

# *Submission to the Workers' Compensation Act Committee of Review*

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## **Small business priorities for a sustainable WCB system**

*Marilyn Braun-Pollon, Vice-President, Prairie & Agri-business*

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### **Introduction**

#### **Background on CFIB**

The Canadian Federation of Independent Business (CFIB) is pleased to provide this submission to the Workers' Compensation Act Committee of Review (COR). CFIB has participated in many workers' compensation reviews in the past and welcomes the opportunity to provide our members' views at the first stage of this review.

CFIB is a non-partisan, non-profit, political action organization with membership comprised of over 109,000 small- and medium-sized enterprises (SMEs) across Canada. Approximately 5,250 of our members are based in Saskatchewan, located in every region of the province, and with diversity in activity that closely parallels that of the province's economy.

CFIB was formed on the following philosophical foundations:

- ▶ To promote and protect a system of free competitive enterprise and to strengthen the entrepreneurial culture in Canada
- ▶ To give independent business a greater voice in determining laws that govern business and the nation
- ▶ To identify and eliminate obstacles by all levels of government that unnecessarily inhibit the viability and growth of independent business

As a democratic organization, CFIB policy positions are shaped from direct member input. This input is obtained through surveying or polling of members on relevant topical issues of interest to SMEs and from information gleaned from over 4,500 personal interviews per week across Canada between CFIB field staff and membership. We operate on the principle of "*One Member - One Vote.*"

CFIB's presentation to the Workers' Compensation Act COR will cover our members' views and concerns of the Saskatchewan WCB and offer, in broad outline, what we believe to be the solutions. CFIB is pleased to share the results of a special WCB survey, which was emailed to 5,250 Saskatchewan members between March 5 and May 14, 2015. The fact that 576 members took the time to respond to the survey reveals the significant urgency SMEs place on this issue.

Later this Fall, CFIB will be releasing its *2015 Small Business Workers' Compensation Index*, a national report that will offer an in-depth look at provincial/territorial workers' compensation systems and compare them through the lens of the small- and medium-sized business owner.

## CFIB workers' compensation research

One of CFIB's greatest strengths is its ability to survey its members and provide this information to policy makers in a timely fashion. In preparation for the Worker's Compensation Act COR, CFIB has used a wealth of survey data, including results/data from:

- ▶ CFIB's *Special WCB survey* (March 6 – May 14, 2015) – in developing our recommendations for our submission, CFIB conducted an email survey of small business members with 576 responses
- ▶ CFIB's annual provincial surveys on various business issues such as tax and WCB policy – average 500 responses in Saskatchewan, once per year
- ▶ CFIB's *Our Members' Opinions* survey – an in-person interview-based survey of members, averaging 1,200 responses in Saskatchewan, twice per year

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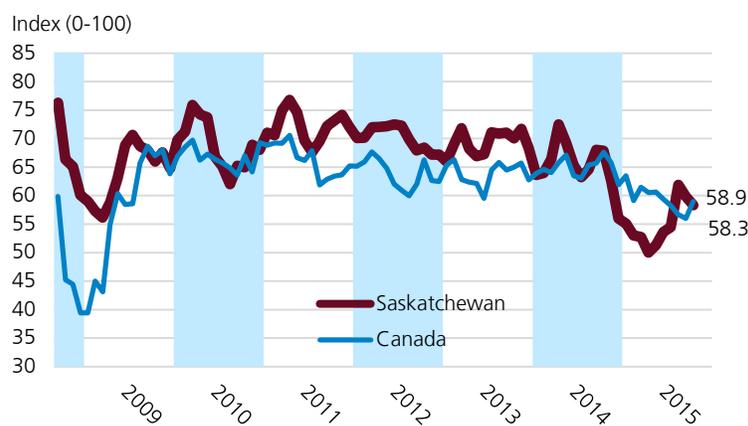
## CFIB Monthly Business Barometer® – A look ahead for 2016

CFIB's Monthly Business Barometer® has shown to be an extremely accurate indicator of economic growth and is utilized by a number of financial institutions in Canada including Bloomberg, the Bank of Canada and Scotiabank. Tracked against GDP, the Barometer index closely reflects what is currently happening in the economy. Measured on a scale between 0 and 100, an index level above 50 means owners expecting their businesses' performance to be stronger in the next year outnumber those expecting weaker performance.

The Saskatchewan October 2015 Monthly Business Barometer® revealed optimism among small business owners tightened again to an index of 58.3 in October, from 59.9 in September, now on par with the national average index of 58.9 (see Figure 1). However, Saskatchewan's index is still the province's third strongest index in 2015. Employment plans are showing normal seasonal patterns, but are weak compared to last year, with 15 per cent of businesses planning to hire additional full-time staff in the next few months versus 11 per cent planning on cutting back.

Figure 1:

### CFIB Monthly Business Barometer Index (Sask vs. Canada) (% anticipating stronger performance)



Canada	58.9
Newfoundland & Lab	65.0
Prince Edward Is.	59.4
Nova Scotia	68.0
New Brunswick	59.0
Quebec	57.1
Ontario	62.5
Manitoba	60.6
<b>Saskatchewan</b>	<b>58.3</b>
Alberta	36.1
British Columbia	65.7

Source: CFIB Saskatchewan Business Barometer, October 2015

It is important to note Saskatchewan's level of optimism has waned compared to 2014 ratings. We must also remember that governments can either fuel or dampen optimism by the policies they introduce. We need to be mindful of the COR's recommendations and the long-term financial impact on the Board, and as importantly, the impact on Saskatchewan's employers who pay 100 per cent of the cost of WCB. The full impact of COR must be properly assessed before legislative changes are imposed. It is CFIB's hope the Committee will not recommend costly legislative changes to the WCB system, which could essentially undo the progress made to date.

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## CFIB's views of the Committee of Review 2011 report

In CFIB's formal response to the COR 2011 report, we noted a number of worrisome recommendations for our members in the 81 page 2011 COR report. In particular, expansion of mandatory coverage by the Board, especially in the agriculture sector and the projected \$138.2 million cost to employers to increase and index the maximum annual benefit level.

We were also disappointed that issues raised by the CFIB and other employer organizations were ignored and not reflected in the report (such as the need to introduce a three day waiting period, the introduction of a graduated approach to reducing over-compensation along the lines of the Nova Scotia or New Brunswick models). It is also evident the Committee chose not to ask the critical questions: "*Are WCB benefit levels too generous?*" or "*Is the definition of disability too broad?*"

CFIB also questioned the costing sections throughout the 2011 COR report. The Committee did not provide cost estimates for a number of recommendations. In fact, 29 recommendations were listed as non quantifiable and CFIB questioned what the real costs of COR would be to Saskatchewan employers. A more thorough cost analysis should have been conducted and shared with all stakeholders prior to any decisions being made.

However, we agreed with the recommendations outlined in Chapter 6 of the 2011 COR report, which looked at improving WCB processes and customer service. Many business owners speak of the frustrations they have when dealing with the Sask WCB, so we were encouraged there were a number of recommendations related to delivering good customer service which include such areas as: tone at the top, respect, continuous improvement, and plain language. We believe the introduction of the Continuous Improvement Committee on Customer Service was an important first step. However, CFIB's most recent survey results indicate there is still room for improvement in this area.

When **Bill 58 – The Workers' Compensation Act, 2012** – was passed, we welcomed the amendments to the existing workers' compensation legislation to improve client service, fairness, efficiency and accountability. We were also very pleased the Act clearly exempted the farming and ranching industry from mandatory WCB. ***Application of the Act*** – This Act applies to all employers and workers engaged in , about or in connection with an industry in Saskatchewan **except: a) farming or ranching industry b) those industries, employers or workers excluded pursuant to subsection (2).**

In addition, we were relieved the maximum insurable earnings limit was not removed in the calculation of workers' compensation premiums and benefits. While it was clear there was a -7 per cent gap between the maximum insurable earnings and the average annual earnings in Saskatchewan., CFIB recommended rather than introduce indexing, Boards should be allowed to make periodic adjustments to ensure their maximum insurable earnings are as close in line with provincial/ territorial average yearly earnings. Also given the significant cost implications to employers and not all Committee members agreed to the formula, CFIB urged WCB engage in a consultative process on how best to proceed on this issue.

## The small business perspective of WCB

### Impact of WCB payroll taxes on small business job creation

One important, but generally forgotten, premium is a tax on payroll that must be remitted to the provincial board, regardless of an employer's profitability.

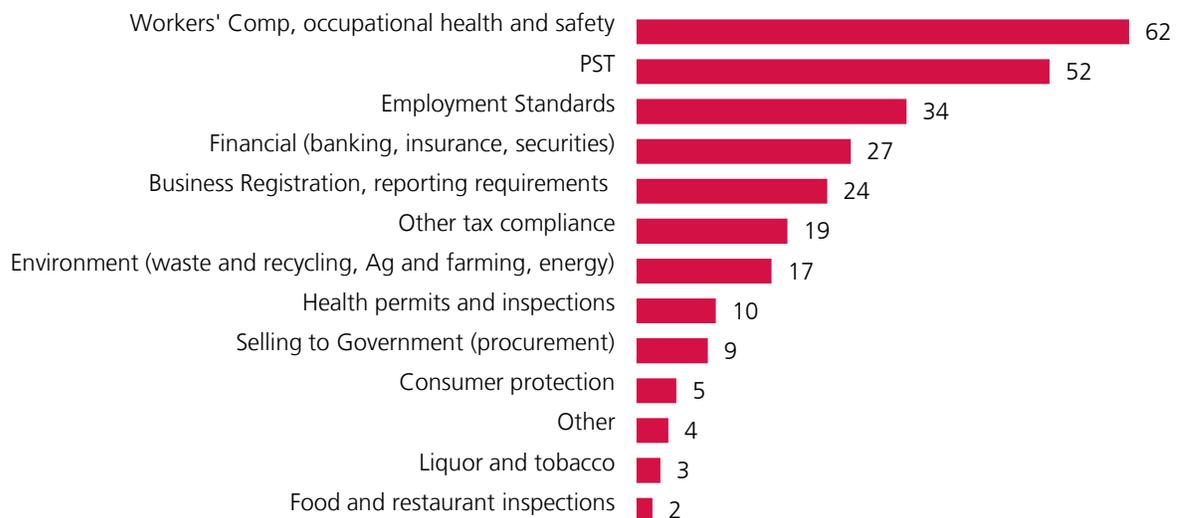
Workers' compensation systems are also very complex. Not surprisingly, Saskatchewan business owners point to workers' compensation and occupational health and safety requirements as the most burdensome area of provincial/territorial regulations (see Figure 2).

CFIB is committed to ensuring a compensation system that is responsive to injured workers and accountable to employers. Workplace safety and having a good plan for covering workplace injuries is a priority for everyone so it is critical the WCB is well run- this includes keeping paperwork manageable and costs reasonable for employers.

Now is not the time to consider costly legislative changes, but instead the Committee should consider making important reforms to ensure Saskatchewan has a sustainable and affordable workers' compensation system. It is therefore critically important for the COR to carefully review each recommendation and its potential cost to the overall competitiveness of Saskatchewan's business community.

Figure 2:

### Most burdensome PROVINCIAL government regulations to your business? (% response)



Source: CFIB Survey on Regulation and Paperburden, July 2014. Saskatchewan respondents (n=357)

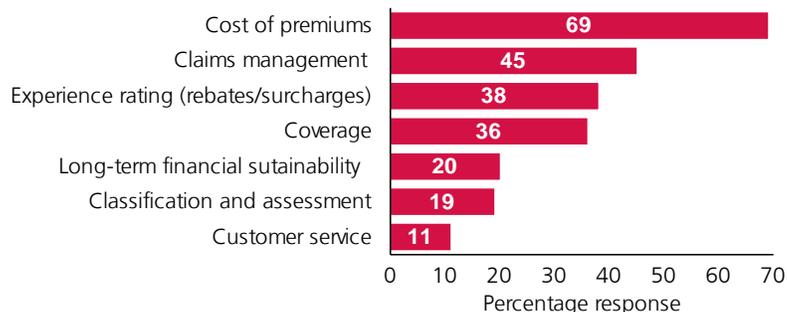
### Top WCB priorities

Over the years CFIB has built up a comprehensive array of member Mandate votes on various policy aspects of the system. In order to further explore the issues that specifically concern our members regarding workers' compensation, CFIB asked our members "What should be the top priorities for CFIB action regarding your WCB?" (see Figure 3). The top concerns identified by members are:

- ▶ **Costs of premiums** (69 per cent)
- ▶ **Claims management** - including fraud and abuse (45 per cent)
- ▶ **Experience rating** (38 per cent)
- ▶ **Coverage** (36 per cent)
- ▶ **Long-term financial sustainability** (20 per cent)
- ▶ **Classification and assessment** (19 per cent)
- ▶ **Customer service** (11 per cent)

Figure 3:

### Which should be the top priorities for CFIB action regarding your WCB?



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

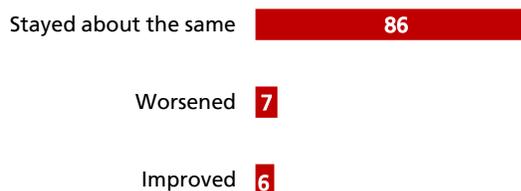
While progress at the Board has been made over the years, CFIB believes further improvements to WCB can and should be made. The 2015 COR has the opportunity to recommend important reforms to ensure Saskatchewan has a sustainable and affordable WCB in the coming years.

## Small business grades the WCB

CFIB asked its Saskatchewan members to grade the performance of the WCB on how the overall service received from the Board has changed during the past three years and found 86 per cent of Saskatchewan respondents said it is the same. Only 6 per cent said it was better and another 7 per cent said it had gotten worse (see Figure 4).

Figure 4:

### How has the overall service you received from your WCB changed during the past three years? (% response)



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results (excludes Don't know).

The fact that only 6 per cent of Saskatchewan employers said the service is better than three years ago provides an opportunity for the COR to address some key concerns.

## Small business takes safety very seriously

In meeting with numerous small business owners throughout the province, it is clear that safety and a safe work environment are primary concerns. Business owners realize the people they employ are their most valuable resource, and that a safe employee is also a productive employee. Unfortunately, there are some in society who characterize business owners as individuals that do not care about the safety of their employees.

## Responsibility for safety

CFIB members believe they, as employers, play a critical role in safety - in fact the most important role. Therefore, it is incumbent upon government to ensure employers' voices are heard in discussing these important issues. In order to improve safety, employers must "buy into" the government's approach, and view it as viable and workable. It is also important to note the importance employers place on the workers' responsibility for safety. Employers feel that, together, they and their employees play key roles in safety and reducing accidents. This spirit must be embraced and translated into a workplace safety culture where the two

parties involved play essential roles. Safety cultures cannot be fostered in “command and control” regulatory approaches to workplace safety.

## Health & Safety Leadership Charter

CFIB was pleased the first Health and Safety Leadership Charter signing event was held in Regina on June 10, 2010. Small business owners support the concept of the Leadership Charter as they take safety very seriously and believe you can never go wrong with promoting safety, as long as it's on a voluntary basis, so that businesses can decide which program works for their business.

Employers feel that, together in partnership with their employees, they play key roles in safety and reducing accidents. This spirit must be embraced and translated into a workplace safety culture where the two parties involved play essential roles. We would also support efforts aimed at encouraging employees to take personal responsibility for their safety. Safety cultures cannot be fostered in “command and control” regulatory approaches to workplace safety. That is why CFIB believes a voluntary approach to this Charter is the key to its success.

### *WCB – Health & Safety Leadership Charter –*

*“This Charter is intended to support the continuous improvement of healthy and safe workplaces. It is founded on the principle that the effective management of health, safety and wellness is essential.”*

*WCB Annual report*

The vast majority of small firms are concerned about workplace safety beyond the financial impact it has on their firm. In virtually every small business across Saskatchewan, the employer works side-by-side with his or her employees every day. They are often the employer's friend – many times even family. Small business owners care about the health and well-being of their staff – as people and as the most valuable resources of the firm.

**Recommendation:** The Board continue offering the Health and Safety Leadership Charter on a voluntary basis, as well as encourage employees to also become signatories to this important charter.

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## Fundamental principles for WCB reform

It should be noted that CFIB and other employer organizations all share a fundamental vision of reform based on insurance principles. The Saskatchewan WCB is a monopoly, no fault disability insurance corporation that provides collective liability, amortizes costs over a longer period, and helps to ensure some stability in the event of unforeseen circumstances. The CFIB still accepts the historical trade-off first established by the 1914 Meredith Commission in Ontario, which established a model system later adopted throughout all jurisdictions in Canada, including Saskatchewan in 1930.

Employers have accepted responsibility for full payment of WCB costs in lieu of avoiding costly litigation through the courts. In accepting this great trade-off (even though relief from litigation is equally beneficial to avoid liable suits among workers), employers do not want to see the strategic shift of WCB systems toward a more universalistic view that evolves into other forms of social welfare assistance. The historical Meredith principles never encompassed a universal disability insurance program, or a program of unlimited vocational education. Instead, we urge the COR to support the following fundamental principles:

1. Workers' compensation should insure workers only against injuries caused by work.
2. Workers' compensation should be administered to serve workers and employers efficiently and effectively.
3. The system should guarantee a fair and affordable level of compensation to permanently disabled workers today and in the future.
4. The system should include incentives and programs that encourage timely return to suitable work.

5. No worker should receive a higher net income on compensation than he/she would from working.
6. All employers benefiting from a collective liability scheme should pay their fair share of its costs.
7. The system should be based on prevention first, return to work if possible, rehabilitation when needed, and appropriate compensation where necessary.
8. The system should be fully funded over a reasonable timeframe - increased assessment charges to fund large accumulated debts diverts revenues that should be fully allocated to quality services to injured workers and the most competitive rates possible.
9. The system should be designed and managed to avoid as much volatility as possible in managing employer premium costs.

Boards and governments need to re-establish the connection between WCB and workplace accident insurance. At the end of the day, re-establishing WCB as an insurance premium helps workers every bit as much as it helps employers. If firms can see some link between their accident record and the premiums they pay, they will have more of a direct incentive to put in place strategies to reduce the number and severity of accidents in the workplace.

If, in fact, organized labour wishes workers' compensation systems become more of a social program, they should be careful what they ask for. If WCB is expected to cover employees around the clock, in their homes, and for problems unrelated to the workplace, we will have to re-examine who should be paying the costs of the system. Unions appear to have an interest in clouding the connection between workplace accidents and coverage under WCB - and this is a very dangerous game. If we lose this connection, we will have to lose the concept that 100 per cent of the costs of the system should be paid by employers. Perhaps the unions would rethink this suggestion if WCB were moved into line with the other forms of payroll taxation such as Employment Insurance or the Canadian Pension Plan. Both programs are cost-shared by employers and employees.

## Need for a purpose clause

### Recommendations:

- ▶ Based on these above-noted principles, CFIB recommends that there be a new Purpose Clause in the Act, which re-iterates these principles. The members of all future Boards of Directors must understand and agree upon this common vision.
- ▶ We also strongly recommend that the critical concept of "competitiveness" be enshrined in the purpose clause, as well as a clear, statutory duty imposed upon the Board to operate in a "financially responsible and accountable manner" on behalf of all of its stakeholders.

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## A new governance model – A multi-stakeholder, part-time Board

Saskatchewan currently is the only jurisdiction where Board members are full-time employees. We believe it is time for change to ensure a modern, efficient and effective Board.

Committee members may recall the Dorsey report recommended a transition to a part-time, independent, representative board of directors or governors. Dorsey also stated that the composition of such a board would reflect the historical role of organized labour and employers in the workers' compensation system.

Previously in CFIB's WCB survey, 63 per cent of respondents were in favour of the traditional full-time Board structure being replaced with a part-time Board representing business, labour and public interest. Another nine per cent of respondents opposed such a move. It should be noted there were over 28 per cent who were uncertain with such a move. The level of uncertainty relates to the costs of the transition, as well as the functioning of a new Board structure.

**Recommendation:** With respect to the most appropriate composition and structure of the Board of Directors, CFIB recommends the Act be amended to replace the current full-time Board structure with a multi-stakeholder, part-time Board. The Board would become a governance Board without any Appeal function (see Appeal Process section for more details).

Specifically, we recommend the Saskatchewan WCB be reconstituted as a seven member Board, but with all members functioning on a part-time basis and with specific representation as follows:

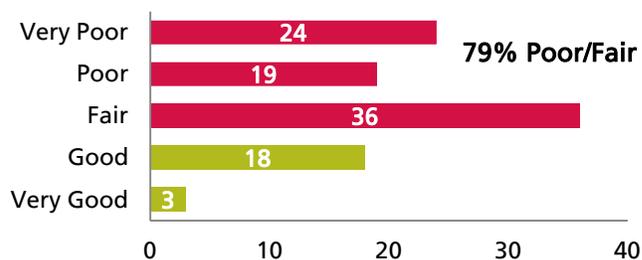
- ▶ Two directors representing employers, both large and small, and appointed from a list of names submitted by employer associations
- ▶ Two directors representing employees from both union and non-union workplaces, and appointed from a list of names submitted by labour and professional/business associations
- ▶ One director from among the members of the medical profession in Saskatchewan
- ▶ One director with experience as either a professional actuary or management in the insurance industry
- ▶ A neutral, experienced Chair appointed by consensus among all of the stakeholders and government

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## Appeal process

Figure 5:

**How do you rate the appeals process with your WCB? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

Appeals Department are denied. Approximately 33 per cent are successful, while another 12 appeals are returned to the Original Unit for further development of the file. CFIB agrees with the 2011 COR statement: "This strongly reinforces the need for more complex work on the files at the front end."

In 2014, the Board Level Appeals received 266 appeals. Of the 197 decisions made, 95 appeals were successful and the Original Decision was upheld on 102 appeals. At year-end, 240 appeals were pending, a 52 per cent increase from 158 appeals pending in 2012.

CFIB also agrees with the 2011 COR statements made in Chapter 8: Appeals - *Reducing the Need for Appeals*: "The first factor to consider is how to reduce the need for appeals. Providing access to files without requiring an appeal to be in process is one way to do this. Improving customer service will reduce appeals. More complete file development and thorough adjudication at the front end of the claim will reduce the number of appeals."

Committee members may recall the Dorsey report on the WCB made a recommendation to create an independent avenue of appeal for claimants who disagree with decisions of the Board. This recommendation also requires legislative amendments to *The Workers' Compensation Act*. In Dorsey's report he noted: "An

When asked how Saskatchewan small business members rated the appeal process with WCB, only three per cent said very good and another 18 per cent said good. Thirty six per cent said fair and another 43 per cent rated it as poor (19 per cent poor and 24 per cent very poor). With 79 per cent of respondents rating the appeals process as fair/poor, improvements to the appeals process are warranted (see Figure 5). (Refer to Appendix A - Small business owners' views on WCB claims/appeal experience).

The most recent Sask WCB data shows that 59 per cent of appeals coming to the

*independent avenue of appeal to an administrative appeal tribunal is more likely to provide – and appear to provide – individual justice.” As well, Mr. Dorsey also noted: “An independent appeal avenue enhances fairness and transparency and contributes to Board accountability through the publications of appeal decisions.”*

While a majority of small business owners agree there should be an independent avenue for appeals, they also question the costs associated with the establishment of an independent appeal body. CFIB would therefore need to see far more detail – including a cost analysis and principles – surrounding any new independent appeal tribunal before we would feel comfortable in endorsing its adoption. CFIB would also encourage COR to explore if this appeals function could be handled through existing appeals/adjudication mechanisms already in Saskatchewan.

### **CFIB Saskatchewan Member Comments 1: Please describe your appeal experience**

*“It seems to take an awfully long time to get a case moved to the appeal process. Outcome of this appeal has been ok from an employer perspective on both cases we have appealed. Wish there was more scrutiny towards these cases and penalties associated with fraud.*

*“They said you can appeal so did and they said no but you can appeal again. They just wear you down until you give up. This case has me in a penalty position in the tune of thousands of dollars.”*

**Recommendation:** Create an independent Avenue for Appeals. COR must provide details to stakeholders including a full cost analysis and principles surrounding any recommendations for a new Independent Appeal Tribunal – to determine its potential impact on WCB premiums. COR must also determine if this appeals function could be handled through existing appeals/adjudication mechanisms already in Saskatchewan.

**Recommendation:** It should be noted that employers presently receive very little status in the appeals process. Section 171.2, which deals with the employer’s access to information, specifically excludes participation by an employer. CFIB believes this should be amended to allow employers access to the process, be it external or internal.

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## **Financial Accountability**

It is critical that every Board be fiscally sustainable in the long-term. A fully-funded workers' compensation system is necessary for ensuring that the financial obligations associated with payment of current and future workers' benefits are met.

We cannot forget the days when Saskatchewan’s business community was concerned about the Board’s future sustainability. At that time we called on the Board to improve its cost effectiveness and take steps to contain its overall costs. While pleased the Board’s financial position is sound, entrepreneurs need to be assured it is not overly cautious.

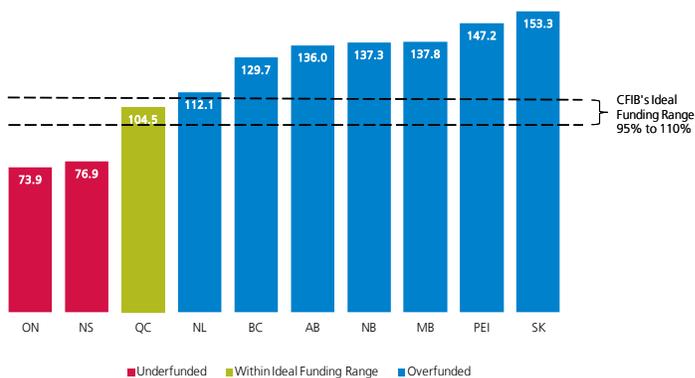
**2014 Funding Position:** CFIB’s analysis focused on the board’s financial situation in 2014 and measured the board’s financial situation based on the ratio of total assets to total liabilities (funding ratio). A ratio below 100 per cent indicates that a board’s liabilities exceed its assets, signalling an under-funded position. Conversely, a ratio greater than 100 per cent indicates an over-funded position in which a board’s assets exceed its liabilities.

Since it is unrealistic to expect a board to consistently have a 100 per cent funding ratio (i.e. fully-funded), the assumption was made that a board’s ideal target range for its funding ratio should be between 95 per cent and 110 per cent. The reason the funding target is greater at the higher end is to account for the fact that it is easier for a board to reduce its over-funded position, rather than move into a fully funded position.

The board in Quebec is the only board that is funded within the ideal range. In CFIB's 2011 Ranking, the Quebec board was in an underfunded position at 73.6 per cent. To return to a fully funded position, the board approved new arrangements for their funding policy. Under these new arrangements the Quebec board was able to not only decrease premiums but also return to a fully funded position. Further, the Quebec board recently adopted a policy establishing a funding range of 95 per cent to 110 per cent, which is CFIB's ideal range (see Figure 6).

Figure 6:

### Funding position\* of workers' compensation boards, by province, 2014 (in %)



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

reduced claims activity – all factors which contributed to **WCB's \$141 million operating surplus**. Despite the massive surplus, WCB decided **to only rebate \$79 million** and hold back the remaining \$62 million because of 'economic uncertainties.'

On May 6, 2015 - CFIB attended WCB's annual meeting and urged WCB to rethink its rebate policy and return the entire \$141 million to Saskatchewan employers. WCB's 132 per cent funded position is 22.2 per cent higher than required by WCB's funding policy. CFIB's research indicated the ideal funding ratio range should be no higher than 110 per cent.

On May 14, 2015 - The Board asked for feedback from employers by June 1 on whether they should reconsider their rebate policy and return the entire \$141 million to Saskatchewan employers.

June 12, 2015 - The WCB listened to employers, reconsidered its rebate policy and decided to return 100% of the \$141 million operating surplus.

#### **Changes required to WCB's Funding Strategy:**

Currently the Board's Funding Policy sets the parameters for the Injury Fund and each of its reserves. The targeted range for the Injury Fund is 5 per cent to 20 per cent of benefits liabilities resulting in a targeted Funding Percentage of 105 per cent to 120 per cent.

Examining the 2014 annual report reveals the Saskatchewan WCB has been well-funded for a number of years with funding percentages of 132.2 in 2014, 119.3 in 2013, 117.1 in 2012, 119.0 in 2011 and 111.5 in 2010. As stated at WCB's annual meeting, only once in 18 years has the funding position of 105 per cent not been reached.

In using the Association of Workers' Compensation Boards of Canada (AWCBC's) calculation, Saskatchewan's board is the farthest from the ideal range and consequently the most over-funded board (153.3 per cent funding ratio). The significant over-funded position of many provincial boards indicates that they are charging employers unnecessarily high premiums. The Saskatchewan WCB should work towards establishing and adhering to a funding range of 100 to 110 per cent in order to ensure sound management of employer finances.

#### **Saskatchewan Employers welcome \$141 million WCB refund**

The Sask WCB released its 2014 Annual report which revealed strong investment returns, continued payroll growth and

CFIB believes it's time to examine those funding targets so entrepreneurs can be assured the Board's financial position is sound, but not overly cautious. We believe being 120 per cent funded is being overfunded. **CFIB therefore recommends a funding ratio of between 100 per cent and 110 per cent as a fair scenario**, where the Board is able to fulfil its responsibility to protect present and future worker benefits against unexpected events and minimize the volatility of premiums.

**Recommendation:** Change WCB's current targeted funding percentage of 105 per cent to 120 per cent to a funding ratio (total assets over total liabilities) between 100 per cent and 110 per cent.

***Changes required to WCB's Surplus Distribution Policy:***

Currently the Board's Funding Strategy also states where the funded status rises above 122 per cent, excess surplus will be distributed to employers, at the WCB's discretion, over a period not to exceed five years until the Injury Fund reaches 120 per cent.

CFIB believes the point at which Saskatchewan's WCB provides refunds to employers should be lowered. Saskatchewan entrepreneurs want WCB to take a more reasonable approach and propose that the refund of surplus monies be triggered when the funded status rises above a threshold of 110 per cent. We also believe the surplus should be rebated in the year it is realized and not distributed over a five year period, similar to Alberta. It would also give employers some of their own money back so they can focus on growing their business, creating jobs, and investing in new and safer equipment.

**Recommendation:** Rebate surplus monies when the funded status rises above a threshold of 110 per cent.

**Recommendation:** A surplus should be rebated in the year it is realized, similar to Alberta - and not distributed over a five year period.

While the Saskatchewan WCB is financially stable, this should not be a signal that costly legislative changes are warranted. Instead, CFIB recommends all final recommendations of the Review Committee be thoroughly costed to determine the long-term financial impact to the Board, and as importantly, the impact on Saskatchewan employers who pay 100 per cent of the cost of WCB.

## Quarterly financial statements

For a number of years, CFIB has requested WCB's quarterly financial statements be provided to stakeholders following the 15<sup>th</sup> working day of the quarter just ended. CFIB believes this would serve as a valuable tool in communicating to businesses owners the changes in the Board's financial status and its operations. WCB's response at that time was: *"Regarding your request for financial information on an ongoing basis, we are looking at ways to provide timely data to our stakeholders at large. We will be considering vehicles like our Balanced Scorecard and our Internet Web Site."* The fact CFIB is still awaiting a decision from WCB is further evidence that improvements to client service are needed.

**Recommendations:**

- ▶ Change WCB's current targeted funding percentage of 105 per cent to 120 per cent to a funding ratio (total assets over total liabilities) between 100 per cent and 110 per cent.
- ▶ Rebate surplus monies when the funded status rises above a threshold of 110 per cent.
- ▶ A surplus should be rebated in the year it is realized, similar to Alberta - and not distributed over a five year period.
- ▶ WCB provide quarterly financial statements to stakeholders.
- ▶ The Board must practice continued vigilance on administration costs.
  - Relocate WCB Regina downtown office space to less expensive location. Savings could be reinvested into worker safety and lower premiums for employers.

- WCB levies should be used solely to fund the compensation of injured claimants and not the bureaucracy with a government ministry. In many cases, OH&S programs duplicate those already provided by industry.
- ▶ All final recommendations of the COR be thoroughly costed to determine the long-term financial impact to the Board, and as importantly, the impact on Saskatchewan employers who pay 100 per cent of the cost of WCB.

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## Cost of Premiums

Workers' compensation premiums ranks as the highest priority for small business owners. It is understandable that the cost of premiums would be at the top of their list since payroll taxes have serious repercussions to sustaining a business. If premium rates are high, the payments made to the Board will constrain a business owners' ability to grow their business, increase their employee wages, create job opportunities, and invest in new and safer processes and equipment.

### *Frequency of lost time claims*

A lost time claim is created when an employee suffers a work-related injury or disease which results in that employee being off work past the day of the accident, a loss of wages, and/or a permanent disability. The higher the frequency of lost time claims, the higher the cost to the workers' compensation system. In CFIB's review of various sectors (General Trucking, Machine shops, Restaurants, Landscaping, and General Stores) Ontario's board had the lowest frequency of lost time claims at 0.95 per cent. Saskatchewan's Board had the second highest lost time frequency of 2.57 per cent, with Manitoba's Board having the highest lost time claim frequency in Canada at 3.12 per cent.

**Recommendation:** Modify the definition of a time-loss claim to exclude wage loss payments that are solely a result of medical appointments.

### *Total annual percentage change<sup>1</sup> of the average premium rate, 2006–2015*

This indicator is intended to capture the overall trend in the average premium rate of each board during the past ten years (i.e. 2006 to 2015). During the past ten years, the board in New Brunswick achieved a reduction of 58.5 per cent in their average premium rate followed by Alberta's board with a 49.3 per cent reduction. Next was Manitoba's Board with a 26.7 per cent reduction and Saskatchewan at 24.2 per cent reduction in their average premium rate.

All boards except the Ontario and Nova Scotia boards experienced a reduction in their average premium rate during the past ten years. Nova Scotia's board showed the least amount of variation in average premium rate and exhibited an increase of 0.8 per cent. Ontario's board experienced the most pronounced increase at 9.5 per cent.

We are pleased the Sask WCB recently proposed to reduce the average 2016 employer base premium rate by 8.2 per cent to \$1.34 (per \$100 of assessable payroll) from \$1.46 in 2015. This is the ninth straight year of decreases to the average premium rate and is 34.6 per cent below the thirteen year high of \$2.05 in 2004. Sask WCB credits improved safety performance records in 45 of 50 industry rate codes as the key reason for lower 2016 premium rates for 45,683 of Saskatchewan's 47,783 employers.

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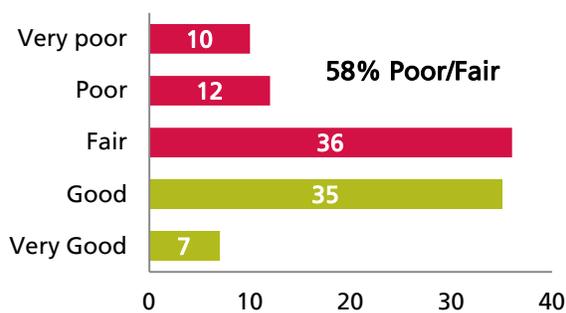
<sup>1</sup> Total annual percentage is the sum of the annual percentage change from 2006-2015.  
Annual percentage change = (year 2 - year 1/year 1) x 100.

## Claims Management

Business owners take as many steps as possible to ensure that their workplace is safe. In the event that an accident happens, employers must work with their boards regarding the many aspects of a claim and, depending on the circumstances, the processes to reinstate injured workers. This following examines the various steps involved in the claims management process.

Figure 7:

**How do you rate your WCB on assistance with back-to-work transition for injured employees? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

### Advice on promoting health and safety in my workplace

Promoting healthy and safe work practices is an important part of creating a safety-conscious work culture amongst both employees and employers. When asked how Saskatchewan business members rated the WCB on the advice on promoting health and safety in the workplace, only 7 per cent of respondents said very good, 37 per cent said good. However 56 per cent rated the Board as Fair/Poor (36 per cent fair, 13 per cent said poor, and 7 very poor (see Figure 8).

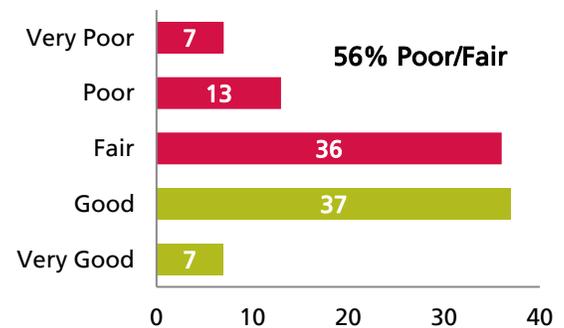
**Recommendation:** Ensure employee reinstatement and return-to-work provisions take into consideration the realities of running a small business.

### Assistance with back-to-work transition for injured employees

Bringing an injured employee back into the workplace can be challenging to smaller employers. All boards provide assistance with back-to-work transition. However, the quality of this service varies from board to board. When asked how Saskatchewan small business members rated the WCB on assistance with back-to-work transition for injured workers, only 7 per cent of respondents said very good, 35 per cent said good, another 36 per cent said fair, 12 per cent said poor, and 10 per cent rated it very poor (see Figure 7). While CFIB supported a number of recommendations the 2011 COR made related to Return to Work, it is clear more work is needed in this area.

Figure 8:

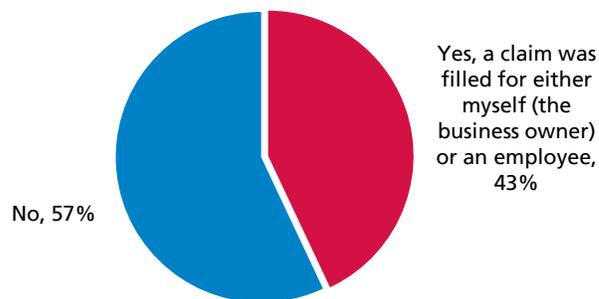
**How do you rate your WCB on advice on promoting health & safety in the workplace? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

Figure 9:

**Have you been involved in a claims process with your WCB during the past three years?**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

**Recommendation:** Work closely with small business owners to promote health and safety.

### Involvement in the Claims process with WCB

Although they certainly hope they do not find themselves at this stage, many business owners must deal with their Boards when reporting a workplace accident or reinstating a worker. When asked if they had been involved in a claims process with their WCB during the past three years, 43 per cent of Saskatchewan respondents said yes and another 57 per cent said no (see Figure 9).

It is vitally important employees are in fact getting back to work as quickly as possible and not lost in the WCB system due to lack of proactive case management. (Refer to *CFIB Saskatchewan Member Comments 2* and *Appendix A – Small business owners' views of WCB claims/appeal experience*).

#### CFIB Saskatchewan Member Comments 2: Please describe your claims experience

*"At times it is difficult to get information and guidance from the claims administrators. If you are new to providing a return to work program for your employees there is very little support available."*

*"The claims process is very slow to be acknowledged and a claim set up, too much time goes by before the claim is monitored in regards to needs (especially for short term claims) and not much interest is paid to claims that are within the recommended time frame. ie. It should take 4 - 6 weeks so have no interest if claim is complete and employee able to return to work earlier. Also I have been told if the worker's version of the claim and the employer's version of the claim are 50/50 then the employee is given the benefit of the doubt. Why?"*

*"We were happy with the way our employee's claim was handled."*

*"When I had a concern about a worker not being accurate in reporting his symptoms, I did not get much support or help from the claim administrator. Very little communication about how the workers is actually doing and how it is working for us on the employer end in accommodating the return to work. For smaller businesses, it is difficult to accommodate the employee when they are not able to be on the job site and need to have office type duties."*

*"Basically they will not listen to any realistic suggestions by the people that fund the organization – the employers. Also once you start an appeal the people you have to talk to keep changing jobs so you never have the same person to discuss an item with."*

*"I felt like I had no voice. They told me this is happening and that this is the process. I had no voice or they didn't care what I had to say regarding the claim"*

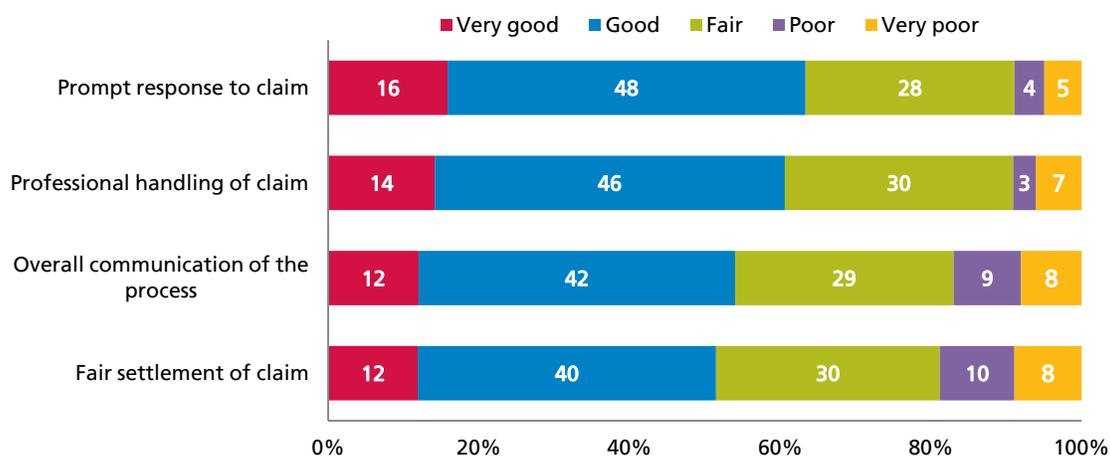
*"The WCB reports that Saskatchewan has one of the highest claims records in Canada resulting in one of the worst safety records. Every time this is reported, it reflects badly on private business. I would like the WCB to report the number of claims and the resulting costs separately for government, including Crown Corporations and the private sector so that we can compare the safety performance of each group."*

## Overall rating of Claims process

CFIB survey results measure how small business owners evaluate several aspects of the initial claims process. Specifically, these are: professionalism of handling claims; promptness of responding to claims; fairness in settling claims; and overall communication of the process (see Figure 10).

Figure 10:

**How do you rate the initial claims process with your WCB on each of the following?  
(% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

### ***Promptness of responses to claim***

Only 16 per cent of CFIB members rated the promptness of replies from WCB as “very good”, while 48 per cent said it was “good.” A further 28 per cent cited this service quality measure as “fair.” 4 per cent rated promptness of responses as “poor” and 5 per cent replied that it was “very poor”(see Figure 10).

### ***Professional handling of claim***

Only 14 per cent of CFIB members rated the professional handling of a claim as “very good”, while 46 per cent said it was “good.” A further 30 per cent cited this service quality measure as “fair.” Three per cent rated promptness of responses as “poor” and 7 per cent said it was “very poor” (see Figure 10).

### ***Overall communication of the process***

Twelve per cent of CFIB members rated the overall communication of the process as “very good.” Another 42 per cent rated this service quality measure as “good.” A further 29 per cent cited this service quality measure as “fair.” Another 9 per cent rated overall communication of the process as “poor” and 8 per cent said that it was “very poor” (see Figure 10).

### ***Fair settlement of claim***

Only 12 per cent of CFIB members rated the fair settlement of claim as “very good”, while 40 per cent said it was “good.” A further 30 per cent cited this service quality measure as “fair.” Another 10 per cent rated the fair settlement of a claim as “poor”, and 8 per cent said it was “very poor” (see Figure 10).

**Recommendation:** Ensure the claims process is fair, among other things (e.g. handled in a professional manner, effectively communicated).

## Introduction of Employer Advocate

Employer advocates or advisors can be very helpful to employers. Their role is to provide one-on-one confidential assistance and advice without a direct fee to an employer on issues such as claims management or appeals. Currently, six boards have employer advocates or advisors, the boards in British Columbia, Ontario, and all four boards in Atlantic Canada. The remaining boards in Alberta, Saskatchewan, Manitoba, and Quebec do not provide employer advocates or advisors.

The Act established a separate office of the Workers' Advocate located within the Ministry of Labour Relations & Workplace Safety to provide additional advocacy with respect to any claim being advanced for compensation. CFIB believes an employer advocate or advisor can be very helpful to employers. He or she provides one-on-one confidential assistance and advice, without a fee, on workers' compensation issues, such as claims management and appeals.

**Recommendation:** Establish an independent office of the Employer Advocate to provide meaningful support to small business.

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## Rate setting and assessments

### WCB's experience rating program

Experience rating is a system that takes into account a business' claim history when determining its annual workers' compensation premiums. The principal basis of experience rating is that a business with a history of workplace accidents should face higher premium rates. Conversely, a business with a good safety record should be rewarded with lower premium rates.

Experience rating programs are highly complex and differ substantially according to various factors including jurisdiction, business size, business sector, and claims history. CFIB's surveys reveal support for an experience rating program as Saskatchewan small business owners believe firms with higher accident rates should be paying higher WCB premiums.

Experience rating is necessary to address the concern that many businesses feel they are paying for poor records of others. However, to be effective within the terms of workers' compensation, the experience rating program must strike a balance by providing an economic incentive that adequately reflects the claims experience of a company while at the same time not creating excessive volatility that is unfair or counterproductive.

In June 2015, the Saskatchewan WCB requested feedback from stakeholders regarding the Experience Rating Review Committee's (ERRC) report and recommendations. The CFIB served on the Experience Rating Review Committee in 2014, which was comprised of equal employer and labour representation. CFIB represented the views of Saskatchewan small and medium-sized businesses. Committee members worked hard to finalize the report so it could be sent to the Board by October 2014 for their review and consideration.

## **Experience Rating Review Committee Recommendations:**

### **Experience Rating Guiding Principles**

**Recommendation 1.** The committee recommends that the following new guiding principles be adopted as follows:

The Experience Rating Program:

- Fairly and equitably represents employers' individual claims experience
- Provides incentive that positively influences employer prevention and safety behaviour change
- Contributes to lower injury frequency and claim durations

### **Standard Program Discount Criteria**

**Recommendation 2:** Employer representatives recommend implementing a \$500 minimum claim cost to the standard program only. The advanced program is already a cost based program therefore limiting the cost of a claim in this program is not in keeping with the program parameters for larger employers. Note: Labour representatives are not in agreement with this recommendation.

CFIB also supports the modification of the definition of a time loss claim to exclude wage loss payments that are solely a result of medical appointments.

### **Transition from Standard to Advanced Program**

**Recommendation 3:** The EERC recommends increasing the base participation factor in the advanced program to 46.5%, the point at which employers would see an increase of no more than 10% to their experience rate. While this does not solve the transition issue in its entirety, it is a step in smoothing the transition and does not have significant financial impacts to a large number of employers.

**Recommendation 4:** With the increase in the maximum assessable wage over the next few years there is potential for more employers to move from the standard to advanced program. In order to help minimize the number of employers moving from the standard to advanced programs simply due to changes to the maximum assessable wage or salary increases over the last several years, the committee recommends the base premium threshold be increased. The committee requested that WCB provide guidance as to what the new base premium threshold should be (see attached impact analysis). Based on WCB's recommendation, the committee agrees that the base premium threshold be increased to \$21,000.

### **Impact of Old Claims**

#### **Recommendation 5: Non-Consensus**

Employer representatives recommend removing claims that are 20 years and older from an employer's experience rating calculation. Labour representatives do not support removing any claims from the experience rating calculation.

### **Communication**

#### **Recommendation 6:**

While the committee did not provide any specific recommendations for communication changes they do believe that the rate notice needs to be easier for employers to understand. The committee suggests that the WCB consult with some employers in both the Standard and Advanced programs to get their input and feedback on any draft communications to ensure plain language.

Committee members spent hours in numerous meetings throughout 2014 discussing potential changes to WCB's Experience Rating Program. We believe the Committee's composition constituted fair and equal representation, thereby making the recommendations sound and defensible. CFIB therefore supports the recommendations put forth by the EERC and urges WCB to implement these recommendations. The only exception would be Recommendation 2, which we would support the modification of the definition of a time loss claim to exclude wage loss payments that are solely a result of medical appointments.

**Recommendation:** Ensure WCB implements EERC recommendations.

## Review of Rate Setting Model

Employers have raised concerns with the responsiveness of the current rate setting model, as well as the ineffective way it is reviewed and managed. Currently the rate setting model is reviewed annually by an internal actuary. The June 15, 2015 Asset Liability Study conducted for the Board recommended the WCB review its rate setting model for the determination of the premium requirements.

CFIB agrees with other organizations that support regular reviews of the rate setting model should be mandated by law and conducted by an external stakeholder Committee. This Committee could be comprised of both labour and employer representatives, with the goal to review the management assumptions included in the rate setting model.

Our concern is that Section 134 leaves the rate setting model completely in the hands of the WCB. We believe this must change.

**Recommendation:** Section 134 of the Act be changed to require an external Stakeholder Committee to review the rate setting model at least once every five years.

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## Coverage

Benefits provided under the Act encompass monetary compensation, monetary allowances, medical aid, rehabilitation services, vocational benefits, lump sum payments for permanent functional impairment, payments to spouses and dependents of deceased workers, and pensions to injured workers.

Coverage refers to how much protection a board provides to an employer and employee. In general, should someone who is covered by workers' compensation be injured on the job, a board will pay benefits to that individual for the period of time they are off the job.

### Maximum wage rate

#### *Gap between maximum insurable earnings and the average annual earnings*

The amount and cost of coverage provided by a workers' compensation board are based on the workers' insurable earnings—the portion of an employee's gross earnings on which an employer must pay assessments, before deductions such as income tax and payroll taxes.

*Example: A worker's gross earnings for 2015 are \$70,000. The maximum insurable earnings level for 2015 is \$61,615. The employer would report \$61,615 insurable earnings for this worker. The excess earnings on which the employer does not have to pay assessments are \$8,385.*

To keep program costs under control and to ensure benefits are not overly generous, the maximum insurable earnings set by a board should be close to, or lower than, the average annual earnings of the province. Newfoundland and Labrador's board sets a maximum insurable earnings of \$61,615, and the province's average annual earnings is \$73,375. Newfoundland's board has set its maximum insurable earnings 16 per cent lower than the province's average annual earnings.

On the other spectrum, Manitoba's board does not have a cap on the maximum insurable earnings for the calculation of benefits (see Background: Maximum Insurable Earnings in Manitoba for additional details). This is a worrisome practice which CFIB strongly advises other boards against using.

### Background: Maximum Insurable Earnings in Manitoba

All boards, with the exception of Manitoba, cover an injured worker's loss of earnings up to a maximum amount. The Manitoba Workers' Compensation Act Review Committee recommended the removal of the limit on insurable income and on January 1, 2006 Manitoba became the first jurisdiction to no longer have a cap on maximum insurable earnings for the calculation of benefits. This may result in creating a disincentive for injured workers to return to work. It is also unfair to small firms since basing benefits on income for which no premiums are paid likely means that firms with lower wages are subsidizing those with higher wages.

**Recommendation:** The maximum insurable earnings limit should not be removed in the calculation of workers' compensation premiums and benefits.

### Avoiding over-compensation

#### *Benefits as a percentage of earnings*

One of CFIB's main principles is: "*The system should include incentives and programs that encourage timely return to suitable work. No worker should receive more on compensation than he/she would from working,*" applies directly to the issue of benefit levels.

There are various levels of benefits paid by boards throughout the country. In general, most boards base their benefits on net earnings. When benefits are based on a higher percentage of earnings, a stronger disincentive is created for injured workers to return to work. A higher level of benefits also creates additional financial strain on the workers' compensation system and may place pressure on the board to raise premiums.

It should be noted that comments from CFIB's survey with business owners—*Point of View: Workers' Compensation Survey 2015*—reveal that in the event of a workplace injury, small business owners want their injured employees to be treated fairly by the workers' compensation system, as well as receive sufficient compensation while being off work.

Nova Scotia's board benefits are based on 75 per cent of earnings, the lowest percentage among provincial boards, with 75 per cent net the first 26 weeks, then 85 per cent of net. New Brunswick's board benefits are based on 85 per cent loss of earnings (loss of earnings defined as average net earnings minus net estimated capable earnings).

The boards in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec all base benefits on 90 per cent of earnings (non-taxable). At 90 per cent of net average earnings (non-taxable), WCB benefits invariably over-compensate injured workers who collect benefits for less than about 39 weeks. Over-compensation means injured workers are better off financially by not working than working. That is, they end up with more than 100 per cent of pre-injury income.

The aim is to set benefit levels at a level sufficient to adequately compensate the more seriously injured worker who cannot be reinstated, while maintaining sufficient incentive for all others to achieve rehabilitation and return to work.

**Recommendation:** CFIB therefore recommends a graduated approach to reducing over-compensation along the lines of the Nova Scotia or New Brunswick models. The Act should be modified so that all future claims (after the date amendments come in to force) should be at a benefits percentage of 75 per cent of net earnings for the first 26 weeks and 85 per cent thereafter.

## Waiting period

Insurance programs often have deductibles—commonly referred to as a “waiting period”. In terms of workers’ compensation, the waiting period describes the percentage of a claimant’s average weekly earnings that will be deducted from his or her first benefit cheque. Boards which use such a system describe the waiting period in terms of work days. For example, if a board has a three day waiting period, an amount equal to 60 per cent of a week’s average earnings is deducted from an injured worker’s first benefit cheque.

Although waiting periods are not very common, it is an extremely important provision since its presence can discourage frivolous or minor claims. All other things being equal, fewer claims will mean lower overall claims costs. Therefore, waiting periods can be an effective way of curbing increases in premiums and/or a board’s liabilities.

Under a waiting period system, injured workers would receive no income replacement benefits for the first three days of a claim. This would be a similar concept to the waiting period under SGI’s no fault system. Waiting periods are not a new concept, SGI’s own no-fault personal injury compensation system has a seven-day waiting period, and it is believed to be a major factor to help eliminate frivolous claims.

In Canada, only three boards use waiting periods: the boards in New Brunswick, Nova Scotia, and Prince Edward Island. New Brunswick’s board has a three-day waiting period. The boards in Nova Scotia and Prince Edward Island both have a two-day waiting period (i.e. 40 per cent of weekly average earnings are deducted from an injured worker’s first benefit cheque). All other boards do not use waiting periods.

CFIB members favour the introduction of waiting periods as it would help reduce short-term claims which, collectively, are a huge cost driver in the system, particularly for administrative costs. A waiting period would also help cut down on the incidence of abuse, while protecting genuinely injured employees and the WCB.

**Recommendation:** A waiting period of three days be implemented before an injured worker is eligible for compensation. Where the worker is disabled for longer than the day on which he/she is injured, compensation shall be paid on and from the fourth day from the commencement of this loss of earnings excluding the day on which he/she is injured.

## Occupational classifications

CFIB recommends a review of employer premiums based on work function within an organization. Therefore, employers with both high-risk functions (e.g. mechanic) and low-risk job functions (e.g. office assistant) pay separate rates based on risk.

CFIB Saskatchewan business owners agree that there should be separate WCB classifications for different occupations within the same firm.

Given that there is a low risk of injury associated with many support and/or office positions in compulsory industries, it is CFIB’s position that premiums should be reduced to reflect the likelihood of injury and provide cost relief to employers. Many small business owners are frustrated with having to pay “production” assessment rates on their office/clerical personnel where these people are not exposed to the hazards common in the particular type of business. In some high rated industries, the amounts involved are substantial. Assuming a clerical rate would be applied fairly across all sizes of business, this would find favour among small business employers.

**Recommendation:** Modifications to the assessment system to introduce some elements of occupational classification, for example, a clerical rate.

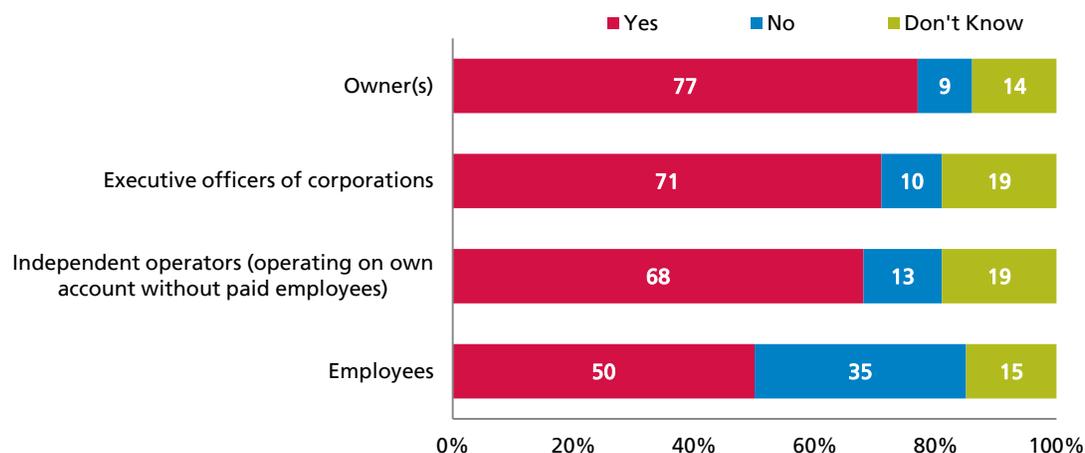
## WCB coverage through private insurance firms

CFIB members favour a competitive system, where WCB coverage is specified to a certain standard by the government, and firms are permitted to purchase their WCB insurance from a source other than the present monopoly.

When asked whether businesses should be allowed to buy their workplace disability insurance coverage from a private insurer (not the workers' compensation system), the results were clear. Seventy seven per cent of Saskatchewan respondents agreed owners should, followed by 71 per cent agreed Executive officers of corporations should be allowed to buy their workplace insurance coverage from a private insurer. Sixty-eight per cent of respondents agreed Independent operators (operating on own account without paid employees) should be allowed and 50 per cent agreed employees should be allowed to buy private insurance (see Figure 11).

Figure 11:

**Should businesses be allowed to buy their workplace disability insurance coverage from a private insurer (not the workers' compensation system) for these categories? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

### **Sask WCB introduces costly policy change for Directors**

The Sask WCB approved a policy called "*Coverage - Directors*" (Policy 14-2014). This is a new policy that requires mandatory coverage for all directors carried on payroll. As of January 1, 2015, an active Director who is reporting employment income on a CRA T4 is considered a worker by Sask WCB and is required to have WCB coverage. However, Directors who are not active in the business (do not perform any day-to-day tasks or duties for the corporation) are not required to have mandatory coverage. Prior to this change, only Directors that had regular, pre-determined payroll were subject to mandatory coverage.

The *Workers' Compensation Act, 2013* defines a workers as "...an executive officer of an employer, if that executive officer is carried on the employer's payroll." This requirement has been in the legislation since 1979. Through this policy, the Board has further defined an executive officer, also referred to as a director, as a person chosen to control or govern the affairs of a limited company or corporation and who is registered as a director of that corporation.

CFIB's Regina office received a number of calls from confused and upset business owners concerned with the recent policy change making WCB coverage mandatory for Directors of a Corporation (see CFIB Saskatchewan Member Comments 3).

### **CFIB Saskatchewan Member Comments 3: Please describe your views of mandatory coverage for directors**

*"As business owners, my wife and I draw wages from the business to take advantage of certain programs like RRSP's, while still taking dividends. If you don't draw an income, you cannot invest into RRSP's. **Because we draw an income from our business, in Saskatchewan we are required to pay WCB as we would for any other employee. In most other provinces, as business owners, we could choose to not pay WCB for ourselves.** We would still be required to pay for our employees, and understandably, but not for ourselves. We feel that being required by the Saskatchewan WCB to pay the rates for myself and my wife, they are hindering my business by having to pay for unnecessary fees. **Removing this would reduce our overhead by roughly \$1,000 per year.**"*

*"We are a small company with four people. I understand that we need coverage on the two employees but now we have to cover ourselves as owners. **To me this is just a grab of money** and we will pay the same rate as our employees and our risk of being hurt is not the same."*

*"I have a **big problem when they force us to pay workers comp for all the directors paid on T4s. This pretty well doubled my payments this year** and most of the directors don't even work out in the field. Seems like a big grab when they tell us the rates have went down."*

*"The board in Sask has now made it mandatory to cover owners of the company without any discussion with business owners. **We all already have 24 hours a day coverage from private insurers and do not require both.** Just another \$3000.00/yr, begs the question what's next!!!"*

*"Just helped themselves to more premiums from directors."*

We raised our members' concerns with the Board and recommended WCB revisit this policy and look at best practises of other provinces that provide Directors the flexibility to purchase optional coverage, if they so choose

Other provinces provide much more flexibility. In Manitoba, a Director of an incorporated business is not required to report themselves as an employee, but can purchase optional coverage. Alberta also does not require Directors to register, but like Manitoba offers optional coverage if they want it.

**Recommendation:** Allow businesses to buy their workplace disability insurance coverage from a private insurer (not the workers' compensation system) (See Figure 11).

**Recommendation:** Change the Act to allow directors the flexibility to purchase optional coverage if they so choose, as in Alberta and Mantioba.

## **Concerns over expanded mandatory coverage**

As stated earlier in our submission, one of the worrisome recommendations in the 2011 COR report dealt with *Excluded Industries – The Workers' Compensation Act, 1979 apply to all employees in Saskatchewan with no exclusions*. CFIB opposed this recommendation and said the expansion of WCB coverage and associated costs to include Saskatchewan farmers could put our producers at a competitive disadvantage with producers in other provinces and the United States.

Saskatchewan agri-business owners are concerned the current COR could result in expanding mandatory WCB coverage to farm workers. We know the unions will be pushing for mandatory WCB coverage for farm workers.

It is important to state, agri-business owners are committed to providing its family and employees with a safe workplace. Producers are absolutely supportive of efforts to improve health and safety even further at the farm gate, but more regulation is not the way to do it. CFIB believes prevention and education is the best way to improve safety on the farm.

The Saskatchewan WCB system already has among the most expansive requirements for mandatory WCB coverage among most Boards in Canada. It is felt in some quarters that currently excluded sectors (i.e. farmers) should be required to participate in the WCB in order to enhance the Board's revenue base. When surveyed, over three-quarters of our agricultural members are opposed to the extension of any form of labour laws, including WCB, to this sector.

### Agri-business promotes safety at the farm gate

CFIB's farm safety survey revealed its Saskatchewan farm members have already implemented many measures to promote safety at their agri-business. In fact, 78 per cent of CFIB members provide employees with personal protective equipment, with another 76 per cent of respondents already practice proper safety precautions in their daily farming activities and set a good example for their entire staff. Forty-four per cent strive to manage the workload to reduce worker fatigue and another forty-four per cent of respondents inspect the farm regularly for safety hazards. Another thirty-nine per cent of respondents conduct workplace safety training, and have discussions with workers and family members. Other measures used by agri-business members include developing a safe play area for children (25 per cent), ensuring staff and themselves have completed specialized safety courses (21 per cent), and maintain a written safety plan (11 per cent). It is evident farmers are very committed to the safety of their employees and will continue to be an active partner in safety promotion in the workplace (see Figure 12).

Figure 12:

#### What measures are you currently using to promote safety at your agri-business? (% response)



Source: CFIB, Agri-Business Bottom Line Survey No. 28, Saskatchewan Data, 2013

### Most effective ways to promote farm safety

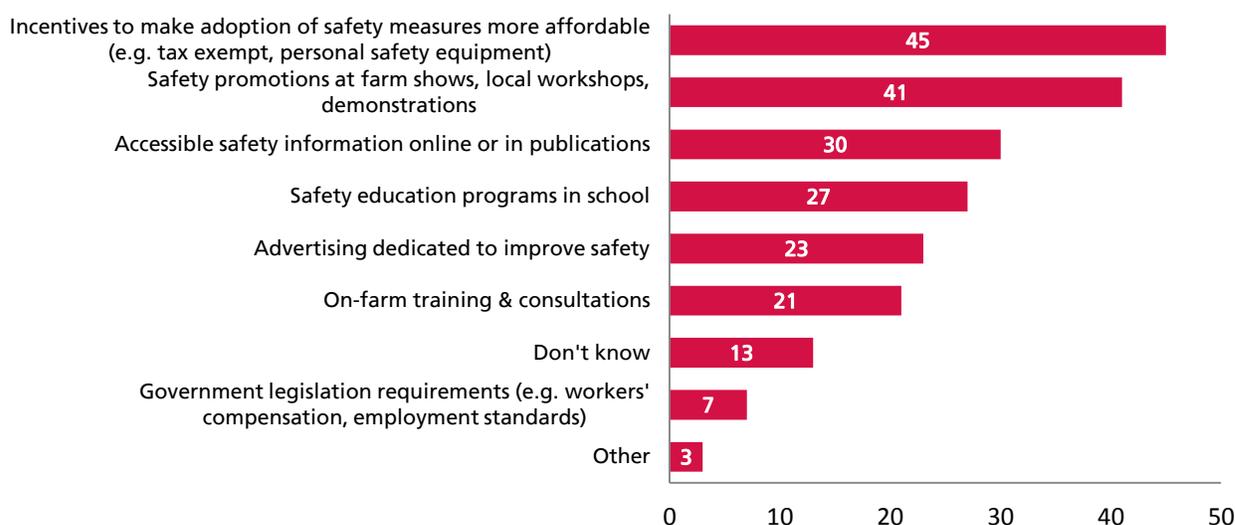
CFIB agri-business members believe the most effective ways to improve farm safety are through incentives to make adoption of safety measures more affordable (45 per cent), promotion at farm shows and gatherings (41 per cent), and accessible safety information online or in publications (30 per cent). A further 27 per cent prefer

safety education programs in schools. Another 23 per cent cite advertising dedicated to improve safety, and 21 per cent prefer on-farm training and consultations.

While some groups propose government legislation as the only way to address farm safety issues, Saskatchewan agri-business owners believe this is the least effective way to promote farm safety. In fact, only 7 per cent of CFIB's Saskatchewan agri-business membership identified government legislative requirements as an effective way of promoting farm safety (see Figure 13).

Figure 13:

### What do you believe are the most effective ways to promote farm safety to your agri-business?



Source: CFIB, Agri-Business Bottom Line Survey No. 28, Saskatchewan Data, 2013

While CFIB farm members believe that one farm injury or fatality is too many, they do not support onerous new laws that will only increase red tape with no practical effect. Instead, CFIB farm members are very supportive of constructive measures that will actually improve farm safety. Increased legislation is not a solution to prevent farm injuries, targeted promotion and education about farm safety is.

**Recommendation:** CFIB strongly opposes any expansion of mandatory coverage by the Board, especially in the agricultural sector.

## Classification and Assessment

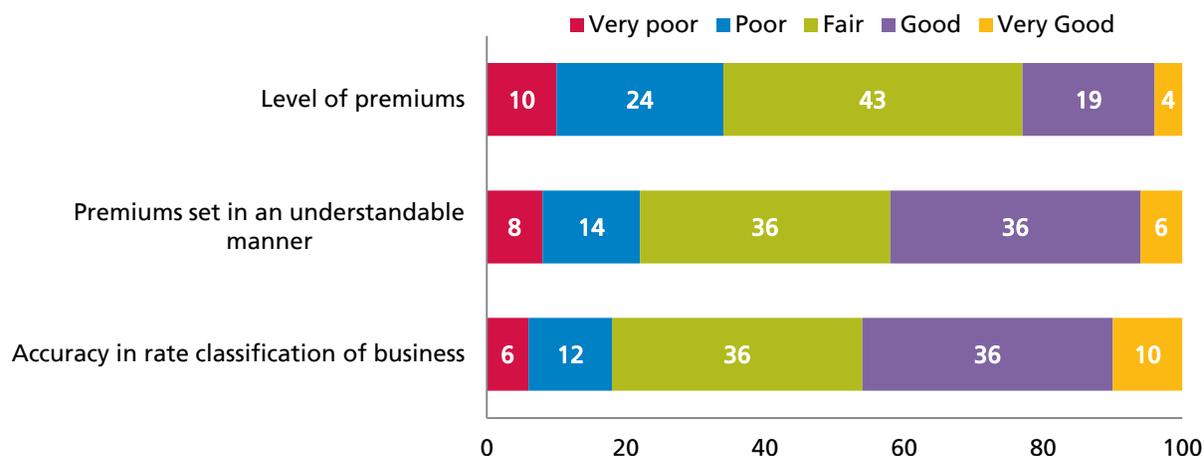
The Classification and Assessment section focuses on issues relating to paying assessments, accuracy in rate classifications, understandability on how premiums are set.

### Overall rating of classification and premiums

Workers' compensation boards classify employers based on the industry they do business in. Industry classification is used to determine the premium rate that is set for a business. As such, the accurate classification of a business is crucial for determining the assessments a business will be required to pay. CFIB will present survey results on how business owners rate three areas of WCB's industry classification: accuracy in industry rate classification; the level of premiums; and how well the rate setting process is understood.

Figure 14:

### How do you rate your WCB on each of the following? (% response)



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

#### Level of premiums

When asked how Saskatchewan small business members rated their Board on level of premiums, only 4 per cent of respondents said very good, 19 per cent said good, another 43 per cent said fair, 34 per cent said poor (24 per cent poor, and 10 per cent very poor) (see Figure 14).

#### Premiums set in an understandable manner

When asked how Saskatchewan small business members rated their Board on whether premiums are set in an understandable manner, only 6 per cent of respondents said very good, 36 per cent said good, another 36 per cent said fair, 14 per cent said poor, and 8 per cent rated it very poor (see Figure 14).

#### Accuracy in rate classification of business

When asked how Saskatchewan small business members rated the WCB on the accuracy in rate classification of business, only 10 per cent of respondents said very good, 36 per cent said good, another 36 per cent said fair, 12 per cent said poor, and 6 per cent rated it very poor (see Figure 14).

**Recommendation:** Ensure all classification and premium information is communicated to small business employers in plain language.

#### Payment schedule/options

Over the years, CFIB has encouraged WCB to provide as many payment options as possible for small employers such as credit card, bank payments and electronic funds transfer. CFIB is pleased Saskatchewan's WCB currently has five payment methods. The boards in British Columbia, Alberta, Ontario, New Brunswick, and Prince Edward Island also offer five ways for making a payment.

#### Payments of assessments on actual payroll vs. forecasted payroll

In addition to the industry premium rate, a component of calculating a business' assessment for coverage includes the amount of payroll. When an employer pays on actual payroll, the accuracy of assessments paid to

the board is never in doubt. On the other hand, some boards require business owners to forecast their payrolls and submit annual estimates in order to calculate their assessment. This may result in assessment calculations that are over- or underestimated. In the latter case, boards charge penalties to employers for these inaccuracies that are difficult for business owners to foresee.

To illustrate, a monthly system based on actual payroll allows January's assessments to be calculated and paid in February, thereby eliminating the guess work required to forecast a business' annual payroll.

Boards which allow business owners to pay their assessments based on actual payroll are the British Columbia, Ontario, Quebec, New Brunswick, Nova Scotia, and Prince Edward Island boards. Boards which base assessments on estimated payroll, but which allow for payroll revisions to be made after the annual estimate is submitted are the Alberta, Manitoba, and Saskatchewan boards. The board in Newfoundland and Labrador is the only board which bases assessments on estimated payroll, and does not provide an opportunity for business owners to revise their estimated payroll.

Saskatchewan business owners would find it easier to do business if they were able to pay WCB assessments monthly, based on their actual payroll. Having to forecast annual payroll is difficult and having to pay penalties for inaccurate forecasts is unfair.

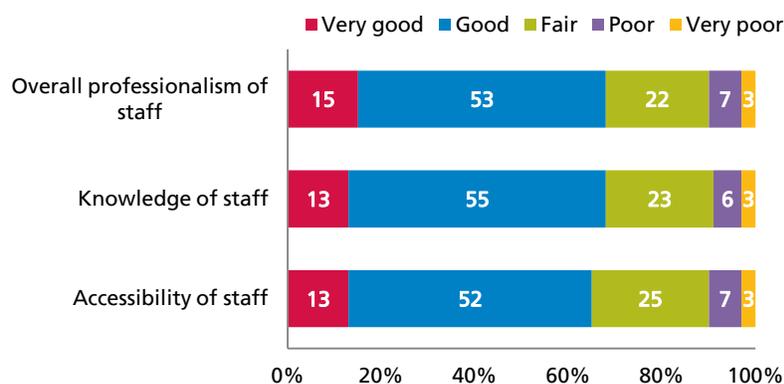
**Recommendation:** Allow employers to pay premiums based on actual, rather than estimated, payroll.

## Customer Service

An assessment of workers' compensation is not complete without examining how the Board is performing in serving their small business clients. For the WCB to offer good customer service, it must first understand more than just its product (e.g. regulations and policies pertaining to the workers' compensation system). It is important that Board staff also have the understanding of the needs of their clients.

Figure 15:

**How do you rate your WCB staff on each of the following? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

Many business owners speak of the frustrations they have when dealing with the Board. Customer service is a large component of paper burden or red tape, which in effect equates to time and money for small employers (refer to CFIB Sask Member Comments 3 and Appendix B – examples of how WCB either helped or hindered your business).

CFIB recognizes the Board has introduced some improvements to address a number of service delivery concerns, however recent CFIB survey results found that one third of Saskatchewan respondents still cite the service of WCB staff as Fair/Poor (see Figure 15).

### ***Overall professionalism of staff***

When it comes to professionalism of staff, 15 per cent of CFIB members rated the level of service as “very good.” Another 53 per cent said the overall professionalism of staff was “good”, and 22 per cent thought it

was “fair.” Seven per cent thought that overall professionalism was “poor”, followed by 3 per cent who thought it was “very poor” (see Figure 15).

### ***Knowledge of staff***

In the categories of knowledge of staff only 13 per cent of CFIB members rated the level of service as “very good”, while 55 per cent thought it was “good.” Close to 23 per cent of respondents said the performance was “fair”, and 6 per cent regarded the knowledge of staff as “poor.” Another 3 per cent described it as “very poor”(see Figure 15).

### ***Accessibility of staff***

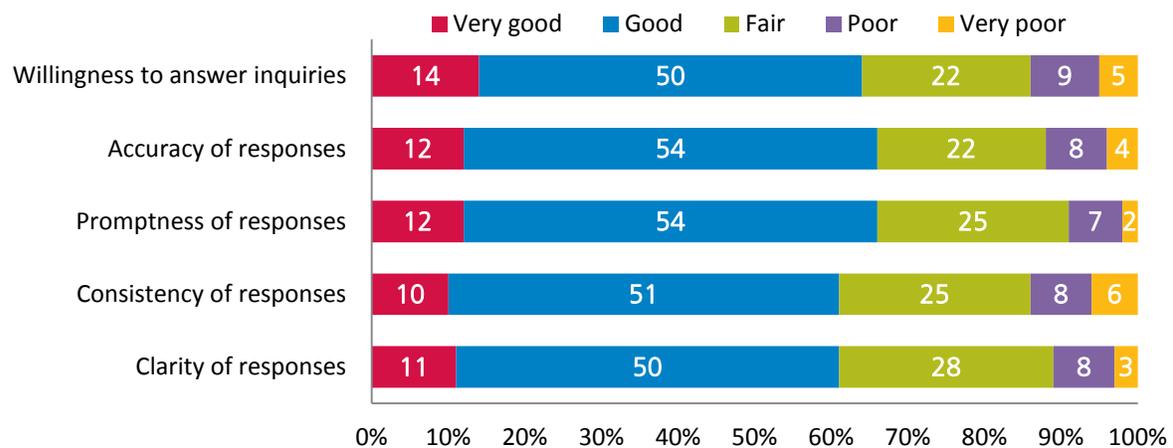
Only 13 per cent of respondents rated accessibility of staff as “very good.” Fifty two per cent of respondents rated this aspect as “good,” followed by 25 per cent as “fair.” Another 7 per cent said it was “poor”, and finally 3 per cent thought it was “very poor” (see Figure 15).

It is safe to say that no business would be satisfied if one-third of their customers continued to rate their service as Fair/poor. Given the WCB is solely funded by employers, the only rating to which the WCB should be striving is “good.”

When a business owner calls the Board, she/he expects to receive prompt and accurate responses to their inquiries. Employers suffer in many ways when board staff provide unclear or inconsistent responses. In Figure 16, CFIB assesses how the Sask WCB responds to their small business clients in five specific areas; promptness, clarity, accuracy, consistency, and willingness to answer inquiries.

Figure 16:

### **How do you rate your WCB responses on each of the following? (% response)**



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

### ***Willingness to answer questions***

In the categories of willingness to answer questions we found 14 per cent said it was “very good.” Another 50 per cent said the service was “good” and 22 per cent said the WCB’s performance was “fair.” Nine per cent rated the WCB’s willingness to answer inquiries as “poor” and another 5 per cent thought it was “very poor” (see Figure 16).

### *Accuracy of responses*

Small business owners wear many hats and must have confidence in the information they receive from WCB staff. Business owners certainly do not have time to verify, re-check and confirm the information they are provided. Twelve per cent of businesses rated the accuracy of information they receive as “very good.” While over 54 per cent said accuracy of responses was “good”, another 22 per cent said that they were “fair”. Eight per cent rated accuracy of responses as “poor” and 4 per cent said that the accuracy of responses was “very poor.” (see Figure 16).

### *Promptness of responses*

Similarly, only 12 per cent of CFIB members rated the promptness of replies from WCB as “very good.” A further 54 per cent cited this service quality measure as “good.” Twenty-five per cent rated promptness of responses as “fair”, while 7 per cent said it was “poor.” Finally 2 per cent thought promptness of responses was “very poor.” This is concerning given all the complexities of running a business in today’s environment. Waiting days for an answer to a question can pose significant challenges for a business owner (see Figure 16).

### *Consistency of responses*

Consistency ensures all business owners are receiving the same information. Inconsistent information can make business planning more difficult. In the category of consistency of responses it showed that 10 per cent of respondents thought it was “very good”, while 51 per cent said it was “good.” Another 25 per cent described consistency of responses as “fair”, and 8 per cent thought it was “poor.” Finally 6 per cent thought that consistency of responses was “very poor” (see Figure 16).

### *Clarity of responses*

In the clarity of responses category, 11 per cent responded that it was “very good”, while 50 per cent said it was “good.” Another 28 per cent said it was “fair” and 8 per cent thought it to be “poor.” Three per cent said that clarity of responses was “very poor” (see Figure 16).

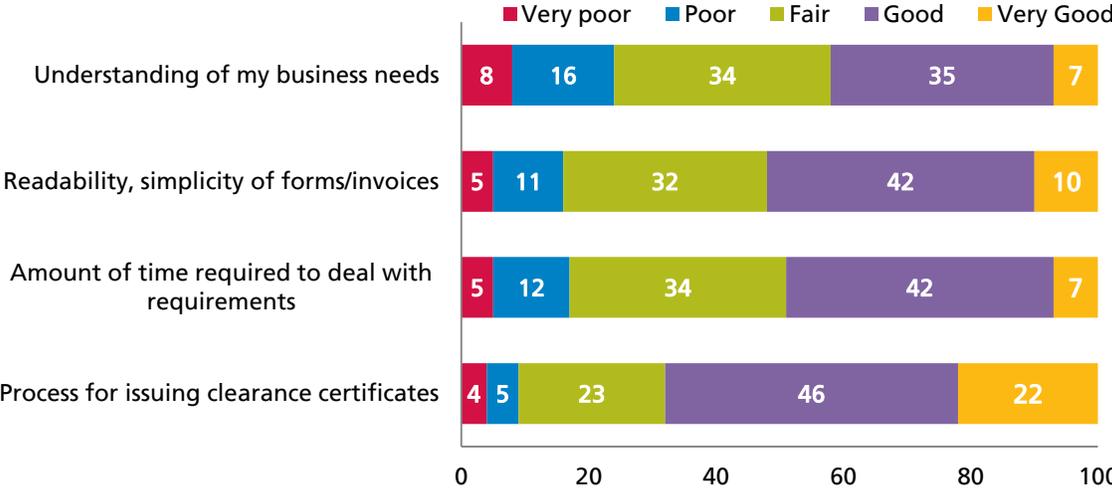
## *Overall rating of compliance burden*

The time it takes to understand a form, or the number of requirements of the workers’ compensation system, is time taken away from the business owner to operate the business. CFIB’s WCB survey asked Saskatchewan small business owners’ feedback on the following: the readability and simplicity of forms/invoices; the amount of time it takes to comply with the board’s requirements; and the process for issuing clearance certificates (see Figure 17).

## *Understanding of my business needs*

When asked how Saskatchewan small business members rated their Board on whether it understood their business needs, only 7 per cent of respondents said very good. 35 per cent said good, another 34 per cent said fair, 16 per cent said poor, and 8 per cent said very poor. (See Figure 17).

Figure 17: How do you rate your workers' compensation board responses on each of the following? (% response)



Source: CFIB 2015 Workers' Compensation Survey, Saskatchewan results

Amount of time required to deal with requirements

When asked how Saskatchewan small business members rated the WCB on the amount of time required to deal with requirements, 7 per cent of respondents said very good, 42 per cent said good, another 34 per cent said fair, 12 per cent said poor, and 5 per cent rated it very poor (see Figure 17).

Readability, simplicity of forms/invoices

When asked how Saskatchewan small business members rated the WCB on readability, simplicity of forms/invoices, only 10 per cent of respondents said very good, 42 per cent said good, another 32 per cent said fair, 11 per cent said poor, and 5 per cent rated it very poor (see Figure 17).

Process for issuing clearance certificates

When asked how Saskatchewan small business members rated the WCB on the process for issuing clearance certificate, 22 per cent of respondents said very good, 46 per cent said good, another 23 per cent said fair, 5 per cent said poor, and 4 per cent rated it very poor (see Figure 17).

### CFIB Saskatchewan Member Comments 3: Please describe your views of WCB's Customer service

*"In my experience the WCB is extremely one-sided. They come at every issue from the point of view that businesses and business people are out to exploit employees at every turn for their own personal gain. Where is the equality in representation in these cases that come before the Board?"*

*"We had our first claim this year and we didn't even have time to report it before we got a threatening letter from Workers' comp. That didn't sit very well with me as the owner who has paid in for 10 years without a claim. Not sure if that is the approach that is needed? Could maybe be helpful in the process instead of threatening."*

*"Our severely hurt worker got lost in the system 3 times in first 4 days. The employee was not given any information to help him and his wife out. He finally was able to make call after call after call to get assistance."*

*"Changing rules and being unclear about the rules."*

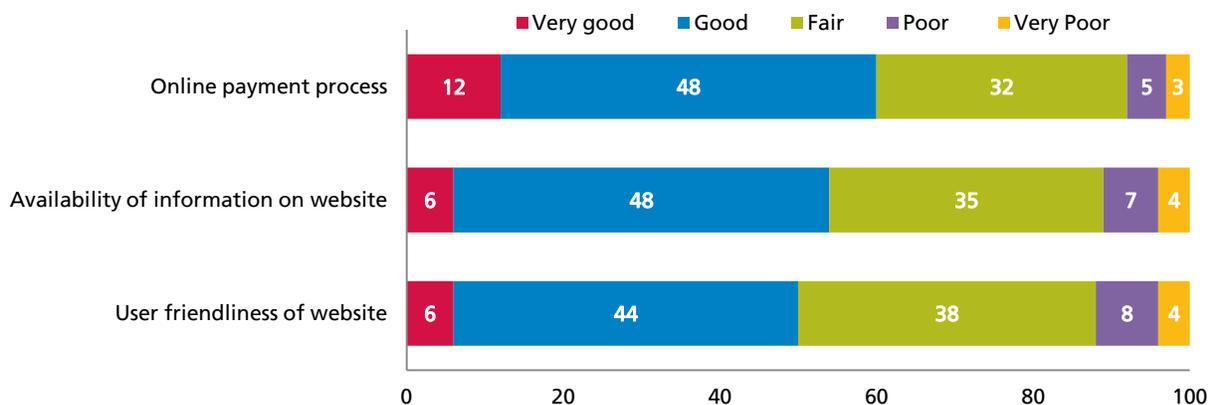
*"The WCB could work if it was balanced, but it's not. It should have advocated for both workers and employers and not just window dressing. A real honest system with checks and balances."*

## Small business views of WCB's website

Websites are becoming even more important for businesses. For this reason we're pleased the Saskatchewan WCB has moved toward providing more online services.

Figure 18:

How do you rate your WCB website on each of the following? (% response)



Source: CFIB Workers' Compensation Survey, 2015, Saskatchewan results

### Online payment process

In the category of online payment process, we found 12 per cent of respondents rated it as very good, followed by 48 per cent rating it as good. Another 32 per cent said the WCB's online payment process was fair, with 8 per cent rating it as poor (5 per cent poor, 3 per cent very poor) (see Figure 18).

### Availability of information on website

When reviewing the availability of information on the website, only 6 per cent of respondents rated it as very good, followed by 48 per cent rating it as good. Another 35 per cent said the availability

of information on the website was fair, with 11 per cent rating it as poor (7 per cent poor, 4 per cent very poor) (see Figure 18).

## User friendliness of website

Only 6 per cent of respondents rated it as very good, followed by 44 per cent rating it as good. Another 38 per cent said the user friendliness of WCB's website was fair, with 12 per cent rating it as poor (8 per cent poor, 4 per cent very poor) (see Figure 18). As one business owner said: "*WCB's website does not provide confirmations for information entered into it. This is very unusual. Also WCB issues clearances for invoices and then is unable to understand that holdbacks are kept in the B code and final payouts can be issued in a different calendar year.*"

## Principles of customer service standards

CFIB believes the underlying principles of customer service standards should include: respect, accessibility of information, consistency of information, clarity of information, timeliness of information and accuracy of information.

**Recommendation:** CFIB recommends the following ways to improve the customer service WCB provides to Saskatchewan business owners:

- ▶ Provide training to front-line staff to ensure they are knowledgeable about the needs of small businesses.
- ▶ Develop and adhere to a Fairness Code for Employers (e.g. Saskatchewan TaxPayer Service Commitments and Standards Code, WorkSafeBC Employers' Fairness and Service Code), making it simpler for employers to understand the services and requirements of the workers' compensation system.
- ▶ Ensure all information is presented in plain language.
- ▶ Adapt working hours to suit needs of small business.
- ▶ Measure and report small business customer service satisfaction.
- ▶ Provide useful information on board websites in a user-friendly manner (e.g. information on injury reporting, claims process, and paying assessments).

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## Other administrative issues

### Cost impact analysis and the need for supporting statistical evidence

CFIB recommends the final report of the COR include statistical and financial data to support the conclusions drawn. We also believe all final recommendations of the COR should be thoroughly costed to test their practicality for implementation. When CFIB surveyed its Saskatchewan members, an overwhelming 89 per cent agreed the final recommendations of the COR should be thoroughly costed before implementation.

As a final note, it should be made absolutely clear to the Board and to all stakeholders that the COR's report is advisory only, and should not be construed as automatic Board policy. An extensive public consultation process prior to any final acceptance must follow release of the COR's final recommendations as either new statutory changes or as changes in Board policies.

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## Recommendations

CFIB's recommendations to the COR are focused on the elements necessary to ensure a sustainable WCB system.

### New governance model

1. The Workers' Compensation Act should have a clear "Purpose Clause" which sets out various insurance principles. The critical concept of "competitiveness" be enshrined in the purpose clause, as well as a clear, statutory duty imposed upon the Board to operate in a "financially responsible and accountable manner" on behalf of all of its stakeholders.
2. **A multi-stakeholder, part-time Board:** With respect to the most appropriate composition and structure of the Board of Directors, CFIB recommends the Act be amended to replace the current full-time Board structure with a multi-stakeholder, part-time Board. The Board would become a governance Board without any Appeal function (see Appeal Process section). Specifically, we recommend that the Saskatchewan WCB be reconstituted as a seven member Board made up of a Chair, two employer directors (both from large organizations and small business), two labour representatives (both from union and non-union workplaces), one Board member from the medical profession, and one Board member with experience as either a professional actuary or management in the insurance industry. These appointments should all be based on lists of names submitted from labour, business and professional organizations.

### Appeal process

3. Create an independent Avenue for Appeals. COR must provide details to stakeholders including a full cost analysis and principles surrounding any recommendations for a new Independent Appeal Tribunal - to determine its potential impact on WCB premiums. COR must also determine if this appeals function could be handled through existing appeals/adjudication mechanisms already in Saskatchewan.
4. It should be noted that employers presently receive very little status in the appeals process. Section 171.2, which deals with the employer's access to information, specifically excludes participation by an employer. CFIB believes this should be amended to allow employers access to the process, be it external or internal.

### Health & Safety Leadership Charter

5. CFIB recommends the Saskatchewan WCB continue offering the Health and Safety Leadership Charter on a voluntary basis, as well as encourage employees to also become signatories to this important charter.

### Financial accountability

#### WCB's Funding Policy:

6. Change WCB's current targeted funding percentage of 105 per cent to 120 per cent to a funding ratio (total assets over total liabilities) between 100 per cent and 110 per cent.

#### WCB's Surplus Distribution Policy:

7. Rebate surplus monies when the funded status rises above a threshold of 110 per cent.
8. A surplus should be rebated in the year it is realized, similar to Alberta - and not distributed over a five year period.
9. WCB provide quarterly financial statements to stakeholders.

10. The Board must practice continued vigilance on administration costs.
  - a. Relocate WCB Regina downtown office space to less expensive location. Savings could be reinvested into worker safety and lower premiums for employers.
  - b. WCB levies should be used solely to fund the compensation of injured claimants and not the bureaucracy with a government ministry. In many cases, OH&S programs duplicate those already provided by industry.
11. All final recommendations of the COR be thoroughly costed to determine the long-term financial impact to the Board, and as importantly, the impact on Saskatchewan employers who pay 100 per cent of the cost of WCB.

### **Cost of premiums**

12. Modify the definition of time-loss claim to exclude wage loss payments that are solely a result of medical appointments.

### **Claims Management**

13. Ensure employee reinstatement and return-to-work provisions take into consideration the realities of running a small business.
14. Work closely with small business owners to promote health and safety.
15. Ensure the claims process is fair, among other things (e.g. handled in a professional manner, effectively communicated).
16. Establish an independent office of the Employer Advocate to provide meaningful support to small business.

### **Rate setting and assessments**

17. Ensure WCB implements ERRC recommendations.
18. Section 134 of the Act be changed to require an external Stakeholder Committee to review the rate setting model at least once every five years.

### **Coverage**

19. The maximum insurable earnings limit should not be removed in the calculation of workers' compensation premiums and benefits.
20. One of CFIB's main principles is: "*No worker should receive more on compensation than he/she would from working.*" CFIB therefore recommends a graduated approach to reducing overcompensation along the lines of New Brunswick and Nova Scotia. The Act should be modified so that all future claims (after the date amendments come in to force) should be at a benefits percentage of 75 per cent of net earnings for the first 26 weeks and 85 per cent thereafter.
21. A waiting period of three days be implemented before an injured worker is eligible for compensation. Where the worker is disabled for longer than the day on which he/she is injured, compensation shall be paid on and from the fourth day from the commencement of this loss of earnings excluding the day on which he/she is injured.

22. Modifications be made to the assessment system to introduce some elements of occupational classification, for example, a clerical rate.
23. Allow businesses to buy their workplace disability insurance coverage from a private insurer (not the workers' compensation system) (See Figure 11).
24. Change the Act to allow Directors the flexibility to purchase optional coverage, if they so choose, as in Alberta and Manitoba.
25. Abandon further expansion of mandatory coverage by the Board, especially in the agricultural sector.

### **Classification and Assessment**

26. Ensure all classification and premium information is communicated to small business employers in plain language.
27. Allow employers to pay premiums based on actual, rather than estimated, payroll.

### **Customer Service**

CFIB recommends the following ways to improve the customer service WCB provides to Saskatchewan business owners:

28. Provide training to front-line staff to ensure they are knowledgeable about the needs of small businesses.
29. Develop and adhere to a Fairness Code for Employers (e.g. Saskatchewan TaxPayer Service Commitments and Standards Code, WorkSafeBC Employers' Fairness and Service Code), making it simpler for employers to understand the services and requirements of the workers' compensation system.
30. Ensure all information is presented in plain language.
31. Adapt working hours to suit needs of small business.
32. Measure and report small business customer service satisfaction.
33. Provide useful information on board websites in a user-friendly manner (e.g. information on injury reporting, claims process, and paying assessments).

### **Other administrative issues**

34. CFIB insists that all final recommendations of the COR be thoroughly costed to test their practicality for implementation, and to assess their resultant impact on costs and competitiveness for all employers and non-injured workers (through higher payroll taxes).

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## Conclusion

Once again, CFIB appreciates the opportunity to present our members' views and concerns to the Workers' Compensation Act COR. We look forward to providing comment on the Committee's final report, once released.

While the Saskatchewan Board's financial position is sound, this should not be a signal that costly legislative changes are warranted. Instead, CFIB recommends all final recommendations of the Review Committee be thoroughly costed to determine the long-term financial impact to the Board, and as importantly the impact on Saskatchewan employers who pay 100 per cent of the cost of WCB.

CFIB reminds the COR that the vast majority of small firms are concerned about workplace safety beyond the financial impact it has on their firm. In virtually every small business across Saskatchewan, the employer works side-by-side with his or her employees every day. They are often the employer's friend - many times even family. If a small business is interested in getting an employee back to work as quickly as possible, it is not to punish the employee or make sure they re-injure themselves. Small business owners care about the health and well-being of their staff - as people and as the most valuable resources of the firm.

We owe both workers and employers the best and most efficient workers' compensation system possible. Let us not disappoint them.

### CFIB Small Business Member Comments/Views

We also received hundreds of member comments about the Saskatchewan Workers' Compensation Board. These comments are provided in *Appendix A & B* (see attached).

# Appendix A

November 2015

## CFIB Saskatchewan Members' Views/Comments

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### Please describe the claims/appeal experience from your perspective

*We had an employee with previous neck condition who made a claim. We went through many appeals etc. worked with WCB to create a back to work program for light duties and limited lost time against my account.*

*Basically they will not listen to any realistic suggestions by the people that fund the organization, us the employers. Also once you start an appeal the people you have to talk to keep changing jobs so you never have the same person to discuss an item with.*

*Currently have an employee who went to Workers' Compensation with an injury that was on a previous claim from 2007. Was told they have to start the claim again because it has been too long for 2007 claim. The previous claim was not with me. The injury is a consequence of that claim. I was not told I can appeal. I just recently found out I can appeal- it has been three weeks since I sent my appeal to the caseworker I have not had a reply.*

*We are currently having a questionable claim being worked on / investigated by WCB. We have been contacted to get interviewed about the claim and interviews have been completed, but there has been a long lull with no information on whether or not the claim is being accepted or not. A status update would be good.*

*We were happy with the way our employees claim was handled.*

*Sask WCB made the process for legitimate claims difficult at best and then quickly settled a fraudulent one.*

*I felt that fraud was occurring. They didn't seem that interested.*

*At times it is difficult to get information and guidance from the claims administrators. If you are new to providing a return to work program for your employees there is very little support available.*

*In my experience the WCB is extremely one sided. They come at every issue from the point of view that businesses and business people are out to get employees at every turn for their own personal gain. Where is the equality in representation in these cases that come before the Board? In my case I had a worker go through the system and a rehabilitation period. One week short of finishing her 12 or so week back to work she quit her job due to issues that were not related to her injury. WCB left her on my dime and said I failed to provide her with work. Then they proceeded to train her in another occupation on my tab. They said you can appeal so I did and they said no but you can appeal again. They just wear you down till you give up. This case has me in a penalty position to the tune of \$8,000 per year. I was getting a rebate prior to this. I have a small business and it's almost more than I can bear.*

*Even though we appealed (and won) a case where the injured worker was working for other employers while still receiving benefits from a claim against us, we still continue to pay for this worker every time he hurts himself even though he is working for other employers. At some point new injuries should be the responsibility of the new employer.*

*Employee cut finger at work, requiring stitches. WCB claim filed with satisfactory outcome.*

*It's hard to prove false claims especially muscle injuries. It's on employer to prove this and doctors always error on the side of patient. We have seen many false claims to get off work and get paid especially during winter months.*

*I disagreed with the resolution as the employee was "milking" the system which resulted in a surcharge being levied against the business.*

*I felt I had no voice. They told me this was happening & that this is the process. I had no voice or they didn't care what I had to say regarding the claim.*

*We had our first claim this year and we didn't even have time to report it before we got a threatening letter from Workers' Compensation. That didn't sit very well with me as the owner who has paid in for 10 years without a claim. Not sure if that is the approach that is needed? Could maybe be helpful in the process instead of threatening.*

*As an owner, they treat us totally unfair when an owner needs to make a claim.*

*Claims seem to last longer than they first diagnose. At times, employee claims seem bit bogus (i.e. back pain) and there is no recourse for the employer to access medical information. Most recent claim seemed like physio kept employee out of work longer than what may have been needed. However, no big complaints. WCB has always been cooperative and professional.*

*A previous employee submitted a dubious claim at best. But WCB does not have the resources to investigate every case. And so the claimant took advantage of the system. At the very least WCB should make it public knowledge those cases where false claims have been exposed and the fraudsters convicted.*

*Our severely hurt worker got lost in the system 3 times in first 4 days. The employee was not given any information to help him and his wife out. He finally was able to make call after call after call to get assistance.*

*The claims experience went quite well.*

*Had a worker lose an eye from work place injury, no compensation. I feel I shouldn't have to pay into something that doesn't even help my employees when they really need it.*

*It seems to take an awfully long time to get a case moved to the appeal process. Outcome of this appeal has been OK from an employer perspective on both cases we have appealed. Wish there was more scrutiny towards these cases and penalties associated with fraud.*

*E5 form filled out every 2 weeks is wasted effort. Same thing every time. They have an A option employee has returned to work and a B option employee has not returned to work but no C option where the employee has returned but at reduced capacity or hours.*

*If you are not on the webpage frequently, you have to re-apply for a new account. I refuse to use it for the annual return. The staff grilled me, the office staff, about how exactly to build a concrete grade beam because that was the description of our injured worker's main duties. They put the claim into the wrong company name just because it came up on their phone display. Utter chaos. Untrained staff. When I asked what my worker was supposed to live on when he had not heard back from them after two months, they told me to pay him myself and they would repay me, the employer. I pay premiums for a service that I am not getting.*

*Overall it's fairly easy to process and easy to understand.*

*Generally, the claims process is fine. The appeal process is very lengthy and complicated and biased against employers. We recently settled an appeal successfully regarding a person who was an employee 10 years ago who had been claiming repeatedly over that period regarding other employers and the WCB concluded after a one year appeal that they made a mistake in charging these claims back to me and have now agreed to reverse the charges. However, it took a year to work our way through the appeals process finally taking the case to the CEO level.*

*It was handled very well and promptly.*

*Pretty easy and painless done online makes it easy.*

*Sometimes I feel you accept bogus claims that drive the premiums up for no reason.*

*I've been involved with the compensation claims process for over 30 years, and the last 10 years there has been a vast improvement in the entire process. The staff is friendly and helpful to both the employer and employees.*

*The claims process is very slow to be acknowledged and a claim set up. Too much time goes by before the claim is monitored in regards to needs (especially for short term claims) and not much interest is paid to claims that are within the recommended time frame. i.e. It should take 4 - 6 weeks so have no interest if claim is complete and employee able to return to work earlier. Also I have been told if the worker's version of the claim and the employer's version of the claim are 50/50 then the employee is given the benefit of the doubt. Why?*

# Appendix B

November 2015

## CFIB Saskatchewan Members' Views/Comments

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### **Please provide an example of how your Workers' Compensation Board either helped or hindered your business.**

*I am a new retail business and the only experience I have had with them is paying my fees.*

*Poor communication.*

*Answered all our questions and provided solid advice when we started up last year.*

*Have not required any specific help other than some information provided when audited.*

*The senior management of the Saskatchewan WCB has been very accessible. This has improved communication resulting in better mutual understanding of the issues. Mission Zero has been very beneficial in getting employers like our company focused on safety in the workplace on a daily basis. Our WCB claims and costs have been reduced substantially due in part to the Mission Zero Program.*

*Changing rules and being unclear about the rules.*

*We have separate disability coverage that is much better than WCB.*

*We have to pay into it and cannot conceive of a way to claim from it.*

*At this time we are fortunate to have no WCB claims, therefore have no comment!*

*Clearances and letters of good standing are processed immediately-very helpful.*

*As of this year I am forced to have coverage. In the past I could opt out as I am the owner. It is unfair that I am forced to take coverage at such a high rate that only covers me when I am working!*

*It's good in the sense that as an employer, myself and workers have some level of financial coverage in the case of an accident.*

*Haven't dealt directly with them for years, so I have no input on the interaction with them. As for services, it is a hindrance you go through our list of unregistered vendors to report those amounts on the annual return. It seems unfair that we can't deduct equivalent fees from those vendors to pay for the premiums we have to pay on their behalf.*

*I was given incomplete and incorrect information that cost both myself and my employee money and forced him to use holiday time to cover time off for an injury that we were led to believe would be covered and then wasn't.*

*When I had a concern about a worker not being accurate in reporting his symptoms I did not get much support or help from the claim administrator. Very little communication about how the worker is actually doing and how it is working for us on the employer end in accommodating the return to work. For smaller businesses it is difficult to accommodate the employee when they are not able to be on the job site and need to have office type duties.*

*As an owner, we cannot get fully compensated for an injury that keeps us from fully doing our jobs. I would like to see the compensation percentages for owners against employees as employees can get fully compensated and stay away from work where an owner who can't do the physical work, but still needs to mentally run the business does not get fully compensated.*

Sask WCB uses a "participation Factor" that unfairly benefits larger businesses. We do everything we can to insure a safe workplace but because we are small we don't qualify for the absolute best rates. Also because our business doesn't fit neatly into one of WCB's classifications we are lumped into a classification that doesn't accurately reflect our company's risk factor. This combination means that we are paying a much higher premium than we should be. In over 20 years of business we have never had to make a WCB claim, but our premiums have kept going up almost every year, even in years when WCB has been bragging about overall rate decreases.

Helpful during our last claim about 6 years ago. Everything went smoothly.

WCB's website does not provide confirmations for information entered in it. This is very unusual. Also WCB issues clearances for invoices and then is unable to understand that holdbacks are kept in the B code and final payouts can be issued in a different calendar year.

Really have never interacted with them. Never had a claim. We just pay, pay, pay. Communication is clear, website is good, online payments are easy.

Small businesses like ours (55,000 man-hours / year) can get significantly hurt by having even one recordable incident in any given year. The formula that is used in industry does not accurately reflect a company's performance. Now industry seems to be moving towards having a third party manage your health and safety information for these large industries / companies, Companies like ISNetwork & Cognibox put a lot of merit on what your WCB stats are. Having one incident essentially cripples a small company and we won't even qualify to do work for some of these companies due to our ranking.

Releases are handled very promptly.

Helped me understand about contractors. We had a lot of them last year because of the new building. They explained it to me that was very easy to understand.

When a contractor is hired to work on a building, the business owner must make sure they have WCB, before hiring them. I agree with this. The contractor should be responsible for their own employees, and should be covered under WCB. Just as we, the business owner, are responsible for our employees, and are covered under WCB. It should not be up to The Business Owner, to insure the Contractor's employees. It is the responsibility of the Contractor.

Premiums should be reduced with a no-claims record.

Listened to my concerns and acted promptly.

Way, way, overpriced.

We feel WCB is a fairly cost effective insurance for our employees.

Previously as a business owner I could opt out and get my own health insurance. Now it is mandatory to get Workers' Compensation.

As business owners, my wife and I draw wages from the business to take advantage of certain programs like RRSP's, while still taking dividends. If you don't draw an income, you cannot invest into RRSP's. Because we draw an income from our business, in Saskatchewan, we are required to pay WCB as we would for any other employee. In most other provinces, as business owners, we could choose to not pay WCB for ourselves. We would still be required to pay for our employee's, and understandably, but not for ourselves. Much like short-term disability, as a business owner, it would be very hard to claim because we even though we may not be able to perform our job, we would still be able to dividend funds from the company as pay, and that would compromise our short-term disability/WCB. We feel that being required by the Saskatchewan WCB to pay the rates for myself and my wife, they are hindering my business by having to pay for unnecessary fees. Removing this would reduce our overhead by roughly \$1,000 per year.

The staff is always prompt to answer my questions and have been very helpful. However I still find the website hard to understand, difficult to navigate and I'm not sure I'm still clear on what is required from us for our subcontractors. I would love to know how to make this process simpler and more efficient.

I just had a claim for four days away from work due to injury and the claim was handled very well.

In difficult cases has helped co-ordinate the information between physician, employee, employer. Also helped understanding of requirement of employee to return to light duty when it was available.

They are normally quick to send clearances etc. when requested.

WCB accepted a claim I don't think they should have which caused an increase in our premiums.

*Started charging for All T4's I could buy my own cheaper. I should have the right to choose if I own my own business.*

*There have been times when they demanded further testing to prove false claims but there is lots of manpower involved to get them to listen.*

*When a new business tries to get a WCB account it is sometimes very difficult. Incorporated contractors have an especially difficult time getting an account or any coverage if their form of compensation for the business owners is dividends rather than wages. It shouldn't matter how the owner/shareholder is compensated. WCB should provide protection for that person without forcing them into a situation where they need to pay themselves wages. Wages are not always the preferential method of compensation for the shareholder/owner/worker.*

*Workers Comp stalls claims and is slow paying out to the person when sick. They try to starve injured employees out and cancel all claims. It is a budget thing not what people need. If fraud is found the person should be prosecuted and not make everyone suffer. Helped to explain the ratings system.*

*We have not had a claim or a problem since we have been with SK WCB, I believe it has been 15 years. So I could not answer some of the questions as I have not had the experience. Thank You.*

*It hindered my business by charging owners for compensation which I could never collect.*

*Been happy with them, however we haven't had a claim in over 30 years.*

*Years ago we had a claim for an employee who hurt his ankle. This was caused by the employee dismounting off some piping incorrectly which aggravated an old childhood injury. After this claim, I believe our premiums more than doubled. If we would have had another employee get injured, we would not have been able to afford to pay the premium.*

*I should be able to have a premium that covers any contractor or day labour help that I may need without having to register them etc. We are a very small company and occasionally have to have someone help us with small projects.*

*We have been forced to register and pay into this program. In 40 years of hairdressing no one has either made a claim or received a claim in our industry yet the government has decided to give our information from our taxes to Workers' Comp. and force us to register and pay into this program. Most of the hairdressers are chair rental and should have a choice whether not they choose to pay into it. Instead they have put a mandatory premium from their employer.*

*Prevents court cases that could become very costly to companies and time consuming to everyone.*

*We call for letters of good standing on a regular basis and they are extremely fast and friendly to deal with.*

*Premiums are way too high!*

*High premiums very costly.*

*We are a small company with four people. I understand that we need coverage on the two employees but now we have to cover ourselves as owners. To me this is just a grab of money and we will pay the same rate as our employees and our risk of being hurt is not the same.*

*I recognize their value. Our business is an office so never had any dealings with other than annual renewal.*

*I have a big problem when they force us to pay workers comp for all the directors paid on T4's. This pretty well doubled my payments this year and most of the directors don't even work out in the field. Seems like a big grab when they tell us the rates have went down.*

*The Return to Work Program has helped get some employees back to work on a more timely basis.*

*Just helped themselves to more premiums from directors.*

*In Saskatchewan the WCB should disband the "Safety Associations" that it funds and put more emphasis to assist workers to retrain and re-enter the work force. They should fairly and quickly compensate injured workers. One case I'm aware; a worker received permanent injures was asked after his assessment to come back in three years for another assessment. In the meantime they fund 12 "Safety Associations" which carry out tasks that the private industry is more than capable of carrying out and more effectively. In another case that occurred almost 30 years ago the WCB then retrained an injured labourer as a structural engineering technologist and that person now owns an engineering consulting company employing 20 people (this is return on investment). Safety Associations are not a return on investment. They are "empire building" on the part of bureaucrats and a drain on limited resources.*

*Too much paperwork. Should be simpler without penalties for payroll forecast.*

*Filling out the injury forms seem like a lot of work.*

*Helped by providing coverage for employees legitimately hurt at work.*

*It is no longer an option for the owner's of a business to opt out of worker's compensation.*

*It is onerous to chase down every company that did work for me to report at the end of the year for clearance and then pay extra premiums for those not registered with WCB. There needs to be \$ floor where reporting is not required – how about work where the labour component is under \$250 for the year?*

*Have not had a work related accident on our farm since signing up with worker's comp. It gives us peace of mind in regard to our employee's safety. Would like more info regarding owner/ operator coverage.*

*They helped with explanations of some requirements.*

*We have been in business for 37 years and have never had a WCB claim. We have had 1 audit in 37 years and the WCB auditor was very rude.*

*I could write a book but I don't have time – see previous comments.*

*We have employees who work for us as an employee and also separately as a contractor and they were helpful in answering how to allocate amounts to the wages & the contractor earnings.*

*I have paid over 200,000.00 dollars over the last 25 years. Have had one claim in which an employee not wearing safety glasses that I have supplied get a wood splinter in his eye. The send me a bill for the doctors visit as they have determined that I was at fault because I did not ensure that he was wearing the glasses. Not sure how I was supposed to do that and where do my premiums go if not for the claim. Seems like a complete rip off as I can get cheaper comp plans in the private sector but unable to opt out of WCB.*

*Don't understand my business.*

*For the first 3 years of business we were misclassified and were paying double the premium because of the error. It took about 6 months to correct the problem and issue a credit on our account. Really have no comments to make, our interactions have all been well handled.*

*In ten years of owning and running my own business I have never had to make any kind of claim, but the payments just never stop.*

*WCB holds hostage clearance letters, I am making payments. Our industry has changed dramatically but not our rate. Now owners have to pay WCB, even injured we have to work or lose our business. A monthly payment schedule would give employers time to pay. We have to send employee info to Federal Government monthly it would be sending the same information and take only moments on line. We have paid 200.00 of the 800.00 bill but they proudly flaunt their power by sending us a letter that says someone has asked for a letter of clearance and they are not going to give it to them until the balance is paid in full. Our rates should reflect our use of this service, which has been zero claims. Now we pay more, this is just another government tax increase; take more from small businesses that are already struggling on the verge of bankruptcy. The government implemented change to energy efficient major appliances and this has left our industry scrambling to re-train, at our cost, all employees.*

*It helps my business by removing liability that would otherwise fall entirely to me. For the workers it is a poor and ineffective program, for employers there is some time and effort involved, but it does prevent us from otherwise having to insure for work related injuries. I believe the existence of the program generally promotes small business.*

*Never helped my business yet. Just cost way too much for no action when needed.*

*Due to an employee that had a previous incident with his elbow, playing volleyball at the lake, he was off for 2 weeks. He came back and worked for about 2 weeks and said it happened at work. No one would listen to our side and he was collecting benefits for a year until WCB finally cancelled his coverage. In the meantime our rating went down and in the eyes of some of our customers because of this rating ( ISNET ) we were not allowed to work on some industrial sites.*

*The board in Sask has now made it mandatory to cover owners of the company without any discussion with business owners. We all already have 24 hours a day coverage from private insurers & do not require both. Just another \$3000.00/yr, begs the question what's next!!!*

Looking for answers for contract employees and every time you talked to someone you got a different answer. Some were helpful and some knew they got paid every other Friday. Finally got a hold of a lady that knew what I wanted and how to get there and wasn't afraid of her position to tell me what to do. She gave her name and ext to call direct.

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## General Comments:

*They seem to be trying but I still get the impression they think they have a right to be the only insurer because they demand your premiums and yet seem to think they can deny any claim for compensation!*

*Making premiums mandatory for all T4s including directors of the company is just another tax on business owners.*

*We simply cannot afford this increase.*

*I suggest that Saskatchewan follows Alberta's footsteps in promoting good safety department in each company. Alberta offers a reduction in the rate if the company has COR. And if it proves to reduce the amount of claims it can be further reduced. That is a great incentive.*

*I don't believe that WCB recognizes that different sized companies can be crippled and essentially not be eligible to work for some of the larger companies or industries due to a faulty claim that affects their WCB rate. The amount of time that a typical claim takes to get to the appeal stage is quite long and the costs that total up can be significant. Even though you might be awarded partial cost relief due to dubious reporting from an employee the damage has been done as your incident rate is still tarnished.*

*Independent contractors (with no employees) – as it stands now, make the decision, whether to carry WCB or not. I think it should be mandatory that all business, small or big, should have some kind of disability insurance, whether it is WCB or private insurance. They need to be responsible for their own business and should not be the responsibility of the person who has hired them.*

*This should be an optional program that you choose to pay into not one that you are forced to pay into. I deeply resent the fact that our government has given our tax information to Workmen's Comp. and forced us to pay into a program we don't need or want or use.*

*Owners need to have different values on the wages (physical performing work and mentally running the business). Example: If Owner can't perform a task because he as an injury that doesn't allow him to perform that task but he mentally there to see that the person doing the job needs to be supervised, the owner is considered to be at work and does not get compensated by WCB.*

*WCB needs to understand how the construction industry works and make their system adapt to the corporation's needs.*

*WCB places their ease in operation above that of the people that they are to serve. I don't believe they are very demanding of themselves.*

*I feel a business should be able to shop around for the best price.*

*I think some competition would be good for this area.*

*The WCB could work if it was balanced but it's not. It should have advocates for both workers and employers and not just window dressing. A real honest system with checks and balances.*

*An employer cannot afford to have a worker uninsured and in a lawsuit situation. But employers should not have been forced to pay another high insurance fee to fight for a small payment from WCB.*

*Ownership should not have to pay into Workers' Comp. I do believe everyone should be able to cover themselves with their choice of insurance.*

*Would like to be able to compare.*

*As I have never had a claim I have had little to do with WCB other than payment of premium.*

*Uninformed on this survey and currently have no employees.*

*WCB is overpriced for what we get for coverage. I do believe that employers need something for employees but*

could make that the choice of the employer. There would have to be some rules because some people would abuse it.

A unified system for all employees' works better than have a pick and choose coverage system. This way no one falls thru the cracks for coverage.

Private Insurance would actually operate like a real business.

Workers' Compensation covers a person going to work is injured or killed in a vehicle accident without affecting premiums. More policing should be done on people that are collecting workers' compensation.

That's a "No Brainer"! They are the wrong people in the wrong place doing an absolutely shoddy overpaid job.

I know of many employees treated unfairly by WCB.

Premiums should be done as a payroll remittance rather than paying six months in advance and trying to estimate the amount owing.

Providing the ability to send required reports and payments online have reduced our time and expense substantially.

Workers comp seems to only be useful for employees as if I, the business owner gets hurt, the business doesn't function anyway.

No Time Loss claims should not be factor into the premiums.

If Workers' Compensation is mandatory then there should be a choice of insurance providers with different options.

If I file my employer's annual payroll statement earlier than the deadline of February 28th, I get punished by having to pay for the premiums sooner. Filing on or near February 28th puts it in the pile with others and my payment date is delayed due to processing. I think that this should just be like personal income tax. It doesn't matter when you file, every company's invoice dates are the same. It would help you to avoid an influx of returns and encourage me to file it sooner. If you would give employers a cash incentive to file before January 31 (perhaps a percentage of premium up to a maximum dollar limit), I bet you'd get people filing sooner. Also, giving a prompt payment discount might get employers to pay sooner too. Mind you, the government seems to have a bottomless bank account so cash flow is likely not as a big of an issue as it may be for the hard-working employers that fund the WCB.

We should be allowed to choose and not be forced to have both. If Workers' Comp was competitive to the independent providers we would not have to look at the independent insurance.

We feel we pay double because worker's compensation charges premiums according to short term or long term disability and it doesn't matter if you have another insurance coverage for your employees. When an employee is injured worker's comp. pays but the insurance companies say they only pay if worker's comp doesn't pay. Where is the fairness? We have paid twice for short term and long term disability, once with worker's comp and once with the insurance company.

The WCB reports that Saskatchewan has one of the highest claims records in Canada resulting in one of the worst safety records. Every time this is reported, it reflects badly on private business. I would like the WCB to report the number of claims and the resulting costs separately for government, including Crown Corporations and the private sector so that we can compare the safety performance of each group.

I think workers comp is good. Going private might leave workers uninsured in the work place unless private insurance is made mandatory.

We have very little to do with our WCB, other then fill out the forms and pay the fees. I hope that if we do have an issue that they would be helpful and knowledgeable.

Like the EI program, WCB needs to be monitored so that it doesn't become just another tax. Other points of failure flow from the massive infrastructure that sits on top of this barely adequate safety net. It is another case of a top-heavy government institution that is accruing more benefits to its own employees than to the injured workers it ostensibly serves. Did you know that STC employs over 250 people (according to Wikipedia), but only has approximately 40 drivers? The ratio of employees to drivers is 5 to 1. Compare this to private sector driver dispatch where one support person will coordinate dozens of drivers.