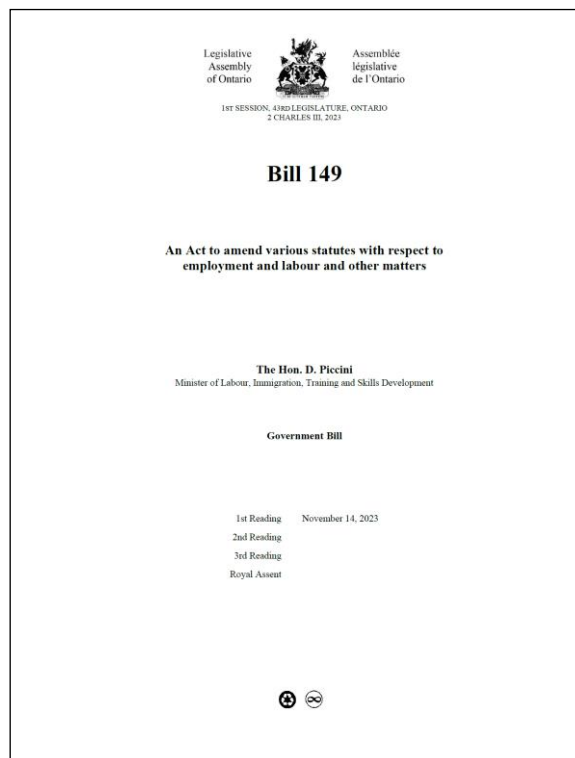


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## **LAL Speaking Notes**

**Standing Committee on Social Policy**  
**Monday, February 12, 2024 1–2 pm**  
**(Committee Room 2 – LAL appearing**  
**virtually)**

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**LAL Speaking Notes: Bill 149**

1. My name is Les Liversidge. I am a lawyer with a workers' compensation practice. I have been involved in every workers' compensation reform initiative over the past four decades dating back to the seminal 1980 study by **Prof. Paul Weiler, *Reshaping Workers' Compensation***, which leaves as its legacy much of the modern workers' compensation scheme, including automatic benefit indexing.
2. I have concerns over the "super-indexing" provisions of **Bill 149**. That will be the limit of my participation.
3. I present four concerns:
4. *One*, no evidence for the need for these provisions has been presented, beyond assertions that:
  - a. Injured workers must be supported
    - i. I entirely agree;
  - b. Super-indexing supports injured workers against the rising cost of living
    - i. I disagree with that – injured workers are *already* protected against inflation erosion through automatic yearly CPI adjustments and have been since 2018 (WSIA, s. 149(1));
  - c. The pandemic has hit injured workers particularly hard
    - i. I don't disagree – every Ontarian was impacted by the pandemic. However, for injured workers, benefits, including benefit indexation, continued. Many other Ontarians saw job and earnings losses during that unprecedented tragedy. There is no evidence that injured workers were specifically economically impacted by the pandemic. If there is such evidence, this should be released.
5. *Two*, indexing benefits greater than inflation adjusts the remedial compensatory nature of workers' compensation. Keeping benefits in-sync with inflation is compensatory. Absent evidence that injured workers have fallen behind as a result of inflation, and providing increases greater than inflation, morphs the scheme beyond its original compensatory intent.
6. *Three*, if there is evidence that injured workers are falling behind due to inflation, the CPI approach then is proved inadequate. This must be remedied with a better automatic mechanism. Injured workers should not be required to appeal for discretionary top-ups from time to time. This has been a consistent theme expressed over the past 40 years, by Prof. Weiler in 1980, and by many past legislators. **Labour Minister Bill Wrye**, when introducing the first automatic full CPI indexing in 1985 said, "*From this day forward, injured workers will never again be in that humiliating position*" of "*having to come cap in hand to the steps of the Legislature.*"
7. *Four*, the WSIB has an unambiguous legal duty to "*evaluate the consequences of any proposed change in benefits*" (WSIA, s. 161(2)), which presumably has been fulfilled. This analysis must be publicly released or else there is no public understanding of the impacts of **Bill 149** on employer premiums and WSIB funding levels.