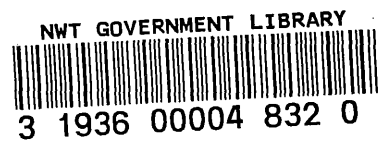


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REPORT OF THE WORKERS'
COMPENSATION REVIEW PANEL

APRIL 16, 1989



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COMPENSATION REVIEW PANEL

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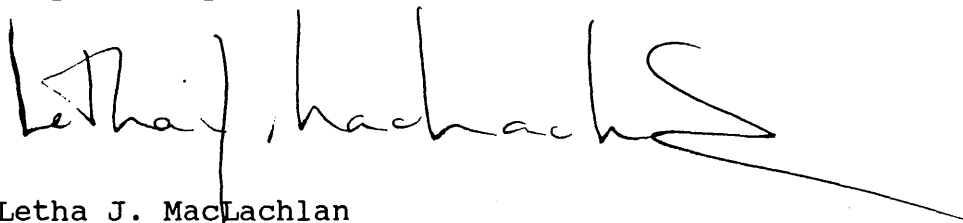
The Honourable Nellie Cournoyea
Minister Responsible for the
N.W.T. Workers' Compensation Board,
Government of the N.W.T.
Yellowknife, N.W.T.

April 19, 1989

Dear Madame:

The members of the Workers' Compensation Review Panel are pleased to submit our report on the financial and management review of the Workers' Compensation Board of the Northwest Territories.

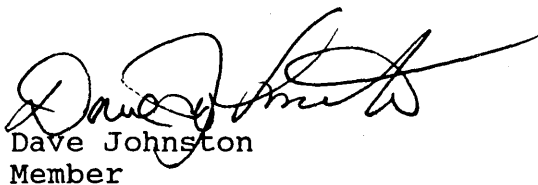
Respectfully,



Letha J. MacLachlan
Chairperson



Robert A. Stewart, C.A., C.M.C.
Member



Dave Johnston
Member

The Honourable Nellie Cournoyea
Minister Responsible for the
Worker's Compensation Board,
Government of the Northwest Territories
Yellowknife, N.W.T.

April 18, 1989

Dear Madame:

Re: Dissenting Opinion
Adjustment of the 1989 Assessment Rates

The decision made to set the 1989 Provisional Rates was made on the information the Board had before them at the time. (October 1988) Their information was that there had been a 15% increase in the number of accidents up to August 31, 1988 and an increase in compensation costs of 35%.

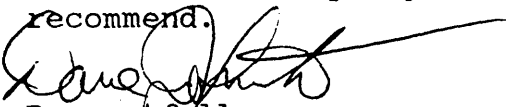
The decision was unanimous at the time.

At the November Board meeting the actuary was asked if, in his professional opinion, the rates in that study (Assessment Rates - 1989, Revised November 18, 1988) were correct and necessary to sustain the fund. He replied that they were.

The Board, in February, received the complete data for 1988 and were told that accident rates were up 11.1% and the cost of compensation was up 24.2%. The overall increase in the 1989 rates is 25% across the board - taking into consideration all sub-classes whether they got reductions or increases.

Not one employer has filed an official appeal against the rate increase to date. This Panel was told that some employers did make enquiries about their assessment rates but, that when they were shown their accident records, did not make an appeal at that time.

We have recommended in this Report that an independent actuary be hired to review the assessment rates for 1989. I feel no adjustments should be made until this has been completed. Whatever adjustments should be done, should be done at that time. To make an adjustment at this time, might conflict with any adjustments the independent actuary might recommend.


Respectfully,
Dave Johnston,
Member

REPORT OF THE WORKERS'
COMPENSATION REVIEW PANEL
APRIL 16, 1989

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EXECUTIVE SUMMARY

PREFACE

In the fall of 1988, the Workers' Compensation Board published provisional assessment rates for 1989 which resulted in significant increases to 58% of the industry sub-classes. In response to the outcry from employers on the extent of rate increases, concerns about the proposed move of the WCB to new premises and about the impact of other procedures and programs of the Board, the Minister struck this Panel to conduct a review of the management and financial efficiency of the Board and report back on the major aspects of issues currently affecting the WCB. The Terms of Reference to which we responded are attached to this Report as Appendix A.

The Panel consisted of three members: Letha J. MacLachlan, Lawyer and Chairperson of the 1986 WCB Review Committee was appointed as the Chairperson; Robert A. Stewart, Certified Management Consultant and Chartered Accountant with MacKay, Stewart Management Consultants Ltd., was nominated by the N.W.T. Chamber of Commerce and Dave Johnston, President of the Northwest Territories Federation of Labour and Vice President of the Canadian Labour Congress was nominated by the N.W.T. Federation of Labour.

Although the period of time allotted us to conduct this review and write this report was challengingly brief, (we took one and a half months) we believe we were able to accomplish a significant portion of our task. Admittedly we are not experts in workers' compensations systems. However, we did bring financial, management, legal expertise and a general knowledge of the workers' compensation scheme to our review. Moreover, we were not asked to make recommendations or analyses which would fundamentally alter the basic nature or character of the scheme. A number of reports had been made on the operations of the Workers' Compensation Board over the past three years and our task was to measure progress in implementing those earlier recommendations.

This Executive Summary sets out each of the enumerated Terms of Reference and provides a summary of our findings. Our recommendations are then listed in the following section.

ISSUES ADDRESSED BY THE 1989 REVIEW PANEL

1. Whether the provisional assessment rates set by the Board for 1989 are fair and reasonable; whether they have been fairly applied to the various industry sub-classes and whether they are sufficient to meet the projected needs of injured workers.
-

When the WCB released its provisional rates for 1989, the public was told that the reason for the dramatic increase in Assessment rates was a dramatic increase in the number and cost of accidents. However, when we looked at the process by which the Board set the rates for 1989 we found that the formula which had been used traditionally had been changed in several significant ways, at least one of which had been done without the knowledge of the Board. The results of changing these variables increased the rates of 58% of the employers significantly and has resulted in an undue burden.

This panel was provided with calculations using the same variables as had been used traditionally by the Board and found that although rates for some sub-classes would be increased, the overall 1989 rates could be reduced significantly from those published as the Provisional Rates for 1989. Most importantly, THE ACCIDENT FUND WOULD REMAIN FULLY FUNDED. No rates would increase by more than 25% and the employers would save \$1.3 million.

We also received professional advice indicating that, under certain conditions (eg. establishing a formal policy on indexing rather than the current ad hoc process) the fund could be reduced by \$8 to \$10 million and still be certified as FULLY FUNDED by the actuary within a reasonable margin of comfort.

Given the fact that the procedures for calculating assessment rates were changed unnecessarily from previous years and represent an unfair burden, the majority of this panel recommends that the Workers' Compensation Board correct their mistake now and that they recalculate the 1989 assessment rates using the formula used in past years (i.e. 1984-1987 experience and the 25% cap in Appendix E). At the same time, they should use the authority available to them in the Workers' Compensation Act to levy additional assessments against all employers who have a poor accident history. The minority opinion is that the 1989 rates should remain as published until an independent actuarial review can take place after which the Board should recalculate the 1989 rates based on the rate setting procedure as accepted by the Board.

We are unanimous in our recommendation that an independent actuarial review of the rate and reserve setting policies, systems and procedures take place immediately.

2. Whether the Board has been operating in a financially efficient and responsible manner.

We found, in the course of our review, many very basic management deficiencies. In particular, it was clear that strategic planning, clarity of roles, responsibilities and accountabilities, management ownership, leadership and direction are not evident in the Workers' Compensation Board. Criticisms that the Board is not operating in a financially efficient and responsible manner are borne out.

A consultant's report done in 1987 identified considerable room for improvement. An unlimited "no-holds-barred" review of all Board activities is necessary to bring the Board into the modern era of proper management systems. This should be carried out by the new Chairman and General Manager, with a follow up review by an independent source in no more than two to three years. We can not emphasize the need and urgency enough.

We would also recommend that an independent consultant with a proven process and track record be hired to facilitate the strategic planning process.

3. Whether the size and composition of the Board of Directors of the WCB should be altered.

Sufficient evidence was found to indicate that the Board of Directors was not operating in an efficient, timely or effective manner. We believe that many measures can and should be taken to improve the Board's decision making processes including altering the size and composition of the Board, providing them with better orientation, training, and support services and ensuring they develop a strategic plan.

4. Whether the Board's investment policy is sound and is in accordance with governing legislation and principles affecting the Board in their role as trustees and whether the Board has been getting a sufficient rate of return on its investments.
-

We found that the Board's investment policy is relatively sound (in comparison to other problems encountered) but can be improved. Investment performance has been below the median for similar funds over the past five years. We were unable to receive a satisfactory accounting for a significant drop in investment income from an all-time high of \$12 million in 1986 to \$6.3 million in 1987. We were able to determine however, that the Fund suffered a capital loss in the vicinity of \$2 million.

We are recommending an independent investment management review in conjunction with the actuarial review above and an accounting of the decline in income in 1987. We are also recommending consideration be given to raising the target real rate of return on the portfolio from the current easily attainable 2-3% range and to increase the equity proportion of the portfolio (currently 20%) to that of the average Canadian pension funds (45% according to a 1988 Alberta Workers' Compensation Board study "Shaping the Future").

5. Whether there has been an effect on assessment rates from the introduction of the program for hunters and trappers, the board's policy of commuting pensions to lump sum payments and their increasing of pensions.
-

We found that in the fifteen months since the new hunters and trappers program began, the current and future costs significantly exceed \$1 million. This has contributed to the Assessment Rate for Sub-Class 81 (N.W.T. Government and Agencies, Housing Corporation, and W.C.B., and other G.N.W.T. agencies) increasing 100% from \$0.50 in 1988 to an uncapped rate of \$1.00 in 1989. This rate increase has resulted in an additional cost to the G.N.W.T. of approximately \$1 million.

Our conclusion is that automatic coverage of hunters and trappers based on current YMIR could have significant cost implications in excess of what was originally anticipated when the program was originally approved.

With respect to lump sum payments to workers with permanent disabilities, we found that those payments have increased substantially. In 1988 approximately \$3 million was paid out in commutations of lifetime pensions compared with \$1.3 million in 1987. More than \$450,000 was paid out during the first month of 1989.

We also found that the calculation of the lump sum benefits were not being done correctly. The calculations were being done at a discount rate of 2.5% - the same rate as the calculation of pension fund liabilities which includes a factor for adverse deviations. When commuting lump sum payments the Board should be calculating a fair value settlement and not passing on the financial protection inherent in the liability calculation. Therefore a discount rate in the order of 5.0% is more appropriate. The Board has come to the realization that the use of a 2.5% discount rate is imprudent and has approved on February 15, 1989 a new lump sum policy which will use a more appropriate discount rate equal to the yield on an appropriate long term Canada Bond less the most recent average annual increase in the Consumer Price Index (resulting in a discount rate currently of 6%).

The Board was not able to identify the total cost of using the inappropriate discount rate. By extrapolating our findings to the total lump sum payments made during 1988 of \$3 million, the Board may have overpaid several individuals to a total in excess of \$1.0 million.

As to why lump sum payments more than doubled in 1988 and reached an all time high of \$450,000 for one month in 1989, the Board has indicated it is a result of a loose interpretation of the previous policy and generosity on the part of the Board. In the interest of fairness to employers and workers, we have recommended a significant tightening of the lump sum payments policy.

We also found an ad hoc approach to supplementary pension increases over the last several years.

These pension and other program enhancements came out of the contingency reserve. We found that the reduction in the contingency reserve from \$ 23 million at the end of 1985 to \$ 6.7 million at the end of 1988 (a reduction of \$ 16.3 million) was caused, not only by these program enhancements but a change in the liability valuation policy. In light of the general lack of understanding of the financial implications of Board policy changes, we are concerned that these pension increases have not been in the best interests of the Accident Fund.

With respect to indexing, the arguments favouring an indexing policy appear sound and appear to have the support of most parties. It is a practice followed by several other WCB's in Canada and could be adopted by the NWT within the current

rate setting process with relative financial ease. The issue is "At what rate does one index?" Current practice appears to lean toward indexing to the Consumer Price Index (rather than wages) and to place reasonable limits on the increases. A formalized policy such as this would eliminate ad hoc practices of the past that have been linked to wage increases rather than CPI and would increase the certainty with respect to fund valuations.

6. Whether the procedures followed by the Board to secure office space in the City Centre project were reasonable and proper.

As a result of deficiencies in the policies and procedures surrounding the securing of lease premises, the Board can not assure the workers, the employers or the Legislative Assembly that accommodation requirements are being met in the best possible manner. To this extent, the procedures followed by the Board to secure office space in the City Centre project were not reasonable and proper.

7. Whether the leasehold agreement entered into by the WCB in the City Centre project is advantageous to the WCB financially and administratively and what the effect of the move to these premises will be on the operating costs of the WCB in the next 5 - 10 years.

In comparison to other alternatives and in the perspective of a reasonably prudent person, the simple answer is "no" - the leasehold agreement is not advantageous to the WCB financially and administratively. It would appear to be a case of wanting one thing and getting something quite different. We believe a prudent person, in the Board's position, would have built their own 13,000 square foot building for \$2,035,000.

What is the effect of the move to these premises on the operating costs of the WCB in the next 5 to 10 years? The answer is that, conservatively estimated, operating costs will be increased in the order of \$1.5 million in current dollars more (i.e. 60%) than if they had purchased their own office space. This does not include the real risks of not finding subtenants or other implications of being condominium owners rather than owning ones' own free standing building. There is a risk that additional costs may be as high as \$1.8 to \$2 million.

8. With respect to the 1986 WCB Review, what recommendations have been adopted and the status of outstanding recommendations.

Of the 133 recommendations made by the 1986 Review Panel, both the Board and the Minister's office have implemented only those which were most important to them. These have proven to be cosmetic and continue to be done on an ad hoc basis. The Act has been amended 4 times since then to accommodate the most pressing needs of the day but the holistic "overhaul" suggested has not been advanced. There has been some movement toward developing linkages for accident prevention, appeals procedures or formulae for amending YMIR, but it has been tentative and inconclusive.

Although a proposal has been put forward for legislative reform, no study has been done to substantiate proposed initiatives such as:

- payment of medical costs through the Territorial Health Insurance system;
- employers maintaining injured workers on payroll for up to seven days after an accident;
- GNWT self-insurance;
- requiring self-employed workers to be covered;
- replacing pensions with retirement benefits when a pensioner reaches age 65;
- GNWT payment of public servants who administer workers' compensation.

WORKERS' COMPENSATION BOARD
FINANCIAL AND MANAGEMENT REVIEW
SUMMARY OF RECOMMENDATIONS

ASSESSMENT RATES

1. THAT an independent actuary be hired by the Minister Responsible for the Workers' Compensation Board to review and critique the current rate and reserve setting procedures, policies and assumptions. This review should identify a minimum/maximum range and a reasonable level of funding for the Accident Fund liabilities and help educate the Board with respect to workers' compensation systems.
2. THAT Assessment Rates for 1989 be adjusted to those rates that would have been derived using consistent principles followed in prior years and THAT the Board review the circumstances of all employers who have a poor accident history for the purpose of levying additional assessments where appropriate. [Note: A minority of the Panel recommends that no adjustments be made to the 1989 Provisional Rates until the actuarial review recommended in # 1 above has been completed after which the Board should recalculate the 1989 rates based on the rate setting procedure as accepted by the Board.]
3. THAT the Board formally adopt a policy defining "fully funded" in terms of a reasonable range.
4. THAT the Board move expeditiously to document the rate and reserve setting procedures, policies and assumptions in a user manual. We would expect these documents to include flowcharts giving a systems overview and procedural detail leading from the many variables that go into rate setting to the final output in terms of rates and reserves.
5. THAT the Board review the Workers' Compensation Act and develop a policy and procedure for levying increased/decreased assessments against employers in relation to the safety of their workplace.
6. THAT every year when changes are contemplated to the rates, employers and employees be made aware of what those changes are and be provided an opportunity to have meaningful input before the assessment rates actually change.
7. THAT the Board tender for the provision of actuarial services at least every five years commencing immediately.

8. THAT the Board prepare a ten year financial forecast and maintain it on an ongoing basis to ensure the long term viability of the program.
9. THAT the Board improve their accountability and disclosure of information to the public through their Annual Report. Highlights from Annual Reports of other jurisdictions is attached as Appendix F for review by the Board and General Manager.
10. THAT Decision papers should be provided to the Board for changes to policy. They should clearly and completely state financial and policy implications to workers and employers.

OPERATING IN A FINANCIALLY EFFICIENT AND RESPONSIBLE MANNER

11. THAT the Minister Responsible for the Workers' Compensation Board be empowered to take a more active role in the monitoring of the management of the Board. The Minister should ensure the needed management reforms are carried out within one year and, on an ongoing basis, should verify that the Board can assure it is being operated with due regard to efficiency and economy. The Minister's office may require support staff to undertake these tasks. We note that, in the provinces, such measures are performed by Departments of Labour.
12. THAT the new Chairperson and General Manager carry out an unlimited "no holds barred" review of all Board activities to bring the Board up to basic standards of efficiency, economy and effectiveness.
13. THAT the Board challenge the current method of operations and policies with a view to improvement and that they be discouraged from accepting the status quo.
14. THAT a strategic plan be developed to establish a suitable management framework, using a proven process similar to that developed by the Alberta Workers' Compensation Board tailored to the Northwest Territories circumstances. The strategic plan should serve as guidelines for Board decisions related to organizational activities (programs and services) and resource allocation; describe principles under which the Board operates; and be used to maintain accountability to employers, workers and the Legislative Assembly. The strategic plan should undergo intense public scrutiny from the government, employer and labour groups and the general public.
15. THAT the Board adhere to and regularly update the action plan attached as Appendix G. The Board's performance should be monitored by the Minister's office on a quarterly basis at a minimum.

16. THAT a follow up operational review or comprehensive audit analyzing the state of progress at that point in time be conducted within three years. The performance of the Chairman and General Manager should be appraised based on their ability to implement the necessary changes as verified by the operational review or comprehensive audit. In this respect, the Chairman and General Manager must be given the support of the Board and the Minister to successfully make the changes necessary and a reasonable time within which to accomplish those changes.
17. THAT a staff training strategy and human resource plan be developed to eliminate skill deficiencies.
18. THAT the General Manager do a comparative analysis of their operations with other WCB's.
19. THAT the Board take action (proactive and reactive) to reduce the rate and severity of workers' accidents. Such action will have to be carried out in liaison with Occupational Health and Safety.
20. THAT the Act be amended to provide the Board with the mission to minimize work related accidents and their costs to the Northern society while maintaining an equitable compensation system.
21. THAT the job descriptions of the General Manager be rewritten.
22. THAT staff growth be permitted only after rigorous analysis of the need and lack of other options.
23. THAT legislative proposals and new legislation not be approved without the identification of financial implications and implications to employers and workers.

SIZE AND COMPOSITION OF THE BOARD

24. THAT the size of the Board be reduced to five members.
25. THAT the Board be composed of two members representing labour, two members representing employers and a Chairperson with a neutral background.
26. THAT nominees to the WCB Board be apprised of the role of a Board of Directors and of their responsibilities as members of the Board.
27. THAT Board members receive training on a regular basis on the duties and liabilities of Board members, the overall scheme of workers' compensation and the policies and procedures for all programs of the N.W.T. WCB.
28. THAT the Minister be empowered to make appointments to the Board, subject to the approval of Cabinet.
29. THAT prior to making appointments, the Minister be obliged in the Act to consult with and to consider nominations put forward by the representative groups of labour and of the employers.
30. THAT the board members be appointed for three year terms which are renewable.
31. THAT the position of Chairman be maintained as a full time position for the first year but that the new incumbent reduce his involvement over the next three years so that the position can be performed on a part time basis.
32. THAT at the end of the Chairperson's three year term, the Minister re-assess whether the position should be full or part time.
33. THAT Board members be expected to spend one to two days as preparation time for each Board meeting and that they be entitled to claim adequate compensation for time spent as preparation time.
34. THAT the WCB and the Minister's office improve the delivery of information programs, particularly to the Regions, through the Departments of Health, Social Services, Education, Safety and Public Services and the Executive.

35. THAT all Board members review the Conflict of Interest Act, Guidelines and Policies of the Board and sign a statement saying they have read and they understand the meaning of these provisions.
36. THAT all Board members provide in writing a full and continuing disclosure of their business interests.
37. THAT the Chairperson accomplish the following tasks in the next six months to a year:
 - i) confirm the general manager as Chief Operating Officer, with full responsibility for all WCB functions.
 - ii) develop a strategic planning process that identifies short and long-term objectives and priorities and that facilitates the preparation of annual operating and capital plans.
 - iii) develop clear and concise position descriptions for the Chairman, General Manager, Manager of Finance and Director of Client Services which detail their respective roles, responsibilities, accountabilities and qualifications. (This has been done but needs to be reviewed and revised.)
 - iv) ensure that the people occupying the positions in Recommendation 37 (iii) receive management training where necessary.
 - v) develop clear and concise positions guidelines for the Members of the Board and for Committees of the Board.
 - vi) review the time frame within which claims are being processed and injured workers receive compensation or pensions.
 - vii) review and develop an Appeals Policy and procedure for appeals review and appeals to the Board.
 - viii) appoint an Appeals Review Committee within the next three months.
 - ix) ensure Board members receive training in the workers' compensation scheme and organization as well as the role and duties of Board members and that this be provided on a regular basis and in response to issues which arise from time to time.

x) develop a comprehensive strategy and plan for the dissemination of information to the WCB's various publics and implement information programs that are consistent in content and message.

xi) direct the Investment Committee of the Board to re-assess the investment management strategies currently employed.

xii) review all policies to identify areas requiring further policy formulation, including confidentiality of information, conflict of interest, reporting procedures of committees of the Board, and appeals procedure.

xiii) review management and legislative reforms which have been recommended over the last five years which affect the WCB and impact on workers and employers.

xiv) review all professional contracts and develop a policy to tender all professional contracts at least every five years commencing immediately.

INVESTMENT POLICY

38. THAT the WCB hire an independent investment manager to conduct a review and critique of their current Investment Policy and Strategy. Suggested terms of reference for this study are set out in Appendix K. This review should be performed in conjunction with the actuarial review that has been recommended in Chapter 2.
39. THAT an accounting of the significant decline in Investment Income from \$ 12 million in 1986 to \$ 6.3 million in 1987 be made to the Minister and corrective action taken if required.
40. THAT the WCB Annual Report identify the sources of investment gains and losses for the year in such a way as to permit the interpretation of investment performance.
41. THAT, after analysis of the performance of equity investments to date, consideration should be given to increasing the equity proportion of the portfolio.
42. THAT the Board improve its in house knowledge of investment management.
43. THAT the Board tender for the provision of portfolio management services at least every five years commencing immediately.

44. THAT changes to investment policies not be approved without the identification of financial implications.
45. THAT the target real rate of return on investments be increased from the current overly conservative amount of 2-3%.

HUNTERS AND TRAPPERS PROGRAM

46. THAT an analysis be performed on the automatic inclusion of general hunting license holders to identify costs and implications of the program and recommend improvements.
47. THAT new policy initiatives not be approved without a proper analysis of financial implications.
48. THAT guidelines be established to differentiate between work related injuries and non-work related injuries which may be quite different than southern norms.
49. THAT consideration should be given to amending the Workers' Compensation Act to change the level of remuneration of Section 10.1 claimants from the equivalent of YMIR to their actual rate of earnings.
50. THAT the Board develop a policy and procedure to determine the "actual rate of remuneration" of Section 10.1 claimants.

LUMP SUM PAYMENTS

51. THAT the Board develop a policy discouraging lump sum payments unless there is a significant benefit to the WCB.
52. THAT the criteria for the issuance of lump sum payments be significantly tightened immediately. A comparison to criteria and methods of calculation used in other jurisdictions should be made.
53. THAT consideration be given, after an evaluation, to amending the Act to remove the Board's authority to give lump sum payments.

SUPPLEMENTARY PENSION INCREASES

54. **THAT** the Board formalize a policy and procedures for indexing pensions.
55. **THAT** the Board approve a formula (calculation) for indexing pensions to the cost of living, with limitations where necessary, which can be incorporated into the Act based on a comparison to other jurisdictions.
56. **THAT** the Annual Report indicate the current cost of indexing pensions and directly related investment income.
57. **THAT** the Board improve its financial statement disclosure in the Annual Report generally, in order to allow the public to understand the implications of pension increases and enhancements and the statement of operations generally.

PROCEDURES TO SECURE OFFICE SPACE

58. **THAT** the Board take steps to determine whether anything can be done to compensate for the procedural weaknesses in obtaining office space.
59. **THAT** the Board take immediate steps to secure a subtenant for their surplus office space in the City Centre Project at \$22.00 per square foot.
60. **THAT** the Board establish the Gross Building Area which is to be paid for under the purchase option.
61. **THAT** the purchase option be exercised at the earliest possible date (currently the end of the fifth year assuming there is not a better option available at that time).
62. **THAT**, in future, the Minister Responsible for the Workers' Compensation Board be involved by the Board in any major projects or policy decisions that involve significant financial or other implications on employers and workers. Policy guidelines should be established for such involvement.

This recommendation is not intended to reduce the autonomy of the Board, however it must be recognized that, for all practical purposes, the Minister is ultimately accountable in the Legislative Assembly for the Board and must provide an appropriate level of leadership to the Board dependent upon the situation. It is the finding of this Panel that the Board has not satisfactorily fulfilled its accountability to the public on its own.

63. **THAT** the Minister obtain a legal opinion on the extent of the Minister's responsibility and hence duties towards the Workers' Compensation Board under law.

KEY RECOMMENDATIONS OUTSTANDING FROM THE 1986 WCB REVIEW COMMITTEE

64. THAT the Minister, Members of the Board and General Manager re-read the Report of the 1986 Review Committee.
65. THAT the Minister initiate steps to co-ordinate, (within the structure of government), Labour Standards, the WCB, Occupational Health & Safety, and any related inspection agencies.
66. THAT the Minister encourage closer and meaningful co-ordination of programs amongst the agencies listed in Recommendation 65. above.
67. THAT the Minister's office take responsibility for hiring a Workers' Advisor immediately.
68. THAT the Minister take steps to amend the Workers' Compensation Act as recommended by the 1986 Review Committee
69. THAT the Minister consider assigning to the Workers' Compensation Board the administration of the Criminal Injuries Compensation Program.
70. THAT the Board immediately determine a formula for adjusting YMIR.
71. THAT the Board consider undertaking the studies recommended by the 1986 Review Committee and this 1989 Review Panel including:
 - payment of medical care costs by the Territorial Health Insurance Services
 - universal insurance
 - transfer of Occupational Health & Safety to the WCB
 - rights of action by injured workers against third parties
 - experience rating
 - interjurisdictional coverage
 - employee cost sharing of assessments
 - equitable compensation/adjustments to injured workers living outside the NWT
 - 3 day self-insurance period
 - replacement of lifetime pensions with an earnings loss approach
 - protecting the Board against catastrophic losses through a reinsurance arrangement with a private broker

CONCLUSION

72. THAT the Minister Responsible for the WCB clarify the legal and political relationship between the Minister and the Board.
73. THAT the Minister urge the Minister responsible for Department of Personnel to expedite matters involving WCB employee classifications and standards.
74. THAT the Minister consider re-naming the WCB, the Worker's Compensation Commission to avoid confusion between the "corporate" Board and the organization.
75. THAT the Legislative Assembly of the Northwest Territories not amend the Workers' Compensation Act on an ad hoc basis and that it not be amended without sufficient analysis of the financial and program implications of the proposed amendment.
76. THAT the Minister Responsible for the Workers' Compensation Board obtain a legal opinion on recovering the losses to the
A c c i d e n t F u n d .

INTRODUCTION

The philosophy of compensating industrially disabled workers during periods of actual disability and paying their related expenses developed a little over 100 years ago and has been entrenched in Canadian legislation since 1902 (British Columbia, 1915 in Ontario). In return for guaranteed compensation regardless of fault or negligence, a worker gave up his right to sue his employer. In return for paying the "insurance premium" an employer was protected against legal action from an employee. In the N.W.T., the Workers Compensation Board has exclusive jurisdiction to determine all matters affecting compensation for workers killed or injured in job-related accidents. It also has the authority to collect from employers the full cost of compensation and the cost of administering the scheme.

Compensation includes the payment of medical expenses and the provision of medical and vocational rehabilitation. It also includes payment for temporary loss of wages resulting from injury or occupational disease, pensions for workers who suffer permanent disability, and pensions for the dependants of workers killed in accidents.

In the fall of 1988, the Workers' Compensation Board published its provisional assessment rates for 1989. Those rates showed an increase for 58% of the industry sub-classes. In some cases employers found their rates had doubled. Employers were upset, not only with the extent of the increases but the fact that they were not given sufficient notice so they could conduct proper financial planning.

There was also concern expressed on the part of Yellowknife businessmen about the proposed new WCB office premises in the Yellowknife City Centre Project. Some argued that the Board was taking on more space than it could use at too high a price in premises which were less than ideal for their needs.

Consequently, the Minister Responsible for the Workers' Compensation Board, the Hon. N. Cournoyea, in response to these concerns, struck this Panel to conduct a two week review and report to her on the major aspects of issues currently affecting the WCB in line with the Terms of Reference attached to this Report as Appendix A.

An invitation to the public to make submissions to the Panel was included in the Press Release announcing the existence, mandate and schedule of the Panel. Letters of invitation were sent to all participants in the 1986 WCB Review process and notices were placed in the News/North. Despite the short time frame we were able to meet with the Board of the WCB, several intervenors and interested groups. We received a half dozen written submissions.

The Panel consisted of three members: Letha J. MacLachlan, Lawyer and Chairperson of the 1986 WCB Review Committee was appointed as the Chairperson; Robert Stewart, Certified Management Consultant and Chartered Accountant of MacKay Stewart Management Consultants Ltd. was nominated by the N.W.T. Chamber of Commerce and Dave Johnston, President of the Northwest Territories Federation of Labour and Vice President of the Canadian Labour Congress was nominated by the N.W.T. Federation of Labour.

Although the period of time allotted us to conduct this review and write this report was challengingly brief, (March 1 - April 15, 1989) we believe we were able to accomplish the task of identifying that the management of the WCB is suffering critical problems in areas which are fundamental to its integrity and ability to function as a service agency. We have tried to make recommendations in a positive and constructive spirit as to how the people involved can effect the major "turn around" which is required. The Board's progress under the stewardship of a new Chairman must be monitored on a regular and continuing basis and we have tried to provide the Minister with recommendations as to how that progress can be measured. These recommendations have been discussed with senior management.

Although we were not able to respond to public concerns regarding administrative procedures (ie. slowness of claims and/or appeals, contrary medical opinions etc.) or required policy or program changes, we have passed those concerns on to the Minister's office or included them in our list of areas needing further action or study.

Given the time constraints on our review, it was difficult if not impossible to gain a complete understanding of the current workings of workers' compensation in the NWT. We are not experts in the workers' compensation scheme. We are building on the work of others who have recommended improvements for this Board over the past three years.

In 1986 a three person Committee conducted a review of the legislation and programs of the Workers' Compensation Board. The 133 recommendations made in their October, 1986 Report were in turn the focal point of a two-day forum in Yellowknife (July 16 and 17, 1987) of all participants in the review and the interested public. Despite the momentum gained at that meeting in support of the recommended legislative and policy reforms, further progress failed to materialize.

One of the recommendations of the 1986 Review Committee was that an in-depth analysis of administrative procedures be performed by an independent and competent consultant. That analysis was indeed conducted and Touche Ross Management Consultants submitted their report in January of 1988. Given our short time allotment and the fundamental nature of the

problems recently highlighted, it was improbable that we would be able to identify and explore all of the financial and operational problems and their extent. In many areas we have recommended further study and review.

We have, therefore, limited our report to the major issues having an impact on the concerns contained in the Committee's Terms of Reference.

1. ASSESSMENT RATES

Whether the provisional assessment rates set by the Board for 1989 are fair and reasonable; whether they have been fairly applied to the various industry sub-classes and whether they are sufficient to meet the projected needs of injured workers.

Each year the corporate Board of the Workers' Compensation Board determines and publishes the rates which employers will have to pay based on their assessable payroll. The Board must set the rates so that they will have sufficient monies in the Accident Fund to cover all their current costs as well as all future liabilities arising from current accident claims. The Accident Fund is the Board's only source of revenue for dealing with these expenditures. (The workers' compensation scheme is independent from and exempt from Government funding). More importantly, it is one of the Board's most critical functions because it affects the rights of workers and of employers. Injured workers, by virtue of the Workers' Compensation Act, have the right to the provision of support services and financial compensation when they are injured as a result of their employment. Employers, as the providers of the funds, are entitled to fair and equitable methods of assessment and responsible financial management and control of those funds.

We expected the Board to be able to show us that they followed equitable methods of assessment and that, through an operational budget, they could demonstrate a sound balance between assessment rates and projected liabilities. We thought we should find that the true costs to society of the workers' compensation system would be accurately reflected in assessment rates.

Assessment rates are calculated by use of a formula which is made up of factors or variables. Those factors include decisions, many of which are complex on their own, about:

- the risk categories (or rating units) employers are placed in
- accident rates for a sub-class (rating unit)
- experience rating (adjustments to the assessment rate within a class for individual employers)
- administrative costs of operating the scheme
- re-insurance system (ability to cover extra-ordinary accidents/catastrophes)
- funding method (the degree to which a Board is fully funded, ie. paying the full eventual cost of accidents occurring today)
- rate of return on investments.

With so many factors to consider, one can see that rate setting is less of a precise science and more of an educated

guess based on actuarial statistics. However, when we began our review, we did expect to find the following policies, procedures and practices in place:

- A rate and reserve setting policy and procedures manual to provide the authority and guidelines for decisions.
- A complete list of principles and assumptions for rate and reserve calculations.
- A glossary of terms specific to workers compensation.
- A documented audit trail and a recent audit of the calculation of fund liabilities.
- A documented definition of "fully funded" incorporating a minimum acceptable level, maximum level and most reasonable level. It is against this criteria that one can judge whether rates established are fair and reasonable.
- An Annual Report that is reasonably understandable and informative to workers' and employers' representatives and will impart a good understanding of the activities of the Board.
- A financial forecast covering the next ten years confirming future viability of the funds.
- Corporation management procedures for obtaining reliable information on the financial implications of Board decisions, policies and legislative proposals.

We found that a rate and reserve setting policy and procedures manual did not exist in the Board. Until recently, there has been a total reliance on the actuary to provide the actuarial calculations and information on the calculations. Since October, 1988, the Board has commenced repatriating the rate setting function on a phased basis and the former Director of Finance was supplying some of the raw data to the actuary. We are advised that policies, procedures and a user manual will be developed to address the current informational deficiencies. However, we found that if Board members or staff did not know how to pose the proper challenges healthy to any system, the system of rate and reserve setting went virtually unchallenged.

We contacted the Office of the Auditor General to determine their procedure for auditing the Accident Fund. We found that, when performing their annual audit of the WCB's financial statements, the Auditor General relies on the Board's actuary for certification of the contingency reserve and the pension and claims liabilities. We also found that a documented audit trail for these items does not exist within the Board for review by ourselves or any other party.

Total reliance has been placed on the actuary by the Board to provide advice on the ongoing management of the liabilities since the Board's inception in 1977. There has been no independent check of the actuaries' work for over a decade. We recognize that the actuary is a respected expert in his field. However, senior management is not sufficiently knowledgeable to know the financial implications of decisions made (or proposed) by the Board.

With respect to providing information to the public, there is insufficient information contained in the Annual Report to provide a reasonable level of accountability to the workers, employers or the Legislative Assembly or their representatives. We received several complaints from intervenors on the lack of sufficient information in the Annual Report. Recommendations for the Annual report content are set out later in this report and in Appendix F.

We also recognize that there is a range of values that can be placed on the accident fund liabilities from a conservative application of assumptions to a liberal application and that only an actuary can define that range. Since the term "fully funded" has not been defined within such an acceptable range, the Board is not able to provide complete information to assure workers, employers or the Legislative Assembly that assessment rates for 1989 are fair and reasonable. In addition, the Board has not prepared a long term financial forecast of its operation and hence can not provide assurance, in light of recent significant increases in the Accident Fund liabilities (i.e. essentially doubling in three years from 1984 to 1987: See Appendix C), as to the long term viability of the current workers' compensation system in the Northwest Territories. We are concerned that if the uncontrolled growth of the liabilities were to continue over the next ten years as they have during the last ten years, the total liability could exceed \$700 million by 1998.

Due to the complexity of the rate setting process, it is very difficult for new (and existing) staff members to understand the rate setting process. In fact, staff members have not had this understanding to date. Obviously, it is all the more difficult for a part time Board member to understand the rate setting process and accordingly the implications of approving a set of rates.

We must point out that rate studies provided by the actuary are extremely complex documents, not easily understood even by a professional accountant. The copy we were provided with did not have a list of all the assumptions on which the study calculations were based, a glossary of terms, an executive summary of the issues, a listing of changes from the last year or an analysis of same, or comments on the implications to employers. In fact, the copy provided to us had new pages inserted in the extensive appendices and had pages out of order. It is our understanding that Board members received

the Rate Study the morning of the Board meeting at which they were expected to make their decision on the setting of rates for 1989.

In our review we found that Board members had been told that the statistics for accident claims costs were dramatically higher in the third quarter than they had been for the previous year and that the estimated costs for 1988 costs would be up by 35%. Consequently, the rate study performed was based on a different variable than all previous rate studies had been: namely, accident rate projections for the uncompleted year (1988) rather than actual accidents for the last four years (although this effect was relatively insignificant). Unbeknownst to Board members, another more important variable had also been changed. In the past, the Board had limited or 'capped' rate increases in any subclass to 25% over the prior year. The cap had been put in place in the computer formulae several years ago and few knew of or remembered its existence. It had been put in place to provide general rate stability and to prevent such dramatic increases as took place this past fall. The November rate study had no such 'cap'. Only the Chairman and the actuary were aware that these were unadjusted rates. They made no mention of the existence or removal of the cap to the Board and did not emphasize the significance of this change to members of the Standing Committee on Finance, when asked. Although earlier rate studies (1984 -1985) made reference to the existence of the 25% cap, the November 18, 1988 report made no such reference.

Rate increases as a result of changes in these two variables was dramatic! However, the reason for the increase as stated categorically in the December, 1988 letter to employers and later in the WCB Press Release responding to public concerns was that "the one and only factor that causes rates to go up is ACCIDENTS ... assessment rates are going up because the number of accident claims are going up. PERIOD". We found this to be a naive oversimplification and misleading. The major reason rates went up was the unapproved removal of a capping mechanism in the rate formula.

In fact, once all the year end data was computed, the actual increase in compensation costs and medical aid for 1988 was only 11.1%, not the 35% estimated in August, 1988. As a result of the August estimates, the Board erroneously made decisions based on a "snapshot" rather than on the traditional method of following long term trends.

In addition the new General Manager discovered two further errors had been made in the calculation of 1988 claims costs: there had been a duplication by including the Hunters and Trappers claims twice; and approximately 80 workers who should have been on pensions were still on Temporary Total Disability at the beginning of 1988. This duplication and backlog had an effect on the figures and caused further

distortion of the 1988 compensation costs.

We understand that some Board members are under the impression that total claims costs increased by 24.2%. Due to distortions in the calculations of 1987 and 1988 costs, a simple comparison of "year over year" changes in numbers is misleading. The correct answer as to the cause and effect of accidents in 1988 (or any year) can only come from a comparative analysis of the nature and severity of accidents on an annual basis followed by a sound interpretation of those statistics.

Not only were undetected errors made by the WCB staff but the method of conducting the calculations by the actuary changed. Although the actuary hinted at the existence of Board policy to adjust or 'polish' rates in meetings of the Standing Committee on Finance on December 9, 1988, this Panel is disturbed that neither he nor the Chairman brought to the Board's attention the significant effect of the removal of the capping mechanism which placed a 25% ceiling on increases to any subclass.

Upon reflection, we decided that not only did we not have the time, within the time frame of our review, to pursue each of the anomalies we kept encountering, we did not have the actuarial expertise at hand to verify the accuracy, efficiency and completeness of the rate setting systems. Furthermore, the more we dug, the more relevant information began to surface. For example, it was only at the time we sat down to write this report that we unearthed the existence of yet another rate study which had been commissioned by the Board in February, 1989 in response to the criticism which sparked this review.

This February, 1989 rate study was performed on a basis consistent with prior years, with one minor exception - a 30% "cap" or limit on rate increases within any one sub-class over the prior year (previously a 25% limit was used). On the basis of this study, the average Assessment Rate for 1989 would be \$2.17 rather than the published rate of \$2.35. (A comparison of the Assessment Rates by sub-class using a 25% cap as used in previous years is attached in Appendix E.) Apparently the Board of Directors reconsidered the 1989 provisional rates in light of this information but declined to change the rates. Despite their knowledge, by the January 11, 1989 Board meeting that the 1989 rates were over-inflated because of miscalculation of the contingency reserve, failure to shift 80 workers from Temporary Total Disability to pensions at the beginning of 1988, inclusion of claims by hunters and trappers twice in the 1988 figures, removal of the 25% cap and use of accident rate projections for the uncompleted year (1988) rather than actual accidents for the last four completed years, a review of Board minutes did not disclose the Board's rationale for retaining or substantiating the need for the 'supra' assessment. (We note

that the Board had deferred consideration of the cap to the April 1989 meeting but did not consider it at that meeting.)

Consequently, in light of the management weaknesses we observed, we have recommended a thorough actuarial audit of the entire process associated with the setting of rates and reserves in order to properly answer the question of "whether the provisional assessment rates set by the Board for 1989 are fair and reasonable ... and whether they are sufficient to meet the projected needs of injured workers". While we can not give such assurance, more importantly we are concerned that the Board can not give such assurance. All indications are that the Accident Fund may be over-funded by as much as \$ 8-10 million.

This Panel did undertake a few rough calculations on its own using the same formula historically used by the WCB. We found the discount rate on the low side in comparison with other jurisdictions so decided to see what the effect would be on the Accident Fund if it were increased modestly. The following table illustrates the unfunded liability, discount rates and average assessment rates used by Workers' Compensation Boards across Canada:

<u>Province</u>	<u>Funding Status</u> <u>Surplus</u> <u>(Unfunded liability)</u> <u>(December 1987)</u>	<u>Discount</u> <u>Rates</u> <u>(June 1988)</u>	<u>Average</u> <u>Assessment Rate</u> <u>(1989)</u>
N.W.T.	\$ 11,481,000	2.50%	\$ 2.30
Yukon	12,694,000	2.00%	1.79
B.C.	77,899,000	2.38%	1.76
Alberta	(360,670,000)	3.00%	1.80
Saskatchewan	4,965,000	8.00%	1.69
Manitoba	(96,030,000)	6.00%	2.37
Ontario	(6,690,658,000)	3.00%	3.12
Quebec	(2,360,380,000)	3.00%	2.75
N. Brunswick	(42,799,000)	1.25%	1.82
Nova Scotia	2,672,000	8.00%	1.34
P.E.I.	(1,248,000)	6.00%	1.64
Newfoundland	(26,312,000)	9.50%	2.42

We found that a change in the discount rate of one-half percent would reduce the fund liabilities by \$ 4 million and would still leave the Fund in a fully funded state (the Board in fact reduced the discount rate from 3.0% to 2.5% in 1986). We note that in several recent high profile cases of pension negotiation in the private sector, a discount rate of 3.5% has been accepted.

We then decided to see what the 1989 projected assessment rates would look like if the cap were left on consistent with prior years. We found that the average assessment rate would

be \$2.17 rather than the published rate of \$2.35. This would result in a reduction in Assessment Revenue to the Board of \$1.3 million and the liabilities would still be considered fully funded.

Just by sitting down to perform these calculations it was discovered that two further variables were either missing from the WCB's traditional calculations or were in need of adjustment. Firstly, the existence of WCB receivables had not been acknowledged financially. In the opinion of management and the Board's legal representatives, it is expected that the Board will recover approximately \$1 million in legal claims for recovery of compensation expenses from third parties in 1988. These sums had not been taken into account in rate setting calculations.

Secondly, the market value of investments exceeds the book value by \$ 1.9 million as at December 31, 1988. This sum had not been taken into account in the rate setting calculation.

Unlike the Northwest Territories, some other jurisdictions in Canada have a significant unfunded liability to injured workers. This Panel remains firm in our recommendation that the Board remain committed to maintaining a fully funded status. However, having said that, there appears to be significant room for making adjustments to the variables in the formula currently in use, especially given that most of the projections going into the formulae are based on "guesstimates". Based on our calculations, which were subsequently confirmed by Crawford E. Laing, we are assured that minor adjustments could be made which would result in reduced assessment rates which yet would allow the Accident Fund to remain FULLY FUNDED. For example:

If, one were to apply the traditional WCB calculation for rate assessment but were to use a discount rate of 3.5%, and recognize legal claims receivable of \$1 million and use the market value of investments, then the accident fund liabilities could be reduced by \$ 12.2 million (i.e. 12%) and still be certified as fully funded by an actuary with a reasonable margin of comfort.

This analysis dramatically points out that funding future accident fund liabilities is not a precise science - it is still estimating or "guessing" future events. There is indeed a very wide range of values that can be included in the description "fully funded". We have found that the Board has not identified what that range is and hence can not give us assurance or proof that assessment rates are fair and reasonable.

When it came to deciding what should be done about the 1989 rates, this Panel could not reach a consensus. One of the Panel members felt that the 1989 rates as published represent

the real cost of providing compensation to injured workers. That member felt that there should be no further adjustments to the rates until the recommendations were in from a thorough independent actuarial review. (See Dissenting Opinion)

However, the other two Panel members felt the Board should use the same formula with the same variables they had been using historically, to re-calculate the 1989 rates. They felt that, as assessment rates are based on long-term averages, there would be better continuity if the "traditional" variables were maintained.

They based their recommendation on the assurance that the fully funded nature of the Accident Fund would not be jeopardized and the assurance that the \$1.3 million reduction in assessment rates would fit easily within the \$8 - \$12 million "cushion" of the Accident Fund.

The majority on the Panel felt that when the increased accident costs came to the attention of the Board last August, the Board, instead of destabilizing the integrity of the rate setting process, would have been better served by using the tools available to them in the Act to identify employers driving the accidents up and levying additional penalties against them.

Our discussions kept coming back to the need for the Board to have close ties with conditions in the workplace to encourage prevention of accidents in the first place and to exercise their authority to penalize employers for not maintaining safe workplaces. The Act allows the Board to vary its published assessment rates from time to time as long as they provide notice in the Northwest Territories Gazette. They can levy different assessments for separate employees within a subclass "in relation to the hazard or other circumstances of the operations of the employer." and they can also levy additional assessments, as often as the Board considers appropriate, against employers, who fail to take sufficient precautions to prevent accidents, to maintain safe working conditions, or to comply with the first aid requirements of any Act or Regulation.

We note that the significant increase in accidents in 1988 took place in a few identifiable industry sub-classes. We realize that the setting of rates relies on "rolling averages" over a long period of time and that one must resist the temptation to make adjustments to compensate for an unusual aberration. Yet, rather than use the tools available to them in the Act to isolate the industries responsible for driving the accidents and treating the cause, the Board altered significant variable in the rate assessment formula that affected all employers.

The majority opinion then recommends re-calculation of the assessment rates for 1989 based on the same formula and variables the Board has used traditionally and that they take steps to levy additional assessments against employers who have a poor accident record.

Due to the conservative nature of the advice obtained by the Board, the current assessment rates probably deal more than adequately with the projected needs of injured workers. However, we found the Board's understanding of the rate setting process, the degree of concern for, and the knowledge of, fair and reasonable assessment rates was poor and spotty. Unfortunately, a complete and understandable list of principles and assumptions and a glossary of terms for rate and reserve calculations does not exist within the Board. We have provided a Glossary of Terms which is attached to this report as Appendix M.

The Panel has concluded that there is considerable risk that 1989 Assessment rates are not fair and reasonable and that the Accident Fund is over-funded.

Having regard to the fact that there is a new Chairman, a new General Manager and a new action plan and that these factors will have an important impact upon the effectiveness of the rate setting process, this Panel recommends:

1. THAT an independent actuary be hired by the Minister Responsible for the Workers' Compensation Board to review and critique the current rate and reserve setting procedures, policies and assumptions. This review should identify a minimum/maximum range and a reasonable level of funding for the Accident Fund liabilities and help educate the Board with respect to workers' compensation systems.
2. THAT Assessment Rates for 1989 be adjusted to those rates that would have been derived using consistent principles followed in prior years and THAT the Board review the circumstances of all employers who have a poor accident history for the purpose of levying additional assessments where appropriate. [Note: A minority of the Panel recommends that no adjustments be made to the 1989 Provisional Rates until the actuarial review recommended in # 1 above has been completed after which the Board should recalculate the 1989 rates based on the rate setting procedure as accepted by the Board.]
3. THAT the Board formally adopt a policy defining "fully funded" in terms of a reasonable range.
4. THAT the Board move expeditiously to document the rate and reserve setting procedures, policies and assumptions in a user manual. We would expect these documents to include

flowcharts giving a systems overview and procedural detail leading from the many variables that go into rate setting to the final output in terms of rates and reserves.

5. THAT the Board review the Workers' Compensation Act and develop a policy and procedure for levying increased/decreased assessments against employers in relation to the safety of their workplace.
6. THAT every year when changes are contemplated to the rates, employers and employees be made aware of what those changes are and be provided an opportunity to have meaningful input before the assessment rates actually change.
7. THAT the Board tender for the provision of actuarial services at least every five years commencing immediately.
8. THAT the Board prepare a ten year financial forecast and maintain it on an ongoing basis to ensure the long term viability of the program.
9. THAT the Board improve their accountability and disclosure of information to the public through their Annual Report. Highlights from Annual Reports of other jurisdictions is attached as Appendix F for review by the Board and General Manager.
10. THAT Decision papers should be provided to the Board for changes to policy. They should clearly and completely state financial and policy implications to workers and employers.

2. BOARD EFFICIENCY & RESPONSIBILITY - FINANCIAL & ADMINISTRATIVE

Whether the Board has been operating in a financially efficient and responsible manner.

The workers compensation system is one of the integral components of the employer-employee relationship in modern industrial society. Such a society strives to meet dual objectives: providing a rewarding and safe workplace while at the same time meeting the production needs required to be competitive. Workers compensation is the historical agreement between industry and workers designed to remove work related injuries as a point of friction in meeting both these goals.

As administrators of the workers compensation system, the Board must keep in mind that their public, those to whom they provide the service of their program, are the employers and workers of the Northwest Territories. Employers, as providers of the financial resources needed to compensate work related injuries which occur in the N.W.T. have the right to expect financial accountability and sound management from the Board in its attempts to provide a rational and fair method of determining necessary contributions. Injured workers have the right to receive the legislated levels of compensation delivered in a fair and efficient manner.

The 'mission' of the Workers' Compensation Board then, is to maintain an equitable compensation system at the same time as minimizing the cost of work related injuries to society, regardless of whether those costs are financial, material or time loss expenditures, disruptions to industrial relations, physical discomfort or loss of life.

In order to meet this task, the Workers' Compensation Board in the Northwest Territories has been given stewardship over \$ 100 million of liquid assets. As such it ranks as one of the largest and most complex financial operations in the NWT.

We, therefore, expected to find that the senior management of the Board could assure us that the Board was operating in an efficient and responsible manner.

Mindful of the Board's accountability relationships, we set out as a premise that the Board has to be able to assure the workers, the employers and the Legislative Assembly that the financial resources have been used effectively and with due regard to efficiency and economy. The operational review, therefore, was mainly concerned with the ability of the Workers' Compensation Board to provide this assurance to the workers, the employers and the Legislative Assembly.

The 1986 Review Committee had recommended that "an in-depth analysis of administrative procedures be performed by an independent and competent consultant who will work with senior management and the board in developing an efficient administration". (Rec #46) Of particular concern was the high level of administrative costs. It was in the context of the Committee's report and the WCB's own concerns about administrative costs and management efficiencies that Touche Ross Management Consultants (referred to hereafter as the "consultants") was engaged to review the operations and administration of the Board during 1987. Their report identified significant areas requiring immediate attention.

Specifically it identified "many areas within the various operational and administrative functions where opportunities exist for achieving cost reductions and/or improving operational efficiencies. However, (they) concluded that it would not be possible for the WCB to address, nor realize the full potential of these opportunities, unless it first committed significant attention to a number of broader strategic, managerial and organizational issues having far greater implications for the success of the WCB."

They went on to say that "strategic planning, clarity of roles, responsibilities and accountabilities, management ownership, leadership and direction are not evident."

Touche Ross reported that "these deficiencies have had a detrimental impact on the WCB's operational effectiveness" and that they were "an impediment to recent initiatives directed at introducing improvements. To achieve these, an overall program of priorities and goals must be in place. Also, it must be communicated effectively and understood clearly by all concerned."

The consultant summarized by indicating that "in developing an appropriate strategy to achieve increased management effectiveness, administrative efficiencies and cost savings, the Board must return to basics. It must address its primary business activities, and the purpose and role of the Workers' Compensation Board of the Northwest Territories".

"All activities undertaken by the WCB are in support of satisfying the legislation with respect to the principal requirements of compensation and assessments. Management structures, information systems, and administrative systems and processes all form part of the management control framework necessary to fulfill the requisite mandate. While they facilitate the delivery of services, they are not a substitute for leadership. If the Board expects to achieve greater effectiveness and improved administrative efficiencies, it must: create a strong sense of management commitment; develop goals and priorities; determine and

communicate the directions it intends to follow; and, through its senior management, take responsibility for making it work. Overall strategic direction must be developed and must be supported by operational action plans. Management must manage against these plans and objectives, and must make the often difficult decisions necessary to achieve their objectives."

When this Panel conducted its review, we were surprised that the Minister Responsible for the Workers' Compensation Board had not been made aware of the seriousness of the situation. Had the Touche Ross Report been brought to the Minister's attention, as this Panel thinks it should have been, corrective measures would likely have been introduced in a more timely fashion and current criticisms avoided. We found many of those management deficiencies still in existence. Although the new General Manager has made significant progress in implementing many of Touche Ross recommendations and 65 action steps from an operational/administrative point of view, we also found that "strategic planning, clarity of roles, responsibilities and accountabilities, management ownership, leadership and direction were not evident."

Given our time constraints, and the very basic nature of the management deficiencies encountered within the Workers' Compensation Board, we found it difficult if not impossible to identify all of the financial and operational problems and their extent. We found the more questions asked, the more problems unearthed, and that the information provided by Board officials was not in an easily consumable form.

We found it useful to assemble a glossary of terms to facilitate a common understanding of workers' compensation. It is attached to this report as Appendix "M". It is very easy for a reviewer to drown in a sea of information at the WCB and we sympathize with a new Board member or Minister that is required to develop a speedy comprehension.

While examining the state of management at the Board, one has to differentiate between the 'corporate' Board, the executive and the operational organization. This Panel realizes that, when assigning responsibility for management problems, the standard of care to which the Board could be held was substantially impaired over the last year. The Board stood little chance of asking the right questions and carrying out its statutory responsibilities when management (and in particular, the Chairman of the Board) did not explain those responsibilities or the workings of the scheme as a whole, did not provide adequate information required to make decisions, did not provide professional opinions which explained options, and did not provide adequate preparation time.

In an attempt to help rectify this problem, we have identified a number of responsibilities that should guide future Boards and the Minister in this regard.

Since October, 1988, the Board has hired a new General Manager and most recently (March, 1989) a new Chairman. We would hope that they understand these current deficiencies and will be motivated and committed to change. An action plan drafted by the General Manager is attached as Appendix G. We have discussed this with him in light of the necessary changes and trust that the Board will succeed in implementing them.

However, our current review in this area indicates that senior management of the Workers' Compensation Board is in no position to assure the workers, employers or the Legislative Assembly that workers' compensation is currently being operated with due regard to efficiency and economy. In our observation the chronic deficiencies are due to:

- a) a lack of a comprehensive framework of policies and procedures;
- b) a lack of managerial effectiveness and control throughout the organization, particularly at senior levels; and
- c) the failure of Board management to articulate a clear accountability relationship.

The Board should recognize that although the contributions of the new General Manager are moving the Board in the right direction, a significant "turn around" is needed on an urgent basis.

We also recommend that an unlimited "no-holds barred" review of all Board activities is necessary to bring the Board into the modern era of proper management systems. This should be carried out by the new Chairman and General Manager, with a follow up review by an independent source in no more than two to three years.

Having regard to the unsatisfactory state of the management system, this Panel RECOMMENDS:

11. THAT the Minister Responsible for the Workers' Compensation Board be empowered to take a more active role in the monitoring of the management of the Board. The Minister should ensure the needed management reforms are carried out within one year and, on an ongoing basis, should verify that the Board can assure it is being operated with due regard to

efficiency and economy. The Minister's office may require support staff to undertake these tasks. We note that, in the provinces, such measures are performed by Departments of Labour.

12. THAT the new Chairperson and General Manager carry out an unlimited "no holds barred" review of all Board activities to bring the Board up to basic standards of efficiency, economy and effectiveness.
13. THAT the Board challenge the current method of operations and policies with a view to improvement and that they be discouraged from accepting the status quo.
14. THAT a strategic plan be developed to establish a suitable management framework, using a proven process similar to that developed by the Alberta Workers' Compensation Board tailored to the Northwest Territories circumstances. The strategic plan should serve as guidelines for Board decisions related to organizational activities (programs and services) and resource allocation; describe principles under which the Board operates; and be used to maintain accountability to employers, workers and the Legislative Assembly. The strategic plan should undergo intense public scrutiny from the government, employer and labour groups and the general public.
15. THAT the Board adhere to and regularly update the action plan attached as Appendix G. The Board's performance should be monitored by the Minister's office on a quarterly basis at a minimum.
16. THAT a follow up operational review or comprehensive audit analyzing the state of progress at that point in time be conducted within three years. The performance of the Chairman and General Manager should be appraised based on their ability to implement the necessary changes as verified by the operational review or comprehensive audit. In this respect, the Chairman and General Manager must be given the support of the Board and the Minister to successfully make the changes necessary and a reasonable time within which to accomplish those changes.
17. THAT a staff training strategy and human resource plan be developed to eliminate skill deficiencies.
18. THAT the General Manager do a comparative analysis of their operations with other WCB's.
19. THAT the Board take action (proactive and reactive) to reduce the rate and severity of workers' accidents. Such action will have to be carried out in liaison with Occupational Health and Safety.

20. THAT the Act be amended to provide the Board with the mission to minimize work related accidents and their costs to the Northern society while maintaining an equitable compensation system.
21. THAT the job description of the Chairperson and the General Manager be rewritten.
22. THAT staff growth be permitted only after rigorous analysis of the need and lack of other options.
23. THAT legislative proposals and new legislation not be approved without the identification of financial implications and implications to employers and workers.

3. SIZE AND COMPOSITION OF THE BOARD

Whether the size and composition of the Board of Directors of the WCB should be altered.

a) DUTIES OF BOARD MEMBERS

The size and composition of the Board has been a popular issue for debate by all parties concerned. However, behind that often politicized debate lies the need to acknowledge the very real responsibilities of the people appointed to a Board of this nature. Not only does this Board have statutory responsibility to provide overall leadership and direction to the Workers' Compensation Board, but they also have the legal duty to act as trustees of the Accident Fund. The Board is accountable not only to contributing employers and injured workers but, through the Minister responsible for the WCB, to the public at large as represented by the Legislative Assembly. Its members must be able to provide assurance that they can administer the financial resources vested in them by the employers competently, to compensate injured workers fairly.

From a legal perspective, Board members must meet the standards and procedures set out not only in the Workers' Compensation Act, but the Trustee Act, Conflict of Interest Act, and the Financial Administration Act. In addition, at the common law, they would presumably owe a fiduciary duty and a duty of skill and care similar to that owed by a Director of any other corporate body.

The fiduciary duty "requires a Director to act honestly in his dealings with or on behalf of the company. This means that as a board, the directors must act in good faith in the best interests of the company and exercise their powers for a proper purpose. An individual director should not allow his personal interests to conflict with the interests of the [corporation], nor derive any personal profit from his position beyond that which the [corporation] pays him." (Rights and Duties of Directors, Wright, Desmond. Butterworths; 1987 pp.36.)

The second duty, the duty of skill and care, requires a Director/Board Member to exercise, in relation to his duties, the "reasonable care of an ordinary man." He is not presumed, merely by virtue of his office, to be an expert or to have skills he does not in fact possess. A board member is entitled to rely on professional advice and, where authorized and in the absence of suspicious circumstances, to delegate responsibilities. (Ibid, pp.36 - 46).

The standard for a trustee is an even higher duty. The Trustees Act states that for the purpose of "investing money for the benefit of another person... a trustee shall exercise the judgment and care that a man of prudence, discretion and intelligence would exercise as a trustee of the property of others".

It is important that nominees are made aware of their duties before they accept a position on a Board of Directors because if they were ever found to be in breach of these duties, they could, depending on the circumstances, be held liable for losses resulting from their breach, even if they did not receive any personal gain. Other remedies available against a Director include obtaining an order against him for

- damages as compensation for loss caused because of his breach;
- restoration of [corporation] property if it is capable of being restored;
- an accounting for [and repaying] profits made by him;
- his dismissal;
- removal (cancellation) of a contract in which he had an undisclosed interest; or
- an injunction preventing him from continuing the breach or from carrying out one in the future. (Ibid.)

Under the Conflict of Interest Act which applies to members of public boards or councils, Board members found to be in a conflict situation who have not properly declared their conflict are liable to a fine of up to \$5,000.00 and disqualification from being a member of any Board for up to five years.

We note that the Worker's Compensation Act does not provide its Board members with indemnification (repayment) security against damage or loss or legal exemption from criminal or civil penalties. Common law remedies would apply. However, members of Boards can take out professional liability insurance to indemnify them against liability to third parties and against the Workers' Compensation Board. [Note: such insurance does not cover a Director/Board member whose actions were fraudulent or deliberate.]

b) OBSERVATIONS

Having looked generally at the standards which Members of this Board might be expected to meet, this panel considered it essential to determine

- if the operations and decisions of the current Board demonstrated reasonable fairness, timeliness, efficiency and effectiveness; and

- if the structure and the decision making process of the Board ensured that members were fully informed by the Executive, staff, consultants and Board committees prior to major or significant decisions being made.

The 1986 WCB Review Committee Report made several recommendations on the composition and responsibilities of the Board including a significant reduction in the size of the Board and immediate training of members in all areas of WCB responsibilities. They also recommended that an in-depth analysis of administrative procedures be conducted and that a management consultant be hired to assist senior management and the Board to develop an efficient administration. Indeed, such a study was conducted by Touche Ross Management Consultants and their report outlined the steps which would have to be taken to get the Board's operations 'back on track'.

This panel found that despite significant improvement on the operations side of the organization since the hiring of a General Manager in September of 1988, the Board's operation and conduct over the past year (we did not look past January 1, 1988) was not impressive. [See Chapter 1(Assessment Rates); Chapter 2(Board Efficiency); Chapter 4(Investment Policy); Chapter 6(Procedure for obtaining office space); Chapter 8 (General implementation of recommendations of past review or assessment reports)]

In fact, not only did the Board, in our opinion, fail to meet certain standards of accountability in specific circumstances as indicated throughout this report, we found generally that the Board failed to meet standards of timeliness, efficiency, prudence, discretion and effectiveness which a person in the position of a member of a Board with both statutory and trusteeship responsibilities would reasonably be expected to meet.

The reasons for this include:

- the size and composition of the Board,
- leadership of the Chairperson,
- staff support,
- lack of clear understanding of the Board's role, responsibilities and how the workers' compensation system works.

c) SIZE OF THE BOARD

There has been extensive debate about the number of Board members that should be sitting on the Workers' Compensation Board. The overwhelming response has been to reduce the number of directors on the Board and to ensure that there is a greater balance between the representation of workers and employers.

It is our observation that the Board is not running effectively with a number as large as eleven. With such large numbers members feel that their absence will not be missed so, consequently, there is often no continuity in the make-up of the members from one meeting to the next. For some large projects responsibility has shifted from Board to committee to General Manager to Chairman with no one person or body taking control of the matter. This has resulted in a shifting of the direction of decisions, confusion and lack of understanding in critical areas, and abdication of responsibility on a personal as well as a Board level.

Based on our observations of this Board and general theory on organizational and management behavior, this committee felt that a smaller board was necessary for meaningful, effective, responsible and accountable discussion and decision making. We were unanimous in our recommendation that the size of the Board be reduced and that the number to strive for at the earliest convenience of the Minister was five.

Currently, there does not seem to be any established criteria for selecting Board members other than ensuring each of the regions of the N.W.T. are represented and that there are at least a few members from industry and from labour. However, there is no evidence that the current system has adequately provided WCB representation or education about the Workers' Compensation scheme in the regions. Neither is there any evidence that representation from the regions has had any beneficial effect on the rights of injured workers or of contributing employers.

Consequently, we recommend that informational needs of the public be kept separate from the need to appoint appropriate persons to the Board. We would recommend that the WCB and GNWT concentrate their efforts to improve the delivery of information programs, particularly to the Regions, through the Departments of Health, Social Services, Education, Safety and Public Services and the Executive.

Furthermore, because of the nature of the workers' compensation regime, we feel that regional representation is not as necessary as it might be on other Boards. The main objective of this Board is to provide fair compensation to workers injured through the course of their employment and to ensure that the assessment rates they set for each employer are fair yet sufficient to pay for injuries occurring to their workers. We would recommend that the Minister ensure that persons appointed to the Board have a working knowledge of the role of Boards of Directors and of workers' compensation in general.

d) COMPOSITION OF THE BOARD

With respect to the actual composition of the Board, most parties were of the opinion that there should be an equal balance between employers and labour. We agree that these are the key sectors which should be represented. Although we feel that the needs of self-employed persons (ie. hunters, trappers and other small business people) must not be forgotten, we think that this responsibility should be assigned to all Board members. This panel recommends that of the four members on the Board, two should represent the employers and two should represent labour. Prior to making appointments, the Minister should consult with and should be required to consider the recommended candidates of the representative groups of the labour and employer constituencies. These groups should be encouraged to recommend candidates who will put the needs of the WCB scheme and organization before those of their respective constituencies. Where appropriate and where such candidates are available, employers should be encouraged to suggest persons with professional accounting, management and actuarial skills or experience with pension or accident funds or people who have an ability to contribute to the financial management and long term objectives of the Board.

This panel also recommends that position guidelines or criteria be developed for Board members. The duties of all members would be the same with respect to placing the interests of the WCB above all else but the nominees representing their respective constituencies would have the duty to represent the interests of employers or of injured workers as the case might be.

We have been concerned throughout our review with the lack of information put before Board members prior to them being asked to make decisions, especially on matters as major as rate setting and office premises. We were told that the members were often not provided with written information prior to their attendance at Board meetings. This included decision papers, options, draft minutes of the past meeting, committee reports and copies of correspondence affecting major or ongoing matters. On the other hand, we were informed that Board members from time to time attended meetings without having read information with which they had been supplied.

There was no preparation time or honorarium allotted for time spent prior to Board meetings. Members were expected to read and absorb major documents (ie. rate studies from the actuary) at or during the course of the meeting in which they were expected to make a decision. We did not find this acceptable and would recommend that Board members be expected to spend about two days a month as preparation time on Board business, in addition to the actual meeting. Important

documents should be sent to them at least a week in advance of the meeting so they have an opportunity to review and prepare themselves for informed discussion and decision making. Board members should be entitled to claim compensation for time spent on Board business.

e) BOARD APPOINTMENTS

With respect to the process of making the actual appointments, the Panel does not feel it is necessary to go through the Legislative Assembly as is currently required by the Act. This process is cumbersome and may restrict the Minister from making the quality and timely decisions as the circumstances require. However, there should be a broader consultation process than just the Minister's office in order to avoid political abuse and to ensure public input. This panel recommends that the Minister should have the authority to make the appointments but in consultation with Cabinet and only after due consideration of the candidates recommended by the constituent groups representing labour and the employers.

With respect to the length of the terms of the Board members and of the Chairperson, the Panel favour fixed terms, preferably of three years rather than appointments "at the pleasure of the Minister". Fixed terms provide certainty to the appointees and to the public at large and they provide a framework for planning.

f) CHAIRPERSON

With respect to the Chairperson, we received a number of representations suggesting that this position need only be part time. While we agree with that assessment, we believe that a full time effort will be required in the first year of the new chairperson's appointment, to accomplish the tasks we think should be undertaken and to provide the new General Manager with the support he will require to carry out the operational aspects of the Board's activities. The Panel feels that the appointment of the Chairperson should be for a three year term. Over the next three years, the Chairperson should reduce his involvement significantly so that it can be performed on a part-time basis. However, if the Minister feels it is warranted at the end of three years, the position should remain full time.

The Chairperson should have a neutral background but be capable of providing stewardship and leadership to the Board. The person filling this position should have strong management skills and be politically sensitive and astute. As with the selection of Board members, the respective constituent groups representing labour and the employers should be consulted prior to any appointments to this position.

The success of the Board of the WCB (and the WCB as an organization) will be a function of the level and quality of leadership and support provided by the Chairperson and the General Manager. The responsibility for establishing direction and strategy for the WCB 'as a whole' rests squarely with the Chairperson, regardless of the fact that his plans must be approved by the body to which he reports - the Members of the Board. Setting direction and developing strategy requires substantial study and analysis. Rarely is this an activity which can be accomplished alone. However, despite delegation to agents and assistants the Chairperson can not avoid final responsibility for the decided direction.

The tasks we recommend the Chairperson accomplish in the next six months to a year include the following:

i) confirm the general manager as Chief Operating Officer, with full responsibility for all WCB functions.

ii) develop a strategic planning process that identifies short and long-term objectives and priorities and that facilitates the preparation of annual operating and capital plans.

iii) develop clear and concise position descriptions for the Chairman, General Manager, Manager of Finance and Director of Client Services which detail their respective roles, responsibilities, accountabilities and qualifications. (This has been done but needs to be reviewed and revised.)

iv) ensure that the people occupying the positions in Recommendation 37 (iii) receive management training where necessary.

v) develop clear and concise positions guidelines for the Members of the Board and for Committees of the Board.

vi) review the time frame within which claims are being processed and injured workers receive compensation or pensions.

vii) review and develop an Appeals Policy and procedure for appeals review and appeals to the Board.

viii) appoint an Appeals Review Committee within the next three months.

ix) ensure Board members receive training in the workers' compensation scheme and organization as well as the role and duties of Board members and that this be provided on a regular basis and in response to issues which arise from time to time.

viii) appoint an Appeals Review Committee within the next three months.

ix) ensure Board members receive training in the workers' compensation scheme and organization as well as the role and duties of Board members and that this be provided on a regular basis and in response to issues which arise from time to time.

x) develop a comprehensive strategy and plan for the dissemination of information to the WCB's various publics and implement information programs that are consistent in content and message.

xi) direct the Investment Committee of the Board to re-assess the investment management strategies currently employed.

xii) review all policies to identify areas requiring further policy formulation, including confidentiality of information, conflict of interest, reporting procedures of committees of the Board, and appeals procedure.

xiii) review management and legislative reforms which have been recommended over the last five years which affect the WCB and impact on workers and employers.

xiv) review all professional contracts and develop a policy to tender all professional contracts at least every five years commencing immediately.

4. INVESTMENT POLICY

Whether the Board's investment policy is sound and is in accordance with governing legislation and principles affecting the Board in their role as trustees and whether the Board has been getting a sufficient rate of return on its investments.

The capacity to earn investment income on the Accident Fund is the Board's major vehicle for maintaining the purchasing power of pension awards and claims liabilities. In addition, any excess investment income over what is required to index pensions goes towards current claims costs and keeping assessment rate increases to a minimum. Investment income is currently the second largest source of revenue to the Board and will become the largest source of revenue in the near future. A 1% increase in the rate of return on investments is currently equivalent to \$1 million or an increase in Assessment Revenue of 7.7%. We therefore expected to find an accounting and interpretation of investment performance to be readily available within the Board.

We found, again, a total reliance (dependence) on the professional fund managers that have been hired to manage the funds. Furthermore, the Board members have resisted management staff sitting on that Committee. As a consequence, there is a poor understanding within the senior management of the Board of the actual transactions entered into by the fund managers and what they should be held accountable for. We expect that the knowledge of suitable investment performance by the Board of Directors is also spotty.

Investment income experienced a significant decline from a historic high of \$13.5 million in 1986 to \$6.5 million in 1987 without a satisfactory explanation in the Annual Report. We asked for an accounting of this decrease in Investment Income. To our surprise, such an accounting was not available within the Board and the method of reporting in the Annual Report does not permit the interpretation of investment performance. A formal evaluation of the investment policy and the investment managers' performance did not exist.

We did note that the Alberta Workers' Compensation Board had an annual portfolio return of 14% over the past six years. This fund is managed by the Alberta Treasury. Meanwhile, the Northwest Territories Workers' Compensation Board had an annual portfolio return of 11.6% over the past five years and has performed below the median of similar funds (Appendix I). This fund is managed by Bolton, Trembley Inc. and Laketon Investment Management (recently a third investment manager has been added - E.J. McConnell & Associates).

We also noted that, in the Report done for the Alberta Minister Responsible for the WCB "Shaping the Future", (published in March of 1988), if the equity proportion had equaled the 45% of assets invested by the average Canadian pension fund, the annual portfolio return over the past six years would have been 18.6%. However, we also realize that some employers may favour a very conservative investment policy as it is they who will have to cover the increased costs of that approach. The investment managers do trade in bonds and may have realized significant bond trading losses in 1987 - this is not specifically addressed in the Board's investment policy.

We believe that the Board has a fiduciary responsibility to workers and employers to obtain the highest investment return possible while working within a set of well defined risk constraints. In the past, funds have been invested in what has been called by SEI Funds Evaluation Services "less reward/more risk" financial instruments (refer to Appendix J Reward vs. Risk Analysis). While the Board might be commended for not exposing contributions to unnecessary investment risk, the Board can at the same time be criticized for not taking advantage of other investment opportunities that offer more return without any greater investment risk.

Again, upon reflection, we decided that not only did we not have the time to pursue each investment issue, but we did not have the investment expertise at hand. All of this suggests that an in-depth analysis should be undertaken to determine the appropriate and acceptable level of investment risk to be assumed, and the investment return to be expected. The steps involved in such an analysis are identified in Appendix K and should be carried out in conjunction with the actuarial evaluation recommended in Chapter 2.

It is RECOMMENDED:

38. THAT the WCB hire an independent investment manager to conduct a review and critique of their current Investment Policy and Strategy. Suggested terms of reference for this study are set out in Appendix K. This review should be performed in conjunction with the actuarial review that has been recommended in Chapter 2.
39. THAT an accounting of the significant decline in Investment Income from \$ 12 million in 1986 to \$ 6.3 million in 1987 be made to the Minister and corrective action taken if required.
40. THAT the WCB Annual Report identify the sources of investment gains and losses for the year in such a way as to permit the interpretation of investment performance.

41. THAT, after analysis of the performance of equity investments to date, consideration should be given to increasing the equity proportion of the portfolio.
42. THAT the Board improve its in house knowledge of investment management.
43. THAT the Board tender for the provision of portfolio management services at least every five years commencing immediately.
44. THAT changes to investment policies not be approved without the identification of financial implications.
45. THAT the target real rate of return on investments be increased from the current overly conservative amount of 2-3%.

5. FINANCIAL IMPLICATIONS OF HUNTERS AND TRAPPERS PROGRAM,
LUMP SUM PAYMENTS AND INCREASING PENSIONS

Whether there has been an effect on assessment rates from the introduction of the program for hunters and trappers, the Board's policy of commuting pensions to lump sum payments and their increasing of pensions.

Three specific items have been identified as having potentially significant effects on assessment rates. These are the new hunters and trappers program, lump sum payments to injured workers and supplementary pension increases as a result of indexing pensions for the rate of inflation so that pensions retain their purchasing power.

a) HUNTERS AND TRAPPERS PROGRAM

The Worker's Compensation Board Act has always allowed hunters and trappers to opt for coverage merely by paying their computed assessment rate, much the same as any other self-employed person. However, in 1987 as a result of ongoing discussions and recommendations by the 1986 Review Committee, the Act was changed to automatically include as a "worker" any person who

- (a) is a resident of the Territories,
- (b) holds a valid general hunting licence issued under the Wildlife Act, and
- (c) is an independent operator principally engaged in hunting, fishing or trapping for a livelihood.

Dependents of these "workers" who are over the age of 16 years and who are engaged with the person in hunting, fishing or trapping are also deemed to be "workers" under the Act.

The Act deems their annual remuneration to be equal to the Year's Maximum Insurable Remuneration.

In a letter from the WCB Chairman to the Members of the Legislative Assembly dated February 1988 and hand delivered, the public was given the impression that there had been no significant effect on Assessment Rates as a result of this new automatic coverage. The letter stated

"So far, since the automatic coverage came into effect in June 1987, we have had nine claims from hunters and trappers, one of which was denied. The others all involve some loss of compensation in five cases for a total cost to date of \$28,225."

However, as a result of our research one year later, we found that in the fifteen months since the program began, the current and future costs of these claims significantly exceed \$1 million. As a result, the Assessment Rate for Sub-Class 81

N.W.T. Government and Agencies, Housing Corporation, and W.C.B. has increased 100% from \$0.50 in 1988 to an uncapped rate of \$1.00 in 1989 to yield an additional Assessment Revenue of approximately \$1 million. When a G.H.L. holder is eligible for compensation, he is deemed to be earning the equivalent of YMIR (s. 10.1 in the Act) which currently is \$40,000.00.

We realize the difficulty in determining the actual wages of people engaged in hunting, fishing, or trapping for a livelihood, but think that YMIR, which represents the maximum remuneration covered, might not fairly represent the actual earnings of claimants. The better approach, we suggest, is to determine the earnings level of claimants in a manner consistent with the procedures for self-employed persons: The actual rate of remuneration or a deemed minimum set at a percentage of YMIR. We realize, given the cyclical nature of these harvesting activities, that the "actual rate of remuneration" may be difficult to determine and might be unfair in any given year. This Panel recommends the Board develop a policy for determining those earnings.

Such a policy might consider formulae such as the highest annual earnings over the past 5 consecutive years.

This Panel recommends that consideration be given to amending the Workers' Compensation Act to reflect this adjustment and that these provisions should apply to any other traditional pursuits unique to the N.W.T. (ie. carving).

As to the real costs to the Government of the Northwest Territories of this program, a further analysis of the costs would have to be done. Many costs such as prescription drugs, prosthetics, physical therapy etc. would be borne by federal government for Treaty Dene and Inuit claimants while job retraining, counselling, ordinary medical costs and social assistance would be paid by various departments of the Territorial Government. We were not able to determine if the WCB had recovered these costs and if so, the extent of their impact on the total liability of the WCB.

We also found that guidelines for accidents related to hunters and trappers are not well defined and may lead to significant difficulty in adjudicating difficult cases. For example, work related use of all terrain vehicles, boats, etc. versus recreational use.

With regard to the impact of this new program on other participants to the workers' compensation scheme, to the extent that hunting and trapping "disasters" are funded out of the contingency fund, the Assessment Rates of other employers may be affected.

Our conclusion is that this new program, while socially and philosophically commendable, could potentially have significant financial implications that had not been anticipated when it was originally approved.

It is RECOMMENDED:

46. THAT an analysis be performed on the automatic inclusion of general hunting license holders to identify costs and implications of the program and recommend improvements.
47. THAT new policy initiatives not be approved without a proper analysis of financial implications.
48. THAT guidelines be established to differentiate between work related injuries and non-work related injuries which may be quite different than southern norms.
49. THAT consideration should be given to amending the Workers' Compensation Act to change the level of remuneration of Section 10.1 claimants from the equivalent of YMIR to their actual rate of earnings.
50. THAT the Board develop a policy and procedure to determine the "actual rate of remuneration" of Section 10.1 claimants.

b) LUMP SUM PAYMENTS

We expected to find a policy and practice with respect to exchanging life time pensions with a single lump sum payment similar to that of other jurisdictions.

We found that lump sum payments to workers with permanent disabilities have increased substantially. In 1988 approximately \$3 million was paid out in commutations of lifetime pensions compared with \$1.3 million in 1987. More than \$450,000 was paid out during the first month of 1989.

We also found that the calculation of the lump sum benefits were not being done correctly. The calculations were being done at a discount rate of 2.5% - the same rate as the calculation of pension fund liabilities which includes a factor for adverse deviations. That discount rate allows the Board enough margin to earn enough interest annually to keep up with the cost of living.

The discount rate for lump sum settlements which the Board should be using should not pass on that financial protection inherent in the liability calculation. Therefore a discount rate for lump sum payments in the order of 5.0% is more appropriate.

To test the effect of this error, we asked the Board to compare the value of the lump sum payment as provided on the basis of the 2.5% rate with the value that should have been provided based on a 5.0% rate for two individual claims. In the two cases the actual lump sum payments were excessive in the order of \$50,000 and \$53,000 respectively.

The Board was not able to identify the extent of the effect of using an inappropriate discount rate. However, if one extrapolates these findings to the total lump sum payments made during 1988 of \$3 million, the Board may have overpaid several individuals to a total in excess of \$1.0 million.

As to why lump sum payments had more than doubled in 1988 and reached an all time high of \$450,000 for one month in 1989, the Board has indicated it is a result of claimants becoming more aware of the fact that they could ask for such payments. We can also see, without a case by case examination, that the Board has loosened its criteria for making these awards. As a result, it would appear that the Board has not been consistent in its treatment of injured workers. Some, it would appear, have received overly generous settlements.

In addition, the actuary indicated to the Standing Committee on Finance recently that he thinks "there is rather a generous payment to these pensioners, giving them the full value that is reserved in the fund. It is normal in insurance company and pension practice to leave something in the fund for the people that stay, because the person that leaves with a lump sum is able to exercise a financial option against the fund and perhaps even a mortality option against the fund".

It appears that the Board has made these lump sum payments without adequate knowledge or consideration of the financial effect on the Accident Fund, pensioners, other workers or employers and without a comparison to other jurisdictions. As a result of the generosity of issuing lump sum payments and the imprudent use of the incorrect discount rate a significant sum has been removed unnecessarily from the Accident Fund for over a year. This depletion of the Fund is one more factor contributing to the increase in assessment rates to employers.

In recognition of this, the Board approved on February 15, 1989, a new lump sum policy which will use a discount rate equal to the yield on an appropriate long term Canada Bond less the most recent average annual increase in the CPI.

This Panel RECOMMENDS:

51. THAT the Board develop a policy discouraging lump sum payments unless there is a significant benefit to the WCB.

- 52. THAT the criteria for the issuance of lump sum payments be significantly tightened immediately. A comparison to criteria and methods of calculation used in other jurisdictions should be made.
- 53. THAT consideration be given, after an evaluation, to amending the Act to remove the Board's authority to give lump sum payments.

c) SUPPLEMENTING PENSIONS

We expected to find a policy and practice with respect to indexing pensions (also known as supplementary pension increases) similar to that of other jurisdictions.

There is no provision in the Act for indexing pensions. However, the Board is obliged to review on an annual basis, pensions to permanently disabled and dependants and then to make recommendations "in respect of these matters to the Commissioner." We found the Board's approach to supplementary pension increases over the years, had been ad hoc. Historically, when supplements were granted, they were increased to keep pace with the YMIR which was thought to correspond roughly with average wages. However, we were informed by the Chairman that in 1988, the Board applied a pension increase corresponding to inflation. Those supplementary pension increases are as follows:

<u>Year</u>	<u>Index Rate</u>	<u>\$</u>
1983	n/a	2,179,000
1984	0.0%	0
1985	n/a	3,461,000
1986	n/a	4,682,000
1987	10.5%	6,564,000
1988	4.2%	2,374,000

We also found that the contingency reserve, which had a balance of \$ 23 million at the end of 1985, has been reduced by \$ 16.3 million to \$ 6.7 million at the end of 1988 through pension and other program enhancements and the change in liability valuation policy. As we did not receive satisfactory responses to our enquiries in this area and time did not permit us to do a thorough exploration of this ourselves, we are concerned, in light of the general lack of understanding of the financial implications of Board policy changes, that these pension increases have not been in the best interests of the Accident Fund.

With respect to indexing, the net interest rate used for the valuation of the Pension Fund liabilities makes implicit allowance for pension increases to protect the purchasing power of pensions. As a result, the excess interest earned each year is a deliberate provision to help meet the cost of pension increases. It is Board policy to maintain the purchasing power of these pensions and we understand that the current level of Accident Fund liabilities have been calculated on a fully indexed basis to current YMIR level.

The arguments favouring an indexing policy are sound and appear to have the support of all parties. It is a practice followed by several other WCB's in Canada. We would recommend such a policy be adopted in the NWT and should the Board do so, the current rate setting process will facilitate the supplements required with relative financial ease.

The major issue to be resolved is the rate to apply and any limitation on this rate if necessary. Current trends appear to lean toward indexing to the Consumer Price Index (rather than wages) and to place reasonable limits on the increases. This would require examination and comparison of rates in other jurisdictions. A formalized policy such as this would eliminate ad hoc practices of the past and would increase the certainty with respect to fund valuations. It should also be noted that past supplementary pension increases have been based on wages (i.e. YMIR) and hence have likely been higher than if CPI was used (this would require further study to identify the additional cost).

It is RECOMMENDED:

54. THAT the Board formalize a policy and procedures for indexing pensions.
55. THAT the Board approve a formula (calculation) for indexing pensions to the cost of living, with limitations where necessary, which can be incorporated into the Act based on a comparison to other jurisdictions.
56. THAT the Annual Report indicate the current cost of indexing pensions and directly related investment income.
57. THAT the Board improve its financial statement disclosure in the Annual Report generally, in order to allow the public to understand the implications of pension increases and enhancements and the statement of operations generally.

6. PROCEDURES TO SECURE OFFICE SPACE

Whether the procedures followed by the Board to secure office space in the City Centre project were reasonable and proper.

The WCB currently occupies 10,000 square feet of office space in the Yellowknife City Hall building. The lease they have with the City of Yellowknife is due to expire December 31, 1989 and the City has provided the WCB with notice that they wish the space to be vacated at the termination of the lease. [It has been extended to the spring of 1990 because of the WCB involvement in the City Centre Project. Just before going to press with this report we discovered the past Chairperson advised the Board at the March Meeting that the City "had indicated that there should be no problem in having [the WCB] lease in the City Hall extended by a year."

Given that office lease and renovation expenses were the third largest administrative cost to the Board in 1988 (\$351,000) we expected that the Board's procedures to secure office space would be reasonable and responsible. Furthermore, as a trustee and a public agency, we felt the Board had a responsibility to ensure their acquisition would stand up under public scrutiny.

Given the size and nature of the funds available to them, most Workers' Compensation Boards in Canada own their own buildings. Certainly this is advantageous financially and allows a Board the flexibility to design their premises to accommodate the needs of injured and disabled workers. For the last several years the N.W.T. Board has been canvassing its options to build its own office premises. However, there have been uncertainties in that regard in the N.W.T. for two reasons: intentions expressed by politicians from time to time in the context of decentralization or division, to relocate the Board offices to another regional centre, and; the fact that the Workers' Compensation Act does not specifically state that the WCB can own land.

From 1982 to 1984, facilities studies and cost benefit analyses on ownership versus leasing were performed by consultants for the Board. In April of 1984, the Board submitted a proposal for construction of an office building in downtown Yellowknife to the then Minister Responsible for the WCB, The Honourable Gordon Wray. The Minister replied that he did not "think it would be in the best interests of the government at this time to allow the WCB to acquire its own office building." His reasons were:

- the proposed building, to consist of surplus space to be rented out, would provide more than a modest surplus of space and would intrude on the private rental market;
- conflict with the GNWT practice to support private enterprise by leasing rather than owning office space; and

- the probability of dividing the N.W.T. into two jurisdictions would impact on the status and size of WCB headquarters in Yellowknife.

Despite the Minister's response, the Board, at their May 29, 1985 meeting, approved an earlier motion calling for immediate development of a Call for Proposal for the lease-purchase of their proposed building. However, this motion was put on hold by Bryan Roberts, Acting Chairman (effective June 10, 1985) until he got further direction from the Board.

Prior to submitting their proposal to the Minister, the Board began searching for suitable lots in the downtown core. As a result of personal searches for appropriate land by the Chairman and the Building Committee Chairman during 1986 and 1987, we were informed that the only parcel of 2-3 lots they were able to locate within the City core were the lots owned by the City of Yellowknife on the corner of 51st Ave. & 50th St. - the site of the Old City Hall. In July of 1987 the City gave the WCB an Option to Purchase these lots on the condition that they enter an Agreement with the City to jointly develop the land.

The WCB and the City worked with Ferguson, Simek, Clark, a Yellowknife based architecture and engineering firm to develop conceptual drawings, a model and a Proposal Call for Development based on the needs of the two parties. On February 12, 1988 the model and drawings were unveiled at a ceremony at City Hall to which local developers and the press had been invited. Interested parties were given a six week period (commencing March 1, 1988) to respond to the Proposal Call. It was an invitation from the City of Yellowknife and was for a multi-use building of 'superlative quality' in which the WCB would require 16,000 sq. ft. for offices and the City would require 20,000 sq. ft. for a public library. They stipulated that underground public parking would be required and the Developer would have to be solely responsible for financing the project on the understanding that "the City, the Workers' Compensation Board and any other interested parties shall obtain a 5 year lease renewable for 5 years additional. During the period of such lease, the lessee shall have the right to make an offer to purchase the leased property."

In May of 1980 the WCB, along with the City, Clark Bowler Construction and YK Inn Ltd., entered an Agreement in Principle regarding development of the above-mentioned lots owned by the City. A further "Offer to Lease Office Premises" between the WCB and Clark Bowler Construction was signed December 7, 1988. The actual "Office Lease" and "Option Agreement to Purchase Leased Premises" between these two parties have yet to be signed.

Were the procedures followed by the Board reasonable and proper?

Firstly, the most recent formal facilities study we were able to locate, (a 1984 report by Currie, Coopers & Lybrand Management Consultants) estimated a staff requirement of 78 - 90 by 1993 with a need for 18,950 - 20,950 square feet of office space. The staff complement at that time was 48 and was expected to grow by about 10% per year. This contrasted with our observation that the current staff complement of 43 individuals is adequately accommodated within 10,000 square feet and current plans restrict staff levels to 43 for the next two years. We were unable to locate a more recent facilities study which updated or provided more realistic projections than the 1984 study.

Understandably, the Board wishes to enhance their new premises by 3,000 square feet to include a Board room (currently rented from a local hotel two days per month for Board meetings and as needed for staff meetings), to improve service to clients, and to improve security. However, their current commitment in the City Centre Project is for 22,000 square feet. We could find no justification for this additional 9,300 square feet within the next ten years other than the possibility of providing space for the new G.N.W.T. Department of Safety and Public Services. Although this would satisfy a long standing recommendation to bring Occupational Health and Safety under the 'same roof' as the WCB, we were advised by G.N.W.T. DPW that they had not been approached to lease this space and that no such projection or commitment has been made.

We could find no evidence of consideration of alternative land sites for construction and no challenge to the Board's basic premise that their office had to be located on prime commercial land at the centre of Yellowknife rather than land which might be easier to assemble in multiple lots, be closer to medical and hospital facilities, be better suited for parking and be far less expensive. We were told that consultations had not taken place with professional real estate agents or property managers in the private sector or government and we found no evidence that the Board had been presented with information on availability of land, buildings office space or current and projected prices for land, buildings or lease of office space.

Although we found only rough cost/benefit calculations, comments from individual Board members, as recorded in the minutes of Board meetings, indicate awareness that it would be less expensive to buy office premises than to rent. The May 11, 1988 minutes record comments from the then chairman of the Building Committee, Mr. Steve McAlpine, that "the area in the new building for the WCB offices would cost about \$2.5 million to own: rental cost, including lease cost and maintenance, is \$30.00 per sq.ft. If we rent the 15,000

sq.ft. required now to operate, it will cost us over five years a little more than \$2 million. Therefore, it does not make sense paying \$2 million into rent when we can be paying \$2 million today and owning the space."

The only justification we could find for this excessive premium was, the minutes indicate, the political uncertainty associated with decentralization, division and the absence of authority in the Act to own land. In fact there was some discussion reflecting the attitude that, if the Board proceeded with the lease/purchase option, they might prompt action by the political decision makers.

We were unable to find any evidence as to how the Board justified the lease/purchase of the additional 9,300 square feet and no evidence that appropriate consideration had been given to the risks inherent in subletting it.

The Board did not receive competitive bids from developers on the price of constructing their own building. They did not tender the price of leasing space at all. The prices accepted by the Board were a purchase price of \$117.50 per square foot and a lease rate of \$22.00 per square foot triple net. There was no evidence within the Board that these are fair market values.

In the absence of competitive bids, neither the City nor the WCB re-tendered the project. The City of Yellowknife who seems to have been in charge of the public tender process, informed us that they had no policy for tendering major projects such as this. The WCB, had no existing policy or procedure for leasing or constructing office space. However, there is no evidence that they consulted territorial or federal DPW for their assistance in developing their own policy. Although the six weeks allowed developers to respond to the Proposal Call seems to be too brief, we had varying response as to the reasonableness of this time frame so can make no definitive response. However, we note that the WCB has been in constant negotiation with the Developer for the most basic of the WCB requirements, and at the time of going to press is still expending significant resources trying to get their minimum needs supplied by the developer. This would seem to indicate that the six week tender period was not satisfactory for setting the project specifications.

The Board did have a building committee which did include their legal counsel. However, its actual involvement with the current City Centre Project has been virtually nil since last June (1988). A review of the minutes of Board meetings over the last one and a half years indicates that responsibility for this project has drifted from the Building

Committee to the Chairman to the General Manager. There is still no clear mandate assigning responsibility for this project to any person or body. However, it is also clear

that authority and initiative for this entire venture appears to have vested with the past Chairperson with only occasional and inconsistent involvement by Board members.

Keeping in mind that the duty of a Director is to the best interests of the WCB, this Panel has concluded that the Board did not properly define their needs for office space, explore alternative scenarios prior to committing themselves to the City Centre Project, heed the financial implications of their commitment to the City Centre Project, ensure they were not paying an excessive amount for accommodation, or take reasonable steps to secure a sub-tenant for the surplus space they intend to lease/purchase in the City Centre Project. As a result of deficiencies in the policies and procedures surrounding the securing of lease premises, this Panel is of the opinion that the Board can not assure the workers, the employers or the Legislative Assembly that accommodation requirements are being met in the most equitable manner. To this extent, the procedures followed by the Board to secure office space in the City Centre project were not reasonable and proper.

7. COST/BENEFIT OF THE LEASEHOLD AGREEMENT

Whether the leasehold agreement entered into by the WCB in the City Centre project is advantageous to the WCB financially and administratively and what the effect of the move to these premises will be on the operating costs of the WCB in the next 5 - 10 years.

The decision to procure specific office accommodation is not something that can be taken lightly. It is an area which requires independent professional expertise familiar with accommodation needs, local markets, costs and financing in order to ensure that an individual or organization obtains the best value for its money. The difference, in the case of the Workers' Compensation Board of the Northwest Territories, between the right decision and the wrong decision can be millions of dollars. Employers, and indirectly the workers, have the right to expect functional premises at the lowest obtainable cost.

The most recent formal "Financial Analysis of Facilities Alternatives" we found was a January, 1984 report by Currie, Coopers & Lybrand Management Consultants that recommended the WCB build their own building rather than lease. This demonstrated a cost savings in the range of \$1,800,000 - \$2,000,000 - a figure corresponding with the estimate made by Mr. McAlpine.

We found that the Board had not engaged the services of a real estate specialist to assist them in making their decision or to verify current market prices to build or lease office accommodation.

We found that a document clearly identifying the financial implications of the current arrangements did not exist.

It is our understanding that the Board had the following options:

1. To participate in the City Centre project by leasing 13,000 square feet net (assuming they successfully found a subtenant) at \$22.00 per square foot triple net for five years at which time the Board could purchase the space for \$117.50 per square foot.
2. To build their own building. (Note - The fact that the Workers' Compensation Board Act does not explicitly allow the Board to own property, was pointed out in the 1986 Review Committee Report. We believe this did not have to represent a real threat to ownership. It could have been rectified expeditiously by a simple amendment to the Act.)

The panel performed a limited financial analysis on the Board's lease/purchase decision based on future cash flows.

This analysis has been reviewed by Board officials and is attached in Appendix K. The differences are summarized as follows:

	<u>Net Present Value of Future Cash Flows</u>
Current leasehold agreement with the City Centre project (purchase after 5 years of leasing)	\$ 2,582,777
Build own 22,000 square foot building	\$ 1,044,509
	<hr/>
Difference (additional cost)	\$ 1,538,268

In this analysis, conservative estimates were used for building costs, lease costs, lease revenues and the discount rates used in computing the net present value. The analysis factors in the opportunity cost of money that would otherwise be invested.

It would therefore appear, based on conservative estimates, that it is costing the Board an additional \$1.5 million over the next five years to participate in the City Centre project by paying five years rent that it otherwise would not have to. (Note: This does not include potential costs of failing to locate a tenant willing to rent at \$22/ square foot or a vacancy factor). It should be noted that Board officials have calculated the extra cost to be in the order of \$750,000 for a higher quality building. Our figures are based on a medium quality building at costs provided by the same developer as is building the City Centre Project. The additional cost will be borne directly by employers and indirectly by workers.

We also found that the Board has not obtained any commitments to date to sublet the excess 9,300 square feet. We are concerned that there is a degree of risk involved in subletting the 9,300 square feet on a timely basis and at a 'break even' rate of \$22.00 per square foot. We understand that recent attempts to sublet office space in the downtown core took up to a year to locate a tenant and let for \$18.50 per square foot. Furthermore, we have been advised that as a matter of G.N.W.T. policy, Executive Committee approval would likely be required for G.N.W.T. to lease office space which had not been approved by the Financial Management Board. Most certainly this would be the case for office space which had not gone to tender and certainly was in excess of the going rate (currently \$18/square foot). We were also informed that the length of time the G.N.W.T. is willing to lease office space is five years because their needs fluctuate too much for them to make longer term commitments.

With respect to the actual leasehold agreement (although the lease agreement is not yet signed, the Offer to Lease which incorporates the Lease has been executed), the Board is "locked in" to the 20 year lease. There are no provisions for the Board to vacate the lease after providing notice. While they are authorized to assign the lease to the "Commissioner of the N.W.T." or to any other party formally approved by the Developer, if the Board was in a position where it had to vacate all or a portion of the lease, it could not do so without finding a suitable sub-tenant or incurring significant costs by way of damages.

Furthermore, in the event the Developer does not purchase the City Centre Project lands within five years and the WCB must trigger their Option to Purchase their own 'unit', there is no time limit within which the Developer must complete the sale. Given that he must arrange financing, purchase the land from the City, register a condominium plan, declaration and by-laws for a Condominium Corporation pursuant to the Condominium Act and convey title to the 'unit' to the WCB, it could take considerable time before the transaction actually closes in favour of the WCB. There are no penalty provisions against the Developer for failing to complete the sale within a reasonable time and no provisions for compensating the WCB for any costs they might incur as a result of delays. Consequently, there is some chance the Board might incur expenses beyond the \$1.5 million referred to above in the neighborhood of \$286,000 per annum.

Considering the highly conservative approach the Board has taken in rate setting and investments, we found the Board to have taken uncharacteristic risks in its approach to securing office space.

While the City Centre project has many merits in terms of location, prestige and the economic development of the City of Yellowknife, we question whether employers and workers will be well served by the Board's participation in it at their expense. Unlike the government, the Workers' Compensation Board does not have a mandate for providing economic development projects for the private sector.

We have additional concerns that these cost implications were not made public, and, due to the high profile nature of this project, and the divided opinions expressed by Board members, we are surprised that the Board did not involve the Minister more closely in its decisions.

We have been asked whether the leasehold agreement entered into by the WCB in the City Centre project is advantageous to the WCB financially and administratively. In comparison to other alternatives and in the perspective of a reasonably prudent person, the simple answer is "no" - the leasehold agreement is not advantageous to the WCB financially or administratively.

The Board originally wanted to own their own freehold building of approximately 13,000 square feet with room for expansion on their own land with an extra lot for 15 parking stalls. They tendered (jointly with the City of Yellowknife) for 16,000 square feet on a 5 year lease, renewable for 5 years with the right to purchase as a condominium at any time during the lease plus 11 parking stalls. They got 22,200 square feet on a 20 year lease with the right to purchase as a condominium only after 5 years. They also got 21 parking stalls and an option on another 9. It would appear to be a case of wanting one thing and getting something quite different.

What is the effect of the move to these premises on the operating costs of the WCB in the next 5 years? The answer is that, conservatively, operating costs will be in the order of \$1.5 million in current dollars more if they lease their office premises for 5 years than if they would have purchased. This does not include the real risks of not finding subtenants or other implications of being condominium owners rather than owning ones' own free standing building. The additional costs may well be closer to \$1,800,000 - \$2,000,000.

Whether, as guardians of the public monies and interests, the Workers' Compensation Board has acted reasonably is beyond the terms of reference of this review.

Since the City Centre project has gone ahead, we question whether anything can now be done to compensate for these weaknesses short of making the best of it. Having regard to this fact, it is RECOMMENDED:

58. THAT the Board take steps to determine whether anything can be done to compensate for the procedural weaknesses in obtaining office space.
59. THAT the Board take immediate steps to secure a subtenant for their surplus office space in the City Centre Project at \$22.00 per square foot.
60. THAT the Board establish the Gross Building Area which is to be paid for under the purchase option.
61. THAT the purchase option be exercised at the earliest possible date (currently the end of the fifth year assuming there is not a better option available at that time).
62. THAT, in future, the Minister Responsible for the Workers' Compensation Board be involved by the Board in any major projects or policy decisions that involve significant financial or other implications on employers and workers. Policy guidelines should be established for such involvement.

8. STATUS OF RECOMMENDATIONS FROM THE 1986 REVIEW

With respect to the 1986 WCB review, what recommendations have been adopted, and the status of outstanding recommendations.

In 1986 a Review Panel was struck by the then Minister responsible for the WCB, Bruce McLaughlin. They produced a report making 133 recommendations some of which suggested conducting further studies. Of the wide range of recommendations 76 involved legislative reform, 42 involved WCB program and/or policy action or reform, and 28 involved suggestions for action at the Ministerial level.

For the purpose of providing a manageable update on the status of those recommendations in the body of this report, the Panel has divided the Recommendations into sections, discussed only the most important in each and enumerated the remainder in Appendix N.

A. RECOMMENDATIONS DIRECTED TO THE MINISTER'S OFFICE

There were several issues which required and still require consideration and input from outside the Workers' Compensation Board itself in order to improve the workings of the overall scheme. Those more comprehensive issues included:

- i) undertaking a thorough study of the options for transferring Occupational Health and Safety to the Workers' Compensation Board or for creating a new department of Labour. Recommendations #83 - 87 address the critical issue of keeping the number and the cost of accidents down. There must be meaningful co-ordination of the setting of safety standards and inspection of the workplace against those standards, enforcement against infractions of those standards, and assessment rates which reflect that safety record. The first step, which we understand is already contemplated, is to bring all of these agencies under the responsibility of one Minister.
- i) improving the communication (obligatory and voluntary) between WCB and Federal and Territorial workplace inspection authorities and the enforcement capabilities of the Territorial workplace inspection agencies for health, labour standards and safety (Rec. # 84, 85, 86 & 87). While some initiatives have been undertaken by WCB staff recently, much more work has to be done in this area. We note the Board's reluctance to utilize the provisions in the Act (Rec. # 84) allowing them to assess and levy a fine against an employer where the employer fails to take sufficient precautions for the prevention of accidents to workers in his employ, if the working conditions are not safe or if the first aid requirements have not been met. As noted elsewhere

This recommendation is not intended to reduce the autonomy of the Board, however it must be recognized that, for all practical purposes, the Minister is ultimately accountable in the Legislative Assembly for the Board and must provide an appropriate level of leadership to the Board dependent upon the situation. It is the finding of this Panel that the Board has not satisfactorily fulfilled its accountability to the public on its own.

63. THAT the Minister obtain a legal opinion on the extent of the Minister's responsibility and hence duties towards the Workers' Compensation Board under law.

index for northern conditions seems to have improved.

As a means of checking the percentage of claimants whose salaries are fully covered by the WCB scheme, it was recommended that the Board keep records of the salaries of injured claimants. (Rec. #11) Apparently, this is being done.

- ii) We were told that in response to the recommendations of the 1986 Review Committee, the Board had activated their appeal review process by developing a policy and procedures, appointing an appeals review committee and providing them with authority and guidelines regarding consultation of independent experts, access to information by interested parties and further appeal to the Board itself. (Recs. #52-59) However, during the course of our review, we found that the Board had just rejected the Appeals policy which had been developed and had not set up a procedure for developing a new one. We would recommend that an acceptable appeals policy be developed for appeals review and appeals to the Board, and that it be adopted immediately.

Due regard should be paid to whether the provision in the Act allowing the Board to hear employers' appeals on assessment rates which the Board set in the first place is in compliance with the Charter of Rights and Freedoms. The Minister's office should obtain a legal opinion on the validity of S. 61(2).

The members of the Appeal Review committee ARE STILL MEMBERS OF THE BOARD, rather than persons appointed from outside staff or Board members, contrary to previous recommendation.

The minutes of Board meetings do not record that Appeals Review Committee members removed themselves from the room during the discussion or vote on an appeal before the Board, but we were told by a member of the committee that the Board has been relatively careful about ensuring Review Committee members do not influence appeal cases before the Board. (To do so would violate the rules of natural justice and the protection set out in the Charter of Rights and Freedoms providing for a person to be heard by an unbiased judge)

This panel received a number of complaints about the appeal process from applicants as well as members. Employees complained that it took a long time to have a hearing date struck so their case could be heard. Employers complained that letters they sent to the Board requesting consideration of their sub-class or assessment rate were never acknowledged by the Board as appeals and the Board did not provide sufficient accident information on which appeals could be based.

Board members commented that scheduling was always a problem, and rather than being provided with a summary of the case, they would have to wade through an entire file. Often

they would have to leave the building with the only file, which, among other things, is a clear violation of security. Staff complained that they didn't know which way to make decisions because the Board invariably overturned their decisions and the reasons were inconsistent. It is still recommended that the appeals/review committee be appointed from persons who are neither WCB Board or staff members and that an appeal review policy be finalized.

- iii) In accordance with the recommendation that the Minister takes steps to bring Occupational Health and Safety and the WCB closer together, (Rec. #79, 86, & 87), the 1986 Review Report recommended that the WCB increase their budget and activity to improve public information on the WCB in general and workplace safety in particular. (Rec. #88 & 89) To a mild extent the WCB has done this for a particular employer or sub-class (ie. scaffold construction & manhole work). We support these endeavors but note that the expenses for these programs were charged against the Accident Fund rather than the particular sub-class. The 1986 recommendation (#90) was, and we agree, that the particular sub-class pay the cost.
- iv) Recommendations #91 - 94 were aimed at improving the Workers' Compensation rehabilitation facilities and services in Yellowknife. We received general complaints about accessibility and service in this area and would recommend that this program be examined closely during the course of the "no holds barred" review.
- v) Recommendation #43 was that the Board develop a conflict of interest policy so that Board members do not determine matters where they have a real or a perceived conflict of interest. During the course of our investigation we found that the Board did not have such a policy, nor was it familiar with the provisions of the Conflict of Interest Act. In fact we were told that if the occasion arose, the Board would refer to the Conflict of Interest Guidelines referred to in the PSAC Agreement. This proved somewhat disconcerting because the Guidelines in the PSAC Agreement refer to employees of the public service. It is the Act which deals with members of Boards.

The panel would encourage the Board to become familiar with the legislation and the Guidelines which govern each level of staff and Board member within the Board. Elsewhere, we have recommended that the Board develop a conflict of interest policy for Board members and staff which would serve as a refinement of the Act and the PSAC Guidelines respectively.

Not only should this policy be developed, but Board members and staff should be made fully aware of all provisions and procedures of the legislation, the Agreement and the policy.

- vi) Although we were told that the Board had received some training on the role and duties of Board members as Directors

and trustees and as an appeal board (Rec. #45), this must be done on an ongoing basis (as we re-emphasized by this Panel in Chapter 3).

- vii) The Board did contract an in-depth analysis of their administrative procedures (Rec. #46). However, as we outlined in Chapter 2, considerable work remains to be done by the new management.

C. RECOMMENDATIONS TO AMEND THE LEGISLATION

The recommendations to amend the Workers' Compensation Act which have already been adopted or those which are still important but which are not contentious are listed in Appendix N. The most pressing areas of legislative reform include:

- determining a formula for setting YMIR (Rec.#12) and the data base for adjusting the YMIR to keep in line with the cost of living (Rec. #12 & 13). The Board undertook to come up with this formula in the response paper to the 1986 Review Panel Report;
- setting out clearly that the WCB is a body corporate with all the powers normally attendant on such an entity;
- authorizing the WCB to acquire and hold land and real property (Rec. #72 & 73);
- clarifying the fact that the WCB is in a trustee relationship to the Accident Fund (Rec. #44 & #64);
- ensuring that the pension account and the established claims account be fully funded (Rec. #65) and that pensions be indexed (Rec. #31);
- clarifying the fact that the WCB has the sole authority for managing the Accident Fund and that investment of these monies must be done in strict compliance with the Financial Administration Act (Rec. #74);
- setting out the criteria which the Board should consider in determining the degree of partial disability of an injured worker (Rec. #30);
- setting out the role and responsibilities of the Board especially its exclusive relationship to the Accident Fund (Rec. # 67-68).

D. RECOMMENDATIONS FOR FURTHER STUDY

In their 1986 Report, the Review Committee recommended that the Minister undertake a study into the transfer of Occupational Health and Safety to the WCB (Rec. #83), and that the Board initiate examination of universal insurance (Rec. #81), payment of medical costs by the Territorial Health Insurance Services (Rec. #80) and the right of employers to take legal action against third parties (Rec. #109).

To our knowledge, these have not been done. As they seem to be recurrent issues, we recommend that these studies be undertaken in the near future.

This Panel RECOMMENDS:

64. THAT the Minister, Members of the Board and General Manager re-read the Report of the 1986 Review Committee.
65. THAT the Minister initiate steps to co-ordinate (within the structure of government) Labour Standards, the WCB, Occupational Health & Safety, and any related inspection agencies.
66. THAT the Minister encourage closer and more meaningful co-ordination of programs amongst the agencies listed in Recommendation 65. above.
67. THAT the Minister's office take responsibility for hiring a Workers' Advisor immediately.
68. THAT the Minister take steps to amend the Workers' Compensation Act as recommended by the 1986 Review Committee
69. THAT the Minister consider assigning to the Workers' Compensation Board the administration of the Criminal Injuries Compensation Program.
70. THAT the Board immediately determine a formula for adjusting YMIR.
71. THAT the Board consider undertaking the studies recommended by the 1986 Review Committee and this 1989 Review Panel including:

- payment of medical care costs by the Territorial Health Insurance Services
- universal insurance
- transfer of occupational Health & Safety to the WCB
- rights of action by injured workers against third parties
- experience rating

- interjurisdictional coverage
- employee cost sharing of assessments
- equitable compensation/adjustments to injured workers living outside the NWT
- 3 day self-insurance period
- replacement of lifetime pensions with an earnings loss approach
- protecting the Board against catastrophic losses through a reinsurance arrangement with a private broker

10. CONCLUSION

The WCB is a rather unusual entity. It is neither a Crown Corporation nor a Government Department, but it is responsible to a Minister of the Government. It is independent but must report to and be accountable to the Legislative Assembly. The Minister (as of May 1, 1989, the Minister), has a duty to the public to ensure that the people who are appointed to the Board will be capable of meeting the standards expected of a "fiduciary" and a Trustee.

The Workers' Compensation Board does not receive government funds but is regulated by government legislation. Its independence from government influence is essential to its well being yet the government must act as its watch dog to ensure it is acting within its jurisdiction. It is trustee to vast funds which can not be accessed by Government. It has its own employees which are not paid out of GNWT funds but are considered members of the Public Service, are subject to GNWT classification and standards.

It is this unique and delicate balance which must be understood, respected and protected by the Minister Responsible for the WCB. The Minister must be available to provide the Board with guidance and leadership but must not allow it to become subject to political interference. The Minister must monitor its activities and financial well being regularly and be ready to step in if problems arise.

During the course of our Review, the Panel found that the Accident Fund has incurred several losses as a result of decisions made by the Board of the Workers' Compensation Board; losses which were or will be incurred needlessly.

Erroneous calculations and misuse of factors in the rate setting process, use of the incorrect discount rate, in commuting lump sum payments and participation in the City Centre Project have resulted in unnecessary expenses in excess of \$2.5 million.

These losses represent damages to the Accident Fund which is held in trust for employers and injured workers. They are current losses and do not represent the income which could have been earned from investment of that capital in future years.

We performed a rough calculation of the future liabilities of the Workers' Compensation scheme in ten years time. If one projects the growth of liabilities for the next ten years based on the past five year history (ie. average annual growth of 24%), the liabilities of Accident Fund will grow to over \$750 million by the end of 1988. These rough projections (set out in

Appendix C dramatize the effect of the past management of the workers' compensation scheme.

As this Review Panel has stated, we support the assertion that the Accident Fund should remain in a fully funded position. However, as Workers' Compensation Boards across Canada are beginning to experience, there is a limit to the amount they can 'tax' employers. And once the Accident Fund reaches an 'under-funded' position, it is very difficult to restore it.

We are concerned that, if the uncontrolled and unnecessary expenses highlighted throughout this report are not reigned in immediately, the Board will not be able to provide assurance to employees and employers that, in future years, they will be able to maintain the Accident Fund in a fully funded position.

The only way these costs can be kept within reasonable limits is reduction of accidents, reasonable limits on pension awards and increased efficiency of WCB staff and Board members. These initiatives can be assisted by regularly examining the direction of the Board and exploring alternative approaches to workers' compensation.

This Panel has concluded that the Accident Fund has suffered damages and that the extent of those damages is likely in excess of \$2.5 million. We feel that responsibility for those losses may be spread amongst a number of parties with whom employers and workers have placed their trust.

This Panel RECOMMENDS

72. THAT the Minister Responsible for the WCB clarify the legal and political relationship between the Minister and the Board.
73. THAT the Minister urge the Minister of Personnel to expedite matters involving WCB employee classifications and standards.
74. THAT the Minister consider re-naming the WCB, the "Worker's Compensation Commission" to avoid confusion between the "corporate" Board and the organization.
75. THAT the Legislative Assembly of the Northwest Territories not amend the Workers' Compensation Act on an ad hoc basis and that it not be amended without sufficient analysis of the financial and program implications of the proposed amendment.
76. THAT the Minister Responsible for the Workers' Compensation Board obtain a legal opinion on recovering the losses to the Accident Fund.

APPENDIX "A"

TERMS OF REFERENCE

WCB REVIEW PANEL

PURPOSE OF THE REVIEW

The Minister wishes to confirm the GNWT's continuing commitment to a no fault insurance system to compensate workers for earnings loss resulting from injuries incurred during the course of their employment. This review will address itself to the operation of the N.W.T. WCB in light of recent criticism. The panel review is intended to recommend amendments to the legislative mandate and the Board's operation.

SCOPE OF THE REVIEW

The panel's review will enquire into the following:

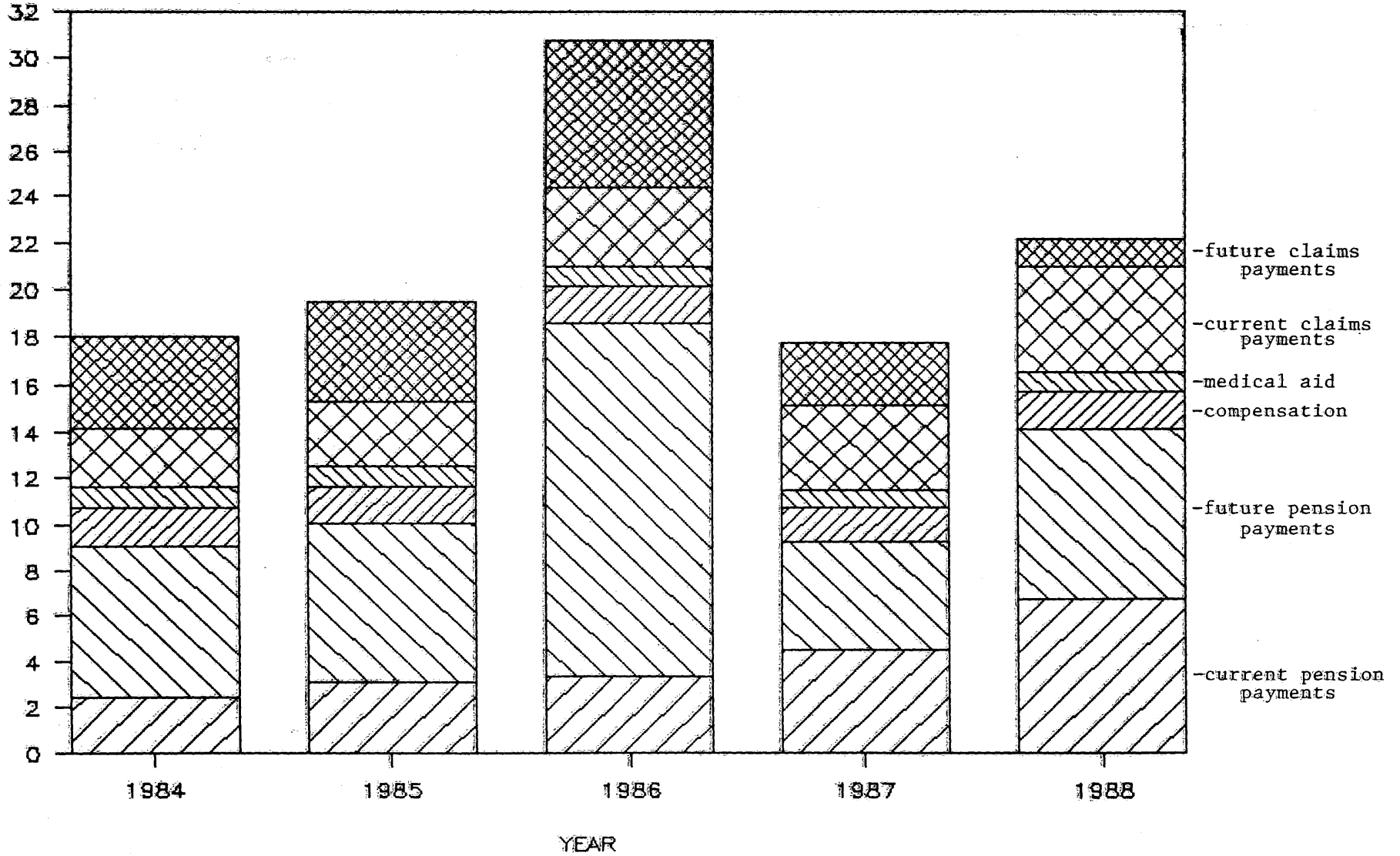
1. Whether the provisional assessment rates set by the Board for 1989 are fair and reasonable; whether they have been fairly applied to the various industry sub-classes and whether they are sufficient to meet the projected needs of injured workers.
2. Whether the Board has been operating in a financially efficient and responsible manner.
3. Whether the size and composition of the Board of Directors of the WCB should be altered.
4. Whether the Board's investment policy is sound and is in accordance with governing legislation and principles affecting the Board in their role as trustees and whether the Board has been getting a sufficient rate of return on its investments.
5. Whether there has been an effect on assessment rates from the introduction of the program for hunters and trappers, the board's policy of commuting pensions to lump sum payments and their increasing of pensions.
6. Whether the procedures followed by the Board to secure office space in the City Centre project were reasonable and proper.
7. Whether the leasehold agreement entered into by the WCB in the City Centre project is advantageous to the WCB financially and administratively and what the effect of the move to these premises will be on the operating costs of the WCB in the next 5 - 10 years.
8. With respect to the 1986 WCB Review, what recommendations have been adopted and the status of outstanding recommendations.

APPENDIX "B"

WORKERS' COMPENSATION BOARD NWT

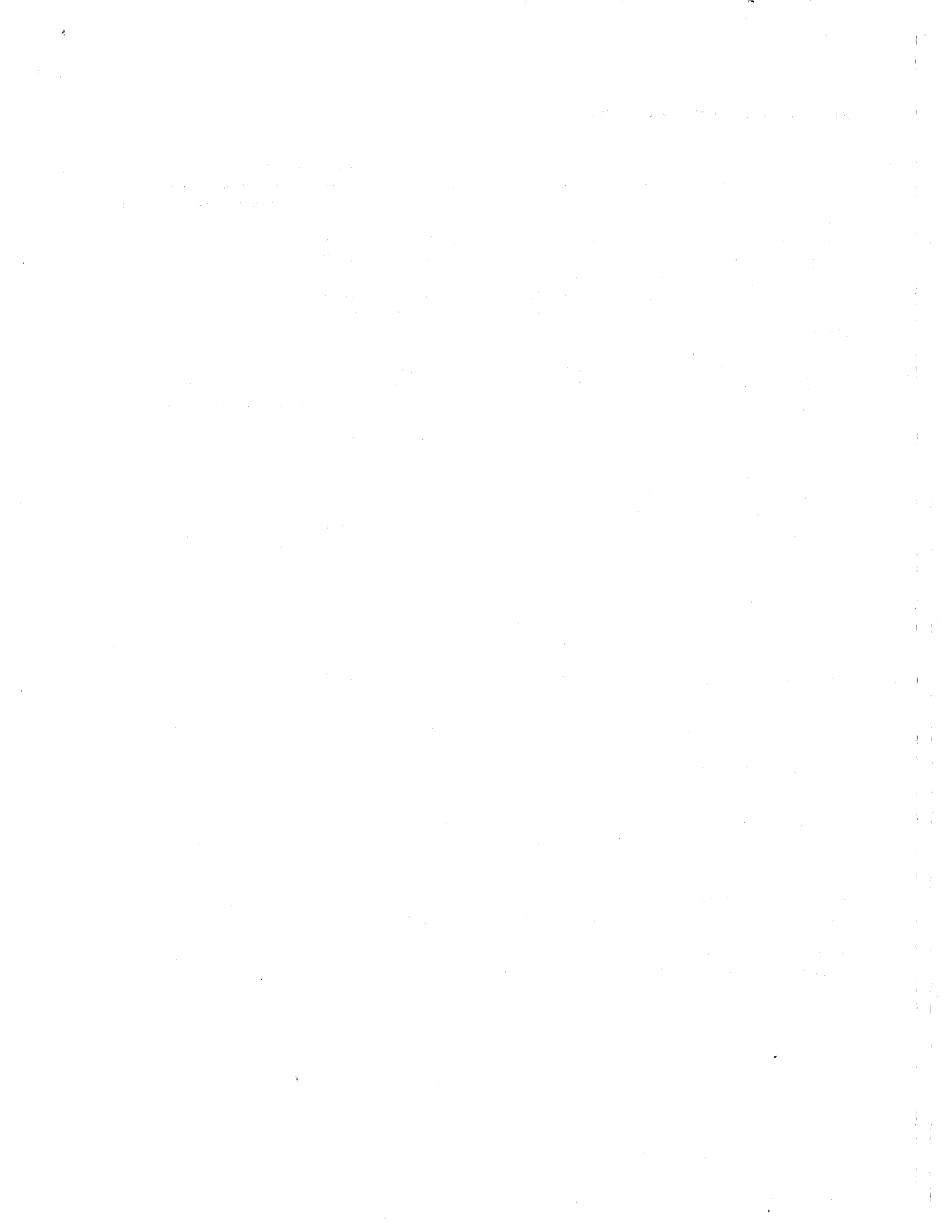
COST HISTORY

\$ MILLIONS



WORKERS' COMPENSATION BOARD NWT; FINANCIAL HISTORY

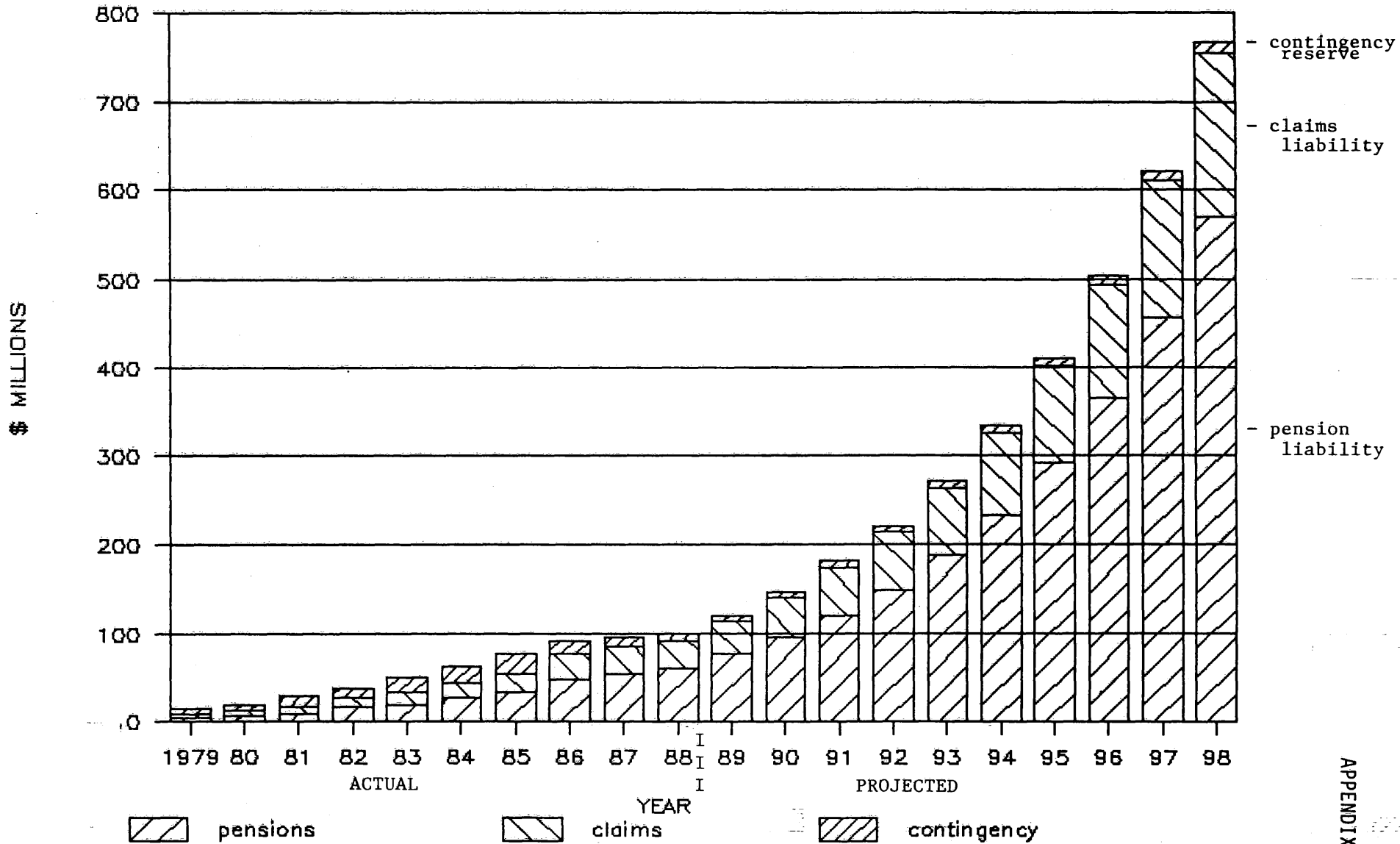
\$000	1984	1985	1986	1987	1988	Increase (Decrease 1988/1987 %	Comments on large variances
REVENUE							
Assessments	\$17,027	\$16,417	\$14,669	\$11,958	\$13,148	10.0%	
Investment Income	8,054	10,111	12,015	6,347	8,822	39.0%	
	25,081	26,528	26,684	18,305	21,970	20.0%	
EXPENSES							
Pension payments -							
current payments	2,418	3,060	3,333	3,170	3,676	16.0%	
future payments	6,667	7,036	15,314	4,747	7,438	56.7%	1987 artificially low
lump sum payments				1,300	3,000	130.8%	lump sums overpaid
	9,085	10,096	18,647	9,217	14,114	53.1%	
Claims expense -							
compensation	1,657	1,563	1,531	1,487	1,624	9.2%	
medical aid	900	895	834	715	818	14.4%	
current payments	2,494	2,757	3,344	3,765	4,428	17.6%	
future payments	3,900	4,211	6,462	2,602	1,148	-55.9%	decline here linked with future pensions
	8,951	9,426	12,171	8,569	8,018	-6.4%	
Admin & General Exp.	3,949	4,223	3,934	3,933	4,599	16.9%	
Total Claims Costs	21,985	23,745	34,752	21,719	26,731	23.1%	
SURPLUS (DEFICIT) FOR YEAR	3,096	2,783	(8,068)	(3,414)	(4,761)	39.5%	
CONTINGENCY RESERVE-OPENING	17,084	20,180	22,963	14,895	11,481		
CONTINGENCY RESERVE-CLOSING	\$20,180	\$22,963	\$14,895	\$11,481	\$6,720		
Increase in total claims costs (year over year)		8.0%	46.4%	-37.5%	23.1%		
Average increase in total claims costs since 1984		8.0%	29.0%	-0.4%	5.4%		



APPENDIX "C"

WORKERS' COMPENSATION BOARD N.W.T.

GROWTH IN ACCIDENT FUND LIABILITIES (Projected at 24% per annum)



APPENDIX "D"

APPENDIX D

ESTIMATED SUB-CLASS BALANCES AT JANUARY 1, 1989

10 Renewable resources	0
20 Mineral exploration and mining	\$ 733,279
30 Oil and gas	2,762,536
40 Construction	(1,003,578)
50 Transportation	2,896,681
60 Manufacturing and trade	789,895
70 Services	(142,099)
80 Government	<u>2,002,003</u>
TOTAL	\$ 8,038,717

DEFINITION OF SUB-CLASS BALANCE:

A notional, internal figure to represent the net difference between Assessment Income and Investment Income allocated to the Sub-Class, less the Administrative and Incurred Claims Costs charged for all Prior Years of Accident, and after taking account of all "premiums" paid for reinsurance, and the help obtained from the Contingency Reserve.

In other words, the surplus or deficit by Sub-Class.

APPENDIX "E"

WORKERS' COMPENSATION BOARD N.W.T.; ASSESSMENT RATE COMPARISON

INDUSTRY NAME:	SUB- CLASS	1988 RATE	1984-87 NO CAP	1984-87 25% CAP	1989
					PUBLISHED RATES
AGRICULTURE, GARDEN, ETC.	12	1.25	1.50	1.50	1.75
LOGGING, SAWMILLS, ETC.	13	6.00	7.25	7.25	7.50
FISHING, TRAPPING, ETC.	15	2.50	2.75	2.75	2.50
MINING, DRIFTING, ETC	21	10.50	11.00	11.00	4.00
MINING, GOLD, URANIUM	22	3.50	4.00	4.00	4.00
PROSPECT, EXPLORATIONS	27	2.50	3.00	3.00	4.00
DRILL, EXPLORE OIL, GAS	36	2.50	3.00	3.00	3.00
SERVICES TO EXPLORE/GAS/OIL	37	2.50	3.00	3.00	3.00
BUILDING, CONSTRUCT, ETC.	41	4.25	5.75	5.31	6.50
HIGHWAY, BRIDGE, PIPELINE	42	5.50	7.50	6.88	7.50
EXCAVATION, DEMO, BLASTING	43	4.75	5.25	5.25	6.50
STEEL, TOWER, POWERLINE INST	44	4.25	4.00	4.00	4.50
HOUSING ASSOCIATIONS	45	1.25	1.50	1.50	1.25
PLUMBING, HEATING ELECTR.	46	3.00	4.00	3.75	4.50
DIVING, UNDERWATER SPECIAL	47	4.00	2.75	2.75	3.00
PAINTING, DECOR, TILING	49	3.00	4.25	3.75	4.50
AVIATIONS, UP TO 12500LBS	51	4.50	3.75	3.75	3.00
AVIATIONS, GREATER 12500LBS	52	3.00	2.25	2.25	3.00
GROUND TRANSPORT LOCAL	53	3.25	3.75	3.75	3.00
TRUCKING, MOVERS, ETC.	54	6.00	7.25	7.25	7.50
WATER TRANS, BARGES, ETC.	55	4.25	4.50	4.50	4.00
RAILWAY & AIRPORT OPS.	56	3.25	3.00	3.00	3.00
TV, RADIO, CABLE, ETC	57	0.75	0.60	0.60	1.00
PUBLIC UTILITIES	58	1.25	1.25	1.25	1.25
AVIATIONS, HELICOP, FLY SCHOOL	59	6.00	5.00	5.00	3.00
WHOLESALE TRADE, DIST, ETC.	61	2.50	3.00	3.00	3.00
RETAIL TRADE, LIGHT MANUF	62	0.50	0.50	0.50	1.00
REPAIR OF HEAVY EQUIP. ETC.	63	4.00	5.75	5.00	6.00
COOPERATIVES	64	1.25	1.00	1.00	1.25
AUTO DEALERS, SERVICE ETC	66	1.75	1.75	1.75	1.00
MEATCUTTING, HARDWARE, GEN, E	67	0.75	0.80	0.80	1.00
BUSINESS, PROF, EDUC, ETC	71	0.75	0.90	0.90	0.75
HEALTH & WELFARE SERVICES	74	1.25	1.00	1.00	1.25
RECREATIONS, AMUSEMENT SERV.	75	0.50	0.65	0.63	1.00
HOTELS, MOTELS, REST, CLUBS	76	1.25	2.00	1.56	2.50
PERSONAL SERVICE, HAIRDRESS	77	0.75	0.95	0.94	1.00
CAMP, INDUSTRIAL CATERS	78	4.00	4.25	4.25	4.00
BUILD MAINT & SECURITY	79	1.25	1.50	1.50	1.75
GNWT, AGENCIES, HOUSING, WCB	81	0.50	0.75	0.63	1.00
LOCAL AUTHORITIES	82	1.25	1.25	1.25	1.25
DEWLINE SERVICES	83	1.75	2.25	2.19	2.50
FOREST FIREFIGHTERS	85	1.25	1.00	1.00	1.25

SOURCE: WORKERS' COMPENSATION BOARD N.W.T. (APRIL, 1989)

APPENDIX "F"

ANNUAL REPORT INFORMATION RECOMMENDATIONS

ONTARIO (1987)

summary of operations bar chart (page 1)
change in average rate of assessment (page 10)
percentage of administration to total expenses (page 14)
claims reported (number and costs) (page 22)
total fatalities (page 23)
claims payment response time (page 29)
number of claims by industry (page 33)
where the money comes from (page 38)
where the money goes (page 39)
ten year history (page 56)

BRITISH COLUMBIA (1987)

financial and statistical highlights (page 5)
costs charged to subclasses (page 29)
reserves by subclasses (page 31)
commentary on financial statements (page 35)

MANITOBA (1986)

Philosophy - Statement of Intent - Aims and Goals (page 3)
The Year in Review (page 4)
Looking to 1987 (page 6)
Organization chart (page 7)
Appeal statistics (page 12)
Nature of injuries (page 34)
Source of injuries (page 35)
Cause of accidents (page 37)
Month of occurrence of accidents (page 40)
Accidents by occupation (page 41)
Accidents settled and reported (page 42)
Time loss accidents by days of compensation (page 49)

SASKATCHEWAN

The number of individual rates were increased from 44 to 102. This was implemented in response to employer representation to provide a more equitable assessment system. Prior to finalizing the rates for the coming year, the Board meets with all major employer associations. (page 10)
Area of injury (page 14)
Committee of Review Recommendations (page 23)
The Board strongly believes that it cannot guarantee "job availability" but it can guarantee "job readiness". (page 23)
Training program to sensitize staff (page 24)
Written decision format (training in) (page 26)
Publication of Major Policies (page 27)
Revenue, expenditure and injury fund balances by rating unit (page 94)

GENERAL

Section by RATEMAKING FORMULA item:

1. Rating units
2. Accident rates
3. Experience rating system
4. Administration costs
5. Reinsurance system
6. Funding method
7. Investment return
8. Benefits

[Saskatchewan follows this a bit]

APPENDIX "G"

RECOMMENDATION	CATEGORY	RESPONSIBILITY	1988				1989											
			S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
<p><u>Pension Services</u> (cont'd)</p> <p>Assign responsibility for the pension capitalization computations to the accounting staff.</p> <p>Note: Presently under discussion. A decision will be made once we are further along with our financial information reporting system.</p>	Operational	C.O.O.	See note below															
<p><u>Medical Services</u></p> <p>Develop medical services policies, practices and procedures.</p>	Operational	Director of Client Services	In place Dec 31/88															
<p>Assess possible alternatives to the current in-house arrangements, including the feasibility of using resources in other jurisdictions.</p> <p>Note: We now use medical professionals as required in other jurisdictions. We also utilize other Board's resources as well.</p>																		
<p>Negotiate a new contract with the Medical Advisor, establishing specific responsibilities and commitments of time.</p>	Operational	C.O.O. & Director of Client Services	In place Dec 31/88															
<p>Develop position descriptions for both the Medical Advisor and the Medical Assistant positions.</p>	Organizational	Director of Client Services	In place Dec 31/88															

RECOMMENDATION	CATEGORY	RESPONSIBILITY	1988				1989														
			S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D			
<p><u>Financial Services</u></p> <p>Initiate the preparation of regular and complete monthly financial statements and budget reports for both administrative and program costs which include explanations of significant variances and appropriate consolidation of responsibility centres.</p> <p>Note: Systems Dept. current priority project is the design implementation of a computerized financial reporting system.</p>	Operational																				
<p>Develop clear guidelines for the acquisition and contracting of external financial services.</p>	Strategic	C.O.O.																			
<p>Assign responsibility to and train the Accounting staff to perform the assessment rate determination, payroll and pension capitalization computations.</p> <p>Note: The rate setting model is now in house for assessment purposes.</p> <p>Payroll is being taken back from the Government effective April 15th and will be processed by the Toronto Dominion Bank.</p>	Organizational & Operational	C.O.O., Manager Finance & Director Client Services																			

Variance & Budgets Reports in place Dec 31/88 see note below

* * * * *

See note below

RECOMMENDATION	CATEGORY	RESPONSIBILITY	1988				1989													
			S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
<p><u>Financial Services (cont'd)</u></p> <p>No decision has been made at this time to assign responsibility for pension capitalization computations to the accounting staff.</p> <p>Complete and issue the financial and accounting policies and procedures.</p> <p>Develop mechanisms to challenge operating results, variances and projections before they are finalized and submitted to the Board.</p> <p>Note: This is part of the financial information reporting system.</p>	Operational	Corporate Auditor & Manager Finance							*	*	*	*								
<p>Direct the Investment Committee of the Board to reassess the investment management strategies currently employed.</p>		Strategic	Chairman																	
<p>Patriate the processing of the WCB payroll.</p>	Operational	Manager Finance									*	*								
<p><u>Data Processing Services</u></p> <p>Undertake a formal review to establish the current and future user requirements for information systems.</p>	Strategic	All Management Staff	See note below																	

APPENDIX "H"

APPENDIX "H"

LIST OF PARTICIPANTS
1989 WCB REVIEW PANEL

Canadian Federation of Independent Business
Clark-Bowler Construction
Colonial Food Systems
Crawford E. Laing
Fred H Ross and Associates Ltd.
Hay River Chamber of Commerce
Inuvik Chamber of Commerce
Jack Walker
Laketon Investment Management
Laurie Nowakowski
Local 802 United Steelworkers of America
Northwest Territories Construction Association
Points North Transportation Inc.
Purvis Navcon Shipyards Ltd.
Reno Sartor
Ter Hamer
William Mercer Limited
Yellowknife Chamber of Commerce

We also consulted the following:

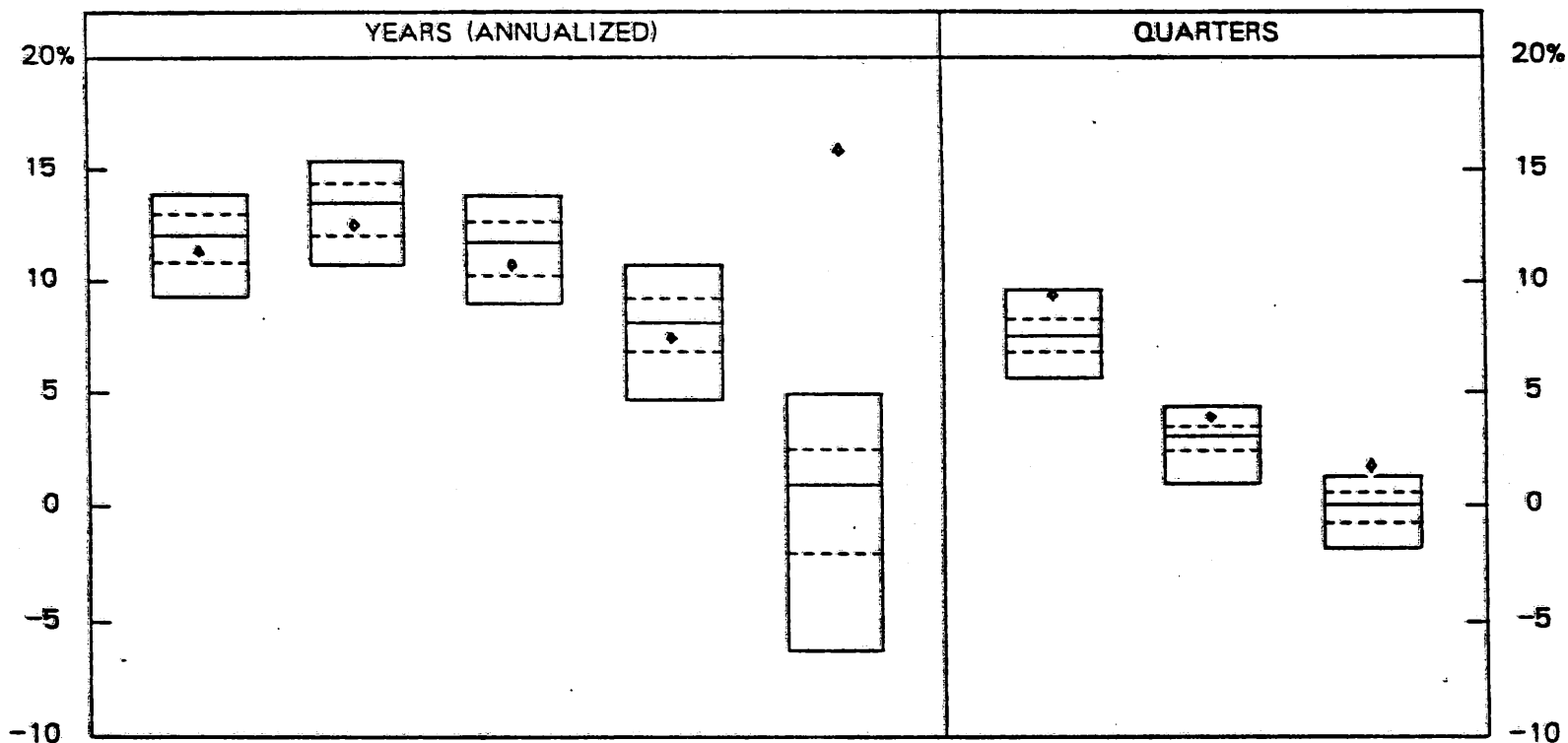
Mike Moore, past Chairperson, NWT Workers' Compensation Board
Barnie Dohm, General Manager, NWT Workers' Compensation Board
Staff and Members of the NWT Workers' Compensation Board
Office of the Auditor General of Canada (Edmonton)
Touche Ross Management Consultants

APPENDIX "I"



BALANCED FUNDS: TOTAL FUND RATES OF RETURN

FOR PERIODS ENDING SEPTEMBER 30, 1988

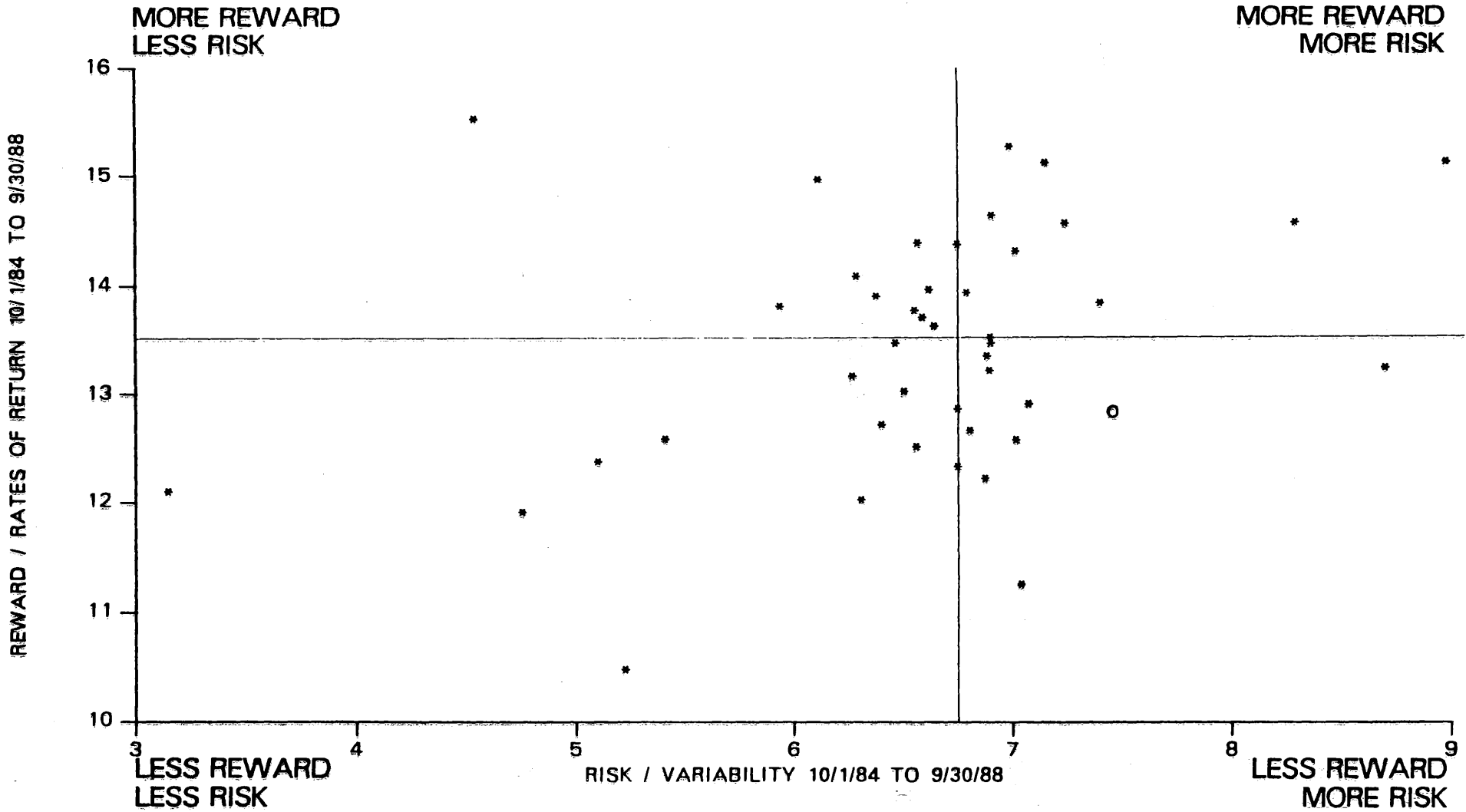


	<u>FIVE YEARS</u>	<u>FOUR YEARS</u>	<u>THREE YEARS</u>	<u>TWO YEARS</u>	<u>ONE YEAR</u>	<u>THREE QUARTERS</u>	<u>TWO QUARTERS</u>	<u>CURRENT QUARTER</u>
5TH PERCENTILE	13.9	15.4	13.8	10.7	4.9	9.6	4.4	1.2
FIRST QUARTILE	13.0	14.4	12.7	9.2	2.5	8.2	3.5	0.6
MEDIAN	12.0	13.5	11.7	8.1	0.9	7.5	3.1	0.0
THIRD QUARTILE	10.8	12.0	10.2	6.8	-2.1	6.7	2.4	-0.8
95TH PERCENTILE	9.3	10.7	9.0	4.7	-6.2	5.6	1.0	-1.9
TOTAL FUND	11.6	12.9	10.7	7.4	16.5	9.4	3.9	1.6
PERCENT RANK	60	65	71	64	1	7	14	1

APPENDIX "J"



REWARD VS. RISK ANALYSIS
FIXED INCOME FUNDS BACKGROUND
TOTAL FUND: RATES OF RETURN VS. VARIABILITY



O = YOUR FUND
* = OTHER FUNDS

TOTAL FUND

APPENDIX "K"

INVESTMENT MANAGEMENT REVIEW

DRAFT TERMS OF REFERENCE

1. Review of Current Investment Policy
 - identify inherent investment risk.
 - determine whether current investment policy is efficient (i.e. Is the maximum possible investment return being earned given the level of risk assumed?)
 - if the current investment policy is not efficient, identify the investment return lost and the steps necessary to make the portfolio efficient.
2. Identify appropriate level of risk to be assumed
 - identify the magnitude, variability, and duration of liabilities relative to the assets. Identify benefit payment structure to determine liquidity requirements of the portfolio.
 - identify alternative investment mixes that are efficient for a number of different risk levels.
 - compare historical investment returns experienced with those that would have been obtained with the alternative investment mixes.
 - estimate and compare expected future returns, and variability of returns, of current investment policy with those of efficient alternatives.
3. Adopt a written investment policy based on the efficient asset mix with the risk and return characteristics appropriate for the WCB. this policy statement should describe:
 - the allocation of investment responsibilities between the Board, the Investment Manager, the Actuary, the Custodian, and any other Consultant employed by the Board in an investment related capacity.
 - investment objectives.
 - investment policy portfolio.
 - return expectations.
 - permitted investment categories.
 - minimum and maximum exposure to individual securities and asset classes.
 - quality constraints.
 - conflict of interest policy and disclosure requirements.
 - valuation of investments.
4. Monitor Investment Manager.
 - ensure that the Board's investment policy is being followed.
 - determine how much investment manager's security selection and market timing techniques are adding to or subtracting from investment returns. (i.e. value added in comparison to manager's fees and other criteria to evaluate the manager.)
5. Periodically review investment policy to determine whether it continues to be appropriate.

APPENDIX "L"

WORKERS' COMPENSATION BOARD N.W.T. OFFICE SPACE ANALYSIS; April 17, 1989

Space size - square feet														
Rent cost - per square foot														
Sublet space - square feet (Note 1 8,843 in City Centre project)														
Rental income - per square foot (see Note 2)														
Number of lots (22,000sf and 13,000sf)														
Cost per lot (22,000sf and 13,000sf)														
Average Construction cost/square foot (see Note 3)														
Discount rate (see Note 4)														
Condo purchase price/square foot of Gross Building Area (GBA)														
Monthly parking cost for 30 stalls @ \$1,080.00/year (see Note 5)														
	Option 1 -	I	Option 2 -	I	Option 3 -	I	Option 4 -	I						
	Build own building	I	Lease/Condominium	I	Buy Condominium	I	Build own building	I						
	22,000sf	I	22,200sf	I	22,200sf	I	13,000sf	I						
	Cost	NPV	Cost	NPV	Cost	NPV	Cost	NPV						

Net Present Value - Total		1,044,509	I		2,582,777	I		1,035,691	I				2,035,000	
			I			I			I					
			I			I			I					
Month			I			I			I					
			I			I			I					
0	3,185,000	3,185,000	I	27,188	27,188	I	2,908,621	2,908,621	I	2,035,000	2,035,000			
1	(17,129)	(17,044)	I	27,188	27,053	I	(17,129)	(17,044)	I					0
2	(17,129)	(16,959)	I	27,188	26,918	I	(17,129)	(16,959)	I					0
3	(17,129)	(16,874)	I	27,188	26,784	I	(17,129)	(16,874)	I					0
4	(17,129)	(16,790)	I	27,188	26,651	I	(17,129)	(16,790)	I					0
5	(17,129)	(16,707)	I	27,188	26,518	I	(17,129)	(16,707)	I					0
6	(17,129)	(16,624)	I	27,188	26,386	I	(17,129)	(16,624)	I					0
7	(17,129)	(16,541)	I	27,188	26,255	I	(17,129)	(16,541)	I					0
8	(17,129)	(16,459)	I	27,188	26,124	I	(17,129)	(16,459)	I					0
9	(17,129)	(16,377)	I	27,188	25,994	I	(17,129)	(16,377)	I					0
10	(17,129)	(16,295)	I	27,188	25,865	I	(17,129)	(16,295)	I					0
11	(17,129)	(16,214)	I	27,188	25,736	I	(17,129)	(16,214)	I					0
12	(17,129)	(16,134)	I	27,188	25,608	I	(17,129)	(16,134)	I					0
13	(17,129)	(16,053)	I	27,188	25,481	I	(17,129)	(16,053)	I					0
14	(17,129)	(15,974)	I	27,188	25,354	I	(17,129)	(15,974)	I					0
15	(17,129)	(15,894)	I	27,188	25,228	I	(17,129)	(15,894)	I					0
16	(17,129)	(15,815)	I	27,188	25,103	I	(17,129)	(15,815)	I					0
17	(17,129)	(15,736)	I	27,188	24,978	I	(17,129)	(15,736)	I					0
18	(17,129)	(15,658)	I	27,188	24,853	I	(17,129)	(15,658)	I					0
19	(17,129)	(15,580)	I	27,188	24,730	I	(17,129)	(15,580)	I					0
20	(17,129)	(15,503)	I	27,188	24,607	I	(17,129)	(15,503)	I					0
21	(17,129)	(15,426)	I	27,188	24,484	I	(17,129)	(15,426)	I					0
22	(17,129)	(15,349)	I	27,188	24,362	I	(17,129)	(15,349)	I					0
23	(17,129)	(15,272)	I	27,188	24,241	I	(17,129)	(15,272)	I					0
24	(17,129)	(15,196)	I	27,188	24,121	I	(17,129)	(15,196)	I					0
25	(17,129)	(15,121)	I	27,188	24,001	I	(17,129)	(15,121)	I					0
26	(17,129)	(15,046)	I	27,188	23,881	I	(17,129)	(15,046)	I					0
27	(17,129)	(14,971)	I	27,188	23,762	I	(17,129)	(14,971)	I					0
28	(17,129)	(14,896)	I	27,188	23,644	I	(17,129)	(14,896)	I					0

WORKERS' COMPENSATION BOARD N.W.T. OFFICE SPACE ANALYSIS; April 17, 1989

29	(17,129)	(14,822)I	27,188	23,527 I	(17,129)	(14,822)I	0
30	(17,129)	(14,748)I	27,188	23,410 I	(17,129)	(14,748)I	0
31	(17,129)	(14,675)I	27,188	23,293 I	(17,129)	(14,675)I	0
32	(17,129)	(14,602)I	27,188	23,177 I	(17,129)	(14,602)I	0
33	(17,129)	(14,529)I	27,188	23,062 I	(17,129)	(14,529)I	0
34	(17,129)	(14,457)I	27,188	22,947 I	(17,129)	(14,457)I	0
35	(17,129)	(14,385)I	27,188	22,833 I	(17,129)	(14,385)I	0
36	(17,129)	(14,314)I	27,188	22,719 I	(17,129)	(14,314)I	0
37	(17,129)	(14,242)I	27,188	22,606 I	(17,129)	(14,242)I	0
38	(17,129)	(14,172)I	27,188	22,494 I	(17,129)	(14,172)I	0
39	(17,129)	(14,101)I	27,188	22,382 I	(17,129)	(14,101)I	0
40	(17,129)	(14,031)I	27,188	22,271 I	(17,129)	(14,031)I	0
41	(17,129)	(13,961)I	27,188	22,160 I	(17,129)	(13,961)I	0
42	(17,129)	(13,892)I	27,188	22,050 I	(17,129)	(13,892)I	0
43	(17,129)	(13,823)I	27,188	21,940 I	(17,129)	(13,823)I	0
44	(17,129)	(13,754)I	27,188	21,831 I	(17,129)	(13,754)I	0
45	(17,129)	(13,685)I	27,188	21,722 I	(17,129)	(13,685)I	0
46	(17,129)	(13,617)I	27,188	21,614 I	(17,129)	(13,617)I	0
47	(17,129)	(13,549)I	27,188	21,506 I	(17,129)	(13,549)I	0
48	(17,129)	(13,482)I	27,188	21,400 I	(17,129)	(13,482)I	0
49	(17,129)	(13,415)I	27,188	21,293 I	(17,129)	(13,415)I	0
50	(17,129)	(13,348)I	27,188	21,187 I	(17,129)	(13,348)I	0
51	(17,129)	(13,282)I	27,188	21,082 I	(17,129)	(13,282)I	0
52	(17,129)	(13,216)I	27,188	20,977 I	(17,129)	(13,216)I	0
53	(17,129)	(13,150)I	27,188	20,872 I	(17,129)	(13,150)I	0
54	(17,129)	(13,085)I	27,188	20,769 I	(17,129)	(13,085)I	0
55	(17,129)	(13,020)I	27,188	20,665 I	(17,129)	(13,020)I	0
56	(17,129)	(12,955)I	27,188	20,562 I	(17,129)	(12,955)I	0
57	(17,129)	(12,890)I	27,188	20,460 I	(17,129)	(12,890)I	0
58	(17,129)	(12,826)I	27,188	20,358 I	(17,129)	(12,826)I	0
59	(17,129)	(12,762)I	27,188	20,257 I	(17,129)	(12,762)I	0
60		0 I	2,925,750	2,169,070 I		0 I	
Future cost of parking		I	486,000	199,746 I	486,000	199,746 I	
Future rental income	(3,083,190)	(1,267,191)I	(2,918,190)	(1,199,376)I	(2,918,190)	(1,199,376)I	

Notes:

- As a result of a late change, there will be approximately 500 square feet less available to sublet in the City Centre project.
- The assumption has been made that a subtenant will be found at \$22.00 per square foot with no allowance for vacancy rate over the entire 20 year period.
- Construction costs are based as follows:

Development costs	\$15.00/sf
Building costs	85.00/sf
Mechanical/electrical	85.00/sf (1,000sf)
Parking improvements	\$50,000/lot

 This results in an average construction cost of \$108.41 on 22,200sf and \$110.38 on 13,000sf.
- A discount rate of 6% was used as a proxy for the real rate of return based on the current long term bond interest rate of 10.5% less inflation at 4.5%
Had a discount rate of 8% been used it would result as follows:

Net Present Value @ 8%	1,084,539 I	2,313,964 I	1,075,721 I	2,035,000
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- The WCB is committed to 21 parking stalls and has an option on an additional 9. Options 1, 2 and 3 have assumed 30 stalls, option 4 assumes 15 stalls.

APPENDIX "M"

APPENDIX M

GLOSSARY OF TERMS

ACCIDENT**Includes:**

- (i) a fortuitous event occasioned by a physical or natural cause,
- (ii) an event occasioned by a wilful and intentional act, and
- (iii) disablement caused by an industrial disease arising out of and during the course of the employment of a worker.

ACCIDENT FUND

The fund established for the payment of compensation and other outlays and expenses authorized under the Act. Generally, the sum of the pension liability, the claims liability and the contingency reserve.

ACCIDENTOLOGIST

An expert in the science of the nature and causation of accidents (accidentology).

ACTUARY

A person whose work is figuring risks, rates, premiums, etc. for insurance companies.

AMORTIZATION

The adjustment required to amortize any deficit (or surplus) in order to restore the Sub-Class Balance to the Target Balance level over a period of time.

ASSESSMENT

Includes rates, levies, assessments, surcharges, penalties and all other charges imposed by the Board under the Act.

ASSESSABLE PAYROLL

That portion of an employer's total payroll which is taken into account when calculating the assessment due to be paid for the year.

ASSESSMENT REVENUES

Total revenues received by the Board in a given year as a result of assessments calculated as the assessment rates times the total employers' assessable payroll.

BOARD RATE

The provisional rate decided by the Board for the particular Sub-Class for the year of accident.

CATASTROPHE

A series of claims arising from one single incident which unfairly burden the finances of a particular Sub-Class.

COMMUTATIONS

A substitution of, and generally reduction of, a pension obligation with a lump sum payment.

CONTINGENCY RESERVE

Earnings retained as a provision against future costs which cannot be anticipated in respect of:

1. Disasters, catastrophes, and other large claims which arise in excess of the limits set for retention and stop-loss purposes;
2. Stabilization of Assessment Rates, which might otherwise vary due to fluctuations in claims experience, and which could unduly burden the employers in any industry class; and
3. Stabilization of Supplementary Pension Increases in order to maintain the purchasing power of the pensions in payment.

CREDIBILITY FACTORS

A statistical way of giving due weight to different hypotheses - for example, if a Sub-Class is very small, not much weight (credibility) can be given to the actual experience, so more weight has to be given to the historical rates culminating in the latest Board Rate.

CURRENT COSTING

A method of financing the costs of Workers' Compensation, which seeks to meet only the costs actually arising each year, and leaves to future generations of Employers the costs for future years, arising from current and past compensable accidents and diseases.

In other words, raising just enough to pay for all the accident costs to be paid in the year, whether for that

year's or previous year's accidents

DERIVED RATE

The rate derived from the Board Rate, the Net Indicated rate and the Gross Indicated Rate, after applying the appropriate Credibility Factors. This rate is based on the mean of the Net and Gross Indicated Rates and using Credibility Factors to put a brake on any too violent changes from the existing Board rate.

DISASTER

A claim or series of claims which unfairly burden the finances of a particular Sub-Class.

DISABILITY PENSION SYSTEM

A system for compensating workers who suffer permanent partial disability by granting a pension, for remaining life or until retirement age, based on the degree of disability or medical impairment.

DISCOUNT RATE

The percentage charged for discounting notes, liabilities, future cash flows.

EMPLOYER

- (i) a person, firm, association, body or corporation having, or deemed by the Board or by the Act to have, in his or its service one or more workers, which includes the employer where he is self-employed, and
- (ii) includes the Government of the N.W.T., the WCB, and the Crown in right of Canada in so far as the latter submits to the operation of the Act.

FULL FUNDING

A method of financing the costs of Workers' Compensation, which seeks to meet all of the costs arising from each year's compensable accidents and diseases, out of Assessments on Employers for that year.

In other words, meeting the full eventual cost of incurred claims from each year's accidents out of the assessments in that year - including an estimate of the future cost of escalation of pensions and other benefits.

GROSS INCURRED CLAIMS

The total of Paid Claims during the Year of accident plus the provision for all future costs arising from these claims, before deducting any claims costs charged to the Contingency

reserve under the Reinsurance system for disasters and stop loss.

GROSS INDICATED RATE

Explanation 1 - The rate which makes allowance for Gross Incurred Claims and Administrative Expenses but makes no allowance for Reinsurance "premiums" or Loadings for Disasters and Stop Loss.

Explanation 2 - This rate is based on the Gross Incurred Claims experience, and the loadings, but excluding any appropriations for the Contingency Reserve, and including all costs in the claims experience, even if they have been, or are to be charged to the Contingency Reserve in respect of Disasters and Stop Loss for the period.

INDEPENDENT OPERATOR

a person who carries on or engages in any industry and who does not employ any worker in connection therewith.

INDEX (INDEXING)

A number that indicates the amount of business activity in relation to past levels of business activity: eg. the cost of living index, the Consumer Price Index (CPI), etc. Indexing is the application of an index to a fixed sum.

INDUSTRIAL DISEASE

A disease caused by the conditions in a place where an industrial process, trade, industry or occupation is carried on.

LOADING

The additional charge in the Assessment Rate for either Administrative Expenses, or for Reinsurance with the Contingency Reserve.

LUMP SUM COMMUTATION

A substitution of, and generally reduction of, a pension obligation with a lump sum payment.

MIXED FUNDING

A mixture of Full Funding and Current Costing

MODIFIED FULL FUNDING

As above for Full Funding except that future escalation of pensions is not funded in advance, but only at the time the increases are granted by the legislature (or the Board?)

NET INDICATED RATE

Explanation 1 - The rate which makes allowance for Net Incurred Claims, Administrative Expenses and for all the "premiums" or Loadings charged for Reinsurance with the Contingency Reserve.

Explanation 2 - This rate is based on the latest available Net Incurred Claims experience for the last four years (eg. 1985 to 1988 for 1989 rates), with the suggested level of appropriations and loadings, and excluding from the claims experience any amounts charged to the Contingency Reserve and Stop Loss Reinsurance for the period.

PENSION

A periodic payment to a worker in respect of whom a permanent disability has been assessed, or to a dependant of a deceased worker, the capital cost of which has been charged to the Accident Fund.

PROPOSED RATE

The rate suggested for the Sub-Class after applying a judgement to the impact of recent trends in Claims Costs, the position of the Sub-Class Balance in relation to the Target Balance, and the Derived Rate.

A Proposed Rate can be chosen (based on a review of the Net Indicated Rate, the Gross Indicated Rate, the Board Rate and the Derived Rate) that will seem reasonable in the light of the history of the Sub-Class and particularly of any shortfall or excess in the Board Rates for previous years. These are reflected in the extent of any differences between the Net and Gross Indicated Rates and the level of Sub-Class expected at the end of the year under study.

REINSURANCE

An internal mechanism to iron out fluctuations in Claims Costs, particularly for small Sub-Classes, by charging a level "premium" or loading, and providing coverage from the Contingency reserve, for excess costs above the Individual and Aggregate Limits set from time to time.

RETENTION LIMITS

The Retention Limit for any Sub-Class is set depending on the size, as determined by the level of Assessments in recent years, and is used to determine the Level above which Claims Costs for individual claims will be met from the Contingency reserve.

STOP LOSS

A form of Reinsurance whereby if the total Claims Costs for all Employers in a Sub-Class exceed a Limit dependent on the size of the Sub-Class, the excess will be met from the Contingency Reserve.

SUB-CLASS

The underwriting unit for determining Assessment Rates, etc. and includes all Employers classified as engaged in a particular industry or group of industries, with similar levels of Claims Experience.

SUB-CLASS BALANCE

A notional, internal figure to represent the net difference between Assessment Income and Investment Income allocated to the Sub-Class, less the Administrative and Incurred Claims Costs charged for all Prior Years of Accident, and after taking account of all "premiums" paid for reinsurance, and the help obtained from the Contingency Reserve.

In other words, the surplus or deficit by Sub-Class.

TARGET BALANCE

the share for each Sub-Class of the "Free reserves", including the Operating Reserve and the Contingency reserve, to the extent these are not already committed for meeting past incurred Claims Costs.

TIME LOSS SYSTEM

This is not a recognized term. If it is meant to be the alternative to a wage loss system for compensating partial permanent disability, the term to use would be Disability Pension System.

WAGE LOSS SYSTEM

A system for compensating workers who suffer permanent partial disability based wholly or partly on actual, presumed or projected loss of earnings caused by the disability; usually combined with a lump sum payment as compensation for the non-economic consequences of the accident.

WORKER

A person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes:

(i) any person engaged in training for mine or other rescue work or who with the knowledge and consent of the management or the person in charge of an authorized mine or other rescue crew, is performing rescue or recovery work after an explosion, accident or catastrophe,

(ii) where a contractor enters into a contract with a person engaged in any industry for the performance of operations for such other person, any employee of the contractor who performs the operations and the contractor himself while actually performing these operations,

(iii) a member of a fire brigade, an ambulance driver, and any other person engaged in rescue work on a part time basis, and whether working with or without remuneration, but only while so engaged,

(iv) a learner, and

(v) any other person who, under the provisions of the Act or the regulations or under an order of the Board, is deemed to be a worker.

YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

The maximum remuneration for any year for the purposes of determining the benefits payable in respect of an accident that occurs in the year and for determining the amount of the assessable payroll of an employer for the year. Currently \$40,000.00

APPENDIX "N"

APPENDIX N

Status of the recommendations of the 1986 Workers' Compensation Review

The 1986 Review Panel produced a report with 133 recommendations 76 of which involved legislative reform, 42 involved WCB program and/or policy action or reform, and 28 involved suggestions for action at the Ministerial level.

A. Recommendations directed to the Minister's office included:

- do not amend the Act on an ad hoc basis (Rec # 8)
- maintain a ceiling on YMIR (Rec # 9)
- move YMIR towards \$45,000 (Rec #10)
- give the Board the authority to change YMIR once they have a formula in place for determining it annually. The Committee recommended this take place by January 1, 1989 (Rec # 15)
- reduce the size of the WCB Board (Rec #38)
- appoint a full time chairman for a term of 5 years (Rec #39)
- appoint Board members on a part-time basis for a term of three years (Rec #40)
- ensure that the Chairperson have neutral background in employer/employee relations (Rec # 41)
- do not appoint members of the WCB or the public service as Board members and ensure that there is an equal balance between employer/employee representation on the Board (Rec # 42)
- ensure that the new Act be written in simple understandable language (Rec # 116)
- ensure that a review of the Act, regulations and the administration of the WCB be conducted every three years (Rec# 132)
- ensure that the Review Committee had a broad enough Terms of Reference to accomplish the task.(Rec # 133)

B. RECOMMENDATIONS TO THE WCB BOARD

i) The Board has followed or implemented the 1986 recommendations in so far as they have:

- rejected a plan of reducing pension scales in the N.W.T. (Rec #23)

- ensured pensions to dependant spouses be not less than \$1,000/month (Rec #25)

- caused the employer to pay the salary of a worker on the day of his injury (Rec #47). The Board wants to continue having those accidents reported despite the 1986 Review Committee's suggestion that it was not necessary)

- become more familiar with the nature, purpose, function and operation of the Accident Fund. (Rec #48) However, in reality despite repatriation of primary data from the Actuary (Rec #49) the Board is still heavily dependant on the Actuary. (See Chapter 2)

- made appropriate policies for the Accident Fund, (Rec # 65)

- the Board has established an investment committee but it does not give specific investment recommendations as set out in Rec # 75-78. Rather it develops Board policy and monitors the investment record of the professional firms they hire (See Chapter 3 for further comment from this 1989 Panel)

- discontinued the merit rebate system (Rec #78)

- begun to work more closely with Occupation Health & Safety on an informal basis HOWEVER, this area must be pursued much more vigorously and with the input of Cabinet and the Minister's office. (Rec #79, 86, & 87)

- Although the Board has looked into establishing a rehabilitation and training facility in the North in co-operation with the N.W.T. Health Care and Arctic College and found it not feasible financially, they should be encouraged to continue to examine possibilities for co-operation in this area on an ongoing basis (Rec. 91-94).

- ensure injured workers have recourse to a second medical opinion (Rec.#100). Although we did not have an opportunity to delve into this area more thoroughly, we have received comments indicating that this is an area which should be looked at much more closely.

ii) There were a number of recommendations with which the Board did not agree or choose to act (either at all or to the satisfaction of the 1989 Panel)

- The '86 Review Committee recommended that the appointment of the Actuary be reviewed every three years. (Rec # 50) This has not been done in any meaningful way. This panel recommends that an audit of the actuarial procedures be undertaken immediately and that the Board and their staff receive more intensive training and analysis so that more of the actuarial functions can be performed in-house. (Rec #51)

- Despite the fact that legislation is now in place authorizing the Board to assess and levy an additional assessment (in addition to other assessments) against an employer who fails to provide safe working conditions or fails to comply with first aid requirements, the WCB has never utilized it.

RECOMMENDATIONS OF THE WORKERS' COMPENSATION ACT REVIEW COMMITTEE

PHASE I

YEAR'S MAXIMUM ASSESSABLE REMUNERATION

1. That section 2(e) of the Workers' Compensation Act be amended as follows:
 - a) the term "Year's Maximum Assessable Remuneration" should be amended to read "Year's Maximum Insurable Remuneration"; and
 - b) that the words "and is equal to thirty thousand four hundred dollars effective as of July 1, 1985" be deleted.

And that sections 35 through 63(2) of the Act be amended accordingly.

2. That the N.W.T. Workers' Compensation Board initiate collection of data on the wages of workers in the N.W.T.
3. That the recommendation of the N.W.T. Workers' Compensation Board that the YMAR level be increased to \$36,800 effective January 1, 1987 be accepted on the conditions that there be no net increase to employers in the overall cost of assessments and that the opportunity to amend the Act, if necessary, with respect to all benefits tied to the YMIR be ensured.

CALCULATION OF BENEFITS

4. That the N.W.T. Workers' Compensation Board calculate benefits to injured workers on the basis of 90 per cent of net income effective January 1, 1987.
5. That net income be defined in the Act to include the gross income of a worker less his or her probable deductions for income tax, Canada Pension Plan premiums and unemployment insurance premiums.

TRANSITIONS

Basis of Compensation (revised)

6. That the pensions or benefits to injured workers, their spouses and dependants be calculated on 95 per cent of their pre-injury net income.
7. With respect to determination of income, that care be taken to ensure it is defined as "taxable" income.

On the Recommended Changes Generally

8. That care be taken not to adopt partial changes on an ad hoc basis without consideration of the impacts on the remainder of the system.

PHASE II

YEAR'S MAXIMUM INSURABLE REMUNERATION

9. That a ceiling on insurable earnings be maintained (YMIR) in order to guard against possible abuse.
10. That further increases in the ceiling on insurable earnings be contemplated with a move to a YMIR of approximately \$45,000 within the next two years.
11. That the Workers' Compensation Board staff keep accurate records on the full salaries of injured claimants for the purpose of determining the percentage of claimants fully covered by the workers' compensation scheme.

12. That a formula be used to determine YMIR and that the formula ensure that 95 per cent of the N.W.T. wage earners are at or below YMIR. This figure should be adjusted annually, rounded off to the nearest one hundred dollars.

13. That the formula for setting YMIR should be based on Survey of Employment Payroll and Hours figures and should be adjusted annually by the Board.

14. That before the new YMIR figure is set each year, the figure based on S.E.P.H. should be checked against the wages of claimants in the previous year to ensure the goal of attaining coverage of the wages of 95 per cent of the workers is met; and

15. That the Board be given the authority to alter the YMIR effective January 1, 1988 and that the automatic formula be put in place effective January 1, 1989.

Seasonal Coverage

16. That section 39 of the Act be amended to allow the Board the discretion to upgrade a worker's benefits at the end of the calendar year.

Death Benefits

17. That the present calculation of dependants' pensions be unhinged from YMIR and be tied to a percentage of the deceased worker's wage equivalent to the percentage of wage used for total disabilities which, based on our recommendations, would be 95 per cent.

18. That the pension to dependants of a deceased worker be paid for a period of time and that the Board have the discretion as to whether that pension should be increased, decreased or terminated. The presumption would be that a dependant's pension would continue but would be subject to review on a regular basis. The Board would have the discretion to alter the pension after consideration of the pensioner's need. Criteria for such a determination would be similar to those used for permanent partial disabilities and would include age of dependant, marital status, family circumstances, employment, employability, ability to adapt, education, qualifications and any other factors the Board may deem relevant. If the Board decides to terminate a spouse's pension because of remarriage, they shall consider whether and in what amount to issue a lump sum payment.

19. That the pension to dependants of a deceased worker be paid on behalf of the family unit and not be divided into separate pensions for the spouse and each dependant. The pension of 95 per cent of the net income of the deceased worker shall be paid to the family unit regardless of whether that unit consists of a spouse or a spouse with one or more dependants.
 20. That transportation costs of the body of the deceased worker be paid to any point in Canada.

21. That a lump sum payment of \$2,500 be paid to the deceased worker's family for burial costs or, if no surviving family, the actual burial costs up to a maximum of \$2,500.

22. That a lump sum payment of one year's salary of the deceased worker to a maximum of YMIR and a maximum of \$5,000 be paid to the spouse or, if no surviving spouse, then to be held in trust for dependent children until age 21.

23. That the plan of reducing pension scales not be adopted in the N.W.T.

24. That pensions, indexed to other income, continue after the dependant's normal retirement age would have been reached.

25. That pensions to spouses should not be less than \$1,000 per month and should be subject to increases from time to time.

Disability Compensation

26. That no more than a 5 per cent reduction of net wage be imposed on total disability pensions.

27. That the minimum level of total disability pensions be not less than the net amount of \$1,000 per month, that this amount be subject to increases from time to time and that the pension amount be subject to Board review in cases of undue hardship.

28. That the employer pay regular salary for the day of the injury.

29. That air transportation for an injured worker, authorized by medical personnel, be paid for by the Workers' Compensation Board.

Permanent Partial Disabilities

30. That the Act set out the criteria which the Board should consider in determining the degree of partial disability of an injured worker and that the criteria include the employee's age, education, qualifications, overall physical condition, ability to adapt, family circumstances, nature of the disability in relation to the work performed, and any other factors the Board may deem relevant.
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Indexing Pensions

31. That pre-1977 pensions be updated to current levels, that ceilings on pensions be adjusted to current YMIR levels and that pensions be indexed to the cost of living.
-

Northern and Housing Allowances

32. That the Workers' Compensation Act and possibly the Labour Standards Act be amended to make it mandatory for all employers to continue providing northern allowances to any worker who is on compensation and is still in their employ.
-

Clothing Allowance

33. The removal of the words "on application of a worker" from section 49(1).
34. The removal of the maximum yearly dollar value as stated in section 49(1) of the Act; and
35. Inclusion of "Board discretion"; we would suggest that the Board's discretion be based upon a quarterly replacement of clothing.
-

Jurisdiction of the Board

36. That the Act be amended to include providing the Board with the authority to determine:
- whether any personal injury or death for which compensation is being claimed has arisen out of or in the course of employment within the meaning of the Act (new section);
 - whether personal injury or death has been caused by accident [a replacement for section 8(2)(a)];
 - the permanence or anticipated duration of disability by reason of accident [a replacement for section 8(2)(c)];
 - the existence of the relationship of any member of the family and the degree of dependency [a replacement for section 8(2)(f) and (g)];
 - whether a person is a worker, sub-contractor, contractor or employer within the meaning of this Act [a replacement for section 8(2)(j)];
 - whether any particular disease is peculiar to or characteristic of any particular industrial process, trade, or occupation to which this Act applies (new); and
 - the character of any industry, employment, establishment or department and the class to which such industry, employment, establishment or department should be assigned.
37. That in consultation with Hunters and Trappers Associations, Fishermen's Associations and other pertinent agencies, full consideration be given to extending workers' compensation coverage to hunters, trappers and fishermen on a self-coverage or an individual or group basis.
-

Composition and Responsibilities of the Board

38. That the number of members on the Workers' Compensation Board be reduced.
39. That the chairperson be appointed by the Commissioner-in-Council on a full-time salaried basis for a term of five years, subject to review and re-appointment.
40. That the members be appointed by the Commissioner-in-Council on a part-time basis for a term of three years, subject to review and re-appointment.
41. That the chairperson have a neutral background concerning employer/employee relations; and
-

42. That the members appointed not be Workers' Compensation Board staff or public service employees and that they represent an equal balance between employers and employees.
-
43. That the Board develop a policy such that Board members do not determine matters where they have a real or perceived conflict of interest.
-
44. That the Workers' Compensation Act be amended to state that the role of Workers' Compensation Board members is one of trustee to the Accident Fund and all its constituent accounts; and
-
45. That the Board receive training on the role and duties of a director and of a trustee, familiarization with operation of all facets of the Board, and briefing on the legal principles involved with appeal procedures.
-

Operation and Administration of the Workers' Compensation Board

46. An in-depth analysis of administrative procedures be performed by an independent and competent consultant who will work with senior management and the Board in developing an efficient administration.
-
47. Employers keep injured workers on regular salary the day of an accident. That only accidents involving time lost beyond the day of the accident or involving permanent or recurring harm be reported.
-

Role of the Actuary

48. That all members of the Workers' Compensation Board spend intensive sessions familiarizing themselves with the nature, purpose, function and operation of the fund and its various underwriting units and begin to decrease their reliance on the actuary.
-
49. That the actual preparation of primary data should be the responsibility of the Board; and
-
50. That the appointment of the actuary be reviewed by the Board every three years.
-
51. That the role of the actuary should ultimately be reduced to:
- a) evaluating the Board's long term liabilities including pension fund liabilities, at least every three years;
 - b) evaluating the Board's estimated costs of increases in benefits as required;
 - c) evaluating the Board's short term liabilities (i.e., continuing claims) as required;
 - d) evaluating and estimating reserves for contingencies, operating and established claims on an annual basis;
 - e) evaluating the annual assessment rates already determined by the Board.
-

Appeal Process

52. That the Board start exercising the provision for the appeals review committee set out in section 24 of the Act.
-
53. That the appeals review committee be composed of three people who are not members or staff of the Workers' Compensation Board.
-
54. That the chairperson be chosen for his/her independence and for a term of three years and the other two members serve for a two year term, one representing employees, the other representing employers.
-
55. That an alternate be delegated for each of the latter two committee members in preparation for conflict of interest with appellants, travel or illness.
-
56. That the persons appointed to these positions would receive orientation in appeals and Workers' Compensation Board procedure and would be required on an as-needed basis.
-
57. That the appeals review committee have the authority to consult independent experts, be they medical or otherwise.
-

58. That interested parties have access to information on the record (see chapter 19) and all costs should be paid from the Accident Fund; and
-
59. That the decision of the appeals review committee be subject to appeal by the applicant (worker or employer) to the Board.
-
60. That that portion of section 8 which constitutes a privative clause be deleted because it is becoming increasingly meaningless and misleading to the public.
-
61. That the Act specifically allow recourse to the courts from a decision of the Board; and
-
62. That the court have the discretion in determining whether costs be paid from the Accident Fund; and
-
63. That the appeal review committee and the Board be required by the Act to forward to the appellant, their written reasons for decision.
-

Autonomy of Fund and Accountability to the Board

64. That the Workers' Compensation Act be amended to state clearly that the Accident Fund is one indivisible fund which is held in trust by the Workers' Compensation Board for the payment of benefits and expenses of administration under this Act.
-
65. That the Workers' Compensation Board adopt a policy to:
- authorize the establishment of two distinct reserves consisting of an operating reserve and a contingency reserve;
 - describe the role of the contingency fund as the account required to minimize fluctuations in assessments and to reduce any undue burden to employers resulting from large scale disasters;
 - describe the method of determining the upper limit on the contingency reserve;
 - describe the operating reserve and the separate accounts which may be established and invested separately; such accounts to include an administrative account, a pension account, an established claims account and a pre-1977 pension account;
 - require that the pension account be fully funded;
 - require that the established claims account be fully funded;
 - continually update expenditures in relation to indexed pensions; and
 - continually update income in relation to investment performance.
-
66. That the Workers' Compensation Act be amended to authorize the Board to transfer pre-1977 pension assets and liabilities from private insurers.
-

Investments

67. That the Workers' Compensation Board continue to have sole authority to invest moneys from the Accident Fund.
-
68. That the Workers' Compensation Board members be given the formal responsibility for the safekeeping and proper management of the Accident Fund; and
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69. That the current legislative restrictions that investment be made only in securities authorized by the Financial Administration Act, R.S.N.W.T. and section 63 of the Canada and British Insurance Companies Act R.S.C. be broadened to include any other securities authorized for investment of trust funds.
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70. That the Accident Fund, investment of moneys from the Accident Fund and interest therefrom, and any real property owned by the Workers' Compensation Board be exempt from any federal, territorial or municipal taxation.
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71. That the Workers' Compensation Board be allowed to invest a small percentage of the Accident Fund in securities based in or involving the North which are at arms length from the Board and which are guaranteed by the Government of the N.W.T.
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72. That the Board be empowered to acquire land and real property upon receipt of approval from the Executive Council of the Legislative Assembly of the N.W.T.

73. That title to any real property or investments acquired by the Board be held in the name of the Board.

74. That provisions covering Board borrowing and repayment of moneys from the Accident Fund similar to those in P.E.I. (section 33) be examined for inclusion in the N.W.T. Act.

75. That if the Board is maintained at a size larger than three members, an investment committee with the assistance of expert advisers be struck to recommend appropriate investments to the Board for Board approval. In lieu of a committee, a fund manager should be appointed among the Board members. In addition to recommending specific investments the committee or fund manager should also be cognizant of the duration and nature of the Fund's liabilities to ensure that investments mature at the proper time to allow for pay-out on pensions or other liabilities.

76. That the Workers' Compensation Board develop and make public their investment policy; and

77. That the Board continue to include a report on the performance of its investments in the annual report which it must present to the Legislative Assembly.

Merit Rebates/Experience Rating

78. That merit rebating be discontinued and experience rating as such not be instituted; and

79. That the Workers' Compensation Board staff work closely with safety inspection departments to develop a system of focusing on unsafe work places.

Additional Coverage, Duplication of Coverage

80. That the Minister responsible for Workers' Compensation investigate the feasibility of removing the obligation to pay medical costs from the Workers' Compensation Board mandate other than those costs associated with a claimant seeking a second medical opinion for the purpose of an appeal under this Act.

81. That the Government of the N.W.T. keep abreast of universal insurance schemes already in place in other jurisdictions and that they examine the possibilities of introducing universal coverage in the N.W.T.

Employer Assessment Levels

82. That the Board make vigorous attempts to reduce assessment rates in general.

Transfer of Occupational Health and Safety

83. That the Workers' Compensation Board, the Occupational Health and Safety Division and any other workplace inspection agency responsible to the Government of the N.W.T. report to the same Minister.

84. That the Commissioner-in-Council authorize the Workers' Compensation Board to levy penalties by way of fines or increased assessments on employers found to be in violation of any safety regulations by any workplace inspection agency or official of the Occupational Health and Safety Division.

85. That officials of the Occupational Health and Safety Division or any other Government of the N.W.T. workplace inspection agency be obligated to forward a copy of all inspection reports and to inform the Workers' Compensation Board of all infractions of safety regulations.

86. That the Workers' Compensation Board claims officers be obligated to inform officials of the Occupational Health and Safety Division and any other Government of the N.W.T. workplace inspection agency of all workplace injuries or deaths which appear to involve unsafe incidents or workplaces.

87. That the Workers' Compensation Board be authorized to negotiate similar types of information exchange with federal workplace inspection agencies pertinent to the N.W.T.

88. That the Workers' Compensation Board increase their budget and activity to improve public information on the Workers' Compensation Board in general and workplace safety in particular; and

89. That the Workers' Compensation Board be authorized to enter joint funding arrangements with the Government of the N.W.T. (Occupational Health and Safety and other workplace inspection agencies)

and St. John Ambulance to develop, produce and distribute safety training and accident prevention programs; and

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90. That in instances where safety programs are developed for a particular employer, the expenses for that program be charged back to the class of that particular employer.
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Rehabilitation and Retraining

91. That the Workers' Compensation Board look into establishing a rehabilitation and retraining centre, in conjunction with the extended care facility that is currently being planned.
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92. That the rehabilitation and retraining facilities could be used by both injured workers and the N.W.T. Health Care Plan and that the costs could be borne respectively by each party.
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93. That the Workers' Compensation Board and N.W.T. Health Care Plan share the cost of providing competent medical professionals to administer both the facility and the treatments required; and
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94. That retraining is a legitimate role for the Workers' Compensation Board and it be continued through on-the-job experience and institutions such as Arctic College.
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Light Duty Program

95. That the Act be amended to include a modified work program.
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96. That the program should be on a voluntary basis with mutual agreement by the attending physician, Workers' Compensation Board, employers and injured worker.
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97. That the duties to be performed while on modified work shall be approved in advance by the attending physician and the Workers' Compensation Board.
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98. That the program be monitored by the Workers' Compensation Board; and
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99. If the employer does not pay the pre-injury rate of pay then the Workers' Compensation Board shall pay the difference between that salary and the pre-injury base pay.
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Medical Advisers

100. To ensure that an injured employee upon his written request or that of his dependant or representative shall be entitled to seek a second medical opinion and that the cost shall be paid for by the Workers' Compensation Board.
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101. To remove sections 19(1), (2), (3) and (4) from the Act because there is no need at this point for further employer involvement.
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102. Both sections 24 and 25 or any other section concerned with reviews or appeals should be amended to include the right of the appellant or his representative, upon written request and before any review or appeal, to have full access to all information and reports contained in his file.
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Right to Return to Work and to Job Placement

103. That the Act should be amended to:
- ensure an employer reinstates an injured employee to his former job if he is able to return to work within three months of the date of his accident, on the condition the medical adviser and Workers' Compensation Board certify that the employee is fit and able to perform such work.
 - ensure an employer provides preferential hiring to an employee who is not able to return to work until after three months after the accident, such preferential consideration being for the previous position held by the employee or for an equivalent position.
 - ensure an employer provides preferential hiring to a previously injured employee who is unable to perform the job he occupied at the time of the accident as a direct result of that accident; such preferential consideration being for equivalent, suitable employment in that or in another local establishment of the employer.
 - ensure that employment alternatives which necessitate a move by the employee are mutually agreeable to the employer, the employee and the Workers' Compensation Board and that the costs of the move will be paid for by the employer and the Workers' Compensation Board in equal shares.

- ensure that if the previously injured worker returns to work at a reduced wage and the reason for that reduced wage is directly related to the injury, the Workers' Compensation Board shall pay to the employee the difference between the pre-injury wage and the post-injury wage until such time as the employee returns to his pre-injury wage level.
- provide an employer who does not re-employ a previously injured worker with an opportunity to "show cause" why he has not done so.
- provide an employer with all the provisions for appeal contained in the Act; and
- authorize the Board to penalize an employer for failing to show just cause for not rehiring a previously injured worker.

Workers' Advocates

104. That the Workers' Compensation Act be amended to make provision for a workers' advocate to be established and be funded from the Accident Fund.
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105. That the Government of the N.W.T. develop and establish an ombudsman's office in the N.W.T. which would, among other functions, act as workers' advocate.
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106. That until such time as an ombudsman's office is established in the N.W.T., a part-time workers' advocate be hired by the Minister responsible for the Workers' Compensation Board and all his expenses be paid from the Accident Fund.
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107. That the independence of the workers' advocate from the Workers' Compensation Board be maintained in respects including office location, reporting requirements, access to information and consultation with experts; and
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108. That the workers' advocate have the authority and discretion to accept or decline a claimant's case depending on its merits and that where declining a case, the workers' advocate be obliged to provide the claimant with written reasons within thirty days of determining that decision.

Rights of Action

109. That the consequences and alternatives to deleting section 12(1), (2) and (3) and amending section 12(4) be thoroughly reviewed in the immediate future in co-ordination with the Workers' Compensation Board of the N.W.T. and the Association of Workers' Compensation Boards of Canada.

Interjurisdictional Coverage

110. That the Act be amended to withdraw the option of the worker to claim compensation in the jurisdiction of choice and to specify that claims be processed only in the jurisdiction in which assessments are made.

Contributions

111. That section 74(6) and (7) of the Act be rescinded.
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112. That employers have the option to pay assessments on a monthly or regular basis as those assessments accrue; and
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113. That year end deadlines for summaries of assessments be the 28th day of February.

Legislation in General

114. That a clause be placed in the Workers' Compensation Act stating "that whenever the masculine gender is used, it shall be considered to include the feminine gender".
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115. That wherever the words "widow" or "widower" are used, they shall be changed to read "spouse" or "spousal" as applicable.
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116. That, upon the rewriting of this Act, a concerted effort be made on behalf of the appropriate departments to simplify the language in the Act and make it less difficult for the public to read and understand.
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117. That section 2(h) be changed to remove the words "means a member of the family of a worker who, at the time of his death" and replace with "means a person who, at the time of a worker's death".

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118. That section 2(i) be changed to remove the words "which includes the employer where he is self-employed" and to combine section 2(i)(i) and section 2(i)(ii) to be the new section 2(i)(i).
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119. That section 10(1)(c) be changed to read "(c) and employer or self-employed person".
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120. That section 28(1)(a) be changed to read "(a) cohabited with a person and where the Board is satisfied that such a person was dependent upon the deceased worker for maintenance and support", or
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121. That section 28(1)(b) be changed to read "(b) cohabited with a person and where the Board is satisfied that such person was dependent upon the deceased worker for maintenance and support and they had one or more children, or a child is born as a result of their union before the death.
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122. That section 55(2) be removed from the Act and that section 55(3) become the new section 55(2).
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123. That in section 55(3) the words "senior financial officer" be removed and replaced with "Commissioner or designated Minister responsible for the Consolidated Revenue Fund."
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124. That section 58(1) be changed to read "(1) the accounts of the Board shall be annually audited by the Territorial auditor."
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125. That section 58(2) be replaced with "The Board shall, on or before the 31st day of May in each year, prepare a report on the preceding fiscal year which shall:
- a) state the activities of the Board,
 - b) include the financial statements of the Board prepared in accordance with appropriate accounting policies applied on a basis consistent with that of the preceding year which shall include:
 - (i) a statement of financial position presenting fairly the financial position of the Board at the end of the fiscal year;
 - (ii) a statement of operations that presents fairly the operating results for the fiscal year;
 - (iii) a statement of changes in financial position which presents fairly the changes in financial position for the fiscal year; and
 - (iv) such other statements, schedules and notes as may be necessary to present fairly the information contained in the financial statements;
 - c) include the report of the auditor;
 - d) include the opinion of the Board's actuary as to the liabilities of the Accident Fund and the adequacy of the reserves; and
 - e) include such other information as the Minister or the Board may require."
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126. That section 58(3) be changed to read "The auditor shall report annually to the Minister on the results of his examination of the accounts and financial statements of the Board and the report shall state whether, in his opinion,
- a) the financial statements present fairly the financial position at the end of the fiscal year and results of the operations and the changes in financial position for that year in accordance with appropriate accounting policies applied on a basis consistent with that of the immediately preceding year;
 - b) proper books of accounts have been kept and the financial statements are in agreement with the books of account; and
 - c) the transactions that have come under his notice are within the powers of the Board under this Act and the regulations made under this Act and any other act and regulations that apply to the Board;
 - d) and the auditor shall call attention to any other matter falling within the scope of his examination that, in his opinion, should be brought to the attention of the Legislative Assembly."
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127. That section 58(4) be changed to read "The auditor may require the officers and employees of the Board:

- a) to produce all records, documents, books, accounts and vouchers kept in respect of the administration of this Act; and
- b) to provide such information and explanations as he deems necessary "

128. That section 58(5) be included to read "The Board shall submit the annual report referred to in section 3 to the Minister on or before the 31st day of May in each year."

129. That section 58(6) be included to read "The Minister shall table before the Legislative Assembly a copy of the report referred to in section 3 at the first session of the Legislative Assembly following the receipt of the report."

130. That the existing section 58(4) of the Act become section 58(7); and

131. That section 3(3) of the regulations be changed to read "(3) Where regularly scheduled public transportation is unavailable or inconvenient, the worker may make use of a private motor vehicle and shall be reimbursed by the Board for the cost of fuel used, as well as a kilometer rate to be set by the Board and adjusted on a regular basis."

Mandate of Review

132. That the Minister appoint a committee every three years to review, consider, report and make recommendations on the Act, the regulations and the administration of the Worker's Compensation Board

133. That the terms of reference would allow the committee to consider any other matters it deemed appropriate or any matter which the Minister might refer to their attention.
