
**Bill 46, Less Red Tape, Stronger Ontario
Act, 2022**

**A comment
by L.A. Liversidge, LL.B.**

December 02, 2022

Bill 46, Less Red Tape, Stronger Ontario Act, 2022

A. Bill 46, Less Red Tape, Stronger Ontario Act, 2022

1. [Bill 46, Less Red Tape, Stronger Ontario Act, 2022](#), was introduced [November 22, 2022](#), and has been debated in Second Reading November [28, 29](#) and [30](#) and on [December 1, 2022](#) was referred to the **Standing Committee on Finance and Economic Affairs**.
2. An omnibus bill, through **Schedule 9, Bill 46** amends certain provisions in the WSIA. From the description in the Bill:

**SCHEDULE 9
WORKPLACE SAFETY AND INSURANCE ACT, 1997**

The Workplace Safety and Insurance Act, 1997 is amended as follows:

1. The definition of “health care practitioner” is amended to remove a reference to drugless practitioners.
2. Section 53 of the Act is amended to include rules governing how the Board is to determine the average earnings of a worker who is an apprentice.
3. Section 159 of the Act is amended to provide that the requirement that the Board obtain the Lieutenant Governor in Council’s approval to acquire or dispose of real property does not apply to real property acquired or disposed of by lease.
4. Section 162 of the Act is amended to provide that the board of directors of the Board must meet at least four times annually.
5. Section 166 of the Act is amended to require the Board and the Minister to be parties to a memorandum of understanding and to review the memorandum of understanding periodically. The requirement that the Board provide the Minister with a strategic plan is repealed.

B. Comments on the legislative debate

1. I have included some relevant excerpts from the WSIB portion of the **Bill 46** debate (at **Appendix A**, page 6). **I have highlighted** what I consider to be the core themes.
2. LAL observations:
 - a. It appears that general opposition and anger towards the WSIB is growing.
 - b. “Deeming” continues to draw the ire of opposition members and is likely to be a stronger source of future reforms.
 - c. Despite some focus on occupational disease (OD) by the Board and government in the last year, demand for aggressive OD reform is escalating, not abating.
 - d. The Board is generally viewed by opposition members as an insensitive, uncaring institution hell-bent to deny claims, and is fraught with red tape against those making claims.

- e. Legislative debates, which in years past included concerns about high insurance costs and the competitive implications of high premiums, have been entirely supplanted with a focus on injured worker equity concerns, often legitimately expressed.
- f. LAL predicts that this will be a growing and persistent trend and the next generation of workers' compensation reforms will acquire attributes similar to the reform thrusts of the late 1970s and 1980s – worker equity.

C. Bill 46, Schedule 9, specific reform measures and LAL comment

1. Change in definition of health care practitioner:

a. The proposal:

1. The definition of “health care practitioner” in subsection 2 (1) of the Workplace Safety and Insurance Act, 1997 is amended by striking out “a drugless practitioner regulated under the Drugless Practitioners Act”.

b. Current legislation:

2 (1) In this Act,
“health care practitioner” means a health professional, a drugless practitioner regulated under the *Drugless Practitioners Act* or a social worker;

c. LAL Comment: Housekeeping. The *Drugless Practitioners Act* was repealed July 1, 2015.

2. Changes for average wages for apprentices:

a. The proposal:

2 Subsection 53 (4) of the Act is repealed and the following substituted:

Learner or student

(4) The Board shall consider such criteria as may be prescribed in determining the average earnings of a worker who is a learner or student.

Apprentice

(4.1) Despite anything in this section, the Board shall determine the average earnings of a worker who is an apprentice as follows:

- 1. The average earnings are an amount equal to the average earnings of a journeyman employed by the employer in the same trade as that in which the worker was working at the time of the injury.
- 2. If the worker's employer did not employ a journeyman in the same trade as that in which the worker was working at the time of the injury, the average earnings are an amount equal to the average earnings of a journeyman employed in the employer's locality in the same trade at the time of the injury.

b. ***Current legislation, regulation and WSIB policy:***

Apprentices, etc.

53 (4) The Board shall consider such criteria as may be prescribed in determining the average earnings of an apprentice, learner or student.

O. Reg. 175/98:

AVERAGE EARNINGS OF APPRENTICES, LEARNERS AND STUDENTS

16. (1) For the purpose of subsection 53 (4) of the Act, the criteria for determining the average earnings of a worker who is an apprentice, learner or full-time or part-time student are as set out in this section. O. Reg. 175/98, s. 16 (1).

(2) The average earnings of a worker who is an apprentice shall be determined with reference to the average earnings of a journeyman employed by the employer in the same trade as that in which the worker was working when injured. O. Reg. 175/98, s. 16 (2).

(3) If the employer did not employ a journeyman in the same trade as that in which the worker was working when injured, the average earnings of the worker shall be determined with reference to the average earnings of a journeyman employed in the employer's locality in the same trade. O. Reg. 175/98, s. 16 (3).

WSIB Policy, Determining Average Earnings - Exceptional Cases, Document 18-02-08

Apprentices

For workers who are apprentices, the decision-maker determines the average earnings by using the average earnings of a journeyman employed by the employer in the same trade as the worker.

If the employer did not employ a journeyman in the same trade as the worker, the worker's average earnings are determined by using the average earnings of a journeyman employed in the same geographical area as the employer and employed in the same trade as the worker.

Once established, the average earnings remain the same for the life of the claim, with no recalculation.

- c. **LAL Comment:** Amendments statutorily codify regulations and policy, with change in wording from (in regulation) "*average earnings of a worker who is an apprentice shall be determined with reference to the average earnings of a journeyman employed by the employer in the same trade,*" to "*average earnings are an amount equal to the average earnings of a journeyman employed by the employer in the same trade.*"

3. ***Changes to real property acquisition requirements with respect to leases:***

a. **The proposal:**

3 Section 159 of the Act is amended by adding the following subsection:

Exception

(6.1) The requirement in subsection (6) to obtain the approval of the Lieutenant Governor in Council does not apply to the acquisition and disposition of real property by lease.

b. **Current legislation:**

Acquisition of real property

159 (6) With the approval of the Lieutenant Governor in Council, the Board may acquire real property that the Board considers necessary for its purposes and may dispose of it. 1997, c. 16, Sched. A, s. 159 (6).

- c. **LAL comment:** Board will still be required to secure government approval for real property acquisition *excepting* leases.

4. ***Frequency of WSIB Board of Director meetings:***

a. **The proposal:**

4 Subsection 162 (4) of the Act is amended by striking out “and in no case shall more than two months elapse between meetings of the board of directors” at the end and substituting “at least four times in each year”.

b. **Current legislation:**

Meetings of the board

162 (4) The board of directors shall meet at the call of the chair and in no case shall more than two months elapse between meetings of the board of directors. 1997, c. 16, Sched. A, s. 162 (4).

- c. **LAL comment:** Arguably diminishes Board of Director oversight.

5. ***WSIB/Ministry Memorandum of Understanding:***

a. **The proposal:**

5 (1) Subsection 166 (1) of the Act is repealed and the following substituted:

Memorandum of understanding

(1) The Board and the Minister shall be parties to a memorandum of understanding that shall contain only such terms as may be directed by the Minister.

Same, review

(1.1) The Board and the Minister shall review the memorandum of understanding every five years from the later of the date that the memorandum of understanding is signed by the parties and the date a letter of affirmation is signed by the parties, or on such earlier date as the Minister may direct.

Same, amendment

(1.2) Following a review under subsection (1.1), the Minister may direct that the memorandum of understanding be amended on such terms as the Minister directs.

(2) Paragraph 1 of subsection 166 (2) of the Act is repealed.

b. Current legislation:

Memorandum of understanding

166 (1) Every five years, the Board and the Minister shall enter into a memorandum of understanding containing only such terms as may be directed by the Minister.

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(2) The memorandum of understanding must impose the following requirements:

1. Each year, the Board must give the Minister a strategic plan setting out its plans for the following five years.
2. The Board must give the Minister an annual statement setting out its proposed priorities for administering this Act and the regulations.
3. The Board must give the Minister an annual statement of its investment policies and goals.

c. LAL comment: Main impact is to eliminate the need for an annual outline of WSIB priorities by the Board to the Minister.

D. LAL overall comments re Bill 46:

1. No advocacy comment or position is suggested.
2. LAL's most relevant observation is growing worker and opposition angst towards WSIB.
3. LAL predicts this will form the basis of the next generation of workers' compensation reform.

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Appendix A: Selected excerpts from Hansard from November 28 and 29 with respect to the WSIA amendments. **Significant statements highlighted**

November 28, 2022
43rd Parliament, 1st Session

Hon. Parm Gill: The next set of proposed changes support Ontario's workplace insurance and compensation system. The proposed legislation will make several changes to the Workplace Safety and Insurance Act that align with Ontario's broader red tape reduction efforts. **The changes, if passed, would improve the WSIB's operational efficiency and reduce undue administrative burden, allowing the WSIB to focus on their primary function of supporting injured workers.** The proposed changes would:

- ensure injured or ill apprentices receive loss-of-earnings benefits at the same amounts journeypersons employed in the same trade would receive;
- provide more flexibility regarding how often the WSIB board of directors must meet, by changing the requirement that they meet every two months to a required minimum of four times per year;
- update the requirements of WSIB governance documents to ensure they are consistent with and do not duplicate other government directives;
- streamline the requirements for WSIB office lease transactions by excluding them from the requirement for LGIC approval, like other government agencies; and
- ensure the Workplace Safety and Insurance Act, 1997, does not reference repealed statutes that are no longer in force.

The WSIB is one of the largest insurance organizations in North America. Reducing red tape will enable them to better meet the needs of Ontario's workers.

MPP Jill Andrew: With regard to the government's bill, the Less Red Tape, Stronger Ontario Act: I see that the government has tinkered with the Workplace Safety and Insurance Act. **I'm wondering if the government's bill has any changes that will actually help protect the 50% of injured workers who we know are living in poverty. I'm wondering if this bill actually brings back any of those billions of dollars of "WSIB surplus" into the hands of injured workers, as opposed to billion-dollar corporations.**

Mr. Sam Oosterhoff: We obviously recognize, as a government, as all Ontarians do, the value of the WSIB. It's one of the largest insurance organizations in North America. But we know that it's important to ensure that more dollars are always being able to go to the workers and not to administrative burdens. That's why reducing the administrative burden for the WSIB will also enable them to work more efficiently and to create an agile system that is better able to cater to the needs of workers here in the province of Ontario. Codifying the WSIB's long-standing operational practices is going to eliminate any operational confusion that might have come about between employers, workers and service providers alike.

While these changes are coming into effect—they're going to align WSIB's operational practices, but no substantial implementation steps are going to be required to support these amendments. It's really going to ensure that we're reducing some of those redundancies and codifying the practices that exist.

Mr. Terence Kernaghan: The majority of my comments today are surrounding schedule 9. Now, I will unequivocally say that I am thrilled that the WSIB will be relocated to London. I've said that on the record many times.

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I'm also pleased to report to this House that I have been talking with different stakeholders, and I understand that there has been more communication with the relevant agencies—because the last time when I introduced remarks about the WSIB, there had not been any communication whatsoever, Speaker—so I'm quite thrilled about that.

But when we see this tinkering around the edges of WSIB, there is little help for those workers. There's little help for people who need to access those benefits. It seems to me that—I wonder what's behind this as well, because

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right now, we're talking about a property that is in downtown Toronto that is 75% owned by the crown. Its size is 60,000 square feet. It's at Front and Simcoe Streets. It's a hugely coveted and very lucrative real estate deal. Some have even suggested it might be worth in the neighbourhood of \$600 million.

Now, I would also like to ask this government what their plans are for that location. Do they wish to address the current issues that are facing our province by converting that into affordable housing, into supportive housing, into something that will really meaningfully address some of the major issues within our province right now? I'm not certain. I think, as well, we also need to take a look at WSIB processes themselves, because WSIB has been in trouble for so many years.

I'd like to read on the record today something that I think the government could easily adopt. This was introduced by the MPP for Niagara Falls: "Section 43 of the Workplace Safety and Insurance Act ... is amended by adding the following subsection:

"No earnings after injury

"(4.1) The board shall not determine the following to be earnings that the worker is able to earn in suitable and available employment or business:

"1. Earnings from an employment that the worker is not employed in, unless the worker, without good cause, failed to accept the employment after it was offered to the worker.

"2. Earnings from a business that the worker does not carry on."

This, Speaker, has to do with the WSIB's penchant for engaging in the process of "deeming," or deciding that somebody is able to do what is known as a "phantom job," a job that did not exist, but one that they are content to tell people—their doctors—that they are able to do.

I also, in my discussion of WSIB, want to talk about the whistleblower report that exposed WSIB's interference in medical care. This was from the Ontario Federation of Labour, in which doctors alleged that injured workers are revictimized by the compensation system. In this report, called Prescription Over-Ruled: Report on How Ontario's Workplace Safety and Insurance Board Systematically Ignores the Advice of Medical Professionals, it included six registered psychologists and many other medical professionals and injured workers who came forward to share similar stories about the WSIB's failure "to heed medical advice regarding readiness to return to work, insufficient treatment, blaming 'pre-existing' conditions for ongoing illness, or using independent medical reviews which proclaim patients to be healed, despite the evidence of treating practitioners." It's quite a shocking exposé, Speaker, and this was in 2015. We recently had the seven-year anniversary of that report.

In this, I'd like this government to please take note: "The red tape is tangling up legitimate claims and preventing injured workers from getting the coverage they need," said Sudbury-based rehabilitation psychologist Dr. Giorgio Ilacqua. "Behind every claim is a real person, with a family that has been turned upside down by a workplace injury. They deserve immediate and consistent care, not bureaucracy and red tape."

The title of this bill is reducing red tape to build a stronger Ontario. Dr. Giorgio Ilacqua suggests that WSIB is regularly engaged in red tape, in denial, in telling people that they could do a job that doesn't exist.

Part of this was the work of Dr. Brenda Steinnagel as well. She filed a lawsuit against her employer and the WSIB, alleging that she was fired from a clinic that she worked for because the WSIB requested it, because she refused to change her medical opinion to the one the board wanted to hear. In the statement of claim, Dr. Steinnagel says, "In a desperate effort to reduce claims paid out, WSIB" has "been conspiring to deny legitimate claims in a shocking display of arrogance and corruption."

Also in Prescription Over-Ruled, they state, "Ontario's compensation system is mandated to provide wage loss benefits and health care benefits to workers who are injured on the job. By law, injured workers are barred from commencing lawsuits for their work injuries and must instead seek benefits from the WSIB. Legally, workers are entitled to treatment from the health care provider of their own choosing."

This is important, Speaker, because back when the WSIB was formed, workers gave up their rights to sue their employer because the WSIB was going to be there to help them. The WSIB was going to be there to assist them. Instead, it has become a completely different system.

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Major stakeholders have also come out discussing what is happening at the WSIB, and there are grave concerns. The Canadian Medical Association—and this goes as far back as 2007—raised concerns about workplace-injury-related costs being shifted to the public system. The WSIB, in denying people their claims, leaves no one to support them except for that person themselves, with their inability to work, and the public system. It's a foolish, foolish thing.

The report cites the then WSIB president and CEO, David Marshall, who bragged and boasted that the WSIB now pays for results and not process. We end up paying the tab for the WSIB not doing the correct job. Many of the people who have been injured at their workplace and are unable to work will often rely on the Ontario Disability Support Program or sometimes even worse. Then, as we know, it takes quite a long time as well to access even those benefits.

I would like to add into the record here today Karen's story, from Prescription Over-Ruled. Karen's name has been changed: "Karen was an active young woman with an exceptional employment record when an accident at a mine seriously injured her shoulder and head. In the years since, it has been a constant struggle to acquire the physical and psychological therapy her medical team says she needs, and the wage loss benefits she should be entitled to.

"Before her accident, Karen was active in a number of sports and hobbies. She enjoyed horseback riding every week, and was involved in training dogs for competition. She was also part of a competitive mine rescue team, a very gruelling sport that requires intense mental and physical stamina. Her co-workers and supervisors have often noted that having her on the crew is good for morale, and she says she has received positive letters of recommendation from every employer she's ever worked for.

"In June of 2013, Karen was driving a truck in the mine. As she was stepping out, her overalls got caught on one of the steps, causing her to lose her grip and fall, landing hard on her head and her shoulder.

"After her accident, Karen developed nausea, headaches, dizziness, muscle strain, anxiety, and depression. She has been diagnosed with a number of conditions, including traumatic head injury, cervical strain, neck and shoulder injury and 'concussion-related mental impairments.' A whole range of treatments were suggested by her health care team, including medication, physio, massage and therapy with a psychologist. It was suggested she would benefit most from a gradual, WSIB-sponsored return to her pre-accident job. When many of these treatments were not offered, she did the only thing she could and tried to return to work. Her attempt to go back was short-lived, though, as she was unable to successfully complete the tasks she was assigned, and many of her symptoms began to worsen. Still, the WSIB interpreted her effort to return as a sign that she was capable of employment, and cut off her wage loss benefits, even though several health care professionals had indicated she should not be working due to dizziness and muscle damage.

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"Karen has had two previous head injuries, but had recovered from both and was living a normal life when her mine accident happened. Even though the evidence shows that her current symptoms arose only after the newest injury, the WSIB claims that her diagnosed symptoms are the result of"—ready for it, Speaker?"—"a 'pre-existing condition.' In response to the request from her psychologist, the board said they began reviewing Karen's file in April 2014. Despite multiple requests from her medical team and seven letters written by her legal aid lawyer (none of which received a response), no decisions have been made. The fact that no decisions have been made means that Karen cannot move through the appeal process. Karen is therefore stuck in limbo, and has been forced onto social assistance."

This limbo is completely unnecessary. This is yet more red tape that has been created by the WSIB. If this government was true to their word with Bill 46, they would truly look into it.

The report also talks about the inadequate services offered by the WSIB because approval for services can take months when patients' needs are often immediate. Also, treating physicians' referrals for psychological therapy are often denied, even in dire situations. The WSIB will refer an injury claimant to a specialist but will not fund sufficient time for a proper assessment and report. The WSIB also demands frequent progress reports that it will not pay for and the recommendations of which are frequently ignored.

I can go on and on about how the WSIB does not stand for workers. Despite medical opinions to the contrary, the WSIB often attributes illness or injury to pre-existing conditions and refuses to fund benefits or care. What's also concerning is that they don't listen to the doctors who are actually seeing the person in-person. The WSIB will often

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seek second opinions from their paper doctors, who simply look through the file; they don't ever meet the patient. Dr. Brenda Steinnagel alleged that the WSIB inappropriately pressures these doctors to deliver dishonest reports so that they can avoid paying benefits.

It then goes and pressures workers to return to work, even when their treating doctors recommend that they need more time to heal. And if those workers have well-meaning attempts to return to work, they are used against them as evidence that they are employable and healed even when those attempts fail, which, of course, results in a loss of benefits.

I recommend that all members read this report. It is absolutely shocking. It also has greater impacts in the world at large for so many people. If people have work-induced disabilities, they frequently suffer mental health concerns that are elevated after their injury and the stress of dealing with this board and the way in which they stonewall and ignore people.

I was recently dealing with a constituent. We've tried, again and again and again, to get a hold of a human being at the WSIB, and it is near impossible. If that weren't bad enough, many doctors—it's already difficult enough to find a health care practitioner, but many of the health professionals refuse to take on WSIB claimants as their patients. Do you know why? Because they know that their advice is going to be ignored and they know they'll be unable to provide the care that they know the patients need. That should be a huge, huge concern.

Some of the resolutions for this government and the recommendations, and this goes back years:

- have Ontario's Ombudsman launch a formal investigation into WSIB's treatment of medical advice, particularly the way in which health care providers' professional advice is not considered and the lack of explanation offered;
- collect and make public statistics on how often injured workers' health care providers' advice is disregarded;
- create a protocol that regulates rapid response time for requests from the injured workers' health care team. For example, requiring a decision within 48 hours when an urgent request for care is submitted to the board;
- eliminate the use of so-called paper doctors who render decisions about care without ever meeting the patient;
- give proper weight to the opinions of the medical professionals who know the injured worker best, their own health care team.

The problems at WSIB are many, but I also want to now discuss a new organization who are quite a phenomenal group of people, the Occupational Disease Reform Alliance. They have also said that they went to make changes to WSIB system. This is from Sylvia Boyce, who's the USW District 6 health and safety coordinator: "Workplace illnesses can affect anyone—from cancer, respiratory disease or hearing loss. The challenge with occupational disease is that people who are sick may not connect their symptoms to exposures they had at work."

This can often be a very tricky one. It's bad enough that—we heard stories like Karen's when she had a legitimate fall, when she injured her head, when she injured her shoulder and when her own doctor was talking about this injury itself. When we take a look at occupational disease, it can be a little bit more nebulous. I'd like to commend the Odra for all of the work they're doing. It's not just based on someone's opinion. They also continue, "The demands are simply compensation for occupational disease claims when workplace patterns exceed levels in the surrounding communities, expand the list of diseases presumed to be work related, use the proper legal standard, not scientific certainty, and expect that multiple exposures combined cause disease."

It makes a great deal of sense. I know that the minister will be speaking and apologizing in, I believe, two days' time to folks who were exposed in the McIntyre Powder Project, so I think these are vital changes that need to happen within WSIB.

I'd like to also add the voice of Robert Storey. He is a labour scholar, and his father died of an occupational illness. It's heartbreaking. His father was a drill press operator at International Harvesters in Hamilton and he used a white cutting lubricant that was revealed to be a carcinogen. He used it for about 34 years, and I believe that he died very, very quickly after he retired, which is such a shame. You work your entire life to get ready to enjoy that time with your family, to pursue your hobbies, to pursue the things you love, and then you pass away.

Storey points out, quite importantly, that the WSIB system was set up in 1915 and it was set up with the principles of Sir William Meredith, often known—he was a former chief justice and author of the Meredith Principles. At its

conception, it was believed that workers should get payment for as long as their disability lasted. Those are principles that I don't believe are upheld to this day. We see so many examples of workers who are denied, workers who are caught up in red tape, workers who are rejected, ignored and denied the benefits that they require, and this dates back also to the 1990s. I think we can all remember Premier Mike Harris and one of his snitch lines, his hotline, where citizens could go phone in and report that they thought injured workers were taking advantage of the system. It's shocking. It is shocking, Speaker.

I'm glad to see that the WSIB coverage will be extended, but we have to make sure that the coverage itself—that there is a system change, that there is an understanding that this has gone from an organization that was established to protect the rights of workers and to assist workers when they need it, and it's become something quite different.

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Rose Wickman, who is a former UNIFOR president who was at Ventra/Pebra Plastics in Peterborough, Ontario said, "Workers gave their lives for these companies, and the WSIB is ignoring [them]."

Now, on occupational diseases, Bob DeMatteo says, "The WSIB has a legal obligation to conduct investigations into occupational diseases, and it's not doing its job. Where is the concern for human health? They've been so lax in not recognizing the health effects of things like metalworking fluids and a whole series of toxic exposures, and have not altered or lowered the Occupational Exposure Limits (OELs) to reflect the science, and need to invoke the precautionary principle in the face of scientific uncertainty, and to ensure more stringent enforcement of exposure standards."

DeMatteo goes on to say that "there's a sense in which there is more interest in protecting the companies on a financial level than making sure that these workplaces are safe and healthy."

I see my time is beginning to run out, Speaker. I'd like to also point out to this chamber that the Ottawa Professional Fire Fighters Association have joined in the campaign pushing for changes to the WSIB system. They've joined with the Occupational Disease Reform Alliance. Now, the ODRA comprises miners who inhaled the McIntyre Powder, as I said, between 1943 and 1980, as well as construction workers at the Weyerhaeuser pulp and paper mill in Dryden, steel mill workers in Sault Ste. Marie, and former employees of now-closed Neelon Casting, which made brake parts in Sudbury.

Doug McLennan, who is the president of Local 162, said that "firefighters fought for and received the benefit of presumptive legislation for occupational cancers." Even though these are the people who are going into the most dangerous places—places any other one of us would run from—they're being denied. They're being denied by the WSIB, being denied by the organization that is supposed to support them after they've been exposed to so many different carcinogens and have, unfortunately, engaged in the fight of their life—which should be fighting cancer, but instead of fighting cancer, they're fighting WSIB.

"All too frequently these claims are denied by WSIB"—and this is what McLennan has said, this quote—"despite evidence of the multiple toxic exposures these firefighters faced while doing their jobs.

"We must see WSIB expand the list of presumptions and ensure they are more broadly applicable to all workers."

So the ODRA has made four demands to the Ministry of Labour:

"(1) Grant entitlement for occupational diseases when they exceed the level circulating in a community.

"(2) Use available evidence of occupational disease in the workplace—including that gathered by workers and communities—as the standard for evaluating claims.

"(3) Expand the list of compensable diseases that are presumed to be work-related, and possibly using the firefighters presumption list as a template.

"(4) Recognize claims diseases resulting from multiple exposures, carcinogens and irritants, rather than focusing on a single exposure or occupation."

As I begin to finish off my remarks, I think it's important that we take a look at the intended consequences, at what this legislation could potentially do.

We've heard that the WSIB is frequently wrapping people up in red tape.

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I also want to add comments from the former labour critic, when they were in opposition, from February 2014. They indicated: “As we know”—by the way, I’m glad to see you, Minister McNaughton—“Bill 146 is a large omnibus bill. In my opening, I talked about the different acts that are going to be altered because of this bill. Certain elements tend to get lost in the broader reform context. I respectfully, again, submit that this has happened in Bill 146.

“We are reminded of the comments of an opposition member and former leader in this Legislature a number of years ago in response to a government omnibus bill. I’m going to quote this former political leader:

““I have a real problem with omnibus bills. I’m not going to be able to deal with my problems in the last two and a half minutes I have. There is just so much in this bill. It should not be presented as one, large omnibus bill. I’m beginning to think this government only knows about omnibus bills. It’s not just that we can’t deal with everything in the course of the debate of the evening, of the day. It’s because the omnibus bills—the parts we miss, the parts we couldn’t debate, the parts that the public wasn’t aware of—come back to haunt us.””

He finishes his quote by saying, “That’s from Hansard, on November 19, 2002. That was the member, back then, for Thunder Bay–Atikokan, the former leader of the Liberals, Lyn McLeod.”

He then goes on: “Speaker, going back to Bill 146, to schedule 5, and what this bill will actually achieve: I would say, agreeing with former Liberal leader Lyn McLeod, that this bill could come back to haunt us, will come back to haunt the government of Ontario, the WSIB and, ultimately, the taxpayers and the people of Ontario.”

Those were Minister McNaughton’s words when he was the official opposition labour critic, upset about omnibus pieces of legislation.

Here again, we have another piece of omnibus legislation that tinkers at the edges. It has an opportunity to reform some vital institutions, such as the WSIB, but it really falls short. It is such a shame.

Lastly, I just want clarification. What is this government planning on doing with its asset—what is it going to do with that 60,000-square-foot WSIB headquarters? Are you going to do the right thing? Are you going to convert that to affordable housing? Or are you going to reward some private developer who has smiled at you nicely? Are you going to give them a sweetheart deal? Does it depend on who is in the backrooms? These are all questions people in Ontario deserve to know.

I also want to remind this government, in their desire to sell off public assets—many of the biggest companies in the world cannot exist without a balanced ratio of assets and revenues. It’s not prudent, in the long-term way, to sell these off.

So many of these in this bill—I see some band-aid solutions; ones that aren’t terrible, but ones that aren’t good for the long term.

I hope that this government will listen to the recommendations of many people who have been crying out for years for cutting the red tape that is the WSIB—finally supporting workers who deserve respect, who deserve health care, who deserve to be treated fairly. These are people who went to work and who did not choose to become injured.

Let’s stop the prejudgment that WSIB often has on people. Let’s make sure people can live their best life, their healthiest life, by giving them the supports that they need when they’re injured at work. Let’s stop shutting them out.

Mr. Joel Harden: I want to thank my friend from London North Centre for that really thoughtful presentation. I want to zero in on his comments about the WSIB.

The bill that we’re talking is about supposed to be about red tape, but sometimes I think, embedded in this omnibus legislation are red ribbons—gifts, in fact, to some very powerful bullies in our province, and the WSIB is one of those bullies.

I want to give you an update on a case I’ve talked about in this House. I’ll leave the gentleman’s name out of it. We’ve been working, as you were, with a first responder who was critically injured at work and was fighting the WSIB for years. His marriage has fallen apart. He moved back to the riding to live with his mom. I’ve brought this case to this government several times—no help. Guess what role he played last February? He was a major organizer in the convoy occupation movement, because he was convinced that the Prime Minister hated him and that this House hated him, and the only weapon he had was to paralyze our city and create chaos.

I want you to reflect, as you did in your remarks, on what happens when we leave people behind. What happens when we abandon people to the WSIB bureaucracy?

Mr. Terence Kernaghan: I want to thank the member from Ottawa Centre for his impassioned question.

The evidence has clearly been shown, through numerous reports, through the Ontario Federation of Labour, through the Ontario injured workers support network, that when people are denied the support they deserve, the supports they require, not only do they have a physical injury, but they will also have worsening mental health conditions, and I think it's no wonder. You go to work; you're going to provide for your family. Nobody asks to be injured, and they need that vital support. They need somebody to recognize that they're not just making up some story. **Instead, the WSIB does the exact opposite. It's in the claims denial business. It's trying to look at its bottom line.** It's the difference between publicly delivered health care and privately delivered health care. What is your mandate? Is it care or is it profit?

Mrs. Jennifer (Jennie) Stevens: It's disheartening to see changes in schedule 9 to WSIB while the government is still allowing long-standing gaps for injured workers. Again and again, workers and worker organizations bring up deeming, a practice that allows the WSIB to reduce wage loss benefits based on deemed earnings from a job the injured worker does not have.

My question is to the member opposite: Why is this government not taking the solutions proposed by the member from Niagara Falls to stop the practice of deeming?

Mr. Deepak Anand: The proposed piece of legislation would amend the WSIB, Workplace Safety and Insurance Act, to eliminate administrative burdens when reviewing, renewing or extending lease agreements for the WSIB offices. It is important to know that these potential changes would not apply to the acquisition or disposal of the property, nor would they eliminate government oversight.

The act would update current requirements of the WSIB to ensure they are consistent with other government directives. **Right now, WSIB is required to provide both a five-year strategic plan along with an annual business plan spanning three to five years. This is a perfect example of burdensome red tape: Requiring the WSIB to provide both a strategy and business plan is duplicative and only leads to more costs and delays.**

To ensure a better and greater responsiveness, we are proposing greater legislative flexibility to the WSIB to align with other large agencies like Metrolinx, the Ontario Energy Board, and Ontario Health. By modernizing and updating the governance structure of the WSIB, we are supporting Ontario's overall red tape reduction efforts to streamline outdated practices that no longer serve a purpose. With the Less Red Tape, Stronger Ontario Act, we are continuing to meet this commitment.

Madam Speaker, what does that mean really? It means with less red tape, should the unfortunate need arise, we are proposing to give WSIB the ability to determine all injured apprentices' average earnings be equal to those of a journeyman employed by the same employer in the same trade, for the purpose of calculating loss of earnings. It means that an apprentice would benefit from full earning potential if they were injured.

MPP Kristyn Wong-Tam: I want to talk a little bit about WSIB. WSIB is actually a reference in this bill, and of course, there's all sorts of things that we can say about it—but there's also the request to move the WSIB headquarters from Toronto to London. Companies move all the time. That's perfectly fine, and we can certainly accept that. But when it's a public agency, there should be some public accountability. You're going to have to explain to the public, why is this happening? What is the business case? Where's the value-for-money proposition that you are using to justify this move? Companies move to Toronto all the time. Companies leave Toronto. But I have nothing in this bill that explains to me why this is happening. So not only will jobs leave my city—yes, I should be concerned, but Toronto is a magnet for employment. Many of your children, many of your family members, friends and family, all come into the city of Toronto to work, so it's not the biggest concern for me. However, what's left behind? **There's a \$600-million asset sitting on the street, at Simcoe and Front, and it's not really clear to me what happens to that asset. Given the government's track record of unlocking government assets and quickly selling them for perhaps not the highest and best use and not necessarily the maximum dollar, I think there is a massive loophole that's there, and I want to be able to rein that back in, or at least to ask questions that the government should, in terms of justifying why is this happening.**

If we're going to be talking about WSIB—how are we seeing the impacts of WSIB? What we know is that COVID is still among us, and one thing that the WSIB has been very poorly performing on is how are they taking care of COVID long-haulers, those with long COVID, as they call it. Those are symptoms that are not going to be quick to resolve. They may emerge and they may disappear again, but it becomes a chronic, underlying illness. So now you have Ontarians who have contracted COVID during the global health pandemic living with, now, long COVID that may be coming in sporadically, and there isn't a strategy within any of this act that actually deals with this piece specifically. Ontarians are getting sicker, and there isn't a package or program to support them.

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MPP Lise Vaugeois: The WSIB is part of this bill, and there are some references made to it. First of all, I'm very proud to say that the very first injured workers' support group was founded in Thunder Bay in 1985 as a way to support injured workers, because, even at that point, the WSIB was actually undermining the health and well-being of injured workers. It required a support group that is ongoing, and there are support groups now across the province and the country that have become absolutely essential to survival for people with permanent disabilities.

In terms of the experiences of workers who get hurt or ill through their work, we have seen the first part of what was one of the original social safety nets, workers' compensation, now known as the WSIB, turned into a short-term disability scheme that largely abandons workers who experience work-related permanent injuries.

Created over 100 years ago, Sir William Meredith, the one-time leader of the Conservative Party and father of workers' compensation in Canada, laid out key principles known as the Meredith Principles. These are compensation as long as the disability lasts; collective liability—the employer pays into the fund; no fault; an independent agency; and non-adversarial.

The reason for this compensation board was to remove the need for employees to sue their employers. It was far too costly for employers and employees, so this compensation system was set up. It was meant to be no-fault and always to be there to support workers so that they could live out their lives in dignity.

Meredith believed that if you treated workers fairly, especially when injured, social and economic stability would be the result. Unfortunately, these principles have been systematically eroded and, increasingly, workers are calling for the ability to sue their employers for injury and disease, so we're back to where we were 100 years ago. The evidence is overwhelming that people with disabilities face major barriers to employment, with some 50% of people with disabilities not able to find paid employment.

Deeming was introduced into Canadian law starting in 1979. It is a departure from human rights norms on income security. Deeming allows the adjudicators of employment injury benefits to cut income security benefits. These decisions are based on laws that permit the assumption of employment when, in practice, injured workers have not secured any employment and remain unemployed. Deeming permits dramatic cuts to employee injury benefits and causes economic hardship for people with disabilities while employers pocket the savings. Deeming laws are based upon stigmatizing people with disabilities. In Ontario, stigma is institutionalized in law based on the idea that people need to be incentivized to return to the job market—I'd like to hang on to that word "incentivized."

Employment injury benefits are critical lifelines to ensure that people living with work-acquired disabilities are able to live a life with integrity and dignity. Employment injury benefits have, for over 75 years, been recognized by the United Nations multilateral system as an indispensable and irreplaceable type of income security that is an essential element of social security.

The International Labour Organization's Philadelphia Principles on income security provide a baseline, defining what constitutes dignified treatment in employment injury benefit systems, and yet cost containment for the business community is continually prioritized over a human right to essential income security. Indeed, the workers compensation system envisioned by Meredith and practised in Ontario for most of its history has been utterly changed over the last 25 years. Instead of being there to help injured workers access support, the WSIB now functions like a private insurance company doing its utmost to deny claims in order to return money to employers, but this was never the intent behind creating a workers compensation system.

Just to remind the members on the other side, we're talking about incredible red tape, regulation after regulation, barrier after barrier, after being forced to appeal before somebody with a permanent disability can access any form

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of support. They can't work, they have no income—it takes six months to get on ODSP, which we know is not enough to survive on—and so on. The barriers are endless and cause enormous distress in families, enormous psychological distress, and, of course, physical abandonment. People don't have the money to live. They can't pay their mortgages. Families break down. The consequences are very, very significant.

Many workers who experience permanent injuries while on the job are, indeed, forced into poverty and homelessness because the WSIB has a routine policy of turning down claims, forcing injured workers to launch appeals that take years to resolve. How do they survive in the interim? Their lives have been utterly changed because of the injury or because of being poisoned in the workplace, yet, instead of getting the financial support they need and are entitled to, they are forced to apply for ODSP, and, as I said, even that can take up to six months.

Costs that should be borne by businesses through the WSIB are off-loaded onto the public. Injured workers are abandoned and the public picks up the cost. I think the message is quite clear: When a worker becomes permanently injured, they are disposable. When people have disabilities acquired through birth, accident, disease or through the workplace, they are treated as social pariahs, as fakers unworthy of income support. I don't believe this should be the case in a society as wealthy as ours—it shouldn't be the case in any society—but it is the norm, and a norm that this government continues to propagate.

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After years of appeals, if an injured worker finally does get support from the WSIB, they can then be blindsided by having their claims drastically cut through the practice of deeming. The member from London North Centre spoke about this yesterday in his discussion of Bill 46, but I would like to reiterate the absurdity of deeming practices.

Let's take the example of a former mine worker with an incapacitating injury who is deemed to be able to work as a parking lot attendant at \$16 or \$18 an hour, or whatever the going rates are in cities with parking lot attendants. As in many other places, a worker in Thunder Bay was deemed to be able to be a parking lot attendant, and his income supports were drastically cut as a result.

But guess what? There is not a single parking lot that uses a parking lot attendant in Thunder Bay. We don't have them.

No matter; the worker was deemed able to do this job, so therefore he had to lose a large percentage of his WSIB income. If you think this sounds like the script for a Franz Kafka theatre-of-the-absurd novella, you would be right. Once you have been deemed, you are dumped, and there is no way out.

Last week, the Minister of Economic Development had the temerity to brag about cutting employers' WSIB premiums by 30%. Then, at the same time as injured workers are being forced onto ODSP, he gave a so-called surplus of \$1.5 billion back to employers.

Imagine if that money was going to injured workers or other people trying to live with a disability. How many more people could live in dignity and remain integrated in their communities? Instead, though, bad actors of the business world receive huge payouts and are continually incentivized to deny that injuries have taken place at their workplaces.

This year, injured workers were betrayed yet again when their cost-of-living allowance was set a full 2% lower than stipulated in law and in WSIB policy. Once again, injured workers support groups are having to rally together and come up with a means to appeal being shortchanged by the WSIB.

Why should they have to do this again and again? Why should injured workers have to organize themselves to fight against the organization that was created in order to support them? There's something very foul about the entire set-up.

This brings me back to Bill 46, a grab bag of different housekeeping changes. While some of these are useful, there is so much that needs to be done to make the WSIB responsive to those it was intended to serve.

It's really, frankly, hard to accept that the WSIB was mentioned at all, because the really important critical elements of the WSIB and its purpose are being ignored and not addressed. Certainly, current WSIB practices are examples of red tape run amok, with injured workers having to hold themselves together physically, financially and emotionally while experiencing the institutional violence that is now the norm for the WSIB.

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I must say, there is a lot of excitement in this government about getting more people into the trades, especially young people. But we should be aware that the rate of permanent injuries in Ontario, by the WSIB's own accounting, is about 15,000 people annually, and I am deeply concerned that many of these new workers won't know what hit them when they discover that, rather than being there to support them in what might be their greatest time of need, the WSIB will be trying to save money for employers by treating them, if they've received a serious injury, as an adversary to be defeated.

Welcome to the trades, boys and girls. Learn worker safety, but if anything goes wrong, there's a good chance you'll be thrown under the bus as yet another disposable disabled person. Is this really what this government wants to be known for?

Ms. Teresa J. Armstrong: I want to also talk about the WSIB—I believe that's the last schedule in this bill. We know that the WSIB is being moved from Toronto to the London area, which we're happy about. The government says no job losses will occur, but we are asking for more transparency around the bidding process. What's going on with that? Where are they looking? How long is it going to take? It was announced, I think, just around the election—again, that was a surprise announcement.

The other thing is, right now, that property that is owned by WSIB is government land, so it would be nice to know, transparently, what's going to happen to that property. We would like to see it stay in the government's ownership in order to provide affordable housing—affordable housing being maybe some social housing or geared-to-income housing, which would help the people of Toronto tremendously. We know that that is a crisis in the making for many decades, and those kinds of propositions, when there's land available, would be very helpful, because other bills that the government has proposed are opening up the greenbelt, and they're looking at that land or farmland. When you have that asset already in a government coffer, why not use that for proper affordable housing as well?

Mr. Rudy Cuzzetto: I want to thank the member for that important question.

Over the years, my in-laws ran small businesses throughout the province of Ontario, and it was always difficult because of how WSIB was set up at that time.

I'll go to a personal story, as well. My father died of asbestosis at the Texaco refinery in Port Credit, and it took us 12 years to fight WSIB, to prove that he had died from asbestosis from that refinery. We did finally win that case, but it took 12 years, and my mother finally ended up getting a pension for it.

Those are the issues that we've had with WSIB for many years, and we have to improve it. With this red tape reduction, we are going to start improving the system of WSIB moving forward.

MPP Jill Andrew: I have one question with regard to WSIB. I'm wondering what the government thinks about the billions of dollars, the WSIB surplus, that is going to employers, to big corporations, as opposed to injured workers. We know 50% of injured workers are living in poverty. I'm wondering if this bill addresses injured workers in a comprehensive way that actually puts money back into their pockets.

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Ms. Teresa J. Armstrong: I have a question for the member, specifically on schedule 9 in the bill.

WSIB is now moving from Toronto and going to London. I understand that there are talks happening, but no one knows what prospects there are of where they're going to relocate. There are also questions around the selling of the property here in Toronto. Is it going to stay in public hands so it can be used for things like true affordable housing?

Can the member talk about why they feel transparency and lack of openness about what's going on in that process is red tape? I'd like to know why we can't have those open discussions to eliminate red tape there.

Mr. Dave Smith: I'm going to talk about my previous life as a software developer. We were in a niche market. All the products that we developed were for the education sector here in Ontario. One of the things that we loved, as a vendor of record, was, the Ministry of Education would post something that said, "We're going to spend X amount of dollars for software that does this." Guess how much my response to that RFP was every single time? It was \$1 less than what the ministry said they were going to spend to do whatever it was that they were going to do.

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What we would be doing is—if we broadcast how much money we’re going to spend to do this, all of the bids would come in at \$1 less than what we have said that we’re going to spend on it.

Anyone in business knows that when you’re going to put a procurement out, you do not lay on the table how much you’re going to spend on it. You want a competitive bidding process, where people are bidding to get to the lowest price, to save the taxpayers of Ontario as much money as possible and deliver the best possible service.

Mr. Guy Bourgoin: WSIB and the deeming: You want to remove red tape that will help? That is good red tape—injured workers who are living in poverty. There is no work. You need to realize that up north, communities are sometimes an hour away and more. So they’ve been deemed to do, let’s say, I don’t know—

Mr. Wayne Gates: Park cars.

Mr. Guy Bourgoin: Park cars. Or hotel clerks. Because the jobs are not available in their community, they’ve been deemed, so they pay 85% of the difference between the job—not the whole thing. So they’re being deemed, when the jobs don’t exist in their community. And that’s fair?

That is good red tape you could reduce. You need to do better, as a government. You know about this, because injured workers have come to you. They’ve knocked on my door. I’m sure they knock on your door.

Mr. Guy Bourgoin: What I would support is this government stopping sending WSIB money to companies when we have injured workers who are living in poverty. Workers’ compensation was created because injured workers were suing employers. Now injured workers are suffering. They are not getting what they are supposed to get.

Did you know that if you lose hearing in one ear, you’re not qualified because you hear in the other ear? And yet, if you hurt a shoulder, they take that into consideration. How does that make sense?

Deeming doesn’t make sense. Deeming should be—

The Acting Speaker (Ms. Patrice Barnes): Response?

Mr. Guy Bourgoin: Injured workers should be compensated. If the work is not available in their community, they should not be penalized. The government should fix that.

The Acting Speaker (Ms. Patrice Barnes): The member from Niagara.

Mr. Wayne Gates: It’s always a pleasure to rise.

In this bill, they’re talking about WSIB selling their office in Toronto and moving it to London. And yet, nothing in the bill talks about that money going to injured workers.

My good friend just talked about injured workers. Speaker, 50% of injured workers today are living in poverty. The main reason they’re living in poverty—he’s right on the money, because it has been brought to this House—is deeming.

You had the opportunity, with a majority government, to pass Bill 119, and you chose not to.

Injured workers go to work every day and get hurt, through no fault of their own. They are deemed, and they are forced to live in poverty. Do you know what happens to them? They lose their family. They lose their kids. They lose everything.

Why isn’t that in the bill? Why aren’t you helping injured workers in the province of Ontario?

Mr. Guy Bourgoin: No fault of their own. Yet we are turning a blind eye to this. But we didn’t turn a blind eye to taking billions away from the WSIB and sending it to employers.

If you want to send money to employers, fix the problem with deeming and fix the problem with injured workers. If there’s money left, yes, return it to employers, but until then, injured workers come first—because this is what the WSIB was made for: to compensate injured workers so that their families can thrive and they can thrive. Take away the mental stress—

LAL Observation and Comment: Interestingly, two petitions were introduced to the legislature on December 1, 2022. These are excerpted below. These petitions are identical to several petitions that were introduced 2019 and

before. That they are being reintroduced in consistent with the LAL viewpoint that injured worker issues are gaining momentum. That is also clear in the **Bill 46** debate.

Injured workers

Ms. Bhutila Karpoche: This petition is titled “Workers’ Comp is a Right.” It reads, “To the Legislative Assembly of Ontario:

“Whereas about 200,000 to 300,000 people in Ontario are injured on the job every year;

“Whereas over a century ago, workers in Ontario who were injured on the job gave up the right to sue their employers, in exchange for a system that would provide them with just compensation;

“Whereas decades of cost-cutting have pushed injured workers into poverty and onto publicly funded social assistance programs, and have gradually curtailed the rights of injured workers;

“Whereas injured workers have the right to quality and timely medical care, compensation for lost wages and protection from discrimination;

“We, the undersigned, petition the Legislative Assembly of Ontario to change the Workplace Safety and Insurance Act to accomplish the following for injured workers in Ontario:

“Eliminate the practice of ‘deeming’ or ‘determining,’ which bases compensation on phantom jobs that injured workers do not actually have;

“Ensure that the WSIB prioritizes and respects the medical opinions of the health care providers who treat the injured worker directly;

“Prevent compensation from being reduced or denied based on ‘pre-existing conditions’ that never affected the worker’s ability to function prior to the work injury.”

I fully support this petition and will affix my signature to it.

Injured workers

Mr. Chris Glover: A petition to the Legislative Assembly of Ontario: “Workers’ Comp is a Right....

“Whereas about 200,000 to 300,000 people in Ontario are injured on the job every year;

“Whereas over a century ago, workers in Ontario who were injured on the job gave up the right to sue their employers, in exchange for a system that would provide them with just compensation;

“Whereas decades of cost-cutting have pushed injured workers into poverty and onto publicly funded social assistance programs, and have gradually curtailed the rights of injured workers;

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“Eliminate the practice of ‘deeming’ or ‘determining,’ which bases compensation on phantom jobs that injured workers do not actually have;

“Ensure that the WSIB prioritizes and respects the medical opinions of the health care providers who treat the injured worker directly;

“Prevent compensation from being reduced or denied based on ‘pre-existing conditions’ that never affected the worker’s ability to function prior to the work injury.”

I fully support this petition. I will pass it to page Eric to take to the table.