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Mercredi 1^{er} octobre 2008

**Standing Committee on
Estimates**

Ministry of Labour

**Comité permanent des
budgets des dépenses**

Ministère du Travail

Chair: Tim Hudak
Clerk: Sylwia Przedziecki

Président : Tim Hudak
Greffière : Sylwia Przedziecki

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ESTIMATESCOMITÉ PERMANENT DES
BUDGETS DES DÉPENSES

Wednesday 1 October 2008

Mercredi 1^{er} octobre 2008*The committee met at 1601 in room 151.*

MINISTRY OF LABOUR

The Chair (Mr. Tim Hudak): Good afternoon, folks. I'm pleased to call estimates back in order. Minister, welcome back to the committee, again joined by the deputy minister, the assistant deputy minister on the far right, who got promoted yesterday. Your name again is—

Ms. Susanna Zagar: Susanna Zagar.

The Chair (Mr. Tim Hudak): Thank you very much, Ms. Zagar, and—

Ms. Sophie Dennis: Sophie Dennis, operations ADM.

The Chair (Mr. Tim Hudak): Terrific. That will help with Hansard if you're answering any questions.

Mr. Rinaldi.

Mr. Lou Rinaldi: Mr. Chair, on a point of order—just a comment. I spoke to the colleagues across and there wasn't an agreement, but we do have a vote at 5:35 tonight for your opposition day motion, and my suggestion was that we'd be prepared to knock 10 minutes off our time, if the other parties wanted to do that, and then we're going to have to come back. But it's strictly up to the committee.

The Chair (Mr. Tim Hudak): So after the vote, you don't want to come back today?

Mr. Lou Rinaldi: Well, by the time we break and come back—I'm just saying that we have a number of staff here that—

The Chair (Mr. Tim Hudak): Yes, I understand.

Mr. Lou Rinaldi: It would probably take a good 20 minutes or half an hour, and we'll come back for a few minutes.

The Chair (Mr. Tim Hudak): Yes, I think you're right. I don't think there's much sense in coming back after the vote, if that's the time. We would just add the time onto our next meeting.

Mr. Lou Rinaldi: I was going to recommend that we knock 10 minutes off and then we terminate this session.

The Chair (Mr. Tim Hudak): Right. At 5:30?

Mr. Lou Rinaldi: Yes, if there's—

Mr. Randy Hillier: Chair, if we want to put the time off to another day, that would be acceptable, but not to lose that time.

Mr. Lou Rinaldi: Then we carry on.

The Chair (Mr. Tim Hudak): Okay. There's not all-party agreement on that, which we would need to change our procedures, so I'll just continue.

We are here to resume the consideration of the estimates of the Ministry of Labour, vote 1601. We have four hours and 26 minutes remaining. When the committee was adjourned, the third party had just finished their 20-minute segment, so it's now the government members' turn. You have 20 minutes. Who would like to take the questions? You have 20 minutes, government members.

Mr. Lou Rinaldi: I thought the rotation started on that side?

The Chair (Mr. Tim Hudak): No, I think we finished with Mr. Kormos, who was representing the third party, yesterday. It is the government members' time, Mr. Rinaldi.

Mr. Lou Rinaldi: Okay. Thank you. Sorry about that, Chair.

The Chair (Mr. Tim Hudak): Not a problem.

Mr. Lou Rinaldi: Thanks very much. Sorry for the confusion here.

Minister, it's the first time I get to ask a question. It's good to have you here. I know that it's one more day of your duty as minister, so I know you'll have a lot more answers at the snap today. I know you—

Hon. Peter Fonseca: We'll try, Lou.

Mr. Lou Rinaldi: —stayed up all night to bring you up to speed. I have all the confidence in the world that you will ramp it up.

Minister, I just want to talk about minimum wage a little bit and, in fact, some of the progress we've made since we formed the government. I know you talked about it in your opening remarks the other day, that for some eight or nine years there was no movement on minimum wage. I can tell you during the campaign trail of 2003, my first run at the provincial seat for the riding of Northumberland–Quinte West, that was certainly a question that was at the forefront. Probably right across my riding it came up as certainly something that we needed to do, among many other things. We've made some substantial progress, as you mentioned the other day—the percentage increased. We do have a plan to move it forward. Of course, the argument, as you know, since we made those initial improvements to the minimum wage—all of a sudden we get the rhetoric and criticism: “We need to do more sooner.” Yet in 2003—I stand to be corrected—I think our platform was the only one that said it would address such an issue.

I guess where I'm coming from today is that I think we need to clarify where we are, what progress we've made and what lies ahead, both from an employee's standpoint and obviously an employer's standpoint. I remember then-Finance Minister Sorbara—when we made this announcement he was the minister—had some statistics about how raising the minimum wage would impact both sides of the equation, based on some of the economic challenges we face today. So I guess a little bit of history of where we've come to and your perspective on how we move forward and those types of things.

Hon. Peter Fonseca: I'd like to thank the member very much for the question and putting it into the perspective of where we were a number of years ago, where we are today and where we're going. I think back to a number of points. Back in 2002 and 2003, as I was campaigning and knocking on many doors, one of the things I spoke to was our commitment to increasing the minimum wage. I knew it was very important, and I'll tell you why. It takes me back to another stage in my life. At age 14 and 15, many of the jobs that I held paid minimum wage, and I looked at what the minimum wage was, what I would be getting paid at the end of the day and the end of the week and how I would be able to use those funds to buy a pair of jeans or a bike or save for something else that—

Mr. Randy Hillier: Mr. Chair, on a point of order: Is this not the estimates committee, where the questions are supposed to have some relevance?

The Chair (Mr. Tim Hudak): Yes, Mr. Hillier, I appreciate it. As Chair, I do give scope for members to ask things that pertain to the ministry's operations. Potential significant funding is assigned to administrative purposes and policy making, so I do think Mr. Rinaldi's question about minimum wage policy is in order. Please go ahead.

Hon. Peter Fonseca: Thank you, Chair. Back as a student—and I speak as a student making that minimum wage and how important those dollars were to be able to buy some things that would address some needs that I would have as a youth. I say that because actually many of the people who make minimum wage—I understand 75% of those earning minimum wage are under the age of 24, and the other 25% are some of our lowest-paid earners in Ontario and some of them are the most vulnerable workers.

At the time, back in the 1980s, the minimum wage was still at a level that I felt was quite fair for Ontario, for our economy. Actually, I remember comparing it to other jurisdictions, and we were well ahead of others. Unfortunately, over a nine-year period from 1995 to about 2003, that minimum wage was frozen. It didn't go up by one cent.

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That affected a lot of people. As inflationary pressures came on, the minimum wage did not continue—the Ontario economy was actually going through a boom time, and still there was no increase to the minimum wage. I thought that was very unfair to those workers who earned

the minimum wage. It was something that I was impassioned by, as I'm sure the member was, and all of us here, as we campaigned in 2003 to make a change to start increasing that minimum wage in a very fair and balanced way to be able to provide dignity and respect to many of those workers whom I felt were not looked after. They did not have a voice here in Ontario, and we wanted to make sure that we could bring them that voice.

Minimum wage also fits very well into what we're trying to do with our poverty agenda, looking at addressing that.

What we've done from 2003 to where we are today in 2008, with the minimum wage at \$8.75: I believe it was about \$6.85 prior to coming into government, so we've increased it by 40%. Come March 2009, it will be going up to \$9.50. It will take us to the highest minimum wage in all of Canada. We have come from close to the bottom right to the top. We've also made another commitment to 2010, when we will be raising the minimum wage again, to \$10.25. This will increase the minimum wage by 50% since we came into government in 2003. We've restored all those years where it wasn't touched.

I think we've done a lot of restoration. We've shown those vulnerable workers, many of them our youth who do earn minimum wage, that we care, that we're there with them. But we also have to balance this, especially in these tough economic times, making sure that we do it in a very prudent way, in a responsible way.

Small business really drives our economy, and there are many small businesses that have maybe two or three or five people on the payroll. Their margins have really shrunk over time through no fault of theirs, much of it outside of anybody's control: The cost of oil going up means the cost of gasoline has gone up; there have been other pressures. We want to make sure that we continue to move forward in this very prudent and balanced way, fitting the minimum wage into other of our initiatives, other things that we want to make sure happen here in our province. One is addressing poverty, but doing it in a very comprehensive way. The minimum wage is a key piece to that, I say to the member, and it's something that we should all be very proud of, as I said here yesterday.

Mr. Lou Rinaldi: Thanks, Minister. Anecdotally, back to when I first came to this country, which was quite a while ago, in 1960, I was 13 years old, working Friday night, Saturday and Sunday at a local butcher shop for \$3. So we have come a long way.

How much time have we got here?

The Chair (Mr. Tim Hudak): Eleven minutes.

Mr. Lou Rinaldi: Oh, good. Minister, I just want to go back once again. I believe the opposition talked about the claims backlog under employment standards. It certainly is an issue. It's something that I know my constituency office gets some questions on. From time to time, we do get some folks inquiring, because frankly, in rural Ontario, our constituency offices become automatic government offices, and we're delighted to be able to serve the people. Whether it's for a driver's licence or for a birth certificate, we become the catch-all, which is actually quite interesting.

Minister, back in 2007, the ministry was given some \$3.6 million. This supposedly was to help the employment standards program better enforce the legislation and get rid of some of the claims backlog. Yet we hear that this backlog could actually be growing—I don't know that for sure—rather than shrinking. With that added investment, can you give us some explanation, you know, where that part of it is going?

Hon. Peter Fonseca: I thank the member for the opportunity to speak on an issue that is very important to thousands of workers across Ontario who have put in an employment standards claim. What we've done, I say to the member, is we've modernized our system. The modernizations to our system have helped our workers. Now, at any time of the day, 24/7, workers—those who have a claim to make about an employment standards issue—can do that online. That has really increased the number of claims a great deal for us.

I see that as a good thing because prior to that, when claims were down, my understanding was they probably were down because workers felt that they didn't have access—those who felt that they had a claim to put in—that the system was difficult to navigate, to manage. It could be due to many different barriers, be it having to get to a particular office, or it could be a language barrier or the like. So yes, we've modernized the system. There is a central intake office; it's in Sault Ste. Marie. We have added an additional \$3.6 million, and that has helped us also bring on 20 staff to address this major backlog.

I also wanted to clarify something. Yesterday I was talking about our ES officers, and I think the member for Parkdale–High Park had asked me a question. It was about something around 100 employment standards officers. I misunderstood the question as to did we have 100 or are we bringing in 100. I just want to bring a little clarification to that. We actually have 146 employment standards officers. We've put in this additional \$3.6 million, and that is year over year; the \$3.6 million will be there. I wanted to clarify that we never made a commitment, which I believe is what the member brought up, to an additional 100 employment standards officers.

But in terms of the claims, yes, we have seen a rise in terms of the numbers and the backlog. This will help address those numbers, in terms of the \$3.6 million. But I do want our ADM to take you through some of the historical perspective of how we got here.

Ms. Sophie Dennis: Thank you, Minister. I'm Sophie Dennis, the operations assistant deputy minister. I just want to tell a little bit of the story of where we're at today.

First of all, to start off, our staff are committed to getting as many files closed as quickly as possible and getting money in the hands of workers as quickly as possible. We've implemented several service improvements over the years, one of which the minister has already mentioned. We have partnered with Service-Ontario to enable workers across the province to have

access to filing claims in communities where the Ministry of Labour offices are not present. For example, the city of Stratford has a common counter, a government counter, where workers in that community can now go and file an employment standards claim. The Ministry of Labour does not have an office in Stratford, and workers would have been required to either drive to our London office or drive to our Kitchener office. So we've increased our availability to the communities from 25 centres to 63.

We've also enabled our clients, our workers, to file their claims not only at the counter, but to mail them in. As the minister indicated, they all go, whether they're from the counter or through the mail, to our centre in Sault Ste. Marie.

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At the same time, we were looking at trying to broaden our access even more, so we entered into an electronic claim form. It's an access now that workers can achieve whether they're using their computers at home, the public library, Internet cafés or the church hall. Anywhere that they have access to a computer, they're able to file an electronic claim. What that has done is allow workers, who normally would have walked away from a \$100 or \$250 claim because they would have had to take time off work to come to one of our offices during core government hours to file a claim with one of our officers—now they can do it virtually. They can do it at midnight or on weekends. If they have a problem understanding the claim and have someone working with them, whether it's their teenaged daughter or son or community support to help them fill out the claim, they can do it 24/7. What that has done is really given us a better perspective of what the compliance rate is out there with respect to the employment standards legislation. We have had a 20% increase in our claim volume.

Regardless of that, with the 20,000 claims we had last year, our staff were able to close 18,000. With our system of centralizing the claims out of our Sault Ste. Marie offices, we have realized real efficiencies and process improvements, to the point that 87% of the files that are sent to our Sault Ste. Marie centre are resolved without even having to issue an order, because we have dedicated staff—we mentioned the 20 additional staff out of the \$3.6 million funding—to resolve those claims as quickly as possible. We're able to achieve that because as the files come in, they are what we call fresh, which means the workers are still in Ontario, still available to us and perhaps the file came in and the employer really didn't understand they were supposed to do what they are supposed to do—pay people appropriately, vacation pay issues. Because it's new and fresh, we're able to get to the employer and the worker very quickly and bring about resolution. So 87% are resolved without having to issue an order, and 90% are resolved at this stage of our investigation.

Only those that are unable to be resolved at an early stage—what we call our early resolution process—go into an electronic case management system, which is

another service improvement for us, that basically allows us to move the workload across the province to any officer in any one of our offices, so that we can maximize the available time of our officers, again to expedite the investigation and get the money in the hands of workers sooner. Even though we've gone through the process of early resolution and it's still not resolved and goes to what we call our employment standards officer two, we're still working, trying to resolve it. We try what we call our decision-making meetings, which is a dispute forum where you bring the employer and the employee together to try to resolve it through mutual agreement, and where not possible, sometimes a site visit will occur to audit or investigate, or more phone calls are made. If that's not appropriate, then orders and decisions are made and forwarded for processing.

Again, even though we've implemented many service improvements, I believe that the volume of claims we have right now is because we're now getting to those workers who walked away, who couldn't afford to take the time away from work to file a claim. You're talking about people who are walking away from maybe \$250, but that \$250 is now accessible to them.

The Chair (Mr. Tim Hudak): You've got about a minute and a half left, Mr. Rinaldi.

Mr. Lou Rinaldi: That's probably not enough time to go to another question, but just briefly, Minister, I want to talk about the overall finances of the ministry. We've had some substantial increases within last year's budget, and I know that the additional workforce to deal with what we just heard probably accounts for some of that, but I'm sure it's more than that. We had increases of some \$9.3 million last year, over the previous year, and other budget increases of over \$9 million. I know it's going to take some time for you to explain that, but if you want to start on it now, then we will carry on.

Hon. Peter Fonseca: I just wanted to ask Sophie also to let the members know, for all those claims, how much money was able to get to those workers on a yearly basis, now that those claims are being expedited that much quicker. I believe it's around \$10 million. Is it \$10 million?

Ms. Sophie Dennis: Ten million dollars.

Hon. Peter Fonseca: About \$10 million a year that's going to those workers who would otherwise not have received it.

The Chair (Mr. Tim Hudak): Terrific. Thank you very much, Mr. Rinaldi. That will conclude that round.

The official opposition has 20 minutes for questions. Mr. Hillier.

Mr. Randy Hillier: Thank you very much, Minister, for being here once again.

Just to follow up on some of the questions of yesterday, there were a number of questions that were left unanswered, and you made a commitment to get those answers for us. I was wondering if you had those available yet.

Hon. Peter Fonseca: Well, I'll ask the ministry staff, but I do want to speak to the member about some of the

comments he made yesterday. I had time over the evening hours to think—

Mr. Randy Hillier: No, before we go into that, you don't have those answers from yesterday?

Hon. Peter Fonseca: They are still working on them.

Mr. Randy Hillier: Still working on them. Okay, thank you.

My first question, I guess, then, is—from reading through the briefing notes, it appears, if I have this correct, you have about 1,500 employees total in the Ministry of Labour, give or take.

Hon. Peter Fonseca: That's about correct, yes.

Mr. Randy Hillier: I was wondering if you could tell me—we've heard a lot of different terms: employment safety officers, job protection officers, construction safety officers, health officers. Can you tell me, out of that 1,500, in total how many employees like these job protection officers or employment standards and whichever other officers you may have in the Ministry of Labour have enforcement authority?

Hon. Peter Fonseca: The vast majority we've spoken quite a bit to, which are the 430 inspectors who go out and do occupational health and safety inspections. We were just talking about our employment standards officers. We have 146 of those, if the numbers are correct. If I don't have those numbers exactly correct, please correct those, Deputy or ADM. So those would be the main ones. I think there may be a few others who also have those powers. But I'll defer to the deputy minister, and she can tell you. So that is about 600 right there, right?

Ms. Virginia West: That would be the majority of the officers who have inspection or other statutory authority. In addition to that, we have six or eight job protection officers, and there are officers in the Pay Equity Commission as well who would have statutory authority.

Mr. Randy Hillier: How many would you have in pay equity?

Ms. Virginia West: There's a staff of about 30, but I would say maybe about 18 or 20.

Mr. Randy Hillier: So somewhere around 600 employees, give or take, have authority for compliance and fines.

Hon. Peter Fonseca: Approximately 600.

Mr. Randy Hillier: Okay. One of the questions—I had my terminology incorrect yesterday. I was talking about part I fines. The one that I was referring to really is part III fines. Those are the fines that are greater than \$50,000. Going through the briefing, those fines don't show up anywhere. I'm just wondering where those monies that the courts award go.

Ms. Virginia West: As the member knows, we gave an undertaking to get the specific information on the amounts of fines. But the money does go to the municipalities—

Mr. Randy Hillier: Even the part—

Ms. Virginia West: Part III; part I goes under the Provincial Offences Act or the agreement with municipalities, so it does go to the municipality in which the

prosecution is held, unless the defendant is a municipality itself, and then they don't get the revenue.

Mr. Randy Hillier: I'd be interested to see where it goes then.

Can you tell me, because I was going through these numbers, what is the total amount in the last fiscal year of part III fines? What is the aggregate amount levied or awarded?

Hon. Peter Fonseca: As the deputy was just saying, we have committed to getting those numbers for you.

Mr. Randy Hillier: I just wanted to make sure; they're the part III numbers as well that we're looking to get.

Ms. Virginia West: We can get you all the information with respect to tickets, part Is and part IIIs. I think you were asking for historical information as well, or perhaps Mr. Bailey was.

Mr. Randy Hillier: On these job protection officers who are really enforcing the MTCU legislation, does the Ministry of Labour get reimbursed or is there a memorandum of understanding for financial contributions to the Ministry of Labour for enforcing the TQAA—

Ms. Virginia West: No, we don't get reimbursed by Training, Colleges and Universities. Obviously, the costs of that are within the budget of the Ministry of Labour.

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Mr. Randy Hillier: Okay, so you absorb that cost from that ministry.

Ms. Virginia West: Within our budget; that's right.

Mr. Randy Hillier: That's not very typical, is it?

Ms. Virginia West: There are some other ministries that do enforcement work for other ministries. I think the Ministry of Natural Resources does investigation work for—

Mr. Randy Hillier: OMAFRA.

Ms. Virginia West: —the Ministry of Agriculture and Food. So there are other situations where there's a sharing of resources.

Mr. Randy Hillier: Okay. I see there has been quite an increase in both the total field visits by health and safety inspectors and orders issued. In 2004, 53,000 field visits; for this year, actuals up to February 29, 96,000. That's quite a significant increase. Also, the total number of orders issued has increased from 90,000 to approximately 170,000. These are now supposed to be more targeted to those—I'm not sure of the right word, but employers that the Ministry of Labour is somewhat wary or leery of, I guess I might say. It seems to me that nearly 100,000 visits in a year—are there that many employers that the Ministry of Labour views as underperforming? This is just the occupational health and safety.

Hon. Peter Fonseca: I spoke to some of the broad numbers yesterday in my statement and also to some of the questions. But what I understand is that the member is looking for some more detailed information, and that's why I've asked Susanna Zagar to—sorry, Sophie Dennis to be with us; that's Susanna Zagar on the other side. So Sophie will help you out. She has the detailed info here for you.

Mr. Randy Hillier: Maybe I'll go on. We can see the cost to your ministry in enforcing the Occupational Health and Safety Act and various other acts. Does the ministry track lost time and lost productivity due to these 100,000 visits? Do you track how much time in employee productivity is taken away or downtime for the employers to travel around with your inspectors or do whatever? Do you track? If you do track, how much lost time and lost productivity is the result of your inspections?

Hon. Peter Fonseca: I'd say to the member, first off, that the mandate of the ministry and our primary focus is to make sure that we have fair, healthy and safe workplaces. We do that by having inspectors who go in and work with the employers to make sure that they know what is necessary on-site for the Occupational Health and Safety Act requirements.

We are working towards reducing the number of injuries in the workplace. I know the member wants to talk about productivity and the numbers and the effect on business and our economy. But what I can tell the member is that with 54,000 fewer workplace injuries, there has been a savings of \$5 billion for those employers, and there has also been the reduction in pain and suffering that would have happened if we'd had those injuries.

Mr. Randy Hillier: Okay, but the question is—

Hon. Peter Fonseca: That's the role of the ministry, what the ministry is here to do: We're here to enforce—

Mr. Randy Hillier: I understand that. I've read the document, and I understand that. I've seen the figures. What I'm trying to flesh out here is: Does the ministry look at all the consequences and all the costs, or is it just a very narrow view that has been demonstrated here in these documents? Do you track lost-time productivity, downtime by your enforcement people?

Hon. Peter Fonseca: I'll ask the deputy minister to answer that.

Ms. Virginia West: Maybe I can try to respond to that and invite Sophie Dennis as well if you want further detail. Certainly, we understand the need to balance our responsibilities for enforcement and ensuring compliance with respect to the broader issue as well of businesses' productivity and the cost to business of compliance, themselves—but also having to engage with our inspectors. We do understand that that activity, in and of itself, does cause a cost to business, but obviously our primary interest, particularly on the health and safety front, is ensuring that those businesses understand what their responsibilities are, have good internal responsibility systems in place to respond to those, and conduct their practices safely as well. As the minister mentioned, the value to them in ensuring that they have good health and safety practices has a bottom-line dollar value as well.

Mr. Randy Hillier: Sure.

Ms. Virginia West: But we understand that the interaction has a cost to them, too. That's why also, on the small business front, we understand that small businesses have a lesser capacity both to understand what their re-

sponsibilities are but also to bear the cost of that interaction, so we're looking for other tools to assist them.

Better information—I mentioned the compliance information centre yesterday. That's an electronic presentation of responsibilities with different tools to assist them, again, in understanding the compliance responsibilities and being able to respond to them, and therefore avoid being on a high-risk list and inviting four inspections a year.

I don't know if you want Sophie to talk about how the inspectors individually or particularly are trained and expected to—

Mr. Randy Hillier: No, I've seen the inspectors directly, face to face. What I was looking for is if the Ministry of Labour is looking at the whole picture. Clearly, if we're not collecting data of the consequences, not only the positive consequences but also the negative consequences, then we're getting an incomplete picture of just how much value the Ministry of Labour is providing to the people of Ontario and the employers and employees in Ontario. We all know that it is a very competitive marketplace out there; it's a global marketplace. We have to be competitive everywhere, and I'm hoping that the role of government is to assist our businesses being competitive, not to become an obstacle to it.

There's another program; I'm not sure if it's under your purview or not, but it's another one that has come up in my riding significantly. It was referred to as the Workwell program. I'm not sure if it's Ministry of Labour people doing that. I'll give you one example: One employer had to take a year to prepare for the audit, and then his operation was shut down for a week. Is that under your ministry officers?

Hon. Peter Fonseca: I'd say to the member, and I thank him for the question, I understand the program is run by one of our agencies, the Workplace Safety and Insurance Board. Sophie's got some information for the member on that Workwell program.

Ms. Sophie Dennis: The Workwell program is an administrative audit by the WSIB. We don't administer the Workwell program; it is strictly under the Workers' Compensation Board.

But I did want to talk to you a little bit about sensitivity to business and having a balanced approach in terms of our compliance strategy, because we are about compliance with the legislation. Of course, as you know, the legislation is the minimum standard. All we're really asking employers to do is comply with the minimum standard. Our four-year strategy, which was deemed to be the high-risk strategy, was looking at those we considered to have the highest injury rates in their sector, with a weighted average over a three-year period—so companies that had a bad record with respect to lost-time injury. We were focusing on those ones first.

What our Safe at Work strategy does now is allow a broader dialogue—not only the data, which is what you would call the lagging indicators; it's just dealing with injuries that have already occurred—having more of a

dialogue with respect to, what are the hazards in their workplace? For those companies that, because of the nature of their business, have high hazards, they're having high injury rates and they're not managing them effectively and we're getting a lot of complaints—businesses can expect to see us. For those organizations that are managing their injury rates to the numbers that are appropriate, that are dealing with the hazards in their workplace, the difference in program between our Safe at Work strategy and a high risk will enable an officer not to visit those workplaces as often, which should not be a burden.

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Mr. Randy Hillier: I understand the safety side of things. As somebody who has worked in construction, I understand safety. I understand that safety begins at home and in your own workboots. That's where it starts, and that's where it really ends.

I talked earlier about tracking the cost to businesses, and the Ministry of Labour is not doing that. I'm wondering how many businesses have been forced to close in Ontario because of issues with the Ministry of Labour—enforcement, fines, whatever it may be—where your fees or costs have been a significant or contributing factor to the closure of that business. I guess we might see that in unpaid fines, people who go bankrupt while there are still outstanding fines. Can you give me any idea of the numbers of those businesses?

Hon. Peter Fonseca: I'd like to speak to this a little bit with the member, because I think his colleague has brought up a question in the House and he has made some statements about our inspectors. One thing I'm going to say to the member today, and I'll say it in the future, is that I will not apologize for the good work that our inspectors do. They ensure safety for all those workers in the workplace. I'm not going to stand in this House and start to lower standards, if that's what the member is asking for.

Mr. Randy Hillier: I'm asking you how many businesses have been closed due to actions by the Ministry of Labour.

Hon. Peter Fonseca: The member has to understand that we take a balanced approach. But we do work with businesses, and we do have to make sure that those businesses are compliant.

Mr. Randy Hillier: I would like to understand what the balance is. We need to know what the number is on the other side so that we can understand what the balance is.

Hon. Peter Fonseca: The reason I say this is that the theme of the member's questioning is one that's going toward getting rid of standards, saying that we shouldn't be sending in our inspectors.

Mr. Randy Hillier: Let's not put any words in my mouth. I've never suggested that we reduce standards. I want to know what the cost and the consequences are. How many businesses have been closed due to the actions of the Ministry of Labour, and with those numbers of businesses, how many employees are out of work?

Hon. Peter Fonseca: What I can give the member is the cost of one lost-time injured employee, and that's about \$100,000.

Mr. Randy Hillier: That's not the question that was asked. How many businesses have been closed due to the actions of the Ministry of Labour, or where your actions have contributed to the closure?

Hon. Peter Fonseca: As I said to the member, we make sure that businesses are compliant. We make sure that businesses are safe, healthy places to work and that there is fairness. We do work with employers. We work with our partners, we work with labour, employees and employers, to build a healthier, safer, stronger Ontario. The member, I feel, is not on side with that, although I will say to the member that when he talked about health and safety starting at home, be it whatever workplace you're going into, the member is correct.

What we are trying to do in this ministry and in this government is to make a mindset shift. We want to make sure that health and safety is part of the culture of a workplace.

Mr. Randy Hillier: I'm trying to understand if all our employees will be at home because there won't be any work for them. I'm trying to understand fully the role and responsibility of the Ministry of Labour, here, before this committee. We need to understand what the total cost is of your Ministry of Labour and we need to have facts. We need to have information in order for us to fully understand how much value we're getting. Right now, we're getting half a story; we're not getting the complete story, and I would like to get the full story.

Hon. Peter Fonseca: I've explained to the member—

The Chair (Mr. Tim Hudak): That wasn't a question. I think it was more of a statement by the member.

Mr. Randy Hillier: No, it was not a statement. It was a question. I want to understand the full cost of the Ministry of Labour.

The Chair (Mr. Tim Hudak): In the interests of time, we will have to come back, Mr. Hillier. Your time has expired. You can bring that up in the next round.

Mr. Miller, 20 minutes for the third party.

Mr. Paul Miller: Once again, welcome, ministry personnel and our new minister. You'll have to bear with me, I've got a bit of a nagging cough here. Thank you for the Halls; that helped.

The bottom line here is that yesterday I sat in the morning session and, to be frank, Minister, I was extremely disappointed. I didn't get a lot of answers. In fact, I didn't get any to my questions, and I did not get any kind of response from your staff that they would get back to me with answers to my questions, and there was no time given for the responses from the ministry. So I'll move on again and hopefully today I'll get a little more co-operation as far as questions go. If you can't answer them, Minister, I will be happy to defer them to your staff. Maybe they can answer me, if you run across something you're not familiar with, and that could happen because you are new.

I left off with deeming, which is a very important aspect of the WSIB and the way they handle things. I got absolutely nowhere with that, so I'm going to move on to a report which came out a year and a half ago on the SARS commission. It's now more than a year and a half since the late Justice Archie Campbell released the final report of the SARS commission. According to Justice Campbell in his report, "The tragedy of SARS, the stories of unbearable loss and systematic failure, give the public every reason to keep the government's feet to the fire in order to complete the initiatives already undertaken to make us safer from infectious disease ... If we do not learn from this and other lessons of SARS, and if we do not make present governments fix the problems that remain, we will leave a bitter legacy for those who died, those who fell ill and those who suffered so much."

The reason for my line of thinking on this is that a number of recommendations are directed to your ministry from Justice Campbell. The very first recommendation as it relates to your ministry is to include the precautionary principle in the Occupational Health and Safety Act operational standards and directions. He also called for it to be the guiding principle in the development of worker safety procedures, guidelines, processes and systems.

Will you, Minister, amend the Occupational Health and Safety Act to include the precautionary principle and make the precautionary principle the guiding principle for the ministry as envisioned by Justice Campbell?

Hon. Peter Fonseca: I'd like to thank the member for the question. I want to thank the commission for the report that it brought forward. We have carefully reviewed that report and addressed the report's recommendations on improving worker health and safety and emergency management, and I'll let the member know where we are now.

We've hired these additional 200 health and safety inspectors, nearly doubling the ministry's capacity since then. For the first time, seven health and safety inspectors are now dedicated just to the health care sector. All 233 Ministry of Labour industrial sector inspectors and hygienists have been trained on infection prevention and control measures and procedures to protect our health care workers.

Our government has also stepped up inspections of all health care facilities identified as having higher than average lost-time workplace injuries, higher than average WSIB claims costs for their sector, known hazards inherent to health care work, those with new or vulnerable workers and those with a history of non-compliance. Our plan also includes additional inspections of selected hospitals, long-term-care homes and community care facilities. This is how we've been moving forward, I say to the member—

Mr. Paul Miller: Thank you. That's an excellent response, Minister, but I think I'm looking for this: Will your ministry prepare a written report on the progress of implementation of the recommendations to the Ministry of Labour from the SARS commission report? We're not going to talk about industrial inspectors. We're talking

about the SARS commission report. We're talking about the health inspectors. Will your ministry be providing new funding to implement the recommendations directed at your ministry, including increasing the number of occupational health physicians across this province? Also I might add, when you quoted your numbers, Minister, that it has come to my attention that you are down 30 inspectors; there are 30 positions available for inspectors that haven't been filled. Maybe you could get back to me on that too.

These are health-related inspectors. We're not talking about industry; we're not talking about food inspection. We're talking about health. Are you going to put out a written report? It has been a year and a half since this report went in from the SARS commission.

Hon. Peter Fonseca: I say to the member that I'm quite satisfied with how I answered his question, and I'd like to move on.

Mr. Paul Miller: Okay. I guess that's your perspective, not mine. Anyway, we'll move on.

Reprisals: Young and vulnerable workers need to know that they will be protected when they raise health and safety concerns with their employers. Your ministry refuses to allow inspectors to enforce section 50 of the act, which prohibits reprisals against workers for exercising their health and safety rights. In fact, your ministry has never prosecuted an employer for violating that provision of this act—not one, and there have been thousands of violations of section 50.

When will your ministry begin to exercise its authority and assure young and vulnerable workers in our province that ministry inspectors will be able to protect them if their employer carries out a reprisal? What I want to do, Minister, is give you three examples of reprisals that have happened lately, which fall under section 50, which your ministry and the WSIB oversee.

Example one: This worker was let go following a refusal to climb a 300-foot tower in extreme rain and wind conditions with insufficient PPE provided; no rescue policy in place, no health and safety rep available, no stage one investigation done. It says, "An inspector may also contact this caller."

This has come right out of your own information. Not only did they not enforce the law of the province; these guys were fired because they wanted a health and safety inspector. It was a 300-foot tower, rain and wind, and they got no response from the ministry.

Example two: A young worker was working with an electric weed trimmer on nursery grounds. He requested hearing protection, as the noise was becoming too uncomfortable. He had been working with the same equipment, sometimes doing a full day's work without any earplugs, and didn't want this to continue. The decibel level was unbearable. He was starting to lose his hearing. The caller states, "He was terminated immediately for having asked this question about earplugs. There was a box of earplugs at the beginning of the season. However, the supply had gone, dried up halfway through the season. The worker has been employed with the company

for approximately two and a half months and states he has no history of conflict with the employer. There are no further details at this time. Worker was also advised of OLRB contact information." This unfortunate individual was fired for asking for earplugs. That would fall under section 50.

These are young, vulnerable workers; we're not talking major plants with unions and health and safety reps, and this is throughout our province and happens on a daily basis.

My third example: At 11:31 a.m. a caller reported that a retail store she works for is undergoing construction. The entire store was being renovated, and there were ladders, glass, wood, power tools, drywall and X-ACTO knives for the construction company all over the place as well as store stock strewn all over the floor. The company remained open for business and the caller felt it might be unsafe for her and the customers. The caller was advised of her right to put in a complaint and/or do a work refusal. The caller chose not to put in a complaint. At 12:50 p.m. the caller called back to report that she chose to try to resolve it with the company and contacted the owner of the store. According to the caller, she explained her concerns and notified the owner of her right to refuse to work under the guidelines of the province. The owner's response was, "You know what? You're fired." The caller was referred to ES and OLRB. This is another information that has been given to me.

This is just one of hundreds of cases that I can state. There is no protection for vulnerable young workers in this province who don't know their rights because of a lack of information from the ministry, lack of telling them and letting these kids who are coming out of high school know their rights. I, personally, have seen teenagers killed on the job because they hadn't been informed about the dangers on the job. It happens all the time in this province. This ministry is not moving in the right direction. What is your explanation for that?

The Chair (Mr. Tim Hudak): I'd ask the member, do you want to address the individual cases or do you want more of a general—

Mr. Paul Miller: As a whole—it doesn't matter. You don't have to pick individual cases.

Hon. Peter Fonseca: As the member knows, I can't speak to any individual cases. The member does bring up the fear of reprisal or that some of these workers are feeling that they are being treated unjustly. What they can do is, they would be able to call the Ministry of Labour. An inspector would go out. They would look at the case and refer it, I believe, Deputy Minister, to the OLRB, the Ontario Labour Relations Board?

Ms. Virginia West: They would advise the individual with the complaint.

Hon. Peter Fonseca: Going a little bit more in depth with—as I said, we can't speak to any individual cases—how the process would work, or the safety measures that are in place and the checks and balances, I'm going to ask Sophie to speak to that.

Mr. Paul Miller: Before Sophie answers, I want to say one thing. You have a section of your directive—

number 50. I'd like to reiterate: Not one person in this province has been charged under that section for abusing workers and firing them—not one person, hundreds of cases. Why?

The Chair (Mr. Tim Hudak): You want—

Mr. Paul Miller: I want an answer.

The Chair (Mr. Tim Hudak): —the deputy minister to respond to the first—

Mr. Paul Miller: I don't care who answers. Why, in all these years, not one?

Hon. Peter Fonseca: I'd ask the assistant deputy minister to respond in full, first, to some of the—and the member should bring, if the member has any cases that are taking place in his riding, and I know he brought one about a boat or something?

Interjection.

Hon. Peter Fonseca: You brought one about a boat yesterday—

Mr. Paul Miller: No, that wasn't a case, Minister; you're misinformed. That was about people who were given incentives to not report accidents. That's a little different.

Hon. Peter Fonseca: What I ask the member to do is, he should call the Ministry of Labour when he has evidence about anything like that, like what we were talking about yesterday—

Mr. Paul Miller: I'm not an inspector and I'm not a sheriff. It's the ministry's job to inform these young workers of their rights throughout this province before they get killed or injured on a job, or they're fired or disciplined for asking to protect themselves. That's not my job.

The Chair (Mr. Tim Hudak): Can I interrupt? There are three different items on the floor, so I'm going to ask the assistant deputy minister to respond to Mr. Miller's first point about the situation around the three workers he identified. Then, I think Mr. Miller has a question with respect to section 50, if I followed correctly—

Mr. Paul Miller: I asked that initially, but it fell on deaf ears.

The Chair (Mr. Tim Hudak): Okay.

Ms. Sophie Dennis: Let me address the three—I can't address the specifics, but I'd be willing to meet afterwards. If you would like to give me that information, I could certainly look into them. But I think what you've identified are really systemic issues in those workplaces. Typically, what we say to workers and workplaces—particularly workers—where you've identified workers who are working without proper personal protective equipment, it probably isn't just that worker; it probably is systemic to all the workers who are employed by that employer.

We do have call centres and we have people available to take their complaints. Officers will go into those workplaces and address those systemic issues, because if it's happening to one worker, it's happening to all the workers, no doubt. So where workers are not given or afforded the proper personal protective equipment, we will enforce that.

Your point about educating young workers—absolutely. At every intervention, our officers talk about vulnerable workers—young workers, new workers are vulnerable workers. We have a website that's available for workers to have access, to get information and education. We've recently—it's a first for us in operations division—actually populated our external website with our sector strategies, and the focus gives all the workplaces information about their rights and responsibilities.

Mr. Paul Miller: Could I jump in?

Ms. Sophie Dennis: Yes.

Mr. Paul Miller: Thank you for your informed answer but, unfortunately, it didn't quite touch on what I was looking for. What I'm looking for is that section 50 of your ministry has not been enforced. You say that you go into these places and deal with these complaints. Not one employer has been fined or punished under section 50 for dismissing people, firing them for asking for safety equipment. You may go in and inspect, but it says right here that your ministry refuses to allow the inspectors to enforce section 50. I can't think of one case in this province where section 50 has been enforced. What section 50 does is it either fines or disciplines the employer for firing people for asking to be protected or needing safety equipment—not one in this province. I can't imagine, as you've mentioned, thank you very much—you mentioned that you have seen these cases before and complaints have come in. It's widespread throughout our province. But if you don't enforce section 50, then these employers don't take this ministry seriously.

1700

Mr. Lou Rinaldi: On a point of order, Mr. Chair: I appreciate the direction of the member opposite's question, but I think we're talking about estimates here. I think ministry staff, in all fairness, have been desperately trying to answer some of those questions to the best of their knowledge. They have offered to get information, and he keeps on harping on the same thing.

Mr. Paul Miller: No, with all due respect, point of order, Mr. Chair: Thank you for Mr. Rinaldi's comment, but with all due respect to him, this is all about money that goes to the ministry to enforce their rules, to keep employers in line. Safety and health is a very important issue, you would agree. For you to say that I'm badgering them about safety and health—that's what this ministry is supposed to enforce, Mr. Rinaldi.

The Chair (Mr. Tim Hudak): Mr. Miller, I think we're getting away from the purpose of estimates again. This is a time for members to direct their questions about the estimates that are reported—

Mr. Paul Miller: Okay, section 50: Part of their—

The Chair (Mr. Tim Hudak): Different members will have different ways of approaching their question. So, Mr. Miller, why don't you go ahead with your next question.

Mr. Paul Miller: Section 50—

Ms. Sophie Dennis: Okay, I'll answer that question. In section 50, we refer workers to the OLRB because of

the remedies of the OLRB and the powers that the OLRB has. Not only do they have powers for reinstatement, which we do not have, but they also have an ability to tag penalties, dollar fines, to those workplaces. We cannot fine workplaces, and we cannot reinstate workers as a result of their being fired. So the maximum protections in terms of their options for further employment with that employer or to get remedies from that employer—the best avenue is through the OLRB. We will prosecute employers that do not provide protective equipment where it's appropriate or that are in violation of the minimum standards. We do that on a regular basis.

Mr. Paul Miller: Could you give me a list of the people and employers you've prosecuted under section 50? I would be very interested to see how many people you've actually fined. Could you provide me with that?

Ms. Sophie Dennis: Again, we refer the enforcement activity under that section. We do not enforce section 50. We refer those complaints to the OLRB.

Mr. Paul Miller: Well, maybe we need a restructuring of the OLRB, because I find that—anyway, moving on. How much time have I got?

The Chair (Mr. Tim Hudak): About three minutes.

Mr. Paul Miller: Well, gee, I probably need about two more days, but okay. Health and safety performance measures: The Toronto Star has revealed extensive reports of serious injuries being reported as no-lost-time injuries. Your ministry is also bragging that it has reduced the lost-time injuries by more than 20%. Given the evidence of the misreporting of injuries, how can you say that these statistics are an honest reflection of the true injury rate in our province? Will your ministry develop stronger measures for health and safety? What are you going to do to ensure employers report injuries properly and in efficient time?

Hon. Peter Fonseca: What I can tell the member is that our inspectors have been out on the field. They've been doing an excellent job. They've been going into workplaces, they've been taking a proactive approach. They've been targeting; in our first phase we did target businesses that were high-risk, where there had been injuries or fatalities. We made sure that inspectors did get in there. We also went into particular sectors. We have seen a reduction in our workplace injuries and we will continue to. I believe that every inspector who gets up every day in the morning goes to work to make sure that they can build the healthiest and safest province possible. We have a lot more work to do in the workplace, but I say to Mr. Miller that I was looking at some of the stats. Back in 2006, we had 261,000 workplace injuries. I thought, "Well, how much is that a day?" That's 715 injuries a day. Over the time we're going to be here, that's one every two minutes. We're going to be here for two hours; there are going to be 60 workplace injuries in the time that we're here for this meeting.

Mr. Paul Miller: Thanks, Mr. Chair. I've got one quick question. Incentives and bonuses: Do officials at the ministry and at WSIB receive bonuses when lost-time-injury statistics are reduced? What positions are eligible for these incentive bonuses and agreements?

How much money could a deputy minister, assistant deputy minister and a director of the ministry each receive under the incentive bonus plan? At the WSIB, how much could a president, CEO, chiefs, vice-president and directors each receive under the incentive bonus plan? How much money did the ministry and the WSIB each pay out in total for bonuses last year?

Hon. Peter Fonseca: I thank the member for the question. I don't have the details in terms of the remuneration that takes place with Ministry of Labour staff—

Mr. Paul Miller: Does it happen?

Hon. Peter Fonseca: I will have more of that detail. The deputy minister or one of our other staff here may be able to share that information with the member. When it comes to our arm's-length agency, the WSIB, I would think that most of that information is public record in terms of the chair and the board.

Mr. Paul Miller: So, Minister, just one quick question: Are there bonuses given out?

The Chair (Mr. Tim Hudak): No, we're out of time. If there's a quick answer from the deputy, otherwise we'll have to—

Mr. Paul Miller: Bonuses, yes or no?

Ms. Virginia West: No bonuses with respect to specifically LTIs or reduction in—

Mr. Paul Miller: What are the bonuses for?

Ms. Virginia West: Performance—

Mr. Paul Miller: Performance bonus.

The Chair (Mr. Tim Hudak): Mr. Miller, let the deputy respond, please.

Ms. Virginia West: With the Ontario public service, there's a very set program under performance planning, in which the secretary of cabinet, through cabinet approval, is able to award members of the senior management group with performance pay. It's based upon adherence or response and success against performance criteria put out each year, none of which would have been as specific as incentive—

The Chair (Mr. Tim Hudak): Thank you. I've got to end that segment. We've gone over. Mr. Miller did have a detailed question. There were a number of parts to the question. Let's make sure, through research, that we did get all of the items of your question.

Mr. Paul Miller: Mr. Chair, my last comment, I'd like a breakdown of bonuses and who they went to and what they're for.

The Chair (Mr. Tim Hudak): Sorry, no. Our time is up. You did ask a detailed question, and we'll make sure, between the deputy and research, that all aspects of your question are noted through Hansard.

We'll go to the government members. Just as a reminder—Mr. Rinaldi did bring this up earlier on about the vote. It will be a 10-minute bell when the bell rings. Whatever question is on the floor, we'll end that question and then the committee will adjourn for the day when the bell begins to ring for the vote, and members will have plenty of time to vote in the Legislature.

Government members, you have 20 minutes. Mr. Delaney.

Mr. Lou Rinaldi: Mr. Chair, just to clarify, when we go to vote, do we come back afterwards?

The Chair (Mr. Tim Hudak): No. Sorry. Thanks for making sure I was clear. We won't come back. I think by the time we get back, we'll only have five minutes.

Mr. Bob Delaney: My questions for the minister and the staff have to do, I guess, less with something that's quantifiable; it's more of a qualitative question and a direction in which you may be going. Much of the work that the ministry engages in with its clients and those it inspects and regulates has to do with such things as inspections, complaints, compliance, claims and whatnot. In the course of doing that, a lot of the processes are quasi-judicial. In other spheres, whether it be in the body of common law itself or in other quasi-judicial bodies and processes, one of the directions that we've seen in recent years is to move towards more mediation and less of a process that's an adversarial process. I know in some of my own experience, going back over the last however many years in observing this from both sides, many times a quasi-judicial process in addition to being adversarial can also be, for both parties, very stressful. It certainly is time-consuming. The confrontational aspect sometimes prevents useful information from being put on the table, where both parties may benefit from it. It's costly if you have to come in and you're represented by legal counsel; you may get all ready and come in and then someone will make a motion or do something based on the rules of procedure of that particular body and there you are all ready to go but then nothing happens that day and you've got to get everybody together and then go back another day and so on and so forth.

I would like to open up this round by asking you an open-ended question. Whether it be the minister, the staff, or a combination of you, could you tell me what line of thinking the ministry has followed in the last little while and what general direction you are headed toward using means of alternate dispute resolution?

1710

Hon. Peter Fonseca: I thank the member for the question. We have a really good track record. We now have the best labour relations that we have had in the last 30 years. Last year, I believe 97% of all negotiations resulted in settlements with no work stoppages, with no strikes. Much of that was due, in part, to the Ministry of Labour assisting with our mediators. We have, as I have learned to know, some of the best in the country, and they are called upon often to come in, make sure that they can work with all parties, bring them to the table, resolve any issues that need to be resolved, and set a collective agreement. I think that bodes well for everybody in Ontario, for our economy, to make sure that we keep business going, make sure that we have the services we all hold near and dear, be it in education, in public service, health care, making sure that our public transit continues to move. It is something that I know the ministry—it was one of the first things they talked to me about—holds in very high esteem, the level of excellence and competence that our 30, I believe it is—Susanna? Yes?

Susanna is going to speak a little bit to this just to give the members some more information. It is very satisfying to know that we have such hard-working people. I say this about our mediators, but I also say this about the entire ministry staff. I was talking to some staff today; they have to work, a lot of times, at odd hours, different hours. They work through the night. You hear about negotiations taking place over a whole 24-hour period where there may not be any sleep and people are running on caffeine. They are able to make sure that they keep those lines of communication open, keep people at the table, make everybody understand how important it is to keep talking and to make sure that a collective agreement gets done.

I'm going to allow Susanna to share her words of wisdom with the member.

Ms. Susanna Zagar: And sleepless nights.

Dispute resolution services is a program in the Ministry of Labour that reports through my division. If I understood the member's question correctly, he was asking not about the Labour Relations Act mediation and conciliation services, but rather about services that we offer beyond those in relation to a current collective agreement dispute. Is that correct? Okay.

There are a number of programs that are offered at the Ministry of Labour outside of the Labour Relations Act. In addition to providing traditional conciliation and mediation, in 2002 the Ministry of Labour began providing and delivering programs aimed at helping unions and employers to deliver their collective bargaining and dispute resolution skills, and to build more productive and stable labour relations in the province. The program that we have is named Interactive Solutions, and it offers unionized workplaces training and workshops in the following key areas: establishing effective union-management committees; interest-based bargaining; improving union-management interactions; dispute resolution; and repairing, restoring and improving union-management relationships. Mediators in my program, in the dispute resolution services section at the Ministry of Labour, have been trained in Interactive Solutions. Some of you may know some of these programs as Getting to Yes or the Harvard model of dispute resolution.

Interactive Solutions in the Ministry of Labour operates on a cost-recovery basis; that is, the parties come to us looking for services—we require that it is both management and union agreeing to come to us and requesting the services—and in most cases the union and management split the complete cost of those services that we bill to them.

In terms of our actual Interactive Solutions programs, there are six programs.

Effective labour-management committees: This program is for unions and employers interested in establishing labour-management committees or in enhancing the effectiveness of existing committees. Our mediators work with the participants to identify the essential features and processes of an effective labour-management committee so that they have the structure in place once we leave that they can use to resolve minor and

major issues that arise either in the context of collective bargaining or outside of that, as you would have in any workplace.

We have a relationship-building program, and this program is for unions and employers interested in repairing, restoring or improving relationships. In that context, you may have had a protracted strike or a labour disruption of some sort. You may have had other issues in the workplace: downsizing, those sorts of things. We would come in there and try to improve the situation for the parties. Mediators facilitate an intensive examination and analysis of the labour-management relationship. Participants jointly identify and analyze the problems hampering the relationships. They explore options, create solutions and establish their own action plan. They work together to develop plans and action strategies that they've come to agree to together, as opposed to management imposing a system, organized labour imposing a system, or the mediator or the province in any way imposing a system. It's completely derived from the work that the parties do at the table. They're able to do that because our mediators are trained facilitators and help the participants work through the problems they have.

We also deliver interest-based bargaining. This again is a program for unions and employers interested in exploring alternatives to the positional bargaining, where one side is saying, "I want this" and the other side is saying, "There's no way you're getting that." This really is a way of peeling back what the core interests are and working towards getting a solution that neither may have come to on their own, had they not gone through the process itself.

Joint union-management training: This is a program for unions and employers interested in improving the interaction between union stewards and front-line supervisors. We're finding this to be a very effective program. In a lot of situations, employers, front-line supervisors and union stewards find themselves new in jobs, just like we have a minister new in his job. You learn from the people you're working with, and you also need the supports, structures and services offered by others to give you insight that you might not have as you come into your new position. We find that quite an effective program.

Finally, we deliver customized dispute resolution workshops. These programs are customized specifically for the needs of local, provincial or even national employers and unions. Components may include conflict resolution, communicating for understanding, consensus-based decision-making and other innovative approaches.

Since the six programs were brought to the province, we've delivered a number of those. We just delivered seven programs in 2005-06; 21 programs were delivered in 2006-07; and a full 12 programs were delivered last year, 2007-08. This year, we're also looking at expanding that, and we've had interest from other jurisdictions across the country and into the United States because the programs are seen as so innovative. Because the Ministry of Labour mediators are seen as being

neutral—many jurisdictions don't have neutral mediators, so they become employer-side or union-side mediators. Because our mediators are salaried employees of the Ministry of Labour, they're neutral; they don't have an interest, per se, in the outcome. They would like to get a deal, they're going to do everything they can to get a deal in a collective bargaining context, but it's those same skills they're using in the delivery of these fee-for-service programs. We find them very effective, and we're actually helping other jurisdictions implement their own similar services.

Mr. Bob Delaney: Thank you. That's actually more extensive than I thought you were doing. Could you comment for a few minutes on some of the differences that you've experienced and that people have related to you in this type of alternate dispute resolution versus a more traditional adversarial approach? For example, to what degree the participants have expressed the feeling that the outcome has been qualitatively different, either better or worse; whatever you may know about the difference in the time required to arrive at the agreed-upon settlement; what the general reaction of the participants has been in cases where you've used your alternate dispute resolution.

Ms. Susanna Zagar: When we use alternative dispute resolution, as I mentioned, it's by the agreement of both sides. So you'd come to it with people on the employer and labour side who are open to new ways and different ways of doing business. So that is a fundamental difference to start with, right away.

Often, you'll have one side or the other not wanting to use this new approach, in terms of the training and the skill set that's required to do it. They're much more comfortable, many parties, with traditional bargaining and the way that people have done it for hundreds of years. So this is something that really does take a new way of looking at things.

1720

Our experience is that while the process may seem more intense upfront—because there are a number of layers to the training, and you really do have to get into a room and be prepared to set aside the preconceptions or apprehensions you may have of the people who are sitting across the table from you, or who have been sitting across the table from you for years. We find that the parties do that. They invest the time and effort upfront. Once they have that basis and that relationship of trust in a collective bargaining process, in terms of the expiry of a collective agreement and the need to get to a new collective agreement—having been through this process before you get to the point of a strike or a lockout actually prepares you more effectively to come to a collective agreement. Of course, every situation is different. Every round of bargaining, every set of issues, is completely different. But we do find, on the whole, that we have what we call repeat customers, people we've dealt with on the employer or labour side—they leave the positions they're in; they end up in other industries, other sectors, with other employers; they might

be working for a different bargaining agent—who come back to us and ask to use us again. So we see the return visits from them, and because the program is growing, we also would deem it to be a success. People wouldn't come and pay us money for something they didn't think was useful and helpful to them. They'd go elsewhere, to the private sector or other resources, or they just wouldn't use the service at all.

Mr. Bob Delaney: Other than in contract negotiations, have you been able to use this particular set of skills and expertise in areas such as compliance or other issues within the ministry?

Ms. Susanna Zagar: We have been using the services in a variety of ways. One of the things that we did, as a result of the SARS commission, was to set up a section 21 committee under the Occupational Health and Safety Act. A section 21 committee is an employer-labour committee that works through issues specific to the sector. We've never had a section 21 committee in the health care sector. We previously had them in other sectors—police, fire, and mining sectors, for example—but we've never had them in what people might deem a soft sector, although if anybody has done health care bargaining, you would know it's not that soft. We have never really used it in that setting. So we set up a section 21 committee as a result of some of the SARS recommendations. We decided that the Ministry of Labour would deliver the alternative dispute resolution services, the Interactive Solutions program, to the parties at the beginning of their process, as they formed the section 21 committee. We used our chief mediator, Reg Pearson. Reg personally went in and delivered that section. He'd had good experience working previously with ONA and the Ontario Hospital Association, bargaining agents, employers, who were represented at the section 21 committee. Reg delivered our full program to the section 21 committee. We think it really set the foundation for a relationship as they've gone forward, over the past 15 months, to work out these difficult issues which arose in the SARS inquiry report, but also which arise day to day in terms of the evolving nature of the health care system in Ontario.

Mr. Bob Delaney: As people get good at it, how do you cross-pollinate your skills and expertise among your people at the ministry? What you said earlier is consistent with what I've heard in the field: that many of the things you're doing are being done, really, nowhere else. So, in many respects, a lot of the things your people are learning place them at the cutting edge of using these particular skills and this expertise to resolve various issues. How do you cross-pollinate all of those skills?

Ms. Susanna Zagar: Not many jurisdictions do what Ontario does in terms of having neutral salaried in-house mediators. Many jurisdictions have moved away from that, and they now use a roster of external mediators, private sector mediators, who are called upon by the parties. Alberta uses that model, for example. They no longer have in-house mediation or conciliation services.

In Ontario, we take the position that we need in-house salaried neutral people because of the complexity of the

issues and the volume of collective agreements we face on other issues. Succession planning is a big issue, as many of our mediators reach that age when they may not want to be up all night, every night, and sleeping through the days, and having to be up again in the middle of the night and missing significant events in their lives and the lives of their families. It's a very hard profession, and if you've seen any of our mediators, and the minister will meet more of them shortly, it's telling. It's very telling in terms of the sort of lifestyles they have. They're on the road constantly. They've always got a bag packed. They're ready to go.

We've become very concerned about succession planning. In 2006, I started to look at the demographics in Ontario as I realized that my key mediators would soon be leaving and that I was going to be around for a while after that, and how I was going to actually deliver the program that I'm mandated to deliver without them. It occurred to me, as I looked at the data from Ontario and I started to look at other data outside of Ontario, where there were private sector and public sector mediators, that the entire country was facing the same issue.

We struck a national task force to actually look at the demographics, the skill sets, who's in the jobs right now and what sort of training did they have. Many of them were trained because they grew up in either the employer-side or labour-side movement, worked their way up to the position of being mediator and into a ministry position where they were neutral after having been there for 15 or 20 years. But we didn't really find that they had come with a certificate that said, "I've got a law degree," or "I've got a certificate in mediation." There was no program like that.

We developed a program based on the information we had and the work that we did. We struck external advisory committees, so we used academics, employer reps, labour reps and experts from across the country and across North America to advise us on the program. In the Ontario Ministry of Labour, we took a lead in creating a national mediator training program, which we run once annually. This year was the second year we ran the program. We invite players from across the country to participate in that. Again, it was on a cost-recovery basis, so Ontario is not giving services for free. We're developing and delivering services that are helping all jurisdictions in Canada develop core mediation programs.

Mr. Bob Delaney: I'm sure parents say that grey hair is hereditary, and you get it from your children, although in this case it can probably be said that you get it from your clients. I want to thank you very much for your answer. I found your description to be very, very enlightening.

Ms. Susanna Zagar: Thank you.

The Chair (Mr. Tim Hudak): Mr. Delaney, thank you very much. The official opposition will have 20 minutes.

Just a reminder, too, to make sure I was clear: When the bells ring, we'll finish the questions on the floor, then

I will adjourn the committee, and we will resume on our regular scheduled meeting on Tuesday. We will have a full meeting Tuesday morning, and it looks like we'll have a partial meeting Tuesday afternoon.

Mr. Hillier, 20 minutes.

Mr. Randy Hillier: Thank you. As I was going through some of the statistics for the Ministry of Labour, there's one that was very striking, and I'd like to have the minister's comments on this. Of course, it's much ballyhooed, reducing the number of workplace injuries, and that's to be commended. But at the same time, as injuries have fallen, fatalities have not. Surely it would come to anybody's mind that this is counterintuitive. If the workplace is becoming safer, we ought to also have fewer fatalities. I'd like the minister just to say how you reconcile this contradiction.

Hon. Peter Fonseca: First off, I'd like to say to the member that one of the most difficult things about this new role was—and I think I spoke a little about it yesterday—getting e-mails, and I do get e-mails, when a fatality happens in the province. I understand there are about 100 that happen a year. I can imagine how tragic that is for the individual's family, for the community, what it means when you lose a loved one. It's something that I did look through, the statistics. It's very important. The last couple were young men in construction.

I believe that we are moving forward with our programs in schools. I think that's very important, to make sure that our young people, our youth, are well-educated, especially when they get into some of those high-risk workplaces on their first jobs and don't have the experience.

I also know that those workers are most vulnerable in the first month, so that's why it's very important for us to work with our employers and that they have the educational component in the workplace or shadowing programs or some of the other best practices; I know some employers use different colour-coded systems—whatever it is—so that all employees are well aware of the dangers.

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I walked in to what could be seen as a very dangerous workplace when I was up at the Bruce Power nuclear plant just a few weeks ago, and they've gone 12 million hours without a workplace injury, let alone a fatality. So it's something where we've taken these steps—I think one of the steps is around education, and that's most important. Of course, we have our inspectors out with enforcement, but it is something I also saw in the statistics, and I would like to see those come down. I thought there were about 100 or so a year, and it's been there for a couple of years. I'm going to ask Sophie to share some further information in regard to those fatalities.

Mr. Randy Hillier: I'm just wondering if the ministry has looked at those and if you've reconciled and said, "What is going on here, that our fatalities are continuing to increase while our reported injuries are on the decline?"

Ms. Sophie Dennis: Absolutely. In 2003, we had 122 fatalities in Ontario; in 2007, we had 100. Even one is unacceptable to us. Our Safe at Work strategy is addressing that by looking at hazards that are causing workplace injuries and fatalities.

You're from the construction sector. The leading cause of injuries and fatalities in the construction sector is falls. So we have blitzes in the construction sector to deal with falls and to look at workplaces that have a high potential in terms of fall injuries and fall fatalities. We are targeting those hazards that cause injury and kill workers. That is the foundation of our Safe at Work strategy.

Our officers will be out there talking to those workplaces. But more importantly, we're also communicating with our employers and workers through our website, saying, "We are having blitzes. We're focusing on these things. Get ready. We're coming. We're there to help, when we are there. We're there to educate you, to tell you where you can go and get help," in the hope that the message will get out to all the workers on that site, all the employers out there, to address those hazards that are killing workers.

Mr. Randy Hillier: In all my conversations with my constituents and with many employers, contractors, manufacturers—different areas—one thing that has become clearly evident is that it doesn't pay to be honest, when it comes to the Ministry of Labour, in reporting workplace injuries. One of the reasons that has been suggested to me, and documented very well by a number of people, is that if there is an injury, employers don't report it. They pay the employee to go home and take some time off, but do everything possible not to report it to the Ministry of Labour, because the costs afterward will put them out of work.

I had one example just today: A contractor up my way who used to have 28 employees is now down to 14 and facing over \$130,000 in fees, penalties and whatnot by the Ministry of Labour. He will be closed up very shortly, and even the 14 employees will no longer have jobs.

We want to encourage honesty from the people who are dealing with the Ministry of Labour and not just have a punitive approach in order to have an effective outcome. Education is an important thing. Education with a hammer hurts; education with a book is far more palatable and enjoyable.

Hon. Peter Fonseca: I'd like to respond to the member. First off, I'd like to just say that we believe the vast majority of companies are out there to do a good job, promote health and safety in workplaces and have a fair workplace, and we continue to work with them. We want to make sure that we do get rid of those bad actors. We don't want those bad actors in place. The member has brought up a particular case. I'd ask that he provide the documentation for that case to the Ministry of Labour. If he would like to bring that forward, that would be terrific.

Mr. Randy Hillier: Absolutely.

Hon. Peter Fonseca: As I said to the member, I believe we have excellent companies out there. We actually are working so that we can even the playing field for everybody and get rid of those bad actors. We were just talking about fatalities. We don't want to see another fatality; one is too many. The member was talking about fatalities. Then he talked about a business that's being fined. Well, is it one or the other? Does the member condone weakening our safety standards? What is the member asking for?

Mr. Randy Hillier: They are not exclusive here. It's not the case where we have employers and must have fatalities. We can have safe workplaces, but we need to

have workplaces. We will have total safety when none of us is working, and we don't want to get to that position.

I guess the bells are ringing.

The Chair (Mr. Tim Hudak): Yes. Did you want to place the last question or did you want to defer your time?

Mr. Randy Hillier: We'll defer the time.

The Chair (Mr. Tim Hudak): Okay, folks, we will meet again on Tuesday morning at 9 a.m. The remaining time of the official opposition will be next Tuesday, and you will begin the session. The committee is now adjourned.

The committee adjourned at 1734.

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