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**Supplementary Submission of the
Ontario Network of Injured Worker Groups
to the
WSIB Funding Review**

August 31, 2011

Introduction

First of all, thank you for the opportunity to make supplementary submissions. Like other stakeholders, we were surprised when the WSIB's senior management declared itself to be a stakeholder and released submissions on the matters under review. This seems particularly unusual in light of our understanding that the positions taken are those of management only and were neither formulated by nor formally approved by the WSIB Board of Directors.

The substance of the Marshall submissions runs contrary to the interests of injured workers. We believe that implementation of the outlined scheme could even undermine the public nature of Ontario's workers' compensation system.

Employer representatives sometimes pose the question whether workers' compensation is insurance or a social program. Thrown down as a challenge, we "must decide" this issue before tackling the matter at hand.

This is the set up for a heads-they-win, tails-we-lose rhetorical strategy. If it is a social program, why should employers pay instead of taxpayers? If it is insurance, why isn't it leaner and meaner? Why should employers, who pay for the system, be treated as anything less than its owners, as in a private, mutual insurance company?

We believe that workers' compensation should remain a social insurance system that recognizes the inherent worth of working people and our rights to safe workplaces and, when that fails, to fair compensation and meaningful vocational rehabilitation.

Through its emphasis on full pre-funding of the system and claims cost based rate-setting, the Marshall scheme threatens to undermine these goals.

The funding policy set out in the **Eckler** paper is a case study in the use of a requirement for **pre-funding** to defeat worker objectives. At the conceptual level, putting **pre-funding** first puts the restoration of **full benefit indexing** last, and only at a price that is guaranteed to raise heated opposition from employers.

Thus the first **Eckler** model (Model 1, p. 13ff.) projects that the average annual premium rate would rise from the current \$2.35 to \$2.72 by 2022. The increase is designed to deal with the UFL as quickly as possible, to provide “a new tomorrow where full funding is achievable within 15-20 years” (page 1). A range of possible future variations are explored, but at the median the UFL would be eliminated by 2027. The average premium would then fall to \$1.89 by 2029 and begin slowly inching up to reflect expected growth in health care costs.

Model 1 differs significantly from projections provided by the WSIB during the Technical Consultation. Most notably, it **assumes that worker benefits will remain partially de-indexed**. The premium roller coaster is dedicated entirely to retiring the UFL in a relatively short period of time and establishing a lower ongoing premium rate for future employers.

By contrast, the previously released model assumes that full CPI indexing going forward would be gradually restored by 2016. Yet it still shows the UFL being eliminated within 10 to 20 years under most scenarios -- even with nearly flat premium rates. In fact, the worst-case scenario (no growth in employment, anemic growth in wages and sub-standard investment performance) still results in a continuous reduction in the UFL and improvement in the Board’s funding ratio.¹

Why the difference? The **Eckler** models work from several changed assumptions. Some, such as assuming “no anticipated improvement for termination rates for loss of earnings benefits”, seem quite defensible (p. 11). We encourage Board management to give that particular revised assumption effect by ending its recent

¹ WSIB presentation to the Funding Review’s Technical Consultation entitled “Funding”, dated January 2011, pp. 27ff.

draconian efforts to “improve” permanently disabled workers out of their wage loss benefits at the final 72 month review.

One major change in assumption -- regarding the future growth rate of insurable payroll -- seems unjustified and will be addressed in more detail below.

Excessively diminished expectations regarding the Board’s premium base lead to an unnecessarily, even unrealistically bleak view of future revenue.

This unduly limiting view of the future revenue stream becomes particularly important in light of the major shift in **policy** assumptions underlying the **Eckler** models. Namely, they firmly take the elimination of the Board’s existing UFL as the first order of business. In Model 1 (pp. 13ff) a decade of ever-increasing premium rates is completely at the service of this objective. Rectifying the indexing deficiency can be conceived in Model 3 (pp. 28ff) only as an extra laid on top of the existing roller coaster. In order to stay within the chosen timeframe for eliminating the UFL, a further premium increase of \$0.025 each year to cover full indexing for new incoming claims plus \$0.10 per year to pay off increased UFL expenses is required. To restore full benefit indexing, then, the pinnacle of the roller coaster must be elevated to \$2.85 before heading back down to \$1.91.

We agree that employers have been underpaying in recent years. And we do not believe that a premium of \$2.85 is inherently unreasonable, even as a long-term rate. But it is not **necessary** to the responsible and urgent restoration of full benefit indexing – or even for the payment of substantial restitution to workers who have suffered the injustice of de-indexing in the past. There is simply no need for the flow through of this desperately needed compensation to injured workers to take a backseat to further building up an investment fund under the control of the WSIB. A funding policy that prioritizes the investment fund does not promote fairness for either employers or workers. In fact, we believe the policy set out in the **Eckler** paper even endangers the public nature of the system, placing workers at extreme risk.

What has caused the recent “deterioration” in the UFL?

The **Eckler** paper asserts a marked deterioration in the UFL over the 12 year period between December 31, 1998 and December 31, 2010, noting that the UFL went from \$7,098 to over \$12,355, an increase of \$5,257 million (p. 3). Those are big numbers. But do they indicate that the Board’s finances have become completely unsustainable due to over-generous benefits? Certainly not.

During this period the Board’s funding ratio increased from 56.8% at the end of 1998 to a peak of 73.2% at the end of 2006. It was only as the economy subsequently slowed and went into recession, with the resulting double whammy of flat-lined revenue accompanied by negative investment returns that the funding ratio began to decline.² It hit a low of 53.5% funding at the end of 2008, but had rebounded to 54.5% by the end of 2010.

In other words, the \$5,257 million increase in the UFL represents a decrease in the Board’s funding ratio of 2.3% over the twelve years, with that gap closing fast. At the same time, the size of the Board’s total assets **increased** from \$9,338 to \$16,638 million. There does not appear to have been any real threat to the Board’s long-term sustainability. The big picture with respect to the Board’s funding ratio is steady improvement temporarily set back by a very significant recession – and then resumed. But given the Board’s longstanding commitment to full pre-funding by 2014, the massive benefit cuts of Bills 165 and 99 and the large portion of the annual premium nominally assigned to retiring the UFL, one is entitled to wonder why there still is a UFL.

Where did the money go?

² Investment returns for the period 2007-2009 inclusive were a cumulative -5.2%, while premium revenue during those three years was stuck at \$3,523, \$3,566 and \$3,540 million with a constant average premium rate and flat payrolls (**Perspectives**, Appendix 1, p. 16 and **WSIB Annual Report 2009**).

Looking at the big picture through the narrow lens of the WSIB's closed group accounting methods, the scope of the deterioration in the UFL is nearly double the nominal increase. During the 12 year period between the end of 1998 and the end of 2010, the Board collected \$11,499 million in premiums allocated to the UFL, of which \$6,310 went to so-called "interest" on the UFL. The remaining net UFL premium of \$5,189 million went somewhere other than to pay off the UFL, which increased by \$5,257 million. That is a total deterioration of \$10,446 million.

Excursus: Injured workers are not interested.

Before moving on to what happened, the notion of "interest" on the UFL should be clarified. If the UFL is a debt to anyone, it is a debt to injured workers, representing an entitlement to a future stream of benefits. But our rights are only to those future benefits set out in legislation as they come due on a monthly or bi-weekly basis. As individuals, we have no enforceable legal rights to any money held in the WSIB's investment fund for the payment of future benefits, and past governments have been willing to reduce our future entitlements in the name of eliminating the UFL. Or, more aptly, they have been willing to reduce our entitlement to benefits so that employers would not have to pay for those benefits.

From an injured worker point of view, the placement of any money into the investment fund that is not strictly necessary to ensure that our monthly and bi-weekly payments are made on time is of literally no value. In fact, it is of less than no value, since it diverts part of the Board's revenue stream away from us to a place where it will never be heard from again. In the normal course of events, the money that goes into the investment fund to pre-fund benefits will stay there forever. As an ongoing concern, all projections are that the Board's total liabilities will continue to grow, as will its assets.

What is necessary to protect our interests is a reserve sufficient to prevent failure of the system during economic downturns – and nothing more. In the real world,

“interest” to carry the UFL is just a less accurate way of describing forgone investment income for the investment fund, which would have stayed in the investment fund, for the benefit of the investment fund, of those who control the fund and of those who receive capital from it. The latter category does not include Ontario’s small businesses, who would benefit from more money in the hands of injured workers, spent in Ontario.

But of course there is another option beyond pre-funding, pay as you go funding and steady state funding that appeals to many employers. That is “as little as politically possible” funding. Which brings us back to the question.

Where did the money go?

Where did the \$10,446 million deterioration come from? It did not come from legislated enhancements to worker benefits. The only legislative change that actually increased worker entitlements was the Bill 187 bump in benefit indexing of 2.5% in each of 2007, 2008 and 2009, followed by a more modest bump of 0.5% in 2010. Bill 187 also extended the review period for long-term wage loss benefits in some cases. The accrued cost of the Bill 187 changes, i.e. the estimated amount necessary to finance them indefinitely into the future for all workers injured prior to them coming into effect, totals \$854 million.³ On the other hand, “Indexation lower than expected” led to a savings of \$1,033 over the twelve years.

From a legal or **policy** point of view, as opposed to accounting or actuarial standards, the other amounts collected at page 3 of **Eckler** under the rubric

³ **Eckler** lists total “Legislative, policy and personal income tax changes” of \$1,677 million for the 12 years. A breakdown in the slide entitled “Drivers of Change to the Unfunded Liability” released at the Technical Consultation lists the total cost of Bill 187 and Bill 221 (occupational disease in firefighters) at \$1,002 million. The UFL reconciliation statements in the 2007 and 2009 WSIB Annual Reports (at page 61 in each case) further specify the Bill 187 amounts as \$720 million accrued in 2007 for the 2007-2009 bumps and \$134 million accrued in 2009 for the 2010 bump. The total is \$854 million.

“Legislative, policy and personal income tax changes” would really be better classified as changes in assumptions or experience losses. For example, Bill 221 did not grant any new entitlements for occupational disease in firefighters. The additions to Schedule 3 create **rebuttable** presumptions of work-relatedness for specified diseases. This does not change the legal standards for entitlement, but merely recognizes that the general medical and scientific evidence justifies a finding of entitlement unless the evidence in a specific case demonstrates that the disease has a non-work-related cause.⁴

Similarly, the \$109 million accrued in 2004 for a change in the way CPP benefits are offset from wage loss and survivor benefits resulted from a recognition by the Board that its previous approach was inconsistent with the existing entitlement provisions of the Act. Changes in personal income tax are used each year to recalculate net average earnings and, by extension, ongoing benefit streams. Since this includes even permanent disability pensions and survivor benefits dating back to 1985, it increases the Board’s benefit liabilities. This again does not represent a new entitlement, but merely a playing out of existing entitlements in a way that deviates from the Board’s previous assumptions on the point.

As **Eckler** recognizes,

More than 60% of this amount represents assumption changes and experience losses other than those related to the financial and economic markets (investment returns and indexation), reflecting the fact that average premium rates were set too low and assumptions proved to be too optimistic in determining the benefit liabilities, possibly the result of significant changes made to the benefits with the enactment of the WSIA (Bill 99)(p. 3).

⁴ According to the Board’s 2007 and 2009 annual reports at page 61, the total amount accrued as a result of Bill 221 was \$30 million in 2007 and \$118 million in 2009, for a total of \$148 million.

That the Bill 99 system is not only cruel but has failed to reach its financial goals has come as no surprise to injured workers. Replacement of structured benefit reviews with instantaneous claw-backs not only leaves workers on closely watched probation for six long years, it virtually removes positive incentives for employed injured workers to seek marginally better paying jobs.

Much more importantly, the move to “self-reliance” in return to work, along with the intensification of claims cost based experience rating has soured relationships in workplaces and between injured workers and the Board. Untimely return to work leads to greater reliance on medication and health care services, as well as increasing the risk of recurrence. Sharp claims management practices lead to poor decision-making, multiplying appeals. Claims suppression warps statistics, rendering assumptions regarding future costs unreliable. A higher percentage of lost time claims go on to receive long-term wage loss benefits. A greater number of no lost time claims convert to lost time in later years. And positive incentives for employers to hire injured workers are nowhere in sight.

It is only because of this confluence of factors that we see an accumulation of \$6,322 million in experience losses and assumption changes at the same time as \$1,101 in experience rating off-balances during the twelve year period (p.3). Employers as a group did not earn lower premiums, they took them through political rate suppression. And many individual employers did not earn their experience rating rebates through improved health and safety or return to work practices. They took them through claims suppression and sharp practices.

In light of this history, it is shocking that the Marshall scheme doubles down on claims cost based experience rating in the **Nexus** paper. It does so within the context of a general policy in the **Eckler** paper that will cause rates to fluctuate unnecessarily while simultaneously (and erroneously) blaming these fluctuations on the UFL and stoking employer rhetoric regarding the unfairness of it all. This plays into the hands of those who would replace our public system with a private scheme. The appeals to fairness **between employers** do not make this any more

palatable. Neither do they hold water – least of all the appeal to “intergenerational equity”.

Generation gap

The **Eckler** paper asks, “Current and future employers will have to pay for past accidents: is it fair?” The short answer is yes. It is fair for them to pay, just as past employers have done. As noted in the **Perspectives** paper (p. 16), the Board has had a UFL since at least 1974. If one accepts the premise of pre-funding, every new entrant to the system since that time has been paying for past accidents. And 37 years is a very long time in terms of employer generations. According to Statscan ,

New firms have short expected lives. In our sample, the average length of life for new firms across all industries is about 6 years. Estimates of survival time vary sensibly across each of our industry clusters. For example, new firms in industries with high rates of entry have an average length of life (5.4 years) that is roughly one-half that of entrants in low-entry industries (9.1 years).

On average, the median survival time is roughly 3 years, while the mean is about 6 years.⁵

More recently released statistics found that Canada-wide, roughly 30% of start-up businesses founded in 2001 with between 1 and 99 employees went out of business within 5 years.⁶ Approximately 95% lasted for one year, and 85% for two

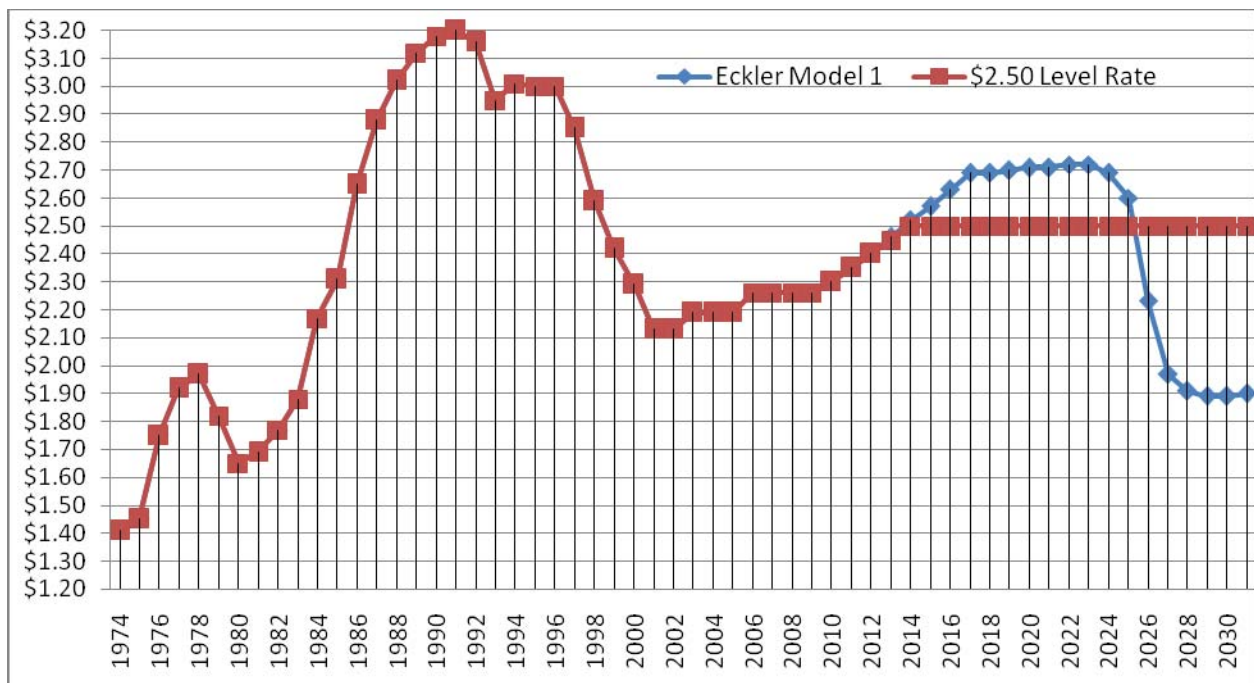
5 Baldwin, J. et al., Failure Rates for New Canadian Firms: New Perspectives on Entry and Exit, Statscan Catalogue no. 61-526-XIE, 2000, pp. 41-42. <http://www.statcan.gc.ca/pub/61-526-x/61-526-x1999001-eng.pdf>

6 Industry Canada, Key Small Business Statistics – January 2009, *How long do small businesses survive?*, Figure 3, “Survival Rates of Micro-Enterprises and Other Small Businesses (Employer Businesses Only), 2001–2006, <http://www.ic.gc.ca/eic/site/sbrp-rppe.nsf/eng/rd02345.html>

years. So most of those that went under within the five years did have a chance to pay WSIB premiums for past accidents before going under.

Whichever set of statistics most closely matches the reality of the WSIB, it seems clear that turnover is more dynamic and dramatic than accounted for by the Marshall scheme’s notion of intergenerational equity. Table A maps out the ups and downs of average workers’ compensation premiums since 1974. Considering the rates at which businesses have come and gone, has chasing the UFL between then and now in an attempt to restore full pre-funding resulted in intergenerational equity? No. And the median rates produced by **Eckler Model 1**, projected over the next 20 years seem to be more of the same. The Marshall scheme for intergenerational equity is that current employers will pay the entire UFL for the history of the system so that future employers can pay much lower rates. **If everything goes according to plan.**

TABLE A: Average Premium Rates Since 1974



Steady state funding

In solving a different, but analogous generational problem, the Canada Pension Plan developed the innovative steady state funding methodology. We refer you to the excellent initial submissions of the Industrial Accident Victims Group of Ontario for a detailed treatment. In summary, the problem of intergenerational equity was solved there by raising rates well in advance of a coming demographic bubble to a level that could be sustained for decades, providing a level of reserves to be drawn upon to cover future shortfalls without seriously risking the failure of the fund. Over the long term, the funding ratio of the plan is expected to slowly rise, but to remain under far the levels at which the WSIB has operated since the UFL was born. Rate stability provides the element of intergenerational equity.

IAVGO's submission describes the natural fit between the steady state funding methodology and Ontario's workers' compensation system. We support that general approach and believe that an analysis of the **Eckler** models validates its viability as a reasonable and sustainable means to reinstate full indexing of benefits, including substantial restitution for injured workers affected in the past, while avoiding the volatility of the **Eckler** models themselves. This is an approach that demands further, properly resourced study by the Funding Review.

Level premiums

We do not have the resources to model a proper steady state methodology for workers' compensation. However, with the assistance of Mr. Willard A. Ramsey, former Chief Actuary at the WSIB, we have made some (admittedly rough) extrapolations from the **Eckler** models. These explore the impact of level premiums at rates of \$2.40, \$2.50 and \$2.60 over the lifetime of the models. While **Eckler** Model 2 does make partial pre-funding projections, which we favour, we do not favour chasing a particular funding ratio at the price of rate stability. Rather, we prefer long term stability of rates as a cost of doing business in

Ontario, with variation through well-defined, scrupulously validated metrics related to health and safety and return to work.

Returning to Table A, we imagine an end to the roller coaster through the implementation of a \$2.50 level premium. Anyone with basic high school math and a spreadsheet program can start from the **Eckler** assumptions regarding payroll growth and interest rates and determine that compared to the median results of Model 1, a level premium of \$2.50 would produce roughly the same revenue over the lifetime of the model. The capitalized value in 2011 of the entire stream of income under Model 1 between now and 2031 amounts to \$56,085 million. Raising the premium \$0.05 per year until it reaches \$2.50 in 2014 and then maintaining that rate until 2031 provides an income stream with a capitalized value in 2011 of \$56,452 million. From the layperson's point of view, this suggests that the level rate would, just like the **Eckler** premium stream, pay off the UFL over the course of the projection period.

With the help of an actuary, extrapolating from the figures for funding ratio and UFL provided with Model 1, this appears to be confirmed within the obvious limits of such an approach. First of all, it cannot replicate the dynamic element of the **Eckler** modeling, since it only makes reference to the median outcome of the dynamic model. Second, the approach does involve some guesswork, given the gaps in the assumption information and results presented by **Eckler**. For example, we were most interested in looking at the restoration of full indexing in Model 3. In order to extrapolate to the Board's total assets and liabilities, rather than simply looking at the ring-fenced UFL amount, however, it was necessary to blend in elements from Model 2, blending that involved judgment calls.

In all of the examples that follow, except where explicitly stated, we have followed the **Eckler** assumptions regarding payroll, interest rates and the amount of the additional liability necessary to restore full indexing on a retrospective basis for workers who have already been injured (\$1,800 million). We have assumed an increase in accrued liabilities of \$1,000 million per year in all the projections presented here. We have modeled the total assets in the fully indexed model by

taking the difference in revenue streams between the partial and fully indexed models. This includes Table F, which assumes annual payroll growth of 3% rather than 2%.

Finally – and importantly – we have valued indexing “restitution” for previously injured workers at \$4,000 million, the highest figure quoted by the WSIB in response to questions posed in the wake of the Technical Consultation. This is added on top of the \$1,800 for the restoration of full indexing, and is understood as the value of retrospective full indexing to date, as well as retroactive payments for previously withheld indexing, plus interest. WSIB management has indicated that retrospectivity and retroactivity are prohibitively difficult to implement from an administrative point of view. Nevertheless, we include versions of this scenario for their strong suggestion that the system is able to absorb a healthy attempt at restitution. Solutions, however imperfect, to administrative problems of this nature increase in direct proportion to the decisiveness of the directive on general policy.

Our models use limited data and we had to make several assumptions. Consequently our results will not have the accuracy or credibility that **Eckler** could produce by running their models using our assumptions. We suggest that you have **Eckler** undertake this exercise to validate (or disprove) our estimates.

Choice of premium rates

The projections contained in Tables B, C and D are based on **Eckler** Model 3, with the restoration of full indexing, using the **Eckler** assumption of only a 2% growth in assessable or insurable payroll. The premium rates used were determined in the following manner:

We agree with **Eckler** that during the 12 year period between the end of 1998 and the end of 2010 assessment rates “were set too low”. The average of the annual rates during this period is \$2.24. The average during the previous 12 year block

was \$3.00. The Board has projected that the UFL would have been paid off by 2006 if that rate had been maintained.⁷ Employers find that rate unreasonably high. Splitting the difference yields \$2.62. We have chosen \$2.60 that as our high rate. (Table B)

The average premium rate over both 20 years and 30 years through 2010 approximates \$2.50, at \$2.53 and \$2.51 respectively. We have chosen \$2.50 as our middle rate. (Table C)

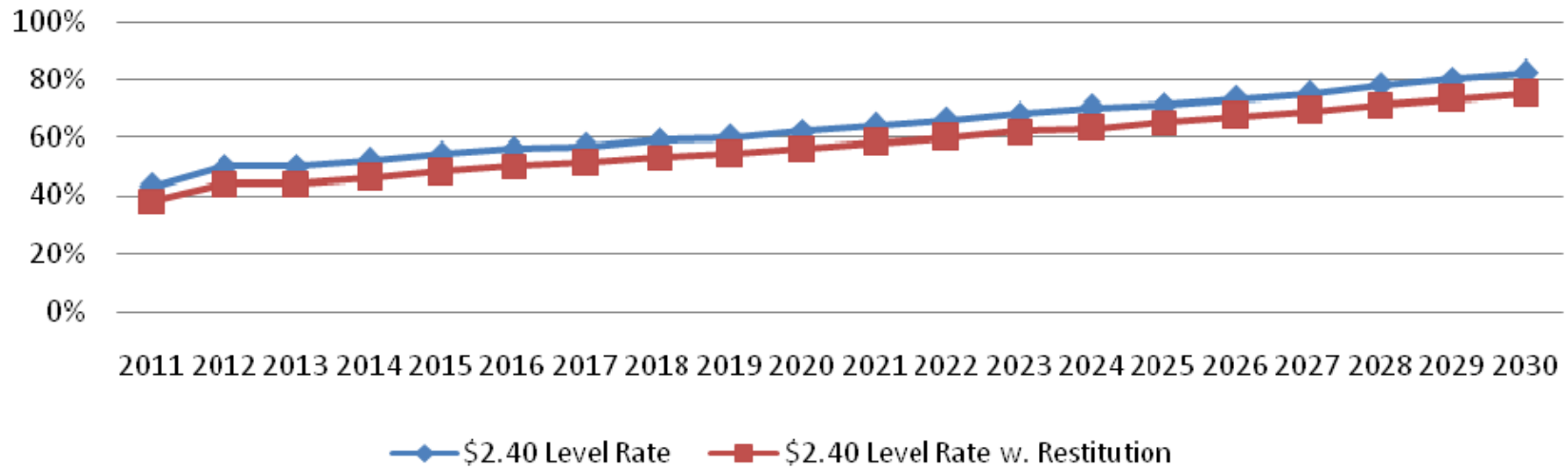
WSIB standard projections assume a premium rate for 2012 of \$2.39. We have chosen a rate of \$2.40 to project a scenario where rates remain flat. (Table D)

In every one of our scenarios, the rate is sufficient to provide for full indexing and also for full indexing plus significant restitution while continuing to grow the investment fund, shrink the UFL and radically improve the Board's funding ratio. Even at the \$2.40 rate with the additional \$4,000 million in restitution, the funding ratio nearly doubles over the course of the projection.

In the interests of justice, full indexing plus restitution must be implemented as soon as possible. The UFL is no impediment.

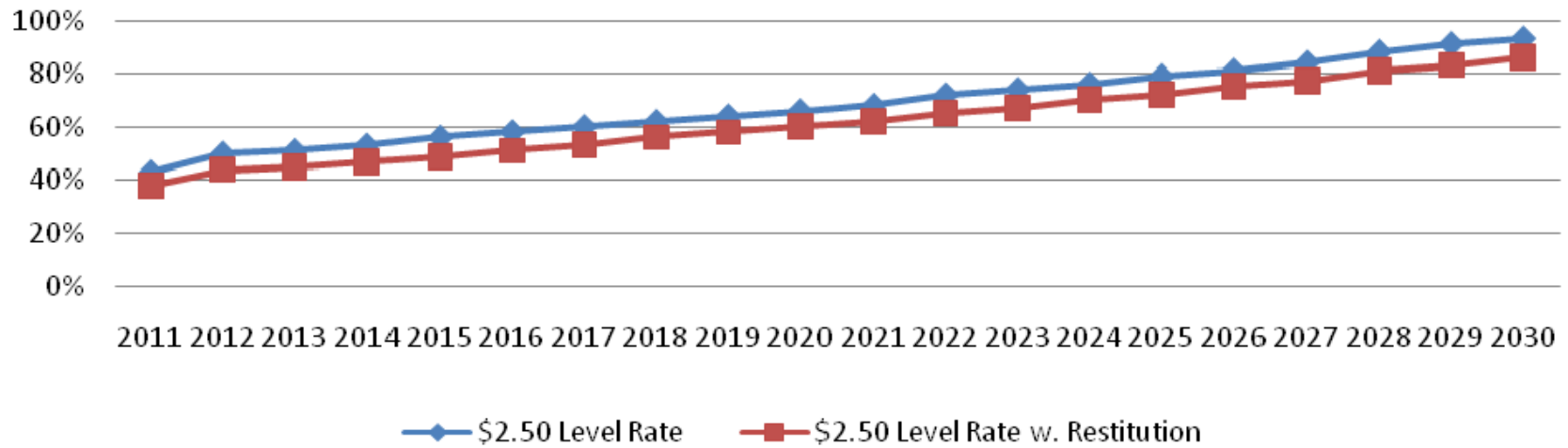
⁷ WSIB presentation to the Funding Review's Technical Consultation entitled "Funding", dated January 2011, p. 13.

Table B: Funding Ratios at \$2.40 Level Rate Full Indexing with and without Restitution 2% Payroll Growth



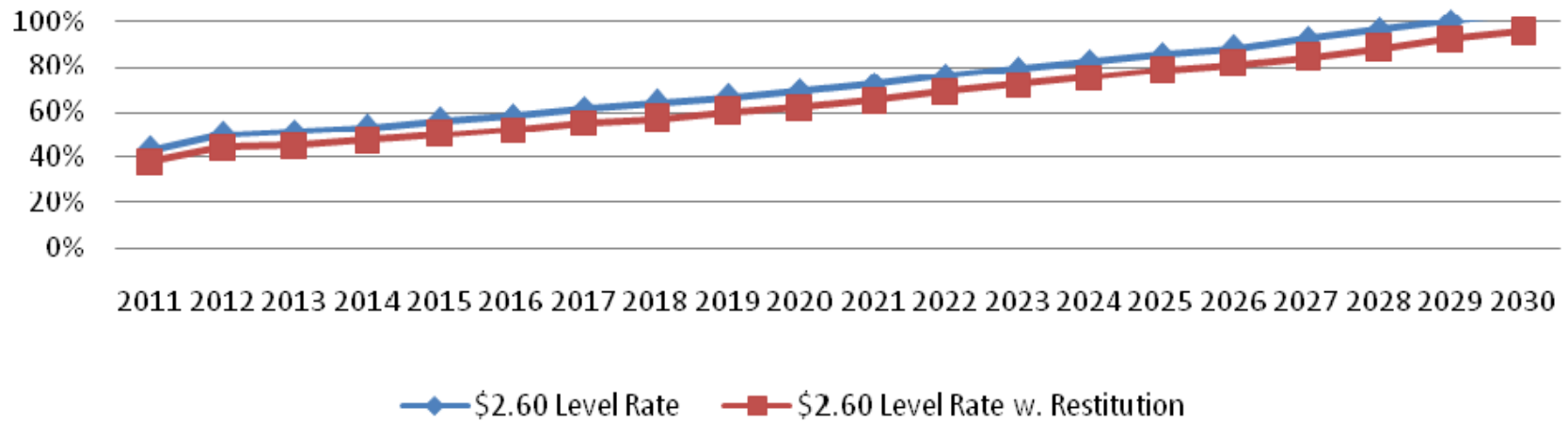
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	
\$2.40 Level Rate Without Restitution Figures in \$b	Total Liabilities	\$28.4	\$29.4	\$30.4	\$31.4	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4
	Total Assets	\$12.2	\$14.6	\$15.3	\$16.3	\$17.6	\$18.6	\$19.7	\$20.8	\$22.0	\$23.2	\$24.4	\$26.0	\$27.4	\$28.8	\$30.2	\$31.7	\$33.3	\$35.3	\$37.0	\$38.8
	Unfunded Liability	-\$16.2	-\$14.8	-\$15.1	-\$15.1	-\$14.8	-\$14.8	-\$14.7	-\$14.6	-\$14.4	-\$14.2	-\$14.0	-\$13.4	-\$13.0	-\$12.6	-\$12.2	-\$11.7	-\$11.1	-\$10.1	-\$9.4	-\$8.6
	Funding Ratio	43%	50%	50%	52%	54%	56%	57%	59%	60%	62%	64%	66%	68%	70%	71%	73%	75%	78%	80%	82%
\$2.40 Level Rate With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.6	\$15.3	\$16.3	\$17.6	\$18.6	\$19.7	\$20.8	\$22.0	\$23.2	\$24.4	\$26.0	\$27.4	\$28.8	\$30.2	\$31.7	\$33.3	\$35.3	\$37.0	\$38.8
	Unfunded Liability	-\$20.2	-\$18.8	-\$19.1	-\$19.1	-\$18.8	-\$18.8	-\$18.7	-\$18.6	-\$18.4	-\$18.2	-\$18.0	-\$17.4	-\$17.0	-\$16.6	-\$16.2	-\$15.7	-\$15.1	-\$14.1	-\$13.4	-\$12.6
	Funding Ratio	38%	44%	44%	46%	48%	50%	51%	53%	54%	56%	58%	60%	62%	63%	65%	67%	69%	71%	73%	75%

Table C: Funding Ratios at \$2.50 Level Rate Full Indexing with and without Restitution 2% Payroll Growth



		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$2.50 Level Rate Without Restitution Figures in \$b	Total Liabilities	\$28.4	\$29.4	\$30.4	\$31.4	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4
	Total Assets	\$12.2	\$14.6	\$15.4	\$16.5	\$18.0	\$19.2	\$20.5	\$21.9	\$23.3	\$24.7	\$26.3	\$28.2	\$29.9	\$31.6	\$33.4	\$35.3	\$37.3	\$39.8	\$42.0	\$44.3
	Unfunded Liability	-\$16.2	-\$14.8	-\$15.0	-\$14.9	-\$14.4	-\$14.2	-\$13.9	-\$13.5	-\$13.1	-\$12.7	-\$12.1	-\$11.2	-\$10.5	-\$9.8	-\$9.0	-\$8.1	-\$7.1	-\$5.6	-\$4.4	-\$3.1
	Funding Ratio	43%	50%	51%	53%	56%	58%	60%	62%	64%	66%	68%	72%	74%	76%	79%	81%	84%	88%	91%	93%
\$2.50 Level Rate With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.6	\$15.4	\$16.5	\$18.0	\$19.2	\$20.5	\$21.9	\$23.3	\$24.7	\$26.3	\$28.2	\$29.9	\$31.6	\$33.4	\$35.3	\$37.3	\$39.8	\$42.0	\$44.3
	Unfunded Liability	-\$20.2	-\$18.8	-\$19.0	-\$18.9	-\$18.4	-\$18.2	-\$17.9	-\$17.5	-\$17.1	-\$16.7	-\$16.1	-\$15.2	-\$14.5	-\$13.8	-\$13.0	-\$12.1	-\$11.1	-\$9.6	-\$8.4	-\$7.1
	Funding Ratio	38%	44%	45%	47%	49%	51%	53%	56%	58%	60%	62%	65%	67%	70%	72%	75%	77%	81%	83%	86%

Table D: Funding Ratios at \$2.60 Level Rate Full Indexing with and without Restitution 2% Payroll Growth



	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	
\$2.60 Level Rate Without Restitution Figures in \$b	Total Liabilities	\$28.4	\$29.4	\$30.4	\$31.4	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4
	Total Assets	\$12.2	\$14.6	\$15.4	\$16.5	\$18.1	\$19.5	\$21.0	\$22.5	\$24.2	\$25.9	\$27.6	\$29.9	\$31.8	\$33.9	\$36.0	\$38.3	\$40.7	\$43.6	\$46.2	\$49.0
	Unfunded Liability	-\$16.2	-\$14.8	-\$15.0	-\$14.9	-\$14.3	-\$13.9	-\$13.4	-\$12.9	-\$12.2	-\$11.5	-\$10.8	-\$9.5	-\$8.6	-\$7.5	-\$6.4	-\$5.1	-\$3.7	-\$1.8	-\$0.2	\$1.6
	Funding Ratio	43%	50%	51%	53%	56%	58%	61%	64%	66%	69%	72%	76%	79%	82%	85%	88%	92%	96%	100%	103%
\$2.60 Level Rate With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.6	\$15.4	\$16.5	\$18.1	\$19.5	\$21.0	\$22.5	\$24.2	\$25.9	\$27.6	\$29.9	\$31.8	\$33.9	\$36.0	\$38.3	\$40.7	\$43.6	\$46.2	\$49.0
	Unfunded Liability	-\$20.2	-\$18.8	-\$19.0	-\$18.9	-\$18.3	-\$17.9	-\$17.4	-\$16.9	-\$16.2	-\$15.5	-\$14.8	-\$13.5	-\$12.6	-\$11.5	-\$10.4	-\$9.1	-\$7.7	-\$5.8	-\$4.2	-\$2.4
	Funding Ratio	38%	44%	45%	47%	50%	52%	55%	57%	60%	62%	65%	69%	72%	75%	78%	81%	84%	88%	92%	95%

More realistic growth assumptions

As noted above, we believe that the **Eckler** assumption of only 2% annual growth in payroll is too conservative. Table E sets out the actual year over year growth in assessable payroll, as well as the average rates of growth over 10, 20 and 25 years. Although we share the concern regarding the long-term integrity of the Board's premium base, we believe that a 3% average growth rate remains a credible assumption.

TABLE E: PAYROLL CHANGE YEAR OVER YEAR

Year	Assessable Payroll (Schedule 1)	Assessable Payroll Change Year Over Previous Year
1985	\$57,025,000,000	
1986	\$61,574,000,000	7.98%
1987	\$67,974,000,000	10.39%
1988	\$73,789,000,000	8.55%
1989	\$79,475,000,000	7.71%
1990	\$80,352,000,000	1.10%
1991	\$80,727,000,000	0.47%
1992	\$83,048,000,000	2.88%
1993	\$84,243,000,000	1.44%
1994	\$82,818,000,000	-1.69%
1995	\$86,065,000,000	3.92%
1996	\$86,844,000,000	0.91%
1997	\$91,497,000,000	5.36%
1998	\$96,205,000,000	5.15%
1999	\$101,654,000,000	5.66%
2000	\$109,237,000,000	7.46%
2001	\$113,727,000,000	4.11%
2002	\$120,252,000,000	5.74%
2003	\$125,638,000,000	4.48%
2004	\$130,398,000,000	3.79%
2005	\$135,865,000,000	4.19%
2006	\$140,912,000,000	3.71%
2007	\$146,393,000,000	3.89%
2008	\$150,535,000,000	2.83%
2009	\$144,910,000,000	-3.74%
2010	\$150,500,000,000	3.86%

Average Rate of Growth (last 10): 3.26%

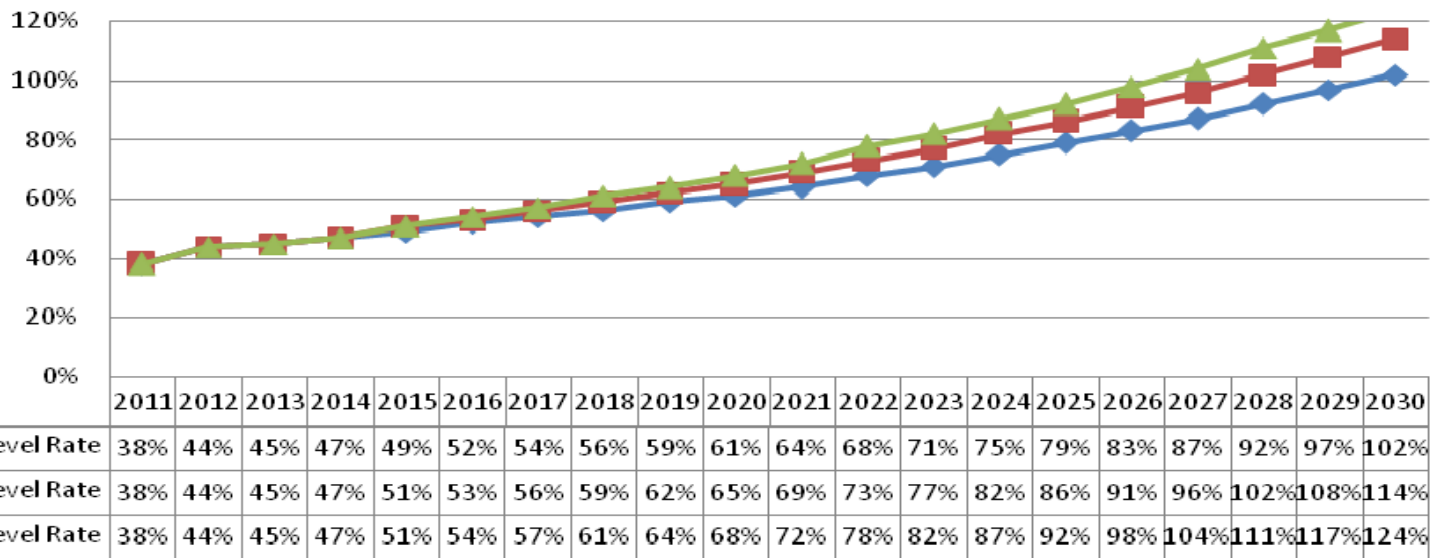
Average Rate of Growth (last 20): 3.19%

Average Rate of Growth (last 25): 3.96%

Note that in the table above, Schedule 1 Assessable Payroll for 2010 is taken from the WSIB document titled "WSIB Funding Elements Breakdown," prepared for the Funding Review's Technical Consultation, dated January 25, 2011. All other assessable payroll figures taken from WSIB Annual Reports.

Our estimates, detailed in Table F, using this growth rate show an elimination of the UFL within the projection period even at the \$2.40 rate, and even with the restoration of full indexing plus restitution.

**TABLE F: Funding Ratios at 3% Payroll Growth
Full Indexing with Restitution**



		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$2.40 Level Rate at 3% Growth With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.7	\$15.4	\$16.5	\$18.0	\$19.3	\$20.6	\$22.1	\$23.7	\$25.4	\$27.2	\$29.6	\$31.7	\$34.0	\$36.5	\$39.1	\$42.0	\$45.5	\$48.9	\$52.4
	Unfunded Liability	-\$20.2	-\$18.7	-\$19.0	-\$18.9	-\$18.4	-\$18.1	-\$17.8	-\$17.3	-\$16.7	-\$16.0	-\$15.2	-\$13.8	-\$12.7	-\$11.4	-\$9.9	-\$8.3	-\$6.4	-\$3.9	-\$1.5	\$1.0
	Funding Ratio	38%	44%	45%	47%	49%	52%	54%	56%	59%	61%	64%	68%	71%	75%	79%	83%	87%	92%	97%	102%
\$2.50 Level Rate at 3% Growth With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.7	\$15.5	\$16.8	\$18.4	\$19.9	\$21.5	\$23.2	\$25.1	\$27.1	\$29.2	\$31.9	\$34.4	\$37.1	\$40.0	\$43.1	\$46.4	\$50.5	\$54.3	\$58.5
	Unfunded Liability	-\$20.2	-\$18.7	-\$18.9	-\$18.6	-\$18.0	-\$17.5	-\$16.9	-\$16.2	-\$15.3	-\$14.3	-\$13.2	-\$11.5	-\$10.0	-\$8.3	-\$6.4	-\$4.3	-\$2.0	\$1.1	\$3.9	\$7.1
	Funding Ratio	38%	44%	45%	47%	51%	53%	56%	59%	62%	65%	69%	73%	77%	82%	86%	91%	96%	102%	108%	114%
\$2.60 Level Rate at 3% Growth With Restitution Figures in \$b	Total Liabilities	\$32.4	\$33.4	\$34.4	\$35.4	\$36.4	\$37.4	\$38.4	\$39.4	\$40.4	\$41.4	\$42.4	\$43.4	\$44.4	\$45.4	\$46.4	\$47.4	\$48.4	\$49.4	\$50.4	\$51.4
	Total Assets	\$12.2	\$14.7	\$15.5	\$16.8	\$18.5	\$20.2	\$22.0	\$23.9	\$26.0	\$28.3	\$30.7	\$33.7	\$36.5	\$39.5	\$42.8	\$46.3	\$50.1	\$54.6	\$59.0	\$63.8
	Unfunded Liability	-\$20.2	-\$18.7	-\$18.9	-\$18.6	-\$17.9	-\$17.2	-\$16.4	-\$15.5	-\$14.4	-\$13.1	-\$11.7	-\$9.7	-\$7.9	-\$5.9	-\$3.6	-\$1.1	\$1.7	\$5.2	\$8.6	\$12.4
	Funding Ratio	38%	44%	45%	47%	51%	54%	57%	61%	64%	68%	72%	78%	82%	87%	92%	98%	104%	111%	117%	124%

If our estimates can be validated, even the \$2.40 rate exceeds a true steady state rate at current benefit levels with full indexing. This raises the question, whether rates are in fact set too high. The Board asserts in the **Perspectives** paper that Ontario “has a higher premium today than most of the other Canadian provinces, even accounting for the different employer mix in other provinces” (p. 6). We believe this to be true. But we also believe that the full import is only that some provinces have higher premiums and some have lower premiums, with Ontario right within the pack.

There is no particular honour or general economic benefit to having the lowest workers’ compensation premiums. In our submission, Ontario should have the highest premium rates, the most generous benefits, the most effective vocational rehabilitation, and the most expeditious appeals system. There is room for great improvement on all these fronts.

Also, there is no objection to the return of premiums to employers in the form of incentives when they have actually earned that money by producing tangible, validated results in health and safety and return to work. This would require a reworking of the Board’s rate-setting and incentive programs, but not in line with the Marshall scheme.

Experience rating as rate-setting

The **Nexus** paper proposes to replace a system of risk rating by industry supplemented by retrospective claims cost-based experience rating with a system that is nothing but prospective experience rating with some insurance features.

We have already indicated our preference for a flat rate, as well as our opposition to claims cost based experience rating. The proposed system does nothing to address our concerns. Access to incentive funds should directly depend on the provision of employment or the implementation of concrete measures to promote health and safety.

Possible models for return to work incentives include the German system of grants and levies and the backpack concept of the Experience Rating Working Group. Both have the advantage of expanding the incentive to workplaces other than the accident employer. Neither confuses the termination of compensation benefits with re-employment as claims cost based systems do.

The claims cost based system fails to take advantage of the possibilities of our public system. Ultimately, there is no reason that an employer willing to hire permanently disabled workers should not receive incentives in excess of its premium obligations – if those incentives are earned.

Possible models for health and safety incentives include the Experience Rating Working Group's excellence fund concept or schedule rating plans of the type used in the United States. Even private insurers are capable of inspecting premises for safety hazards, equipment guarding and safety devices. They do so without the Board's powers of inspection. They have also developed tools to assess safety programs and management cooperation with safety organizations.

Schedule rating was successfully used in 1930's North Carolina to improve ventilation in foundries and reduce the incidence of silicosis.⁸ Under the **Nexus** plan we will not be able to do the same for carcinogenic metalworking fluids in 21st century Ontario, not without employer agreement that it is "fair" to consider cancers caused by this particular carcinogen in setting rates, and not until enough cancers have occurred to have an economic impact. This is not a real incentive for a safe workplace.

⁸ M.F. Trice, "The Foundry Dust Hazard and Its Control", 30 AJP 769.

Privatization?

Finally, we must take note of the fact that ring-fencing of an unfunded liability was the first step in privatizing Nevada's workers' compensation state fund.⁹ The public monopoly insurer then became a private mutual insurer in an open market and finally a publicly traded company selling insurance and managed care services across the United States.¹⁰

Once the UFL is separated from a fully funded new account and perhaps even associated with a new entity, what will happen? We object to the ring-fencing concept not only as part of our general opposition to full pre-funding, but also as a possible stepping stone to privatization.

The Board must remain public.

All of which is respectfully submitted,

ONTARIO NETWORK OF INJURED WORKER GROUPS

⁹ Mack, Kathryn A., "A Study of issues related to privatization of workers' compensation in Nevada" (1999). *UNLV Theses/Dissertations/Professional Papers/Capstones*. Paper 514. <http://digitalcommons.library.unlv.edu/thesesdissertations/514>

¹⁰ <http://www.employers.com>