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Assemblée législative  
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## **Official Report of Debates (Hansard)**

**Monday 26 November 2001**

**Standing committee on  
general government**

Waste Diversion Act, 2001

## **Journal des débats (Hansard)**

**Lundi 26 novembre 2001**

**Comité permanent des  
affaires gouvernementales**

Loi de 2001 sur le  
réacheminement des déchets

Chair: Steve Gilchrist  
Clerk: Anne Stokes

Président : Steve Gilchrist  
Greffière : Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 26 November 2001

Lundi 26 novembre 2001

*The committee met at 1551 in committee room 1.*

**SUBCOMMITTEE REPORT**

**The Chair (Mr Steve Gilchrist):** I call the committee to order. The first order of business shall be the adoption of the subcommittee report relating to Bill 110.

**Mr Dave Levac (Brant):** "Standing committee on general government, subcommittee on committee business:

"Proposed matters for discussion re committee consideration of Bill 110, An Act to promote quality in the classroom:

"Re Bill 110:

"(1) That, pursuant to the time allocation order of the House dated Monday, November 19, 2001, the committee meet for public hearings on Bill 110 on Monday, December 3, 2001, and for clause-by-clause consideration of the bill on Wednesday, December 5, 2001.

"(2) That the clerk place an advertisement on the Ontario parliamentary channel and on the Internet. Additionally, notice will be provided to provincial newspapers by press release. The deadline for such is by 4 pm Friday, November 30." Is that, at that point, for written submissions?

**The Chair:** Might I suggest that the wording be, "The deadline for witness requests."

**Mr Levac:** "That the deadline for witness requests be by 4 pm Friday, November 30."

"Written submissions"—does a written submission follow in the same spot?

**The Chair:** You could call it number 10, if you like, the deadline for written submissions.

**Mr Levac:** "(3) That groups be offered 15 minutes in which to make their presentations, and individuals be offered 10 minutes in which to make their presentations.

"(4) That the Chair, in consultation with the clerk, make all decisions with respect to scheduling.

"(5) That each party provide the clerk of the committee with their prioritized list of potential witnesses, together with complete contact information, to be invited to appear at the committee's hearings by no later than 5 pm on Thursday, November 29, 2001.

"(6) That the subcommittee determine whether reasonable requests by witnesses to have their travel expenses paid will be granted.

"(7) That there be no opening statements.

"(8) That the research officer prepare a summary of recommendations.

"(9) That the Chair, in consultation with the clerk, make any other decisions necessary with respect to the committee's consideration of the bill.

"(10) That the deadline for written submissions be Monday, December 3, 2001, at 5 pm."

**The Chair:** Any further discussion? Seeing none, I'll put the question. All those in favour of the adoption of the subcommittee report? Carried.

**WASTE DIVERSION ACT, 2001**

**LOI DE 2001 SUR LE  
RÉACHEMINEMENT DES DÉCHETS**

Consideration of Bill 90, An Act to promote the reduction, reuse and recycling of waste / Projet de loi 90, Loi visant à promouvoir la réduction, la réutilisation et le recyclage des déchets.

**The Chair:** That takes us back to number 2 on the agenda, clause-by-clause consideration of Bill 90. We left off at what in your list of amendments was noted as page 12, subsection 24(2). That would be an NDP motion.

**Ms Marilyn Churley (Toronto-Danforth):** Had I read this one into the record already and had we begun discussion?

**The Chair:** No, you had not.

**Ms Churley:** I move that subsection 24(2) of the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"Same

"(2) A waste diversion program developed under this act for a designated waste shall not include any of the following:"

**The Chair:** Do you wish to speak to the amendment?

**Ms Churley:** Yes, I do. Gee, I have this memory of having discussed this in detail. The reason I wanted to change the wording was to make it crystal clear that those issues that are raised—I'm trying to find the page here. Can you tell me what page this is on in the bill itself? Page 8? OK, here we are. It now reads "shall not promote any of the following," and those include "The burning of the designated waste," "The landfilling of the designated waste," "The application of the designated waste to land," and "Any activity prescribed by the regulations."

It's a word change that has some significance, because here in the bill it says "shall not promote any of the following," and my amendment says "shall not include any of the following." This bill, I think in all our minds, is to promote the 3Rs in the order we've decided is the most significant: reduction, number one; reuse, number 2; and recycling, number 3. Of course these listed here should not even be considered as a part of what this new waste management organization should be doing. So I just want to strengthen it and say these "shall not include any of the following," because there are of course opportunities for some to say that any one of these four could be included in the hierarchy of the 3Rs that we're promoting here.

I hope the government members will support me on this amendment.

**The Chair:** Further comment?

**Mr Ted Arnott (Waterloo-Wellington):** Thanks to Ms Churley for her proposed amendment. Unfortunately, I have to indicate that the government is not prepared to support her amendment, and the rationale is as follows.

The proposed act before this committee today promotes the reduction, reuse and recycling of designated wastes, and activities to promote and develop products that can be manufactured from recycled materials. While not prohibiting the burning, landfilling or land application of materials that are diverted under a waste diversion program, the focus of this act is clearly waste reduction, reuse and recycling. There may, however, be instances where these other waste management options may need to form part of the proposal submitted to the minister but are not promoted as the sole purpose of the program. For example, materials that are collected under a household special waste program may not be able to be totally reused or recycled, and energy recovery may be the most beneficial waste management option from an environmental perspective.

For those reasons, the government is not prepared to support your amendment.

**Mr James J. Bradley (St Catharines):** Clearly, if you're talking about waste diversion, the hierarchy we mentioned previously of reduction, reuse and recycling is extremely important. I cannot think that under any circumstances "the burning of the designated waste" would in any way fit any of the 3Rs. It would have fit the old 4Rs of many years ago, but it would not fit the 3Rs. "The landfilling of the designated waste"—again, we want to avoid that circumstance from happening. I think some of us are very suspicious, for instance, that some of the material collected for the purpose of recycling somehow makes its way into a landfill site. We are very concerned that that not happen, and any way we can strengthen that would be useful. "The application of the designated waste to land" again poses some problems, some that may be rectified through other legislation. It does pose problems, and "any activity prescribed by the regulations."

I think the amendment put forward is not a radical amendment. It's a very reasonable amendment. I think it

strengthens rather than weakens that section of the bill, and for the life of me I cannot understand why the government would be opposed to this amendment, although they always have their reasons.

**Mr Frank Mazzilli (London-Fanshawe):** I just wanted to add to the comments of the member from Waterloo-Wellington in that all acts seem to have some leeway. What I can see from the amendment are words like "shall not," which obviously means "shall not," and words like "may," which give some type of discretion. I would suspect, for ministry officials and for enforcement people in the field, words like "may" leave that potential discretion available, and words like "shall not" mean exactly that, no matter what the circumstances are.

So I certainly will be supporting the member from Waterloo-Wellington in giving ministry officials the tools that they need to make the proper decisions.

1600

**Ms Churley:** I just want to point out to people that if you look at the title of the bill, it's An Act to promote the reduction, reuse and recycling of waste. That's pretty clear. That's what this bill is supposed to be all about.

None of those listed here—it says, "shall not promote"—have anything to do with the intent of this bill, even its stated title. I think everybody would agree that to strengthen the intent of the bill, you would make it very clear that these, because they do not fall into that category—that's what I'm trying to say here. It weakens the intent of the bill to not have stronger wording around these particular issues that are raised under that section. So my argument, I think, is quite valid on this one. It really weakens the intent when you see that. I understand what you're trying to say, that that flexibility should be there. I'm saying it shouldn't be there, because if you've got it there, it actually weakens the intent and it destroys some of the integrity of the bill—which, I might add, runs throughout, because a lot of my amendments have not been accepted. I thought this one could be, because it is so straightforward in terms of intent.

**Mr Norm Miller (Parry Sound-Muskoka):** I'd just like to add my support to Mr Arnott's logic in defending the rationale for not supporting this amendment, and Mr Mazzilli's as well, that it takes away the flexibility of this part of the act, and the discretion involved as well. I'd like to offer my support to Mr Arnott on this.

**Ms Churley:** What about my motion?

**Mr Levac:** Not to prolong this, but this is a question for the government side with regard to their rationale. If I ask this question and the answer is that it's a possibility still in existence to do the four things that the member from the NDP is pointing out—maybe I could ask the question this way: by saying "shall not promote," does that mean it still can include?

**Mr Arnott:** Could you repeat the question again? I'm sorry.

**Mr Levac:** If you use the wording "shall not promote," can you then still include the four topics that are being indicated?

**Mr Arnott:** Again, it's my understanding that, as part of the program for waste diversion, there may be other waste management options that may need to form part of the proposal submitted to the minister.

**Mr Levac:** So the rationale for the addition of—

**Mr Arnott:** It would be the most environmentally benign plan.

**Mr Levac:** Right, but that's inside the bill.

Having said that, I guess I'm voicing the concern that Mr Bradley expressed. That is, if there's a prioritization of the 3Rs, and included in that is more flexibility to go away from that, if that's not solid inside the bill, does that preclude us from using the logic that says then it's quite possible for us to start moving away from the 3Rs and moving into these other four areas?

**Mr Arnott:** Keith West is here from the Ministry of the Environment. He may be able to shed some light on this for you, Mr Levac.

**Mr Levac:** I appreciate that. I'm not trying to throw a curve at this. I'm just trying to get a clarification of the rationale for not supporting that.

**Mr Keith West:** My name is Keith West. I'm the director of the waste management policy branch at the Ministry of the Environment. Through you, Mr Chairman, to the member, the intent here is very clearly that the hierarchy is in place; the 3Rs hierarchy is to be the priority to be put in place in terms of the development of any program. But there may be instances, and I'll give you an example, of materials that may be collected from a household for a household special waste program of a municipality, where the material is mixed and, for whatever reason, there's not a reprocessing facility available to reprocess that material to a more beneficial use, which is what we're trying to encourage here. In fact, there may be a need to have another waste management option available under that program, but not to be promoted; it's just there in the event that you have some materials that can't be used on a more-beneficial-use basis. So you could have that option available to you within the program so that any waste that couldn't be reprocessed, and we would hope that that would be the minority within any program, could be sent off to a facility to ensure its proper management. So that's the intent of this.

**Mr Levac:** I can understand that. If you take it to the last step regarding why I went down there, that would be, what incentive, then, would there be to develop the processes that are necessary to prevent those four things from being used, if you allow it to continue?

**Mr West:** The incentive would be in the program development. In fact, the hierarchy was clear that we're looking for reuse and beneficial use of those materials that come into a program, like the household special waste. Paints could be reprocessed into paints, solvents could be reprocessed into solvents for other uses. That would be the intent of using the 3Rs hierarchy in terms of reuse and recycling of those products. But to not allow for other options in the event that reprocessing can't take place would in fact encumber a program from being

approved by the minister, from our perspective. So we think that option needs to be available, but it is not the priority here. We've tried to clarify that in saying it's not to be promoted.

**Mr Levac:** I appreciate the clarification.

**Mr Bradley:** My concern is the possibility that it's perhaps a conspiracy theory.

**Ms Churley:** I wouldn't say that.

**Mr Bradley:** But sometimes conspiracy theories are actually true. That is, I know there are a few people on the government side who are convinced that incineration should indeed be put on the list of 3Rs and made the fourth R; in other words, recovery. What I am concerned about, with the present wording, is that we'll have incineration through the back door. There are people trying to find that little edge to poke incineration in. I think what Ms Churley is worried about as well, among other things listed, is the fact that there are people who are itching to get back into incineration, and this opens the door just a tiny crack to incineration.

**Ms Churley:** Of course, Mr Bradley is correct. With all due respect to him, because I know he in the Liberal Party does not support incineration—I don't know if Mr Levac does not support incineration, but should the Liberals form the next government, I know that Liberal policy in fact supports garbage incineration. I know that the NDP, should we form the next government, have made it very clear that we don't.

It's important wording. Mr Bradley made a good case. There are those who believe that the burning of garbage is viable, as Mr Bradley well knows—I'm sure he's had these arguments in his caucus—that it's a viable option, a way to deal with garbage, although I think more and more people are moving away from that, given what we know now about what's happening in Europe, although Europeans have a much bigger problem because of lack of land mass. They moved much further toward that option over the years than we did. But they are now deciding and discovering that it is a bad option because of the air pollution.

As you know, the better the pollution abatement equipment—and these days it is pretty good, there's no doubt about it, but you still have some dioxins, furans and other heavy metals coming up the stack and spewing around—the more of the toxic fly ash you have that has to be buried somewhere, and it indeed is hazardous waste. There are all kinds of problems with incineration. There are those big companies that promote it as a viable diversion, and it isn't.

I'm just really concerned that any government, should this not be corrected, would put, as Mr Bradley points out, that fourth R into the equation. I want to remind people again that that flexibility should not be allowed. This is happening all around us anyway. What we're trying to do here is get us into the more environmentally friendly ways of dealing with our garbage. This wording does not do it to the extent we should.

1610

**Mr Joseph Spina (Brampton Centre):** I listened with some interest to the member's comments and also to

those of the member for St Catharines. I'm surprised, because the last officially sanctioned and opened incinerator in this province was in Brampton, in my riding. If I recall, when the licence was granted to begin that process, I think the minister of the day was Mr Bradley. Isn't it ironic that when it was actually opened and sanctioned to be opened, it was under the NDP government? I'm not sure who the minister was at the time—Ruth Grier.

**Mr Bradley:** She wasn't there to cut the ribbon; I know that.

**Ms Churley:** You're right about that.

**Mr Spina:** It was Ruth Grier.

**Mr Bradley:** Neither was I.

**Ms Churley:** Neither was Mr Bradley.

**Mr Spina:** I can say that with the technology that is there today and within that particular facility, the emissions are absolutely minimal, if any, because anyone who has studied basic physics and science knows that if you burn any substance on earth at a high enough temperature, it will break down to its natural elements. Frankly, this particular facility is a model in the province, and it ought to be an option.

**Ms Churley:** He's done it now. Do we have to finish all the amendments today?

**The Chair:** No.

**Ms Churley:** You threw down the gauntlet there. This is an issue; I have to come back on that one. I have studied garbage incineration for some time and travelled around and looked at various kinds of incineration. The reality is that you have to burn garbage at a very, very high, high temperature. The very act of burning it, including the plastics that go into it, actually creates dioxins.

**Mr Spina:** Which can be recycled back into the process and burned off.

**Ms Churley:** Then what happens is that there are dioxins, furans and other heavy metals. Dioxins are actually created by the burning process. You have to keep it at an even temperature, a very high temperature, at all times. As I said, I acknowledge that the technology has improved greatly, but that doesn't resolve the problem of the fly ash, the hazardous waste. Those dioxins, other heavy metals and furans have to go somewhere. If they're not spewed out in the air up the stack, they're in the fly ash.

**Mr Spina:** You are behind in the technology, though.

**Ms Churley:** And may I say—

**Mr Spina:** But you are behind in the technology. The only thing that comes out of there—

**Ms Churley:** I've got the floor here.

**The Chair:** In deference to our folks in Hansard—

**Mr Spina:** Dioxins are recycled, and the ash is in fact used for fertilizer.

**Ms Churley:** You're not going on Hansard.

**Mr Spina:** Because it's safe.

**Ms Churley:** No, it isn't. But anyway, the third component of this—

**Mr Spina:** Sorry, I didn't realize you got the master of science degree in the process.

**Ms Churley:** The third component of this, which is very relevant to this bill, is that in fact burning of garbage goes against the grain of this bill before us. We are trying to stop resource depletion, using up our resources. Building incinerators demands a lot of garbage be thrown in it, even if you separate it out, so it discourages the three priorities before us. What you need are policies that encourage composting and getting things out of the garbage to be reused and not put there in the first place. As soon as you start building incinerators, you are taking away that incentive.

**Mr Spina:** Why did you approve it?

**Ms Churley:** Then we brought in legislation, as you would not know, because you weren't here, banning incineration as an option in the province of Ontario.

**Mr Spina:** A stupid decision.

**The Chair:** Where do I start? Mr Arnott.

**Mr Arnott:** I think it would be appropriate to put the question at this time.

**The Chair:** When debate wraps up, Mr Arnott, but I saw that Mr Miller had his hand up as well.

**Mr Miller:** I just wanted to enter into the discussion, although it's off topic for this amendment. But seeing as incinerators were being discussed, I can't help but wonder, if incinerators are not being considered as an option at all, if you think it's better to have more landfill sites and create ticking time bombs. From my perspective, at least you can measure what comes out of an incinerator and you know what damage you're doing, and you're responsible for it, whereas if you bury the garbage in a landfill site, you don't know what half of the things that go into a landfill site are and you create huge problems for the future. As we know, water is a big concern in Ontario these days. Certainly landfill sites scare the heck out of me, to be honest, and especially for the future and the future of the water supply in this province.

**Ms Churley:** If I may answer that question, I agree with you. You will see that the landfilling of the designated wastes and the application of the designated wastes to land are also two of the others that I'm objecting to here. May I remind you once again that we're trying to move away from all of those options because they're no longer viable or sustainable. That is the purpose of this bill. So it's not just incineration but landfill we're talking about here.

I made an amendment last week, which was turned down, which would have given this new body the opportunity to start the process of composting and taking the organic wastes out, which is one of the major problems, if not the biggest problem, with landfill: the organic waste. We need to be taking that out of the waste stream, and this bill before us doesn't deal with it.

So what I'm trying to do is continually make the point that this bill should be about trying to move us out of landfill, which I agree with you is dangerous, passé, and we've got to move on—as with incineration—and deal

with the majority of our garbage, which can be done and is being done in other jurisdictions. As long as we allow ourselves to think in terms of we can put some things—I agree with you—in landfill or burn it in a fire, then we are not going to have the inducement to move in those other directions. In fact, studies in other jurisdictions have shown—you asked me a question and I’m answering you—when you put in tough laws that say, “You shall not landfill 80% of waste by X date” or “You shall not burn it by X date,” that in itself, when you have tough laws, will promote the 3Rs that we have before us and in fact composting and all of those things. The problem is this bill isn’t strong enough to promote the very things that the bill is supposed to be saying.

I agree with you about landfills. We disagree on incineration, but as long as that’s in there, we don’t have the motivation or the legislative authority to force municipalities and industry to move in that direction. That’s the problem.

**Mr Bradley:** I think it’s the context in which the incineration is being suggested here. Perhaps that’s a debate for another day, and there could be a good and thorough debate on incineration, landfill and other ways of waste disposal. This bill is entitled An Act to promote the reduction, reuse and recycling of waste, and I think that’s where those of us who are sitting on this side have a concern about the possibility of incineration being found in this legislation. If you’re going to bring forward some other legislation and have a debate that deals with waste disposal as opposed to waste diversion, then I guess debate involving landfilling and involving incineration, involving application to land, might have some relevance. But clearly the purpose of the amendment takes into consideration that we’re dealing with a bill which is a waste diversion bill, not a waste disposal bill.

There is another day to argue those points about incineration, including the fact that as soon as you set up an incinerator, you immediately have people who want the very things you want to divert, that you may want to recycle or reuse. They want those as fuel for the incinerator. So it’s not only the emissions, it’s not only the fly ash, it’s not only the more benign bottom ash—which is more benign than fly ash, but still ash that has to be disposed of somewhere—but it’s also the fact that it tends to interfere with the 3Rs when you allow incineration.

There was a proposal in London at one time for an incinerator. Instead, I think London embarked on a more ambitious program for reduction, reuse and recycling rather than proceeding with the incinerator, which made some sense in those days, because that’s exactly what happens. As soon as you open the door to further incinerators in the province, I think that’s what happens.

Be that as it may, as the lawyers say, I just look at the title of this bill and say that I believe we should not be discussing incineration and burying and applying to land in a bill that deals with waste diversion. In terms of an option for waste disposal, that’s a debate for another day.

1620

**Mr Miller:** Ms Churley was talking about organics. I believe it was Mr West who pointed out last week that organics are one of the 10 wastes that can be designated under this bill.

**Ms Churley:** Well, I’ll go into that later again.

**Mr Miller:** I would certainly agree with her that organics should be something we’re encouraging to divert from landfill sites. I’m happy to say that in Parry Sound-Muskoka and Bracebridge we do have our own composting plant, near the town of Bracebridge.

**The Chair:** Seeing no further debate, I’ll put the question.

**Ms Churley:** A recorded vote, please.

#### Ayes

Churley, Levac.

#### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** That amendment is lost.

The next amendment is also from Ms Churley.

**Mr Bradley:** If I were substituting, I would have voted for it.

**Ms Churley:** Get that on the record as a point of order.

I move that subsection 24(5) of the bill be struck out and the following substituted:

“Blue box program threshold for payments to municipalities

“(5) A waste diversion program developed under this act for blue box waste shall provide for payments to municipalities that total at least 50% of the total net operating and capital costs incurred by the municipalities, on and after the day this act receives royal assent, in connection with the blue box waste.”

Speaking briefly to this, because I’m sure others will want to come in, the government made an amendment that was an improvement over the initial bill, which said “equal to,” and I’m saying at least 50%, which gives a guarantee that it could be in fact more money.

I think the key thing about this particular amendment is that it guarantees 50% of the funding for the total net costs of the blue box programs incurred by the municipalities, beginning in 2002. So there is a timeline here. That is critical, because right now we have a situation where municipalities are very anxious to have this bill passed. They know that at least they will be getting some funding, but there is no time frame, no timeline in the bill. So I’m hoping people will support this particular amendment.

**The Chair:** Further debate?

**Mr Arnott:** Thank you to Ms Churley for moving this amendment. It’s my understanding that the intent of her motion would be to require industry to pay at least 50% of the total net operating and capital cost of the blue box

program, and the obligation for industry to pay would begin once this bill receives royal assent.

**Ms Churley:** So it would be retroactive? Sorry, I'll let you go ahead.

**Mr Arnott:** It is the position of the government that this amendment should not pass. The 50% funding agreement of the blue box program was the subject of extensive consultation by the Ministry of the Environment with affected groups, resulting from the extensive discussions between industry and municipalities, as part of the voluntary Waste Diversion Organization initiative. The proposed motion that has been tabled with the clerk from the government side, which I think we will deal with next, clearly reflects the intent in the letter of agreement. The WDO is best suited to determine the net costs of the blue box program as part of their development of a funding program—that is the government's belief—and the obligation for industry to pay can only be at the time the minister approves the program and designates the industry funding organization, through regulation, to collect the fees. The obligation to pay the fees cannot be retroactive.

**Ms Churley:** I wanted to speak more about the timing. I think it's a critical component of this bill. The municipalities, as everybody knows, want this bill passed. We've all received calls about it; I, perhaps, in particular, because I'm making these amendments. I understand that, because there has been no funding.

I have a chart, from working with the Toronto Environmental Alliance, that looks at time frames. This chart outlines all of the time frames we have in the bill and, from what we understand about how things work around here, earliest-time/best-case scenarios and latest-time estimates. I just want to make it clear that when I go through these time frames with you, you're going to understand why it is critical to pass my amendment, because I can assure you that if this bill is passed—and there is pressure on all parties to do so, I admit that—if this time frame goes to the worst-case scenario or somewhere in between, these municipalities are going to be very upset. They are pushing this bill forward, knowing there are flaws in it, on the basis that they're expecting this money.

I'm just going to quickly go through the time frame I talked to you about. Let's think through what the bill before us says.

The earliest time estimate we have for the appointment of the board of directors of the WDO is one month. I think that might happen. I don't know, with the way things move around here, but let's say that's the earliest time. The latest time estimate is three months. Just add these months up as we go along.

Then we have to have an operating agreement, and let's say the earliest time—and I'm being very generous here—is two months. The latest time estimate is six months or more. I think, given the difficulties we've seen in the past under all governments with this, even six months is very optimistic, but I'm being generous with that.

Then there's the posting of the operating agreement for public comment under the EBR, which we all agree is essential. The earliest time frame for that is one month; the latest time estimate here is three.

Then we have to have the designation of waste by the MOE through regulation, posting of that regulation under the EBR and notification to the WDO to develop the program.

**Mr Bradley:** There will be an election by then.

**Ms Churley:** There will be an election by then; that's right. Now, bear in mind that those things will happen concurrently with the development of the operating agreement. So looking at those will all have to be done after those other months have passed. I think Mr Bradley is right: we'll be into an election by then.

Then we have to have the establishment of the IFO. Mr Arnott is nodding his head. He knows we've got a problem here. The earliest time estimate is one month, and that's being extremely generous, isn't it? But let's say it could take up to four months or more.

Development of the program: earliest time I would say—this is very complicated stuff—three months. The longest time frame we're looking at is probably 12 months for that. That's going to be a very complex, difficult process, as we well know.

Then there are consultations with the public and stakeholders. I've given two months as the earliest that can happen, and the latest—it would probably take up to four months.

Then, again, posting for public comments under the EBR: generously, it could be done in one month, but it could be up to three months, because we all believe in public consultation and, in fact, under the EBR, people demand it.

If you add up those numbers, the earliest it can happen with all of these extremely generous time frames, assuming that everybody is going to get along great, everything is going to work out fine and there aren't going to be any problems whatsoever, we're looking at 11 months, with the program implemented in December 2002. Again, I think even that is generous in terms of some of the issues we're going to have to deal with. The latest time frame would be 35 months or more, if you add up those months, and the program would be implemented in December 2004 or later.

**1630**

I don't know if people have been involved. I have and I know Mr Bradley has, more so than I. The complexities of trying to deal with these issues are great. You bring the industry together and then you get the municipalities in the room and then all the programs, all the difficulties that come up—I think the 35 months or more program for December 2004 or later may even be optimistic. But that, I think, is more realistic. That's probably what we're looking at. The 11 months, December 2002, is what we'd like to see, but that's dreaming, given what we have before us and all the work that has to be done. I just want to make it clear: we pass this bill and municipalities are then going to be saying, "OK, come on, come on, let's



get it together.” It ain’t gonna happen. They’re not going to see that money by December 2002. It’s just not going to happen. They want it now, yesterday.

My amendment, as Mr Arnott knows, deals with the fact we want it retroactive, and we want it to be retroactive because that money ain’t going to be there for a while. When we’re looking at these bills and when people are counting on this funding, which they are, and are pushing all three parties to pass it for that reason, even with some of the flaws, we have to be realistic about what we can and can’t do here.

I urge you to pass the amendment before you today, so that at the end of day, when this bill is passed, if it’s passed—and you have the majority; it will be—these municipalities will know they can count on the funding retroactively. That’s why the amendment is before us.

**Mr Levac:** I have a question for clarification, then, and an observation I would make from my discussions with some of the constituents in my area plus the phone calls I’ve received. Could the parliamentary assistant clarify—I think I heard you say you were not in favour of the amendment because of the retroactivity being recommended in the NDP motion. Did you imply that you can’t do it or that you didn’t want to do it?

**Mr Arnott:** It’s not the position of the government that the funding should be retroactive.

**Mr Levac:** OK. So it’s not that it can’t be done; it’s that the position is, you don’t want to do it.

**Mr Arnott:** Conservatives understand that the money doesn’t grow on trees. It has to come from somewhere, and the principle of the bill is that industry will assist in the cost of the waste that is generated by industry.

**Mr Levac:** So the costs you’re talking about, and that Ms Churley makes the observation of—the time frames she’s presenting would make it very difficult for municipalities to say, “Yes, we like it, but at the same time show me the money,” kind of attitude.

**Mr Arnott:** Ms Churley paints a scenario that may be a worst-case scenario in terms of timing. I’m well aware that municipalities are anxiously awaiting a revenue stream from industry through the mechanism that will be established through this bill, and they would appreciate the opposition parties’ co-operation to move this bill forward. I think the opposition parties have been very responsible throughout this committee process and in the House too, and we appreciate that. I think municipalities appreciate that.

However, it’s certainly my understanding that the provincial government wants to move forward as quickly as possible, assuming this bill is passed by the House, to set up the mechanisms that allow the money to flow to the municipalities.

**Mr Levac:** That being said, the observations go hand in hand with what you mean in terms of a monopoly by Conservatives on understanding that money doesn’t grow on trees.

**Mr Arnott:** I didn’t say that. I said the government understands that.

**Mr Levac:** If you want to check the Hansard, you said, “Conservatives understand that the money doesn’t grow on trees,” and I was saying that that observation is not a monopoly.

**Mr Arnott:** I didn’t say it was a monopoly, Mr Levac.

**Mr Levac:** I’m saying it is. I’m paraphrasing you, and then I’m making my comment. My comment is that you’re not the only ones with an understanding of where the money comes, and that it’s maybe repriorizing where the money should flow from and to, which doesn’t answer the original question.

Your first answer did answer the question: there’s nothing illegal or nothing that prevents the government from making it retroactive. That’s a choice the government is making. Having said that, the observations I’ve been receiving from those people who are interested in this particular bill indicate to me that they’re concerned that if you don’t show them the money soon enough, because of the situation the municipalities are finding themselves in, then that is an extremely tight money frame. They’re looking for that source.

From your observation, you said that industry could step up to the plate. The question I have is whether industry has indicated that, yes, it’s going to step up to the plate and maybe make sure that money is available before the 50% kicks in. Because in a worst-case scenario, if the money doesn’t flow for 30 months, the municipalities are stuck with not having that money to support the blue box programs we’re enticing them to get involved in.

My encouragement to the government would be, if that is an influence on your end, that you would favour us with that influence to indicate to industry that there is a problem, we don’t have a free flow of money, and that if they can step up to the plate to assist our municipalities we would welcome that, and the municipalities would welcome that as well.

**Mr Bradley:** The enthusiasm of AMO may well be dampened by the suggestion that these payments are not going to be retroactive. They may drop the pompoms at the signal from you that you’re not prepared to make that money retroactive.

As Mr Levac has appropriately pointed out, municipalities are under great stress now. We need only talk to our local councils to know that they have had to assume some new responsibilities that are onerous in terms of expenditures they have to make. Some of those are reasonable—some are an unfortunate download, I think, but some are perhaps more reasonable obligations. For instance, you’re going to make municipalities adhere to the Ontarians with Disabilities Act provisions. It’s appropriate that municipalities should have to, but that’s going to cost some money. You are requiring that they make changes in the way they deal with drinking water. That’s certainly acceptable, but again that requires an expenditure.

They are also expected to move forward with waste diversion programs. Regardless of when this bill is passed, they’re expected to move forward. They would

very much appreciate having that funding in place at the earliest possible opportunity or, in this case, retroactive funding, because the wastes are accumulating today, the problem is there today.

I think the amendment is reasonable, and I'm frankly quite surprised that the government members have not been enthusiastically in favour of the amendment as opposed to simply the stand pat government position that virtually all amendments are not reasonable.

I would appeal to people such as Mr Miller and Mr Mazzilli, as independent-minded individuals representing their municipalities—in fairness, I must say I understand Mr Arnott is the parliamentary assistant and is required to give the government position, just as a minister would. For that reason, I don't blame or point fingers at Mr Arnott, but there's no excuse for my good friend Mr Mazzilli or my good friend Mr Miller to adhere to an ill-conceived government policy in this case, and it's your chance to show your independence and your support for your municipalities. On that basis, I would look forward to your support for what I consider to be a very reasonable amendment instead of, as I say, putting the knife through the heart of the municipalities, who no doubt are looking for funding on a retroactive basis.

**Mr Mazzilli:** I just want to add that I am supporting my local municipality and that I don't want to see them incur any legal costs from people arguing that legislation was passed in a retroactive manner. I will be supporting the parliamentary assistant that the bill move ahead, and after it's passed it becomes law like every other piece of law in this province and this country.

**The Chair:** Further debate? Seeing none, I'll put the question on Ms Churley's amendment.

**Ms Churley:** Recorded, please.

#### Ayes

Churley, Levac.

#### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** The amendment is lost.

The next amendment is a government amendment.

**Mr Arnott:** I move that subsection 24(5) of the bill be struck out and the following substituted:

"Blue box program payments to municipalities

"(5) A waste diversion program developed under this act for blue box waste must provide for payments to municipalities to be determined in a manner that results in the total amount paid to all municipalities under the program being equal to 50% of the total net costs incurred by those municipalities as a result of the program."

**The Chair:** Do you wish to speak to the amendment?

**Mr Arnott:** Yes. The purpose of this motion is to clarify current wording in the act related to industry's obligation to pay 50% of total net costs of the municipal

blue box program. The current wording, "shall not provide for payments that total more than 50%," was unfortunately interpreted by some municipalities—and we heard this in the course of the hearings—as meaning that industry could pay less than 50% of the blue box costs. We hope this will clarify the issue for all concerned. This change more closely reflects the voluntary Waste Diversion Organization's recommendation on this issue in their final report.

1640

**Ms Churley:** I said earlier that I think this is an improvement, that the government came some distance to guaranteeing that 50% funding. The reason I made my previous motion, of course, is that it does not put a time limit on when that funding will begin. I won't reiterate what I said earlier, but that is such a critical piece of this bill, and it's missing. Given the possible time frame problems that I expect we'll have, municipalities are not guaranteed that funding in a timely fashion. I guess I'll support it because it is an improvement, but it's not going to deal with our specific problems around the timing. You went halfway in trying to deal with that specific problem, but the big piece is left out, as the parliamentary assistant well knows.

**Mr Levac:** In acknowledgement of 24(5), the amendment does offer what I heard at the hearings both from municipalities and the waste. They said they did want to step up. I recall a couple of occasions where the industry had indicated its willingness to pay 50%, and the fact that the municipalities were actually mentioned this time, the fact that they would be getting at least 50% of the funding, appeased them greatly because, as we know, they weren't getting any. That was the move they were looking for, and that was where most of the excitement came from the municipalities in that support.

I would also encourage the government again to, as expeditiously as possible—as has been painted before, it could have been a worst-case scenario, but I would hope the government could work toward avoiding the worst-case scenario as best it possibly can, since it didn't accept the last motion. Maybe the parliamentary assistant could point out any opportunities that are there that could help explain that maybe it was a worst-case scenario and because of a, b, c and d, we're not going to see 33 months. If you have that information or could seek clarification from the ministry staff to assure us that maybe it won't be that bad—is there an opportunity for that clarification?

**Mr Arnott:** I'm not in a position to guarantee that won't be the case, Mr Levac, but you certainly have my assurance that the minister believes very strongly that this bill must go forward as quickly as possible to assist the municipalities that we all heard from and wants to see that happen and do all she can to keep the momentum, to keep things moving forward such that we can implement this—

**Mr Levac:** I appreciate the undertaking, and I know the municipalities would deeply appreciate it because of the circumstances they're faced with today.

**Ms Churley:** I have a clarification question. During my similar motion, but dealing with time frames and retroactivity, you did say—can you clarify for me whether the municipalities are aware that it's not retroactive?

**Mr Arnott:** Have you told them?

**Ms Churley:** Can you clarify for me if the government, in the hearings—

**Mr Arnott:** I'm not sure. I'd assume some may be aware. I certainly haven't informed any that it would be. I'm not aware of any official communication that's gone out, but certainly I assume municipalities that were interested have copies of this bill. The bill is on the Internet and there are all kinds of means of—

**Ms Churley:** So then obviously there must be—

**Mr Arnott:** AMO has analyzed it. AMO has been in and AMO, I'm sure, has sent out information to municipalities. So I would assume that most would understand that the current bill did not include a retroactivity provision.

**Ms Churley:** If I could ask another question, do you recall if, when AMO gave its presentation, they discussed this issue and asked for it to be retroactive? Did they express a concern about that?

**Mr Arnott:** I'm afraid I don't recall and I don't have a copy of the presentation in front of me, but I'm sure that could be researched.

**Ms Churley:** OK, thank you.

**The Chair:** Any further debate? Seeing none, I'll put the question on Mr Arnott's amendment. All those in favour? It's carried.

The next amendment is yours, Ms Churley.

**Ms Churley:** I move that section 24 of the bill be amended by adding the following subsections:

“Payments to municipalities for disposal of waste not covered by program.

“(6) Subject to subsection (7), where a waste diversion program developed under this act does not provide for all of the designated waste to be reduced, reused or recycled, the industry funding organization that the program is developed in co-operation with shall provide funding to municipalities equal to 50 per cent of the total net operating costs incurred by the municipalities to dispose of the portion of the designated waste not reduced, reused or recycled under the program.

“Same

“(7) Where a waste diversion program developed under this act does not, in any year, result in the reduction, reuse or recycling of at least 60 per cent of the designated waste, the industry funding organization that the program is developed in co-operation with shall provide funding to municipalities equal to 100 per cent of the total net operating costs incurred by the municipalities to dispose of the portion of the designated waste not reduced, reused or recycled under the program that is the difference between 60 per cent of the total amount of designated waste and the percentage of the total amount of the designated waste that was reduced, reused or recycled in that year.”

If I may speak to that, this follows from the logic of the 60% target. It's a holistic approach to trying to get industry to deal with all the waste they produce, and this, I would assume, would be good from the municipal point of view.

I want to clarify; sometimes this legalese language is not really clear. I'm saying that even with the target met, the 60%, they would have to pay 50% of that 40% that's left over. So they have to deal with the 60%, and there's 40% left over which under this act they don't have to deal with, but they would still have to pay 50% of that 40%. This is something that I believe should be supported, because once again we have to remember that this bill before us is about waste diversion. It doesn't go far enough, and I believe municipalities would support this amendment; in fact, I know that many people I talk to from municipalities do support it. I hope very much that you will move forward with this one and indeed strengthen this bill.

**The Chair:** Further debate?

**Mr Arnott:** I want to thank Ms Churley again for this helpful amendment. It's my understanding that this motion would provide that industry would be required to pay 50% of disposal costs for materials covered under a program that are not diverted. In addition, it also would require industry to pay 100% of the net operating disposal costs for any designated material under the 60% diversion target, as Ms Churley indicated. For example, if material was diverted at 40%, then industry would need to pay 100% of the disposal costs for the 20% difference. That is my understanding of what Ms Churley has moved in terms of the intent of her motion.

I must inform the committee that the government does not support this amendment. I've been advised that this is a new policy direction for the legislation, going beyond the scope of its intention. None of the consultations leading up to this bill with our partners contemplated payments for disposal, as the intent of this initiative is to promote and fund waste diversion programs. There is no incentive in either of these sections for municipalities to maintain or enhance current diversion activities, as their disposal costs would be subsidized by industry, in effect, and funding for landfilling could act as an incentive for municipalities to actually reduce their recycling. That is the belief of the government, and for those reasons the government is not supportive of this amendment.

1650

**Ms Churley:** If I may, what this motion addresses is the need for industries to partially—not fully, but partially—support the costs of disposal of designated waste. It also provides an incentive to industry to support that development of those programs that reach the high diversion targets. It is an incentive as well for industry to reach those, and that's something else that's missing from this bill, that incentive. Again, unless that incentive is there, you have a very weak bill which is not going to do a whole lot to divert as much waste from landfill as we need. That's why it's there, once again: to be helpful, to try to improve and strengthen a bill to get us where we need to be.

**The Chair:** Further debate? Seeing none, I'll put the question on Ms Churley's amendment.

**Ms Churley:** Recorded, please.

**The Chair:** Ms Churley has asked for a recorded vote.

#### Ayes

Churley, Levac.

#### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** The amendment is lost.

Shall section 24, as amended, carry? Carried.

Section 25: amendments, debate? Ms Churley.

**Ms Churley:** I move that subsection 25(3) of the bill be struck out and the following substituted:

"Decision of the minister

"(3) The minister shall decide in writing to approve the program, to not approve the program, to modify the program and approve the modified program, or to direct Waste Diversion Ontario to modify the program and to resubmit it for approval."

This is one of these issues that I think some deputants—it might have been Mr Gord Perks, who is with us here today from the Toronto Environmental Alliance. I believe it was he who made the steering and rowing argument. Is that correct? Yes, it was he. That is, we have the problem backwards here in this section, that the minister should be doing more of the steering. That's what this amendment does. We have a situation now where the minister's options are very limited. The way the wording is now, if the programs aren't going very well, if there are issues or problems, the only option the minister has, the only choice, is to approve or not approve them. Under the existing legislation, if it passes without this amendment, she won't be able to ask for improvement on programs or some changes that would make them work better. It's just approve or not approve. I believe it is really incredibly urgent that this be amended so that the minister would have those options to not just say yea or nay, but to be able to say, "I've looked at it. I like it, but these are the specific issues that need to be fixed," and not just have that left up to the waste diversion group.

I hope, Mr Arnott, the government can support this one. For the life of me, I don't know what you're going to say if you say no to this one.

OK, here we go.

**The Chair:** Further debate?

**Mr Arnott:** I want to thank Ms Churley for her amendment and bringing this forward today. As we've discussed earlier today, and I think last week all the committee members—

**Ms Churley:** Can't hear you. Sorry.

**Mr Arnott:** All of the committee members are very keenly interested in seeing this bill passed as quickly as possible so as to get the ball rolling. It is the concern of

the government that this amendment might actually delay the establishment of waste diversion programs. In theory, if this amendment were passed, the minister might be involved in lengthy negotiations with the WDO for the final program and in effect it might create unnecessary delay. For that reason, the government is opposed to this particular amendment.

**Ms Churley:** I think, Mr Arnott and government members, you've got this one backwards and wrong. I think just the opposite: that if you have a minister with more ability to have a say, as opposed to approving or disapproving, that could speed things up. The minister could just say, "No, I don't approve this," but without any ability to ask for modifications or to become involved, who knows how long it would then take to get people back to the negotiating table?

As Mr Perks said in his presentation, you've got the wrong people doing the steering here. The minister should have more of an opportunity to be doing that. With all due respect on this one, I know you're the parliamentary assistant and you're provided with notes. That's fair; that's what happens in these committees. I'm not criticizing that. I've tried to listen to the rationale behind your non-support for my amendments. I don't understand this one. It honestly doesn't make any sense.

Previously, I know there was some ideology involved and different thoughts on where we should be going, but on this one I don't understand the rationale. It makes absolutely no sense. Just think about it. I don't know if government members would agree with me on that, but why would you not have the minister—he or she should be either in or out of it. If you're going to get the minister to approve or not approve, why not give that minister the ability to have a say in some modifications that he or she thinks are necessary?

**Mr Arnott:** It is the position of the government that this very likely would cause unnecessary delay in the establishment of the waste diversion programs—

**Ms Churley:** But why?

**Mr Arnott:**—and so for that reason the government is not supportive of this amendment.

**Mr Levac:** The comment I would make on this particular amendment is that I think it's seeking to provide flexibility for the ministry to prevent the very thing that I believe the parliamentary assistant is assuming the government says it will cause.

If there is a plan that is presented to the ministry by the WDO and there are three or four things that might be a problem for the government or its interpretation of this true belief in the three Rs, they're going to have to say no to the plan and then send it back and have it modified, or they accept the plan knowing that it's in conflict with what the ministry truly believes should be happening in the three Rs, meaning that they're going to accept a plan that is substandard to what their belief system is. Having this amendment provides the ministry with the opportunity to go to the WDO and say, "There are three points we'd like you to modify, and as soon as you modify those, we can bring them back and the plan's OK."

Having this rigid yes or no, in my opinion, holds back the ministry's ability to say, "We've got a small problem inside a plan that we can't approve if you have those three things in there."

Finally, my own example would be from my critic's role for the Solicitor General in firefighting. We know that municipalities, through their fire chief—and if they don't have a fire chief, through their fire advisors—give in community plans for what they believe their firefighting needs are. If the fire marshal sees some modification that's necessary, the fire marshal steps in and says, "I have the authority granted to me by the ministry," acting on behalf of the ministry, "and we think you need to tweak it and hire three more firefighters." They don't say, "Your plan is not accepted." They say, "Just make these modifications and your plans are OK."

That's the logic I'm using on this, and I really find it a little difficult trying to grasp that whole delay process. I would speak in favour of the amendment for the government's purposes and also for the purposes of getting these plans on the road.

**Ms Churley:** I have found the words of Mr Perks here. He doesn't have the ability to speak today because it's just the committee. I think his words represent the problem far better than I've described it already, so I'm going to remind you of what he said. It really struck me when I was reading through. I wasn't able to be at the committee, but I read through the Hansard later.

This is what he said: "I've heard it said before that this relationship works best when government steers and industry rows, when government develops policy and the manufacturers do the things necessary to make their products and get them to consumers. This does it backwards." And this is the important part: "The industry representatives on the Waste Diversion Organization are the ones who develop policy with new industries that might want to enter a recycling agreement. The ministry has essentially handed over the policy function to the very same industries which have failed to fund the blue box for the last 14 years, or have funded it inadequately for large periods of that time. And the municipalities—the public sector—have to pay the majority of the cost to deliver the program. The system is backwards; the government is rowing and not steering."

That's fundamentally the case here, and that is the problem. We know there has been a failure and this very complex problem has been worse in the past, and the government needs to have a strong policy directive here. It's inadequate that she or he doesn't have that ability to do so.

1700

**Mr Arnott:** I acknowledge that Ms Churley and Mr Levac have made some interesting points. But I would ask Keith West if he wouldn't mind coming forward again to address some of those issues.

**Mr West:** I don't believe this bill gives any authorities over to Waste Diversion Ontario in the manner you have indicated. I say that in that the regulation-making authority is still retained very clearly with the minister

and with the government around what gets designated, how it gets designated and what the controls are around that designation.

The minister very clearly has the authority, as a program is being requested from the Waste Diversion Ontario board of directors, to very much specify what he or she is looking for in terms of the development of that program. Throughout the program, there is a member from the ministry who is sitting on the board of directors to provide guidance in terms of what the minister has requested at the outset.

At any time, under the legislation, the ministry has policy-making authority to guide the WDO in its process. We believe, at the end of the day, this will provide enough authority for a program to be submitted which is acceptable to the minister to approve without having to have any of the modifications or anything that is being proposed within this motion.

That's the intent of the bill, and there are lots of authorities and very clear policy and regulatory authority still available to the minister. We are not giving any of that to industry in the fashion that might be indicated.

**Mr Levac:** Thank you for that education and the clarification. Two things: I did not mention the fact that the authority would be given over to the WDO in my comments, and I didn't assume that was going to take place. What I was concerned about, and maybe you can answer this question, is that if at the end of that process you're still not happy with what you see, you either have to accept it or reject it. Is that correct?

**Mr West:** That's correct to a degree. There is a provision within that act that does allow the minister, through a regulation, especially around the development of the fees associated with any program, to initiate a regulation to impose those fees if she's not satisfied that they've been done to the degree that she felt they were to be done. That would be one caveat to that. But yes, the decision is a yes or no decision. You're correct in that.

**Mr Levac:** Having gotten to that point, if indeed the process that you described did not satisfy the ministry, and the officials within the ministry and those who are sitting on the WDO and those who are in the regulation situation and all those who got it to that point still said, "Well, you're still not getting it here," is there any other mechanism other than the yes or no, other than the regulations, as you said, for fees?

**Mr West:** With the kind of guidance that we think is inherent within the act, that the minister can give to the WDO, we don't expect that to happen.

**Mr Levac:** OK. That's good faith that you have in the industry. I appreciate that. I would still echo a concern that I have with the black and white, yes or no to a plan that needs to be approved by the ministry, which I'm assuming is ultimately responsible for all decisions in the first place regarding that. That the ministry would have to step forward and simply say yes to the plan almost implies—and I'm not saying you're saying that today—simply a rubber stamp, because they have to, because the ministry has to be responsible for saying this plan is OK,

without giving the ministry that flexibility that's been spoken of by the members on the other side, that people need a little bit of flexibility to do some things within a certain scope.

I will bow to the fact that the ministry is suggesting to the government that you're satisfied with that. I'm speaking in favour of making sure that the ministry has the ability to say, "Yes, that's not a bad plan, but there are some things in here that I think need to be modified. Send it back and get it back to us."

The process doesn't seem to me, the way you've described it, to be one of time-consuming versus what was suggested by the parliamentary assistant, that it might take more time to pass. In the process you described, it's going to take just as much time to flesh out those regulations and flesh out the plan as it would if you were to modify it or send it back for changes.

That's a comment, providing you with the opportunity to say something in response. Is that a fair assessment?

**Mr West:** I think we have very clear authority under this to set very clear timelines associated to program development, and there are approvals associated with that development. I expect to see that happen, and I expect to see good guidance given to this board of directors from the ministry where it's necessary, plus giving them the flexibility to develop the programs that meet a variety of needs. I see the process as having all sorts of checks and balances in it right from the start, all the way through it and right to the end.

**Mr Levac:** I appreciate your confidence and thank you for that.

**The Chair:** Further debate? Seeing none, I'll put the question.

**Ms Churley:** A recorded vote, please.

**The Chair:** Ms Churley has asked for a recorded vote.

#### Ayes

Churley, Levac.

#### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** The amendment is lost.

**Ms Churley:** Not again.

**The Chair:** Shall section 25 carry? Carried.

Are there any amendments to sections 26 through 29?

Seeing none, I'll put the question.

Shall sections 26 through 29 carry? Carried.

The next amendment would be yours, Ms Churley. We're on section 30 now.

**Ms Churley:** I move that subsections 30(2) and 30(3) of the bill be struck out.

**The Chair:** Do you wish to speak to your amendment?

**Ms Churley:** This is what I call "the newspaper clause." I understand the government has an amendment on this as well, but it doesn't go far enough.

The legislation now provides that an industry group, instead of giving their share of money, can give free ad space. I don't know if people are aware, but newspapers are one of the biggest items in the blue box, and I think they absolutely have to pay their fair share.

From my understanding, some mayors and councillors—not all—want the money, not the free ad space. This makes it fundamentally clear that it would guarantee that all industries, including the newspaper industry, pay their fair share of the program instead of making in-kind contributions. Those are in-kind contributions that the municipalities therefore have no control over. This makes it abundantly clear. I don't think this is an area where we should be flexible. If newspapers want to give free ad space for good causes to the municipalities, then they should do that. I encourage them to do that.

This bill is promoting the three Rs, and all of the participants in the blue box system should be paying their fair share. They owe a fair amount of that fair share, and should they not be paying it? In just giving ad space, there is going to be a big hole in funding that some people would say is not adequate anyway. So once again, I would ask all members to support this amendment.

**Mr Arnott:** I want to indicate that the government is opposed to the amendment in this case. I want to inform Ms Churley that voluntary contributions, such as the Canadian Newspaper Association's \$1 million in free advertising and the LCBO's \$5-million-per-year voluntary payment, have been clearly contemplated in the development of this bill from day one.

This section allows for these to be recognized and included in the programs that are developed, so it's very important. Currently, it's my understanding that the industry funding organization could accept voluntary contributions and determine the impact of these on that industry's fee obligation.

The proposed government motion on this matter will require that the WDO also approve these contributions and their impact on the fee obligation. It's not expected that voluntary contributions will play a large role in these program initiatives.

1710

I would argue that there is an economic value in the free advertising that is being offered by the Canadian Newspaper Association—obviously that is something that other people have to pay for—and there is considerable merit in continuing to promote the idea of recycling and the environmental value of recycling, and through our community newspapers, people are continually reminded of the need to recycle at home and at work. Obviously we want to continue that kind of positive information being circulated through our local newspapers. For that reason, I think there is considerable value in this free advertising that has been offered and it should be considered and reflected in terms of this issue.

**The Chair:** We'll come back over to this side.

**Mr Levac:** A question of clarification for the parliamentary assistant: had there been a calculation done when this amendment was put on your desk or on the

minister's desk? Has there been a calculation made of the fees that would have been given in terms of the monetary versus the amount of money that has been calculated for the free advertising? What's the trade in balance? Is there one?

**Mr Arnott:** I'm not sure I understand the question, Mr Levac.

**Mr Levac:** Well, it's asked that the fees they pay be waived in lieu of the amount of money or the ads, and you've indicated about \$1 million worth of free advertising.

**Mr Arnott:** The Canadian Newspaper Association is to contribute \$1 million in free advertising.

**Mr Levac:** Is that for Ontario?

**Mr Arnott:** Yes.

**Mr Levac:** That is strictly for Ontario. The fees that they would have paid—what does that equate to? That's why I asked if there is a comparison between the amount of fees they would have paid versus the amount of free advertising they're getting. What is the trade-off that we're making?

**Mr Arnott:** I'm afraid I don't have those figures in front of me.

**Mr Levac:** Can we get a nod from the back here as to whether or not that is calculated?

**Mr Arnott:** We can try to get you an answer on that.

**Mr Levac:** I'd appreciate that, because in terms of the municipality or WDO or any of the organizations taking out ads, I have to be realistic here that any fees they would have paid would have to go back into advertising anyway. I understand that position, but I want to make sure that the reason they're doing it is not because, "Hey, we save \$500,000 a year. Let's do it this way and have a clause in there that escapes us for that month."

I'm looking for the responsible use of education, which came up as a theme in the hearings, supported by all: the ministry, the industry, municipalities and anyone who spoke, even on an individual basis, spoke about education being a prime factor. If you can educate through the media, then that's understood. I'm concerned that if the trade-off is simply a monetary issue I need to know what those numbers are, and I appreciate your undertaking to get that information for me.

*Interjection.*

**Mr Levac:** If it's available, I'd like to have it before I decide whether I can support the amendment.

**Mr West:** It would be very much incumbent upon the Waste Diversion Ontario board of directors, in their funding formula, to look at what the costs are associated with any industry sector in terms of the materials that are collected in the blue box.

That changes in any given year, depending upon the costs of recycling within the markets. Those costs will change. I can't give you an absolute in black and white as to what this looks like, because they vary from year to year depending on the markets. There will be times that newspapers do pay their way within the system and they clearly do from a market perspective, and there will be times when they don't. The funding formula is going to

have to respect when they make a payment and when they don't make a payment, but that's very clearly part of their commitment to the Waste Diversion Ontario initiative.

**Mr Levac:** That being said, in as generic a way as possible—I'm still looking for the equation between the waiving of the fees altogether, which is what this portion of the bill does; it waives the fee for services or goods given. Is there a balance, even if it fluctuates, between the amount of money which was quoted by the parliamentary assistant to be \$1 million regarding fees and the costs associated with the industry being involved in the WDO?

**Mr West:** My response would again be that it very much depends in any given year on what the recycling market is bearing for old newspapers. But the commitment of the Canadian Newspaper Association in this initiative has always been that regardless of whether they're paying or not paying, dependent upon the market conditions, they will always have a commitment to this \$1 million in advertising. It was very much part of the Waste Diversion Organization's one-year interim program. It worked very well and it was used not only for municipalities in terms of promoting their own waste diversion programs but also by the Waste Diversion Organization in promoting the 3Rs, and we expect that to continue as part of this initiative.

**Mr Levac:** Having said that, the listener in me hears that they're going to pay it anyway, so why are we exempting them from the fees?

**Mr West:** This is not just about the Canadian Newspaper Association. That's one element. We don't expect it to be widely used, but there may be situations where there is a legitimate contribution in kind that would be reflected under this clause. We don't expect it to be large, because municipalities are clearly looking for funding and that is what this is all about—to give them that funding to make their program sustainable. But we do think there may be appropriate times where something might be used as a contribution in kind, and subject to both the industry funding organization and the Waste Diversion Ontario board of directors approving it, it might be a legitimate reason to give an exemption from a fee payment or a partial fee exemption. It's all dependent—

**Mr Levac:** Is that flexibility in here as well?

**Mr West:** Yes, it is. That would be part of an extra motion.

**Mr Levac:** I appreciate that. My comment to you at the end of all of this is, if given by the industry year by year, whether it balances off or it doesn't actually equate to that is somewhat at the smaller end of the point, as long as it is not being used as, "I need to get out of expending this much money, so if I give a million and I don't spend two million, I save my company a million dollars." I have a problem with that philosophy if that is provided for in this particular amendment.

I would say on the positive side what I said earlier, that if, on the other hand, monies that would have been

spent on advertising by municipalities and/or the industry are covered off by that service provided by, say, the newspaper industry, it's a wash. Then I think everybody wins, because you get the education, you get the advertisement out there, and you also have the industry buying into the plan and buying into the organization. So I don't want to make it sound as if I'm saying no to it; it's more so concern about how it's applied across the board and whether the industry that's applying for the use of this particular "in lieu of" is doing so simply to get a financial bargain.

I would be interested in having then, if I can't get the actual year-to-year comparisons, maybe a five-year scope of the industries that we've been talking about. Give me an idea of what they would normally have paid in fees and then in comparison to what they would have done "in lieu of" with the donations made by "in kind," if that's obtainable.

**The Chair:** Thank you. Mr Mazzilli.

**Ms Churley:** I just have a follow-up question.

**The Chair:** We'll invite Mr West back.

1720

**Mr Mazzilli:** I want to make a couple of points. This is what scares me about any type of legislation. All that is meant well, and all of a sudden we start talking about essentially putting an industry out of business. The newspaper industry, through legislation like this—it doesn't take a rocket scientist to figure it out that there's a lot of consumption there. There's a lot of percentages in the blue box and in the diversion programs, and yet they're expected to produce a paper, half of it filled with nonsense that members in this room say, distribute it to the public and in return get some 50 cents or so for it. Then at the end of the process, at a time when probably readership is down and many people can go on line and read newsprint and have access to other forms of advertisement—here we now talk about an industry that obviously is caught between the consumption side and revenue.

What are we talking about here? Obviously they came to the table and said, "We'll put some in-kind donations on promoting the 3Rs," because they obviously know their consumption is large. They know that. And what are we talking about? How easy they got off, and they owed millions.

Well, do you know what? They're not going to be there if they're going to have to pay their fair share of this. I think that's pretty obvious. If we as members pursue that—that's what we do with legislation we bring forward that has good intent and yet at the end of the day we essentially force an industry out of business. I just ask members of this committee to keep that in mind.

**Ms Churley:** I do have a further clarification, but first of all I'd like to say that if you read through the Hansard of the committee public hearings, Ms Ann Mulvale, the president of AMO, made a deputation, as you know, and she raised this as a concern. So it's not just Marilyn Churley, the environment critic from the New Democratic Party, raising this, but I just want to point out that

this is a concern the municipalities have. She wanted further clarification of what these voluntary contributions would be and who they were. She mentioned the fact that there was concern about the lack of clarity with regard to what types of in-kind or voluntary contributions would qualify under this provision, and she specifically raised the issue of the Canadian Newspaper Association. They were able, as she said—and we know this—to negotiate in-kind contributions of advertising space to municipalities in lieu of funding for the newspaper recycling program, and that's what we're talking about here. She said some used it and some didn't, but, and these are her words: "This 'in kind' contribution did not help in any substantive way with the costs associated with blue box programs." She asked for amendments and she expressed concern about municipalities not having any say over this, and that is still a concern.

**Mr Bradley:** And she's a Conservative.

**Ms Churley:** And she's a Conservative at that. She put it very gently and mildly, but she expressed a major concern that this be dealt with, and I think we should pay attention to that.

Now I understand that in answer to Mr Levac's question—I don't know if I heard correctly, but I think the bill will not allow the newspaper industry to negotiate, in lieu of payments, their fair share, but that this would be extra, that they still would be providing their fair share, whatever portion that is, and this would be out of the kindness of their hearts and they'd provide some free ad space. May I put that question again, please?

**Mr West:** Mr Chair, through you to the member, I hope I did not say that.

**Ms Churley:** Well, that's why I want a clarification.

**Mr West:** I certainly would not want to—again, the Canadian Newspaper Association is no different than any industry sector that's affected by this legislation. There has to be a funding formula set up that sets out what the requirement for the payment of the fee will be. That's what this process is all about, to develop the program, to develop the payment around that program so that all industries are paying whatever share of their material is in the blue box for the blue box program. The Canadian Newspaper Association made it clear through the Waste Diversion Organization a year ago that they felt they wanted to continue with their \$1-million contribution in kind for advertising.

**Ms Churley:** So that would be taken out of—

**Mr West:** That has very clearly been part of this entire exercise as we've moved through. I don't think anybody's hidden from the fact that that's their intent. They have other commitments that they've made that we expect to see reflected within the funding formula as well. One of those is that if the market conditions are such—and it would have to be determined what the market conditions would be—they would also be making payments into the fund for the blue box program.

**Ms Churley:** OK. I thought I must have heard you wrong. That is exactly the problem. There will be some kind of funding formula determined, and they will be



able to continue to have \$1 million taken out of whatever portion they should be paying into the blue box program. That still would be the situation?

**Mr West:** At this point in time, that would be the intent of their commitment as part of their commitment to the program for funding the blue box.

**Ms Churley:** In terms of policy, I know your answer to my question here. I fundamentally disagree with it, but I wanted to ask: you mentioned earlier that it's not just the Canadian Newspaper Association, but there could be other industries that you would negotiate some kind of deal where they would be doing something other than, as well as paying a fee. Could you give some examples of who and what that might be?

**Mr West:** The counterpart to the community newspaper association is the Ontario Community Newspaper Association, and they may want to make a contribution in kind as well. In fact, I think they've indicated in front of the hearing a contribution of \$300,000 in kind as well. I think they've indicated that as part of a commitment they'd like to make as well. Beyond that, I'm not aware of any that have been any part of this discussion or any part of the negotiations that have gone on at the industry side, but they've always been clearly part of the play within the development of this initiative.

**Ms Churley:** Do you know of other provinces which have agreements with industry associations to do this?

**Mr West:** This is legislation that is different. I'm not aware of any other province that has this kind of initiative. I'm not aware of any other initiative that has newspapers as part of it.

**Ms Churley:** Thank you. Those are my questions, and I appreciate it, Mr West.

I think that sums up for me the problem with this, and again I want to reiterate that Ms Mulvale from AMO has expressed concern about this. At the end of the day, municipalities are the ones who have to deal with this, but they have no say in whether they get the money or the ads. It's just thrust upon them, and they wanted some amendments to this.

May I also say that I think it's unfair to other industries that don't have the kind of industry where they could sit down and negotiate some kind of special deal. It so happens that newspapers can offer advertising to municipalities, but there are other industries. One of the government members talked about the concern about putting an industry out of business because of their contribution to the blue box program. I would say that the Canadian Newspaper Association is in pretty good shape compared to some other industries. But they're the only ones who have that option, because they can offer something in return. There are a lot of other industries out there, I'm sure, who would like to be able to sit down and negotiate some way out of paying their full fee.

I think it's a fundamental fairness issue. It's a fairness issue both for the other industries—a level playing field—and for municipalities, as has been pointed out. It's been made very clear that this in-kind contribution—we've had experience with this in some municipalities,

and I think Ms Mulvale put it very kindly when she said it, “did not help in any substantive way with the costs associated with blue box programs.” I think, if I could read between the lines here, she's saying it is a problem for municipalities, and they wanted amendments to that.

So I think this is really unfair, unwarranted. I don't like these kinds of backroom deals behind closed doors where certain industries get special deals and other industries don't have an opportunity because of the very nature of whatever it is they produce; they don't have anything like that to offer. I think this is wrong, and I hope that people will accept this amendment.

**The Chair:** Thank you. Further debate? Seeing none, I'll put the question.

**Ms Churley:** Could I have a recorded vote, please?

### Ayes

Churley, Colle.

### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** The amendment is lost.

This brings us to the next amendment. Mr Arnott.

**Mr Arnott:** I move that section 30 of the bill be amended by a) striking out “the industry funding organization may” in subsection (2) and substituting “the industry funding organization may with the approval of Waste Diversion Ontario” and b) striking out “specified in writing” in subsection (3) and substituting “specified in writing with the approval of Waste Diversion Ontario.”

**The Chair:** Do you wish to speak to the matter?

1730

**Mr Arnott:** Yes. As Mr West pointed out earlier in his response to some of the questions that were coming forward from the opposition parties, we do have a motion to address this issue, and this is it.

The purpose of this motion is to require any voluntary contributions provided to the industry funding organization resulting in reduction of or exemptions from fees to be approved by both Waste Diversion Ontario and the relevant industry funding organization. As currently worded, an IFO could accept voluntary contributions and allow for a reduction in exemptions from fees, thus reducing actual funding to programs. Requiring WDO approval ensures that all members of the board, including municipal representatives, are aware of the proposal and that the majority of the board of directors would support it.

**Ms Churley:** Well, I have a real problem with this amendment, and I don't support it. You should have supported my amendment which dealt specifically with the problem.

The reality here is that what you're allowing is that these fee exemptions will be dealt with by a board that's made up of a majority of industry types. I put forward

amendments, and they failed. I thought it was quite reasonable, given that these really important fundamental decisions are being made and municipalities have far less than 50% on the board.

Furthermore it has become clear that as new industries come in with a new plan, they get a representative put on the board, but an amendment failed to allow that to be matched by somebody from AMO, from the municipalities. So we're going to see more and more industries represented on the board without at least 50% from municipalities.

I also lost the amendment for someone from the environmental community to be on, appointed by the OEN. I lost that amendment, and then I lost even the amendment to have somebody from the OEN as an observer.

So here we have a board that's made up mostly of representatives from the industry. The municipalities will begin to have fewer and fewer representatives on this. I've already pointed out that this is a problem for AMO, and here we have an amendment that—you think you're trying to fix the problem, but I think it's pretty clear what could happen as long as the board is weighted the way it is. So I don't know what to say. I just find this really disappointing. I wouldn't have such a problem with it had my amendments passed to allow a balance of representatives from the municipalities to sit on the board so that they'd have some influence on these kinds of decisions that directly affect them.

**The Chair:** Thank you. Further debate?

**Mr Bradley:** There are many complaints and some compliments from municipalities for the legislation; there are both, to be fair. One of the complaints they have had is about the amount of clout they believe they have, and they have a concern, without a doubt, that they will be swamped by industry representatives.

Ms Churley has appropriately pointed out that as new people come on board we're going to see some additional representatives from industry—and we want to see representatives from industry. Nobody is saying we shouldn't see representatives from industry. But I think municipalities, which are responsible for waste management, would want to see the kind of representation that they believe is fair. That would be at least 50%.

In addition to that, there are other players in this piece. There are public interest groups that would be justifiably asking to be placed in a position of responsibility, a decision-making position.

Again, the amendment would be much more acceptable if indeed we had that sense of fairness. Without it, I don't think the amendment is supportable. I think most people who are in the municipal field would agree with the position we are taking in this regard.

**Mr Arnott:** We're rehashing some of the arguments that were made when Ms Churley introduced her initial amendment. I comment again that it's my understanding that in their submission to this committee AMO expressed overall support for the WDO and including their membership on the WDO board of directors. This mem-

bership resulted from extensive consultation by the ministry and through the voluntary Waste Diversion Organization initiative. The board membership primarily reflects those directly affected by diversion programs, specifically those that are paying fees, and it also recognizes the agreed-to number of positions, with municipal stakeholders being four members.

**The Chair:** Further debate?

**Ms Churley:** Well, I just want to point out again that the parliamentary assistant is cherry picking some of the comments made by AMO. As I pointed out, this was an area of concern expressed and amendments were asked for. One of the issues that was addressed is that municipalities have a say, those municipalities that are to be affected have a say, and at this point they don't. As the legislation stands now, it's my understanding that they will make up only a third of the board, so they're going to be at a disadvantage. I just wanted to have that on the record, that this is an issue with municipalities, with AMO. They did raise it, it's a concern and it's going to be problematic down the road.

**The Chair:** Further debate? Seeing none, I'll put the question.

**Ms Churley:** Recorded vote, please.

**The Chair:** Ms Churley has asked for a recorded vote on Mr Arnott's amendment.

#### Ayes

Arnott, Mazzilli, Miller, Spina.

#### Nays

Churley, Colle.

**The Chair:** The amendment carries.

Shall section 30, as amended, carry?

Section 30, as amended, is carried.

Sections 31 and 32: are there any comments or amendments? Seeing none, I'll put the question.

Shall sections 31 and 32 carry?

Sections 31 and 32 are carried.

Section 33: Ms Churley.

**Ms Churley:** I move that subsections 33(7), (8) and (9) of the bill be struck out.

This is because it's an extra administrative cost charged to the industries. Here I'm speaking up for the industries, because I believe it's important, absolutely critical, that industries be onside and be involved in this, and we have to be offering them incentives to be so. So this is, in my view, a disincentive for participation in the program. Traditionally the province did these studies. I think at this stage of the game we want to give these industries every incentive that we can in terms of doing the studies that need to be done, getting the work done so they'll come into the program. That's what this is about.

**The Chair:** Thank you. Further debate?

**Mr Arnott:** I wish to inform the committee that the government does not support this amendment.

**Mr Bradley:** There's a surprise.

**Ms Churley:** You don't support industry?

**Mr Arnott:** This amendment is not something the government supports. It's my understanding that the purpose of this motion is to remove the ability for the WDO and the government to recover costs associated with industry stewardship plans, and it is the position of the government that the WDO and the government should be able to recover costs associated with these plans since approved plans provide an exemption from payment. If these plans are not effective, the industry or groups of industries should be required to pay the fees. The WDO needs to ensure that these programs are monitored and are meeting their fee exemption. So, for those reasons, the government does not support this amendment.

**Ms Churley:** I just wanted to ask a question about that. Did we talk about the Brewers Retail role in this? I know that is part of the bill. Because they are already 100% there, they too have to submit a plan, correct, to pay for it?

**Mr Arnott:** I believe they do. We have an amendment forthcoming that will deal with their issue.

**Ms Churley:** Forthcoming?

1740

**Mr Arnott:** Yes.

**Ms Churley:** So it's not before us, but it's coming? OK.

**Mr Arnott:** I think it's next after this one.

**The Chair:** Further debate? Seeing none, I'll put the question on Mr Arnott's motion.

**Ms Churley:** Recorded vote.

**The Chair:** Sorry, I beg your pardon—Ms Churley's motion.

#### Ayes

Churley, Colle.

#### Nays

Arnott, Mazzilli, Miller, Spina.

**The Chair:** The amendment is lost.

Shall section 33 carry?

Section 33 is carried.

**Mr Arnott:** We have an amendment to section 33.

**The Chair:** No, sir. I believe you have a new section 33.1.

**Mr Arnott:** We do.

**The Chair:** Which I would be pleased to entertain at this time.

**Mr Arnott:** I move that the bill be amended by adding the following section:

"Brewers Retail Inc

"33.1 (1) A program developed under section 22 shall not provide for the diversion of blue box waste that is packaging associated with products listed for sale by Brewers Retail Inc.

"Brewers and importers of beer

"(2) A program developed under section 22 shall not require the participation of or contribution by Brewers Retail Inc or a brewer or importer of beer in respect of blue box waste that is packaging associated with products listed for sale by Brewers Retail Inc.

"Annual report

"(3) Brewers Retail Inc shall, not later than August 1 in each year,

"(a) prepare a report on the operation of its packaging return system during the 12-month period ending on the preceding April 30, including,

"(i) a detailed description of the system, including information on how the system is operated, the objectives of the system and the methods used to measure whether the objectives are met,

"(ii) specific measurements relating to the system's performance in meeting its objectives during the period,

"(iii) the opinion of an auditor confirming the accuracy of the information referred to in subclauses (i) and (ii), and

"(iv) information on educational and public awareness activities undertaken during the period to support the system; and

"(b) provide a copy of the report to Waste Diversion Ontario and make the report available to the public.

"Signature

"(4) The report prepared under subsection (3) shall be signed by the chair of the board of directors of Brewers Retail Inc.

"Fees

"(5) Waste Diversion Ontario may establish and charge fees for administrative costs associated with reports provided under subsection (3).

"Same

"(6) A fee established under subsection (5) must reasonably reflect the costs incurred by Waste Diversion Ontario in performing the function for which the fee is established."

**The Chair:** Do you wish to speak to the motion?

**Mr Arnott:** Yes. The purpose of this motion, section 33.1, is to exempt the Brewers Retail Inc's packaging return system from being part of the blue box program to be developed under section 22 and the payment of fees to that program. The exemption is related to materials sold through Brewers Retail Inc. It does not include any items sold outside of Brewers Retail Inc and therefore not managed through their packaging return system. This exemption is based on the brewers passing a specific test outlined in regulation. The brewers are required to report annually to Waste Diversion Ontario to indicate that the test is being met. This report must be audited by a third party. Waste Diversion Ontario is able to recover any costs they've incurred related to the administration of this report. Brewers Retail Inc currently manages its packaging material through an independent system outside of the municipal blue box program and has assured us that it achieves a 97.6% diversion of waste from landfill.

**The Chair:** Further debate?

**Mr Levac:** I want to thank the parliamentary assistant and the ministry for putting these forward, because in the presentations it was brought to our attention by the industry that, in a closed system such as this, they did represent around 97% efficiency. For that in itself, we should be complimenting them and looking for many ways that we can duplicate that across the province. Where blue box is necessary, however, we should also be looking for ways in which we can move people from blue box to a closed system. So there should be some incentives built in somewhere so that enticement takes place. I would appreciate it if the ministry would also look toward bridging those particular examples and finding ways in which we can have people moved from blue box into closed systems. Thank you.

**Mr Mazzilli:** This is one of those amendments that was not taken into consideration when the legislation was drafted, and much like the other issue that we talked about on the newsprint end of things, obviously for that industry the price is large. In this industry they've been recycling because it makes sense. They've been reusing because it makes sense. People purchase beer out of a Brewers Retail and they return their bottles to Brewers Retail and the distribution system is one that allows for that. You know that if you're going there, you return your empties. In some other industries it's not that easy unless you plan to run a distribution system that has those volumes and those capacities.

I think it's important that we listen to industry because legislation like this—I think these are the big industries that know what the costs are. They know they were excluded and saw a problem and either approached the opposition or the government and it was changed; the amendment was put forward for them. It makes sense to put the amendment forward. I'm wondering how many industries have no idea that they will be affected in a hard way, that don't know they will be affected. That's one of the things that when we pass legislation, it's not that we do it with bad intentions or we do it in a malicious way.

**Mr Bradley:** That's just when you're dealing with the teachers.

**Mr Mazzilli:** Let's talk about the teachers while we're at it. When you look at the grade 3 testing, was that malicious? I was worried about it last year. My daughter was doing grade 3 testing and last week I got the report back: middle of the road.

**Mr Bradley:** She needs more help from her father.

**Mr Mazzilli:** She does. Father just absolutely has nothing to do with the homework end of it.

**Mr Bradley:** Thank goodness.

**Mr Mazzilli:** That's why it is middle of the road.

**Mr Mike Colle (Eglinton-Lawrence):** That's the problem; you're not helping.

**Mr Mazzilli:** That's right. Maybe I should be there instead of here.

**Mr Bradley:** There's an idea.

**Mr Mazzilli:** But some things that we make a big deal about—and I worry about some of the industry that will be affected by this legislation. I know the municipalities

are pushing forward with it, want it and want to recover some costs and that some industries have no idea what the effect is going to be on them and they've not built it into their prices. They likely have no way of recouping some of those costs, and industry with middle people, suppliers—I don't know how you're going to recoup some costs from people who are caught in between where product is shipped in and distributed by suppliers.

Having said that, I just hope we're not putting local businesses that produce things right here in Ontario, that distribute things right here in Ontario, at a disadvantage. Again, I look at the newspaper industry, and I've heard over and over again, not from that industry but from other people when it comes to environmental issues, that it's our appetite for consumption. We can sit here and talk about all the wonderful things we should be doing and we don't do them ourselves. I'd be the first one to confess that I don't, yet I'm expecting others to take the lead and I'll go on my mantra about packaging. Notice how you get the newspaper at your door sometimes and it's in a plastic bag so the poor raindrops don't get on it? I think that's somewhat disgusting, personally.

1750

**Mr Bradley:** You can reuse that bag.

**Mr Mazzilli:** There are too many bags to reuse.

You can go down to the cafeteria in this building, and there's all the wonderful packaging, and we all take them up to our offices, and then we're talking about making industry pay. I wonder, if the end user had to pay, how we would feel about it. If you had this debate about whether it's reusing or garbage—you've heard the debates in your communities, the municipalities talking about charging \$1 a bag or 50 cents a bag and the uproar and uprising when those discussions take place. We've all heard them. We've seen local councils try those methods and they've floated those balloons. They don't work well because citizens obviously don't want that.

What we try to do, obviously, is build it into where industry picks it up. We hope that they pass it down and achieve the same thing so that we're not affecting the bottom user and trying to collect it through industry. I'm not so sure it's going to work. In today's global environment of business there are those that are going to be affected that are local businesses and ones where it comes from elsewhere that won't be paying their fair share, if you will.

So I support the intent and I still don't know the outcome of this legislation. I just wish the users, the municipalities and the province good luck.

**Mr Bradley:** Would that the LCBO would follow the example of the Brewers Retail of Ontario. My worry is that now that you're going to privatize the LCBO by allowing them these stores—

**Mr Mazzilli:** That's Chris Stockwell.

**Mr Bradley:** I noticed that Mr Stockwell, the Minister of Labour, now candidate for the leadership, has expressed his concern about the lack of accountability of the LCBO, but I think that could be made worse. If you allow the privatization of the LCBO, you allow all these

other stores to be privately owned—I know, at the risk of being a bit provocative, that those same people sometimes show up at fundraisers, when you're talking about privatizing something.

I ask the government members whether or not they believe the LCBO should follow the example of the Brewers Retail of Ontario. One of the reasons the Brewers Retail is so successful is that it has a monopoly, yes, and is able to take its goods in, take its containers in, take its packaging in, and deal with it appropriately. In many cases it's a matter of reusing the container, in some cases it's a matter of recycling a particular container where it happens to be a can, and of course there's the packaging itself, the boxes themselves. I think the Brewers Retail has set a good example and I'm wondering if the government members are intent upon forcing the LCBO to do the same. Perhaps Minister Mazzilli would comment on that.

**Mr Mazzilli:** That'll be a later debate.

**Mr Bradley:** The cat's got your tongue. Either that, or Joe Spina's got your tongue, because I saw a note go over. You were really good. You made a good speech.

**Mr Mazzilli:** Brewers Retail is in a unique position: two or three distributors and all the product goes back. If others in the industry were so lucky, we could reuse more product.

**Mr Arnott:** I think there's been a good deal of helpful debate on this. I hope we can move forward and vote on this amendment now.

**Mr Bradley:** I'd be interested in what Mr Mazzilli has to say. I'm intrigued. I'm spellbound.

**Mr Colle:** I thought he was going to propose an amendment. We're waiting for his amendment. Can the LCBO be expected to—

**The Chair:** Further debate? Seeing none, I'll put the question on Mr Arnott's motion.

All those in favour? Opposed? The amendment carries.

Any debate or amendments to sections 34 through 39? Seeing none, I'll put the question. Shall sections 34 through 39 carry? Carried.

**Mr Arnott:** I move that subsection 40(1) of the bill be amended by adding the following clause:

“(h.1) providing that section 33.1 does not apply if criteria specified by the regulations are satisfied;”

I'll give an explanation quickly. This motion creates a new regulatory authority related to the new section 33.1, which we just passed, which exempts the brewers from the blue box program developed by the WDO and the payment of associated fees. The regulation will set out criteria which Brewers Retail Inc must satisfy in order to “loss” their exemption. The criteria may be as follows: if the Brewers Retail Inc packaging system falls below 75% diversion from landfill, the criteria of the regulation have been met and thus the exemption is no longer valid.

**Mr Levac:** I have to ask this: why 75% when it's already at 97%?

**Mr Arnott:** We want to make sure that 75% is the minimum threshold.

**Mr Levac:** So you're saying a minimum threshold for any other—

**Mr Arnott:** It's my understanding that the Brewers Retail maintain that currently they recycle about 97%. I don't think we have any independent audit of that, but that's certainly the contention of Brewers Retail.

**Mr Levac:** I really would like that watched carefully. I'm assuming the ministry has that as a minimum and that inside of that their expectation would be that Brewers Retail would maintain at 97% and that any other industry joining into a closed shop would be a minimum of 75%.

**Mr Arnott:** I think the ministry's position would be to encourage Brewers Retail to move to 100% as their goal.

**Mr Levac:** Thank you. Good set-up line, Ted.

**Mr Bradley:** I must confess a surprise at that 75%. I recognize how successful they are today and I'm frankly surprised that you would contemplate 75% when they have been so successful in achieving, as they would say, 97%. That seems to be a major step backward. I don't foresee it happening, but if there were different leadership at the Brewers Retail and a different philosophy that took over, or if you broke up Brewers Retail, for instance, who knows whether that could be achieved and who knows whether they fall to 75%. I'm quite surprised—I won't say shocked but quite surprised—at that 75% threshold.

**The Chair:** Further debate? Seeing none, I'll put the question. All those in favour of Mr Arnott's amendment? Opposed? It is carried.

Shall section 40, as amended, carry? Carried.

Shall sections 41 through 44 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 90, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

That being the case, we have completed our consideration of clause-by-clause of Bill 90. I thank the committee members.

**Mr Arnott:** I'd just like to thank the members of the opposition parties for their co-operation and also thank the members of our staff from the Ministry of the Environment, who have done a great job. It's been a pleasure working with all of you and we look forward to continuing this collegial approach on further bills before this committee.

**Mr Colle:** Moderation, moderation.

**The Chair:** In all things. Thank you very much, Mr Arnott.

This committee stands adjourned until 10 o'clock Wednesday morning.

*The committee adjourned at 1759.*





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#### **Also taking part / Autres participants et participantes**

Mr James J. Bradley (St Catharines L)

Mr Keith West, director, waste management policy branch,  
Ministry of the Environment

#### **Clerk pro tem / Greffier par intérim**

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