November 4, 2008

Nova Scotia Pension Review Panel
c/o Nova Scotia Labour and Workforce Development
Policy Division
P. O. Box 697
Halifax N. S.
B3J 2T8

Submitted on behalf of Local 141 of the Communications, Energy and Paperworkers' Union
P. O. Box 1394
Liverpool, Nova Scotia B0T 1K0

Gentlemen:

We have recently reviewed the October 17, 2008 Discussion Position Paper which was released as part of the Pension Review by the Nova Scotia Pension Review Panel.

It was our expectation that comments in this submission would be favorable to the contents of your Position Paper, but we found little to support. This concerns us.

Several of the positive items include limiting the amount of surplus allowed to be removed by the employer to 50 percent , and shifting the appeal of a decision of the Pension Superintendent to the N. S. Labour Relations Board.

The recommendation to remove grow-in benefits as a requirement of the *Pension Benefits Act* has left us speechless. During our previous meeting with members of the Panel, we conveyed our apprehension that some major issues would be recommended for change by the Panel, which we were not previously privy to. Chairman Bill Black advised us that the focus of the Panel was more directed at ensuring that funding issues were being properly addressed, and the Panel

raised no red flags that workers' grow-in benefits were at risk.

In our opinion, this Discussion Position Paper has opened a Pandora's box which the Panel will now find difficult to close, and additionally, if all recommendations are later enacted, the pension rights of Nova Scotia workers will be set back several decades. We had fully expected to see a progressive Draft Report from this Panel.

The Terms of Reference and the Scope Document originally provided to your Panel by the Government contains some interesting directing statements. In the Terms of Reference under Section 1 Objectives - the fourth line states "To protect the sustainability and security of pension benefits". This same statement is also found on the second page of the Scope Document. For consistency, the same statement also appears in your Discussion Position Paper on page 3 under Section 1.1(3). To be clear, elimination of grow-in benefits from the Act does not in our opinion meet the requirement of this key objective.

We especially found it interesting to note that on page 1 of the Scope Document it states in part "The Province of N.S. has allowed a number of regulations to proceed over the past few years that : (a) have curtailed the impact of the "grow in" provisions, and (b) ... ". This clearly indicates that in the Government's opinion, sufficient financial mitigation has already been provided to employers in the form of allowing relief from funding grow-in benefits on an ongoing basis. We will further comment on grow-in benefits later in this submission.

Of additional interest to us was another key objective stated in the Discussion Policy Paper on page 3 in Section 1.1(2) which states "To enhance the affordability and availability of defined contribution and defined benefit pension plans for employers and employees". The Terms of Reference actually stated under Section 1 Objectives, in the third key objective, the words "To maintain the affordability of defined benefit pension plans for employers and employees". While

the addition of DC Plans to this Key Objective appears reasonable, we are more concerned with the substitution of the word "enhance" which has replaced the original Terms of Reference word "maintain". There is certainly a different directive expected from the word "enhance" than from the word "maintain". In our opinion, the Discussion Policy Paper recommends considerably more ambitious Pension changes than directed under the Terms of Reference, recommendations which are certainly not in the best interests of ordinary working Nova Scotians.

Chairman Bill Black is credited with providing an insightful comment to columnist Roger Taylor which appeared in the Chronicle Herald on Saturday October 18, 2008 as follows "Black says the committee is hoping to avoid turning reform of the pension rules in this province into a partisan political issue." We have expectations that Chairman Black`s prediction appears realistic should the final recommendations by the Panel to Government lack progressive improvement in many areas.

Considerable discussion and deliberation occurred prior to our last submission to the Panel. It is unfortunate that the Pension Review Panel has taken it upon themselves to negotiate pension changes for our Locals. While we understand from this Discussion Policy Paper that this is not your intent, it will occur if similar recommendations are made by the Panel in future, accepted, and enacted by Government. We have, as you are aware, frozen our pension benefit negotiations until 2014, and our pension benefits are stated until 2014. Our Collective Agreements contain a clause stating that changes to the Rules of the Pension Plans will not be made during this period except to conform with changes in legislation. Recommended changes in your Discussion Policy Paper, if accepted and acted upon by Government, will lead to legislative changes and amend our plans immediately, without the opportunity for negotiation. Of course in the present financial climate, pension improvement would be difficult, even if the Panel was not recommending a prohibition of negotiations for plans in deficit

positions. We do not expect that Locals could effectively negotiate to improve pension benefits, and the subsequent loss of grow in benefits, should it occur, will not sit well with our members.

We will, in the mutual interest of progress, comment on many sections of your Discussion Position Paper in the hope that vast improvements will be made to your subsequent Pension recommendations to Government. Our comments are numbered for your convenience.

1) On page 4 of the Discussion Policy Paper, under Section 1.2 several reasons are provided for the decline in defined benefit plans. We would suggest to you that the most pressing issue causing the reduction of defined benefit plans is the aggressive negotiating tactics being pursued by employers to increase their profits, by switching their employees to defined contribution plans. Our members have been exposed to those efforts, and have found it necessary to trade previous gains in other benefits and increase contributions to protect our defined benefit plans. Negotiating new pension improvements will not likely occur in the near future. Some non unionized employees are simply forced by their employers to change plans, with no ability to resist. This is not the time to add additional roadblocks to maintaining workers existing pension benefits, especially when the stock markets are in a depressed state.

2) On page 6 under Section 2.1 it is stated "Our focus is first and foremost to create an environment where pension promises will be fulfilled. Within that context the Panel has sought to simplify government regulation and to leave to individual plans the particulars of their benefit design, subject to the required minimum standards."

We are concerned that while this statement clarifies that pension promises will be fulfilled, we find several issues within the Discussion Policy Paper that are contradictory. The elimination of grow in benefits, as well as impediments to allowing proper collective

bargaining for pension improvements during times of deficit, are two clear examples.

3) On page 6 under Section 2.1 it is stated "Employers have a choice about whether to have a plan at all, subject of course to collective bargaining. It is widely accepted that pension costs are a tradeoff against current wages. Different groups will want different tradeoffs. The Panel does not believe that benefit tradeoffs should be made by government."

This is a bold statement considering that grow in benefits, which we presently have as a mandatory benefit, are being recommended for elimination from the Act. It is clear to us that the Discussion Policy Paper is recommending changes which are directly in contradiction to what is being provided to the public as a support of benefits, from the Panel`s perspective.

4) On page 6 under Section 2.1 it is stated in part "Finally, while there are developments to be hoped for involving other jurisdictions (raising the tax limit,...)".

This is a clear statement that other items need to be addressed such as raising federal limits, and as we previously submitted to the Panel, the priority of creditor claim during bankruptcy proceedings over employer assets when the Pension Plan is in a deficit position, and the company is unable to pay its required funding obligations. Unfortunately, we fail to see any recommendations within the Discussion Policy Paper asking that the Province make representations to the Federal Government for necessary changes in this area.

5) On page 7 under Section 2.2 it is stated in the Revised Goals under 1(b) and c) as follows:

(b) Providing vesting protection so that benefits are not lost; and

(c) Providing appropriate rules for the protection and benefit of

employees in the event of discontinuation of employment, early or late retirement; and of spouses or beneficiaries in the event of the employee's death, or marriage breakdown.

When one reviews these revised goals, it becomes obvious that discontinuation of grow in benefits will not meet these goals, or vest protection for benefits, and certainly under a discontinuation of employment due to employer shut down, neither the employee or the spouse will see their existing benefits protected under a revised Pension Benefits Act.

6) On page 7 under Section 2.2 it is clearly stated that legislation and regulation should avoid "1. Establishing minimal acceptable quantums of benefit."

We find this very troubling as we are of the opinion that the 60% spousal pension benefit requirement is a good minimum benefit for the proper consideration of a spouse. In this Discussion Policy Paper we did not find a recommendation to amend this benefit, but certainly one must consider that to employ objective language to justify removal of some benefits from present legislation and regulations, there must be uniformity in all Panel recommendations, a point that has not eluded us in our review of the present Discussion Policy Paper. It would be very appropriate to revise or remove your stated policy of eliminating minimum benefits.

7) On page 11 under Section 3.1.1 the following answer is stated "In the case of DC plans, once an employee reaches age 60, they should be completely free to choose what they want to do with their retirement funds. The legislation should not restrict what individuals over age 60 can do with their retirement funds. While plans can create more restrictions if they choose, restrictions should not be imposed by regulation."

We find it totally irresponsible to assert that the employee should be given the sole right, without legislative or regulatory control, to do

whatever that person wants with their retirement funds. It may be appropriate to allow a number of options to the retiring employee, however, to open the floodgates to allow total mismanagement of retirement savings would be a disservice to Nova Scotians. There are persons who would be convinced to make inappropriate life decisions, who upon the loss of savings would possibly become the responsibility of the public purse.

8) On page 12 under Section 3.2 Province Wide Plan, the Discussion Policy Paper is recommending the establishment of a new Province Wide Adjustable Contribution / Benefit and/ or Defined Contribution Plan for all employers. While on the surface this plan may provide a benefit to some employers, we have serious reservations about establishing such a plan. At our earlier meeting with the Panel, and in our previous submission, we voiced our opposition to such a recommendation. It has taken our Union Locals many decades to refine our Defined Benefit Pension benefits. We have not see all of the fine print for this new plan proposal, and as usual, the devil is in the details. Under our DB Plans, we presently contribute towards our pensions at a rate of approximately 7 percent. Upon retirement, we receive a pension based upon a formula that considers years of service and a base year or final average earnings over recent years. It is then the employer`s responsibility to fully fund this pension, as employees have fulfilled their obligation up to the date of retirement. The present pension benefit to the employee will not change except for previously negotiated increases for indexing improvements, or at future negotiations where the employer will need to agree to additional improvement changes. The New Proposed Plan does not guarantee a level of benefit as the benefit will be adjusted according to Fund performance or additional contributions. There is mention of opening this new fund to all employers who want to participate, but no determination is stated as to how that would be done, especially if employees do not wish to leave their present plan to participate in the new plan. Apparently, bridging benefits do not seem to be part of the new plan. The costs of administration and investment management will

likely be born directly by the employee, or indirectly, as all funds in the plan will be required to meet pension obligations, or benefits will likely be reduced.

9) The wording under item c) states "Consideration should be given to requiring all employers above a certain size who do not already have a plan to participate in the province wide plan unless they opt out."

While we continue to have concerns with the New Plan proposal recommendation, in our opinion the above line is redundant as item (a) presents the plan as an option, the same as does item (c).

10) On page 13 under Section 3.3 Funding, a number of radical changes are proposed for funding valuations. There is a risk to changing any process that presently works. Additionally, there is a greater need to harmonize all new changes with existing Federal Government legislative requirements. The Province is unable to act in isolation. While we do understand that there are some employers that are not expected to cease operation, such as hospitals, universities and some municipalities, there is a need to provide grow in benefits for all employees. Remaining employers must be required to fund grow in benefits on a continuous basis. Reasonable funding must be set aside annually for future pension liabilities or a major funding shortfall will likely occur at a future date. While it may be easy to make a simplified recommendation to change valuations to operate on an Accrued Benefit basis for all promises made, it would be prudent for the Panel to request a more thorough review report produced which identifies all of the potential complications that may result should valuation processes be changed. Specifically, we would also like to see comparisons during that review to address projections pertaining to the solvency and future financial position of the pension plan of an employer, including deficit impacts resulting from this change in accounting principles. Not only must this additional information be relative to the existing requirements, and the resulting potential impact to employees should the employer

wind up operations at a future date, it should also quantify the ramifications to employees and their benefits should the pension plan be in a deficit position, and the employer have insufficient assets to cover pension fund liabilities.

11) On page 13 under Section 3.3 Funding in the (e) item it states "No benefit improvements should be allowed if the plan is in deficit."

Not only do we find this recommendation to be in contradiction to the Panel`s stated key objectives and goals, it also appears to cross the line in restricting workers rights during collective bargaining. We see this recommendation as being little more than biased employer support. It is also our understanding that the present Nova Scotia Government does not condone interfering with a union`s right to collective bargain. We respectfully refer you to the Canada Labor Code, specifically section 94 (3) clause (b) and (d) of that Act. Provincial legislation definitely should not restrict workers rights to collective bargaining, and we respectfully request that this recommendation be removed.

12) On page 14 under Section 3.3.1 in the second paragraph it states "The rules ensuring minimum funding should apply equally to all plans. Therefore, the Panel recommends that all plans subject to the PBA should have a straight line amortization period for deficits over a maximum of 8 years, which, once the legislative changes are made, would apply to sponsors from the next valuation date onwards."

We are concerned that the additional 3 years recommended to be allowed for deficit repayment may cause undue hardship to members in the case of a plan windup and the employer is insolvent. It would be prudent for the Panel to obtain additional advice and professional projections on all of the possible repercussions to be anticipated by extending the payment term to 8 years, from the present 5 years.

13) On page 14 under Section 3.3.1 (b) it states "Actuarial valuations

are to be done on a fixed three year schedule. Annual tests will be required for plans whose deficits are greater than the 5% collar."

It is presently a requirement to have Actuarial valuations done on a 3 year basis, or more frequently if desired. We do not understand why the Panel`s language appears to prohibit an Actuarial valuation from being done more often than the 3 year period, if desired by the employer and plan members. Annual tests are not as complete, and may not be sufficient should a major material change have occurred within the pension plan.

14) On page 16 under Section 3.3.2 (a) it states "Like deficits, surplus should be amortized over a minimum of 8 years. This would allow plans to benefit from the surplus slowly, which would provide a cushion to mitigate any sudden changes in funding status. Amortization would be through prospective reductions in minimum funding requirements."

There is a benefit to a surplus being amortized over a period of years, however we would question if this recommended change would in any way be in conflict with Federal Legislation pertaining to funding when a pension plan is in a surplus position, which may also restrict the employers ability to contribute to the plan. Utilizing amortization to extend a surplus to the benefit of an employer, to create a longer period where they are not contributing, may be a greater hindrance to the overall financial status of the pension fund, than the benefits which longer amortization may create.

15) On page 16 under Section 3.3.2 (d) it states "In the case of DB and ACBs (including SMEPPs), those plans that are above the 105% collar may use the surplus to improve benefits. However, the improvement of benefits should not bring the plan below the 105% collar."

Not only do we find this recommendation to be in contradiction to the Panel`s stated key objectives and goals, it also appears to cross

the line in restricting workers rights during collective bargaining. It is also our understanding that the present Nova Scotia Government does not condone interfering with a union`s right to collective bargain in good faith. It is our opinion that the employer and the plan members should be able to improve plan benefits, if they both agree, and that legislation should not impede that process. The fact that a surplus does or does not exist is not always the principal consideration when negotiating pension improvements. One must keep in mind that all pension plans are not equal, and at times, workers must improve to keep up with other employer`s plans. We refer you to our previous comments in our item 11 above, and respectfully request that this recommendation be removed from future Reports as a recommendation.

16) On page 17 under Section 3. (d) it states "Currently, Nova Scotia's legislation makes providing grow-in benefits to members of plans that provide for subsidized early retirement benefits mandatory, so long as the members meet specific age and service requirements. Governments should permit, but not require, grow-in benefits. Where grow-in is a part of the plan, the cost must be reflected in the valuation. "

The Panel is recommending the removal from legislation of grow in benefits, which workers in this Province presently have in place. While Nova Scotia and Ontario are the only 2 provinces to have grow in benefits within their legislation, it does not justify their removal. We find this recommendation to be contrary to the Pension Review Panel`s Terms of Reference and Scoping Document provided by Government. Additionally, we are not clear if the Panel`s position is that the cost of grow in benefits being included in the valuation, means that they must be funded in future, or simply stated and not funded, as is the present situation. The Province has previously curtailed the impact to employers of the "grow in" provisions by limiting funding, and although a previous exclusion concern was generally only intended to be for the benefit of hospitals, universities and some Government plans, it was broadened within the

regulations to cover all plans. It is our opinion that private sector plans should be required to fund the cost of grow in benefits when calculating plan deficits. Has the Panel considered that without grow in benefits, employees with a sizeable individual pension plan commuted value, will be more likely to quit and move on when a company indicates signs of financial instability, rather than remain and lose their benefits due to grow in benefits having been eliminated from legislation. The repercussions of this recommendation are far reaching, cause us great concern, and we respectfully request that this recommendation be removed from future Reports as a recommendation.

17) On page 17 under Section 3. (d) it states "In order to give employers (and unions, if applicable) the opportunity to choose if they want to continue with grow-in benefits, it is suggested that this change not be made active until the next collective bargaining agreement or, in any case, no longer than 5 years. During this waiting period, there would be no requirement to fund for grow-in benefits."

In our situation, pension negotiations are frozen until 2014, and it would be impractical to attempt to re-open negotiations prior to 2014. Additionally, to expect a union to be able to negotiation a pension benefit, such as grow in benefits, would be unreasonable, especially when we already have it as a benefit. The panel should give consideration and have compassion to all of those hard working Nova Scotians that do not belong to a union, and would subsequently have little ability to negotiate the retention of grow in benefits. We recognize that special consideration has been given to plans that are not expected to wind up, and that other plans have also been permitted to defer funding for grow in benefits when doing plan valuations. It would be prudent to allow an extended time for repayment of that specific portion of their deficit, in view of the fact that the Government has allowed several years to pass without requiring grow in funding payments. The Panel is effectively setting back pension benefits in this Province several decades with a

recommendation to eliminate grow in benefits.

18) On page 17 under Section 3.(d) it states "Grow in benefits should receive equal treatment in the case of wind ups of underfunded plans."

We recognize that some consideration has been given to plans that are not expected to wind up, and that other plans should fund for grow in benefits. That is not an issue for us. When the Panel decided to throw a final kicker into this mix, that grow in benefits must receive equal treatment in the case of wind ups of underfunded plans, you have added the final straw to break the backs of less senior workers in this Province. On one hand the Panel is removing benefits, and with the next, is placing unrealistic improvement requirements upon those that are expected to negotiate the retention of an existing benefit. Additionally, the Panel is stating indirectly that existing retirees should have their pensions reduced to keep grow in benefits in place, even though a loss of their current pension is not a present requirement. We clearly fail to understand how this recommendation is in compliance with the Panel`s Terms of Reference which states "To protect the sustainability and security of pension benefits".

19) On page 18 under Section 3.6 it states "The Panel recommends that for DC plans, members before age 60 can have access to their **own voluntary** contributions, unless the plan itself is more restrictive. After age 60, employees can unlock both employer and employee contributions and do what they like with them. For example, they could convert them to another instrument such as an RRSP, LIF or RIF. The plan may include restrictions but must permit annuitizations in whole or in part at any time after age 60. No changes should be made to the current regime for unlocking for DB plans. However, at time of retirement the regulatory restriction would be that up to half of the commuted value could be used for non-traditional retirement income options such as a RRIF or LIF. This would allow the member to integrate with his or her particular circumstances—for example bridging to age 65 . The plan could have stricter rules if it chooses to,

but would be responsible for administering them."

It is surprising that the Panel would consider allowing employees to open up locked in benefits to be invested elsewhere, or taken as bridging, or as stated after age 60 - to do what they like with them. We have serious concerns that not all employees have sufficient expertise to make the proper judgments in this regard, and if convinced to make the wrong decision, the spouse and family will be the ones to suffer the most. Pension benefits are designed to be for the long term, and acting on a short term whim in not in anyone`s best interest. Government had previously placed this condition in Legislation to protect employees and their pension, and we presently do not see a good reason to allow a change to legislation in this regard. One also has to wonder if pension assets will automatically become available to creditors to cover existing debts, should Government act on this recommendation to unlock pension funds.

20) On page 19 under Section 3.7 it states "The Administrator shall certify in its annual filing that the Governance Plan that has been filed is being complied with, and if it has been altered, what are those alterations."

Making recommendations to require proper procedure is commendable. What we see lacking in this section is a recommendation that Government must audit pension plans and their procedures to ensure that proper processes are being followed. It is incumbent upon the Panel to determine and recommend that staff is available to conduct those audits, the frequency, and under which department those staff would be based.

21) On page 19 under Section 3.7.1 it states "The current legislation allows employees in plans of over 50 members to set up an Advisory Committee, whether an employer supports it or not. However, there are many plans that do not utilize them. One reason for this could be that currently, Advisory Committees have little power to influence

sponsors. Advisory Committees are and should remain voluntary, but they should be given greater ability to influence sponsors and regulators. Specifically, Advisory Committees should be given, simultaneously, any information the sponsor files with the Superintendent, subject only to privacy laws. Advisory Committees should also be entitled to have reasonable access to plan actuaries and other professionals, so that they can communicate with them independent of the sponsor. The plan would be responsible for funding the costs associated with consulting professionals."

Advisory Committees are beneficial and should have greater access to documents, but their function beyond the present legislation should be left to the discretion of the employees and the employer. To recommend regulating that costs must be born by the pension plan, is very inconsiderate, when some companies presently pay all costs related to the pension plan, apart from the separate pension plan assets. We have concerns that allowing costs for things such as financial or legal advice, to be openly charged to pension plans will open the floodgates, cause deficits, and hasten the loss of DB Plans.

22) On page 19 under Section 3.7.1 it states "The Panel believes that there are many situations in which plan sponsors and the Superintendent could benefit from the use of Advisory Committees. For example, in the case of plan amendments, agreement to the amendment by the Advisory Committee could enable the Superintendent to simply accept the amendment providing that it does not conflict with the regulations. Without the agreement of an Advisory Committee the regular, longer process for approval of amendments would be required."

One would think that this would be a very simple method to enact amendments to a pension plan. In the real world, not all Advisory Committees have representatives that act in the best interests of employees. Our members would not like to be placed in that position, even if their representation is excellent on the Advisory Committee. We would suggest that a secret ballot vote of all eligible

employees, previously having been notified of the amendment, and a 75 % majority should be the minimum requirement to amend a plan. This process of course, would be for places of employment where there is no union. For unionized employees, collective bargaining and proper procedure is already in place to effectively deal with pension plan amendments.

23) On page 19 under Section 3.7.1 it states "A second benefit would be to limit the liability of the sponsor in some instances. For example, having an Advisory Committee review and approve the list of investment options, including the default option, available in DC plans could reduce the liability of the sponsor as the Advisory Committee would be involved in speaking for the interests of the employees."

We have previously indicated our concerns with shifting liability from the employer to employee Advisory Committees. There must remain in legislation the ability for employees to determine their level of participation in plan management when participating on an Advisory Committee. There is usually a knowledge deficiency within representatives acting in that capacity to make proper financial investment decisions, and the level of training required should not be charged to, or financially reduce the pension fund assets.

24) On page 20 under Section 3.7.1 it states "A third benefit for sponsors would be that they would no longer be required to disseminate information concerning plan operations and funding status to each individual employee. The sponsor would provide information to the Advisory Committee, who would in turn provide it to the employees."

This recommendation does not clarify who pays for the costs involved in this process. It also does not state if individual pension plan statements to individuals, as required by Federal regulation, would be discontinued. Many of these information expenses are presently being born by the employer outside of the pension plan,

and work is being performed by employer staff, not members of the Advisory Committee. We have concerns with this proposal.

25) On page 20 under Section 3.7.1 it states "The representatives on Advisory Committees should be elected by the employees. Advisory Committees need orientation and training. Training and providing support to Advisory Committees should be part of the mandate of a promotion division within the Department of Labour and Workforce Development."

Some Collective Agreements allow for Advisory Committee appointments, with the approval of the union membership. Indirectly this is a form of election by members. The Panel should consider this fact before arbitrarily determining that elections must be held. The Panel also makes no determination as to the level of training required to be able to properly function on an Advisory Committee. Depending upon the function to be performed, the training requirement could be very involved, time consuming, and costly.

26) On page 20 under Section 3.7.1 it states "The panel recommends that the PBA be changed to require that appeals from the Superintendent's decision be made to Nova Scotia Labour Relations Board ("NSLRB"). The Province can appoint additional Panel members to assist the NSLRB to deal with pension matters. The NSLRB would have jurisdiction to consider all orders decided by the Superintendent of Pensions without deference to the Superintendent and the NSLRB can make any decision the Superintendent can make. Appeals of the NSLRB would be to the Nova Scotia Court of Appeal."

We support this recommendation regarding Appeals to the Superintendent, however, we do not see it clarified in the above statement that the decision of the NSRLB will be binding upon the Superintendent unless it is appealed to the Nova Scotia Court of Appeal within 30 days. In our opinion, these are issues that must be fully stipulated by the Panel.

27) On page 21 under Section 3.9 it states "One advantage of the current situation is that it allows for innovations (such as recently seen in Quebec) that would never occur if all provinces had to first agree. What matters most is harmonization within individual plans. Nova Scotia legislation should provide that when a plan is administered outside Nova Scotia, and has a majority of members outside Nova Scotia, the province where the plan is administered can regulate Nova Scotia employees in accordance with the rules in the province where the plan is administered."

On the surface, this would appear to be a minor housekeeping issue. However, it would be very unwise for workers to allow their pension plan benefits to be controlled by another Province, which is totally outside of the safety net of our public and voter access to resident politicians. We agree that there is an additional cost to be born by companies operating in different Provinces, but that was, and continues to be the cost of doing business in many jurisdictions. Workers rights and benefits must be protected in Nova Scotia by our own legislation.

28) On page 22 under Section 3.11 it states "The legislation should permit phased retirement—that is, it should not prevent the accumulation of new benefits while receiving a pension. This means that members could continue working at the same or a different job with their employer and accrue additional benefits while receiving part or their entire pension. There would be appropriate actuarial adjustments where needed to recognize the later receipt of the deferred and additional pension benefits. While all plans would not be required to introduce this flexibility, the Panel was informed of situations where this would make sense. Employers could retain valuable and knowledgeable employees rather than forcing them to move to another employer to continue working or hiring them back as sub-contractors without receiving any of the benefits of employees. In turn, this flexibility of arranging their financial affairs would be a significant benefit to employees transitioning toward full

retirement."

For many years, employers and employees have put in place policies to determine when an employee retires, the benefits to be retained during retirement, and the benefits to be discontinued. We presently refer to workers as active or retired. There are various levels of differences evident depending upon which employer is looked at. Virtually every workplace will be impacted by this recommended change. Concessions have been negotiated in the past to provide a reasonable level of continuing benefit for retirees. It would be unfair to expect working Nova Scotians to continue to subsidize benefits for working retirees. It would be more practical to continue to be employed, if one does not wish to retire. The Panel has not stated which plans would not be expected to be required to introduce this flexibility, so we are subsequently unable to fully respond to this issue. We are aware that some employers want the right to recall retirees and provide them with limited benefits, rather than adopting a policy to hire new employees. A number of Collective Agreements prohibit retirees from working for the same employer while retired. Are employers now asking the Panel to obtain what they could not achieve during collective bargaining? It is safe to say that we do not support this recommendation as it is presented.

29) On page 22 and page 23 under Section 3.13 it states "Currently, Nova Scotia legislation includes a list of acceptable classes. For example, casual employees are not permitted to be members of a pension plan. This list should be removed. Employers should be allowed to make their own decision on classes of employees, and benefit design for each (subject of course to any agreements arising from collective bargaining). However, the classes should be reasonable and sponsors would be required to file the classes with the Superintendent of Pensions. If the Superintendent considers a class arbitrary and unreasonably discriminatory he/she will take appropriate action to rectify the situation."

In view of the statement above, we refer you to the Pension Benefits

Act section 37 and the Pension Regulations section 48, which allow for casual employees that are part of a union, to join the pension plan. One could take the other approach and question who can join any pension plan if exclusions are not stated. Our experience with the Superintendent in the past clearly indicates that the Superintendent is not willing to arbitrate decisions regarding conflicting disputes in a pension plan, so it is incumbent upon the Panel to close loopholes.

30) On page 23 under Section 3.14 it states "Advisory Committees should have reasonable access to professional advisors, such as actuaries, which are paid for by the plan."

In theory, this is a nice suggestion. The negative aspect of this recommendation is that some companies presently provide these services from funds outside of the plan. The Panel is adding to a plan deficit, or promoting the demise of DB plans by downloading new costs on the plan. We do not agree with the recommendation as written and refer you to our comments under # 21 above.

31) On page 23 under Section 3.15 it states "The promotion of the proposed province wide plan and the training materials and programs in support of Advisory Committees could be a part of the mandate of such a promotion division."

In addition to our concerns with the province wide plan, as taxpayers, we question the level of financial commitment which is being proposed. Fixed budget amounts are easy for ordinary Nova Scotians to understand, and we would suggest that the Panel be specific on the scope of the budget being considered.

32) On page 24 under Section 3.15.2 it states "For these reasons the Panel recommends a strengthening of the governance process and the removal of specific investment limits. Schedule I to the Regulations should be continued and expanded as necessary, while Schedule III should be removed."

It is our understanding that specific investment limits were formulated to reduce pension plan exposure to certain risks, including over investing in one specific risk. We believe that investment limits are necessary, although there may be some room for review. We are totally in disagreement with the Panel`s recommendation to eliminate Schedule III. This Schedule provides definitions of terms which are necessary to separate investment categories, investment governance, identifies conflict of interest guidelines, and regulates a minimum level of corporate control of pension plans through their investments. Elimination of Schedule III is a very risky move and has the potential to threaten pension plan stability. The Panel, in our opinion, has not fully addressed all of the issues which will be expected to result from the proposed changes.

33) The Discussion Policy Paper has not fully addressed the following concerns, and we present them to you for consideration as follows:

a) The Panel has been silent pertaining to the pension plan`s creditor status during wind up of a business when the employer is in a deficit position and files bankruptcy. It would be prudent for the Panel to identify solutions to Government to mitigate pension members benefits loss in these situations, which will ultimately allow plans to secure full funding through asset recovery. Hopefully a recommendation will be able to be formulated to amend the creditor priority which currently exists under Federal Bankruptcy regulations.

b) It is understood that mortality tables utilized by Actuaries when compiling reports are not standardized in Nova Scotia. It would be our expectation that the Panel will recommend that a standard mortality table be utilized for all Actuarial Reports being formulated for pension plans in Nova Scotia. This would provide consistency in all valuations.

c) As you are aware, a spousal pension option, usually at 60%, must

be taken upon retirement, unless the spouse waives that right. Upon the death of the retired employee, a pension at 60% of the employee's pension, is then provided for the life of the spouse. However, under some plans, if both the employee and his spouse die shortly after the employee retires, there is no longer a monthly pension payout to a beneficiary, or the estate. The Company gets to keep all of the remaining employees contributions including interest, as well as the Company portion of the commuted pension value at retirement. This is fundamentally wrong. At the very least, pension legislation should require that upon the future death of a presently living pension beneficiary, where a spousal pension payout has totaled less than the employees contributions plus interest, that any balance remaining be paid out to a beneficiary or their estate. The commuted value declared at retirement, although larger, would certainly be a much more appropriate amount to consider for this payout. We encourage the Panel to consider the fact that under present legislation, some companies will be in a position to financially benefit from the death of pensioners. As many employers provide for this issue differently, we also expect that the Panel will want to point towards some uniformity of minimum spousal pension plan payout within the Province.

We do recognize the tremendous amount of effort that Panel members and staff have put into this review, and offer our sincere thank you for that work. It is our hope that this submission will help to provide constructive progress in your deliberations, and ultimately lead to a progressive Final Report to Government.

Please do not hesitate to contact us should you wish to further discuss any of the issues contained within this submission.