



**Nova Scotia Utility and Review Board
Annual Accountability Report
For the Fiscal Year Ended March 31, 2021**

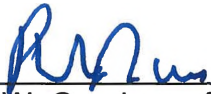
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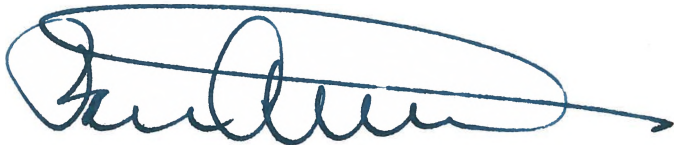
Accountability Statement

The Accountability Report of the Nova Scotia Utility and Review Board for the year ended March 31, 2021, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's Business Plan for the fiscal year 2020-2021. The reporting of the Board's outcomes necessarily includes estimates, judgements and opinions by management.

We acknowledge that this Accountability Report is the responsibility of the Board's management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's 2020-2021 Business Plan.



Peter W. Gurnham, QC, Chair



Paul G. Allen, CPA, CA, Executive Director

Introduction

This Accountability Report reflects on progress made in achieving the outcomes set out in the 2020-2021 Business Plan for the Board. The Board recommends that this Accountability Report be read in conjunction with that Business Plan.

Financial Results

Nova Scotia Utility and Review Board - Estimated Budget Expenditures				
	Budget 2020- 2021	Actual 2020- 2021	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	2,116	2,116	0	
Recoveries from utilities and others	4,200	3,976	(224)	
Unbudgeted operations	0	3,722	3,722	1
Total revenues	6,316	9,814	3,498	
Expenditures (non-capital):				
Budgeted	6,316	5,732	(584)	
Unbudgeted operations	0	3,957	3,957	1
Total expenditures	6,316	9,689	3,373	
Net surplus or (deficit)	0	125	125	
Restricted & unrestricted surplus, beginning of year	2,132	2,132	0	
Restricted & unrestricted surplus, end of year	2,132	2,257	125	2
Funded Members and staff (FTE's)	40	40	0	

Notes:

1. Consultants are engaged by the Board to provide advice related to matters such as utility and natural gas operations and to provide expert testimony during hearings. Consulting fees for specific hearings are generally recovered directly from the entities involved. Expenses and recoveries relating to large hearings cannot be reasonably predicted or estimated in advance, accordingly, no provision is made for these activities in the budget. The Board also recovers certain transcription, copying and other direct expenses from various sources.

2. The complete audited financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia. The 2020-2021 financial statements were prepared in accordance with Canadian Public Sector Accounting Standards as issued by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada.

Measuring Our Performance

The core mandate of the Board is to fairly and independently resolve matters in an efficient and effective manner. Performance measurement in a quasi-judicial context must be carefully designed due to the “custom” or “unique” nature of many applications and appeals. For example, some hearings require review of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require a review of small amounts of evidence and, after scheduling, need only a few days to complete. Activity and speed measures do not equate to quality of decision making or due legal process. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision.

Desired outcome:	Independently and fairly resolve matters in a timely fashion.
Measures:	Percentage of hearing decisions issued within target or legislated number of days from receipt of final information.
Targets:	95% or more of hearing decisions released within target number of writing days from receipt of final information.
What do these measures tell us?	These measures show how timely the Board is at resolving matters.

Where are we now and reporting on 2020-2021 targets?

As can be seen from Schedule 1 below there is a combined success rate of 99.7% for all cases (2019-2020: 99.3%). This is above the target set by the Board.

Variations in average times can be expected from year to year and with changes in the mandates assigned to the Board. Larger, more complex hearings may take more time to decide and cause the average to increase. Conversely, larger numbers of single issue hearings take less time to decide and cause the average to decrease. We attempt to minimize the time it takes to issue decisions for matters where there is a significant public interest or financial impact.

The success rate for 90-day matters was up slightly from the preceding year at 99.5% (2019-2020: 99.3%).

The success rate for 60-day matters was 100.0% (2019-2020: 98.8%). Within the 60-day category a total of six planning matters were decided and all within the target writing time – a success rate of 100% (2019-2020: 87.5%). Average writing time increased to 50 days (2019-2020: 45 days).

For the decision writing time category of 30 days there was a 100.0% success rate for the two matters decided (2019-2020: 100%).

There were no 20-day matters in the current year (2019 -2020: no matters in this category).

For the decision writing time of 15 days the Board succeeded in meeting the target for 100.0% of the five matters decided (2019-2020: 100%).

The success rate for 10 business day matters was 100.0% for the 25 matters decided. This is consistent with the prior year (2019-2020: 100.0%).

Overall workload was down when compared to the prior year, most notably in the areas of electricity, motor carrier, and gaming matters.

Average decision times by mandate are presented in Schedule 2.

Where do we want to be?

Success is measured against the target writing times for the specific type of matter. Additional targets, as may be established by statute or the Board, may be added in future. At this time we wish to continue to have a success rate that is as high as possible while respecting the primary emphasis of producing an unbiased, timely, fair, and legally correct decision. No targets have been set for average times to decision in recognition of the higher priority being placed on fairness and correctness. The information will continue to be monitored and the averages kept as low as possible.

Schedule 1 – Success by Writing Time

Summary results for compliance with policy on decision production times are as follows. (see Note 1 on page 9):

Decision writing targets ¹	2020-2021			2019-2020		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	212	211	99.5%	287	285	99.3%
60 days	71	71	100.0%	80	79	98.8%
30 days	2	2	100.0%	3	3	100.0%
20 days	0	0	-	0	0	-
15 days	5	5	100.0%	9	9	100.0%
10 days	25	25	100.0%	3	3	100.0%
Gasoline and diesel oil price setting ²	54	54	100.0%	55	55	100.0%
Combined	369	368	99.7%	437	434	99.3%

¹ Decision writing times are measured from the date of receipt of final information to the date of issuance of the Decision. 10 day matters are measured in working days. All others are calendar days.

² Gasoline and diesel oil pricing decisions for weekly pricing and interruptions are issued on the same day as the evidence is considered.

Chart 1 – Comparison of Number of Matters by Writing Time³

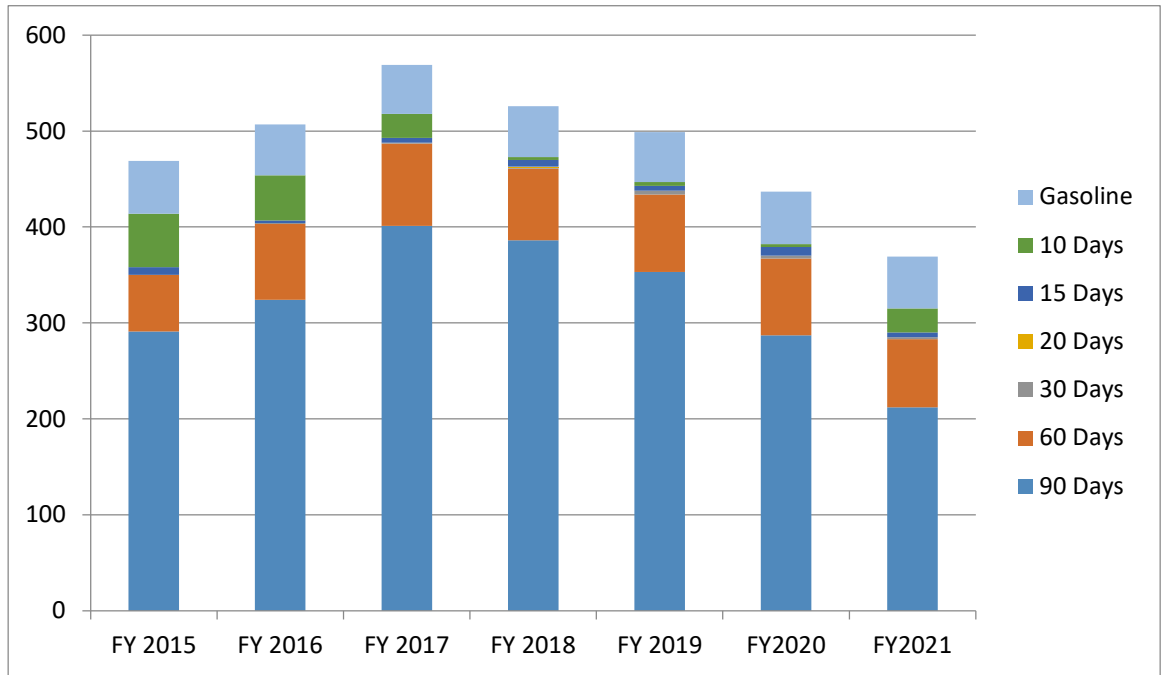
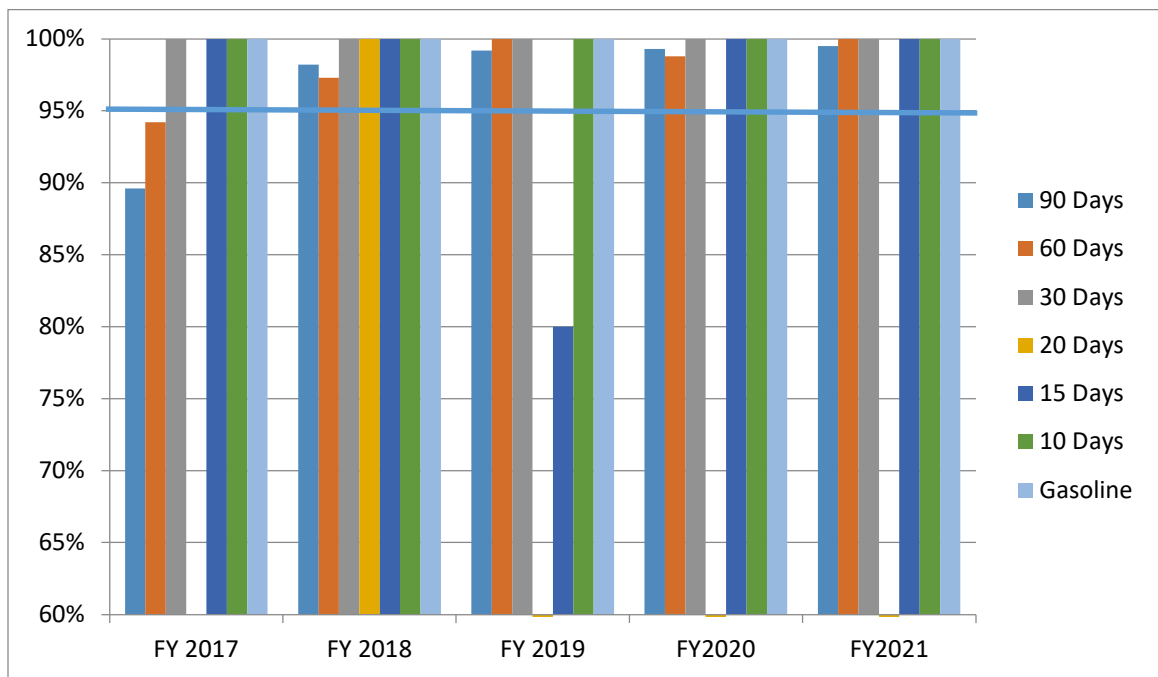


Chart 2 – Success Rate by Major Writing Time Categories - Last 5 Years



³ See note on next page.

Notes:

1. The Board can receive a number of applications or appeals and, for simplicity and efficiency, choose to group them together into one proceeding. Ordinarily only one decision is issued for grouped matters. It is felt that the most useful reporting is to count grouped matters as a single matter.

Supplemental Information

1. Schedule 2 – Average Writing Time by Matter Type

The following Schedule shows the number of matters or cases decided by type and the average time from receipt of final information from the parties to release of a decision. Figures include all types of matters and do not separate applications or appeals which can be decided without an oral hearing from larger cases requiring one.

Average decision production times by area of jurisdiction are as follows (continued on following page):

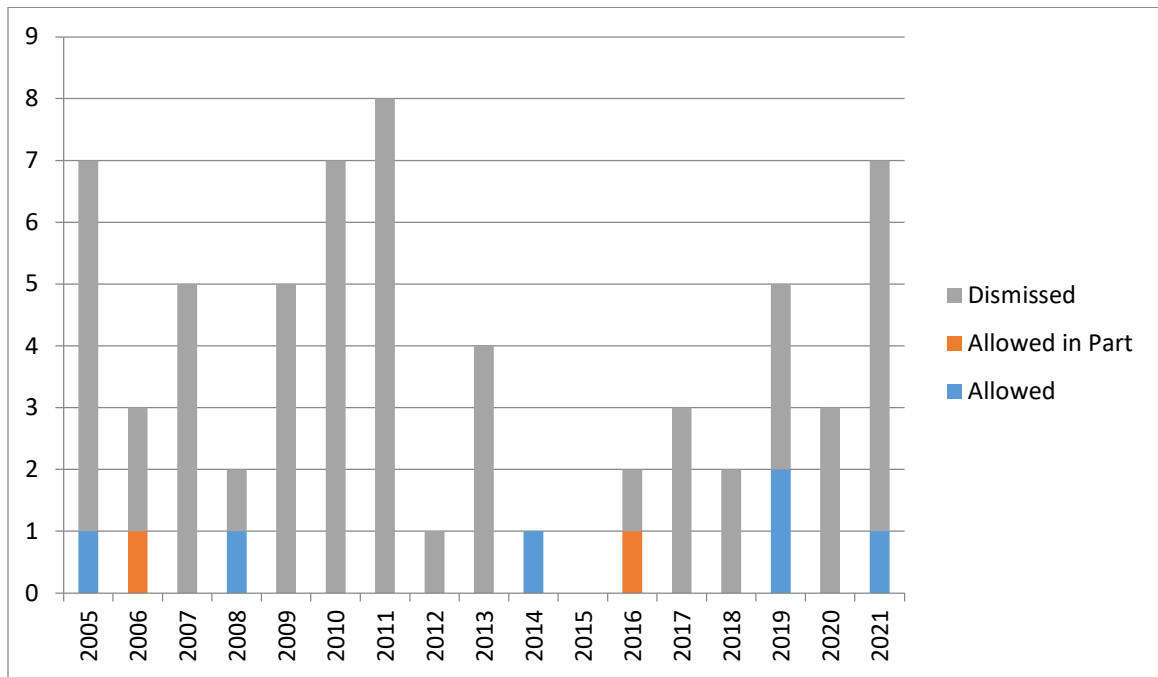
Jurisdiction / Mandate	2020-2021		2019-2020	
	Number of Decisions (all types)	Average Time to Decision (days) ⁴	Number of Decisions (all types)	Average Time to Decision (days) ⁴
Gaming	-	NA	18	0
Liquor	-	NA	2	36
Theatre & Amusements	-	NA	-	NA
Assessment	7	49	1	63
Automobile Insurance	100	9	88	12
Criminal Injury Compensation	-	NA	-	NA
Electricity	91	32	102	32
Expropriation Compensation	-	NA	6	86
Fire Safety	-	NA	-	NA
Heritage Properties	-	NA	-	NA
Halifax-Dartmouth Bridge Commission	-	NA	-	NA
Motor Carrier – Public Passenger	27	28	69	5
Municipal & School Board Boundaries	2	40	2	25
Natural Gas	16	33	23	43
Payday Loans	-	NA	-	NA
Petroleum Product Pricing – weekly pricing and interruptions	54	0	55	0
Petroleum Product Pricing – other	2	1	-	NA
Planning	6	50	8	45
Railways	1	79	-	NA
Underground Hydrocarbon Storage	-	NA	-	NA
Water	51	18	49	17
Wastewater	12	12	14	9
Apprenticeship	-	NA	-	NA
Total	369		437	

⁴ Where the average writing time is “0” all decisions were issued on the same day as the final information was received.

2. Appeals of Board Orders

Board orders can be appealed to the Nova Scotia Court of Appeal when a party feels the Board has incorrectly applied the law or its authority. Appeals must be filed within 30 days of the date of issuance of the order. The following chart shows the number of appeals relating to Board proceedings decided by the Court of Appeal in the last 17 years and the outcome.⁵

Chart 3 – Appeals Decided by Fiscal Year



Key:

“Dismissed” means the Court upheld the Board’s decision.

“Allowed in Part” means the Court upheld parts of the Board’s decision but overturned others.

“Allowed” means the Court overturned the entire Board decision.

⁵ Note that there were no appeals related to the Board decided in the year ended March 31, 2015, by the Court of Appeal.

3. Impact of COVID-19 Pandemic

During the week of March 16, 2020, the Board responded to the imminent threat of the COVID-19 pandemic by:

- Reducing the number of people in the office to the minimum needed to sustain operations.
- Moving to a remote office work model and suspending the requirement to file paper copies of documents.
- Closing offices to public access.
- Moving all hearings possible to telephone and internet webinar platforms.
- Expediting applications from regulated companies or utilities that allowed them to respond to changing health requirements or business challenges.
- Implementing all possible COVID-19 precautions for the staff required in the office.
- Immediately procuring needed cleaning and office supplies.

The change was guided by an existing Business Continuity Plan (BCP) and facilitated by previous strategic decisions to move to electronic records and replace workstations with notebook computers as a matter of routine.

Disruption to the Board's business was minimal and very few hearings had to be postponed due to a participant not having the necessary technology, or simply preferring to wait for an in-person hearing.

Some items of small equipment were purchased to allow staff to work comfortably from home and ensure compliance with occupational health and safety requirements. All Members and staff were able to work remotely by securely accessing office information systems using the provincial virtual private network (VPN).

As the pandemic progressed the Board responded to changing health restrictions by either allowing some additional personnel to be present in the office or falling back to minimum staffing.

The estimated cost of all COVID-19 related supplies and equipment for the period was \$37,600.

Operations of some regulated entities were affected by COVID-19 and they requested various types of customer financial relief, permission to temporarily change service conditions, or to amend or suspend services being offered. The Board dealt with those requests on an expedited basis. Many of these requests were primarily administrative in nature and consequently were not included in the decision statistics above. The following table shows the number of COVID-19 related requests received and processed from late March 2020 to March 31, 2021:

Mandate Area	Number of requests processed
Public utilities (electricity and water)	44
Automobile insurance	43
Motor carrier	65
Petroleum pricing	2

During the pandemic there were significant changes in commodity prices for gasoline and diesel oil on the New York Mercantile Exchange caused by reducing demand as health measures restricted travel. This resulted in:

- The Board dropping the price of gasoline on two occasions and diesel oil on one using the “interrupter” in March and April of 2020. A further interruption decreasing prices occurred in March 2021.
- In late March 2020, the Board advised all retail outlets in the province that it would consider applications, on an individual basis, to adjust the retail margin under s. 14(3) of the *Petroleum Products Pricing Regulations*, in order to preserve the availability of specified petroleum products in rural areas. This relief recognized that some retail outlets had suffered financial losses caused by sharply falling regulated prices and reduced sales volumes during the onset of the COVID-19 pandemic. One retailer in Cape Breton applied for relief, which was approved by the Board in an Order issued May 20, 2020.
- An application from a retailer for both a permanent and a temporary increase in retail margin to help offset losses and ensure gasoline would be available in the rural areas. That application was granted in part and is included in the decision statistics above. The relief approved by the Board includes an ongoing interim adjustment to the retail margin until sales volumes return to pre-COVID-19 levels.
- An application from a wholesaler for an increase in wholesale margin and a request from the Minister of Service Nova Scotia to review the wholesale margin to ensure there was an adequate supply of gasoline throughout the province. This application is still under review by the Board with hearings scheduled for October of 2021. Pending the hearing, the Board issued an Order on December 30, 2020, increasing the wholesale margin on an interim basis, finding there was an “emergency situation” as defined in s. 24A(1) the *Petroleum Products Pricing Regulations* which threatened the security of the petroleum supply in the province.

The Board also assisted Transportation and Active Transit, Municipal Affairs, Public Health, and Communities Culture and Heritage on concerns relating to transit operations and motor carrier fees.

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Annual Report under Section 18 of the Public Interest Disclosure of Wrongdoing Act

The *Public Interest Disclosure of Wrongdoing Act* was proclaimed into law on December 20, 2011. The *Act* provides for employees to be able to come forward if they reasonably believe that a wrongdoing has been committed or is about to be committed and they are acting in good faith. The *Act* also protects employees who do disclose from reprisals, by enabling them to lay a complaint of reprisal with the Labour Board.

A “wrongdoing” for the purposes of the *Act* is:

- a) a contravention of provincial or federal laws or regulations;
- b) a misuse or gross mismanagement of public funds or assets;
- c) an act or omission that creates an imminent risk of a substantial and specific danger to the life, health or safety of persons or the environment; or,
- d) directing or counselling someone to commit a wrongdoing.

The following is a summary of disclosures received by the Nova Scotia Utility and Review Board for fiscal 2020-2021:

Information Required under Section 18 of the <i>Act</i>	Fiscal Year 2020-2021
The number of disclosures received	0
The number of findings of wrongdoing	Not applicable
Details of each wrongdoing	Not applicable
Recommendations and actions taken on each wrongdoing	Not applicable

Appendix A - List of Statutes Containing Board Mandates

1. *Assessment Act*, R.S.N.S. 1989, c.23 as amended
2. *Apprenticeship and Trades Qualification Act*, S.N.S. 2003, c.1 as amended
3. *Consumer Protection Act*, R.S.N.S. 1989, c.92 as amended
4. *Education (CSAP) Act*, S.N.S. 1995-96, c.1 as amended [Loi sur l'éducation (CSAP) 1995-96, ch.1 modifié]
5. *Efficiency Nova Scotia Corporation Act*, S.N.S. 2009, c.3 as amended
6. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c.141 as amended
7. *Electricity Act*, S.N.S. 2004 c.25 as amended
8. *Electricity Efficiency and Conservation Restructuring (2014) Act*, SNS 2014, c.5
9. *Electricity Plan Implementation (2015) Act*, S.N.S. 2015, c.31
10. *Endangered Species Act*, SNS 1998, c.11 as amended
11. *Energy and Mineral Resources Conservation Act*, R.S.N.S., 1989, c.147 as amended
12. *Expropriation Act*, R.S.N.S. 1989, c.156 as amended
13. *Fire Safety Act*, S.N.S. 2002, c.6
14. *Gaming Control Act (Part II)*, S.N.S. 1994-95, c.4 as amended
15. *Gas Distribution Act*, S.N.S., 1997, c.4 as amended
16. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192 as amended
17. *Halifax Regional Municipality Charter*, S.N.S. 2008, c.39
18. *Halifax Regional Municipality Water Commission Act*, S.N.S. 1963, c.55 as amended
19. *Heritage Property Act*, R.S.N.S. 1989, c.199 as amended
20. *Insurance Act*, R.S.N.S. 1989, c.231 as amended⁶
21. *Liquor Control Act*, R.S.N.S. 1989, c.260 as amended
22. *Marine Renewable-energy Act*, SNS 2015, c.32 as amended
23. *Maritime Link Act*, S.N.S. 2012, c. 9
24. *Mineral Resources Act*, SNS 2016, c.3 as amended
25. *Motor Carrier Act (public passenger only)*, R.S.N.S. 1989, c.292 as amended
26. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal) as amended
27. *Municipal Government Act*, S.N.S. 1998, c.18 as amended
28. *Nova Scotia Power Finance Corporation Act*, R.S.N.S. 1989, c.351 as amended
29. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8 as amended
30. *Petroleum Products Pricing Act*, S.N.S., 2005, c.11
31. *Petroleum Resources Act*, R.S.N.S. 1989, c.342 as amended
32. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7 as amended
33. *Pipeline Act*, R.S.N.S. 1989 c.345 as amended
34. *Public Utilities Act*, R.S.N.S. 1989, c.380 as amended
35. *Railways Act*, S.N.S. 1993, c.11 as amended
36. *Revenue Act*, S.N.S. 1995-96, c.17 as amended
37. *Technical Safety Act*, S.N.S. 2008, c.10⁷
38. *Theatres and Amusements Act*, R.S.N.S. 1989, c.466 as amended
39. *Underground Hydrocarbons Storage Act*, S.N.S. 2001, c.37
40. *Utility and Review Board Act*, S.N.S. 1992, c.11 as amended
41. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14 as amended

⁶ Automobile insurance only.

⁷ Sections relating to the Board not yet fully proclaimed.