Legislative Assembly of Ontario

Assemblée législative de l'Ontario

Official Report of Debates (Hansard)

F-32

Standing Committee on Finance and Economic Affairs

Fair Workplaces, Better Jobs Act, 2017

2nd Session
41st Parliament

Monday 21 August 2017

Chair: Peter Z. Milczyn
Clerk: Eric Rennie

Journal des débats (Hansard)

F-32

Comité permanent des finances et des affaires économiques

Loi de 2017 pour l'équité en milieu de travail et de meilleurs emplois

2e session
41e législature

Lundi 21 août 2017

Président : Peter Z. Milczyn
Greffier : Eric Rennie

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

ISSN 1180-4386

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

COMITÉ PERMANENT DES FINANCES ET DES AFFAIRES ÉCONOMIQUES

Monday 21 August 2017

Lundi 21 août 2017

The committee met at 0932 in room 151.

FAIR WORKPLACES, BETTER JOBS ACT, 2017

LOI DE 2017 POUR L'ÉQUITÉ EN MILIEU DE TRAVAIL ET DE MEILLEURS EMPLOIS

Consideration of the following bill:

Bill 148, An Act to amend the Employment Standards Act, 2000 and the Labour Relations Act, 1995 and to make related amendments to other Acts / Projet de loi 148, Loi modifiant la Loi de 2000 sur les normes d'emploi et la Loi de 1995 sur les relations de travail et apportant des modifications connexes à d'autres lois.

The Vice-Chair (Ms. Ann Hoggarth): Good morning, committee members. I'm calling this meeting to order for clause-by-clause consideration of Bill 148, An Act to amend the Employment Standards Act, 2000 and the Labour Relations Act, 1995 and to make related amendments to other Acts.

As at the hearings, I will remind everyone that the decorum in this room is to be the same as if we were in the House: no clapping, cheering or comments. Thank you.

Julia Hood from legislative counsel is here to assist us with our work. A copy of the numbered amendments is on your desk. The amendments have been numbered in the order in which the sections appear in the bill.

Are there any questions from committee members before we start? Okay, since there are no questions: As you've probably noticed, Bill 148 is comprised of three sections which enact two schedules. In order to deal with the bill in an orderly fashion, I suggest we postpone the three sections in order to dispose of the two schedules first. Agreed? Okay.

All right. We will now begin with section 1 of schedule 2 of this bill.

We will begin with NDP motion number 1. Schedule 1 to the bill, subsection 1(1.1), subsection 1(1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that section 1 of schedule 1 to the bill be amended by adding the following subsection:

"(1.1) Subsection 1(1) of the act is amended by adding the following definition:

"'"dependent contractor" means a person, whether or not employed under a contract of employment, and whether or not furnishing tools, vehicles, equipment, machinery, material, or any other thing owned by the dependent contractor, who performs work or services for another person for compensation or reward on such terms and conditions that the dependent contractor is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Our amendment actually imports the definition of "dependent contractor" which exists in the Labour Relations Act. The NDP believe that this is a major oversight of the government not to include this definition in the Employment Standards Act, particularly as it has come up time and time again during the Changing Workplaces Review. It's included in the Labour Relations Act. Not to include it would exclude, potentially, tens of thousands of workers from the rights and protections under the ESA. This could even include the minimum wage standard, with its exclusion.

The way that the work has changed in this province and in the country is such that there are many—we estimate perhaps hundreds of thousands of workers who are deemed to be independent contractors when they really aren't. So a contractor gets a job, and they subcontract that entire contract out to other workers. They're really dependent on the person who got the contract, but they're not covered at all under the ESA. Our provision would give them a definition and would give them the opportunity to be covered under the ESA provisions with respect to overtime, holiday pay, leaves, scheduling, vacation and all of those kinds of benefits that workers currently enjoy under the ESA.

The Vice-Chair (Ms. Ann Hoggarth): Any discussion? MPP Colle.

Mr. Mike Colle: I thank the member for the thoughtful amendment.

First of all, I would just like to thank research for tabling the summary of recommendations that we have before us which resulted from the 10 days of hearings. I think that's a great overview of what we heard in a very simplified way. I think that's very helpful.

Just in terms of a response to the NDP motion, I want to make some comments. First of all—I know it's well intentioned—this motion will not address the main problem of misclassification. The real problem at issue is misclassification where employers treat their employees

as if they were self-employed and not entitled to the protections of the Employment Standards Act. This is an enforcement issue—protecting vulnerable workers by ensuring that employers comply with the Employment Standards Act. It is not a definitional issue. What matters is the reality of the relationship between the worker and the business, and not the label that is given to it.

0940

Section 5 of the bill targets the issue directly by making misclassification a stand-alone contravention that can attract additional penalties, including prosecution, public disclosure of a contravention, and monetary penalties. The bill also places the responsibility on the employer to prove the worker is not an employee if there is a dispute.

This motion that we're discussing would create uncertainty and could have unintended consequences.

The current definition of "employee" and the tests that are applied to determine whether someone is an employee are well established and already very broad. Changing the definition is likely to create confusion and have unintended consequences. Employee, union and employer stakeholders do not agree on what adding a "dependent contractor" definition would do. Some believe it would expand the scope of the Employment Standards Act to include some self-employed individuals. Others believe it would be aimed at clarifying what the current scope is.

In the courts, "dependent contractor" means self-employed business people, and can include those who have their own employees.

The Law Commission of Ontario, which currently studied the issue, specifically advised against a "dependent contractor" provision, cautioning that it would be very difficult to avoid inadvertently capturing true independent contractors. Capturing independent contractors could mean, for example, that members of the general public could have Employment Standards Act liabilities as consumers—for example, a homeowner who hires a house painter. The law commission has stated its support for the government's decision not to add a "dependent contractor" definition in Bill 148.

Those are the comments I wish to put on the record.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster?

Ms. Cindy Forster: Yes. I'll just reiterate: There may be some stakeholders who don't agree, but certainly there are many stakeholders whom we've been in contact with over the past couple of months who do support it.

There are thousands and thousands of workers in this province who are being treated as if they were independent contractors when, in fact, the whole essence of their work is dependent upon that retail business that they work for—for example, in the flooring industry where you've got five or six people who are actually out doing sales for you, working in your salesroom 40 hours a week and being treated as if they were an independent contractor when, in fact, they are not.

The purpose of putting this amendment forward was to provide more clarity. I don't agree that it would provide more confusion, as stated by the government.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Colle.

Mr. Mike Colle: I guess the point that the law commission is trying to make is that you don't really solve this problem—and I think it's a real problem; there's no doubt about it—by changing the definition. I think it's one of enforcement. I think that's what the people who have looked at it from the ministry and whom they've consulted with are saying. There has to be tougher enforcement and better enforcement. Changing the definition may have unintended consequences. That's basically what they're saying about it, so I just wanted to respond to that.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I would say that not doing it may have unintended consequences as well. Clearly we know that, in this province, enforcement is a huge issue, not just around this piece. We can't even get people their vacation pay and their overtime pay. There are millions of dollars outstanding to the workers in this province around those simple pieces. Unless the government is going to put in several hundred—not just 120 or whatever it is—enforcement officers, we're never going to be able to enforce all of these workplaces where we have people who are being treated as if they were independent.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Colle.

Mr. Mike Colle: As the member mentioned, part of the government initiative here on updating the Employment Standards Act and the Labour Relations Act is that they are going to add over 100 enforcement officers as this change comes about. We can never have enough enforcement officers, but that's why, in this legislation, we have to be practical to ensure that there is a clear understanding of what the changes are and there is cooperative engagement by the employer in these changes. You have to strike that balance because you can't have an employment officer in every workplace. We're just trying to expand the enforcement officers to try and make sure that the Labour Relations Act and the Employment Standards Act are adhered to.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion?

Ms. Cindy Forster: I just want to—

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster. I would just remind the committee that if you want to speak, you need to be recognized by the Chair. So before you speak, make sure that I've acknowledged you. Thank you.

Ms. Cindy Forster: I just want to get on the record that certainly the NDP commits to bringing in a contractor's bill of rights, either as stand-alone legislation or as a section of the ESA, if elected in June 2018. This would include not only payment provisions but employment definitions, joint premiums between employers and contractors, and a related expansion of public benefit programs such as our proposed pharmacare program that would really benefit this large and growing sector of the workforce in this province.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle?

Mr. Mike Colle: I'm not going to make a list of platform promises here. We're dealing with a very concrete government action here, Bill 148—the first time in, God, 25 years that this has been updated. That's what our commitment is here: to make some clear changes here that are much and long overdue.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster? Done? Seeing there's no further discussion, I will call the question.

Ms. Cindy Forster: Recorded vote, please.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster has requested a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is lost.

We now move on to NDP motion number 2, on schedule 1 to the bill, subsection 1(2.1), subsection 1(1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that section 1 of schedule 1 to the bill be amended by adding the following subsection:

"(2.1) The definition of 'employee' in subsection 1(1) of the act is amended by adding the following clause:

"'(a.1) a dependent contractor,'"

The Vice-Chair (Ms. Ann Hoggarth): Any discussion? MPP Forster?

Ms. Cindy Forster: It was actually a consequential amendment to the number 1 amendment that just lost.

The Vice-Chair (Ms. Ann Hoggarth): Then we will rule that this is out of order.

We move on to NDP motion number 3, on schedule 1 to the bill, subsection 1(3.1), subsection 1(1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that section 1 of schedule 1 to the bill be amended by adding the following subsection:

"(3.1) The definition of 'employer' in subsection 1(1) of the act is amended by striking out 'and' at the end of clause (a) and by adding the following clause:

"'(a.1) any person for whom a dependent contractor performs work or services, and'"

The Vice-Chair (Ms. Ann Hoggarth): Any debate?

Ms. Cindy Forster: As well, it was consequential.

The Vice-Chair (Ms. Ann Hoggarth): It's out of order.

Interjection.

The Vice-Chair (Ms. Ann Hoggarth): Pardon me?

Mr. John Yakabuski: Do they have to be moved before they're ruled out of order?

0950

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Shall schedule 1, section 1 carry? Thank you.

We'll now move to schedule 1, section 2. Government motion 3.1: schedule 1 to the bill, subsection 2(2), subsection 3(5), paragraph 2.1 of the Employment Standards Act, 2000. MPP Colle?

Mr. Mike Colle: I move that subsection 2(2) of schedule 1 to the bill be struck out and the following substituted:

"(2) Subsection 3(5) of the act is amended by adding the following paragraph:

"'2.1 An individual who performs work under a program that is approved by a private career college registered under the Private Career Colleges Act, 2005 and that meets such criteria as may be prescribed.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle?

Mr. Mike Colle: Just an explanation?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Mr. Mike Colle: The partial exclusion of employees of the crown would be repealed. The existing exclusion of individuals performing under a program approved by a college of applied arts and technology or a university would be expanded to include individuals performing work under a program approved by a private career college registered under the Private Career Colleges Act, 2005. The exclusion of individuals who perform work in a simulated job or working environment, if the primary purpose to place the individual in the job or environment is his or her rehabilitation, would be repealed.

This amendment would permit the government to make the exemption for private career colleges subject to certain criteria. These criteria would be drafted to guard against the exploitation of individuals performing work under private career colleges programs, to ensure that the work they are performing is meaningfully related to the course of study, and to impose obligations on the employer participating in such programs or to grant individuals working under them concomitant workplace rights. The Ministry of Labour would develop these criteria in consultation with other related ministries, for example the Ministry of Advanced Education and Skills Development.

It's just to try to ensure that people who are working in relation to career colleges are properly protected and don't fall through certain technical loopholes.

The Vice-Chair (Ms. Ann Hoggarth): Any further debate? MPP Forster.

Ms. Cindy Forster: Maybe I could get some more clarity on this, because my understanding is that it's actually going to strip students of private career colleges—those that are happening in the private sector, like beauty schools, PSW programs, heating and air conditioning technician certificate courses—it's actually going to remove them from being protected by the Employment Standards Act when they are interns or trainees. Can the government or legal counsel, or someone, speak to that?

The Vice-Chair (Ms. Ann Hoggarth): Could we ask the staff legal counsel to come forward, please? Please identify yourself for Hansard.

Ms. Jennifer Komlos: Good morning. I'm Jennifer Komlos, legal counsel to the Ministry of Labour.

Section 3(5) of the ESA provides exceptions to the act's coverage. It provides that the act "does not apply with respect to the following individuals and any person for whom such an individual performs work or from whom such an individual receives compensation."

The proposed amendment would expand this exception to individuals who perform work "under a program that is approved by a private career college registered under the Private Career Colleges Act, 2005 and that meets such criteria as may be prescribed."

Ms. Cindy Forster: So in layman's terms, are these trainees or interns covered by the ESA or are they not, under this motion that's before us?

Ms. Jennifer Komlos: The individuals that are described would not be covered by the ESA.

Ms. Cindy Forster: They would not be covered. So this is a regressive motion, folks.

The government talks about having a Fair Workplaces, Better Jobs Act. Here we are, with vulnerable people trying to get some training to get themselves into the workforce, who are currently covered under the Employment Standards Act—when they're training, when they're interns and they're being paid, they're currently covered by the ESA. This motion is going to make them more vulnerable than they currently are.

There are 70,000 students right now who are taking one course or another at private career colleges across this province, and the government is moving to remove the protections that they currently enjoy. Those are pretty minimum protections for workers in this province, and you're moving to take them away from these students. The government is undermining its own minimum wage guarantee by removing employment standards protections from 70,000 students in the province. There's no other jurisdiction in this country that excludes private career colleges' students from protections under the Employment Standards Act. So things like overtime; leaves of absence for emergency leaves; perhaps hours of work that they're required to work—none of those things will apply any longer to these students.

I don't know why the government, who is purporting to want to improve workplaces and improve the lives of workers in this province, would even put forward an amendment like this. I'd like somebody to answer that, from the government. Did this come from the government members, or did this come from the staff in the ministry?

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: I think the member opposite completely misconstrues the intention here. The intention here is to level the playing field between private career colleges and public colleges, who already have this exemption.

The reality is that we want our students to get workplace experience, but it has to be as part of an educational program, as the regulations stipulate. We have moved very aggressively against unpaid internships. But if it's in the course of an educational experience, it is extraordinarily important, and to discriminate against a private career college that provides absolutely essential on-the-job training in order to meet the skill requirements of the future—this amendment is absolutely necessary. So I hope I'll get your support on this.

The Vice-Chair (Ms. Ann Hoggarth): Could I just ask, are there any further questions of counsel before we go on? Do you have anything further?

Ms. Cindy Forster: I didn't really get an answer as to where this motion came from. Was it a political decision, or was it a ministry decision?

Mr. Arthur Potts: I'll take it.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This was a specific request of the private career colleges association: "Why are you discriminating against private career colleges?"

We recognize it was an error not to have this in the act as an exemption, and we brought it in. This will help so many thousands of students get relevant, on-the-job experience so they can move forward in the economy of the future in very specific training regimes.

The private career colleges do an extraordinary job of bringing people to a level of employment readiness. We need this in here in order to allow them, as part of their course requirements, to get the job experience they need. This is directly a request of the association.

Again, I really hope that you will recognize the importance to our educational system of having kids—students; young adults—get the kind of employment experience they need in order to participate in the future workforce.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I think that these young people, these students that you talk about, need the protection under the Employment Standards Act as well.

It's interesting that you would say this was a direct ask from the private career colleges. You had a direct ask from every labour body in this province to do card-check, card-based certification, for every worker in this province, but you chose not to do that. But you chose to take an ask from the private career colleges and exempt vulnerable students from the Employment Standards Act. Those are my comments.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Colle.

Mr. Mike Colle: In this situation here, actually, by making this change we're putting in specific qualifications that the workers here fall into, which do not exist now, to meet the real-life needs of the private career colleges. Whether it's the private career colleges, whether it's the small restaurant owners or whether it's some of the major labour unions asking for widespread, total card-based certification, we're trying to find a balance here. Sure, it would be great to have card-based for everybody, but for the first time since 1997 or whatever it is, we're expanding card-based certification to three huge sectors.

Again, it's not a 100% complete card-based certification, but it's an attempt to find a workable, meaningful balance. So there are going to be different opinions on different parts of this bill. The private career colleges have put forward an idea to try to better define their specific workplace situation. That's what we've tried to address here.

The Vice-Chair (Ms. Ann Hoggarth): Before we go on, I would remind the committee that we need to speak about the motion that's on the floor. Any further discussion? MPP Forster.

Ms. Cindy Forster: Well, I think that the government opens the door when they raise different issues. So I want to just go back to Mr. Colle's comments about the card-based certification. Although he says we are trying to find a balance here, in fact what the government has done is set up a discriminatory system. Where it used to just be for the construction industry because they were in a different workplace on different days perhaps, the government has now set it up so that some sectors, four sectors of workers in this province, now have card-based certification, but many more sectors that face the same kinds of problems that workers may face in the community health sector—

Mr. Arthur Potts: Point of order.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts: Point of order.

Mr. Arthur Potts: Chair, you just cautioned that people should speak to a specific motion, and we're still on card-based certification. I think the member should move on.

The Vice-Chair (Ms. Ann Hoggarth): I am giving a little bit of leeway. MPP Forster, I did caution that we needed to talk about the private career colleges motion. I think we're going to move on. Okay? Thank you.

Are we ready to vote?

Ms. Cindy Forster: Recorded vote.

The Vice-Chair (Ms. Ann Hoggarth): Recorded vote?

Mr. Mike Colle: Point of order.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: I wonder if we could just have a standard call for recorded votes on all motions before the committee.

The Vice-Chair (Ms. Ann Hoggarth): We are going to stick to doing it in individual motions.

Mr. Mike Colle: I've made that request before in committee many times and the Chairs agreed to it.

The Vice-Chair (Ms. Ann Hoggarth): We're going to recess for a second. Thank you.

The committee recessed from 1003 to 1004.

The Vice-Chair (Ms. Ann Hoggarth): We're ready to reconvene. MPP Colle is able to ask for a recorded vote on every motion. Is there an agreement that every motion will have a recorded vote? Agreed. There will be a recorded vote for every motion.

We'll now move to the motion at hand: subsection 2(2), subsection 3(5). Government motion 3.1.

Interjections.

Mr. Arthur Potts: Point of clarification: Have we voted on the NDP motion yet?

The Vice-Chair (Ms. Ann Hoggarth): There isn't an NDP motion. It's a Liberal motion. We're currently on 3.1.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): That motion is carried.

Shall schedule 1, section 3, as amended, carry—

Interjection.

The Vice-Chair (Ms. Ann Hoggarth): Sorry. Shall schedule 1, section 3 carry—

Interjection.

The Vice-Chair (Ms. Ann Hoggarth): Shall schedule 1, section 2, as amended, carry? Carried. Sorry. Thank you.

Shall schedule 1, section 3 carry? Carried.

Shall schedule 1, section 4 carry? Carried.

Interjections.

The Vice-Chair (Ms. Ann Hoggarth): Thank you for your patience.

Shall schedule 1, section 5 carry? Carried.

Shall schedule 1—

Interjection.

The Vice-Chair (Ms. Ann Hoggarth): Sorry. We're on NDP motion number 4. It's schedule 1 to the bill, section 5.1, section 8.1 of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that schedule 1 to the bill be amended by adding the following section:

"5.1 The act is amended by adding the following section before part IV:

"'Conflict

"'8.1 Despite subsections 14.5(1), 21.4(3), 21.5(3), 21.6(4), 42.1(7) and 42.2(7), if a collective agreement is found to provide lesser protection than the provisions of this act, the provisions of this act prevail.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: The motion would remove the exclusion of collective agreements from the ESA where the collective agreements provide a lesser provision than is under the Employment Standards Act. Normally, whichever is superior applies; although a collective agreement perhaps may not have any language with respect to time off for voting in a provincial election or a federal election or a municipal election, the Employment Standards Act has those provisions.

Perhaps in a first collective agreement that has followed a long strike, or perhaps in a first-contract arbitration type of setting or a final offer selection by an arbitrator, you don't always necessarily get everything

you want in those first collective agreements. So why should workers who are unionized and fall under a collective agreement have an inferior provision to the law?

The Employment Standards Act is a law that applies to all workers in the province that it covers. Today you will see—and I heard this, actually, during our road trip across the province—that there are some collective agreements that are as long as seven or eight years. To actually impose that workers who are in a long-term contract would not have the right to superior provisions under the Employment Standards Act doesn't sound to me like a fairer-workplace, better-jobs kind of situation.

1010

I think that the government should reconsider this. If they truly are trying to improve the lives of workers in this province, it would be a simple task to actually give them the superior benefit under the Employment Standards Act.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Basically, collective agreements cannot be outside of the Employment Standards Act, as the law stands right now, so I don't know what your reference was about.

The other thing is that the government has already proposed an amendment, which you'll see later, that is a much more comprehensive way of dealing with this issue of new scheduling rules and new equal-pay-for-equal-work provisions that would interact differently with collective agreements. We're going to deal with that, I think, in motion 4.12.

The amendment proposed here is very limited, and conflicts with the more comprehensive amendment that the government is putting forward a little bit later, as I said.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I'll use an example for Mr. Colle. A collective agreement currently has two weeks' vacation after one year of service. The government is proposing three weeks' vacation. You have a long collective agreement in place; maybe it just got negotiated this year for five years. Those workers might have four years of seniority today, but they've got a five-year collective agreement. So, for four years, they're never going to get that superior one extra week of vacation because of this provision.

When you say that collective agreements have to comply with the legislation, you're absolutely right: You can't negotiate a benefit that is less than the Employment Standards Act. But you have proposed in this legislation that that is in fact the case, that collective agreements will stay in place regardless of whether or not, during the period of time that this bill is implemented, they will have an inferior provision in them.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: The member opposite is correct that if the collective agreement is silent, the provisions will be from the Employment Standards Act. But wherever there is a conflict between the collective agreement and the Employment Standards Act—we believe in the sanctity of collective bargaining relationships—the contract reigns supreme. The employees may have traded off one benefit for another—higher wages for less vacations. We don't know.

As Mr. Colle has pointed out, we do have a transitionary piece which is far more comprehensive than what is being proposed here, so we will not be supporting this motion.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Labour groups have unanimously agreed that the ESA exemptions for collective agreements currently contained in the act need to go. For example, as drafted in Bill 148, it would allow any wage scale that currently exists in a collective agreement and that falls below the scheduled minimum wage increase to prevail. When you've got a long collective agreement that you've just negotiated, that means that people could be far below the minimum wage for many years.

I don't know if that is what the government intended, or if that was maybe the way to offset some of the increases for employers. But this extends to any requirements around scheduling, around vacation, all of those things.

While you don't want to interfere in the collective bargaining process, in fact, by proposing that many workers in this province—30% of the workforce in this province is unionized, and I don't know how many of that 30% will get caught up in the government's proposal to freeze them where they are, until their collective agreement expires. The labour groups have pointed out that this can mean that some groups of workers may be three or four years from seeing the full rights, protections and benefits afforded under the Employment Standards Act. Our position, and certainly the workers' position and labour's position, is that this shouldn't happen. It shouldn't happen to any worker in this province.

One of the unions pointed out that in some traditionally low-wage sectors that nonetheless have representation, workers who now find themselves below the minimum wage will seek to decertify, and as such, the exemptions will act as a policy gimme for large employers.

I think the government needs to revisit that. Do you really want thousands of workers not to be able to access that minimum wage that you're proposing to improve the lives of workers over the next 12 months because they've got a collective agreement in place with lower wages, which is actually going to keep them at that lower wage for far longer than anyone else?

The Changing Workplaces panel—this issue never came up at that panel. It was not proposed by any of the groups presenting and it certainly didn't come out as a recommendation from the panel. Once again, I don't know where it came from, whether it came from ministry staff or whether it came as a political motion, but it certainly is not fair. It isn't going to provide a fairer workplace, it isn't going to provide better jobs and, frankly, it's downright discriminatory.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: I think the member is totally misinformed on this. What she's saying is totally incorrect. The Employment Standards Act supersedes the collective agreement.

As I said before, we are making a more comprehensive motion which will take into account the changes that are arising from the equal-pay-for-equal-work changes that are in this legislation. Just to clarify—because I don't claim to be a labour lawyer—I would like legal counsel from labour to come and clarify this, because I think this is a very serious misinterpretation that the member is bringing forward. I want clarification.

The Vice-Chair (Ms. Ann Hoggarth): Could you identify yourself again for Hansard, please.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour.

Ms. Stephanie Parkin: Stephanie Parkin, manager, employment rights and responsibilities, for the Ministry of Labour.

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

Ms. Jennifer Komlos: There is no proposed provision in the bill or in the motions package that would provide something that would say that collective agreements trump with respect to minimum wage. The minimum wage provisions do not have it. As MPP Colle indicated, there are some collective agreement transitional provisions in the bill and in the motions package, and they're with respect to scheduling and equal pay for equal work, not minimum wage.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I just want to clarify: For the minimum wage piece, people who are in collective agreements for the next four or five years will continue to be eligible for those minimum wage increases?

Ms. Jennifer Komlos: If the bill passes, they would be entitled. Section 99 would deem the ESA to be part of the collective agreement and employers will have to comply.

Ms. Cindy Forster: What about the vacation pay piece?

Ms. Jennifer Komlos: Yes.

Ms. Cindy Forster: They would be eligible for that vacation pay piece?

Ms. Jennifer Komlos: Yes. The extended—the three weeks after five years and so forth, yes.

Ms. Cindy Forster: So the only areas where they wouldn't see improvements that were under the Employment Standards Act are where?

Ms. Jennifer Komlos: You'll see the government is actually bringing forward motions to amend what was in the bill with respect to scheduling and equal pay for equal work. You'll see those at motions 4.12, 4.15, 4.17, 13.2 and 15.1.

Ms. Cindy Forster: Okay. Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Thank you to counsel.

Any further discussion on NDP motion number 4? This is a recorded vote. As requested by MPP Colle, all votes will be recorded.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

Shall schedule 1, section 6 carry? Carried.

Shall schedule 1, section 7 carry? Carried.

We'll now move to government motion 4.1, schedule 1 to the bill, subsection 8(0.1), subsection 15(1) of the Employment Standards Act, 2000. MPP Colle.

1020

Mr. Mike Colle: I move that section 8 of schedule 1 to the bill be amended by adding the following subsection:

"(0.1) Subsection 15(1) of the act is amended by adding the following paragraphs:

"'3.1 The dates and times that the employee was scheduled to work or to be on call for work, and any changes made to the on-call schedule.

"'3.2 The dates and times that the employee worked.

"'3.3 If the employee has two or more regular rates of pay for work performed for the employer and, in a workweek, the employee performed work for the employer in excess of the overtime threshold, the dates and times that the employee worked in excess of the overtime threshold at each rate of pay.

"'3.4 Any cancellations of a scheduled day of work or scheduled on-call period of the employee, as described in subsection 21.6(2), and the date and time of the cancellation.'"

The amendment would create new record-keeping obligations for the employers under the records section of the act, section 15. These record-keeping requirements would facilitate the enforcement of the current and proposed new provisions of the act, including the proposed new scheduling rules regarding minimum wage or being on call and pay for late notice of shift cancellation. In particular, the additional records would provide employment standards officers with the evidence they require to determine whether there has been compliance with the act.

The amended record-keeping provision would include the requirements for employers to record: the dates and times an employee was scheduled to work or to be on call, and any changes made to the on-call schedule; the dates and times that the employee worked; certain information regarding an employee who has different rates of pay and earned overtime pay in a workweek; and certain information regarding the cancellation of scheduled work or on-call shifts.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay. I'll call the question on government motion 4.1—it's a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is carried.

We are now going to stand down government motion 4.2, as this amendment is dependent on government motions 6.1, 6.2, 6.3 and 6.4 carrying.

Government motion 6.1, schedule 1 to the bill, section 16, subsection 27(2.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 16 of schedule 1 to the bill be struck out and the following substituted:

"16. Section 27 of the act is amended by adding the following subsection:

"'Substitute day of holiday

"'(2.1) If a day is substituted for a public holiday under clause (2)(a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

"'(a) the public holiday on which the employee will work;

"'(b) the date of the day that is substituted for a public holiday under clause (2)(a); and

"'(c) the date on which the statement is provided to the employee.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: One of the entitlements an employee may have under the public holidays part of the Employment Standards Act is to a substitute holiday. A substitute holiday is the right to a different day off with public holiday pay.

The bill proposes to remove most of the provisions in the ESA that allow for a substitute holiday. This amendment would retain the substitute holiday provisions. It would also require employers to give employees who agree to work on a public holiday and who are entitled to a substitute holiday a written statement setting out the public holiday that the employee will work on—the day that is designated to be the substitute holiday—and the date the statement is provided to the employee.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster?

Ms. Cindy Forster: So, really, this is talking about a lieu day—a lieu day in lieu of the public holiday. If the holiday is on a Monday and if the employer, under the act, chooses to substitute it on another day, that will be clear to the employees and they can agree to work it. Is there anything in here that actually gives employees the right to request not to work on those substitute holidays?

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: I know that this amendment is an attempt to make sure that the employer puts everything in writing and it's agreed to by the employee. In terms of the employee's right to say, "I don't want to work on the lieu day or substitute day; I want to be off"—I just would like clarification on that, if I could, from legal counsel.

Ms. Cindy Forster: I've got one more question, too, while we're there. The other one is that it says "provide the employee with a written statement, before the public holiday." Does that mean they can provide it the day before they're actually substituting the day?

Mr. Mike Colle: I'm not sure of the time sequence. Maybe if legal counsel could just—

The Vice-Chair (Ms. Ann Hoggarth): If legal counsel would come forward again. Please identify yourself for Hansard.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour.

The proposed motion would essentially go back to what currently exists under the ESA. An employer and employee may agree that the employee will work on a public holiday that would otherwise be a working day for that employee. If they do make an agreement, then the employer would either have to pay the employee wages at his or her regular rate for hours worked on the public holiday and substitute another day that would ordinarily be a working day for the employee to take off work for which he or she will be paid public holiday pay as if the substitute holiday were a public holiday, or, if the employee and the employer agree, the employer shall pay the employee public holiday pay for the day plus any premium pay for work done on that day.

That currently exists now. What the proposed motion would do is require a written statement to be provided to the employee so that the employer would say what public holiday the employee is going to work, the date of the day that would be substituted, so the employee knows, and the date on which the statement is provided to the employee. It would go back to the status quo, but there would be this additional requirement for a written statement to be provided to the employee.

The Vice-Chair (Ms. Ann Hoggarth): Any further questions? Any further comments on this amendment? All right. It's a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): That motion is carried.

We now move on to government motion 6.2, schedule 1 to the bill, section 16.1, subsection 28(2.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that schedule 1 to the bill be amended by adding the following section:

"16.1 Section 28 of the act is amended by adding the following subsection:

"'Substitute day of holiday

"'(2.1) If a day is substituted for a public holiday under clause (2)(a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

"'(a) the public holiday on which the employee will work;

"'(b) the date of the day that is substituted for a public holiday under clause (2)(a); and

"'(c) the date on which is the statement is provided to the employee.'"

It's just further clarification of that same substitution permission.

1030

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? No? All right, I will call the question. All those in favour of government motion 6.2? This is a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

Shall schedule 1, section 16.1 carry? Carried.

We'll now move to government motion 6.3, schedule 1 to the bill, section 16.2, subsection 29(1.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that schedule 1 to the bill be amended by adding the following section:

"16.2 Section 29 of the act is amended by adding the following subsection:

"'Substitute day of holiday

"'(1.1) If a day is substituted for a public holiday under subsection (1), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

"'(a) the public holiday on which the employee will work;

"'(b) the date of the day that is substituted for a public holiday under subsection (1); and

"'(c) the date on which the statement is provided to the employee.'"

It's just making the same amendment in another subsection.

The Vice-Chair (Ms. Ann Hoggarth): Any discussion? I'll call the question. This will be a recorded vote. All those in favour of government motion 6.3?

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

Shall schedule 1, section 16.2 carry? Carried.

We now move to government motion 6.4, schedule 1 to the bill, section 16.3, subsection 30(2.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that schedule 1 to the bill be amended by adding the following section:

"16.3 Section 30 of the act is amended by adding the following subsection:

"'Substitute day of holiday

"'(2.1) If a day is substituted for a public holiday under clause (2)(a), the employer shall provide the employee with a written statement, before the public holiday, that sets out,

"'(a) the public holiday on which the employee will work;

"'(b) the date of the day that is substituted for a public holiday under clause (2)(a); and

"'(c) the date on which the statement is provided to the employee.'"

It's just amending another further section with that substitute provision in subsection 30.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question. All those in favour of government motion 6.4? Recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

Shall schedule 1, section 16.3 carry? Carried.

We now will return to government motion 4.2, schedule 1 to the bill, subsection 8(0.2), subsection 15(1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: Just one second. I thought the NDP motion was coming up.

The Vice-Chair (Ms. Ann Hoggarth): We're on 4.2.

Mr. Mike Colle: Oh, we're going back.

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Mr. Mike Colle: Okay, thank you. Just bear with me for a minute.

Mr. Arthur Potts: I'll read it in, if you like.

Mr. Mike Colle: No, I've got it now. Thank you.

I move that section 8 of schedule 1 to the bill be amended by adding the following subsection:

"(0.2) Paragraph 5 of subsection 15(1) of the act is amended by striking out 'section 12.1' and substituting 'section 12.1, subsections 27(2.1), 28(2.1), 29(1.1) and 30(2.1)'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Again, this is essentially what we have just gone through. This amendment would create new record-keeping obligations regarding substitute holidays for employers under the records section of the act, section 15.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question. Shall government motion 4.2 carry? This is a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We now move to government motion 4.3, schedule 1 to the bill, subsection 8(0.3), subsection 15(3) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 8 of schedule 1 to the bill be amended by adding the following subsection:

"(0.3) Subsection 15(3) of the Act is amended by striking out 'paragraph 4' in the portion before clause (a) and substituting 'paragraph 3.2 or 4'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: This is a continuation of the record-keeping required for employers and their days off.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I just have a couple of questions. So 4.1, 4.2 and 4.3 are contingent around government timelines to actually implement the commencement of the schedules in the act. I understand that the scheduling of employees section won't even come into force and effect until 2019, as well as their lesser formula for entitlements. Why is that? Why is the government waiting until 2019 to actually implement these scheduling requirements for employers? Many sectors of workplaces have schedules in place already. If you work in the health care industry, if you work in the retail industry, schedules are produced on a regular basis, I would say, probably in the vast majority of workplaces already. Why is the government waiting 18 months when normally they implement these types of changes in a six-month period?

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle?

Mr. Mike Colle: I've been trying to answer that. I guess it's just basically to allow for proper planning for employers and employees, and also to negotiate new contracts, new collective agreements. If you think of a workplace like the TTC, which has over 10,000 employees, and trying to arrange schedules consistent with the changes in the legislation, it will take some time.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster?

Ms. Cindy Forster: I just will say that I oppose the delay in implementation; I don't think it's that onerous. I think it's actually a protection for both employers and employees, so I don't know that we need to wait 18 months—after the next provincial election—to actually implement these changes.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question. This will be a recorded vote on government motion 4.3.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

Mr. Arthur Potts: Chair, a point of clarification, if I could?

The Vice-Chair (Ms. Ann Hoggarth): Yes, MPP Potts. Is there such a thing as a point of clarification? Okay.

Mr. Arthur Potts: As we were going through these motions, you've been reading the schedule 1 to the bill, subsection 8.4. Is that absolutely necessary, in the interest of time, to read that?

The Vice-Chair (Ms. Ann Hoggarth): Yes, it is.

Mr. Arthur Potts: Other committees don't do that.

The Vice-Chair (Ms. Ann Hoggarth): Yes, they do.

Mr. Arthur Potts: Do they? Okay.

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

We move now to government motion 4.4, schedule 1 to the bill, subsection 8(0.4), subsection 15(5) of the Employment Standards Act, 2000. MPP Colle.

1040

Mr. Mike Colle: I move that section 8 of schedule 1 to the bill be amended by adding the following subsection:

"(0.4) Paragraph 3 of subsection 15(5) of the act is amended by striking out 'paragraph 4' and substituting 'paragraph 3.1, 3.2, 3.3, 3.4 or 4'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Subsection 15(5) of the act stipulates how long employers are required to retain certain records that they are required to create under the act. This amendment would establish retention periods for the additional records that employers would be required to create under the proposed new record-keeping provisions regarding employees' hours, work and schedules.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: Is it just related to schedules, or is it related to their vacation entitlements as well? It really wasn't clear to us when we had a look at that.

Mr. Mike Colle: I think it's record-keeping of all kinds that are required under the ESA. There are additional records that would be required with the new legislation, so all the new changes would now have to be recorded and kept.

Ms. Cindy Forster: And is that independent of their schedules? Are these records going to be kept independent of their work schedules by their employers?

Mr. Mike Colle: Well, again, it's records of hours worked and schedules. Therefore, through you, Chair, if enforcement officers from the Ministry of Labour come and ask for these records, they'll be required to have these records.

Ms. Cindy Forster: So what does that mean to an employee in the workplace? What kind of access would they have to these records if they were trying to actually prove an enforcement issue or make a complaint to the employment standards branch?

Mr. Mike Colle: I'm sure that the employee has the right to seek access to these records through the employment standards branch. They would be available, because the employer would be required to keep this information now.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay, I'll call the question. All those in favour of government motion 4.4?

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We now move to government amendment 4.5: schedule 1 to the bill, section 8, subsection 15(7) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 8 of schedule 1 to the bill be amended by striking out "crime-related child disappearance leave" and substituting "crime-related child disappearance leave, domestic or sexual violence leave".

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Subsection 15(7) establishes retention periods for records regarding the different leaves provided for under the act, such as pregnancy and parental leave. This consequential and technical amendment would require employers to retain records for crime-related child disappearance leave and domestic or sexual violence leave, the latter of which is proposed in government motion 15.11.

The Vice-Chair (Ms. Ann Hoggarth): Any discussion? MPP Forster.

Ms. Cindy Forster: Yes, just some questions. I guess it's proposing to separate domestic and sexual violence leave from other leaves. Is that what this motion is trying to do with regard to record-keeping?

Mr. Mike Colle: My understanding is that since this is now an expanded area that we are proposing in section 15.1, we are requiring that the same record-keeping provisions that are being expanded in this act also cover domestic and sexual violence leave.

Ms. Cindy Forster: So how will these records be stored? There are huge privacy issues around domestic and sexual violence issues. Certainly people who find themselves as victims want to ensure that these records—it's one thing for the employer to be storing your vacation entitlements and your regular sick leave days or how many paid holidays you've taken; it's another thing for the employer to have information that they're keeping. I think it's important for us to know what discussion has occurred around how we are going to protect the privacy of these victims. Who will have access? Will it just be the employer? Will it be the manager? Will it be the supervisor in the manager's absence? I think it's important that we know how that's going to happen and that that record-keeping is somehow kept confidential, separate and apart, perhaps, from the regular record in the regular employee file.

Mr. Colle, or legal counsel—

The Vice-Chair (Ms. Ann Hoggarth): Just a second. MPP Colle, I'll let you answer that question, but MPP Yakabuski has asked to speak as well.

Mr. John Yakabuski: Thank you, Chair. I want to preface this by saying that the PC Party has an amendment further down that speaks to our concerns about proceeding with this bill, period, at this time until such time as further study is done to understand its impacts. But this is a change that we certainly do support because, regardless of how we feel about the bill—we feel that, with the government's majority, the bill is going to pass—we do want to see increased protections for those victims of sexual and domestic violence. Our critic, Laurie Scott, has been a tremendous spokesperson on that.

I'm not the legal person, but on the issue of records, obviously, records of some kind have to be kept in order for an employer to be able to prove that somebody actually was given the time off through that period. I'm sure that the government's legal department will be able to explain that. But this is a change that I think does afford additional protection for those who are victims of sexual and/or domestic violence to be able to have that leave to get their lives back in order, so we will support it.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Yes. I'll speak to this new protection for victims of child disappearance and domestic and sexual violence when we deal with section 15, but my understanding is that this is covered under Ontario's privacy laws. We could have legal counsel clarify this if they can.

The Vice-Chair (Ms. Ann Hoggarth): Could we have legal counsel come forward again, please. Again, could you identify yourself for Hansard.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour.

Ms. Stephanie Parkin: Stephanie Parkin, manager, employment rights and responsibilities, Ministry of Labour.

Ms. Jennifer Komlos: Right now there is a provision in subsection 15(7) of the ESA which would require an employer to retain or arrange for some other person to retain all notices, certificates, correspondence and other documents given to or produced by the employer that relate to an employee taking all the leaves under the ESA. The proposed motion would extend this provision to the proposed domestic or sexual violence leave. There is nothing in the ESA that would speak to the privacy of that information. You were right: You noted that, typically, with respect to illness leaves and disabilities, employers get personal information as it is, but there's nothing in the ESA that speaks to how they maintain the confidentiality.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Then I would propose that we need an amendment here to ensure that that particular personal information actually gets stored and protected—perhaps in a different way than for other leaves. If employers are required to deal with health information, for example under PHIPA, the same should apply to domestic and sexual violence issues. I can tell you, in my years working as a nurse and representing nurses, there were lots of times over the years that personal information got into people's records—for example, when they filed a claim for compensation, and some document that

was supposed to be under the protection of the employee health department suddenly found its way into their compensation file, which did not have the same protections.

I'm very concerned. We need to make sure there's some way in this legislation that that happens.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster, you are welcome to draft an amendment. If you want to do that, we would recess while you did that.

Ms. Cindy Forster: Maybe we could take a recess and try to do that.

The Vice-Chair (Ms. Ann Hoggarth): We'll have a 10-minute recess.

The committee recessed from 1059 to 1113.

The Vice-Chair (Ms. Ann Hoggarth): Can we come back to order, please.

We are now going to go back to government motion 4.5 to continue discussion, if there is any further discussion. Is there anyone who would like to have further discussion on government motion 4.5?

Seeing none, I will call the question. It is a recorded vote. All those in favour of government motion 4.5?

Ayes

Barrett, Colle, Forster, Potts, Qaadri, Rinaldi, Wong, Yakabuski.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

MPP Forster has a new amendment. MPP Forster.

Ms. Cindy Forster: I move that section 8 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Section 15 of the act is amended by adding the following subsection:

"'Personal information

"'(10) An employer shall ensure that records retained under this section are retained in a manner that protects and maintains the confidentiality of personal information.'"

I'd like to ask for unanimous consent from the members here to stand this down until the ministry staff have an opportunity during this process to go and have a look at this, and come back and respond to whether or not the information is protected, or how we can make sure that it is.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster has asked that we have unanimous consent to stand down her amendment until the government has had a chance to look into it. Do we have unanimous consent?

Mr. Arthur Potts: Point of clarification: Is it consent to stand it down, or is it consent to introduce it?

The Vice-Chair (Ms. Ann Hoggarth): It has already been introduced. It is consent to stand it down.

Interjections: Agreed.

The Vice-Chair (Ms. Ann Hoggarth): All right. We do have unanimous consent. We will stand it down until a later time.

We now move on to government motion 4.6, schedule 1 to the bill, subsection 9(0.1), subsection 15.1(2) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 9 of schedule 1 to the bill be amended by adding the following subsection:

"(0.1) Subsection 15.1(2) of the act is amended by adding the following paragraph:

"'4.1 The amount of vacation pay that the employee earned during the vacation entitlement year and how that amount was calculated.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: This amendment would create new record-keeping obligations for employers under the vacation time and vacation pay records section of the act, section 15.1. The amended record-keeping requirement would require employers to record the amount of vacation pay that the employee earned during the vacation entitlement year and how that amount was calculated.

The record-keeping requirements would facilitate the enforcement of the vacation time and vacation pay provisions of the act by employment standards officers. In particular, the additional records would provide employment standards officers with the evidence they require to determine whether there has been compliance with the act.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: This really is a record-keeping and enforcement issue. There's nothing regressive in this motion that we're not aware of?

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: I think the amendment requires more robust and mandatory record-keeping for investigation by the employment standards office.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question. It's a recorded vote. All those in favour of government motion 4.6?

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment carried.

We'll now move to government motion 4.7, schedule 1 to the bill, subsection 9(1), subsection 15.1(3) of the Employment Standards Act, 2000. MPP Colle.

1120

Mr. Mike Colle: I move that subsection 9(1) of schedule 1 to the bill be struck out and the following substituted:

"(1) Subsection 15.1(3) of the act is amended,

"(a) by striking out 'for an employee an alternative vacation entitlement year that starts on or after the day on which section 3 of schedule J to the Government Efficiency Act, 2002 comes into force' in the portion before paragraph 1 and substituting 'an alternative vacation entitlement year for an employee'; and

"(b) by adding the following paragraph:

"'3.1 The amount of vacation pay that the employee earned during the stub period and how the amount was calculated.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: The amendment would create new record-keeping obligations for the employers under the vacation time and vacation pay records section of the act, section 15.1.

The amendment would also delete a reference to schedule J in the Government Efficiency Act, 2002, which is a reference previously included for transitional reasons that is no longer applicable.

Currently, employers are required to record the amount of vacation pay paid to an employee during the stub period.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: I've experienced changing vacation entitlement years in my previous life in the health sector, and it isn't always as simple as just changing the date. Changing the date is the easy part. It's the calculation and the carry-over that actually becomes the problem.

I guess my question to the government, or to the ministry staff, is, how is the government going to guarantee that there is no loss of vacation entitlements earned in the first instance that would get carried over into the new vacation year? If people are getting their vacation pay on every paycheque, it's probably not an issue. But if, as in health care—Ms. Wong will remember—your vacation is vacation with pay unless you're a casual person or a part-time person. For full-time people, this may become an issue if there isn't proper reconciling of what they had in their old vacation year moving into this new vacation entitlement year.

I'd like to hear from somebody how we're going to ensure and have enforcement to make sure that people, particularly full-time people who don't get their vacation pay every paycheque, aren't going to lose out on vacation that they've accrued.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: If Ministry of Labour staff would like to explain that, I think that it would be very helpful.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Thank you. Identify yourself for Hansard.

Ms. Stephanie Parkin: Stephanie Parkin, manager of employment rights and responsibilities.

This motion actually addresses the concern that Ms. Forster has raised. Currently, employers, under the act, are required to record the amount of vacation pay paid to an employee during the stub period. I can explain what that means if the members have a question.

The change is going to amend that requirement so that the employer has to record the amount of vacation pay that an employee earned during that period.

The difficulty that is experienced by some employees right now is that because you are only required to record what they were paid, you may have omitted some time that was actually earned but not paid to the employee. There are claims that the ministry regularly has to deal with where there has been an improper calculation of what was earned completely, and the stub period where there's an alternative vacation entitlement year sometimes complicates that calculation.

This change provides a more complete picture of what the employee has earned with respect to vacation pay, and it will make it easier for employment standards officers to make that determination when they inspect the employer's records. It's actually a stricter provision than what previously existed.

Ms. Cindy Forster: Will it address the issue I raised about full-time people when their vacation year changes, and that carry-over piece? I've had situations where, say, the vacation year was January and now it has become April, so they've had a three-month period of earning that they need to carry over into the next vacation year. How is that going to be addressed with this language?

Ms. Stephanie Parkin: Right. Again, whatever the employer's rules are with respect to vacation entitlement—and we're dealing now with a situation that would be over and above the minimum standards under the act—the employer would still be required to record whatever the employee earned. Again, if there was a change, that would have to be taken into account in the calculation.

Once the employer has recorded that, if there's a dispute and the employee files a claim, the officer would be able to go back to those records and determine whether the calculation was done correctly and whether an issue such as carry-over would have been taken into account properly.

Ms. Cindy Forster: Okay. Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Does anyone have any further questions? Okay. Thank you very much.

Any further discussion on this amendment? I'll call the question. All those in favour of government motion 4.7? It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We now move to government motion 4.8, schedule 1 to the bill, subsection 9(1.1), subsection 15.1(5) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 9 of schedule 1 to the bill be amended by adding the following subsection:

"(1.1) Subsection 15.1(5) of the act is amended by striking out 'three years' and substituting 'five years'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Subsection 15.1(5) establishes retention periods for vacation time and vacation records. In a nutshell, this would determine that the records be kept for a longer period of time, to ensure compliance.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question. It's a recorded vote. All those in favour of government motion 4.8?

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We now move to government amendment 4.9, schedule 1 to the bill, subsection 9(2), subsection 15.1(7) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that subsection 9(2) of schedule 1 to the bill be struck out and the following substituted:

"(2) Subsection 15.1(7) of the act is repealed and the following substituted:

"'Transition

"'(7) Subsections 15.1(2) and (3), as they read immediately before the day section 9 of schedule 1 to the Fair Workplaces, Better Jobs Act, 2017 came into force, continue to apply with respect to vacation entitlement years and stub periods that begin before that day.'"

The Vice-Chair (Ms. Ann Hoggarth): Could you just read the last sentence? You said "begin" instead of "began."

Mr. Mike Colle: "'... continue to apply with respect to vacation entitlement years and stub periods that began before that day.'"

The Vice-Chair (Ms. Ann Hoggarth): Thank you. MPP Colle?

Mr. Mike Colle: The amendment would create a transitional provision to allow the current record-keeping and retention provisions regarding vacation time and vacation pay to apply to vacation entitlement years and stub periods that began before the Fair Workplaces, Better Jobs Act came into force.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: So what does that really mean?

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: It just means that to get the records all up to date, and for the employers to comply with the new legislation—it's that gap between what exists now and what the five-year-period requirement is. It just gives them time to make the transition over to the new legislation.

1130

The Vice-Chair (Ms. Ann Hoggarth): MPP Yakabuski?

Mr. John Yakabuski: Yes, thank you, Chair. I just need a clarification here, because we just passed an amendment that strikes out the "three years" in the Employment Standards Act, amending and substituting "five years," and now we have an amendment that says that it applies to the period that began before the assumed passing of the bill.

How could you go back five years? I mean, the bill, if it's going to pass, is not going to take another two years. If there were only records for three years, because that's what it is under the act today, and there were no records that went beyond three years, how could you require someone to keep records for five years if they don't exist?

Maybe I'm misreading it, I'll say to the legal people, but it looks like this amendment—you're saying that it applies to the periods that began before the day that the act came into force, but you can't go beyond something if it doesn't exist. If they were only required to keep them for three years and only did, how would that work?

The Vice-Chair (Ms. Ann Hoggarth): Would you like the legal counsel to answer that question? Come on up. Please identify yourselves.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour.

Ms. Stephanie Parkin: Stephanie Parkin, manager, employment rights and responsibilities, Ministry of Labour.

Ms. Jennifer Komlos: The proposed transitional piece would apply to 15.1(2) and 15.1(3). Those are the proposed new requirements that would require the employer to keep records about the vacation pay the employee earned during the vacation entitlement year and also earned during the stub period.

That's why you have that transitional provision, because the employer wouldn't have created them before that. That's why you have it, like you said, on a go-forward basis, so that it doesn't put them out of compliance with the proposed sections.

Subsection (5) is what you're talking about. The increase from three to five years is not covered by the transitional piece, because subsection (5) is "the employer shall retain or arrange for some other person to retain" each record required under this section five years after it was made. These new requirements would come in then. You are right with respect to the other provisions, but with the three to five years, the requirement is for once it's made. So it wouldn't have been made until the requirement comes into force that it be made.

Mr. John Yakabuski: Thank you very much.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: In both instances, it's really on a go-forward basis: the three to five years and then the new piece?

Ms. Stephanie Parkin: That's right. Without this motion, employers would automatically be out of compliance with the five-year provision. If they had already disposed of records under the three-year rule, which was perfectly legitimate previously, they would have a difficulty. This is to assist them.

Ms. Cindy Forster: Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion of government motion 4.9? Seeing none, I'll call the question. This is a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment carried.

Shall schedule 1, section 9, as amended, carry? Carried.

Shall schedule 1, section 10 carry? Carried.

Shall schedule 1, section 11 carry? Carried.

We now move to government motion 4.10: schedule 1 to the bill, section 12, subsection 21.3(1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that clauses 21.3(1)(b) and (c) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"(b) is required to work; and

"(c) works less than three hours, despite being available to work longer."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Proposed section 21.3 of the bill would be a new provision contained in the act. Under this proposed section, an employee who regularly works more than three hours a day and is required to report to work, but works less than three hours, is entitled to be paid a minimum of three hours' pay at the employee's regular rate. The amendment would modernize the language. This amendment would clarify the employee was available to work and it was not their lack of availability that caused them to work less than three hours, but it was the employer's decision which caused them to work less than three hours. Again, it's saying that it was the employer's decision that caused them to work less than three hours, not the employee's decision.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Seeing none, I call the question. It's a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We now move to government motion 4.11: schedule 1 to the bill, section 12, subsection 21.4(1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that subsection 21.4(1) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"Minimum pay for being on call

"(1) An employer shall pay an employee wages equal to the employee's regular rate for three hours of work if the employee is on call to work and the employee,

"(a) is not required to work; or

"(b) is required to work but works less than three hours, despite being available to work longer."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: This is a clarification: The proposed section 21.4 of the bill would be a new provision of the act. Under this proposed section, an employee would be entitled to a minimum of three hours' pay at the employee's regular rate for either being on call to work, and not being called in, or is called to work but works less than three hours. An employee would be limited to a minimum of three hours of pay during a 24-hour period, beginning at the start of the first time during that period that the employee is on call, even if the employee is on call multiple times during those 24 hours.

This amendment would clarify that the employee did not perform any work during the on-call period. This amendment would clarify the employee was available to work and it was not their lack of availability that caused them to work less than the three hours, or not come into work, but it was the employer's decision which caused them not to be called in, or to be called in but work less than the three hours.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Just to be clear: If you're a worker, say a personal support worker, who works split shifts, and you don't get your minimum of three hours either time in the 24-hour period—the first time you're in and you're booked for four and you get two and a half, and the second time you're booked for four and you get two hours, which happens many times to personal support workers as clients either decline service or something else happens—they would only receive the minimum of three hours for the first shift and whatever they worked in the second shift in that same 24-hour period. Is that correct?

Mr. Mike Colle: I think it is; I think you're right. But I'm just trying to say—

The Vice-Chair (Ms. Ann Hoggarth): Could the legal counsel come forward, please.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour.

Are we talking about on call or are we talking about the three-hour rule? Because if I have scheduled shifts and they regularly work more than three hours a day, like they are a five-hour shift at one point and five hours at another time, and I'm required to work, and then I work less than three hours, I would be covered by the three-hour rule.

The one that we're dealing with right now, the motion is on call. Yes, you're right, with respect to on call. It's within that 24-hour period.

Ms. Cindy Forster: So this one is specific to on-call shifts, not regular scheduled shifts.

Ms. Jennifer Komlos: Yes. The three-hour one was just before that.

Ms. Cindy Forster: Right. Okay. Thanks for that clarity.

The Vice-Chair (Ms. Ann Hoggarth): Thank you. Any further discussion?

Mr. Mike Colle: Maybe you should just stay there.

Interjections.

1140

The Vice-Chair (Ms. Ann Hoggarth): We'll now vote on government motion 4.11. It's a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment carried.

We now move to government amendment 4.12, schedule 1 to the bill, section 12, subsection 21.4(3) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that subsection 21.4(3) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"Collective agreement prevails

"(3) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses payment for being on call and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

"Same, limit

"(4) Subsection (3) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: The proposed subsection 21.4(3) of the bill would allow the provisions of the collective agreement that address payment for being on call to prevail over the on-call provisions of the ESA where there is a conflict between them.

This amendment would strike out the above, and provide that the provisions of a collective agreement that address payment for being on call would prevail over the on-call provisions of the ESA, where there is a conflict between them, only if that collective agreement is in effect on January 1, 2019, and only until the earlier of the expiry of that collective agreement or January 1, 2020.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: This is one of those issues that I talked about earlier this morning, where you have workers under a collective agreement who are going to be negatively impacted, because perhaps they only get one hour when they're on call, or in the event that their shift is cancelled.

This comes into effect on January 1, 2019? Is that correct?

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Yes, on January 1, 2019, and then it relates to the later period until the expiry of that collective agreement or January 1, 2020.

Ms. Cindy Forster: Or January 1, 2020.

Mr. Mike Colle: Yes.

Mr. John Yakabuski: Whichever comes first.

Ms. Cindy Forster: Whichever comes first. So for a whole year, workers who have an on-call provision in their collective agreement that is inferior to what is going to come into effect on January 1, 2019, are going to be out of luck. That really isn't in keeping, I think, with the name of the legislation, which is the Fair Workplaces, Better Jobs Act. For those workers who may do a lot of on-call work in their job, this could be a considerable amount of money out of their pocket.

Certainly, the NDP's position is that the ESA is the law, and that it should apply where it is superior to the collective agreement.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Colle.

Mr. Mike Colle: Again, I guess it's trying to do that balancing act between a clearly agreed-upon new collective agreement and the ESA. Maybe the Ministry of Labour officials could explain the nuance of that. I guess this is the juggling act that takes place when there is a collective agreement that has been arrived at.

The Vice-Chair (Ms. Ann Hoggarth): Come on down.

Ms. Stephanie Parkin: Stephanie Parkin, manager, employment rights and responsibilities, Ministry of Labour.

The point of the provision is to give a short transition period for collective agreements that are in force at the point when this provision comes into force, which is, as was pointed out, January 1, 2019.

If there is an existing collective agreement that directly addresses on-call, it would take precedence until either it expires within the year—so it may be less than a year—or until January 1, 2020. At that point, the parties would need to make another agreement that was at least in compliance with, if not superior to, the new provision.

The Vice-Chair (Ms. Ann Hoggarth): You're satisfied with the answer?

Ms. Cindy Forster: Well, I accept the answer; I'm not satisfied with it. But I have another question.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Go ahead.

Ms. Cindy Forster: Where has this happened before, in the history of changes to the Employment Standards Act or any other act, that people have an inferior condition in their collective agreement, and a superior condition arrives, in any piece of legislation, and it doesn't apply to those workers because they're unionized? It seems to me that it's discriminatory for workers, because they're unionized and have a collective agreement, not to have the law apply to them on the effective date.

Ms. Stephanie Parkin: I can't speak to the reason for the direction, but I can say that transitional provisions in legislation are very common, and the main purpose of those is to avoid retroactive liability.

Where a party is following the existing legislation, and a new standard is introduced, as in this case, you could have a situation where parties are automatically out of compliance through no fault of their own. The intent of introducing a transitional provision is to give those parties time to come into compliance with the new legislation.

In this particular instance, where the parties have already turned their minds to compensation for being on call, they would have a certain number of months, up to one year, to make changes, to come into compliance. That's the rationale for providing a transitional provision in this case. It would be open to the government not to provide that, but that's the decision that was reached and the direction we were given.

The Vice-Chair (Ms. Ann Hoggarth): Thank you. Any further discussion?

Ms. Cindy Forster: I can't support it, because I think that, once again, we're actually doing this for this group of workers, and we're doing something less for the other group of workers. I feel that it is discriminatory, and it isn't in keeping with what the legislation is named.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: I would be happy to give a very specific example. In my private member's bill, the tipping bill, which was initially introduced by the previous member for Beaches–East York, there was a very specific provision that said the collective agreement prevailed if they had addressed their minds to the item, but that that would expire after a period of time, to give the parties a chance to review that in negotiations.

The tipping bill, which stopped employers from taking tips from their employees, very specifically had that kind of a transitionary provision, and this is very similar to that.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? I'll call the question on government motion 4.12. This is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): I declare it carried.

We'll now move to government motion 4.13, schedule 1 to the bill, section 12, subsection 21.5(1.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 21.5 of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be amended by adding the following subsection:

"Exception

"(1.1) Subsection (1) does not apply if the employer's request or demand to work or be on call is,

"(a) to deal with an emergency;

"(b) to remedy or reduce a threat to public safety; or

"(c) made for such other reasons as may be prescribed."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: The proposed section 21.5 of the bill would be a new provision in the act. Under this proposed section, an employee has the right to refuse requests or demands to work or to be on call on a day that the employee is not scheduled to work or to be on call without 96 hours' notice. An employee must provide the employer with notice of the refusal as soon as possible.

1150

This amendment would exempt the employee's right to refuse an employer's request or demand to work or to be on call, as outlined above, if the employer's request or demand is to deal with an emergency, to remedy or reduce a threat to public safety, or for any other reason as may be prescribed. This amendment would give employers more flexibility in scenarios where it may be dangerous to the public or compromise the public safety if they are unable to operate due to an employee shortage.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I think that this is a huge whopper of a loophole around scheduling guarantees and entitlements. I mean (c) could be literally anything. I understand "(a) to deal with an emergency." We all can have an emergency, whatever kind of sector of the workforce that we live in. Just as employees have emergencies, employers can as well. "To remedy or reduce threat to public safety"—yes, sometimes things happen that you need to do.

But (c), "made for such other reasons as may be prescribed": I'd like somebody to tell me what that might be. The loophole is big enough that you could drive a Mack truck through it.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: As we heard in deputations across the province, there were some sector-specific employers who said that their situation was quite unique. For instance, I think that some of the golf course operators said that there was a flooding situation or something. We hope to continue dialogue with some of these very specific employers to ensure that—whether they're farmers or people who operate certain specific businesses where there might be a very serious impact because of a peculiar, specific impact on them—we should give them at least the option to come forward with their specific concern as it might have a severe impact on them.

Just leaving that open to these very specific requests we had for people to say, "One size does not fit all." We have some very specific—like I said, in the agricultural sector especially.

The Vice-Chair (Ms. Ann Hoggarth): MPP Yakabuski.

Mr. John Yakabuski: I, too, have some problems with the looseness of the language. I mean, an emergency according to me or according to you? It's the same thing in the bill about talking about a storm. Who defines what a storm is or what an emergency is? That's one of the problems, I think, with some of these changes in the legislation. The definitions are left to interpretation.

I think lawyers are going to have fun with some of these new provisions because they are so open to interpretation. One man's treasure is another man's trash, as

they say. Well, one person's definition of a storm—you know, a storm in Toronto is the not the same as a storm up my way, that's for sure. I mean, how you have to deal with the removal of snow and how it affects the city versus how it affects a rural area like mine.

We do have some looseness in these wordings that I think are not only open to interpretation but open to legal challenges at some point. Again, I'm not a lawyer, but Jennifer, who we have gotten to know so much better today, she knows all about that legal stuff.

But I think that, at the end of the day, a lot of this stuff has to be certainly a lot more tightly defined.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: From both the employer's side and from the employee's side, we heard from a lot of people during those two weeks. Clearly, some employers or small businesses made some really good examples of where this could impact them. There were some specific types of businesses that seemed to be more concerned about it than others, perhaps in tourism and golf courses, smaller mom-and-pop kinds of operations.

But, on the employee side, we also have people who are working sometimes two and three part-time jobs. To be required all of a sudden to have to be on call for any reason that may be prescribed is a little loose. I think that needs to be addressed in some way that provides some protection and provides, in fact, that there will be some payment down the road that employers are not going to be able to get out of their commitment to, for any reason.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Colle.

Mr. Mike Colle: Yes. If I may repeat again, this is to deal with an employer's request to deal with an emergency; also, to deal with a threat to public safety—that's very specific—or any other reason as may be prescribed. As we heard from the deputants—there was the tender fruit farmer who said that there could be a very peculiar set of weather circumstances that he or she has to deal with. They needed some flexibility with this provision.

We know that the member from—I was going to say Douglas-Opeongo way, there—

Mr. John Yakabuski: Renfrew–Nipissing–Pembroke, if you're talking about me, Eglinton–Lawrence.

Mr. Mike Colle: Yes.

Mr. John Yakabuski: Yes, Renfrew–Nipissing–Pembroke. It's a lovely area. Come up and visit.

Mr. Mike Colle: No, I go through there quite often.

Anyway, I think what he was referring to was snow removal, for instance, which is very peculiar in very different parts of the province, or ice conditions. Therefore, that employer, where it may not be a case of a threat to public safety, in the bigger sense, or a so-called emergency perhaps—you have to give that employer, which could be a municipality, whatever, or a private contractor who goes out there with the snow or ice removing, that kind of flexibility. At first reading, we would still have time to hear from these specific employers as we go forward to make more, let's say, focused amendments in this way, to leave that open for ongoing discussion as we go into second reading debate and second reading committee hearings etc. That's why we left that in there: just to make sure that we don't think one size fits all, which we know it doesn't.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? I'll call the question. This is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

At this point, we will recess. We will continue clause-by-clause in this room at 1:30.

The committee recessed from 1157 to 1332.

The Vice-Chair (Ms. Ann Hoggarth): Good afternoon, committee members. I am calling the meeting to order for clause-by-clause consideration of Bill 148, An Act to amend the Employment Standards Act, 2000 and the Labour Relations Act, 1995 and to make related amendments to other Acts.

As I stated this morning, the decorum in this room has to be the same as in the House: no clapping, no comments, nothing like that.

Julia Hood from legislative counsel is here to assist us with our work. A copy of the numbered amendments is on your desk. The amendments have been numbered in the order in which the sections appear in the bill. Are there any questions? Yes? No? Okay.

We're going to start. We left off at government amendment 4.14, and that is schedule 1 to the bill, section 12, subsection 21.5(2) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that the French version of subsection 21.5(2) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be amended by striking out "la demande ou l'ordre de l'employeur visé au paragraphe (1)"and substituting ", en vertu du paragraphe (1), de travailler ou d'être sur appel comme le lui demande ou l'exige l'employeur".

The Vice-Chair (Ms. Ann Hoggarth): Mr. Potts.

Mr. Arthur Potts: I just want to say that this corrects a translation error in the original.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion?

Mr. John Yakabuski: That's the only—

The Vice-Chair (Ms. Ann Hoggarth): That's it. It was a translation error, he said.

Mr. John Yakabuski: Okay.

The Vice-Chair (Ms. Ann Hoggarth): We'll move to the vote. Remember that MPP Colle asked for recorded

votes on all of the amendments, so this will be a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): Those opposed? Seeing none, I declare this motion carried.

We now move to government motion 4.15, schedule 1 to the bill, section 12, subsection 21.5(3) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 21.5(3) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"Collective agreement prevails

"(3) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses an employee's ability to refuse the employer's request or demand to perform work or be on call on a day the employee is not scheduled to work or be on call and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

"Same, limit

"(4) Subsection (3) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): Just read the last sentence for us again, please.

Mr. Arthur Potts: "Same, limit

"(4) Subsection (3) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): Thank you. Yes, Mr. Potts?

Mr. Arthur Potts: This addresses a similar provision we discussed earlier in allowing the collective agreement to prevail to give the parties an opportunity to rectify the situation.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: In this situation it's actually giving the collective agreement the right to maintain their superior condition, but in other scenarios they're being denied the right to the law. I just raise that as a point. I understand the government doesn't want to interfere in collective bargaining, but at the very least the law should apply to every worker in this province on the same date.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? No? Seeing none, we will vote on government motion 4.15. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): Those opposed? Seeing none, this amendment has carried.

We'll now move to government amendment 4.16, schedule 1 to the bill, section 12, subsection 21.6(3) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 21.6(3) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"Exception

"(3) Subsection (1) does not apply if,

"(a) the employer is unable to provide work for the employee because of fire, lightning, power failure, storms or similar causes beyond the employer's control that result in the stopping of work;

"(b) the nature of the employee's work is weather-dependent and the employer is unable to provide work for the employee for weather-related reasons; or

"(c) the employer is unable to provide work for the employee for such other reasons as may be prescribed."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This addresses issues we heard repeatedly about weather and other issues, such as fire, being a force majeure in the sense that it would not require the employee to be paid for those hours.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I raised this issue under a similar motion earlier, that (c) is too big of a loophole, that it really allows employers the right, for any reason, to deny people payment for their work. The question becomes, how is this going to get narrowed through the process? Is it going to be restricted to just certain occupation sectors or are we going to leave it open in such a way that it could apply to any worker in the province if the employer can find a reason to be able to get through this portion of this motion?

1340

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts?

Mr. Arthur Potts: Well, let's be clear: This will not be a section that allows it for any reason; it's only for any reason that is prescribed and, the expectation will be, prescribed for reasons that are similar to weather or fire. We just can't know exactly what those circumstances—it just gives the bill more flexibility.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I don't agree that it will be similar to fire because those things are actually addressed—lightning, fire, power failure, storms. Those are addressed in and under (b), weather and weather-related causes. What other causes will there be that actually will allow employers not to comply? I guess that becomes the question. It may be problematic and it may require a lot of enforcement, so I cannot support it.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay. I'll call the vote. This will be a recorded vote: government motion 4.16.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried.

We now move to government motion 4.17, schedule 1 to the bill, section 12, subsection 21.6(4) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 21.6(4) of the Employment Standards Act, 2000, as set out in section 12 of schedule 1 to the bill, be struck out and the following substituted:

"Collective agreement prevails

"(4) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses payment when the employer cancels the employee's scheduled day of work or on-call period and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

"Same, limit

"(5) Subsection (4) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It's similar to the other provisions we've had along these lines.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster?

Ms. Cindy Forster: Well, my comments are the same as to the earlier motions that we have dealt with already if, in fact, this limits or reduces the threshold in a way that workers are actually denied a superior benefit under the Employment Standards Act. I'd like to have an answer from legal counsel as to whether that is the case in this particular motion.

The Vice-Chair (Ms. Ann Hoggarth): Would legal counsel please come forward and identify yourself for Hansard.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour. I'm sorry, can you clarify the question?

Ms. Cindy Forster: If in fact the collective agreement is inferior to the legislation, people are bound by the provisions of the collective agreement in this situation.

Ms. Jennifer Komlos: In this situation, there would have to be a provision in the collective agreement that conflicted with what is in the proposed bill. If it's lesser and it conflicts, then the collective agreement would prevail until the time periods that are noted in the subsection below.

Ms. Cindy Forster: So there would once again be a year where they would potentially have an inferior condition in their collective agreement and can do nothing about it until January 1, 2020. Okay. Thank you. I cannot support the motion on that basis.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to the vote on government motion 4.17. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We move now to government motion 4.18, schedule 1 to the bill, section 12, section 21.7 of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that section 12 of the bill be amended by adding the following subsection to the Employment Standards Act, 2000:

"Limit

"21.7 An employee's entitlement under this part in respect of one scheduled day of work or scheduled on-call period is limited to the employee's regular rate for three hours of work."

The Vice-Chair (Ms. Ann Hoggarth): Would you please read the sentence above "Limit"?

Mr. Arthur Potts: I move that section 12 of the bill be amended by adding the following section to the Employment Standards Act, 2000.

The Vice-Chair (Ms. Ann Hoggarth): Thank you. Discussion? MPP Forster.

Ms. Cindy Forster: Once again, I've just got some questions. I'm really not clear about what this actually is trying to achieve. If I could have legal counsel perhaps explain it, I'm not sure whether it is with respect to being paid your regular rate of pay, if you happen to be an employee who does more than one job at a different rate classification, and if there's any impact with respect to the statutory entitlement to holiday pay rates.

Ms. Jennifer Komlos: Jennifer Komlos, legal counsel, Ministry of Labour. This provision would provide that your entitlement under this part—your entitlement to three hours of pay, or your entitlement to on-call pay—if there is ever overlap between those provisions, you would only get the three hours. For example, if I am on call but then I get called in with a schedule, I go in to work and I work one hour, I wouldn't get the on-call three-hour pay and get the minimum pay for coming in to work, I would just get it the once.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion?

Ms. Cindy Forster: Yes, just one more question.

The Vice-Chair (Ms. Ann Hoggarth): Oh, sorry.

Ms. Cindy Forster: So it doesn't scale back statutory entitlement to holiday pay rates, though, right? So if this happens on a holiday you would still be entitled to your time-and-a-half, or—

Ms. Jennifer Komlos: Yes, this is with respect to just this part, which is the scheduling.

Ms. Cindy Forster: Okay, thanks.

The Vice-Chair (Ms. Ann Hoggarth): We're going to vote on this, but before we do we're going to ask that, if you wouldn't mind remaining there—is that okay?

Ms. Jennifer Komlos: Absolutely.

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

Okay, we're moving to the vote on government motion 4.18. This is a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried.

Shall schedule 1, section 12, as amended, carry? Carried.

Shall schedule 1, section 13 carry? Carried.

We now move to NDP motion number 5, schedule 1 to the bill, subsections 14(1) and (2), subsections 23.1(1), (2) and (2.1) of the Employment Standards Act, 2000. Ms. Forster.

Ms. Cindy Forster: I move that subsections 14(1) and (2) of schedule 1 to the bill be struck out and the following substituted:

"(1) Subsections 23.1(1) and (2) of the act are repealed and the following substituted:

"'Determination of minimum wage

"'(1) The minimum wage is the following:

"'1. On or after January 1, 2018 but before January 1, 2019, the amount set out below for the following classes of employees:

"'i. For the services of hunting and fishing guides, $70.00 for less than five consecutive hours in a day and $140 for five or more hours in a day, whether or not the hours are consecutive.

"'ii. For employees who are homemakers, $15.40 per hour.

"'iii. For any other employees not listed in subparagraphs i and ii, $14 per hour.

"'2. On or after January 1, 2019 but before October 1, 2019, the amount set out below for the following classes of employees:

"'i. For the services of hunting and fishing guides, $75.00 for less than five consecutive hours in a day and $150 for five or more hours in a day, whether or not the hours are consecutive.

"'ii. For employees who are homemakers, $16.50 per hour.

"'iii. For any other employees not listed in subparagraphs i and ii, $15.00 per hour.

"'3. From October 1, 2019 onwards, the amount determined under subsection (4).

"'Exception

"'(2) If a class of employees that would otherwise be in a class described in subparagraph 1 iii or 2 iii of subsection (1) is prescribed and a minimum wage for the class is also prescribed,

"'(a) subsection (1) does not apply; and

"'(b) the minimum wage for the class is the minimum wage prescribed for it.

"'Same

"'(2.1) The regulation prescribing a minimum wage for a class of employees as mentioned in subsection (2) shall not prescribe a minimum wage that is lower than the minimum wage that would otherwise apply under subparagraph 1 iii or 2 iii of subsection (1) in respect of the class.'"

1350

The Vice-Chair (Ms. Ann Hoggarth): Ms. Forster?

Ms. Cindy Forster: Yes, thank you, Chair—

Mr. Arthur Potts: Excuse me. A point of clarification, Chair: I believe the motion was read in ii, subsection (1), as "For employees who are homemakers," whereas the text I have is "homeworkers." Could we clarify what was meant there?

Ms. Cindy Forster: That's correct: homeworkers.

Mr. Arthur Potts: Maybe we should read that sentence again.

The Vice-Chair (Ms. Ann Hoggarth): Would you read that sentence again, please?

Ms. Cindy Forster: Number 1: "'ii. For employees who are homeworkers, $15.40 per hour.'"

The Vice-Chair (Ms. Ann Hoggarth): We're on number 2.

Ms. Cindy Forster: And number 2: "'ii. For employees who are homeworkers, $16.50 per hour.'"

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

Mr. Arthur Potts: Chair, a further clarification: In "Same," after "(2.1)," it was read in as "The regulation prescribing," whereas the text I have is "A regulation."

The Vice-Chair (Ms. Ann Hoggarth): Ms. Forster, would you just read the first few words under "Same"?

Ms. Cindy Forster: "'Same

"'(2.1) A regulation prescribing a minimum wage for a class of employees as mentioned in subsection (2) shall not'"—

The Vice-Chair (Ms. Ann Hoggarth): That's great. Thank you. All right. Ms. Forster?

Ms. Cindy Forster: We put this motion forward because it was one of the universal asks of workers in this province through the OFL, through CUPE, through the Workers' Action Centre. The ask was to remove the exemptions to the minimum wage that currently exist and that continue in Bill 148.

As it currently stands here in the province, students under 18 and liquor servers will not be brought to parity with the general minimum wage in Bill 148. Students under the age of 18 who work less than 28 hours per week when in school, and school is in session, or who work during the school breaks or summer holidays, will receive $10.70 in September. That increases to $14.10 in 2019. Liquor servers will only make $9.90 as of September, increasing to $13.05 in 2019.

Even industry employers, when we were out, and in our discussions with stakeholders during the committee hearings—this tiered wage is limited to liquor servers but not to busers, line cooks or greeters working in the same environments, who, if older than 18, get the standard minimum wage and who often still benefit from tip pools. The status quo approach continues to perpetrate

the expectation on servers that working for tips is an acceptable and stable minimum wage floor.

At the same time, recent legislation that was introduced to protect these workers' tips provides little in the way of actual enforcement, and we've certainly heard that from the servers in this province.

Currently, we say we want to provide a fair workplace and better jobs, and yet the majority of provinces in this country do not have tiered wages. Only Quebec and British Columbia maintain that, and now Ontario, with this legislation. Nova Scotia has a staggered minimum wage that is lower for inexperienced workers, and we heard about that during our travelling show back in July. Alberta, in 2016, eliminated the second tier for liquor servers as well. So it's our position that, in fact, that's what we should do here in Ontario.

I heard, when we were in Ottawa and in a variety of places across the province, that a bartender/server is not a bartender and a server in the same way in many places. In fact, in your mom-and-pop bars and grills in small communities, in our local Legions that have bars, when the only busy shift may be on the day they play darts or the evening they have their pool tournament, the bar isn't frequented that much during the week. So they're not making the $30 and $40 an hour that we've heard about from some of the large chain restaurants who brought us information showing that, in some instances, servers may be making a decent wage if you include their tips, depending on how it's tipped out as well, and that varies from establishment to establishment. In some cases, they may share with the cook and the dishwasher; in other establishments, they may share with everybody but the manager.

We can't assume that every server, every bartender and every student is in the same situation. In fact, we heard from students who are actually in the workplace, working, who don't even live at home. They're not living at home. They are on their own. They've been on their own since they were 17 or 18 years old. They're paying for their own university education. They're paying for their own rent or their own mortgage payments perhaps. They're limited to making a lower rate of pay just because they're students, and probably doing the same job as the 40-year-olds working beside them.

For those reasons, we've put forward this motion. I encourage the government, if they really want to have fairer workplaces and better jobs, to get rid of the tiering that they're proposing here in this piece of legislation.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: I appreciate the spirit in which this amendment comes forward, but we won't be supporting it precisely because it isn't the policy of this government to eradicate the tiers at this time. The reality is that the motion you're suggesting would have a devastating impact on the hospitality sector and, I think, would be very disruptive for youth employment.

I think it would be interesting if we had a motion that, notwithstanding the tiered wages, no one made less than $15 an hour in a shift, but that's not before us right now so we won't be supporting this motion.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on this motion, NDP motion number 5. Again, it will be a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): This motion is lost.

We now move to PC motion number 6, schedule 1, section 14 of the bill, subsections 23.1(9.1) to (9.4) of the Employment Standards Act, 2000. MPP Yakabuski.

Mr. John Yakabuski: Thank you, Chair. We are withdrawing this motion.

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

Shall schedule 1, section 14 carry? Carried.

Shall schedule 1, section 15 carry? Carried.

Shall schedule 1, section 16, as amended, carry? Carried.

We are now moving to section 17. We are at NDP motion 7, on schedule 1 to the bill, section 17: subsection 33(1) of the Employment Standards Act, 2000. MPP Forster.

1400

Ms. Cindy Forster: I move that subsection 33(1) of the Employment Standards Act, 2000, as set out in section 17 of schedule 1 to the bill, be struck out and the following substituted:

"Right to vacation

"(1) An employer shall give an employee a vacation of at least three weeks after each vacation entitlement year that the employee completes."

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Currently, it's only Ontario and the Yukon in this whole country that lag far behind all other jurisdictions when it comes to vacation entitlement.

One of the key recommendations that came out of the Changing Workplaces Review closely resembles this amendment that we're proposing. Nowhere in that review was there an option for three weeks' vacation after five years; I don't know where that brainstorm came from. We know, because we heard from poverty activists, we heard from the Workers' Action Centre, we heard from various labour groups—we heard from ACORN in a number of the cities that we travelled to to talk about this bill. In every one of those situations, when asked how many people they advocate for or represent would still be in the same job five years later to benefit from three weeks' vacation—particularly because Bill 148 isn't even addressing the issue of temporary or contract workers in a very meaningful way that perhaps might give them the seniority or the service to get that five years, to

get that vacation increase, if they even remotely happen to be in a job five years later.

Workers for however many years have only been entitled to two weeks' vacation after a year under the Employment Standards Act. So many people are working two and three part-time jobs, trying to juggle to make ends meet. Even people with full-time jobs in many cases are working poor. They are people at the bottom of the pay scale. To make them wait five years to get three weeks' vacation really is a horrible situation for them.

Saskatchewan offers three weeks' entitlement after one year and less than 10 years, or after 52 weeks with the same employer without a break during 26 weeks. Manitoba's current model is the same as what is proposed in Bill 148. Certainly the NDP is committed to introducing three weeks' vacation after one year, just as in Saskatchewan, and commited to introducing three weeks after two or three years for the same employer. Organizations like the OFL, their affiliates, and CUPE—many of which have a much richer vacation package because they have unionized workers—identified that three weeks' vacation after five years of employment with the same employer is out of touch with reality for most workers in the province. For that reason, this motion is before you.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: We'll be voting against this. We're already bringing in three weeks after five years, which brings us in line with industry norms, particularly in the collective bargaining sector. We see no reason to move beyond that at this point.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll call the question. We'll now vote on NDP motion number 7. It is a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We now move to NDP motion number 8, schedule 1 to the bill, section 17, subsection 33(4) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 33(4) of the Employment Standards Act, 2000, as set out in section 17 of schedule 1 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: It's consequential to my motion 7.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: Having voted down motion 7, why don't we just withdraw motions 8, 9, 10 and 11 in the interest of time?

Ms. Cindy Forster: No, I'd like to read them into the record—

Mr. Arthur Potts: We'll be voting against this.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay. We'll now vote on NDP motion number 8. It is a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We will now move to NDP motion number 9, schedule 1 to the bill, section 17, subsection 34(2) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 34(2) of the Employment Standards Act, 2000, as set out in section 17 of schedule 1 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: It's a consequential motion.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Any further discussion? I'll call the question on NDP motion number 9.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We now go to NDP motion number 10, schedule 1 to the bill, section 17, subsection 34(3) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 34(3) of the Employment Standards Act, 2000, as set out in section 17 of schedule 1 to the bill, be amended by striking out "If the employee's period of employment is five years or more" at the beginning.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: It's a consequential motion.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll go directly to the vote. We are voting on NDP motion number 10.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We are now moving to NDP motion number 11, schedule 1 to the bill, section 17, subsection 34(4) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 34(4) of the Employment Standards Act, 2000, as set out in section 17 of schedule 1 to the bill, be amended by striking out "subsections (2) and (3)" at the end and substituting "subsection (3)".

The Vice-Chair (Ms. Ann Hoggarth): Any discussion? Okay, we'll go directly to the vote. We're voting on NDP motion number 11.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

Shall schedule 1, section 17 carry? Carried.

Shall schedule 1, section 18 carry? Carried.

Shall schedule 1, section 19 carry? Carried.

Shall schedule 1, section 20 carry? Carried.

We'll now move to government motion 11.1, schedule 1 to the bill, subsection 21(1.1), subsection 42(2.1) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that section 21 of schedule 1 to the bill be amended by adding the following subsection:

"(1.1) Section 42 of the act is amended by adding the following subsection:

"'Same

"'(2.1) For the purposes of clause (2)(a), seniority system includes a system that provides for different pay based on the accumulated number of hours worked.'"

1410

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts?

Mr. Arthur Potts: This simply clarifies that seniority is a basis upon which you can have differentials in pay, regardless of sex or other matters before the employer.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster?

Ms. Cindy Forster: What is the intent of the clause? I don't really think that it's clear. Is the intention here to allow for another loophole that defines seniority by accumulated hours that would effectively exclude temporary and casual workers from equal pay protections? I'm really not clear on what you're trying to achieve.

Perhaps legal counsel—oh, you're still here.

Mr. John Yakabuski: She needs to have a name tag up there.

Ms. Cindy Forster: Yes. Can you explain what you're trying to achieve here?

Ms. Jennifer Komlos: I will defer to my policy client on the policy, but I can tell you that right now, for equal pay for equal work, there is a provision in the ESA with respect to sex. There are exceptions to the equal-pay-for-equal-work provisions, including a seniority system, which could be based on how long you've been with the employer, or it could be based on hours of work.

The proposed bill is proposing to bring in a new equal-pay-for-equal-work provision that would apply to a difference in employment status. That definition says that a difference in employment status in respect of one or more employees means a difference in the number of hours regularly worked by the employee. What this would say is that you can have an established seniority system that includes a system that provides for different pay based on the accumulated number of hours. If the seniority system, for example, is set at 300 hours, you would get a raise. At 600 hours, you get a raise. Both the part-time and full-time would get the raise at 300 and 600.

Ms. Cindy Forster: Would it apply to temporary and casual workers as well? It's a "may"; it's not a "must," right? Is it a "may"—employers may? You said the employer "may."

Ms. Jennifer Komlos: The requirement for equal pay for equal work does not apply when a difference in the rate of pay is made on the basis of a seniority system.

Ms. Cindy Forster: It doesn't apply?

Ms. Stephanie Parkin: Does not.

Ms. Cindy Forster: Does not apply.

Ms. Jennifer Komlos: No.

Ms. Cindy Forster: So this is kind of a regressive proposal in terms of what exists today.

Ms. Stephanie Parkin: The exception for seniority applies now.

Ms. Cindy Forster: So it actually addressed those inequities, right?

Ms. Stephanie Parkin: Madam Chair, do you need me to restate my name for the record?

The Vice-Chair (Ms. Ann Hoggarth): Yes, please.

Ms. Stephanie Parkin: Stephanie Parkin, manager of employment rights and responsibilities, Ministry of Labour.

Seniority systems already provide employers with the ability to pay different employees differential rates. As my colleague was explaining, in the bill, the equal-pay-for-equal-work provision does provide an exception for, amongst other things, seniority systems. This motion clarifies what the meaning of seniority is. It is a system that's based on accumulated number of hours worked. Regardless of your gender, if employee A accumulates more hours than employee B, then that justifies a differential rate of pay.

Ms. Jennifer Komlos: To clarify, it says "includes." A seniority system in one company could be your hire

date, so it doesn't matter if you're casual; it doesn't matter if you're part-time. It's based on your—

Ms. Cindy Forster: Seniority.

Ms. Jennifer Komlos: It's just—in certain industries, maybe construction, where it's based on hours.

Ms. Cindy Forster: Right. But I think that the stakeholders think that that's an inequity right now, and they were hoping that would get addressed as part of this review, and part of the government's motions so that you do have equal pay for equal work and you don't have those inequities continuing in the system.

Ms. Stephanie Parkin: Just so I understand the question you're asking: Should equal pay for equal work override a seniority system? Is that the question you are asking?

Ms. Cindy Forster: I think that we've heard from many stakeholders—particularly in places where they use a lot of temporary and casual workers, perhaps—that people aren't getting equal pay for equal work. Allowing the system to continue while we're actually in a review period doesn't address what workers in this province experiencing that situation—it doesn't help them.

Ms. Stephanie Parkin: Again, all I can do is explain the content of the bill. We are introducing an equal-pay-for-equal-work provision, with some exceptions. The exceptions are a seniority system, a merit system, a system that measures earnings by quantity or quality of production, and then any other factor other than sex or employment status.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: My point is, really, that it's not addressing the inequities that are here today. In fact, if you look at those four exceptions, the employer can just about veto equal pay for any reason: a merit system—well, based on whose merit and who says what, right?—and then the seniority issue as well, and then on the basis of how many pieces, how many widgets you actually make, what your output is like. There's no point in even bringing in equal pay for equal work if you are going to have four loopholes in there. The employees may never have equal pay for equal work because there are so many loopholes that allow the employer to get out of it.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will go to the question. We're voting on government motion 11.1, and there is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

Shall schedule 1, section 21, as amended, carry? Carried.

We will now move to NDP motion number 12, schedule 1 to the bill, section 22, clauses 42.1(1)(a) and (b) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that clauses 42.1(1)(a) and (b) of the Employment Standards Act, 2000, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"(a) they perform similar work in the same establishment;

"(b) their performance requires similar skill, effort and responsibility; and"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: We heard a lot about this while we were travelling the province. In fact, I think we heard about it in each and every town or city that we were in.

In particular, we heard about it from women: women professors, perhaps contract professors at our universities and colleges who are either contract or—I think the other term was—adjunct professors and how they were doing the same work basically as the tenured professors, carrying as many classes, marking as many papers, spending as much time on class preparation but, in many cases, were making 40% less than those tenured professors. They, as well as a number of other stakeholders, such as the OFL and the Workers' Action Centre, wanted to see motions that would close the equal pay loopholes that disproportionately affect temporary, casual, female and other vulnerable workers and make a change to the definition. They want the language to read "similar work," as opposed to whatever—

Mr. John Yakabuski: "Same work."

Ms. Cindy Forster: —the "same work" right now. We heard that over and over and over again, and I don't know why it was so difficult for this Liberal government to actually make that change, because they certainly seemed sympathetic when we were out at those committee hearings and asked a lot of questions to people who were presenting on this particular issue.

1420

The OFL, in its written submission to the Bill 148 committee, characterized this issue this way: "The law states that males and females (and other genders) doing 'substantially the same' work should be paid the same; this creates an incentive for employers to establish or maintain minor differences between jobs performed by different genders in an effort to maintain pay differences. Unfortunately, Bill 148 borrows this language, necessitating stronger statutory language." That is the reason for our motion today.

In September of last year our position, which was announced in Scarborough, was the introduction of a motion that would support workers in temp agencies so they'd receive the same wages, benefits and working conditions as permanent workers. The motion would have required temporary help agencies to provide employees with the hourly markup fees for each assignment; the difference between what the client company pays for

the assignment worker and the wage that the agency pays the assignment worker; and make client companies jointly responsible for all rights under the ESA, not just wages, overtime and public holiday pay.

We can see by the last motion that just got passed that there are so many exemptions there's no point in even having a law that speaks to equal pay for equal work.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: We won't be supporting this because use of the word "substantially" is very deliberate here. We think it provides a far more rigorous test to establish whether the work is the same. It also replicates provisions in other parts of the act, including the Pay Equity Act, where that's the test. So there's enough jurisprudence around that test that I think that we're at the right place here.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? No? Okay, we'll move to the question. We'll now vote on NDP motion number 12. This is a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We'll now move to NDP motion number 13, schedule 1 to the bill, section 22, subsections 42.1(2) and (2.1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 42.1(2) of the Employment Standards Act, 2000, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Same

"(2) For the purpose of subsection (1), work is considered to be similar despite minor variations or differences in duties, responsibilities or work assignments.

"Exception

"(2.1) Subsection (1) does not apply if the employer is able to show that the difference in pay is the result of,

"(a) a formal seniority system that does not discriminate on the basis of sex or any other ground protected under the Human Rights Code; or

"(b) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of sex or any other ground protected under the Human Rights Code."

The Vice-Chair (Ms. Ann Hoggarth): The Chair is going to rule this out of order because the last motion, motion number 12, did not pass.

We'll now move to government motion number 13.1, schedule 1 to the bill, section 22, subsection 42.1(2.1) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that section 42.1 of the Employment Standards Act, 2000, as set out in section 22 of schedule 1 to the bill, be amended by adding the following subsection:

"Same

"(2.1) For the purposes of clause (2)(a), seniority system includes a system that provides for different pay based on the accumulated number of hours worked."

It's a tactical amendment reflecting our previous amendment.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: I just did it.

The Vice-Chair (Ms. Ann Hoggarth): You don't want to explain it?

Mr. Arthur Potts: I did.

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Forster.

Ms. Cindy Forster: My remarks are the same as for the earlier clause, under 11.1.

The Vice-Chair (Ms. Ann Hoggarth): Okay. We'll move to the vote on government motion 13.1.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): Carried.

We'll move to government motion 13.2, schedule 1 to the bill, section 22, subsections 42.1(8) and (9) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsections 42.1(8) and (9) of the Employment Standards Act, 2000, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Same, limit

"(8) Subsection (7) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: Again, this is similar to the other amendments we've had in the past which provide transitional provisions for collective agreements.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: My only comment is that, in fact, there are so many exemptions that it's unlikely that very many people will get equal pay for equal work. Now, on top of that, we're phasing it in in a way that, if the act was superior, those people who are in a collective agreement could be stuck with an inferior clause in their collective agreement for a period of a year.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay, we'll move to the vote on government motion 13.2. This is a recorded vote. All those in favour?

The Clerk pro tem (Ms. Jocelyn McCauley): Mr. Potts, Mr. Qaadri, Ms. Wong, Mr. Colle.

The Vice-Chair (Ms. Ann Hoggarth): All those opposed?

The Clerk pro tem (Ms. Jocelyn McCauley): Ms. Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried—

Mr. Arthur Potts: Rinaldi, not Qaadri.

Interjections.

The Vice-Chair (Ms. Ann Hoggarth): Sorry. We're going to redo that.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): Carried.

Shall schedule 1, section 22, as amended, carry? Carried.

We'll now move to NDP motion number 14, schedule 1 to the bill, section 23, clauses 42.2(1)(a) and (b) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that clauses 42.2(1)(a) and (b) of the Employment Standards Act, 2000, as set out in section 23 of schedule 1 to the bill, be struck out and the following substituted:

"(a) they perform similar work in the same establishment;

"(b) their performance requires similar skill, effort and responsibility; and"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I think my comments are really the same as when I tried to address, under number 12, I guess—

Mr. John Yakabuski: Under 12?

Ms. Cindy Forster: Yes, under motion 12, except in this situation, the amendment would provide the same protections for equal pay to temporary help agency workers. We've certainly heard a lot about them. We've had private members' bills in the House. Our member from Bramalea–Gore–Malton, Jagmeet Singh, brought forward a bill last year or the year before to try to improve the plight of temporary agency workers. This motion hopefully would put them on a level playing field with people that they sometimes work beside for periods of five years or longer, being paid substantially different rates of pay.

1430

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: We stand by our earlier comments that "substantially" is a better test under these circumstances, and more consistent with other acts in the Legislature.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? No? We'll move to the vote. We are voting on NDP motion 14. It's a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment lost.

Because that amendment was lost, I am ruling that NDP motion 15 is out of order.

We'll now move to government motion 15.1, schedule 1 to the bill, section 23, subsections 42.2(8) and (9) of the Employment Standards Act, 2000.

MPP Potts.

Mr. Arthur Potts: I move that subsections 42.2(8) and (9) of the Employment Standards Act, 2000, as set out in section 23 of schedule 1 to the bill, be struck out and the following substituted:

"Same, limit

"(8) Subsection (7) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It's similar to other transitional provisions we've already discussed at length.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Once again, for the record, the government is discriminating against those workers who happen to belong to a union and perhaps, through no fault of their own, may have an inferior clause in their collective agreement with respect to equal pay, in this case, and will, for a period of time, perhaps be negatively impacted by this motion.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: Just for the debate, to put it on the record, we actually respect the fact that sophisticated parties have entered into collective agreements. It takes time for them to negotiate within the collective bargaining framework. We respect that and take it very, very seriously. We don't want to interfere with collective bargaining rights, and want to give them enough time to transition effectively.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: In fact, the agencies, like the Ontario Federation of Labour, who represent hundreds of thousands of workers in this province, and other unions don't agree with you. They believe that the law is the

law. If the law is superior, it should apply to every worker in this province.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Yakabuski.

Mr. John Yakabuski: This is a similar amendment to several that we've seen which establish an end date of January 1, 2020, for any existing collective agreement that does not provide the same benefits as the legislation.

In fairness to the government—which I always am—it's actually accelerating. In the legislation as it's written, if a collective agreement didn't expire until 2023, then those provisions would prevail for three more years, whereas with the amendments, they're all expiring at 2020, whether or not the collective agreement has run its course.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay. We will vote on government motion 15.1. It is a recorded vote.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): Government motion 15.1 is carried.

Shall schedule 1, section 23, as amended, carry? Carried.

We'll now move to government motion 15.2, schedule 1 to the bill, section 23.1, subclause 47(1)(b)(ii) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: Thank you, Madam Chair. I move that schedule 1 to the bill be amended by adding the following section:

"23.1 Subclause 47(1)(b)(ii) of the act is amended by striking out 'six weeks' and substituting '12 weeks'."

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Colle?

Mr. Mike Colle: Yes. Under the current pregnancy leave provisions of the act, an employee who experiences a pregnancy loss within 17 weeks of her due date or while already on pregnancy leave is entitled to a pregnancy leave that is the longer of 17 weeks and 6 weeks after the stillbirth or miscarriage. As a result, in some circumstances, an employee who suffers a pregnancy loss may have her pregnancy leave end six weeks after the pregnancy loss occurs. This amendment would provide employees in these circumstances with up to an additional six weeks, for a total of 12 weeks after the pregnancy loss, of recovery time before their leave ends.

This is part of the work that was done in this Legislature on Bill 141. It's the only legislation in North America that provides protection for women who experience pregnancy loss or stillbirth. Part of that initiative is to ensure that women who do experience these losses are given proper consideration at work because, right now, as it stands, many women throughout this province—and there are over 100,000 women a year in Ontario who experience pregnancy loss—100,000. So it's quite a common sad experience. At the present time, the employer can basically require you to go back to work pretty quickly after you suffer the pregnancy loss or stillbirth. Therefore, with this amendment, it doubles the amount of weeks for health and recovery, which can be psychosomatic or physiological, for a woman who experiences pregnancy loss.

I'm more than happy and interested to put forth this much-needed amendment.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to the vote: government motion 15.2. This is a recorded vote.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): Those opposed? Seeing none, I am declaring this motion carried.

We now move to government motion 15.3: schedule 1 to the bill, section 23.2, subsection 48(2) of the Employment Standards Act, 2000. MPP Colle?

Mr. Mike Colle: Thank you. I move that schedule 1 to the bill be amended by adding the following section:

"23.2 Subsection 48(2) of the act is amended by striking out '52 weeks' and substituting '78 weeks'."

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Colle?

Mr. Mike Colle: Under the current parental leave provisions of the act, parental leave may begin no later than 52 weeks after the day the child is born or comes into the employee's custody, care or control for the first time. This amendment would extend the period in which an employee may commence parental leave by an additional 26 weeks. Accordingly, the leave could begin no later than 78 weeks after the day the child is born or comes into the employee's custody, care or control for the first time.

This amendment would be consistent with the recent changes to the federal Employment Insurance Act regarding parental leave that have not yet come into force. The amendment would come into force on proclamation of this. It's basically keeping the Ontario provisions in line with the upcoming changes that have occurred federally as it regards pregnancy leave.

1440

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to the vote on government motion 15.3. It's a recorded vote.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): All those opposed? There are none. I rule that government motion 15.3 is carried.

We'll now move to government motion 15.4, schedule 1 to the bill, section 23.3, subsection 49(1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that schedule 1 to the bill be amended by adding the following section:

"23.3 Subsection 49(1) of the act is amended by striking out '35 weeks' and substituting '61 weeks' and by striking out '37 weeks' and substituting '63 weeks'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Under the current act, parental leave ends 35 weeks after it began if the employee also took pregnancy leave, and 37 weeks after it began if the employee did not take pregnancy leave.

This amendment would extend the period of parental leave to 61 weeks after it began if the employee also took pregnancy leave, and to 63 weeks after it began if the employee did not take pregnancy leave.

This amendment would be consistent with recent changes to the federal Employment Insurance Act regarding parental leave that have not yet come into force.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to vote on government motion 15.4. It's a recorded vote.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We're now going to stand down government motion 15.5, as this amendment is dependent on government motion 15.11 carrying.

We're on government motion 15.11. This is schedule 1 to the bill, section 28, section 49.7 of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: Thank you. I'm going to have a sip of water to start.

The Vice-Chair (Ms. Ann Hoggarth): Okay, you can do that.

Mr. Arthur Potts: I move that section 28 of schedule 1 to the bill be amended by adding the following section to the Employment Standards Act, 2000:

"Domestic or Sexual Violence Leave

"Domestic or sexual violence leave

"Definitions

"49.7(1) In this section,

"'child' means a child, step-child, foster child or child who is under legal guardianship, and who is under 18 years of age; ('enfant')

"'week' means a period of seven consecutive days beginning on Sunday and ending on Saturday. ('semaine')

"Entitlement to leave

"(2) An employee who has been employed by an employer for at least 13 consecutive weeks is entitled to a leave of absence without pay if the employee or a child of the employee experiences domestic or sexual violence, or the threat of domestic or sexual violence, and the leave of absence is taken for any of the following purposes:

"1. To seek medical attention for the employee or the child of the employee in respect of a physical or psychological injury or disability caused by the domestic or sexual violence.

"2. To obtain services from a victim services organization for the employee or the child of the employee.

"3. To obtain psychological or other professional counselling for the employee or the child of the employee.

"4. To relocate temporarily or permanently.

"5. To seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic or sexual violence.

"6. Such other purposes as may be prescribed.

"Exception

"(3) Subsection (2) does not apply if the domestic or sexual violence is committed by the employee.

"Length of leave

"(4) An employee is entitled to take, in each calendar year,

"(a) up to 10 days of leave under this section; and

"(b) up to 15 weeks of leave under this section.

"Leave deemed to be taken in entire days

"(5) For the purposes of an employee's entitlement under clause (4)(a), if an employee takes any part of a day as leave, the employer may deem the employee to have taken one day of leave on that day.

"Advising employer

"(6) An employee who wishes to take leave under clause (4)(a) shall advise the employer that the employee will be doing so.

"Same

"(7) If an employee must begin a leave under clause (4)(a) before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it.

"Leave deemed to be taken in entire weeks

"(8) For the purposes of an employee's entitlement under clause (4)(b), if an employee takes any part of a week as leave, the employer may deem the employee to have taken one week of leave.

"Advising employer

"(9) An employee who wishes to take a leave under clause (4)(b) shall advise the employer in writing that the employee will be doing so.

"Same

"(10) If an employee must begin a leave under clause (4)(b) before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it.

"Evidence

"(11) An employer may require an employee who takes a leave under this section to provide evidence reasonable in the circumstances of the employee's entitlement to the leave.

"Leave under ss. 49.1, 49.3, 49.4, 49.5, 49.6 and 50

"(12) An employee's entitlement to leave under this section is in addition to any entitlement to leave under sections 49.1, 49.3, 49.4, 49.5, 49.6 and 50."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts?

Mr. Arthur Potts: Yes. It's a new section all the way through the act which deals with the very important issues around domestic and sexual violence, to provide an employee, a parent, the opportunity to seek whatever remedies are necessary to assist a child in managing the trauma that has come as a result of domestic violence.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Yes, I just have a couple of questions of legal counsel here. Under "length of leave" on page 2, can you differentiate between the up to 10 days of leave under this section versus the up to 15 weeks of leave?

Ms. Jennifer Komlos: Under subsection (4), you would be entitled to take up to 10 days of leave under this section in each calendar year, and 15 weeks of leave under this section as well.

Ms. Cindy Forster: But not in each calendar year?

Ms. Jennifer Komlos: You would get the 10 days and you would get the 15 weeks in a calendar year.

Ms. Cindy Forster: Why is it set out that way, as opposed to just saying "up to 15 weeks of leave"?

Ms. Stephanie Parkin: It provides the employee with more flexibility depending on her or his needs. The employee or the child may be in need of assistance that only requires a day or a few days of absence from work, or there may be a situation that requires a much more extended period of time. This provision gives the option of either taking weeks of leave or days of leave, as is appropriate in the circumstances.

Ms. Cindy Forster: I see. When we move down to "leave deemed to be taken in entire weeks," that then only applies to length of leave (a) as opposed to (b), because (b) requires you to take up to 15 weeks, as opposed to—

Ms. Jennifer Komlos: Sorry. Subsection (5) would apply to (4)(a); subsection (8) would apply to (4)(b).

Ms. Cindy Forster: Oh, to (4)(b). Okay.

Ms. Jennifer Komlos: Because we're talking entire weeks.

Ms. Cindy Forster: I see. Okay. So if you take a day, you're only using a day of the 10, but if you take any portion of a week, it's deemed to be a week.

Ms. Jennifer Komlos: An employer may deem it; they don't have to.

Ms. Cindy Forster: And you don't have to say up front, "I'm taking (a) or (b)."

Ms. Stephanie Parkin: Well, you would have the option. The amendment provides that you would have to give the employer notice. If you can provide notice in advance, then there is that provision, or alternatively as soon as possible after taking the leave. It would be within the discretion of the employee to determine.

1450

Ms. Cindy Forster: Right. That's all the questions that I had. And the 10 days are unpaid days, right?

Ms. Stephanie Parkin: The 10 days and the 15 weeks.

Ms. Cindy Forster: They are all unpaid time?

Ms. Stephanie Parkin: Correct.

Ms. Cindy Forster: My comments now: Certainly, a top priority for all advocacy groups for women, and a top priority for all of the labour groups and activists that we heard from, including the OFL, CUPE, UFCW and the Workers' Action Centre, was that we needed to have the inclusion of a separate tranche of 10 paid leave days for victims of domestic or sexual violence, currently not contemplated in the bill. I think part of the reason for that is, often women have a hard time escaping domestic violence. If they don't have any access to any paid time other than two days, which is combined with every other possible leave that you can have under the Employment Standards Act, it's difficult for them to leave and get out of that situation.

Most of the bill replicates what came from Peggy Sattler, the member from London—London West?

Mr. John Yakabuski: West.

Ms. Cindy Forster: I've been gone a long time; I forgot. London West, yes.

Bill 26, the Domestic and Sexual Violence Workplace Leave, Accommodation and Training Act, would have entitled survivors to up to 10 days of paid leave to obtain specific services, such as seeing a doctor or counsellor; find a new place to live; or meet with lawyers or police. That received UC passage from all parties, so we would have expected that there would have been some specific paid leave for this section of the bill.

While the bill does adopt some of the provisions in Peggy's bill, it removes the mandatory training requirements, which we think, as well, are very important and are missing.

I think that the government instead should amend their bill and bring in 10 specific paid days off, to ensure that women, or women with children, who have been subjected to sexual or domestic violence have the opportunity to escape that situation and deal with the post-traumatic stress that goes along with it.

The Vice-Chair (Ms. Ann Hoggarth): MPP Yakabuski?

Mr. John Yakabuski: At the risk of having people question why we would be picking on one section over another, we have taken the position that we're going to be, in general, abstaining from voting on these amendments.

However, this is similar to one that was proposed earlier. The gravity and the magnitude of—the issue of domestic and sexual violence is one that the PC Party has been most vocal on for a long time, and particularly our critic, Laurie Scott, who has been very active in this.

We still clearly make the statement that we believe this bill should be sent back for a rethink and not brought back until a comprehensive economic impact analysis is done, which the government should have done. Based on

the amount of opposition that they've heard to this over the summer months, they clearly do know that they should have done this prior to bringing the bill forward.

These particular amendments are ones that we believe are significant and worthy of supporting.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: While I have the opportunity, I just want to reaffirm the NDP's commitment to a separate leave for victims of domestic violence and sexual violence, and to introducing the full protections contained in the NDP PMB, Peggy's Sattler's Bill 26, and highlighting the fact that the Liberals are not following through on their commitment to deal with these victims.

We talked about it at some point in the first week that we were travelling. There could be some kind of a government-sponsored offset available to eligible businesses, where businesses would pay for some of the leave, and the government—we've committed to this—would pay for the rest of that leave, to ensure that these victims have up to 10 days of paid leave.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: I think actually our Legislature should take a lot of pride in the joint work of all three parties in coming forward with some of the amendments here and some of the bills we've seen in the House to protect and to expand provisions. What I'm hearing is feigned support from both opposition parties. In particular, we seem to have roused the slumbering official opposition to stand up and support this initiative, and I'm delighted to see all parties onside with it. It really is an important initiative. John Fraser, on our side of the House, has been an important advocate on these files and very much appreciates us moving forward on this new section.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Could we just have legal counsel clarify for the record what leaves 49.1 through 50 actually are?

Ms. Jennifer Komlos: So 49.1 is family medical leave; 49.3 is family caregiver leave; 49.4 is critically ill child care leave; 49.5 is crime-related child—

Mr. Arthur Potts: Child death leave.

Ms. Jennifer Komlos: Sorry—child death leave; 49.6 is crime-related child disappearance leave; and 50 is personal emergency leave.

Ms. Cindy Forster: Thanks.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Then we will vote on government motion 15.11. It is a recorded vote.

Ayes

Barrett, Colle, Potts, Qaadri, Rinaldi, Wong, Yakabuski.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): This amendment is carried.

We now will go back to government motion 15.4.

Interjections.

The Vice-Chair (Ms. Ann Hoggarth): Oh, sorry; 15.5, schedule 1 to the bill, subsection 24(3), subsection 49.1(12) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 24(3) of schedule 1 to the bill be struck out and the following substituted:

"(3) Subsection 49.1(12) of the act is amended by striking out '49.5 and 50' and substituting '49.5, 49.6, 49.7 and 50'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts?

Mr. Arthur Potts: This is pursuant to the motion we just passed, enshrining it in the legislation.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I guess it's really just a housekeeping issue to separate out the sexual violence/domestic violence piece?

Ms. Jennifer Komlos: It would be amending family medical leave to say that your entitlement to family medical leave is in addition to whatever entitlement you have to the domestic violence leave.

Ms. Cindy Forster: Good enough. Thanks.

The Vice-Chair (Ms. Ann Hoggarth): Okay. We'll now vote on government motion 15.5. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried.

Shall schedule 1, section 24, as amended, carry? Carried.

We'll now move to government motion 15.6, schedule 1 of the bill, subsection 25(0.1), subsection 49.3(7.1) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 25 of schedule 1 to the bill be amended by adding the following subsection:

"(0.1) Section 49.3 of the act is amended by adding the following subsection:

"'Leave deemed to be taken in entire weeks

"'(7.1) For the purposes of an employee's entitlement under subsection (4), if an employee takes any part of a week as leave, the employer may deem the employee to have taken one week of leave.'"

1500

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Employees who are eligible to take family caregiver leave can take up to eight weeks of leave. The leave may be taken in periods of less than a full week. This amendment would codify the policy of

the employment standards program that an employer may deem an employee who takes part of a week of family caregiver leave to have used up one of their eight weeks of leave entitlement.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Well, I think this is really problematic with respect to any leave provisions that are provided under the Employment Standards Act, because I know in my community, and across this province, there are thousands and thousands of seniors on wait-lists for nursing home beds and nowhere to go. It's difficult to even get a transitional bed.

We continue to talk about the people taking up space, bed-blockers—and I hate anyone who uses that term because clearly they're taxpayers and they're seniors and they're entitled to use the resources when the resources aren't out there available for them.

So to say that I, as a family member—maybe I'm working in a minimum wage job or maybe I'm one of those people who is juggling two or three jobs. If my family member, whether it's my senior parent or my ill husband or my sick child, needs some care but I can't afford to take off an entire week because this is unpaid stuff—why should I have to be deemed as having used a week when I actually took one day? That's all I could afford to take off of work. It seems to me that we're chipping away at people's entitlement to benefits by deeming a day, or two days, or three days as a week in every situation.

I understand that for employers, we may not want to drag this out over a year. But it certainly isn't beneficial to the people who need the care in their home, who can't get a nursing home bed, or can't afford a retirement bed or are discharged in an untimely way from the hospital and actually need their family to assist in their care.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Colle.

Mr. Mike Colle: Just to remind everybody, the entitlement to family medical leave will be increased from eight weeks to up to 27 weeks, so there is an increase. Certainly, we're just trying to bring in some consistency to try to make it reasonable for employee and employer here.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay. We will go to government motion 15.6. It will be a recorded vote.

Ayes

Colle, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): That motion is carried.

We now are going to government motion 15.7: schedule 1 to the bill, section 25, subsection 49.3(9) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that section 25 of schedule 1 to the bill be struck out and the following substituted:

"25. Subsection 49.3(9) of the act is amended by striking out '49.5 and 50' and substituting '49.5, 49.6, 49.7 and 50'."

The Vice-Chair (Ms. Ann Hoggarth): I'm ruling this out of order because it strikes out a section that we just amended.

We now move to government motion 15.7.1.

Mr. Mike Colle: Okay, 15.7.1. This has been redrafted by legislative counsel. I don't know if everybody has got a copy of—

The Vice-Chair (Ms. Ann Hoggarth): They do.

Mr. Mike Colle: Okay.

I move that section 25 of schedule 1 to the bill be amended by striking out "by adding '49.6' after '49.5'" and substituting "by striking out '49.5 and 50' and substituting '49.5, 49.6, 49.7 and 50'".

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Again, it's part of the attempt to deal with the changes as a result of the new stand-alone section of the act, which deals with domestic and sexual violence leave. It sets out certain requirements for this leave and is necessary for that purpose.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to the vote on government motion 15.7.1. It is a recorded vote.

Ayes

Colle, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment carries.

Shall schedule 1, section 25, as amended, carry? Carried.

Mr. Lou Rinaldi: Section 24, Chair.

The Vice-Chair (Ms. Ann Hoggarth): What?

Mr. Lou Rinaldi: I think you said "section 25"; I think it's section 24.

The Vice-Chair (Ms. Ann Hoggarth): It is section 25.

Ms. Soo Wong: Yes. We already did 24. We already voted on it.

Mr. Lou Rinaldi: Oh, sorry.

The Vice-Chair (Ms. Ann Hoggarth): That's okay.

The Vice-Chair (Ms. Ann Hoggarth): We'll now move to government motion 15.8, schedule 1 to the bill, subsection 26(2), on subsection 49.4(18) of the Employment Standards Act, 2000.

MPP Colle.

Mr. Mike Colle: I move that subsection 26(2) of schedule 1 to the bill be struck out and the following substituted:

"(2) Subsection 49.4, section (18) of the act is amended by striking out '49.5 and 50' and substituting '49.5, 49.6, 49.7 and 50'."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: This would be a conse—I can't even say it.

Mr. Lou Rinaldi: Contextual.

Mr. Mike Colle: What's that, Lou?

Ms. Cindy Forster: Consequential.

Mr. Mike Colle: Consequential.

Ms. Cindy Forster: Who's the teacher here?

Mr. Mike Colle: We both have Italian as our first language; that's our problem.

A consequential amendment as a result of proposals due to domestic or sexual violence. Again, it's like the previous one. As a result of that new section on domestic and sexual violence, we have to make these changes.

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Yakabuski.

Mr. John Yakabuski: Just on, I suppose, a point of order, Chair: When Mr. Colle was doing his verbalizing, he said "subsection 49.4, section (18)." He used the word "section." For the purpose of Hansard—

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle, would you read that last sentence again?

Mr. John Yakabuski: I'd say the whole thing over.

Mr. Mike Colle: What should I be saying—part 18?

The Vice-Chair (Ms. Ann Hoggarth): Just say "bracket 18," okay?

Mr. Mike Colle: Yes. You want me to read the whole thing?

The Vice-Chair (Ms. Ann Hoggarth): Just the last sentence.

Mr. Mike Colle: Okay.

"(2) Subsection 49.4(18) of the act is amended by striking out '49.5 and 50' and substituting '49.5, 49.6, 49.7 and 50'."

The Vice-Chair (Ms. Ann Hoggarth): Thank you. We will now vote on government motion 15.8. It's a recorded vote.

Ayes

Colle, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 1, section 26, as amended, carry? Carried.

Shall schedule 1, section 27 carry? Carried.

Now we are going to move to government motion 15.9, schedule 1 to the bill, section 28, subsection 49.5(11) of the Employment Standards Act, 2000. MPP Colle.

1510

Mr. Mike Colle: I move that 49.5(11) of the act, as set out in section 28 of schedule 1 to the bill, be amended by striking out "49.6 and 50" and substituting "49.6, 49.7 and 50".

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle, would you read the first sentence, please? You left out some words.

Mr. Mike Colle: "I move that subsection"—that section?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Mr. Mike Colle: I move that subsection 49.5(11) of the act—

The Vice-Chair (Ms. Ann Hoggarth): No, you must read the title of the act.

Mr. Mike Colle: That's all I have in my notes.

Ms. Soo Wong: No, right here.

Mr. Mike Colle: Oh, I see. I've got different notes here. Okay.

I move that subsection 49.5(11) of the Employment Standards Act, 2000, as set out in section 28 of schedule 1 to the bill, be amended by striking out "49.6 and 50" and substituting "49.6, 49.7 and 50".

The Vice-Chair (Ms. Ann Hoggarth): Thank you. MPP Colle?

Mr. Mike Colle: This is similar to the previous ones where we're just making changes as a result of those requirements for crime-related child death or disappearance leave. The bill proposed a new section, and the proposed amendment would make it clear that child death leave could be taken in addition to any entitlement to domestic or sexual violence leave.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay. We will vote on government motion 15.9. This is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried.

We now move to government motion 15.10, schedule 1 to the bill, section 28, subsection 49.6(14) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I move that subsection 49.6(14) of the Employment Standards Act, 2000, as set out in section 28 of schedule 1 to the bill, be amended by striking out "49.5 and 50" and substituting "49.5, 49.7 and 50".

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Again, this would help to carve out the crime-related child disappearance sections of the current section 49.5 into a stand-alone new section. This proposed amendment would make it clear that crime-related child disappearance leave could be taken in addition to any entitlement to domestic or sexual violence leave.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will vote on government motion 15.10. It is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is carried.

Shall schedule 1, section 28, as amended, carry? Carried.

We'll now go to government motion 15.12, schedule 1 to the bill, subsection 29(1), subsection 50(1), paragraph 4 of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: I'm just trying to make sure I've got the right one here. It's 12?

The Vice-Chair (Ms. Ann Hoggarth): It's motion 15.12.

Mr. Arthur Potts: I've got it, Mike. Do you want me to read it?

Mr. Mike Colle: Yes, go ahead.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: I move that subsection 50(1) of the Employment Standards Act, 2000, as set out in subsection 29(1) of schedule 1 to the bill be amended by striking out paragraph 4.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This just clarifies that the sexual and domestic violence sections that we just put in the act are the ones that we refer to.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will vote on government motion 15.12, and this is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We're now on to government motion 15.13, schedule 1 to the bill, subsection 29(2), subsection 50(2) of the Employment Standards Act, 2000. MPP Colle.

Mr. Mike Colle: This is 15.13?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Mr. Mike Colle: Okay. I've got it.

I move that subsection 29(2) of schedule 1 to the bill be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: This is because the government is bringing forward a motion that would create a new stand-alone leave for domestic and sexual violence.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on government motion 15.13. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The amendment carries.

We now move to NDP motion 16, schedule 1 to the bill, subsection 29(3), subsections 50(5) and (5.1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 50(5) of the Employment Standards Act, 2000, as set out in subsection 29(3) of schedule 1 to the bill, be struck out and the following substituted:

"Limit

"(5) For the purposes of this section, an employee is entitled to the following in each calendar year:

"1. A total of five days of paid leave and five days of unpaid leave in the circumstances described in paragraphs 1 to 3 of subsection (1).

"2. A total of 10 days of paid leave and a reasonable duration of unpaid leave in the circumstances described in paragraph 4 of subsection (1).

"Reasonable duration of unpaid leave

"(5.1) The Lieutenant Governor in Council may make regulations governing the determination of what constitutes a reasonable duration of unpaid leave for the purposes of paragraph 2 of subsection (5)."

The Vice-Chair (Ms. Ann Hoggarth): We're going to rule that this is out of order because paragraph 4 is no longer in the bill.

We will now move to government motion 16.1, schedule 1 to the bill, subsection 29(3), subsection 50(5) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 50(5) of the Employment Standards Act, 2000, as set out in subsection 29(3) of schedule 1 to the bill, be struck out and the following substituted:

"Limit

"(5) Subject to subsection (5.1), an employee is entitled to take a total of two days of paid leave and eight days of unpaid leave under this section in each calendar year.

"Same, entitlement to paid leave

"(5.1) If an employee has been employed by an employer for less than a week, the following rules apply:

"1. The employee is not entitled to paid days of leave under this section.

"2. Once the employee has been employed by the employer for one week or longer, the employee is entitled to paid days of leave under subsection (5), and any unpaid days of leave that the employee has already taken in the calendar year shall be counted against the employee's entitlement under that subsection.

"3. Subsection (7) does not apply until the employee has been employed by the employer for one week or longer."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts, if you'd just read the sentence underneath "Same, entitlement to paid leave," please.

Mr. Arthur Potts: "(5.1) If an employee has been employed by an employer for less than one week, the following rules apply:"

The Vice-Chair (Ms. Ann Hoggarth): Thank you. Go ahead, Mr. Potts.

Mr. Arthur Potts: This just simply establishes a qualifying period in order to be entitled to these sections of leave.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: If motion 16 hadn't been ruled out of order, I would have said that our proposal was to change the PEL leave to 10 days and the sick leave to five paid days, and to ensure that the two days didn't include PEL days, because if somebody uses two sick days, then they're not entitled to any days in the event that they need the days for a domestic or sexual violence situation.

1520

If you travelled—and many of you did—with the group in July, we heard from many medical officers of health across the province about why two days isn't enough. Two days isn't enough even for the most simple influenza. It takes five days to actually be cured and to not be spreading that disease and those germs to your co-workers—or to your vulnerable patients if you happen to work in the health care sector. That is the reason why we were putting forward an amendment to, at the very minimum, go to five days.

We also heard from many workers, once again across the province, who can't afford to take unpaid days off because they're working in working-poor types of jobs, they're living in poverty and they're struggling—two or three jobs—to try to support their families. It's a gender issue for women heads of single households.

After 14 years, really, the best that the Liberal government could do was to give people two paid days? I think it's an insult to the workers of this province that you don't even recognize the fact that the simplest illness would take at least five days to recover from.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Potts.

Mr. Arthur Potts: Well, I just want to say I think I hear the member saying that it's a good start and that she'll be supporting this—particularly the fact that we removed the 50-employee threshold to make all employers qualify.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to vote on government motion 16.1. This is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion carried.

We are now on government motion 16.2, schedule 1 to the bill, subsection 29(3), subsection 50(6) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 50(6) of the Employment Standards Act, 2000, as set out in subsection 29(3) of schedule 1 to the bill, be amended by striking out "subsection (5)" at the end and substituting "subsection (5) or (5.1)".

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It's a consequential amendment as a result of the last amendment we just passed.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: Sorry, I actually have a question of the legal counsel. In our read of the motion, it seems that it is amending the PEL formula to collapse entitlements by removing things like an urgent matter relating to death, illness, injury or medical emergency. Is this a concession in the language, or are we just reading it wrong?

Ms. Jennifer Komlos: No, this proposed motion would amend subsection (6), which currently exists in the act right now. It's the provision "Leave deemed to be taken in entire days." The provision would read, if the bill and the motion were passed, "(6) If an employee takes any part of the day as paid or unpaid leave under this section, the employer may deem the employee to have taken one day of paid or unpaid leave on that day, as applicable, for the purposes of subsection (5)." This motion would add in "or (5.1)" when you're dealing with a situation where someone hasn't completed their full week.

Ms. Cindy Forster: So what does that mean to an employee?

Ms. Jennifer Komlos: To an employee who hasn't completed one week's service, if I take that leave during that first week of employment, an employer can deem it to be one day.

Ms. Cindy Forster: Okay. Thanks.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay. We will vote on government motion 16.2. It is a recorded vote.

Ayes

Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We are now going to stand down government motion 16.3, as this amendment is dependent on government motion 16.4 carrying.

We are dealing with government motion 16.4: schedule 1 to the bill, subsection 29(3), subsection 50(8.1) of the Employment Standards Act, 2000. MPP Potts?

Mr. Arthur Potts: I move that subsection 29(3) of schedule 1 to the bill be amended by adding the following subsection:

"Personal emergency leave where higher rate of wages

"(8.1) If a paid day of leave under this section falls on a day or at a time of day when overtime pay or a shift premium would be payable by the employer, the employee is not entitled to overtime pay or the shift premium for any leave taken under this section."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It just clarifies that the monies that they would be paid would be the straight wages.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I would see this as a concession, unless it already exists in the current Employment Standards Act, which I don't think it does. I know that under the Employment Standards Act you can't receive sick pay and holiday pay for the same day, but if you're taking a leave day for whatever situation—because you're sick, because you had an emergency, because you're a victim of domestic or sexual violence—why should you lose the premiums that you might have had because it was an evening shift you were taking off or a night shift you were taking off? You're taking off that 24-hour period. You're not taking off that eight-hour or 12-hour shift; you're off for that whole day. I think that this is concessionary to those workers who will, in fact, be negatively impacted by this motion.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on government motion 16.4.

Ayes

Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We now go back to government motion 16.3: schedule 1 to the bill, subsection 29(3), subsection 50(8) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 50(8) of the Employment Standards Act, 2000, as set out in subsection 29(3) of schedule 1 to the bill, be amended by striking out "Subject to subsection (9)" in the portion before clause (a) and substituting "Subject to subsections (8.1) and (9)" and by adding "for the number of hours the employee would have worked" after "applied to the employee" in subclause (a)(ii).

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: As we've just passed that previous motion, this clarifies the language in the section to be inclusive of the motion we just passed.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on government motion 16.3.

Ayes

Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 1, section 29, as amended, carry? Carried.

Shall schedule 1, section 30 carry? Carried.

Shall schedule 1, section 31 carry? Carried.

Shall schedule 1, section 32 carry? Carried.

1530

We will now go to government amendment 16.5, schedule 1 to the bill, section 32.1, subsection 74.4.1(1) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that schedule 1 to the bill be amended by adding the following section:

"32.1 Subsection 74.4.1(1) of the act is repealed and the following substituted:

"'Agency to keep records re: work for client, termination

"'(1) In addition to the information that an employer is required to record under part VI, a temporary help agency shall,

"'(a) record the number of hours worked by each assignment employee for each client of the agency in each day and each week; and

"'(b) retain a copy of any written notice provided to an assignment employee under subsection 74.10.1(1).'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This amendment adds a requirement that the temporary help agency retains copies of any written notice provided to an assignment employee under proposed sections, and will assist with the investigation of claims by the employment standards agency.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: Just a question to legal counsel: What does 74.10.1(1) refer to, under (b)?

Ms. Jennifer Komlos: That is the proposed provision that's coming a bit later which would require the employer to provide written notice when an assignment of a longer duration is terminated early.

Ms. Cindy Forster: Okay. Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to vote on government motion 16.5. This is a recorded vote.

Ayes

Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 1, section 33 carry?

Mr. Arthur Potts: We have a notice for schedule 1, section 33. We will not be supporting this. I just want to put that on the record.

The Vice-Chair (Ms. Ann Hoggarth): Okay.

Shall schedule 1, section 33 carry?

Mr. Arthur Potts: No. No carrying. Carry not.

The Vice-Chair (Ms. Ann Hoggarth): All those in favour?

Ms. Cindy Forster: Can I ask a question?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Ms. Cindy Forster: Can we have some explanation as to what that actually means and why the government isn't supporting their own—

Ms. Jennifer Komlos: Section 33 in the bill proposed to amend cross-referencing sections because of the change in holiday pay and the substitution. Now that the motion has passed to keep the substitute holiday provisions as is, there is no need for the updating of the cross-references.

Ms. Stephanie Parkin: It's government motion 6.1.

Mr. John Yakabuski: Government motion 6.1, from earlier?

Ms. Stephanie Parkin: Yes. Because that motion passed, it meant that the act will retain the substitute holiday provisions. The bill removed them; the amendment was to retain them. Given that that motion passed, it's no longer necessary to retain this provision.

Mr. John Yakabuski: Is that the only thing in section 33? Because you're essentially removing section 33 from the bill.

Ms. Stephanie Parkin: That's right.

Mr. John Yakabuski: That's the only thing that it dealt with?

Ms. Jennifer Komlos: Yes. The references originally were 29(2.1), and it was changed to 29(3) because of the different changes. It does it in both subsections, because we're talking about record-keeping requirements and so forth. It was just going back. There is no need to change those section references anymore.

Mr. John Yakabuski: Okay. Jennifer?

Ms. Jennifer Komlos: You'll defer to me.

Mr. John Yakabuski: I'll defer to you; you're the legal one here.

Ms. Cindy Forster: We'll hold you to it.

The Vice-Chair (Ms. Ann Hoggarth): All right, we're moving on. Shall schedule 1, section 33 carry?

Interjection.

The Vice-Chair (Ms. Ann Hoggarth): We'll move on to government motion 16.6, schedule 1 to the bill, section 34, subsection 74.10.1(1) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that subsection 74.10.1(1) of the Employment Standards Act, 2000, as set out in section 34 of schedule 1 to the bill, be amended by striking out "one week's notice" in the portion before clause (a) and substituting "one week's written notice".

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It's just a technical amendment. An oral notice doesn't qualify; it has to be written.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We're voting on government motion 16.6. It's a recorded vote.

Ayes

Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We're now moving on to government motion 16.7, schedule 1 to the bill, section 34, clause 74.10.1(4)(a) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that clause 74.10.1(4)(a) of the Employment Standards Act, 2000, as set out in section 34 of schedule 1 to the bill, be amended by striking out "condoned by the employer" at the end and substituting "condoned by the temporary help agency or the client".

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: Just some questions: On the face of it, it appears to permit temporary agencies the power to terminate temporarily assigned employees without notice or pay in lieu, from early termination for "wilful misconduct, disobedience or wilful neglect of duty that is not trivial." It doesn't count toward the kind of fairness we're trying to provide in the workplace, because who determines those things when you're working for a temporary agency and you have nobody to advocate for you? Maybe you can clarify.

Ms. Stephanie Parkin: This is intended to ensure that an assignment employee does not lose this entitlement if either the temporary help agency or the client of the temporary help agency condoned a violation or a misconduct that the assignment employee engaged in.

The current language states, "If the employer condoned the behaviour," but that's not very precise. It's a triangular relationship. The assignment worker is the employee of the agency, but they are working in the assignment for the client of the agency.

This ensures that if there's condemnation by either the agency or the client, the assignment worker would still have this entitlement. It actually is a greater protection or a clearer protection for the assignment worker.

Ms. Cindy Forster: So if either the agency or the employer condoned some conduct that got the employee terminated—

Ms. Stephanie Parkin: Right. They wouldn't be able to turn around afterward and say that you're not entitled because you engaged in some form of misconduct

because in fact they had required, permitted or coerced the individual to engage in that conduct.

Ms. Cindy Forster: But at the end of the day, you're still not going to have a job because they're a temporary employee, and what redress are they going to have in any event, right?

Ms. Stephanie Parkin: This is just about the termination of the assignment with the client. The worker remains the employee of the agency. Again, the temporary help agency is the employer, and the client is the one who has contracted with the agency for an assignment of a set period. They do not lose their employment with the agency.

Ms. Cindy Forster: So they would remain an employee of the agency, perhaps, and go on to find another assignment.

Ms. Stephanie Parkin: They would, hopefully.

Ms. Cindy Forster: Hopefully.

1540

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to the vote on government motion 16.7. It's a recorded vote.

Ayes

Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 1, section 34, as amended, carry? Carried.

Now, this is one of my favourite parts when I'm on the other side. Sections 35 to 47, inclusive, there are no amendments. Are we okay to bundle them? Okay. Shall sections 35 to 47, inclusive, of schedule 1, carry? Carried.

We are now on government motion 16.8: schedule 1 to the bill, subsection 48(0.1), subsection 112(6) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that section 48 of schedule 1 to the bill be amended by adding the following subsection:

"(0.1) Subsection 112(6) of the act is repealed and the following substituted:

"'Administrative costs and collector fees

"'(6) If the settlement concerns an order to pay, the director is, despite clause (1)(c), entitled to be paid,

"'(a) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement; and

"'(b) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 128(2) that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: The amendment protects fees and disbursements in the same proportion as the employee's entitlement under the settlement. You'll see a similar motion relating to collectors coming after the next motion.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: So when you say "is the same proportion to the amount of wages," what does that really mean? If an employee was owed $1,000—

Ms. Stephanie Parkin: Right. This is to recoup the fees of a collection agency, where an order hasn't been paid by an employer. Currently, the act permits the director of employment standards to recoup their costs associated with enforcing the order, but there is no similar provision for the collectors who carry out that work. This would ensure that they get reimbursed on a similar basis as the director of employment standards. So it's not related to the employee as such; it's to do with recouping the cost of enforcing the order.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion?

Ms. Cindy Forster: So it isn't the director that is entitled to recover—this is actually to strictly deal with collection agencies, because the director already has the right to collect fees and administration costs from the employer.

Ms. Stephanie Parkin: That's right and it's calculated as a proportion of what the employee would receive, and so this is a parallel provision, if you like, that would also ensure recouping of the collector's cost; that's right.

Ms. Cindy Forster: But why are we dealing with the private collection agencies, as opposed to letting them deal with it themselves? It seems to me it's kind of like our collecting unpaid toll fees for the 407 in our ServiceOntario offices. Why are the taxpayers of Ontario footing the bill with their taxes for collection agencies?

Ms. Stephanie Parkin: Because the collections work is carried out by the Ministry of Finance.

Ms. Cindy Forster: So it's not a private collection agency?

Ms. Stephanie Parkin: That's right.

Ms. Cindy Forster: But does the Ministry of Finance contract out those collections? Because that certainly happens with POA courts.

Ms. Stephanie Parkin: We don't know the answer to that question, but it is the Ministry of Finance that is responsible for carrying out the collection.

Ms. Cindy Forster: Ultimately responsible.

Ms. Stephanie Parkin: Correct. But I can't answer that question.

Ms. Cindy Forster: So if the Ministry of Finance is collecting those fees, are they then giving those fees to the collection agencies for collecting? Or is that like an offset to what they pay the collection agencies to actually do their work?

Ms. Stephanie Parkin: I would consider that to be an offset.

Ms. Cindy Forster: Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to vote on government motion 16.8. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 1, section 48, as amended, carry? Carried.

Again, we have sections 49 to 52, inclusive, that have no amendments. Are we free to bundle them? All right. Shall sections 49 to 52, inclusive, of schedule 1, carry? Carried.

We now go to government amendment 16.9, schedule 1 to the bill, section 52.1, subsection 120(6) of the Employment Standards Act, 2000. MPP Potts.

Mr. Arthur Potts: I move that schedule 1 to the bill be amended by adding the following section:

"52.1 Clause 120(6)(b) of the act is repealed and the following substituted:

"'(b) despite clause (4)(b), is entitled to be paid,

"'(i) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement, and

"'(ii) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 128(2) that is the same as the proportion of the amount of wages, fees or compensation ordered to be paid that the employee is entitled to receive under the settlement.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: As in the last motion, this protects the fees that are associated with the collection of what's owed to employees.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: To the legal counsel: How is this different from 16.8? Motion 16.8 talked about the director—

Interjections.

The Vice-Chair (Ms. Ann Hoggarth): I'm sorry. For some reason, we can't hear you.

Ms. Cindy Forster: Oh, sorry. Motion 16.8 spoke to the settlement, what the director is entitled to be paid. This one doesn't have the director in it.

Ms. Stephanie Parkin: This motion deals with settlements in front of the Ontario Labour Relations Board, as opposed to just the order of the employment standards officer. This is where the issue has gone one step further, to the board.

Ms. Cindy Forster: Again, in this situation, is it the Ministry of Finance that—

Ms. Stephanie Parkin: Yes, that's right.

Ms. Cindy Forster: Thank you.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll now move to vote on government motion 16.9. It is a recorded vote.

Ayes

Colle, Potts, Qaadri, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Sections 53 to 57 do not have any amendments. Could we bundle them? Okay. Shall sections 53 to 57, inclusive, of schedule 1, carry? Carried.

We're now at NDP motion 17, schedule 1 to the bill, subsection 58(2), subsection 141(1) of the Employment Standards Act, 2000. MPP Forster.

Ms. Cindy Forster: I move that subsection 58(2) of schedule 1 to the bill be struck out and the following substituted:

"(2) Paragraph 2.0.1 of subsection 141(1) of the act is amended by striking out 'described in subparagraph 1 v of subsection 23.1(1)' and substituting 'described in subparagraph 1 iii or 2 iii of subsection 23.1(1)'."

The Vice-Chair (Ms. Ann Hoggarth): I am ruling this out of order, as NDP amendment 5 did not carry.

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Shall schedule 1, section 58 carry? Carried.

We now move to PC motion number 17.1, schedule 1, section 58.1 of the bill, section 142.1 of the Employment Standards Act, 2000. MPP Yakabuski?

Mr. John Yakabuski: I move that schedule 1 to the bill be amended by adding the following section:

"58.1 The act is amended by adding the following section:

"'Economic impact analyses

"'142.1(1) In subsection (2), "financial analyst" means a person or company acting as such in a professional capacity.

"'Same

"'(2) The minister shall cause an independent financial analyst to prepare, no later than at each of the following times, an analysis of the impact on Ontario's economy of enacting the Fair Workplaces, Better Jobs Act, 2017 and to submit a report on the analysis to the minister no later than at each of the following times:

"'1. November 30, 2017.

"'2. July 1, 2018.

"'3. July 1, 2019.

"'Tabling

"'(3) Upon receiving a report under subsection (2), the minister shall,

"'(a) lay the report before the assembly if it is in session; and

"'(b) deposit the report with the Clerk of the Assembly if the assembly is not in session.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Yakabuski.

Mr. John Yakabuski: From the beginning, we in the PC Party have said that an economic impact analysis should have been done before this legislation was brought forward, particularly given the comments of the Premier only in February of this year and in 2015, when all three parties agreed that adjustments to the minimum wage would be tied to the consumer price index.

When the bill was tabled, between February 2017 and June 2017—well, certainly before June, because the legislation was tabled on June 1; it would have had to have been drafted sometime substantially before that for all the legal people to have their say—we felt that the government failed in its commitment to itself. Its failure has been manifested in the amount of angst that it has caused across this province since its introduction on June 1, the number of people who feel that they weren't listened to in any way, shape or form in approaching this issue, and the fact that the government has kind of, off the cuff, said, "Oh, we're going to look at ways to compensate"—or "to adjust" or "to transition"; they can use whatever words they want—"businesses through this period." But at the same time, no substantive commitments have been made.

The Ontario Chamber of Commerce and the CFIB made the same request, that an economic impact analysis be done, and in the absence of the government doing that, the chamber has commissioned its own report, which was released on Monday of last week.

Chair, no business would embark on such a massive overhaul of their own operations without doing a complete economic impact analysis of how those changes would affect their operation. The government of Ontario is the operation of this province. It's a business in many, many ways. It has to operate answerable to the people and certainly has to be accountable. To have made these changes that are proposed in this bill without due diligence is not responsible.

Even the opposition to the bill is not necessarily in opposition to the changes. There have been indications from business that they're concerned about the speed of the changes and the rate of change and some of the specifics. As Mr. Colle said earlier, the act hadn't been reviewed in some 25-or-so-odd years, and everyone agreed that there were changes necessary in order to bring the standards up to what people expect and what all parties expect.

But there was no real consultation on the major—and the major issue in this bill that has caused the most angst among people across Ontario is, of course, the rapid increases in the minimum wage and the impact that that will have. The chamber report said that it puts 185,000 jobs at risk. Many of those are women and students, the very people that the legislation was purported to be benefiting. It also says it has a $23-billion cost attached to it, and a half-billion-dollar cost to municipalities.

If the government wants to challenge those assertions—I'm not the economist. I didn't do the analysis. I don't know if they're correct or if they're not. But what I do know is that the government has no numbers to either confirm them or contradict them, because the government has failed to do its due diligence and conduct that analysis that we're calling for and has been called for so many times by employers of all kinds in the province of Ontario. This amendment would essentially commit the government to doing just that, and that is our position here in the PC Party.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: I appreciate very much the motion from the member opposite. Of course, it would be an error to say that no economic analysis had been done. In fact, as part of putting together the proposals here, there was extensive work done to look at the impact of raising minimum wages in the US—particularly California and elsewhere—where the doom-and-gloom scenarios that were painted by many business organizations just failed to materialize. In fact, California's economy, under a much higher minimum wage than we're proposing, at American rates, is doing extraordinarily well.

I'm glad the member raised the chamber report. We welcome their input into the analysis being done, but I can tell you that there have been numerous economists who have come forward and said that they're concerned about the methodology being used. We look forward to seeing the full report so that experts can weigh in on the methodology that was used in that report.

What has been very interesting—because this item has been out there and there have been extensive consultations. We went out on first reading, as you know. We went across, in two weeks, major cities in the province of Ontario. I attended the sessions up in North Bay, for instance. As the member opposite noted, there was concern raised about the minimum wage going to $15.

I've got to tell you, as a part of the fact that we're out there with this number, economists around Canada have been responding. I just want to read into the record, Chair, if I may, an article that was presented to the Progressive Economics Forum. It was submitted by Michal Rozworski. He consulted with over 50 Canadian economists who took a hard look at the proposal, and they had the following to say:

"We, the undersigned economists, support the decision to increase the minimum wage in Ontario to $15 an hour. Raising the wage floor makes good economic sense.

"Today, Ontario's minimum wage is $11.40 per hour. Adjusted for inflation, this is barely one dollar higher than its value in 1977. Yet over the same four decades, the average productivity of workers has increased by 40%. And the prevalence of minimum wage work is spreading. Around one in 10 Ontario workers make minimum wage today, with a large increase in this proportion over the last two decades.

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"Low wages are bad for workers as individuals. An individual working full-year, full-time on the minimum wage can still fall short of the poverty line. The situation for minimum wage workers trying to support families is no better—and evidence shows that this is increasingly what is asked of minimum wage workers. The stereotype of the teenager living at home making minimum wage is out of date: Over 60% of workers earning minimum wage in Ontario in 2015 were over the age of 20, as were over 80% of those making $15 or less.

"But low wages are also bad for the economy. There are good economic reasons to raise the incomes of low-wage workers. Aggregate demand needs a boost. While Canada escaped the harshest impacts of the 2007-08 financial crisis, our country has also seen a slowdown in growth. We risk further stagnation without reinvigorated economic motors. As those with lower incomes spend more of what they earn than do those with higher incomes, raising the minimum wage could play a role in economic revival, improving macroeconomic conditions.

"For years, we have heard that raising the minimum wage will kill jobs, raise prices and cause businesses to flee Ontario. This is fearmongering that is out of line with the latest economic research. Using improved techniques that carefully isolate the effects of minimum wage increases from the remaining noise in economic data, the weight of evidence from the United States points to job loss effects that are statistically indistinguishable from zero. The few very recent studies from Canada that have used these new economic methods agree, finding job loss effects for teenagers smaller by half than those of earlier studies and no effect for workers over 25.

"There are many possible reasons for minimum wage increases to lead to little or no job loss. Studies have found lower turnover, more on-the-job training, greater wage compression (smaller differences between higher- and lower-paid workers) and higher productivity after minimum wage increases. In short, raising the minimum wage makes for better, more productive workplaces.

"The business lobby has also suggested that any minimum wage increases will simply be passed on as higher prices. First, the above-mentioned improvements will offset some part of the higher labour costs to business. Second, there is no instantaneous, automatic mechanism between higher labour costs and higher prices. Some of the costs not absorbed by increased efficiency may go to price increases, but these are likely to be small and, for low-wage workers, offset by higher incomes coming from rising wages. Furthermore, if we remember that over one in four workers in Ontario makes under $15 per hour, we should not treat slightly higher inflation as the main criterion of successful policy; instead we should focus on the substantial benefit to low-wage workers, their families and the economy as a whole.

"Across North America, recent years have seen more minimum wage increases, some quite substantial. And so far, none of the doom-and-gloom predictions have come true. Seattle and the municipality of SeaTac, two of the first to institute minimum wage increases, continue to thrive even after increases. Of course, more rigorous studies will have to be conducted (as scientists we are excited by the prospect of new data to analyze) but so far the effects of minimum wage increases have been in line with the expectations of those of us who believe that raising the minimum wage is a positive step for workers and the economy.

"Economics may be known as the 'dismal science' but on the issue of the minimum wage many economists are ready to admit that the weight of evidence points to a strong case for raising the minimum wage. Six hundred of our colleagues in the United States, seven Nobel Prize winners among them, signed a letter urging the United States government to raise the federal minimum wage to $10.10 an hour from the current $7.25—in percentage terms an even larger increase than that from $11.40 to $15 in Ontario. A further letter calling for a staged increase of the federal minimum wage to $15 was signed by 200 economists. There is no consensus against raising the minimum wage among our profession; indeed, the emerging understanding is quite the opposite.

"We believe that raising Ontario's minimum wage to $15 an hour is a good idea and one that is economically sound."

I, too, am not an economist, but I take heart from the fact that over 50 of these economists—and these are not social economists, for the most part. These are university professors. These are from the Canadian Centre for Policy Alternatives and major universities like Laurentian and Northern British Columbia—and our good friend Don Drummond and so many more who have put their signature on this letter. This indicates that the consensus of people who are looking at our proposal—they're really saying that this is going to put more money in the hand of low-income people, who will spend that money. While there may be some job losses in some sectors that don't find a way to manage, it will be offset by new jobs in sectors where there will be increased purchasing power with this group.

So we're quite committed to move forward on an aggressive timetable to have at $15 minimum wage in the province of Ontario.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: I would love to weigh in on this little discussion that we're having here today.

The NDP and our leader, Andrea Horwath, don't believe that the government is going far enough with respect to Bill 148. Even though we had a panel that roamed the province over the last two years, many of the recommendations of that Changing Workplaces Review panel we don't see in the Bill 148 that is before us.

The amendments that we would be proposing to the Employment Standards Act and the Labour Relations Act would go a long way to addressing the half measures for the long-standing loopholes and the unfair labour relations regulations and building in new protections for workers in unstable jobs.

We, unlike the Liberals, don't just worry about workers before an election. I mean, the Liberals have had 14

years to actually make amendments to the Labour Relations Act and to the Employment Standards Act, and they wait until nine months before a provincial election to put in—some are good proposals, but many of them are half measures that are not going to meet the needs of the workers in this province.

Things like a universal minimum wage—without any exemptions for any worker who serves alcohol. We certainly support increasing the minimum wage to $15 an hour. We've been on record since 2016.

Increasing paid sick days to a minimum of five days so that people can actually get over their illnesses; or five paid emergency leave days for all workers and an additional five unpaid days.

Ten specific paid days for victims of sexual and domestic violence, which could be provincially funded.

Three weeks of paid vacation after the first year of employment—in a work world which we all talk about and which really was the impetus for the Changing Workplaces Review to make sure that workers in this province have the leave they need and have some adequate vacation to have some more personal family time in the weird hours of work that they find themselves in.

Card-based union certification for all workers: That would actually increase the number of workers in the province that are unionized and would improve the quality of their health and welfare benefits and working conditions.

Banning replacement workers—banning scabs—from workplaces. We've had this discussion as we travelled the province, that in fact 98%—

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster, I'm going to remind you what I said a little earlier: We need to speak to the motion that's on the floor. Okay? Try to stay to that motion.

Ms. Cindy Forster: Chair, I am speaking to the motion that's on the floor—

The Vice-Chair (Ms. Ann Hoggarth): Well, this motion has to do with—

Ms. Cindy Forster: A financial study of Bill 148.

The Vice-Chair (Ms. Ann Hoggarth): Yes. Exactly.

Ms. Cindy Forster: So I'm speaking to Bill 148, and I'm speaking to the amendments.

The Vice-Chair (Ms. Ann Hoggarth): Okay.

Ms. Cindy Forster: Defining, in the ESA, independent and dependent contractors, capturing millions of Ontario workers who are not currently protected by Bill 148 and won't be if this bill passes; ending exemptions in Bill 148 for people who already have collective agreements that may be inferior in some way to new ESA regulations; successor rights, which really haven't been addressed at all in Bill 148 for contract-flipping for many of the sectors in workplaces across this province; and greater access to information during organizing drives so that we can see that more people actually have the right to have the advocacy of a union to represent them.

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Those are the things that we want to see in Bill 148, regardless of whether there's a financial study or not. It's time for the workers in this province to have a fair and just workplace, good working conditions, and the constitutional ability and right to join a union to try to achieve some of those goals.

The Vice-Chair (Ms. Ann Hoggarth): MPP Yakabuski.

Mr. John Yakabuski: With all due respect to my colleagues here, they can debate the issue of the bill, which is what seems to be happening here, but this is about an economic impact analysis, a thorough one, a third-party, independent one.

To my colleague from Beaches–East York: He reads verbatim a letter from a number of economists, whom I urge people to look at the backgrounds of. Every one of them is either employed by a university or a labour group; not one of them is employed in the private sector, where the jobs are created, which is going to primarily be the sector that is affected by this. Not one of the objections or the responses to the amendment has talked about how there is no requirement, or has nullified the need for an economic impact analysis. That is what this is about. That is where the government has failed.

It is clear from the discussions that are going on—there are discussions on both sides, but the prudent thing to do would be a complete and comprehensive economic impact analysis, not from a group of professors who are not in the business of creating employment. They're living in a theoretical economic bubble, is what they're doing, and they want to promote the world as they would like to see it. I commend them for that; that's part of what university professors do. That's part of what academia does. But the objection to this is being brought forward by the job creators in this province who are concerned about the impact not only on them, but on their ability to actually create the jobs for the people who are supposed to be positively affected—at least, in the government's view—by this legislation.

The amendment is about an economic impact analysis. It's not about whether you believe in the steps that are being taken in the bill, it's whether an economic impact analysis is a prudent thing to do before introducing legislation of this magnitude that covers this much ground or is not a prudent thing to do. That's really what it comes down to. It is not about going through the bill and saying, "Well, this is a good thing" and "This is not a good thing." That's not what this motion is about.

I would appreciate it, if the other members want to speak to it, if they'd speak to whether or not they believe that an economic impact analysis is valid or is invalid. That's what this amendment is truly about.

The Vice-Chair (Ms. Ann Hoggarth): We will move to vote on PC motion 17.1. It is a recorded vote.

Ayes

Barrett, Yakabuski.

Nays

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment lost.

Shall schedule 1, section 59 carry? Carried.

Shall schedule 1, section 60 carry? Carried.

We are now at government motion 17.2: schedule 1 to the bill, section 61, commencement. MPP Colle.

Mr. Mike Colle: I move that section 61 of schedule 1 to the bill be amended by striking out "Subject to subsections (2), (3) and (4)" at the beginning of subsection (1) and substituting "Subject to subsections (2) to (5)", and by adding the following subsection:

"(5) Sections 23.2 and 23.3 come into force on a day to be named by proclamation of the Lieutenant Governor in Council."

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: The amendment would provide that the proposed changes to parental leave would come into force on proclamation.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I guess we don't have an idea of actually when that will happen. We're talking about all the improvements that you talked about today with respect to expanding the parental leave provisions around the loss of a child. So we don't have a date that those will actually be implemented.

Mr. Mike Colle: No, because we're still—

The Vice-Chair (Ms. Ann Hoggarth): MPP Colle.

Mr. Mike Colle: Whether it's based on royal assent or proclamation or a passage of the legislation, we're saying "on proclamation coming into effect." It's a technical time frame.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay. We will now move to vote on government motion 17.2. Again, it's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): It is carried.

Shall schedule 1, section 61, as amended, carry? Carried.

We're going to stand down schedule 1 until NDP motion 4.5.1 is dealt with.

Shall schedule 2, section 1 carry?

Mr. Arthur Potts: Excuse me. I think there's a notice of motion here.

Ms. Cindy Forster: There is.

Mr. Arthur Potts: We should have the—

The Vice-Chair (Ms. Ann Hoggarth): Sorry.

Mr. Arthur Potts: —we're voting with them.

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Forster.

Ms. Cindy Forster: So schedule 2, section 1: We recommend voting against section 1 of schedule 2. I'm just trying to clarify that this is correct, but is it the government's intent to propose changes to remove the purpose clause from the Labour Relations Act? And if so, why would they want to do that?

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It was our intent, but we're siding with you and your party on this matter, that we want to retain it. So we're going to support you in opposing this section to maintain the purpose clause of the act.

Ms. Cindy Forster: There's one for the NDP today.

Mr. John Yakabuski: You're one up on us.

Ms. Cindy Forster: Well, you didn't have many to start with.

Mr. John Yakabuski: I didn't have a lot of expectations.

The Vice-Chair (Ms. Ann Hoggarth): Shall schedule 2, section 1 carry?

Interjection: No.

The Vice-Chair (Ms. Ann Hoggarth): Okay. So schedule 2, section 1 is lost.

We now move to NDP amendment number 18: schedule 2 to the bill, section 2, clause 6.1(5)(b) of the Labour Relations Act, 1995, and this is MPP Forster.

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Ms. Cindy Forster: I move that clause 6.1(5)(b) of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be struck out and the following substituted:

"(b) a statutory declaration setting out the number of individuals in the bargaining unit described in the application under subsection (1), if the employer disagrees with the trade union's estimate."

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Chair, I can tell you that this is probably one of the most frequent issues in an application to certify, during the campaign, and even after the vote with segregated ballots. It's always about the numbers, because it's a numbers game at the end of the day. I did active organizing for many years and you try to address those numbers by getting people who work for an employer to give you as accurate numbers as you can get. But many times you'll find out after the fact, or very close to the vote, that there are whole pockets of people who should be in the bargaining unit, or the employer will try and put into the bargaining unit numbers so that you actually lose the vote.

I don't think it's too onerous to require that the employer give you an accurate number so at least you're in the ballpark of what 40% is to file the application, or what 50% plus one is to actually win a vote. In the spirit of transparency and trying to create better jobs and fairer workplaces—I heard the words "balancing act" a number of times from the Liberals today. This is a balancing piece. We're giving the employers over here a little bit, and on this side we're giving the workers some part-measures.

I think they need to level the playing field. If they're not going to give card-based certification to every worker in this province, then at the very least the employer should be required to say, "Yes, there are 700 workers that work for me who would be eligible to perhaps be in

a union," because it would save a lot of time and energy at the labour board. It would make unionizing, with or without card-based certification, much simpler and it would allow the employees and the employer to spend that time building the relationship after they're unionized, instead of fighting at the OLRB.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: This may not come as a complete surprise to the member opposite, but we're supporting this motion. We're supporting it primarily because we think a statutory declaration, considering that we're already asking employers to provide addresses of individuals that the union can then go talk to, shouldn't be onerous.

The issue of who is in and out of the bargaining unit is ultimately a technical debate that will happen at the board, so we're not going to be holding employers to absolute clarity that these are the ones who are in or out, because they don't know. Reasonable people disagree on what is a manager, a foreman or such and whether they're in or out of the bargaining unit. Ultimately, it's a test that's before the Labour Relations Board.

But we think that an employer would be in a position, knowing that they're releasing lists in any event, to give a statutory declaration of who they think reasonably might or might not be in the bargaining unit. We're going to support this, and we appreciate the intent with which you brought it forward.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll now vote on NDP motion number 18. It is a recorded vote.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We'll now move to NDP motion 19, schedule 2 to the bill, section 2, clauses 6.1(9)(a) and (b) of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that clauses 6.1(9)(a) and (b) of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be struck out and the following substituted:

"(a) the name of each employee in the proposed bargaining unit;

"(b) a phone number, personal email and mailing address for each employee in the proposed bargaining unit, if the employee has provided that information to the employer;

"(c) a job classification and statement of employment status for each employee in the proposed bargaining unit; and

"(d) an organizational chart that outlines the relationship between the employees in the proposed bargaining unit and any other employees, managers and supervisors."

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Really, this is just a clarification of what those lists should actually look like. As I say, it goes a long way to transparency in the process, making it easier for workers to exercise their democratic right to vote. I think it would also save a lot of haggling at the labour board at the end of a campaign and at the end of a vote if you know what classification of workers are there and what managerial capacity they're employed in. We know that there are some votes in this province where the ballots have been tied up for more than two years and they're still haggling at the board over who's in and who's out. Sometimes there can be days of hearings on one classification of worker. If you could sort that out transparently throughout the campaign, I think it's a lot better for everyone.

The organizational chart piece: Employers often change their organizational chart during a campaign so that they can pad the list of exclusions. I've certainly experienced that myself. I think the need to have the organizational chart at the time the list is provided is a good piece to determine who should be in and who should be out of the bargaining unit.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: We won't be supporting this motion. We think it goes a little too far in the personal and privacy information that's being requested. We are, within the bill, currently suggesting phone numbers and personal email addresses, if people have them, and we think that's a major step forward. We'll see how that goes.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to the vote on NDP motion number 19. This is a recorded vote.

Ayes

Forster.

Nays

Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the motion lost.

We now move to government amendment number 20, schedule 2 to the bill, section 2, subsection 6.1(9.1) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that section 6.1 of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be amended by adding the following subsection:

"Security and confidentiality of employee list

"(9.1) If the board directs an employer to provide a list of employees of the employer to a trade union under subsection (7), the employer shall ensure that all reasonable steps are taken to protect the security and confidentiality of the list, including protecting its security

and confidentiality during its creation, compilation, storage, handling, transportation, transfer and transmission."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This obviously goes to protecting the privacy of information—absolutely imperative. So we hope we'll get all-party support on it.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: We're going to support it, but if we had card-based certification for every person, then clearly people would be providing their personal information as part of an application or a membership card to the union. But we will support the government's proposal on this.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to the vote on government motion number 20. This is a recorded vote.

Ayes

Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

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We now move to government motion number 21, schedule 2 to the bill, section 2, subsection 6.1(10), paragraph 2.1 of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 6.1(10) of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be amended by adding the following paragraph:

"2.1 The trade union shall ensure that all reasonable steps are taken to protect the security and confidentiality of the list and to prevent unauthorized access to the list."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This is the flip side of the previous amendment, putting the same onus and responsibility back on the trade union, so that the privacy rights of the employees are protected.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to vote on government motion number 21. It's a recorded vote.

Ayes

Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We now move to government amendment number 22, schedule 2 to the bill, section 2, subsection 6.1(10), paragraph 4 of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that paragraph 4 of subsection 6.1(10) of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be amended by striking out "the board's direction" and substituting "the board's direction to provide the list".

This is just a clarification.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: We're opposed to a proposal that would put a one-year limit on the resumption of organizing drives, because many organizing drives—some of them can go on for several years, if it's a big employer or if it's a multi-site employer like the colleges, for example, where each of the 24 colleges across the province in an organizing drive has to be organized at once. I think that the one-year piece is problematic. Those are my comments.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll vote on government motion number 22.

Ayes

Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We'll move to government motion number 23, schedule 2 to the bill, section 2, subsection 6.1(10.1) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that section 6.1 of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be amended by adding the following subsection:

"Destruction of list

"(10.1) For the purposes of paragraphs 3 and 4 of subsection (10), a list must be destroyed in such a way that it cannot be reconstructed or retrieved."

It's pretty self-evident on its face: We don't want it getting into the wrong hands.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to the vote on government motion number 23. This again is a recorded vote.

Ayes

Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We now move to NDP motion number 24, schedule 2 to the bill, section 2, subsections 6.1(12) and (13) of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that subsections 6.1(12) and (13) of the Labour Relations Act, 1995, as set out in section 2 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: This eliminates the provision that a subsequent employee list application must use the same bargaining unit description. Some labour advocates have specifically cited the need for its removal as a barrier to representation.

You'll find that in organizing drives, you sometimes set out to organize a certain group of people, or you unionize a certain group of people, but then you are approached, or you approach another group of employees with the same employer, so then you want to actually be able to expand there. Or you'll be in an organizing drive—I'll give you an example, having gone into a campaign to organize nurses at a nursing home. Once we got there and started into the campaign, the nurses didn't want to organize unless we took the personal support workers and the registered practical nurses. In fact, what we started out with in our application isn't want we ended up with at the end of the day. That's why we have the need for this provision to be removed.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? Okay, seeing none, we move to vote on NDP motion number 24.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is lost.

Shall schedule 2, section 2, as amended, carry? Carried.

We now move on the NDP motion 25, schedule 2 to the bill, section 2.1, section 10.1 of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that schedule 2 to the bill be amended by adding the following section:

"2.1 The act is amended by adding the following section:

"'Election, certification without a vote

"'10.1(1) A trade union applying for certification as bargaining agent of the employees of an employer may elect to have its application dealt with under this section rather than under section 8.

"'Procedure

"'(2) Subsections 128.1(2) to (12) and (14) to (17) apply to an application dealt with under this section.

"'Board to certify trade union

"'(3) If the board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade union on the date the application is filed, it shall certify the trade union as the bargaining agent of the employees in the bargaining unit.

"'Non-application of certain provisions

"'(4) Sections 8, 8.1 and 10 do not apply in respect of an application dealt with under this section.

"'Determining bargaining unit

"'(5) Section 9 applies with necessary modifications to determinations made under this section.

"'Transition

"'(6) This section applies in respect of applications made on or after the day on which section 1 of the Fair Workplaces, Better Jobs Act, 2017 comes into force.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Card-check certification: We've had lots of discussion about this. I believe it was the number one ask for labour. In more than 200 submissions to the Changing Workplaces panel, in each and every one of those cases, labour and activists for people living in poverty and working in minimum wage jobs asked to have universal card-check certification and first-contract arbitration legislation, to protect workers from intimidation and prevent long, prolonged, unstable negotiations for a first contract.

Andrea committed to card certification and first-contract legislation, actually, on Labour Day in 2016. I myself tabled a private member's bill back in 2017, which was supported at whatever reading that is—second reading, I guess—that would have brought back card-check certification and first-contract arbitration, to allow employees to choose to have a union, to help the employer and the union arrive at an early and fair deal.

Universal card-check certification was abolished by the Conservatives in 1995, but it worked well before that. It is now only used in the construction sector, and the government is proposing to apply it to three other sectors of workers in the province. As I said earlier, I think that is discriminatory, and everyone should have the right to sign a card. That is their "yes" to join a union.

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I don't know why the government is holding this up. They supported the private member's bill. I can actually remember the minister, Minister Flynn, when my private member's bill was debated in the House, talking about going far beyond what was in my private member's bill. Well, in fact, he didn't do the most basic thing that improves the working lives and economic conditions for workers in this province, and that number one thing is to join a union, to have a voice, to bargain collectively and be able to achieve some better outcomes. I would urge the government to change their mind and to support my motion.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to the vote on NDP motion number 25. This is a recorded vote.

Ayes

Forster.

Nays

Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is lost.

Shall schedule 2, section 3 carry? Carried.

All right, we'll move to NDP motion 26. MPP Forster.

Ms. Cindy Forster: You have your part to read into the record.

The Vice-Chair (Ms. Ann Hoggarth): It's getting late: schedule 2 to the bill, section 3.1, subsection 12(3) of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that schedule 2 to the bill be amended by adding the following section:

"3.1 Subsection 12(3) of the act is amended by striking out 'sections 7, 8 and' and substituting 'sections 7, 8, 10.1 and'."

The Vice-Chair (Ms. Ann Hoggarth): Okay. We are going to rule that out of order because it references section 10 and there is no section 10.

Ms. Cindy Forster: Okay.

The Vice-Chair (Ms. Ann Hoggarth): We'll now move on to NDP motion 27, schedule 2 to the bill, section 4, section 12.1 of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that section 4 of schedule 2 to the bill be struck out and the following substituted:

"4. The act is amended by adding the following section:

"'No discharge or discipline following board determination

"'12.1 If the board determines that 20 per cent or more of the individuals in the bargaining unit proposed in the application for certification appear to be members of the union at the time the application is filed, the employer shall not discharge or discipline an employee that is already or that could become a member of the proposed bargaining unit without just cause during the period that begins on the date of the application and ends on the date on which a first collective agreement is entered into.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Chair, anybody who has done any organizing in this province, regardless of the union, regardless of the sector, will tell you that in almost every organizing drive, somebody gets fired or somebody gets disciplined. Sometimes it's more than one person. We used to have legislation that allowed those people terminated during an organizing drive to actually go to the labour board to make their case and hopefully get their job back, or enter into some negotiated settlement if they chose not to get their job back. The language that the government is proposing has a much shorter window of protection for those members who may be actively involved in the campaign or may be just on the sidelines. In fact, somebody was telling me during the hearings we had that that particular person I was talking to was fired just for going to a co-worker's house and talking to the co-worker. The worker wasn't even part of the organizing campaign, but the employer got wind that this discussion took place between two workers, and that person actually lost their job and didn't get their job back, just because they were having a discussion about the pros and cons of the union, and someone found out.

I think it's important that we make sure that workers who use their democratic right to be involved in a campaign or to sign a card or to do whatever they need to do to try to bring in the union within the law—we should protect them from the date the employer becomes aware that there's a drive going on until they have first collective agreement protection in place.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to vote on NDP motion number 27. It's a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is lost.

Shall schedule 2, section 4, as amended, carry? Carried.

We're now on NDP motion 29.

Mr. Arthur Potts: I think you missed a motion, 28.

The Vice-Chair (Ms. Ann Hoggarth): Whoops, sorry. Government motion 28.

Mr. Arthur Potts: Do we have to undo our previous motion?

The Vice-Chair (Ms. Ann Hoggarth): Oh, yes. Well, we'll just do it again. That's all. We'll deal with government motion 28, and then we will deal with approving the section after. Okay?

Schedule 2 to the bill, section 4, section 12.1 of the Labour Relations Act, 1995: MPP Potts.

Mr. Arthur Potts: I move that section 12.1 of the Labour Relations Act, 1995, as set out in section 4 of schedule 2 to the bill, be amended by striking out "the date on which a first collective agreement is entered into" and substituting "the earlier of the date on which a first collective agreement is entered into and the date on which the trade union no longer represents the employees in the bargaining unit".

This simply puts an end date to the process of a just-cause dismissal in the case where the employees are no longer represented by that trade union. It clarifies the section.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Sorry, I have a question. My reading of this is that the just-cause protections would lapse when the union decertifies and before a new union gets a first collective agreement. Is that the case? Perhaps someone—

Mr. Arthur Potts: Well, I would say it is essentially the case, because if there's no union representing at that point, there's no just-cause provision. You go back to the common law. But this is a situation—and it does happen, although not very often—where once you're certified, you don't get to a first collective agreement, you get to a decert situation; and this just terminates the just cause if you get to a decert situation.

Ms. Cindy Forster: But in many cases, people are moving from one union to another, which is—

Mr. Arthur Potts: If the second union had a certification, then it would be back in place.

Ms. Cindy Forster: Right, but sometimes there is a window there, and it's an opportunity for the employer to terminate people that they wouldn't otherwise have an opportunity to without proving the case.

From our perspective, probably the best assurance against this would have been to pass our first-contract arbitration provisions, and then people could get to a timely arbitration.

The Vice-Chair (Ms. Ann Hoggarth): Would you like to talk to ministry staff?

Ms. Cindy Forster: Sure. If they want to weigh in, I'm happy to hear from them to get clarification from the experts.

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The Vice-Chair (Ms. Ann Hoggarth): I saw them chatting back there.

If you would identify yourself for the Hansard, please.

Mr. Amyn Hadibhai: Amyn Hadibhai, counsel, the Ministry of Labour's legal services branch.

Mr. Potts's analysis is correct.

Ms. Cindy Forster: So, in fact, people can be without protection for a period of time.

Mr. Amyn Hadibhai: If there is no certification in place.

Ms. Cindy Forster: If there is no certification in place. Even if they're moving from one union to another and there's that window?

Mr. Amyn Hadibhai: If there is no certification in place. That's correct.

Ms. Cindy Forster: Okay, thank you very much.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to vote on government motion number 28. This is a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): That motion carries.

Now we're going to revisit. Shall schedule 2, section 4, as amended, carry? Carried.

We're now on to NDP motion 29, schedule 2 to the bill, section 5, subsections 15.1(4) and (5) of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that subsections 15.1(4) and (5) of the Labour Relations Act, 1995, as set out in section 5 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Our reason for wanting to do that is it would eliminate the Labour Relations Board's ability to unilaterally decide bargaining unit consolidation.

For many years, we've worked under the PSLRTA, the Public Sector Labour Relations Transition Act, where, if there was going to be bargaining unit consolidation or if there was going to be a consolidation of employers, you always had the right to get to a vote.

It seems that the motions coming forward in Bill 148 would actually give the vice-chair of the board the ability to unilaterally make a decision on which union would represent the consolidated units, as opposed to allowing that vote to happen. We don't really think that that is very democratic because in many cases where there have been votes, it hasn't necessarily been the union with the most members that actually won the vote.

On one hand, we say we want workers to have the right to join a union, but if there's going to be a consolidation of bargaining units, don't they have the right to choose the union of their choice? That's what this motion is about.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to vote on NDP motion number 29. It's a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment lost.

We now move to NDP amendment number 30, schedule 2 to the bill, section 5, subsections 15.2(4), (5) and (8) of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that subsections 15.2(4), (5) and (8) of the Labour Relations Act, 1995, as set out in section 5 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: It's related to number 29. It furthers the goal of eliminating the arbitrary ability of the board to determine representation in a unit consolidation matter.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will move to vote on NDP motion number 30. It's a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is lost.

We now move to government amendment number 31, schedule 2 to the bill, section 5, section 15.2 of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that section 15.2 of the Labour Relations Act, 1995, as set out in section 5 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This just accomplishes most of what Ms. Forster wanted to do, in any event.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will move to vote on government motion number 31. It's a recorded vote.

Ayes

Colle, Forster, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): I declare the amendment carried.

Now we'll move to NDP amendment number 32, schedule 2 to the bill, section 5, section 15.3 of the Labour Relations Act, 1995. Ms. Forster.

Ms. Cindy Forster: I move that section 15.3 of the Labour Relations Act, 1995, as set out in section 5 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: This is consequential to our motion number 25. The motion would eliminate sector-specific categories being allowed to have the only access to card certification necessary to implement universal card certification. I have already spoken to this issue and why it's important to have card-check for everyone. It may even be a constitutional violation, if you listen to some of the documentation that has gone back and forth and some of the presenters who spoke to us over those two weeks that we were travelling in July. It's certainly our position that we would need to strike this piece out in order to try and get card-based certification for everyone.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will move to vote on NDP motion number 32. This is a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is lost.

Shall schedule 2, section 5, as amended, carry? Carried.

We now move to government amendment number 33, schedule 2 to the bill, section 5.1, section 16.1 of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that schedule 2 to the bill be amended by adding the following section:

"5.1 The act is amended by adding the following section:

"'Educational support

"'16.1(1) Where notice has been given under section 16, either party may request educational support in the practice of labour relations and collective bargaining and the minister shall make such educational support available to the parties.

"'Same, non-application

"'(2) Subsection (1) does not apply in the circumstances described in subsection 43(12).'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This is one of those examples where education is clarifying. It should help the parties as they move towards getting a first-contract agreement by providing them the educational supports they need.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: Well, in fact, that's the job of the mediator. When you're in a negotiation setting, whether you're in a strike position or you're not in a strike position, we have mediators in this province that try and effect the settlement of a collective agreement and, in the same process, educate the parties as to the ins and outs and examples of collective agreement language in their sectors. So I think that that already exists.

There's nothing wrong with setting out education requirements, but what people really need is the right to first-contract arbitration and that they would have mandatory arbitration kick in after a prescribed amount of time. That would do more to ensure labour peace in the province than offering up education to, for the most part, union officials who are educated and employers who are educated or who have labour lawyers representing them at the table.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will now move to vote on government motion number 33. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is carried.

We're now going to deal with NDP motion number 42. An administrative change has been made to the order of this amendment package as it makes more sense to deal with this motion before moving on to subsequent motions.

Ms. Cindy Forster: What time are we going till, Chair?

The Vice-Chair (Ms. Ann Hoggarth): We are scheduled to go to 5:30, but the Clerk informs me that there is no hard-set time that we have to quit by.

Mr. Mike Colle: What about workers' rights? We need supper.

The Vice-Chair (Ms. Ann Hoggarth): Okay, I just brought it up.

Ms. Cindy Forster: We at least need a recess for personal needs, for 10 minutes.

Interjections.

The Vice-Chair (Ms. Ann Hoggarth): What we're going to do is we're going to take a recess. We're going to continue, and then when we get close—

Mr. John Yakabuski: She's requesting a recess for 10 minutes.

Ms. Cindy Forster: I'm requesting a recess for—

The Vice-Chair (Ms. Ann Hoggarth): Now?

Ms. Cindy Forster: Now, yes.

The Vice-Chair (Ms. Ann Hoggarth): Oh, okay.

Ms. Cindy Forster: I mean, I'm here all on my own.

The Vice-Chair (Ms. Ann Hoggarth): We will recess for 10 minutes. We will return to this committee room at 5:10.

The committee recessed from 1700 to 1710.

The Vice-Chair (Ms. Ann Hoggarth): Come to order. Does the committee agree that we will meet till 6:30, maximum? Okay, we'll meet till 6:30. Let's get rolling.

We are now at NDP motion number 42, schedule 2 to the bill, section 6, section 43 of the Labour Relations Act, 1995.

Mr. John Yakabuski: Motion 42?

Ms. Cindy Forster: It's 42. We're talking about—

Mr. John Yakabuski: Motion 42? We were at 34.

Mr. Mike Colle: No, it's an administrative change.

Mr. John Yakabuski: Oh, an administrative change. Okay.

The Vice-Chair (Ms. Ann Hoggarth): Yes. We discussed that before we recessed

Mr. John Yakabuski: Yes, yes.

Ms. Cindy Forster: So we're dealing with 42 now?

The Vice-Chair (Ms. Ann Hoggarth): Yes. MPP Forster.

Mr. John Yakabuski: Oh yes, this is a huge thing.

Ms. Cindy Forster: All right, I'll read fast.

Have you done your part, Chair?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Ms. Cindy Forster: Okay.

I move that section 6 of schedule 2 to the bill be struck out and the following substituted:

"6(1) Subsection 43(1) of the act is repealed and the following substituted:

"'First agreement arbitration

"'(1) The first collective agreement between parties shall be settled by arbitration in accordance with this section if,

"'(a) the minister refers the matter to first agreement arbitration in the circumstances described in subsection (1.2); or

"'(b) the board directs first agreement arbitration after receiving an application under subsection (1.3).

"'Initiation

"'(1.1) For the purposes of this section, first agreement arbitration is initiated on the day on which the minister makes a referral described in clause (1)(a) or the day on which the board makes a direction described in clause (1)(b).

"'Arbitration on request to minister

"'(1.2) A party may make a request to the minister for first agreement arbitration and the minister shall immediately refer the matter to a board of arbitration and shall notify the parties of the referral if the following conditions are met:

"'1. 30 days have elapsed since the day on which it became lawful for the employees to strike and the employer to lock out employees.

"'2. The parties have been unable to enter into a first collective agreement.

"'Arbitration on application to board

"'(1.3) A party may apply to the board for first agreement arbitration if,

"'(a) the minister has released,

"'(i) a notice that it is not considered advisable to appoint a conciliation board, or

"'(ii) the report of a conciliation board; and

"'(b) the parties have been unable to enter into a first collective agreement.

"'Proposed collective agreement

"'(1.4) The party seeking first agreement arbitration shall include with the request or application a copy of a proposed collective agreement which the party is prepared to execute and shall provide a copy of it to the other party.

"'Same, other party

"'(1.5) Within 10 days after receiving the copy of the proposed collective agreement, the other party shall file with the minister or the board, as the case may be, a copy of a proposed collective agreement which that party is prepared to execute.

"'Board of arbitration to settle agreement

"'(1.6) Subject to subsection (3), if first agreement arbitration is initiated, a board of arbitration composed of three members shall settle the first collective agreement between the parties and the following rules apply:

"'1. Each party shall appoint one member of the board of arbitration within 10 days after first agreement arbitration is initiated and shall inform the other party of its appointee. The appointees shall, within five days of the appointment of the second of them, appoint a third person who shall be the chair.

"'2. If a party fails to make an appointment as required by paragraph 1 or if the appointees fail to agree on a chair within the time limit, the appointment shall be made by the minister on the request of either party.

"'3. The chair appointed under paragraph 1 or 2 shall promptly provide to the minister or the board, as the case may be, the name and contact information of each member of the board of arbitration.

"'4. The minister or the board, as the case may be, shall provide the chair of the board of arbitration with a copy of the proposed collective agreements included with the request or application under subsection (1.4) and filed under subsection (1.5).

"'5. The parties may agree that the board of arbitration shall settle the first collective agreement by final offer selection.'

"(2) Subsection 43(2) of the act is amended by striking out 'subsection (1)' in the portion before clause (a) and substituting 'subsection (1.3)'.

"(3) Subsections 43(6) and (7) of the act are repealed.

"(4) Subsection 43(14) of the act is amended by striking out the portion before clause (a) and substituting the following:

"'Effect of direction on strike or lock-out

"'(14) The employees in the bargaining unit shall not strike and the employer shall not lock out the employees where first agreement arbitration has been initiated and, where first agreement arbitration has been initiated during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith determine the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced,'"

The Vice-Chair (Ms. Ann Hoggarth): I'm just going to ask you, in about the middle of the paragraph after "or a lock-out of," start with "employees in the bargaining unit."

Ms. Cindy Forster: "Employees in the bargaining unit"?

The Vice-Chair (Ms. Ann Hoggarth): Yes.

Ms. Cindy Forster: "The employees shall forthwith terminate the strike or the employer"—

The Vice-Chair (Ms. Ann Hoggarth): Okay. That's good. You can go on to (5) now.

Ms. Cindy Forster: "(5) Subsection 43(16) of the act is repealed and the following substituted:

"'Working conditions not to be altered

"'(16) Where first agreement has been initiated, the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer'"—

The Vice-Chair (Ms. Ann Hoggarth): I'm sorry to stop you. You left out the word "arbitration" in the first case.

Ms. Cindy Forster: "'(16) Where first agreement arbitration has been initiated, the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 16 shall continue in effect, or, if altered before the initiation of first agreement arbitration, shall be restored and continued in effect until the first collective agreement is settled.'

"(6) Subsection 43(19) of the act is amended by striking out 'the day that the board may fix, but not earlier' and substituting 'the day that the board of arbitration or the board, as the case may be, may fix, but not earlier'.

"(7) Clause 43(23.1)(a) of the act is amended by striking out 'subsection (1)' and substituting 'subsection (1.3)'.

"(8) Clause 43(23.1)(b) of the act is amended by striking out 'subsection (1)' and substituting 'subsection (1.3)'.

"(9) Subsections 43(23.2), (23.3), (23.4) and (23.5) of the act are repealed and the following substituted:

"'Procedure in dealing with multiple applications

"'(23.2) The board shall proceed to deal or continue to deal with the application under subsection (1.3) before dealing with the decertification application or displacement application, as the case may be.

"'When application under subs. (1.3) granted

"'(23.3) If the board grants the application under subsection (1.3), it shall dismiss the decertification application or displacement application.

"'When application under subs. (1.3) dismissed

"'(23.4) If the board dismisses the application under subsection (1.3), it shall proceed to deal with the decertification application or displacement application.

"'Transition, multiple applications

"'(23.5) Subsections (23.2) to (23.4) apply with respect to an application referred to in those subsections that was filed with the board before the day on which schedule 2 to the Fair Workplaces, Better Jobs Act, 2017 comes into force only if the board has not made a final decision on that application before that day.'

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"(10) Section 43 of the act is amended by adding the following subsections:

"'When minister refers matter to board of arbitration

"'(23.6) A decertification application or displacement application is of no effect if it is filed with the board after first agreement arbitration is initiated under subsection (1.2) unless the application is brought after the first collective agreement is settled and it meets the requirements set out in this act with respect to the application.

"'Transition

"'(23.7) The Lieutenant Governor in Council may make regulations respecting transitional matters relating to applications for first agreement arbitration made to the board before the day on which schedule 2 to the Fair Workplaces, Better Jobs Act, 2017 comes into force.'"

The Vice-Chair (Ms. Ann Hoggarth): Thank you, MPP Forster.

Mr. John Yakabuski: And there's a bigger one coming.

Ms. Cindy Forster: I learned that from Bill Walker.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Do you want to talk about that?

Ms. Cindy Forster: Yes, motion 42—

Mr. John Yakabuski: You've got no wind left.

Ms. Cindy Forster: No, I don't.

Anyway, actually, I've really spoken to it already. It really sets out a first-contract-arbitration plan. It's based on my private member's bill that I introduced in the last session. That's all I'll really say on the matter, that I think it's important to have first-contract-arbitration options for any bargaining units that find themselves in that first-contract situation. I think it's good for the

employer/employee relationship to get that first contract in place and start to develop a relationship.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Potts.

Mr. Arthur Potts: I would just say that having it automatic removes all incentive for parties to have realistic negotiations. We believe a negotiated settlement is better than an arbitrated settlement and that current provisions are more balanced. We'll leave it there. We're voting against this.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will now vote on NDP motion number 42.

Ayes

Forster.

Nays

Colle, Potts, Qaadri, Rinaldi.

The Vice-Chair (Ms. Ann Hoggarth): Motion 42 is lost.

We now move to government motion number 34, schedule 2 to the bill, section 6, clause 43(6)(b) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that clause 43(6)(b) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "and educate the parties in the practices and procedures of collective bargaining".

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: This just removes the reference "and educate the parties" and is consistent with the government's commitment to modernizing employment standards and labour laws.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on government motion number 34.

Ayes

Colle, Potts, Qaadri, Rinaldi.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is carried.

We now move to government motion 35, schedule 2 to the bill, section 6, subsection 43(6.1) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that section 43 of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by adding the following subsection:

"Educational support

"(6.1) Either party may request educational support in the practice of labour relations and collective bargaining and the first collective agreement mediator shall make such educational support available to the parties."

It's self-explanatory.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will vote on government motion 35.

Ayes

Colle, Potts, Qaadri, Rinaldi.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is carried.

We'll now move to government amendment number 36, schedule 2 to the bill, section 6, subsection 43(7) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 43(7) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be struck out.

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It provides the first collective mediator with more limited powers, to enhance neutrality.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: I can't actually support it for that reason. Why would we be taking away the mediator's powers in a first-contract type of setting when you're trying to get a first collective agreement in place? It doesn't make any sense to me, so I'll be opposing it.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay, we will move to vote on government motion number 36. It's a recorded vote.

Ayes

Colle, Potts, Qaadri, Rinaldi.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The amendment carries.

We now move to government amendment number 37, schedule 2 to the bill, section 6, subsection 43(8) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 43(8) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "20 days" and substituting "45 days".

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: It just extends the period for mediation to assist the parties in getting to an agreement.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? MPP Forster.

Ms. Cindy Forster: Are we on 36 or 37?

The Vice-Chair (Ms. Ann Hoggarth): Motion 37.

Ms. Cindy Forster: Well, this motion actually extends the prohibition on job action following the appointment of a first-contract mediator to 45 days, up from only 20 days. In most job actions, the breakdown of a first-

contract negotiation is often initiated by the employer; people are locked out. I don't think that this is really a progressive reform if you're trying to push the parties to get a deal by extending the period of time that the employer can actually initiate those actions.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will now vote on government motion number 37. It's a recorded vote.

Ayes

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): That motion carries.

We now move to government motion number 38, schedule 2 to the bill, section 6, clause 43(12)(a) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that clause 43(12)(a) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "or restructured under section 15.2".

This is a consequential amendment to the proposed motion to strike the proposed new section 15.2 from the bill.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll vote on government motion number 38.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): It's carried.

We move to government amendment number 39, schedule 2 to bill, section 6, subsection 43(15) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 43(15) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "20 days" and substituting "45 days".

It's consequential to previous motion 37.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We'll move to vote on government motion number 39.

Ayes

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We now move to government amendment number 40, schedule 2 to the bill, section 6, subsection 43.1(1) of the Labour Relations Act, 1995. MPP Potts.

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Mr. Arthur Potts: I move that subsection 43.1(1) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "20 days" and substituting "45 days".

Again, this is a consequential amendment from 37 and 39.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? MPP Forster.

Ms. Cindy Forster: This government motion now would extend the mandatory waiting period. Our number 42 would have set time limits around mandatory time limits to get people to arbitration quicker. The government motion now is extending the time period before people can apply for first-contract arbitration from 20 days up to 45 days following the appointment of the first-contract mediator.

I don't think that's very progressive. I don't think it's a way to actually get contracts settled. Certainly, I can't support it.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll now vote on government motion number 40. It's a recorded vote.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

We'll now move to government motion number 41, schedule 2 to the bill, section 6, subsection 43.1(23) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 43.1(23) of the Labour Relations Act, 1995, as set out in section 6 of schedule 2 to the bill, be amended by striking out "subsections (24) to (27)" and substituting "subsections (24) to (28)".

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: I believe this is consequential because it just adds that other section we dealt with earlier.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Okay. We will move the vote on government motion 41. It's a recorded vote.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 2, section 6, as amended, carry? Carried.

We now move to NDP amendment number 43, schedule 2 to the bill, section 7, sections 69.1 and 69.2 of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that section 7 of schedule 2 to the bill be struck out and the following substituted:

"7. The act is amended by adding the following section:

"'Deemed sale of business

"'69.1(1) For the purposes of section 69, the sale of a business is deemed to have occurred if,

"'(a) employees perform services at premises that are their principal place of work;

"'(b) their employer ceases, in whole or in part, to provide the services at those premises; and

"'(c) substantially similar services are subsequently provided at the premises under the direction of another employer.

"'Interpretation

"'(2) For the purposes of section 69, the employer referred to in clause (1)(b) of this section is considered to be the employer who sells the business and the employer referred to in clause (1)(c) of this section is considered to be the person to whom the business is sold.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: This proposal is really about successor rights for all workplaces in the province to try to deal with the constant contract-flipping that happens in building services, that happens in cleaning services, that happens in community health care services that I've seen in particular over the years. It's a progressive measure, and it would certainly improve the provisions in the act that are limited right now to only certain sectors. We'd like to see the law apply to all sectors.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll move to the vote on NDP motion number 43. It's a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is lost.

Shall schedule 2, section 7 carry? Carried.

We now move to NDP amendment number 44, schedule 2 to the bill, section 7.1, sections 78.1 and 78.2 of the Labour Relations Act, 1995. MPP Forster.

Ms. Cindy Forster: I move that schedule 2 to the bill be amended by adding the following section:

"7.1(1) The act is amended by adding the following sections:

"'Prohibition, use of replacement workers during strike, lock-out

"'Definitions

"'78.1(1) In this section,

"'"employer" means the employer whose employees are locked out or are on strike and includes an employers' organization or person acting on behalf of either of them;

"'"person" includes,

"'(a) a person who exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations, and

"'(b) an independent contractor;

"'"place of operations in respect of which the strike or lock-out is taking place" includes any place where employees in the bargaining unit who are on strike or who are locked-out would ordinarily perform their work.

"'Application

"'(2) This section applies during any lock-out of employees by an employer or during a lawful strike that is authorized in the following way:

"'1. A strike vote was taken after the notice of desire to bargain was given or bargaining had begun, whichever occurred first.

"'2. The strike vote was conducted in accordance with subsections 79(7) to (9).

"'3. At least 60% of those voting authorized the strike.

"'Interpretation

"'(3) For the purposes of this section and section 78.2, a bargaining unit is considered to be,

"'(a) locked out if any employees in the bargaining unit are locked out; and

"'(b) on strike if any employees in the bargaining unit are on strike and the union has given the employer notice in writing that the bargaining unit is on strike.

"'Use of bargaining unit employees

"'(4) The employer shall not use the services of an employee in the bargaining unit that is on strike or is locked out.

"'Use of newly hired employees, etc.

"'(5) The employer shall not use a person, whether the person is paid or not, who is hired or engaged by the employer after the earlier of the date on which the notice of desire to bargain is given and the date on which bargaining begins, at any place of operations operated by the employer to perform the following work:

"'1. The work of an employee in the bargaining unit that is on strike or is locked out.

"'2. The work ordinarily done by a person who is performing the work of an employee described in paragraph 1.

"'Use of others at the strike, etc., location

"'(6) The employer shall not use any of the following persons to perform the work described in paragraph 1 or 2 of subsection (5) at a place of operations in respect of which the strike or lock-out is taking place:

"'1. An employee or other person, whether paid or not, who ordinarily works at another of the employer's places of operations, other than a person who exercises managerial functions.

"'2. An employee or other person, whether paid or not, who is transferred to a place of operations in respect of which the strike or lock-out is taking place, if he or she

was transferred after the earlier of the date on which the notice of desire to bargain is given and the date on which bargaining begins.

"'3. A person, whether paid or not, other than the employee of the employer or a person described in clause 1(3)(b).

"'4. A person, whether paid or not, who is employed, engaged or supplied to the employer by another person or employer.

"'Prohibition re replacement work

"'(7) The employer shall not require an employee who works at a place of operations in respect of which the strike or lock-out is taking place to perform any work of an employee in the bargaining unit that is on strike or is locked out without the agreement of the employee.

"'No reprisals

"'(8) No employer shall, because of the person's refusal to perform any or all of the work of an employee in the bargaining unit that is on strike or is locked out,

"'(a) refuse to employ or continue to employ a person;

"'(b) threaten to dismiss a person or otherwise threaten a person;

"'(c) discriminate against a person in regard to employment or a term or condition of employment; or

"'(d) intimidate or coerce or impose a pecuniary or other penalty on a person.

"'Burden of proof

"'(9) On an application or a complaint relating to this section, the burden of proof that an employer did not act contrary to this section lies upon the employer.

"'Permitted use of replacement workers

"'Definition

"'78.2(1) In this section,

""specified replacement worker" means a person who is an employer is prohibited from using as described in subsection 78.1(5) or (6).

"'Permitted use of specified replacement workers

"'(2) Despite section 78.1, specified replacement workers may be used in the circumstances described in this section to perform the work of employees in the bargaining unit that is on strike or is locked out but only to the extent necessary to enable the employer to provide the following services:

"'1. Secure custody, open custody or the temporary detention of persons under a law of Canada or of the province of Ontario or under a court order or warrant.

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"'2. Residential care for persons with a developmental disability or a behavioural, emotional, physical, mental or other disability.

"'3. Residential care for children who are in need of protection as described in subsection 37(2) of the Child and Family Services Act.

"'4. Services provided to persons described in paragraph 2 or 3 to assist them to live outside a residential care facility.

"'5. Emergency shelter or crisis intervention services to persons described in paragraph 2 or 3.

"'6. Emergency shelter or crisis intervention services to victims of violence.

"'7. Emergency services relating to the investigation of allegations that a child may be in need of protection as described in subsection 37(2) of the Child and Family Services Act.

"'8. Emergency dispatch communication services, ambulance services or a first aid clinic or station.

"'Same

"'(3) Despite section 78.1, specified replacement workers may be used in the circumstances described in this section to perform the work of employees in the bargaining unit that is on strike or is locked out but only to the extent necessary to enable the employer to prevent,

"'(a) danger to life, health or safety;

"'(b) the destruction or serious deterioration of machinery, equipment or premises; or

"'(c) serious environmental damage.

"'Notice to trade union

"'(4) An employer shall, in accordance with the regulations, notify the trade union if the employer wishes to use the services of specified replacement workers to perform the work described in subsection (2) or (3).

"'Consent

"'(5) After receiving the employer's notice, the trade union may consent to the use of bargaining unit employees instead of specified replacement workers to perform some or all of the proposed work and shall promptly notify the employer as to whether it gives its consent.

"'Use of bargaining unit employees

"'(6) The employer shall use bargaining unit employees to perform the proposed work to the extent that the trade union has given its consent and if the employees are willing and able to do so.

"'Working conditions

"'(7) Unless the parties agree otherwise, the terms and conditions of employment and any rights, privileges or duties of the employer, the trade union or the employees in effect before it became lawful for the trade union to strike or the employer to lock out continue to apply with respect to bargaining unit employees who perform work under subsection (6) while they perform the work.

"'Priority re replacement workers

"'(8) No employer, employers' organization or person acting on behalf of either shall use a specified replacement worker to perform the work described in subsection (2) or (3) unless,

"'(a) the employer has notified the trade union that the employer wishes to do so;

"'(b) the employer has given the trade union reasonable opportunity to consent to the use of bargaining unit employees instead of the specified replacement worker to perform the proposed work; and

"'(c) the trade union has not given its consent to the use of bargaining unit employees.

"'Exception re emergency

"'(9) In an emergency, the employer may use a specified replacement worker to perform the work described in subsection (2) or (3) for the period of time required to

give notice to the trade union and determine whether the trade union gives its consent to the use of bargaining unit employees.

"'Burden of proof

"'(10) In an application or a complaint relating to this section, the burden of proof that the circumstances described in subsection (2) or (3) exist lies upon the party alleging that they do.

"'Regulations

"'(11) The Lieutenant Governor in Council may make regulations,

"'(a) governing notice provided under subsection (4);

"'(b) governing applications by the employer or trade union to the board in respect of matters arising under this section, including applications for direction regarding such matters as the board considers appropriate;

"'(c) governing agreements entered into between the employer and the trade union with respect to the use of replacement workers to perform the work described in subsection (2) or (3), which may include providing for circumstances in which an agreement may provide that provisions of this section do not apply, prescribing terms and conditions of the agreements and prescribing circumstances in which such an agreement is void;

"'(d) governing the enforcement of an agreement mentioned in clause (c).

"'(2) Paragraphs 3 and 7 of subsection 78.2(2) of the act, as enacted by subsection (1), are amended by striking out "subsection 37(2) of the Child and Family Services Act" wherever it appears and substituting in each case "subsection 74(2) of the Child, Youth and Family Services Act, 2017".'"

The Vice-Chair (Ms. Ann Hoggarth): I'm going to give you a couple of seconds to take your breath, and then I'm going to ask you to go back to page 3, number 3, and reread it, please. Under "Use of others at the strike, etc., location"—number 3.

Ms. Cindy Forster: "A person, whether paid or not, other than an employee of the employer or a person described in clause 1(3)(b)."

The Vice-Chair (Ms. Ann Hoggarth): Okay. Also, the next page, just under "Definition" at the top of the page where it starts with "'specified replacement worker.'"

Ms. Cindy Forster: So, "'specified replacement worker' means a person who an employer is prohibited from using as described in subsection 78.1(5) or (6)."

The Vice-Chair (Ms. Ann Hoggarth): Thank you. MPP Forster.

Ms. Cindy Forster: This is our anti-replacement-worker amendment based on a 1994 law repealed by Mike Harris—the former Mike Harris, not the Michael Harris who currently sits with us.

We think that it will help to ensure speedy resolution of job disputes and promote labour peace. In addition, there are several topical examples to be made that with the use of replacement workers, it can be dangerous to replacement workers and it can also be dangerous to the workers themselves.

There are a couple of examples that my staff relayed to me today with respect to temporary workers at the airport recently. In one situation, the people who were supposed to be—I don't think it was the people who are the air traffic controllers. It's the ones who are on the runway, giving the signals that you see. One plane ended up clipping another plane, and it was determined to be because the worker there wasn't experienced. It was a replacement worker during a job action or a strike. There was another one where a worker at Pearson airport was injured. It was a temporary worker.

It's not a good thing to bring in workers who aren't qualified or trained appropriately, particularly around health and safety, during these kinds of actions. We believe that we should put this back in place.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We will vote on NDP motion 44. This is a recorded vote.

Ayes

Forster.

Nays

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): That amendment is lost.

Shall schedule 2, section 8 carry? Carried.

We now go to government amendment 45, schedule 2 to the bill, section 9, subsection 80.1(1) of the Labour Relations Act, 1995. MPP Potts.

Mr. Arthur Potts: I move that subsection 80.1(1) of the Labour Relations Act, 1995, as set out in section 9 of schedule 2 to the bill, be amended by striking out "ending on the date a new collective agreement is entered into" and substituting "that ends on the earlier of the date on which a new collective agreement is entered into and the date on which the trade union no longer represents the employees in the bargaining unit".

As in our previous motion, this just clarifies that, sometimes, bargaining rights do get terminated.

Mr. John Yakabuski: I believe he said "on the bargaining unit."

The Vice-Chair (Ms. Ann Hoggarth): Just read the last sentence, please.

Mr. Arthur Potts: It's "a new collective agreement is entered into and the date on which the trade union no longer represents the employees in the bargaining unit."

The Vice-Chair (Ms. Ann Hoggarth): Thank you.

Any further discussion? MPP Forster.

Ms. Cindy Forster: I've already spoken to it. My comments are the same. I'll be opposing it, because it ends the just-cause protections of workers in the case of decertification before they are able to certify with someone else.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? We will now vote on government motion number 45. It's a recorded vote.

Ayes

Colle, Potts, Rinaldi, Wong.

Nays

Forster.

The Vice-Chair (Ms. Ann Hoggarth): The motion carries.

Shall schedule 2, section 9, as amended, carry? Carried.

1750

We'll now move to NDP amendment number 46: schedule 2 to the bill, section 9.1, section 94.1 of the Labour Relations Act, 1995. MPP Forster?

Ms. Cindy Forster: I move that schedule 2 to the bill be amended by adding the following section:

"9.1 The act is amended by adding the following section:

"'Strike or lock-out to be reported

"'94.1(1) An employer whose employees are on strike or are locked out shall report the strike or lock-out in writing to the minister within 24 hours of learning of the strike or lock-out.

"'Use of replacement workers to be reported

"'(2) If an employer whose employees are on strike or are locked out uses the services of one or more replacement workers to do the work of an employee who is on strike or locked out, the employer shall report the following in writing to the minister within 24 hours of using the services of the replacement worker:

"'1. The number of replacement workers.

"'2. The work being performed by each replacement worker.

"'Same, change in circumstance

"'(3) The employer shall ensure that the information reported under subsections (1) and (2) is up to date, and shall report any change in circumstances in writing to the minister within 24 hours of learning of the change.

"'Publication of information

"'(4) The minister shall publish on a government of Ontario website the information reported under this section within 24 hours of receiving it and shall maintain an archive of all information reported.

"'Definition

"'(5) In this section,

"'"replacement worker" means a person used by an employer to discharge the duties of an employee who is a member of a bargaining unit that is on strike or locked out and includes a person employed by another employer and a person who is a contractor, but does not include an existing supervisor or manager who covers the employee's duties.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: Because the government actually voted down the Bill 44, I think they could at least collect some data, and some information be required where there are strikes and lock-outs and there are replacement workers being used to hopefully ensure that we have enforcement officers out there making sure that the replacement workers at the very least are safe.

The Vice-Chair (Ms. Ann Hoggarth): Any further discussion? Move to vote on NDP motion number 46.

Ayes

Forster.

Nays

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The motion is lost.

Shall schedule 2, section 10, carry? Carried.

Can we bundle section 11 to 18, inclusive? Is everybody okay with that? All right.

Shall sections 11 to 18, inclusive, carry? Carried.

All right, now we go to government amendment number 47—

Mr. Arthur Potts: I move that subsection—

The Vice-Chair (Ms. Ann Hoggarth): Just a second, just a second. Don't get too excited.

Mr. Arthur Potts: Darn this Clerk. This is a new rule, by the way.

The Vice-Chair (Ms. Ann Hoggarth): Pardon, Mr. Potts?

Okay. Schedule 2 to the bill, section 19, subsections 7(2) and (3) of the School Boards Collective Bargaining Act, 2014: MPP Potts.

Mr. Arthur Potts: I move that subsections 7(2) and (3) of the School Boards Collective Bargaining Act, 2014, as set out in section 19 of schedule 2 to the bill, be struck out and the following substituted:

"s. 15.1 of the Labour Relations Act, 1995

"(2) Section 15.1 of the Labour Relations Act, 1995 does not apply for the purpose of determining bargaining units under subsection (1) unless the Lieutenant Governor in Council, by regulation, provides otherwise.

"Same, regulations

"(3) A regulation made under subsection (2) may provide for the application of section 15.1 of the Labour Relations Act, 1995 for the purposes of this section and may clarify, modify or restrict the application of that section."

The Vice-Chair (Ms. Ann Hoggarth): MPP Potts.

Mr. Arthur Potts: Totally consequential—housekeeping.

The Vice-Chair (Ms. Ann Hoggarth): Further discussion? We'll now vote on government motion 47. This is a recorded vote.

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment carries.

Shall schedule 2, section 19, as amended, carry? Carried.

I will now move to NDP amendment number 48. MPP Forster?

Mr. Lou Rinaldi: Are you going to do your thing?

Ms. Cindy Forster: You've got to do your piece.

The Vice-Chair (Ms. Ann Hoggarth): Oh, I forgot to do my thing again.

Schedule 2 to the bill, section 20.

Ms. Cindy Forster: I move that section 20 of schedule 2 to the bill be struck out and the following substituted:

"Commencement

"20(1) Subject to subsection (2), this schedule comes into force on the day that is six months after the day the Fair Workplaces, Better Jobs Act, 2017 receives royal assent.

"(2) Subsection 7.1(2) comes into force on the later of the day subsection 7.1(1) comes into force and the day subsection 74(2) of the Child, Youth and Family Services Act, 2017 comes into force."

The Vice-Chair (Ms. Ann Hoggarth): I'm sorry, but this is ruled out of order as it depended on the passing of amendment 44.

Shall schedule 2, section 20 carry? Carried.

Shall schedule 2, as amended, carry? Carried.

We are now on NDP amendment number 49, schedule 3 to the bill, section 1, section 32.0.5.1 of the Occupational Health and Safety Act. MPP Forster.

Ms. Cindy Forster: I move that the bill be amended by adding the following schedule:

"Schedule 3

"Occupational Health and Safety Act

"1. The Occupational Health and Safety Act is amended by adding the following section:

"'Information and instruction, domestic and sexual violence

"'32.0.5.1 An employer shall ensure that every supervisor and worker receives information and instruction about domestic violence in the workplace and sexual violence in the workplace.

"'Commencement

"'2. This schedule comes into force on the day that is six months after the day the Fair Workplaces, Better Jobs Act, 2017 receives royal assent.'"

The Vice-Chair (Ms. Ann Hoggarth): MPP Forster.

Ms. Cindy Forster: This would actually create a new schedule and it would open up the Occupational Health and Safety Act, which is permitted at this stage, I'm told. Our motion would make it mandatory to have training and education on domestic and sexual violence, as was part of Peggy Sattler's private member's bill which was passed unanimously by the government. If the government wants to implement the measures in Peggy's bill, they'll see that it makes good sense to actually provide this education. We are, on one hand, getting mediators, who already do education, and giving them the right to order education around mediation for collective agreements, but in this situation, when we have new legislation, we're not offering or ordering up any education for employers or workers in workplaces. I would hope that the government would consider supporting this.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Further discussion? MPP Yakabuski.

Mr. John Yakabuski: In keeping with our previous position on amendments that were directed at dealing with situations of domestic and sexual violence and improving the environment that we all want to see around a preventative environment in workplaces and otherwise, we would support this amendment.

The Vice-Chair (Ms. Ann Hoggarth): Okay. Any further discussion? We'll now vote on NDP motion number 49. It's a recorded vote.

Ayes

Barrett, Forster, Yakabuski.

Nays

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): The amendment is lost.

We are now returning to NDP motion 4.5.1.

Ms. Cindy Forster: Thank you, Chair. At this point, because I'm not going to get any kind of answers today from ministry staff with respect to whether or not there is any legislation to protect the personal information under domestic violence and sexual violence, I'm going to withdraw this motion. I will wait to hear from the ministry in the interim, and I will retable the motion. I don't see any reason why I can't retable the motion, in my discussions with the Clerk, at second reading—

Mr. John Yakabuski: After second reading.

Ms. Cindy Forster: After second reading, through the amendment process.

The Vice-Chair (Ms. Ann Hoggarth): Okay, so the motion has been withdrawn.

Shall schedule 1, section 8, as amended, carry? Carried.

Shall schedule 1, as amended, carry? Carried.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the title of this bill, as amended, carry?

Mr. Mike Colle: Recorded vote for the next one, please.

The Vice-Chair (Ms. Ann Hoggarth): Okay. MPP Colle has requested a recorded vote. Shall Bill 148, as amended, carry?

Ayes

Colle, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): Carried.

Shall—

Mr. Mike Colle: Recorded vote.

The Vice-Chair (Ms. Ann Hoggarth): Another recorded vote? Okay. Shall I report Bill 148, as amended, to the House?

Ayes

Colle, Forster, Potts, Rinaldi, Wong.

The Vice-Chair (Ms. Ann Hoggarth): No opposition. It will be reported to the House. That's carried.

Thank you very much, committee. We trudged through that and thank you for your patience with a newbie.

The committee adjourned at 1802.

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Mr. Peter Z. Milczyn (Etobicoke–Lakeshore L)

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Mr. Lou Rinaldi (Northumberland–Quinte West L)
Ms. Soo Wong (Scarborough–Agincourt L)
Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

Also taking part / Autres participants et participantes
Mr. Amyn Hadibhai, counsel, legal services branch, Ministry of Labour
Ms. Jennifer Komlos, legal counsel, Ministry of Labour
Ms. Stephanie Parkin, manager, employment rights and responsibilities, Ministry of Labour

Clerk pro tem / La Greffière par intérim
Ms. Jocelyn McCauley

Staff / Personnel
Ms. Julia Hood, legislative counsel