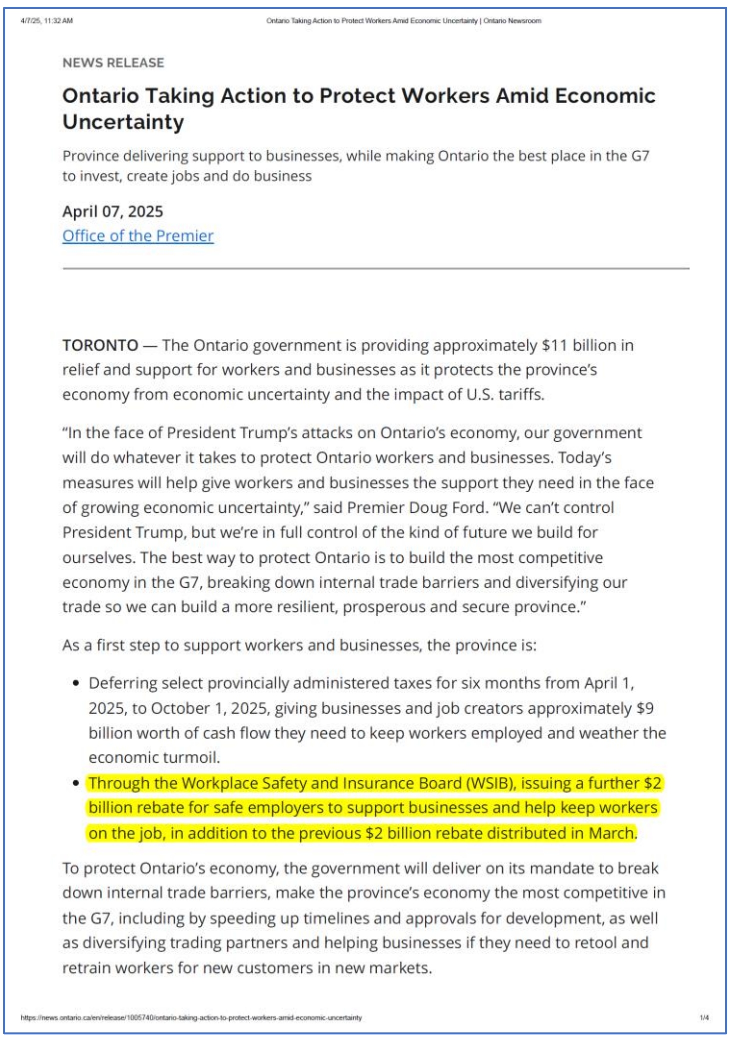
The Liverside Letter

An *Executive Briefing* on Emerging Workplace Safety and Insurance Issues

April 16, 2025 — An ongoing policy discussion for the clients of L.A. Liverside, LL.B. — 2 pages

Government announces *another* $2 billion surplus distribution!

Part 1: Sound funding policy or has the WSIB become an economic stimulus fund?



4/7/25, 11:32 AM Ontario Taking Action to Protect Workers Amid Economic Uncertainty | Ontario Newsroom

NEWS RELEASE

Ontario Taking Action to Protect Workers Amid Economic Uncertainty

Province delivering support to businesses, while making Ontario the best place in the G7 to invest, create jobs and do business

April 07, 2025

Office of the Premier

TORONTO — The Ontario government is providing approximately $11 billion in relief and support for workers and businesses as it protects the province's economy from economic uncertainty and the impact of U.S. tariffs.

"In the face of President Trump's attacks on Ontario's economy, our government will do whatever it takes to protect Ontario workers and businesses. Today's measures will help give workers and businesses the support they need in the face of growing economic uncertainty," said Premier Doug Ford. "We can't control President Trump, but we're in full control of the kind of future we build for ourselves. The best way to protect Ontario is to build the most competitive economy in the G7, breaking down internal trade barriers and diversifying our trade so we can build a more resilient, prosperous and secure province."

As a first step to support workers and businesses, the province is:

- Deferring select provincially administered taxes for six months from April 1, 2025, to October 1, 2025, giving businesses and job creators approximately $9 billion worth of cash flow they need to keep workers employed and weather the economic turmoil.
- Through the Workplace Safety and Insurance Board (WSIB), issuing a further $2 billion rebate for safe employers to support businesses and help keep workers on the job, in addition to the previous $2 billion rebate distributed in March.

To protect Ontario's economy, the government will deliver on its mandate to break down internal trade barriers, make the province's economy the most competitive in the G7, including by speeding up timelines and approvals for development, as well as diversifying trading partners and helping businesses if they need to retool and retrain workers for new customers in new markets.

https://news.ontario.ca/en/release/1005740/ontario-taking-action-to-protect-workers-amid-economic-uncertainty 1/4

April 7, 2025 government announcement from the Office of the Premier

On April 7, 2025 the government announced several economic stimulus type initiatives totalling $11 billion "*in relief and support for workers and businesses as it protects the province's economy from economic uncertainty and the impact of U.S. tariffs*." Premier Ford explained the need for these initiatives:

> "In the face of President Trump's attacks on Ontario's economy, our government will do whatever it takes to protect Ontario workers and businesses. Today's measures will help give workers and businesses the support they need in the face of growing economic uncertainty," said Premier Doug Ford.

I don't have any comment or position on the non-WSIB related initiatives set out in the announcement. There were a few:

> Deferring select provincially administered taxes for six months from April 1, 2025, to October 1, 2025, giving businesses and job creators approximately $9 billion worth of cash flow they need to keep workers employed and weather the economic turmoil.
>
> To protect Ontario's economy, the government will deliver on its mandate to break down internal trade barriers, make the province's economy the most competitive in the G7, including by speeding up timelines and approvals for development, as well as diversifying trading partners and helping businesses if they need to retool and retrain workers for new customers in new markets.

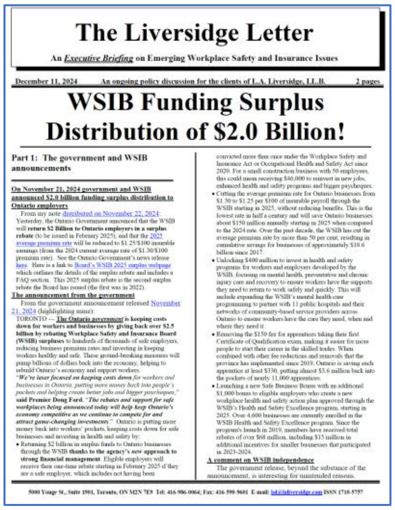
I do though take issue with the WSIB surplus distribution announcement:

> Through the Workplace Safety and Insurance Board (WSIB), issuing a further $2 billion rebate for safe employers to support businesses and help keep workers on the job, in addition to the previous $2 billion rebate distributed in March.

This concern includes the quote attributed to the Minister of Labour, Immigration, Training and Skills Development, Minister David Piccini:

> "Ontario is looking to provide further relief to employers through an additional distribution that will help them keep workers on the jobs, whatever comes our way from President Trump."

In this issue of **The Liverside Letter**, I will explain my concern. Readers will recall my four-part discussion on the previous but still very recent $2 billion surplus rebate announced on November 21, 2024 and just completed last month. In **Part 1** of the series released December 11, 2024 issue, I was critical of the government "*standing in the shoes* *of the WSIB*” and making an announcement that was within the exclusive jurisdiction of the WSIB. I said this:



The Liversidge Letter

An *Executive Briefing* on Emerging Workplace Safety and Insurance Issues

December 11, 2024 — An ongoing policy discussion for the clients of L.A. Liversidge, LL.B. — 2 pages

WSIB Funding Surplus Distribution of $2.0 Billion!

Part 1: The government and WSIB announcements

On November 21, 2024 government and WSIB announced $2.0 billion funding surplus distribution to Ontario employers

From my note distributed on November 22, 2024:

Yesterday, the Ontario Government announced that the WSIB will **return $2 Billion to Ontario employers in a surplus rebate** (to be issued in February 2025), and that the 2025 average premium rate will be reduced to $1.25/$100 insurable earnings (from the 2024 current average rate of $1.30/$100 premium rate). See the Ontario Government's news release here. Here is a link to Board's WSIB 2025 surplus webpage which outlines the details of the surplus rebate and includes a FAQ section. This 2025 surplus rebate is the second surplus rebate the Board has issued (the first was in 2022).

The announcement from the government

From the government announcement released November 21, 2024 (highlighting mine):

TORONTO — **The Ontario government is keeping costs down for workers and businesses by giving back over $2.5 billion by rebating Workplace Safety and Insurance Board (WSIB) surpluses** to hundreds of thousands of safe employers, reducing business premium rates and investing in keeping workers healthy and safe. These ground-breaking measures will pump billions of dollars back into the economy, helping to rebuild Ontario's economy and support workers.

"***We're laser focused on keeping costs down*** *for workers and businesses in Ontario, putting more money back into people's pockets and helping create better jobs and bigger paycheques*," **said Premier Doug Ford**. "***The rebates and support for safe workplaces being announced today will help keep Ontario's economy competitive as we continue to compete for and attract game-changing investments***." Ontario is putting more money back into workers' pockets, keeping costs down for safe businesses and investing in health and safety by:

- Returning $2 billion in surplus funds to Ontario businesses through the WSIB **thanks to the agency's *new* approach to strong financial management**. Eligible employers will receive their one-time rebate starting in February 2025 if they are a safe employer, which includes not having been convicted more than once under the Workplace Safety and Insurance Act or Occupational Health and Safety Act since 2020. For a small construction business with 50 employees, this could mean receiving $46,000 to reinvest in new jobs, enhanced health and safety programs and bigger paycheques.
- Cutting the average premium rate for Ontario businesses from $1.30 to $1.25 per $100 of insurable payroll through the WSIB starting in 2025, without reducing benefits. This is the lowest rate in half a century and will save Ontario businesses about $150 million annually starting in 2025 when compared to the 2024 rate. Over the past decade, the WSIB has cut the average premium rate by more than 50 per cent, resulting in cumulative savings for businesses of approximately $18.6 billion since 2017.
- Unlocking $400 million to invest in health and safety programs for workers and employers developed by the WSIB, focusing on mental health, preventative and chronic injury care and recovery to ensure workers have the supports they need to return to work safely and quickly. This will include expanding the WSIB's mental health care programming to partner with 11 public hospitals and their networks of community-based service providers across Ontario to ensure workers have the care they need, when and where they need it.
- Removing the $150 fee for apprentices taking their first Certificate of Qualification exam, making it easier for more people to start their career in the skilled trades. When combined with other fee reductions and removals that the province has implemented since 2019, Ontario is saving each apprentice at least $330, putting almost $3.6 million back into the pockets of nearly 11,000 apprentices.
- Launching a new Safe Business Bonus with an additional $1,000 bonus to eligible employers who create a new workplace health and safety action plan approved through the WSIB's Health and Safety Excellence program, starting in 2025. Over 4,600 businesses are currently enrolled in the WSIB Health and Safety Excellence program. Since the program's launch in 2019, members have received total rebates of over $68 million, including $15 million in additional incentives for smaller businesses that participated in 2023-2024.

A comment on WSIB independence

The government release, beyond the substance of the announcement, is interesting for unintended reasons.

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Second, **the government seems to be taking much of the credit for the surplus distribution itself, even though the WSIB is an *independent trust agency***. The decision to issue a funding surplus rebate when funding rests between 115% and 125% is within the exclusive legal jurisdiction and sole discretionary power of the WSIB. Technically and legally the government has no say. None. Now, to be clear, I have no problem with the distribution of a funding surplus. In fact, not only am I all for it, I was part of a group that directly advocated for this very move since last Spring. However, **the question of WSIB autonomy and government influence, especially when it came to financial matters, attracted much comment from Prof. Arthurs** in his report **Funding Fairness** (for example, see pp. 50, 54 – 56).

And, this:

The WSIB promotes its proper relationship with government on its website: "*The WSIB is an independent trust agency of the Ontario government operating at "arms-length" from the Ministry*." **In my strongly held view, if the government is attempting to influence or persuade the Board, directly or otherwise, the independence of the Board is compromised and the relationship is no longer "arms-length."**

I referred to a **1995 Ontario Financial Review** report (referenced by the Ontario Auditor General in the seminal **2009 Auditor General Report** - see **Chapter 3, Section 3.14, page 324**):

The Ontario Financial Review Commission's (OFRC's) 1995 report on the province's accounting, reporting, and financial-management practices **commented on the government's apparent influence** over benefits, premiums, and coverage, **which the OFRC believed undermined the WSIB's ability to govern itself in an accountable fashion**. The OFRC stated that "***while the government has the responsibility for setting the Board's mandate, the Board must have the sole power to carry it out***." Our observation is that the OFRC's comments continue to be relevant.

In December, I criticized the government for making an announcement that rightly fell within the exclusive jurisdiction of the WSIB:

In my opinion, the government announcement implies too close a connection between the government and the Board in exactly the manner observed in the 1995 OFRC report. At the very least, the government should not be making what should be a WSIB announcement. By making this a first-person government announcement, the government could be seen as assuming some degree of policy ownership, and that, in my view, could be perceived as, if not actually, crossing the line.

The April 7, 2025 announcement compounds this problem. The earlier November 21, 2024 announcement at least linked the distribution of the surplus to the financial performance of the WSIB:

Returning $2 billion in surplus funds to Ontario businesses through the WSIB **thanks to the agency's *new* approach to strong financial management**.

While I had some quarrel that the attribution to the "agency's new approach" was limited to the current administration when the true genesis of a new approach was the successive leadership of chairs Mahoney and Witmer and CEOs Marshall and Teahen (see December 11, 2024 issue, **The Liversidge Letter**, page 2, column 1), at least the reason for the surplus disbursement was appropriately linked to the financial performance of the WSIB.

The April 7, 2025 announcement makes no such linkage. The current state of WSIB funding isn't even mentioned. The motivation for the funding rebate is not strong WSIB performance (the governing requirement) but instead, prevailing US/Canada trade concerns. The Minister's statement makes that crystal clear.

As readers of **The Liversidge Letter** know, I am an ardent advocate for distributing a funding surplus to Ontario employers when funding is above 115%. However, as I explained in the January 8, 2025 issue (**Part 2**) of **The Liversidge Letter**, the exclusive focus of a funding surplus is inter-generational employer equity. Period. In the January 15, 2025 issue (**Part 3**) I expressed my opinion that the November 2024 announced surplus distribution was actually too low by about $500 million. In the January 22, 2025 issue (**Part 4**) I suggested amendments to **O. Reg. 141/12**. I argued that the statutory and regulatory instructions are too broad and when funding is above 115% distribution of a surplus should be the default unless there are evidence-based reasons not to do so. This was my suggestion for an amendment to **O. Reg. 141/12**:

Distribution of excess between 115% - 125% funding

5. Subject to section 6, when the sufficiency ratio exceeds 115% but is less than 125% the Board shall develop a plan to distribute excess funding to employers to the Minister, and the plan shall be publicly released.

6. If there are evidence based reasons not to distribute excess funding to employers when the sufficiency ratio exceeds 115% but is less than 125%, the Board may decide to not distribute excess funding to employers but the Board shall provide those reasons to the Minister and shall publicly release those reasons.

The very reasons offered are the very reasons not to do it

I repeat, I am a strong advocate for distributing excess funding to employers. It is perhaps a double irony that the current economic circumstances of trade uncertainties, tariff wars, economic disruption, manufacturing investment and stock-market volatility, the very type of reasons provided for the additional $2 billion "rebate" are the very type of reasons that fall within my "evidence-based reasons" not to do so! The discussion continues in **Part 2.**

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