benefits up to a maximum of 45 weeks. Those in regions with an unemployment rate under 6% have a maximum of 36 weeks.

NATION BUILDER OR REGIONAL WEDGE

Canada is unique among OECD countries in using variable entrance requirements based on local unemployment rates (HRSDC 2006). In its World Economic Outlook of October 2008, the International Monetary Fund argued that this design feature of Canada's system should be emulated worldwide (Osberg 2009).

Certainly, federal officials remain supportive of the VER as the way to ensure that potential claimants across Canada have roughly equal access to benefits, taking into account regional labour conditions. The evaluation of the 1996 El Part I reforms concluded that "the VER appears to work well in equalizing eligibility rates" (HRSDC 2006, pg. 38).

Most Canadian economists are unconvinced, citing El's variable entry requirements as the key feature of El in most need of reform. There is not as much concern over the variable length of benefits.

Frances Wooley (2016) asks why the local unemployment rate should be the trigger for variable entry. Many factors make it hard for people to find work after they have lost a job that have nothing to do with the local unemployment rate. These include being older, being a recent immigrant, having low levels of education, and having a disability.

Koning and Banting (2013) reviewed immigrant access to Employment Insurance, among other safety net programs. They noted that El coverage rates tended to be lower in areas where the percentage of immigrants is higher – that is, in Canada's major cities. As a result, most immigrants do not qualify.

Bishop and Burleton (2009) also concluded that the unemployment rate alone is an inaccurate gauge of employment prospects. This is particularly true during a period of increasing unemployment.

EI CHALLENGED: SUSAN

Susan works as a casual employee in retail sales in Toronto. She also works as a supply teacher. She worked a total of 650 hours in the last year — equivalent to about one third of the year. She paid into El in both jobs. Susan was recently laid off from both jobs and issued two Records of Employment. But the Toronto area unemployment rate recently dropped below 7% and she is now ineligible for El.

Wooley (2016) also notes how the problem with the VER is exacerbated by timing. Given that the VER determines EI eligibility based on the unemployment rate over the past three months, someone who is laid off towards the end of a recession, when unemployment is at its highest, will receive relatively more generous benefits than someone laid off earlier.

For Busby and Gray (2011), the VER actually contributes to persistent unemployment in high-entitlement regions. They assert it does so by reducing incentives to adjust to adverse labour market conditions through migration or wage flexibility.

When the OECD compared unemployment insurance schemes among nations, it characterized Canadian EI, as a result of the VER, as being:

- more generous to seasonal workers
- less generous to long-tenured workers
- very restrictive for people with short-term unemployment spells (OECD 2015, pg. 107)

There is also the issue of fairness and equity among regions. Because EI eligibility and entitlement length vary depending on regional unemployment rates, unemployed workers with similar work histories are treated differently based simply on where they live. In 2009, for example, Ontario had the lowest EI recipient rate in the country. This occurred despite having an unemployment rate above the national average (Mendelsohn and Medow 2010).

VERs have contributed to higher social assistance caseloads, especially in Ontario. Because Québec and eastern Canada have less stringent EI rules, their social assistance caseloads are comparatively smaller. With less than 30% of Ontarians receiving EI when they fall out of work, social assistance has had to take up the slack (Stapleton 2014).

Busby and Gray (2011) note how the VER drives a geographic wedge between otherwise similar Canadian workers who live in different parts of the country. They feel this weakens EI's effectiveness as a social safety net. Mendelsohn and Medow (2010) go even further, suggesting that a national social program that does not work for Ontario and the West is not in the national interest.

EI CHALLENGED: FRED

Fred is a carpenter who lives in Souris, Prince Edward Island. His brother Joseph, also a carpenter, works in Toronto. Both have worked full-time for the past year. Both have been laid off due to a lack of work. Fred will get up to 45 weeks of benefits. Joseph however, will get up to just 38 weeks. This is because the unemployment rate in Toronto is 6.3% compared to 11.2% in PEI outside of Charlottetown.

CHALLENGE # 3: ADEQUACY OF BENEFITS

Here we look at assessments of the adequacy of EI benefits. These are based on Canadian research as well as comparisons with other countries. The most common measures to assess adequacy are:

- the maximum level of insurable earnings
- the rate of the weekly benefit
- the duration of benefits and their impact over time.

All of these program parameters were restricted as a result of the EI reforms of the 1990s.

MAXIMUM INSURABLE EARNINGS

Maximum insurable earnings (MIE) is the ceiling set for contributing to EI through premium payments. Any payments made after reaching the MIE are uninsured. That means they are not taken into account in calculating EI payments.

In 1995, the MIE was set at \$42,380. However during the early 1990s, concerns had been raised that the MIE was substantially higher than the average industrial wage (now referred to as average weekly earnings). In 1996, the MIE was reduced to \$39,000.

The MIE also determines the maximum rate of the weekly EI benefit. An EI payment is calculated as a percentage of a worker's *actual* wages, but it cannot exceed a weekly *maximum* based on the MIE ceiling. In 1996 the maximum weekly EI benefit level was cut from \$448 to \$413.

It took from 1996 to 2007 for the MIE to catch up again with average weekly earnings. That effectively froze maximum EI benefit levels for more than a decade. The MIE was increased to \$40,000 in 2007, which increased maximum EI benefits slightly. Small increases have occurred every year since.

In 2018 maximum insurable earnings were \$51,700 and the maximum weekly benefit was \$547.

The MIE and the 55% maximum payout limits what highly skilled (and higher-income) unemployed workers are eligible to receive, to the point where it has become less attractive to apply. If there is a severance payment, this must be used before the worker can qualify for EI, putting the program at the end of the line in people's minds as opposed to a first recourse.

On the other hand, for workers who are less skilled and lower-paid, EI benefits are often simply impossible to live on.

For workers who are less skilled and lower-paid, EI benefits are often simply impossible to live on.

RATE OF THE WEEKLY BENEFIT

The rate for calculating UI/EI benefit payments reached its peak in 1971, when it was increased from 40% to 66.6 % of insurable earnings (McBride 2017). In 1990, the rate was reduced to 60%. It was further reduced to 57% in 1993, and 55% in 1994, where it remains today.

The exception is families with children whose net family income is below \$25,921. In these cases the Family Supplement — introduced as part of the 1996 reform — increases the benefit rate from 55% to a maximum of 80%. About 79,400 claims qualified for the family supplement in 2016/17. This was down substantially from 187,300 claims in 2001/02. Because the low income threshold is not indexed it has not changed since the 1996 EI reforms. As a result, the number of EI claimants receiving the family supplement has decreased for 15 consecutive years (CEIC 2015/16).

An international comparison of the generosity of unemployment insurance schemes completed in 2005 for the Government of Canada indicated that Canada's 55% replacement rate was lower than most OECD countries. EI benefit rates were higher than in the United States, but substantially lower than the 90% rate in Denmark, 70% rate in the Netherlands, and 80% rate in Sweden (Van Audenrode, Fournier, Havet, Royer, 2005).

Keep in mind, however, that EI benefits are calculated for each individual as a percentage of their *actual* earnings. Koning and Banting (2013) noted that, in constant 2007 dollars, the average recipient of benefits received around \$7,000 in the early 1990s, but a bare \$5,000 at the end of that decade.

For many low income workers, the 55% rate - even when they earn enough to get the maximum - is impossible to live on. This is because, over the past decade, wages in Canada have stagnated. The rise of temporary work suggests that many employers — especially in the private sector — do not need to offer secure employment to attract workers. Nor do they need to offer decent wages to people who are precariously employed.

In 2017, one in four Ontario workers, one in three of those in temporary employment, and most part-time workers earned less than \$15 an hour (Jackson 2017). Advocates who work with low-wage workers note that more and more people are earning just above minimum wage. EI has become irrelevant. Economic necessity forces them to bypass it and move to the next survival job. They don't see EI as insurance. It is just a cost on their pay cheque.

Even apprentices (who qualify for EI while in training) find that they can't live on it. A recent federal study confirmed that financial difficulties were one of the main factors driving apprentices out of school (ESDC 2017, pg. 17).

In 2017 ACORN Canada conducted a cross-Canada survey on EI involving 256 respondents. Over 78% of those who received EI said the benefit was not enough to meet their needs. Those who could not qualify for EI said they got by using soup kitchens, going into debt, working part time, and taking unskilled jobs. Advocates working with low-income workers noted how easy

EI CHALLENGED: MARCY

Marcy is a part-time retail clerk in Halifax who has been working 20 hours a week over the past year (1000 hours in total). She has been laid off due to a slowdown in the business. Marcy makes \$16 per hour or \$320 per week, so her benefit will be 55% of \$320 or just \$176 per week. She can collect for up to 22 weeks based on the local unemployment rate of 6.7%. Marcy feels she will have to apply for social assistance to make ends meet during the time she receives EI and perhaps afterwards.

it is for people to fall behind on their mortgage or rent. That made them vulnerable to homelessness, especially in high-cost cities like Vancouver and Toronto.

International research has demonstrated how the welfare state is a compensating force for the unemployed. Di Tella, MacCulloch and Oswald (2003) concluded that generous unemployment benefits are associated with higher well-being for both the employed and the unemployed. This is because benefits reduce concerns about future financial insecurity for both groups. Ochs and Welsch (2012) drew a similar conclusion, noting that employment protections, such as unemployment insurance benefits, effectively mitigate the adverse effect that being unemployed has on life satisfaction.

An OECD study released in 2015 looked at the adequacy of EI benefits in Canada for displaced workers. It noted that for about one in four workers, household income was insufficient to meet expenses. There was an increased reliance on credit and some needed to rely on friends and relatives (OECD 2015, pg. 118). Given the cuts to social assistance undertaken by the provinces in the 1990s, very few displaced workers in Canada accessed social assistance.

DURATION OF BENEFITS, THE NET REPLACEMENT RATE, AND HOW CANADA'S EI SPENDING COMPARES WITH OTHER COUNTRIES

In addition to reducing maximum insurable earnings, the 1996 EI reforms reduced the maximum number of weeks that a person could collect EI: from 50 weeks to 45. This is longer than in the United States but substantially shorter than in several other countries. For instance, in 2012 it was 24 months in Denmark, France, Norway, and Spain (OECD 2015, pg. 122).

The OECD's 2015 comparative analysis of unemployment insurance schemes also looked at net replacement rates in 34 OECD countries. (The net replacement rate is the ratio of net income out of work to net income while in work, expressed as a percentage.) It concluded that:

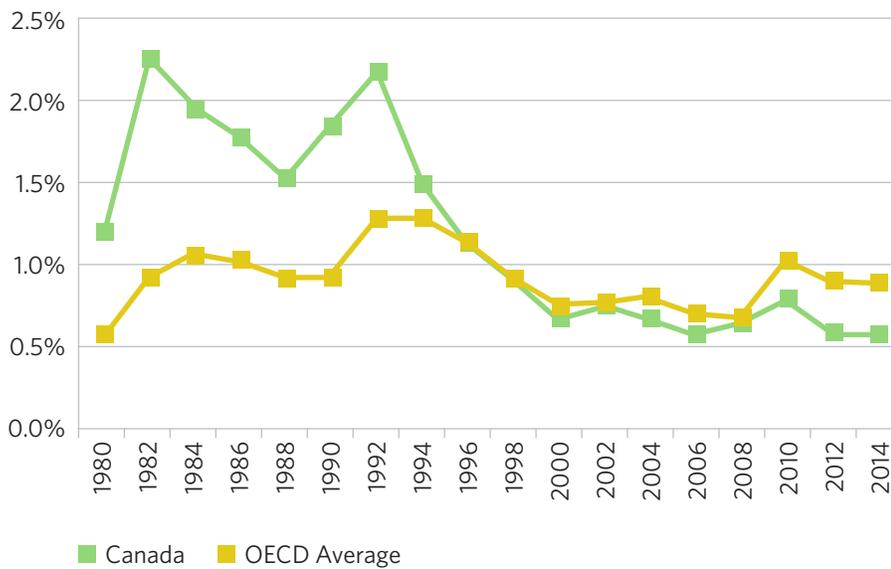
Net replacement rates (NRRs) in Canada were somewhat higher during the first year of unemployment than the OECD average (58 per cent vs. 54 per cent). But at around 10 months, benefit durations are shorter in Canada than in other OECD countries and, as a result, average NRRs are low when assessed over longer spells of unemployment. This implies a relatively less generous treatment of the long-term unemployed compared with many OECD countries. The five year NRR is 29 per cent on average across OECD countries but only 25 per cent in Canada (OECD 2015, pg. 116-117).

The OECD also tracks and compares what a country spends on cash benefits to compensate people for unemployment, expressed as a percentage of Gross Domestic Product (GDP). In 1990 we were at 1.846% of GDP compared to the OECD average of 0.924%.

Since 1990 our spending on public unemployment has dropped dramatically. It was 0.567% of GDP in 2014 compared to the OECD average of 0.888%. Canada was well below Germany at 1.028% and France at 1.627%. We were however above the United Kingdom at 0.317% and the United States at 0.426%.

As a rich country, many Canadian EI stakeholders believe that we should not be near the bottom of the pack. They call for an increase in public unemployment spending.

FIGURE 2
Canada and OECD Public Unemployment Spending as % of GDP



Source: OECD Social Expenditure Aggregated Data. Public unemployment spending is expenditure or cash benefits for people to compensate for unemployment.

CHALLENGE # 4: THE IMPACT OF RE-DISTRIBUTION

In 2014 1,211,170 firms in Canada made EI contributions, as did their 18,652,785 workers (CEIC 2015/16). These contributions are mandatory and the rate of contribution is uniform.

In some countries, unemployment insurance plans are 'experience-rated', where premiums are higher for classes of workers or industries that are more prone to claims, and therefore more risky to insure.

Canada's UI/EI scheme has never been experience-rated. This has predictably lead to the transfer of funds from workers in prosperous, low-unemployment regions and industries to workers living in less prosperous regions and working in less prosperous industries.

Those who could not qualify for EI said they got by using soup kitchens, going into debt, working part time, and taking unskilled jobs.

THE 'BENEFITS TO CONTRIBUTION' (B/C) RATIO

The extent of EI's re-distributional impact has been examined regularly in the Employment Insurance Commission's annual Monitoring and Assessment Report. This is done through the calculation of a 'benefits to contribution' or B/C ratio.

The ratio can be calculated for each province or territory, and it can also be broken down by industries and demographic groups. The EI Commission divides the total regular benefit payments that each category receives by the total amount of EI premiums collected. The ratios are then adjusted so that the ratio for Canada as a whole is set at 1.0, as a point of comparison.

The resulting ratio for each jurisdiction, industry, or demographic group indicates whether it received more in benefits than it contributed to the program, relative to Canada as a whole (CIEC 2012/13).

WHO BENEFITS MORE REGIONALLY?

In 2014, the Atlantic Provinces and Québec were net beneficiaries of EI. The B/C ratios ranged from 4.3 in Newfoundland and Labrador to about 1.4 in Québec.

Ontario and the western provinces remained net contributors, with ratios below 1.0. Alberta's was the lowest at around 0.4 (CEIC 2015/16).

These rates have not changed much over time. Provinces with higher B/C ratios generally also have higher unemployment rates. For example, in 2011 the Atlantic provinces had the highest unemployment rates in the country (CEIC 2012/13).

WHAT INDUSTRIES BENEFIT MORE?

The goods sector was a net beneficiary of regular benefits from the EI program in 2014, with a B/C ratio of 1.9. The service sector was a net contributor of regular benefits with a ratio of 0.8 (CEIC 2015/16).

The goods sector includes industries with a large share of seasonal workers. For example, agriculture, forestry, fishing, and hunting all had a ratio of 4.2. Construction, another seasonal industry, had a ratio of 2.8.

On the other hand, B/C ratios of less than 0.5 were found in service industries such as utilities, finance, and insurance, health care & social assistance, and public administration (CEIC 2012/13).

WHO BENEFITS DEMOGRAPHICALLY?

Older workers were net beneficiaries of EI in 2011, with a B/C ratio greater than 1.0. When considering regular benefits only, men were net beneficiaries with a B/C ratio of 1.2, while women were net contributors with a B/C ratio of 0.8.

However, when considering all EI benefits, including special income supports such as maternity and compassionate care, women had a B/C ratio of 1.1 (CEIC 2012/13).

A SOURCE OF REGIONAL RESENTMENT

The reforms of the 1990s did nothing to address this re-distribution issue.¹¹ Provinces and industries that are consistent net contributors to EI can become resentful of the unfairness, thereby undermining solidarity towards the program as a whole.

Most complaints are from Ontario. The Mowat Centre notes that EI has not responded well to job losses in Ontario and parts of Western Canada. The Centre believes EI rules are treating citizens in these provinces unfairly. “Over ten years the amount of foregone benefits is staggering. If Ontarians received EI payments on a per-client basis, they would have cumulatively had access to \$11.8 billion in additional payments over those ten years” (Hartmann, Thirgood, Thies, 2018, pg. 21).

Mowat is particularly concerned that the regional differences in EI are at odds with the Canadian social contract and the principles of equality amongst Canadians (Mendelsohn and Medow 2010). In a recent analysis it concluded that in 1976, 68% of unemployed Ontarians received regular EI benefits. As of July 2018, that proportion had fallen to only 29%.

Regardless, 51% of Ontarians felt that they would qualify for EI if they lost their jobs, demonstrating — in Mowat’s view — a misplaced confidence in EI and a false sense of security among Ontarians (Thirgood and Parkin 2018).

In his 2015 analysis of EI and regional dynamics, Peter Graefe notes that the program has long been seen as pitting Ontario and the West against Québec and the Atlantic provinces, exacerbating interregional resentment and creating enduring strains in the federation.

¹¹ Federal officials attempted in the early 1990s to change the regional re-distribution element of UI. These changes were modified in the final legislation due to political pressure. The pressure came from members of parliament for Atlantic Canada as well as lobbying by Atlantic Premiers during the 1995 Team Canada mission (McIntosh and Boychuk 2000, pg. 92).

CHALLENGE # 5: DISCRIMINATION

There are groups of people who — despite paying into the program — almost never qualify for EI benefits. This includes temporary foreign workers, students, and part time workers, many of whom are women. In addition, the 1996 reforms restricted access to the more expensive re-employment supports in ‘EI Part II’, such as training, to current and former claimants of regular EI benefits. This means that many Canadians who need training the most cannot qualify.

TEMPORARY FOREIGN WORKERS AND INTERNATIONAL STUDENTS

Koning and Banting (2013, pg. 591) noted that about 50% of temporary foreign workers and 100% of international students cannot access EI benefits. This is because they have a ‘closed’ permit, meaning that they are not allowed to work for more than one employer. If they lose that job, they cannot meet the ‘available for work’ test for EI benefits. Nevertheless, they are required to pay into the program.

Parental benefits were once the only type of EI benefits that many migrants were able to access. But in 2012 Canada changed its regulations and limited EI parental benefits to individuals authorized to remain in Canada. This meant that migrant workers such as seasonal agricultural workers were no longer eligible for parental benefits once they left Canada. This is unlike other workers, who can receive parental benefits when outside the country (CCPA 2018).

These discriminatory features of EI are in addition to the program’s previously noted variable entry requirements. Migrant workers and immigrants disproportionately end up in urban settings like Toronto or Vancouver, where there are lower rates of unemployment and therefore more limited EI eligibility.

CANADIAN STUDENTS

When students work in the summer, they must contribute to EI. Yet going back to school is not considered ‘just cause’ for quitting. As a result, they cannot collect EI. Students can pay hundreds of dollars in EI premiums for years — working full time in the summers and part time on weekends — yet never accumulate enough hours to qualify for EI benefits. Wooley (2012) notes how collecting premiums from young workers and denying them benefits is just not fair.

WOMEN

Men and women generally have very different reasons for becoming unemployed. Men tend to become unemployed because they lose their jobs; unemployed women tend to be job leavers. Before 1990, workers who quit their jobs were generally eligible for EI, now they are not.

When women quit their jobs because their working conditions or child care is inadequate, they can't collect EI. When they quit because of harassment, they can't collect EI because it is so hard and time-consuming to prove (Townson and Hayes 2007).

About 40% of employed women (compared with less than 30% of employed men) do non-standard work. That includes temporary, casual, and contract work as well as self-employment. Since women are still largely responsible for family caregiving, employed women generally work shorter hours than employed men, even when both are employed full time. Many women only work part time.

In a system where eligibility for benefits is based on hours worked, these differences mean that women are less likely than men to be eligible for benefits. The weeks-worked eligibility criterion that was in place before 1996 was much more favourable to part time workers (Bedard and Fortin 2015).

MASSE is a group in Québec that works for the rights of unemployed people. Concerned about the impact of EI changes on women, they launched a campaign in the fall of 2018 called The Employment Insurance Act: A Sexist Law in Need of Reform! (MASSE 2018). They have made six demands to improve universal access to EI.

PARENTS

The 1996 reforms increased the number of hours required to qualify for maternity benefits from the equivalent of 300 insurable hours to 600 hours today. This is a difficult threshold to meet for anyone other than those working full time. It is also generally higher than the threshold required to qualify for regular benefits (420 to 700 hours, depending on region).

The federal government recently introduced an option to stretch parental leave from 35 to 61 weeks at a lower benefit rate of 33%. This will not help low income families who cannot survive on the benefit anyway. There is also a new Parental Sharing Benefit that adds five 'use it or lose it' weeks to parental leave if both parents share the leave. It is too soon to know whether this will contribute to fathers doing more unpaid work in the home and their spouses spending more time in paid work.

Québec negotiated with Ottawa to implement its own Parental Insurance Plan using EI funds in 2006. It provides an example of how the EI program could better support gender equality. The threshold for benefits in Québec — \$2,000 in earnings — is substantially below the EI cut-off. The income replacement rate is higher. Fathers are far more likely to take parental leave in Québec than in the rest of Canada (86% vs. 12%). This has lasting impacts on the division of unpaid labour within the home (CCPA 2018).

EI CHALLENGED: SOPHIE

Sophie works at a catering company. When her baby is born, she takes 15 weeks of maternity leave and 35 weeks of parental leave. During her parental leave, the company goes out of business. Following her leave, Sophie does not have a job to return to and does not have access to EI. This is because she has already claimed EI benefits for 50 weeks, which is the maximum for combined and regular benefits.

EXCLUDING PEOPLE WHO NEED TRAINING THE MOST

As part of the 1990s reforms, eligibility for EI income support benefits was a requirement for people who wanted access to EI Part II employment services — including the more expensive training and work experience programs. These programs are delivered by provinces, territories, and Indigenous organizations using funding from the EI account.

For the past twenty years many people who needed training the most — social assistance recipients, Indigenous people, disabled people and youth — could only qualify for short-term employment assistance services. That is because funding from the EI account for longer-term interventions was only open to current and former claimants. For historically excluded citizens, this leads to job churning and poverty, instead of developing long-term competencies through career development and training.

Federal, provincial, and territorial governments have attempted to deal with this problem by:

- developing a separate funding stream for employment services outside the EI account through Workforce Development Agreements (previously Labour Market Agreements and the Canada Job Fund Agreements)
- adjusting the EI legislation to change EI eligibility criteria so that more people being served by the Labour Market Development Agreements can be charged to the EI account.

These changes are scheduled to be put in place in 2019.

CHALLENGE # 6: GOVERNANCE

At its inception, UI was run by a tripartite body known as the Unemployment Insurance Commission. This was an arm's length organization, with equal power held by the three partners funding the program — employers, workers, and government. Over the years, representatives of employers and workers — the EI 'ratepayers' — have lost power and influence. The Government of Canada has effectively expropriated unemployment insurance, even though it no longer contributes financially.¹²

The most recent example of government dominance of EI over worker and employer representatives came in 2012. At that time the Government of Canada unilaterally abolished the tripartite Boards of Referees that heard EI appeals across the country. It replaced them with a centralized Social Security Tribunal that also heard appeals for Old Age Security and the Canada Pension Plan (Wood 2017a).

Commissioners representing workers and employers were not involved in this decision. They admit to having to work very hard to have the views of their constituencies heard by either federal politicians or public servants. As there are no formal advisory committees or other institutional structures, the commissioners are usually not successful (Wood 2017a).

EI AND ELECTORAL SEATS

There is clear evidence — especially since the 1996 reforms — that the EI program has been used for political purposes. In 1997, when the federal government tightened eligibility requirements and benefits for seasonal workers, the governing Liberal party lost half of its Atlantic Canada seats.

This has made subsequent federal governments highly sensitive to ensuring that complaints about EI — usually from seasonal workers in Atlantic Canada and Québec — are dealt with. The main technique is to implement a 'pilot project' as opposed to changing EI rules. This enables Ottawa to respond to the 'squeaky wheel' for a limited period of time.

A recent example: in August 2018 the Liberal government announced a pilot project to extend EI benefits for up to five weeks in 13 EI regions with high proportions of seasonal workers. Variable entry requirements and a lower employment rate had reduced the number of weeks of EI benefits to fewer than people were accustomed to. Clark (2018) suggests that as 34 of the 54 ridings affected are held by Liberals, the changes were made to ensure the re-election of Liberal members of parliament who might be in danger of losing their seat in the 2019 election. Certainly the EI commissioners for workers and

¹² The gradual loss of power over UI for employers and workers started well in advance of the 1996 EI reforms. The first loss was in 1965, when the employment service was divorced from the Unemployment Insurance Commission and made the direct responsibility of an operating department of the federal government. The second loss occurred in 1977, when Ottawa decided to join the Commission with a newly created Department of Employment and Immigration Canada. At the same time, private sector representation on the Commission was reduced from two out of three to two out of four (Pal 1988).

employers were not part of the final decision-making process. They received notice of the changes just an hour before the announcement.¹³

EI AND DEFICIT REDUCTION

The most blatant example of political use of use of EI relates to the setting of premiums following the 1996 reforms. The UI/EI premium rate is what employees pay for every \$100 of insurable earnings. Employers pay premiums at a rate that is 1.4 times that of employees. From 1972 to 1996 premium rates were set to cover the costs of the program by calculating:

- the average basic benefit, plus or minus
- any amount required to remove a deficit or surplus in the UI account
- over a three year period.

The 1996 EI reform changed this to set a rate to ensure enough revenue over the course of an undefined 'business cycle'. At the same time, the Government of Canada took over responsibility for premium setting from the UI Commission. It began by setting premiums at a level where more money was collected from EI ratepayers than was needed to run the program.

Following a recommendation from the Auditor General in 1986, the previously arm's length UI fund was consolidated with government revenues. This meant that surpluses and deficits in the UI account affected the government's overall deficit position and fiscal bottom line.

Many commentators and stakeholders accused Ottawa of using the Employment Insurance fund for deficit reduction and to balance the federal budget. They argued that the money should have been used to improve EI benefits and accessibility (Campeau 2005, Hale 1988).

ASSESSMENT BY HUMA

The Parliamentary Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities goes by the short form HUMA. HUMA has unsuccessfully attempted to deal with the EI rate-setting problem at least four times. For example, in 2001 the committee produced a report suggesting that more input from program contributors was needed on how premiums were set and revenue spent (HUMA 2001, pg. 23). No changes were made.

HUMA addressed the issue again in 2005, dedicating an entire set of hearings to EI's financial governance. The committee was concerned about government domination of the EI Commission, believing that representatives of employers and employees must be given a stronger voice in EI program management and policy. It recommended that legislation be tabled to create a new Crown corporate entity called the Employment Insurance Commission, governed

¹³ Private communication with the author.

by commissioners representing employees and employers.¹⁴ The new Commission should be given the authority to establish its own budget and hire staff, including a chief actuary (HUMA 2005, pg. 3). Again, no changes were made by the Government of Canada.¹⁵

Instead, the federal government established a new EI premium-setting mechanism and restored the Commission as the authority.

EI AFTER THE CHANGE IN GOVERNMENT

The federal Conservatives were elected to a minority government in 2006. As the EI rate-setting process established by their predecessors remained unsatisfactory, in 2007 the new government announced their intent to create a Crown Corporation — the Canada Employment Insurance Financing Board or CEIFB — for the purpose of managing an EI reserve and setting the EI premium rate. The CEIFB would not play a role in EI policy or administration. Another HUMA committee was tasked with reviewing the government's proposal for the CEIFB. It suggested six changes to the government's approach (HUMA 2008).

Labour commentator Andrew Jackson (2008) was highly critical of the bill establishing the CEIFB as it did not change the “deeply flawed” EI premium-setting process and failed to take the EI surplus into account. Clark and Devries (no date) argued that the CEIFB was created solely “to provide cover for the Harper Government to write-off the \$57 billion surplus recorded in the EI account at that time... although the surplus was notional only, it was an ongoing embarrassment to the government.”

The CEIFB began operations in 2010. Its first attempt to set the premium rate in 2011 was overridden by Ottawa, demonstrating that government was not willing to let go of control of the EI account. The CEIFB was dissolved in 2013.

With the demise of the CEIFB, responsibility for setting EI premiums again reverted to the Employment Insurance Commission, controlled by the Government of Canada. Input is received from the ‘ratepayers’ — business and labour — in an ad hoc manner through meetings held from time to time with business and labour constituents. These meetings are organized by the EI Commissioner for Workers and the EI Commissioner for Employers. They are usually separate from the meetings of the Commission and focus primarily on information sharing. There are few attempts made to reconcile divergent interests.

14 This recommendation was not dissimilar to the 1986 Forget Commission Report on Unemployment Insurance. That report recommended reviving the autonomy of the UI Commission by making it a Crown corporation.

15 Another complicating factor was a court case, *Confederation des syndicats nationaux vs. Canada* (Attorney General), heard by the Supreme Court in 2008. The appellants claimed that section 91 (2A) of the Constitution only allowed Parliament to collect enough funds to maintain the EI program and build a reasonable reserve, but that the 1996 EI Act's impugned method of setting annual premium rates allowed the government to collect beyond what was necessary (Lam no date). The Court found the measures of the 1996 Act to be valid and constitutional, but the provisions of the 2002, 2003 and 2005 Acts to be unconstitutional, as they allowed the Governor in Council to establish a tax without a clear taxing authority to do so (Thibodeau 2014).

THE DIVERGENT INTERESTS OF WORKERS AND EMPLOYERS

Premium rates are one of the main issues of divergence between business and labour with respect to the Employment Insurance program. Over the past 25 years, both Conservative and Liberal federal governments have reduced premiums in accordance with requests from business, represented primarily by the Canadian Federation of Independent Business.

Since the 1990s, premiums have fallen from a basic employee rate of \$3.00 in 1993 to \$1.66 in 2018.¹⁶ Canadian Labour Congress suggestions to improve EI access and benefit levels for workers — which might result in higher EI premiums — have been largely ignored.

FIGURE 3
UI/EI Premiums 1980–2018



Source: 1980-1997 data provided by Employment Insurance Commissioner for Workers. From 1998 onwards, data is from Canada Revenue Agency. See: <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/employment-insurance-ei/ei-premium-rates-maximums.html#tb1>.

¹⁶ In 2018 the employee rate of \$1.66 maxes out at \$858.22 per annum. The employer rate of \$2.324 maxes out at \$1,201.51 per annum. The Trudeau Liberals promised in their 2015 election campaign to reduce EI premium rates from \$1.88 in 2015 to \$1.65 if elected. This promise has been largely kept.

A HISTORY OF STRUGGLE

When the HUMA committee was re-constituted after the Liberal election win in 2015, one of its first undertakings was to examine recent changes to EI. On financing, the committee concluded that:

- it was important to separate the EI operating account from government general revenues
- employers and employees needed to be given a voice in establishing the premium rate
- mechanisms were needed to ensure that funds collected for EI served the needs of EI.

No specific recommendations to achieve these goals were proposed (HUMA 2016).

History teaches us that concrete attempts by business and labour to wrest back some elements of control over EI from the Government of Canada have failed. Most stakeholders and parliamentarians agree that representatives of employers and workers — the ‘ratepayers’ — need to have more influence and control over the EI program. We still have not, however, found a way to build a credible and long-standing institutional structure that might realize that goal.

Such institutional structures have existed in the past. They included the National Employment Committee (closed in 1965), the UI Advisory Committee (closed in 1976), the Canada Employment & Immigration Advisory Council (closed in 1992), and the Canadian Labour Force Development Board (closed in 1998) (Wood 2017b).

Most stakeholders and parliamentarians agree that representatives of employers and workers — the ‘ratepayers’ — need to have more influence and control over the EI program.

THE ROAD TO RENEWAL

The next step in modernizing EI is a broad-based and fundamental review. Such a review can only be authorized by the Government of Canada (as the exclusive holder of constitutional responsibility for EI) and fully supported by its program partners — that is, employers and workers. The Prime Minister moved in this direction after the 2015 federal election by giving the minister responsible a mandate, an undertaking that has not yet been realized:

“Improve our Employment Insurance (EI) system so that it is better aligned with the realities of today’s labour market and serves workers and employers. This would include:

- *undertaking a broad review of the EI system with the goal of modernizing our system of income support for unemployed workers that leaves too many workers with no unemployment insurance safety net;*
- *eliminating discrimination against immigrants, younger workers and parents re-entering the workforce so that they are treated the same as other workers in their region;*
- *working with the Minister of Finance to ensure that EI contributions are only used to fund EI programs.”* (Office of the Prime Minister 2016, para. 20)

There is still time to initiate an EI review within this current mandate and to show how it will play out over the next four years. This is an excellent opportunity to engage Canadians in a discussion about what is timeless and time-bound about the program.

THE PROPOSED STRUCTURE OF AN EI REVIEW

The key question at this juncture is: how should the federal government structure the review?

Since 1996, the primary mechanism used to review EI by the Government of Canada has been the Standing Parliamentary Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA).

Another approach has been through processes dedicated to examining specific EI issues identified by government, such as the review of the labour market transfer agreements in 2014 and 2016, the EI Service Quality Review in 2016, and the KPMG review of the Social Security Tribunal in 2017.

Neither of these approaches would be adequate to address the six challenges identified in this paper. The ineffectiveness of a HUMA referral has already been established. The other processes used have usually been open only to selected stakeholders, focusing narrowly on a question identified by the government. The results almost always have a partisan bias, with the outcomes controlled by the government of the day.

An alternative mechanism would be to conduct an EI review as a public inquiry. This is an approach to reviewing unemployment insurance that has

This is an excellent opportunity to engage Canadians in a discussion about what is timeless and time-bound about the program.

been used twice in the past.¹⁷ Public inquiries are a regular part of the political landscape in Canada. Led by distinguished individuals, experts or judges, commissions of inquiry have the power to subpoena witnesses, take evidence under oath, and request documents.

A comprehensive review of EI need not be as formal as a commission of inquiry would signal. And it should not re-do the excellent work that has already been undertaken since the reforms of the 1990s. The changes that are needed are well-known and equally well studied.

The proposed EI review will need a structure that is flexible enough to manage a creative public engagement process. This could be accomplished through a strategic partnership with an organization or agency skilled in the use of direct citizen participation mechanisms and tools.

THE STEWARDSHIP OF THE REVIEW

It is essential that the current four-person Employment Insurance Commission has an appropriate role to play in the review. This would include supporting the development of the terms of reference, identifying personnel, monitoring progress, and reporting on results.

Finding and describing the common ground between business and labour among other stakeholders — such as past and current EI recipients, unionized and non-unionized workers, parliamentarians, public servants at all levels, academics, civil society organizations, and citizens — will be the EI Commissioners' biggest challenge and the greatest contribution they can make at this stage of the renewal process. Everything about the review will have to be carefully nuanced to accommodate divergent views.

THE PROPOSED SCOPE OF THE REVIEW

An EI review should take into account:

- history, core values and principles underpinning the program, i.e. as an insurance program, everyone paying into EI should have an opportunity to benefit from it
- major changes in the employment market
- acceleration of change and disruption due to advances in technology
- the changing income security ecosystem in which EI plays an integral and major role, including Canada's recently released poverty reduction strategy
- inter-provincial equity in the context of structural EI asymmetry

¹⁷ Unemployment Insurance was reviewed through the Gill inquiry in 1962 and the Forget inquiry in 1986. The Gill Committee was initiated to reflect back on 21 years of UI operation and the near bankruptcy of the fund. There were four commissioners. The Commission's final report was comprehensive at 205 pages. The Forget Commission was set up to "ensure that money dedicated to UI would be more efficiently spent and fairly distributed." There were six commissioners. The final report was 516 pages, including a 250-page dissenting report by the two labour commissioners. Both inquiries held extensive public hearings, undertook independent research, and received submissions from across Canada. They both had staff, including lawyers and researchers.

- need to democratize the governance structure
- need to place EI on a firm financial footing with consistent and adequate funding
- the need to re-examine assumptions about how to pay for EI and who should pay (i.e. whether some elements of the program should be excluded from social insurance principles)

The review should focus on EI regular and special income support benefits (managed directly by the Government of Canada) but not employment services (now managed by provinces, territories and Indigenous organizations). Including employment services in any kind of EI review would require consent by the provinces/territories and Indigenous organizations. Although there is always room for improvement, there is no evidence that there are serious problems with how employment services are configured and run post-devolution.¹⁸ New federal-provincial-territorial and federal-Indigenous agreements are still being finalized and it would be too early to examine their operation and detailed programming.

CONCLUSION

Years of study since the 1990s have produced the consensus that EI remains a valuable and necessary part of the country's social safety net. The ambition of those who designed it has stood the test of time, that those who lose a job through no fault of their own can have the time to seek a new one, and perhaps retrain. Maternity and parental benefits provide real support and choices to those who have children. EI performs well as a counter cyclical measure in an economic downturn. It is an effective program for provinces and regions with high unemployment — an undeniably useful program where structural unemployment is high. The specialty programs for primary industries like fishing are as close to a minimum income as we could imagine.

The real challenge of our times is that the urban labour market has changed. People in precarious jobs in provinces with low unemployment like Ontario pay endlessly into a program that offers them little or no hope of ever deriving a benefit. A growing number of workers in the gig economy do not have any kind of protection against the risk of unemployment.

People who paid into EI for more than 10 consecutive years tell stories of missing meals while continuing to pay into EI. These workers simply do not obtain sufficient insurable weeks. Paying into an insurance program where there is no chance to derive a benefit is one thing. It is quite another thing for this to be the case for workers who are the poorest, those who are hurting the most and yet asked to continually fund this program for people who are demonstrably better off than they are. EI's Variable Entry Requirement makes

Everything about the review will have to be carefully nuanced to accommodate divergent views.

Paying into an insurance program where there is no chance to derive a benefit is one thing. It is quite another thing for this to be the case for workers who are the poorest, those who are hurting the most and yet asked to continually fund this program for people who are demonstrably better off than they are.

¹⁸ In 2018 Ottawa released a series of provincial Labour Market Development Agreement (LMDA) Evaluation reports (including a pan-Canadian synthesis). These demonstrated that LMDA program participants benefited from improved labour market outcomes (such as increased employment and earnings) as well as reduced dependence on Employment Insurance and Social Assistance. See: <https://www.canada.ca/en/employment-social-development/corporate/reports/evaluations.html>.

it tougher and tougher for precarious workers to get by — even though a lower employment rate does not affect them in any way.

It's true that the essentials of the program are good, but too many workers are falling through the cracks, either because they do not qualify for benefits in the first place or they exhaust them too quickly. This reality cannot be allowed to persist. We cannot wait another election cycle for a review to begin.

1957 and 1970 were significant years in the history of UI/EI in Canada, milestones in its ongoing development. There were commissions and reviews conducted between these periods and up to the 1990s. The program was not, however, transformed through a major overhaul. It was renewed by the steady progression of policy and leadership throughout the system.

The evidence suggests a significant retraction since the 1990s and a clear need for reform as we move into the 21st century. All that remains is to marshal the political will and public support to mark 2019 as the next milestone for EI — and as the year Canadians renewed their collective capacity to face the future of work.

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UN/EMPLOYMENT INSURANCE IN CANADA: HIGHLIGHTS

DECIDING RESPONSIBILITY 1918-1940

1918

The federal government funds provinces to run the Employment Service of Canada – its first involvement in employment programming.

1935

The federal Employment and Social Insurance Act is passed but is found to be unconstitutional. Over 30% of the population is unemployed.

1940

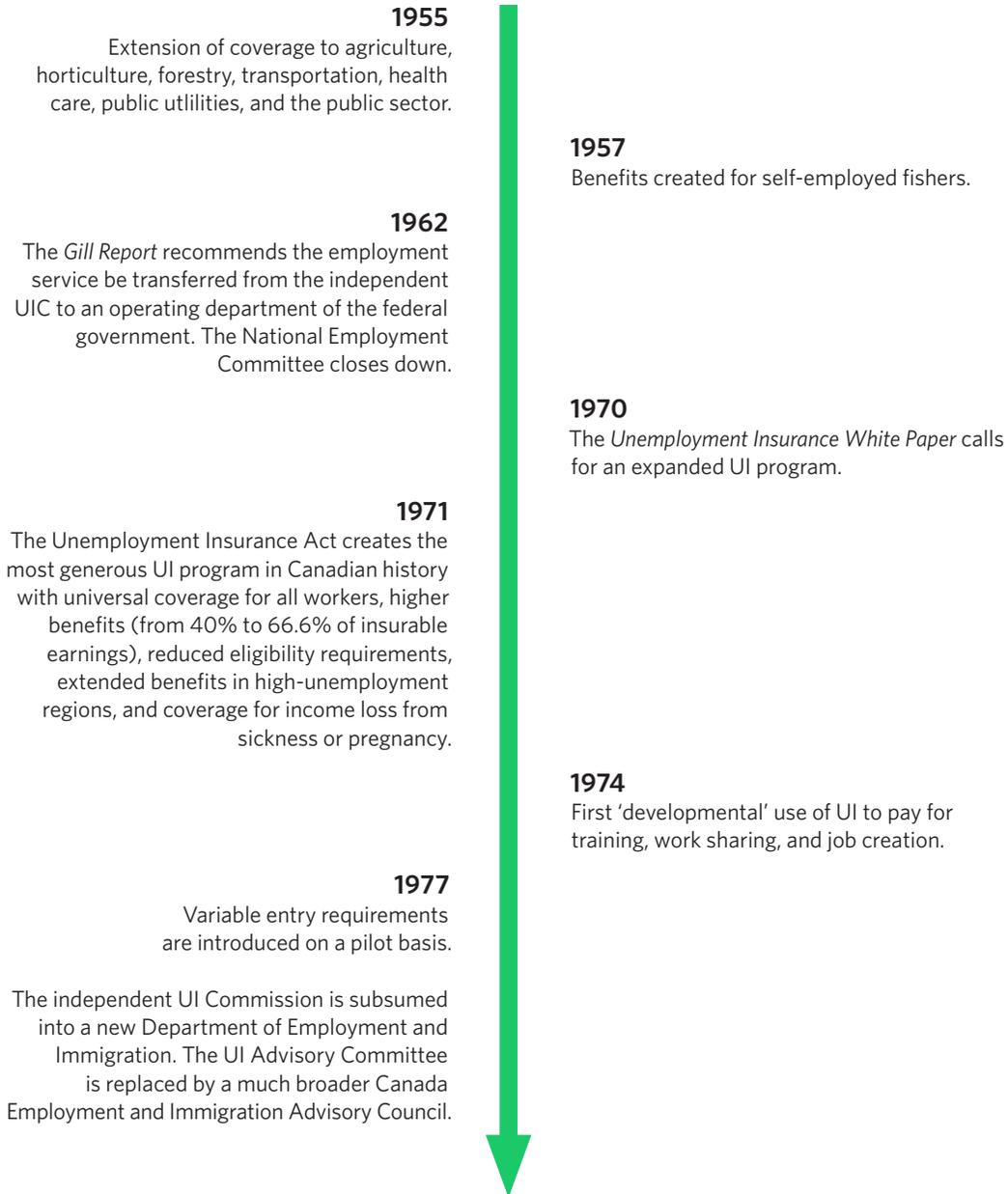
After a Royal Commission, all provinces consent to a constitutional amendment agreeing that responsibility for unemployment insurance is federal. The federal Unemployment Insurance Act becomes law. Drawing from the British contributory model of social insurance, contributors receive benefits as a right, not as 'dole' or 'poor relief'.

FEDERAL CONSOLIDATION AND EXPANSION 1941-1978

1941

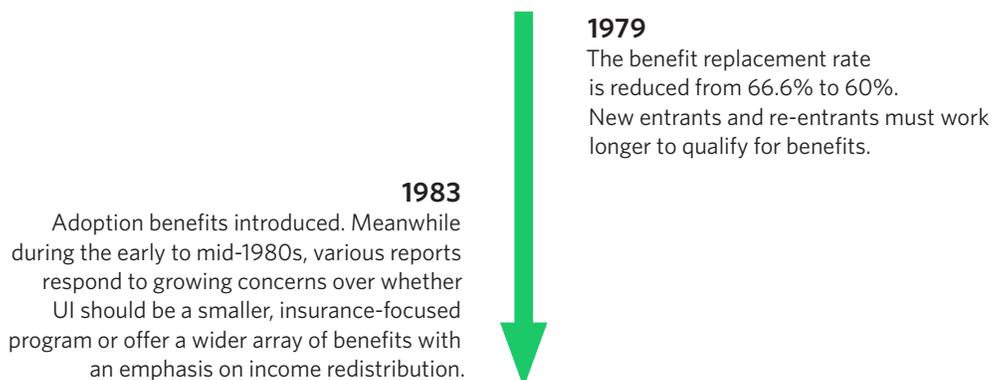
The provincially-run Employment Service of Canada is nationalized and transferred to the new Unemployment Insurance Commission (UIC), an independent federal tripartite agency controlled by employers, workers, and government. The three partners contribute in the ratio of 40:40:20 to a UI fund to pay out benefits to eligible workers.

A National Employment Committee and a UI Advisory Committee provide advice from business, labour, and other stakeholders to the UIC.



GROWING CONCERN OVER UI DIRECTIONS AND PROGRAM COSTS

1979-1989



1986

The *Forget Commission* concludes that the program should be returned to its social insurance roots. Two commissioners with labour backgrounds reject the majority report. The Mulroney government decides not to touch the structure of UI.

1989

10 weeks of parental benefits introduced — in addition to maternity benefits — payable to either men or women.

The Labour Force Development Strategy increases the use of the UI fund for training and re-employment over passive income support.

**FEDERAL CONTRACTION
AND DEFICIT REDUCTION**

1990-1994

1990

The federal government withdraws its contribution to UI, leaving all program costs to employers and workers.

1993

Legislative changes make those who voluntarily left their employment or were dismissed due to misconduct ineligible for benefits. A shorter benefit period is introduced. The UI replacement rate is reduced from 60% to 57%.

1991

The Canadian Labour Force Development Board is established to advise government on training and human resource issues.

1994

Upon assuming power, the federal Liberals embark on a broad-based social security review (that included Unemployment Insurance) as well as a program review (to examine all departmental spending to identify program cuts).

The federal budgets of 1994 and 1995 further contract UI, tightening entrance requirements, reducing the length of benefits, and cutting the replacement rate to 55%.

FROM UNEMPLOYMENT INSURANCE TO EMPLOYMENT INSURANCE 1995-1999

1995

The Canada Employment and Immigration Advisory Council closes down as a result of ministry restructuring.

The social security review closes down, pre-empted by federal changes to rein in the debt and deficit.

Unemployment Insurance is rebranded as Employment Insurance and split into EI Part I (income benefits) and EI Part II (employment benefits and support measures).

Responsibility for EI Part II is offered to interested provinces and territories through devolved Labour Market Development Agreements. By 2010, all jurisdictions have accepted.

1996

EI benefits are rebased around hours worked in a year, rather than weeks, making it harder to qualify. Maximum insurable earnings and the maximum weekly benefit are reduced. The maximum length of a claim is reduced from 50 to 45 weeks.

New entrants and re-entrants need 26 rather than 20 weeks to qualify. A new 'intensity' rule reduces the benefit rate for frequent claimants.

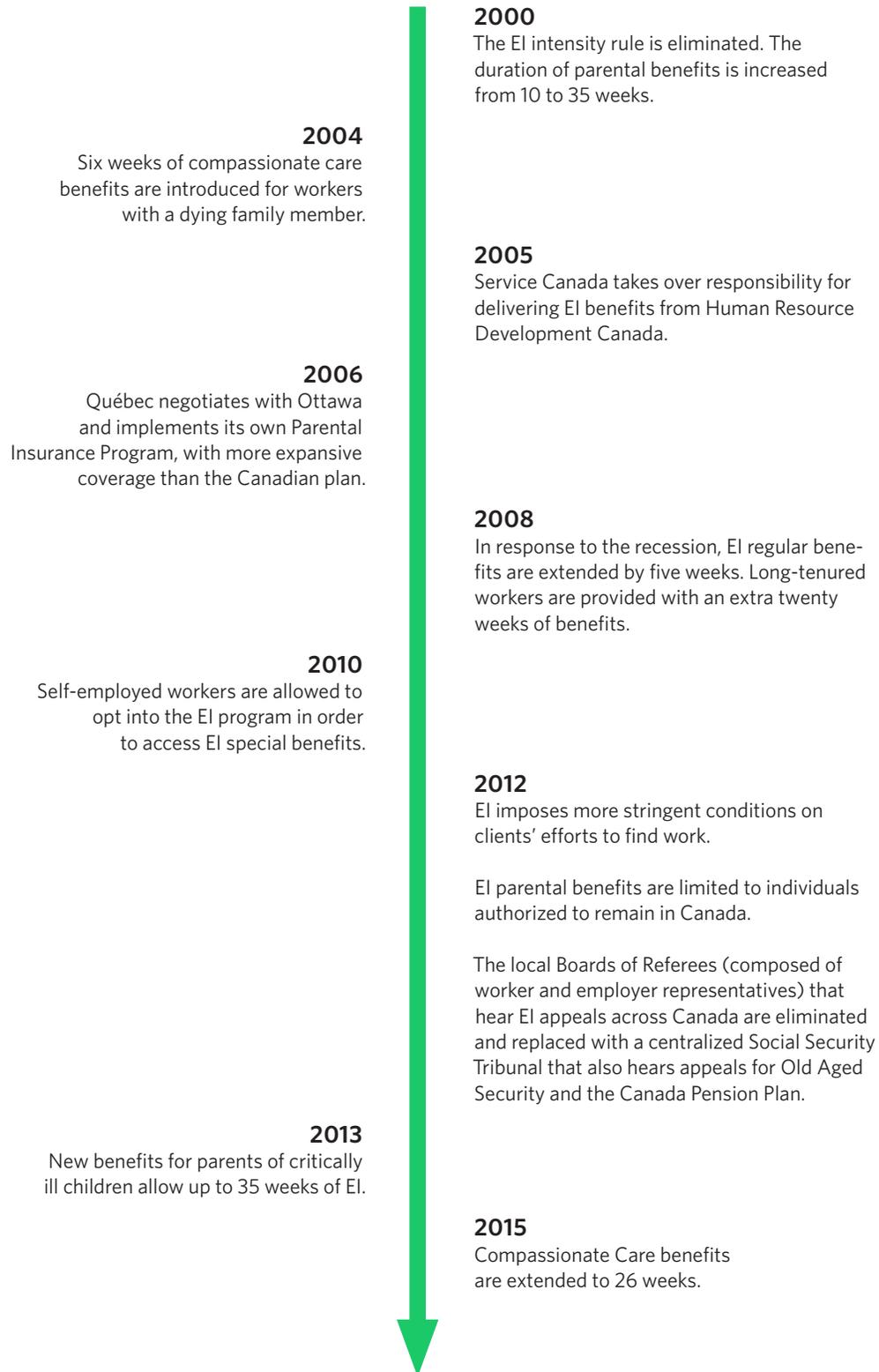
A family supplement increases the benefit rate for low income claimants with children to 80%.

1998

The Canadian Labour Force Development Board closes as a result of budget cuts and the withdrawal of support from business representatives.



TWEAKING AND REBALANCING 2000-2018



2016

The new Liberal government overturns the more stringent conditions on efforts to find work introduced in 2012.

The federal government announces additional investments in the federal/provincial/territorial Labour Market Transfer Agreements.

2018

A review of the Social Security Tribunal is undertaken that identifies problems with the revised EI appeal process.

A new Parental Sharing Benefit adds five weeks when both parents can share the leave.

The 50 cents on the dollar Working While on Claim rules are made permanent and extended to maternity and sickness benefits.

Unemployed Canadians are allowed to receive EI benefits while taking self-funded training.

Additional funds are allocated to help seasonal workers bridge the gap in income support between their seasonal work and EI.

2017

The additional qualifying conditions for new entrants and re-entrants are removed.

The waiting period for EI benefits is reduced from two weeks to one.

A new family caregiver benefit for adults allows for 15 weeks off work to care for a critically ill adult.

Parental benefits become more flexible: paid either for 35 weeks at the standard rate of 55% or for 61 weeks at 33%.

A Service Quality Review is carried out in response to issues with EI program administration. Additional funds are allocated to improve EI call centre accessibility.

ATKINSON

For social and economic justice

The Atkinson Foundation strengthens movements for decent work and a fair economy. Learn more about our agenda, community and progress at www.atkinsonfoundation.ca.

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