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**Official Report
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Monday 16 November 2009

**Journal
des débats
(Hansard)**

Lundi 16 novembre 2009

**Standing Committee on
Social Policy**

Student Achievement
and School Board
Governance Act, 2009

**Comité permanent de
la politique sociale**

Loi de 2009
sur le rendement des élèves
et la gouvernance
des conseils scolaires

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 16 November 2009

Lundi 16 novembre 2009

The committee met at 1405 in committee room 1.

The Chair (Mr. Shafiq Qadri): Colleagues, I'd like to call to order the meeting of the Standing Committee on Social Policy. As you know, we're here to consider Bill 177 in reference to the Education Act.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qadri): Before proceeding, we have a subcommittee report, which I would invite Mrs. Mitchell to please read into the record.

Mrs. Carol Mitchell: Your subcommittee on committee business met on Monday, November 2, and Tuesday, November 10, to consider the method of proceeding on Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on November 17, 23 and 24, 2009.

(2) That the clerk of the committee, with the authority of the Chair, place an advertisement for one day about the public hearings in major newspapers.

(3) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 168 should contact the clerk of the committee by Monday, November 9, 2009, at 5 p.m.

(5) That the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.

(6) That the subcommittee provide the clerk with their selections for the hearings scheduled on Tuesday, November 17, 2009.

(7) That groups and individuals scheduled on Tuesday, November 17, 2009, be offered 15 minutes for their presentation, which include questions from the committee.

(8) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

1410

The Chair (Mr. Shafiq Qadri): Are there any comments, questions? Yes, Mr. Marchese.

Mr. Rosario Marchese: Two things, Mr. Chair. One, I'm not quite sure whether we've solved the issue that ONA raised, and that is that the committee had been made aware that the 17th did not work for them and that the 24th works for them. I'm not quite sure whether we've been able to accommodate them.

The Clerk of the Committee (Mr. Katch Koch): The committee has agreed to three dates: the 17th, 23rd and 24th. So far, the caucuses have only picked the individuals or the groups that have been scheduled for the 17th, so we didn't really deal with the 23rd or the 24th yet.

Mr. Rosario Marchese: Okay. So presumably—

The Clerk of the Committee (Mr. Katch Koch): They could be chosen for those dates.

Mr. Rosario Marchese: Okay. That's the first point.

The second one is that my colleague Gilles Bisson, in the subcommittee, talked about touring the province on this issue. Clearly there have been a number of requests from different people across the province, and it was his sense, and I agree, that this committee should do a little tour. It doesn't have to be a big one. That's what he recommended, and I agree with that and would wish to make an amendment to the subcommittee report that says that we will tour as a committee outside of Toronto.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Marchese. I'll have questions and comments on the issue of travel, and then, if need be, we can proceed to a formal amendment.

Ms. Sylvia Jones: I know as well from speaking to our labour critic that they are also interested in some travel outside of Toronto, so I would support that amendment.

The Chair (Mr. Shafiq Qadri): We have an amendment on the floor with reference to the addition of travel for the committee. Mrs. Mitchell.

Mrs. Carol Mitchell: I just have a short comment. One of the things that we talked about as the subcommittee was the ability to hear from as many people as possible. There has been a lot of interest from people who have brought their names forward as wanting to present to the committee. As we have a number of presenters, the bulk is for Toronto. We feel that by shortening up on the time frame and allowing the three days to go forward, we

can hear from more people, and certainly that is something that we are very strongly in favour of.

The Chair (Mr. Shafiq Qaadri): So we'll have—

Mr. Rosario Marchese: A recorded vote, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Recorded vote. We'll proceed, then, as I understand it, to the vote.

All those in favour of an addition to the subcommittee report for the committee to travel, please say "aye."

Aye

Jones, Marchese, Witmer.

Nays

Aggelonitis, Albanese, Lalonde, Mitchell, Sandals.

The Chair (Mr. Shafiq Qaadri): I declare that particular amendment lost.

Also, just for committee members' information, in addition to all the various challenges that we deal with as MPPs with regard to the structure of this building—that, for example, every room has its own temperature, different ceilings, wood heating and all the rest of it—I think we're being treated to the entire floor vibrating because there's some—

Mr. Rosario Marchese: Could be a ghost.

The Chair (Mr. Shafiq Qaadri): It might be a ghost; quite right. I think there are some structural things. It's very prominent on this side of the room and very bizarre, but anyway, I thank you for your endurance.

Mr. Rosario Marchese: And, Mr. Chair, given that and the auditory problems, it's good for people to speak up.

The Chair (Mr. Shafiq Qaadri): Yes, thank you. Mrs. Mitchell.

Mrs. Carol Mitchell: I have a couple of amendments, if it would be appropriate, Chair, to bring them forward at this time.

The Chair (Mr. Shafiq Qaadri): Please.

Mrs. Carol Mitchell: That the presentations be allowed a 10-minute time allocation for the 23rd and the 24th, that the cut-off for amendments be November 27 at noon, and for clause-by-clause dates to be November 30 and December 1.

I just wanted to say, as a member of the subcommittee, that anyone who wants to make presentations from out of Toronto—what would they be able to do? I would look to the Chair for the options that would be available to them to present in a different manner other than to travel to Toronto.

The Chair (Mr. Shafiq Qaadri): The usual protocol, Ms. Mitchell, has been to either, as you know, come physically; if they can't do that or it's difficult, then to give an audio conference or even a video conference, and so on.

Mr. Marchese.

Mr. Rosario Marchese: I just want to say, with respect to that, that we all know, those of us who've been

around, that the most effective hearings are the ones where you're able to face the deputants face to face. That's the most effective way. Bringing people to Toronto is one way of doing it; it's just not the best way to do it. Some people will be discouraged from coming; we know that. We provide for teleconferencing, which is fine. It's not the same, but it's better than nothing. We ask people to send in their written reports, but I am telling you on the record that most people don't read most of the submissions that are submitted in writing. I want to put that on the record because I believe that to be true. We say it because we want to make ourselves feel good and make those who can't be here feel good that somehow their submissions are going to be taken seriously. But nothing beats the face-to-face meeting that you can have with people as they tell us what it is they want to tell us about a particular issue. That's why, when we have our meetings here in Toronto, it's nice, but we are discouraging a whole lot of people from deputing merely by being here in Toronto or just having meetings here in Toronto. I just want to put that on the record.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments before we deal with the block amendments that Ms. Mitchell has put forward? Seeing none, we'll proceed to consider.

Those in favour of Ms. Mitchell's amendments with reference to the dates, cutoffs, timings per session? Those opposed? I declare those amendments to have been accepted, and they will be duly entered into the subcommittee record.

I believe there's no further business with reference to the subcommittee.

STUDENT ACHIEVEMENT AND SCHOOL BOARD GOVERNANCE ACT, 2009

LOI DE 2009 SUR LE RENDEMENT DES ÉLÈVES ET LA GOUVERNANCE DES CONSEILS SCOLAIRES

Consideration of Bill 177, An Act to amend the Education Act with respect to student achievement, school board governance and certain other matters / Projet de loi 177, Loi modifiant la Loi sur l'éducation en ce qui concerne le rendement des élèves, la gouvernance des conseils scolaires et d'autres questions.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to clause-by-clause consideration of Bill 177. I invite Ms. Sandals to please begin.

Mrs. Liz Sandals: I move that subsection 0.1(1) of the Education Act, as set out in section 1 of the bill, be amended by striking out "cohesive" and substituting "civil."

Chair, do you wish that I just go directly into commenting on the rationale?

The Chair (Mr. Shafiq Qaadri): My wish is entirely aligned with your own, Ms. Sandals.

Mrs. Liz Sandals: Okay. This was commented on, I think, by Martha Mackinnon from Justice for Children and Youth and a few other speakers who were concerned that the purpose clause have some reflection of the democratic process and the whole concept of a civil society, so we have agreed with that in proposing the substitution.

The Chair (Mr. Shafiq Qaadri): Further comments or questions before we proceed to the vote?

Those in favour of government motion 1? Those opposed? I believe government motion 1 is carried.

Government motion 2.

Mrs. Liz Sandals: I move that subsection 0.1(3) of the Education Act, as set out in section 1 of the bill, be struck out and the following substituted:

“Partners in education sector

“(3) All partners in the education sector, including the minister, the ministry and the boards, have a role to play in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province’s publicly funded education systems.”

You will recall that there was a request from both the Catholic and francophone sectors that we recognize that there are several systems. You will notice that, at the very end, we have pluralized “systems.” We’ve also recognized that the partners include the boards, and “board” is formally defined in the Education Act as being all those different systems.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Marchese.

1420

Mr. Rosario Marchese: I just want to say that what most of the people who came spoke about in relation to this is two things: one, that the government define what “student achievement” is, and these amendments do not do that; and secondly, that the government fund adequately the boards of education to be able to permit them to bridge the gap and to achieve the so-called student achievement that they’re talking about. By the mere inclusion of “minister” in this clause, it doesn’t do it. It just doesn’t at all deal with what most of the deputants said with respect to this issue. I thought it was very clever of the government to throw in the word “minister.” It makes it appear as if somehow the ministry and the minister, because they were omitted before, didn’t have the same level of commitment to the issue of enhancing student achievement. But this doesn’t help the arguments that I’ve made at all. The fact that you include the minister does not put on the government a responsibility to fund adequately the areas of education where people are saying, “We’ve got many problems in our educational system, and unless the government helps out in terms of dealing with issues such as mental illness or poverty, or a whole host of special education problems that the government is not funding, we won’t be able to deliver on this.” So, doing what the government members

do doesn’t deal with the issue at all, and I put that on the record so that the government members know.

The Chair (Mr. Shafiq Qaadri): Further comments with reference to government motion 2?

Seeing none, we’ll proceed to the vote. Those in favour? Those opposed? Motion carried.

Shall section 1, as amended, carry? Carried.

We’ll proceed to section 2: PC motion 3, presented by Ms. Witmer.

Mrs. Elizabeth Witmer: I move that subsection 2(1) of the bill be struck out and the following substituted:

“2(1) The definition of ‘co-instructional activities’ in subsection 1(1) of the act is amended by striking out ‘but does not include activities specified in a regulation made under subsection (1.2)’ at the end of the portion after clause (c).”

This is an amendment that had been proposed by the Ontario Public School Boards’ Association to address their concerns relating to labour relations.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. Sandals?

Mrs. Liz Sandals: Yes, simply that we really don’t want to reopen the whole debate on mandatory co-instructional activities and co-instructional activities as part of striking and so forth. We don’t want to replay that debate. We did that about eight or 10 years ago.

The Chair (Mr. Shafiq Qaadri): Are there any further comments with reference to PC motion 3?

Seeing none, we’ll proceed to the vote. Those in favour of PC motion 3? Those opposed? I declare PC motion 3 to have been defeated.

Shall section 2 carry? Carried.

I’ve received no amendments so far for section 3, so we’ll consider it now. Shall section 3 carry? Section 3 carries.

We’ll now proceed to section 4: PC motion 4, Ms. Witmer.

Mrs. Elizabeth Witmer: I move that section 4 of the bill be amended by adding the following subsection:

“(2) Section 11 of the act is amended by adding the following subsections:

““Consultation

“(2.1) Before the Lieutenant Governor in Council makes a regulation under subsection (2), the minister shall consult with,

“(a) the Ontario Public School Boards’ Association;

“(b) the Ontario Catholic School Trustees’ Association;

“(c) l’Association des conseillères et des conseillers des écoles publiques de l’Ontario;

“(d) l’Association franco-ontarienne des conseils scolaires catholiques; and

“(e) any other persons and entities that, in the minister’s opinion, have an interest in the proposed regulation.

“Notice

“(2.2) The minister shall give the persons and entities listed in subsection (2) and members of the public notice of the proposed regulation, in the manner he or she

considers appropriate, at least 60 days before the regulation is filed with the registrar of regulations.

“Same

“(2.3) The notice need not contain a draft of the proposed regulation, but shall summarize its content and intended effect.

“Exception

“(2.4) Subsections (2.1), (2.2) and (2.3) do not apply if the regulation, in the minister’s opinion,

“(a) is needed to deal with an urgent situation;

“(b) is needed only to clarify the intent or operation of this act or the regulations; or

“(c) is of a minor or technical nature.”

This amendment was also proposed by the Ontario Public School Boards’ Association. It was intended to establish a formalized commitment for the ministry to consult with trustee organizations whenever regulations arising from this proposed section of the Education Act are considered.

The Chair (Mr. Shafiq Qadri): Further comments? Mr. Marchese?

Mr. Rosario Marchese: Just some clarification, Mr. Chair: You might be able to answer it, or the clerk or legal counsel. I’ve got an amendment here that says that we’re going to vote against section 4, and the government recommends that they’re going to vote against that section as well. I’ve never seen that before. So this might become a useless debate, I suspect. Is that not the case?

The Chair (Mr. Shafiq Qadri): I don’t think, Mr. Marchese, it’s the duty of any of the officials on this side to comment on the utility—

Mr. Rosario Marchese: I would just say that that section is offensive, and it was offensive to most members. It’s offensive to me and clearly it’s offensive to the government members. I’m surprised that they don’t move their own motion, saying, “We’re deleting it,” rather than, “We’re voting against it,” which is very clever. I thought it was so clever, how the government members thought on their own to do this. I was going to say—

Mrs. Elizabeth Witmer: It’s okay. We don’t need to spend a lot of time debating it.

The Chair (Mr. Shafiq Qadri): Thank you. Ms. Sandals?

Mrs. Liz Sandals: I think Mr. Marchese has captured what’s going on here: We are in fact proposing that we remove section 4. There were a number of people who appeared before us who said that it was inappropriate to change the duties of democratically elected boards by way of regulation, that that deserves legislation. We agree with them. We will vote against this amendment, but then we will suggest we get rid of the whole section.

The Chair (Mr. Shafiq Qadri): I think we’ll proceed to the vote, then. Those in favour—

Mr. Rosario Marchese: Do you want to withdraw your motion?

The Chair (Mr. Shafiq Qadri): Those in favour of PC motion—

Mrs. Elizabeth Witmer: I’ll withdraw it.

The Chair (Mr. Shafiq Qadri): Thank you. I have PC motion 4 now withdrawn.

I will now move to NDP notice of motion number 5. Mr. Marchese.

Mr. Rosario Marchese: The New Democratic Party recommends voting against section 4 for many different reasons. I won’t take too long, but I found it particularly offensive. Most deputants said some very sharp things against it. Education Action said, “At first glance, Bill 177 appears to be a solution looking for a problem”—which I thought was interesting. It applies to everything. “Section 4,” Education Action says, “gives the provincial government carte blanche to fundamentally change school boards as and when they see fit.” They argue, “This is a radical departure from previous regulations” and it “puts board members under the direct supervision of the provincial government.”

Chris Glover says, “Bill 177 must be changed so that it recognizes the sovereignty of citizens’ votes.” It “implies that trustees are employees of the provincial government”—this section at least—“rather than elected representatives of the citizens in their communities.”

I just wanted to read that into the record, because clearly the government members were also listening to all that. I’m so happy the government members are voting against that section—because you were listening, and that’s your message to the minister. This is really, really good. I wanted to say that on the record.

The Chair (Mr. Shafiq Qadri): Thank you. If there are any further comments on NDP notice of motion—Ms. Witmer?

Mrs. Elizabeth Witmer: As you can see, our motion number 7 is also the same, so we all seem to be in agreement.

Mrs. Liz Sandals: I believe we have unanimous consent.

The Chair (Mr. Shafiq Qadri): Fine. I’ll just need that formally. All those in favour of NDP motion 5? Those opposed?

Mrs. Liz Sandals: Could we get some technical clarification or are you going to put section 4 and we’ll all vote against it?

The Clerk of the Committee (Mr. Katch Koch): Procedurally, you would be voting on the section. It’s not an actual motion; it’s a notice.

Mrs. Liz Sandals: So you’re going to call for section 4 and we’ll all oppose it?

The Chair (Mr. Shafiq Qadri): Fine. Correct, Ms. Sandals. So we’re not actually technically voting on these notices. We’re acknowledging the notices, but we’re now moving to the vote on the dreaded section 4.

Those in favour of section 4? Those opposed? Thank you. Section 4 is now defeated.

I’ll just inform you, as has been stated already, that motion 6 from the government and PC motion 7 are redundant, and therefore we don’t need to consider them.

We’ll now proceed to section 5, NDP motion 8.

1430

Mr. Rosario Marchese: I move that section 17.1 of the Education Act, as set out in section 5 of the bill, be amended by adding the following subsections:

“Consultation

“(2) The Lieutenant Governor in Council may not make a regulation under subsection (1) unless, for a period of at least six months before it is made, the minister consulted with parents and guardians, and groups that represent parents and guardians, who would be affected by the regulation.

“Same

“(3) Consultation with parents and guardians in an area for which a parent involvement committee has been established shall be done through the committee.”

A few people spoke to that, and Annie Kidder in particular said, “We are happy about the regulation concerning parent involvement committees, but we would like to suggest an amendment to that regulation that ensures that, as the regulation is developed concerning the roles and responsibilities of parent involvement committees, at least six months of consultation with parent communities....”

We moved that motion on the basis of what Annie and many others have said. We think it is reasonable to consult with people before you make any changes. I hope that it finds favour with the government members as well.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Marchese. Further comments on NDP motion 8? Ms. Sandals.

Mrs. Liz Sandals: Yes. Certainly we agree that consultation is required. But particularly given that many boards already have parent involvement committees in place, putting in a mandatory period of six months seems not necessarily terribly productive. We’re not saying, “No consultation.” We’re simply saying that the six months before we could file is extra long.

The Chair (Mr. Shafiq Qadri): Thank you. Further comments?

Mr. Rosario Marchese: Recorded vote.

The Chair (Mr. Shafiq Qadri): We’ll proceed to the vote, then.

Ayes

Marchese.

Nays

Aggelonitis, Albanese, Lalonde, Mitchell, Sandals.

The Chair (Mr. Shafiq Qadri): Thank you. I declare NDP motion 8 to have been defeated.

Government motion 9.

Mrs. Liz Sandals: I move that section 17.1 of the Education Act, as set out in section 5 of the bill, be struck out and the following substituted:

“Regulations re parent involvement committees

“17.1 The Lieutenant Governor in Council may make regulations respecting parent involvement committees, including regulations requiring boards to establish parent involvement committees and regulations relating to their establishment, composition and functions.”

This in fact does not change the intent of the existing clause which it replaces. It simply brings the language in this clause so that it’s parallel to the language around school councils. So it’s in some ways, I suppose, more by way of a technical amendment to make sure that there is parallel language. What we often find in bills is that if you have similar subject matter and slightly different language, lawyers end up stressing for the next several years over what was the deep, dark motive in having them slightly different. We just simply want to make them parallel and save the stress.

The Chair (Mr. Shafiq Qadri): Mr. Marchese?

Mr. Rosario Marchese: Yes, just a quick comment: I found it awkward to say, “The Lieutenant Governor in Council may make regulations respecting parent involvement committees....” I’m assuming, Parliamentary Assistant, what it means is that parent involvement committees exist, or should exist, and we respect that. Is that the point of “respecting”? Is that what it means, in terms of respecting parent involvement?

Mrs. Liz Sandals: I think “respecting,” in this context, is the way lawyers write “with respect to.”

Mr. Rosario Marchese: Oh, “in respect to.”

Mrs. Liz Sandals: Yes.

Mr. Rosario Marchese: But I thought—

Mrs. Liz Sandals: Hey, this—

Mr. Rosario Marchese: I thought it was awkward, making regulations “respecting” as opposed to “in respect to” or “with respect to.”

Mrs. Liz Sandals: I would defer to legislative counsel—

Mr. Rosario Marchese: Does the legal counsel have any comment on that?

Mrs. Liz Sandals: —but I think it’s a matter of drafting.

Mr. Doug Beecroft: “Respecting” is the word we usually use in that sense.

Mr. Rosario Marchese: You’re kidding.

Mr. Doug Beecroft: I can see that “with respect to” or “in respect of” are similar. But you will find dozens of places in the Education Act where the word “respecting” is used.

Mr. Rosario Marchese: I thought it was awkward. Okay.

Mrs. Liz Sandals: There are all sorts of things in the Education Act which are awkwardly worded—

Mr. Rosario Marchese: Oh, I know.

Mrs. Liz Sandals: —but which lawyers like.

The Chair (Mr. Shafiq Qadri): Thank you. We’ll proceed to the vote. Those in favour of government motion 9? Those opposed? Motion 9 carries.

Shall section 5, as amended, carry? Carried.

No motions received so far for section 6, therefore we’ll proceed to the vote. Shall section 6 carry? Carried.

Section 7: government motion 10, Ms. Sandals.

Mrs. Liz Sandals: I move that subsection 43.1(4) of the Education Act, as set out in section 7 of the bill, be amended by striking out “subsection (1)” and substituting “subsection (3)”.

This is truly a technical amendment. Somebody, in reviewing the Education Act, found some historic mis-numbering of sections dating from some long-past bill, and we’re correcting it.

Mr. Rosario Marchese: What is the effect of it? If we kept it that way, what would it do?

Mrs. Liz Sandals: It has to do with grandfathering rights to attend, resulting from 1997-98 jurisdictional changes to Bill 160. The sections are just numbered incorrectly in terms of the proper cross-references.

Mr. Rosario Marchese: So if they’re numbered incorrectly, then grandfathering doesn’t technically exist. Is that it?

Mrs. Liz Sandals: No, no. We’re making it so it works properly. Everybody will end up in the right place if we do this.

Mr. Rosario Marchese: Okay. I’m glad to hear it: an “in the same boat now” kind of thing.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 10? Those opposed? Motion 10 carries.

Shall section 7, as amended, carry? Carried.

Section 8: No motions or amendments received so far, so we’ll consider it now. Shall section 8 carry? Carried.

Section 9: government motion 11, Ms. Sandals.

Mrs. Liz Sandals: There’s a whole series of motions here with respect to section 9. I’m going to do my best to sort of explain them all in advance, if I may, and then we’ll start tabling them.

Section 9 has to do with the number of board members. The intent here is to achieve a number of things.

One of the things which the governance review committee heard, although it wasn’t a recommendation because it was slightly outside their mandate, is that in school board jurisdictions where the population or the number of electors is declining, because of the way the Education Act is currently set up, you could have the number of trustees on the board automatically declining because of population decreases. Some of the school boards, particularly in rural and northern areas, asked that we freeze their current membership, so that’s one of the effects of this.

There are also, however, growth areas where we would want to allow them to continue to use regulation 412, which has the formula in it. We had originally deleted that, but we’re putting it back so that in growth areas we can continue to use reg 412.

Then there is a third issue, that there were some what are popularly known as isolate boards which were amalgamated with district school boards in 2009. In some of those cases, the change in population would not warrant an increase in board membership under reg 412, but there may be geographic or other reasons why it would be a good thing to allow the boards to ask the minister to raise the membership.

There’s a whole series of things here which allow for those changes to take place. That’s just broadly what’s going on in section 9. I don’t think there’s anything terribly politically contentious here. It’s just drafting to try and make it work in a reasonable sort of way.

So I move that subsection 9(2) of the bill be struck out. That was the one that was going to get rid of reg 412, which we now want to keep.

The Chair (Mr. Shafiq Qaadri): Any further comments with regard to those motions? Seeing none, we’ll proceed to the vote. Those in favour of government motion 11? Those opposed? Motion 11 is carried.

Motion 12.

Mrs. Liz Sandals: I move that subsection 9(6) of the bill be struck out. This is related to the same reg 412 issue.

The Chair (Mr. Shafiq Qaadri): Thank you. We’ll proceed to the vote. Those in favour of government motion 12? Those opposed? Motion 12 is carried.

Motion 13.

Mrs. Liz Sandals: This one is a little bit longer. I move that subsection 9(7) of the bill be struck out and the following substituted:

“(7) Section 58.1 of the act is amended by adding the following subsections:

“Number of members of a district school board

“(10.0.1) Subject to subsections (10.0.2) to (10.1) and to the regulations, the number of members of a district school board, not including members appointed under subsection 188(5), shall be the number of members determined for the board for the purposes of the regular election in 2006.

“Same

“(10.0.2) A district school board whose area of jurisdiction was increased in 2009 may by resolution request the minister to increase its number of members.”

1440

Am I reading the new one? Oh, okay. Just let me make a suggestion here. Can I withdraw this one and read the other one, which is just slightly different?

Interjection.

Mrs. Liz Sandals: Okay. I’m just looking here. Down to where I read “Number of members” and “Same”—do you want me to start over again?

The Chair (Mr. Shafiq Qaadri): Yes. I think procedurally, please start again. Just to let the committee know, we’re starting with 13.1 from your motions.

Mrs. Liz Sandals: So withdraw 13 and we’ll go to 13.1. Thank you.

I move that subsection 9(7) of the bill be struck out and the following substituted:

“(7) Section 58.1 of the act is amended by adding the following subsections:

“Number of members of a district school board

“(10.0.1) Subject to subsections (10.0.2) to (10.1) and to the regulations, the number of members of a district school board, not including members appointed under subsection 188(5), shall be the number of members

determined for the board for the purposes of the regular election in 2006.

“Same

“(10.0.2) A district school board whose area of jurisdiction was increased in 2009 may by resolution request the minister to increase its number of members.

“Same

“(10.0.3) In response to a request by a district school board under subsection (10.0.2), the minister may by order increase the number of members of the board if, in the minister’s opinion, the increase is justified by,

“(a) a demographic change in the board’s geographical area of jurisdiction;

“(b) the change in the size of the board’s geographical area of jurisdiction; or

“(c) any other circumstances that the minister considers relevant.

“Same

“(10.0.4) A request under subsection (10.0.2) shall not be made after March 15, 2010.

“Same

“(10.0.5) A minister’s order under subsection (10.0.3) shall not be made after April 15, 2010.

“Same

“(10.0.6) An increase under subsection (10.0.3) may be smaller than that requested by the board under subsection (10.0.2).”

So the first one there is the fixing at 2006, the old levels, and then the rest of it is around the isolates that were amalgamated in 2009.

The Chair (Mr. Shafiq Qadri): Comments? Seeing none, we’ll proceed to the vote. Those in favour of the government replacement motion 13.1? Those opposed? Motion carried.

Shall section 9 carry, as amended?

Mrs. Liz Sandals: Yes.

The Chair (Mr. Shafiq Qadri): I’ll take that as a committee vote.

Shall section 10 carry? Actually, let’s do sections 10, 11 and 12 inclusive. Shall sections 10, 11 and 12 carry? Carried.

Section 13: government motion 14, Ms. Sandals.

Mrs. Liz Sandals: I move that section 13 of the bill be struck out and the following substituted:

“13.(1) Subsection 61(2) of the act is amended by striking out ‘subsections (3) and (4)’ and substituting ‘subsections (3), (4) and (4.1)’.

“(2) Section 61 of the act is amended by adding the following subsection:

“Decrease in number of members

“(4.1) Before the first day of July of an election year, the board of a district school area that has four or five members may, by resolution approved at a meeting of the public school electors, determine that the number of members to be elected shall be decreased to a number not less than three and, at the next following election, that number of members shall be elected.”

This goes back to some technical amendments that were put into the Education Act, I’m guessing again back

around 1997 or 1998, which allowed district school boards to voluntarily decrease their memberships but did not do the same for district school area boards—the isolates. So this is just sort of correcting the oversight that occurred historically.

The Chair (Mr. Shafiq Qadri): Further comments on government motion 14? Seeing none, those in favour of government motion 14? Those opposed? Carried.

Shall section 13, as amended, carry? Carried.

We’ll proceed to the vote on section 14. Shall it carry? Carried.

Section 15, government motion 15: Ms. Sandals.

Mrs. Liz Sandals: I move that subsection 165(3) of the Education Act, as set out in section 15 of the bill, be amended by striking out “greater than three” and substituting “not less than three”.

That relates to the previous amendment, the same technical issues.

The Chair (Mr. Shafiq Qadri): Thank you. Those in favour of government motion 15? Those opposed? Motion 15 carries.

Shall section 15, as amended, carry? Carried.

We’ll proceed now to section 16, PC motion 16. Ms. Witmer.

Mrs. Elizabeth Witmer: I move that subsection 169.1(1) of the Education Act, as set out in section 16 of the bill, be amended by,

(a) adding “jointly with the minister,” at the beginning of clause (a); and

(b) adding “jointly with the minister,” at the beginning of clause (c).

There was a lot of concern expressed about the fact that the onus for student achievement and effective stewardship of resources seemed to be foisted upon the school boards, so this would look at making sure that the minister continued to still have responsibility. This amendment was proposed by the Ontario Public School Boards’ Association, and again, it would make it quite clear that the ministry cannot abdicate its responsibility for student achievement and effective stewardship of education resources.

The Chair (Mr. Shafiq Qadri): Further comments on PC motion 16? Ms. Sandals.

Mrs. Liz Sandals: Just simply to say that, really, the entire Education Act is about the responsibilities of the minister and the ministry with respect to the education system in Ontario, so the minister’s responsibilities are already extensively described.

The Chair (Mr. Shafiq Qadri): Mr. Marchese.

Mr. Rosario Marchese: I don’t agree with the parliamentary assistant, by the way. I do have a few other amendments that speak to this, but I think that the Conservative members are getting at something that many deputants were concerned about. I think that including “jointly with the minister” puts some responsibility on the government as well, because the way it’s written, all of the obligations appear to be on boards and trustees. It’s quite clear in here. So when the parliamentary assistant says, “Ah, but the minister and the ministry is involved in everything, blah, blah,” in terms

of references to the government elsewhere, I think it misses the point. I think that what Mrs. Witmer is trying to do with this is helpful, and it speaks to some of the problems that deputants have around this particular issue. It doesn't solve it, but it gets to it, and I think we should be supporting it.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 16? Those in favour of PC motion 16? Those opposed? I declare PC motion 16 to have been defeated.

Government motion 16.1.

Mrs. Liz Sandals: I move that clause 169.1(1)(a) of the Education Act, as set out in section 16 of the bill, be struck out and the following substituted:

“(a) promote student achievement and well-being;”

This actually reflects some language that is used in NDP motion number 35, which we will get to. I think there it was laid out in terms of duties of individual trustees. We actually think this is quite good wording but that it should really be attached to the duties of the board, and we are suggesting that it's a much more general statement about student achieving which should replace the specific reference to regulation.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer.

Mrs. Elizabeth Witmer: You know, I have some trouble with this bill and this particular section. I guess as a former board chair myself, I always assumed that I had been elected to do what I could to promote student achievement and well-being, so I don't have a problem with it being here. But I would go back to the other amendment: I am concerned that in some respects—and this was certainly expressed by the deputants—much of this bill is devoted to almost an abdication, I say again, on the part of the minister and the ministry for any responsibility regarding student achievement and student outcomes.

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I already heard recently about boards that were being encouraged to raise marks because this was what the province wanted. I certainly hope that this bill isn't going to promote student achievement and we find students are given marks that obviously don't reflect their abilities.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: The government knows, the minister knows, the ministry knows and the government members sitting in this committee know that almost every deputant, parent and trustee spoke about the need for the government to define student achievement—we attempt to do that in one of the amendments that I will introduce a bit later—but the government nowhere talks about what student achievement is or means, and they make no effort to try to define it. Most of the folks who came said, “Please define it.” I'm amazed and surprised that the government hasn't made an attempt to do that. I think I know why: because student achievement is defined by EQAO test scores, and that's the extent of it. They don't want to say it, but that's what it is. If they disagree with my interpretation and the interpretation of many—that student achievement is nothing other than tied to EQAO test scores—they should tell us.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals.

Mrs. Liz Sandals: I would just simply suggest, given that what we're doing is striking out the reference to the regulation and making this a more general statement about promoting student achievement and well-being, that in fact we have been listening to some of those concerns.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 16.1? Those opposed? Motion 16.1 is carried.

Government motion 16.2.

Mrs. Liz Sandals: I move that clause 169.1(1)(d) of the Education Act, as set out in section 16 of the bill, be amended by adding “and” at the end of subclause (i) and by striking out subclause (ii).

That's because, given the amendment we just made, subclause (ii) is superfluous.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 16.2? Those opposed? Motion 16.2 is carried.

PC motion 17, Ms. Witmer.

Mrs. Elizabeth Witmer: I move that subsection 169.1(1) of the Education Act, as set out in section 16 of the bill, be amended by adding the following clause:

“(d.1) monitor and evaluate the effectiveness of policies developed by the board under clause (d) in achieving the board's goals and the efficiency of the implementation of those policies;”

Again, this is an amendment that was proposed by the Ontario Public School Boards' Association. Their desire was to have this clause added to the list of new responsibilities that was being given to boards.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals.

Mrs. Liz Sandals: We think this is a very good amendment, so we will be supporting it.

The Chair (Mr. Shafiq Qaadri): Thank you. Proceeding to the vote: Those in favour of PC motion 17? Those opposed? PC motion 17 passes.

Government motion 18.

Mrs. Liz Sandals: I move that clause 169.1(1)(e) of the Education Act, as set out in section 16 of the bill, be amended by striking out “multi-year plans” and substituting “a multi-year plan”.

You will see that there are a whole bunch of amendments where we are moving from “plans” to “plan,” because the way the bill was originally worded, it looked like we were requiring multiple multi-year plans, which did not seem sensible.

The Chair (Mr. Shafiq Qaadri): Comments? Government motion 18: Those in favour? Those opposed? Motion 18 is carried.

Government motion 19.

Mrs. Liz Sandals: I move that clauses 169.1(1)(f) and (g) of the Education Act, as set out in section 16 of the bill, be struck out and the following substituted:

“(f) annually review the plan referred to in clause (e) with the board's director of education or the supervisory officer acting as the board's director of education; and

“(g) monitor and evaluate the performance of the board’s director of education, or the supervisory officer acting as the board’s director of education, in meeting,

“(i) his or her duties under this act or any policy, guideline or regulation made under this act, including duties under the plan referred to in clause (e), and

“(ii) any other duties assigned by the board.”

What we’re doing here is making sure it’s clear that the board is responsible for monitoring the implementation of the plan but also more broadly the performance of the director of education, not simply the plan. I believe this was proposed by the Toronto District School Board governance committee.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 19? Seeing none, those in favour of government motion 19? Opposed? Motion 19 carries.

NDP motion 20.

Mr. Rosario Marchese: I move that section 169.1 of the Education Act, as set out in section 16 of the bill, be amended by adding the following subsection:

“(3.1) Every board shall annually commission an independent audit to determine whether the government of Ontario has provided the board with adequate resources to ensure improved student outcomes and the board shall make the audit report available to the public.”

In my view, this is about real accountability on a board-by-board basis. It’s about ensuring that the ministry gives the board more than just words and funding promises that may take years to be realized, if at all. The ministry has to commit to full, predictable, transparent long-term funding instead of the rob Peter to pay Paul that we have now. I want to reiterate a point that Mr. John Campbell, the chair of the Toronto board, made: “We urge the committee to add a section to the bill that ties the board’s accountability to an obligation by the minister to ensure that the resources referred to in (b) are adequate to achieve the outcomes in (a) and deliver the programs in (c). This obligation would require the ministry to consider local circumstances beyond a board’s control that affect student outcomes—circumstances like poverty, student hunger, cultural challenges, remote communities, lack of community cohesion, available social supports, immigration challenges and language barriers. Absent this obligation, it is possible that the ministry may over-promise what a board can deliver with the resources offered.”

I thought this was clear and very, very concise in terms of the problems boards have in meeting the obligations that the government is imposing on them.

OPSBA said, “In this particular section, we emphasize that a critical factor in a board’s capacity to meet its requirements is having adequate and appropriate funding from the ministry to cover all the obligations for training school boards as well as program, policy and political support to meet the full range of needs of the children and youth for whom we carry a shared responsibility.”

I think this motion is critical. This is the way to make sure that governments are the real partners. If you don’t support this, it means you’re putting all of the obligations

and responsibilities on boards to achieve your political goals as a government, rather than the board’s ability to deliver on what you asked them to do and to deliver without adequate resources.

My motion attempts to help the boards deal with that, and it makes sure that governments are real partners in what it is that they’re trying to do.

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The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Liz Sandals: Just looking at this amendment, it talks about every board, so 72, or, if you’re counting the DSABs, even more than that, and it says “annually commission an independent audit.” So we’re talking about 72 or more independent audits each and every year, which would seem to be an excessive number of audits going on.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: That’s the point. It is a cost to boards, no doubt, but it will force the government to be able to respond to the adequacy or inadequacy of the money they get from governments. The idea is to do it annually so that the government is held accountable every year and not just once. That’s exactly the point. Even though it’s a cost to the boards to do the audit—and I understand it’s money they may not have—if it reveals that there are funding gaps from the government and then it commits the government to have to provide adequate dollars, those audits are worth it, in my view.

On a recorded vote, monsieur le Président.

Le Président (M. Shafiq Qaadri): Merci. Votre vote procède maintenant.

Ayes

Marchese.

Nays

Aggelonitis, Albanese, Lalonde, Mitchell, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 20 is defeated.

Government motion 21.

Mrs. Liz Sandals: I move that section 169.1 of the Education Act, as set out in section 16 of the bill, be amended by,

(a) striking out “plans referred to in clause (1)(e) include” in subsection (3) and substituting “plan referred to in clause (1)(e) includes”;

(b) striking out “plans” in clause (4)(a) and substituting “plan”; and

(c) striking out “plans” in clause (4)(b) and substituting “plan”.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on government motion 21? We’ll proceed to the vote. Those in favour of government motion 21? Those opposed? Motion 21 is carried.

NDP motion 22.

Mr. Rosario Marchese: I move that section 169.1 of the Education Act, as set out in section 16 of the bill, be amended by adding the following subsections:

“Standing Committee on Education Finance

“(6) A standing committee of the Legislative Assembly known as the Standing Committee on Education Finance is hereby established.

“Mandate

“(7) The Standing Committee on Education Finance shall convene annually to consider and report on whether the resources entrusted to boards are adequate to meet their obligations.”

This is designed—another motion similar to the previous one—to guarantee accountability at the provincial level. What we have at the moment is a rob-Peter-to-pay-Paul approach to education in Ontario, which forces school boards to run some programs at the expense of others while the government claims to be doing both. It’s critical that parents can match the provincial funding with the expectations to make sure that the funding is in fact being provided and not just announced and reannounced every time a need is identified.

What we’re doing with this section is exactly what the Liberal members, through Mr. McGuinty and Mr. Kennedy, the then minister—at least after 2003—declared that they would do if they got elected in 2003. It’s a promise that the Liberals made in the 2003 election and never implemented. The rationale was the same rationale I am putting forth today, that what the Conservatives had been doing was funding education inadequately, and they, through Mr. Kennedy and Mr. McGuinty, were going to have a standing committee of the Legislative Assembly known as the Standing Committee on Education Finance in order to do an annual review of what monies were going out to boards. I supported the Liberals when they proposed this in opposition; I’m trying to encourage the Liberals while they’re in government to do this. I think it’s a way to hold themselves accountable as well.

It’s a way to show boards that they are real partners. It’s a way to show boards that they really want to make sure that they, like Liberal members, want an open process where these things are debated, where we in opposition can question the minister—including the government members—and have a full accounting of where the money is going. We think this is a good, transparent process that would help all of the education players. It would make them feel good about what the government is doing—or say to us that maybe what the government is doing is inadequate and we need to help them to make it more adequate.

I think this is a motion that Liberals should support, because they were the ones who moved it prior to the 2003 election.

The Chair (Mr. Shafiq Qadri): Thank you. Comments on NDP motion 22? Ms. Sandals.

Mrs. Liz Sandals: First of all, I’m not sure that this is actually in order in terms of whether we can amend the Education Act to set up a standing committee of the

Legislature, or whether in fact there’s some other place that you go to set up a standing committee of the—

Mr. Rosario Marchese: Where should we go?

Mrs. Liz Sandals: Well, it seems to me that that’s something that normally comes up in the rules of the Legislature, in the standing orders.

The Chair (Mr. Shafiq Qadri): I’ll have legal counsel weigh in.

Mr. Rosario Marchese: Does the parliamentary assistant agree with the intent of the motion, even if it were out of order?

The Chair (Mr. Shafiq Qadri): Before that, I’ll just ask legal counsel to weigh in on the question.

The Clerk of the Committee (Mr. Katch Koch): Just a quick comment: Traditionally, standing committees are set up by the Legislature with the standing orders. By law, I don’t know. I have to refer to legal counsel.

Mr. Doug Beecroft: The only limitations, really, on the Legislative Assembly’s powers to pass legislation are in the Constitution, either in the charter or in the distribution of powers between the federal government and the provincial government. So we have a Legislative Assembly Act in Ontario that governs the Legislative Assembly. It’s within the power legally of the Legislative Assembly to pass bills governing the Legislative Assembly.

Mr. Rosario Marchese: Sure. But is this motion out of order?

The Chair (Mr. Shafiq Qadri): I think we’re probably all pretty knowledgeable about that—

Mr. Doug Beecroft: So I don’t think this motion is out of order.

The Chair (Mr. Shafiq Qadri): —but just reference to the specific point that’s being raised.

Mrs. Liz Sandals: Okay. I would just say that I think that this is the sort of thing that if you’re going to be setting up standing committees, this is something that the House leaders of all the parties should be dealing with, as opposed to just slipping it in through the Education Act.

The Chair (Mr. Shafiq Qadri): Thank you. Mr. Marchese.

Mr. Rosario Marchese: We haven’t been able to slip it in anywhere, because we have been stymied by the government every step of the way. The government members have no interest in this, clearly. Legal counsel has said that this motion is in order, so I’m just going to call for, of course, a recorded vote so that we can see whether the government members agree or disagree with this.

The Chair (Mr. Shafiq Qadri): Thank you. A recorded vote, unless there are further comments.

Ayes

Marchese.

Nays

Aggelonitis, Albanese, Lalonde, Mitchell, Sandals.

The Chair (Mr. Shafiq Qaadri): I declare NDP motion 22 to have been defeated. I would also thank Ms. Aggelonitis—five syllables—for voting in that last round.

Shall section 16, as amended, carry? Carried.

We'll proceed to consider a block vote on sections 17 to 22 inclusive, as we received no amendments or motions. Shall sections 17 to 22 pass? Carried.

We proceed now to section 23, NDP motion 23. Mr. Marchese.

Mr. Rosario Marchese: I move that section 23 of the bill be amended by adding the following subsection:

“(2) Section 208 of the act is amended by adding the following subsection:

“(8.1) A person shall not be elected as chair or vice-chair if he or she has a spouse, child, parent, brother or sister who is currently employed by the board.”

1510

I think this is one of the few amendments that I proposed, or at least that the government members are about to consider, that deals with the actual governance. I really thought that this bill was actually going to deal with governance issues connected to what trustees do or shouldn't do or where the conflicts are, and the government has proposed very little by way of governance of school trustees.

This is one motion that we think is apropos, and I suspect a whole lot of people agree with the motion that I have put forth. I know that there's probably disagreement about potential conflict of interest with respect to trustees in general and having a family member in the board and therefore having to declare a conflict. I'm very cautious of that, too, because if that's the case, most trustees would be subject to a conflict every day and it would render them—it would be impossible for them to do the job.

The Star editorial made some good points around this, because if there were such a conflict with trustees and we passed that conflict down to the provincial level, they made the argument that the Premier has a wife who is a teacher and therefore should declare a conflict on every issue connected to education that the government legislates. We know that that does carry it a bit too far. At some point, we're going to have to review what is really a conflict of interest for trustees in general in order to allow them to do the job well.

But this is one area where I think we might agree, because I'm not talking about all trustees; I'm talking about the chair of the board. It says: “A person shall not be elected as chair or vice-chair if he or she has a spouse, child, parent, brother or sister who is currently employed by the board.” I think the chair has greater obligations and responsibilities that subject him or her to greater transparency of the rules.

I think it's a governance issue that should be dealt with, and I put it forth for the consideration of this committee.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

Mrs. Liz Sandals: As Mr. Marchese has noted, the whole issue of what is and isn't a conflict of interest is covered by the Municipal Conflict of Interest Act. While there may be ways in which that is problematic and should perhaps be reviewed, I think the core issue here, in terms of the way the Education Act is currently structured, is that the people who are named here are, according to the Education Act, qualified to be elected as trustees. To exclude them from participating as chairs or vice-chairs of the board seems contradictory if, on one hand, you're going to say it's acceptable for this person to be elected as a trustee, but then disallow them from taking on a possible role.

I would also note that this is probably just plain impractical, because this clause applies not only to district school boards; it also applies to district school area boards, the isolates, which often have only three trustees, and often some of those trustees will be people who are in some way or other related to somebody who participates in the education sector. So, in fact, in those very small boards, you could actually make it practically impossible to function, so we will be opposing this.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 23? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 23? Those opposed? NDP motion 23 is defeated.

Shall section 23 carry? Carried.

Shall sections 24 and 25 carry? Carried.

Section 26, government motion 24: Ms. Sandals.

Mrs. Liz Sandals: I move that section 218.1 of the Education Act, as set out in section 26 of the bill, be amended by renumbering clause (a) as clause (a.1) and by adding the following clause:

“(a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this act, the regulations and the guidelines issued under this act, including but not limited to the board's duties under section 169.1;”

The rationale for this amendment is, when we got into looking at the code of conduct, it was pointed out that there might be some confusion around how other trustees would relate to a motion that didn't comply with the Education Act. The suggestion was made that we should actually include in the duties of trustees the fact that they are required to comply with the act in terms of carrying out their responsibilities. So it was felt that to clearly state that, given the commentary that we heard during the hearings, would be helpful, to put that upfront in terms of the duties.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: Given what we heard, I would have thought the government would do much more than this. We heard nothing but critical remarks on this section, by trustees and everybody else. I don't know what you heard, but this is the minimalistic of things that you could be proposing to be helpful. It's just so meaningless. I put that on the record.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 24? Seeing none, we'll proceed to

the vote. Those in favour of government motion 24? Those opposed? Motion 24 carried.

Government motion 25: Ms. Sandals?

Mrs. Liz Sandals: I move that clause 218.1(b) of the Education Act, as set out in section 26 of the bill, be amended by striking out “plans” and substituting “plan”.

The Chair (Mr. Shafiq Qaadri): Any further comments? We’ll proceed to the vote. Those in favour of government motion 25? Those opposed? Motion 25 carried.

PC motion 26.

Mrs. Elizabeth Witmer: I move that clause 218.1(c) of the Education Act, as set out in section 26 of the bill, be amended by striking out “supporters of the board” and substituting “members of the community”.

Again, this amendment was brought forward in order to ensure and support trustees in the work that they do by bringing forward concerns from people in the community. Again, it was an amendment that had been supported by OPSBA.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 26?

Mrs. Liz Sandals: This goes to the duties of individual trustees, and in the Education Act, when we talk about “supporters of the board,” we’re talking about the folks—whatever the board is or whichever the board is—those people who have chosen to support that particular board with their tax dollars. So it seems to me that when we are talking about the legal duty of the trustee that in fact it is to advocate on behalf of the parents, the students and the supporters of the board. The supporters of the board are the people who elected them. So it isn’t that the term “supporters” has its normal English meaning in this case—that doesn’t preclude the board, as a corporate entity, from hearing from people who don’t happen to be supporters in the technical sense, but in terms of the individual trustee’s duty to advocate and represent, it clearly is to the people who elected them.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 26? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 26? Those opposed? I declare PC motion 26 has been defeated.

NDP motion 27: Mr. Marchese.

Mr. Rosario Marchese: I move that clause 218.1(d) of the Education Act, as set out in section 26 of the bill, be struck out.

Clause (d) says that the duties of boards include, “support the implementation of any board resolution after it is passed by the board.”

I found this whole section very offensive, generally and very specifically, on almost each one of them, and this was particularly difficult for me and difficult for most of the trustees who came here, because what it says is that they will support the implementation of any board resolution. I just think it’s wrong. I think that elected trustees who have to run in elections every four years now—it used to be three and it used to be two—are elected officials, and if they disagree with the board, they disagree with the board. It should be okay, and that

disagreement should be reflected publicly. If it reflects the fact that a trustee is representing a whole community, it should be seen as such. If it represents the person’s own view, that’s fine too; that’s why they’re elected. They are not servants of the government, they are not nominated by the government; they are elected, and as such it is their duty to be able to represent the views of their constituency in the way that they see fit. If they want to disagree with a board resolution, they should before and after a resolution has been passed by a board.

1520

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 27? Ms. Sandals.

Mrs. Liz Sandals: I would draw your attention to government motion 29, where we are suggesting that this particular clause be worded to say “uphold the implementation,” which in fact if memory serves me, is the wording that was suggested in the governance review committee. I think there were some of the trustees’ associations that said, “No, what we mean here is ‘uphold implementation.’” There is no intent here that individual trustees cannot speak out against or ask for reconsideration of resolutions with which they disagree. The issue here is that once the collective board has agreed to a resolution, then the board does need to go ahead and uphold the implementation of that resolution. So we will be voting against striking out this particular clause.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Marchese and then Ms. Witmer.

Mr. Rosario Marchese: I’m just going to make my argument now. I find “upholding” equally offensive as “supporting.” It’s the same thing, if not worse, in my mind. The intent is very clear: The parliamentary system is wrong. Once the vote has been passed by a board, it says the trustee “shall support the implementation of any board resolution.” It says “shall.” It’s very clear what they can and cannot do, can and cannot say. The punitive elements of this are contained in the bill as well in terms of disagreement with a board resolution. It’s very clear. “Supporting” and “upholding” are one and the same. They’re both equally bad. For the government to say “upholding” is a nicer word and someone else recommended it, and therefore it’s more acceptable, is wrong. They’re both wrong. The government is profoundly wrong on this.

These are elected trustees, and if a board passes a resolution, I don’t have to support it as an elected trustee. I don’t think I have to uphold it; it’s not my duty to uphold it. You passed it as a board, but a trustee can continue to disagree with that and go on his or her merry way with whatever it is that he or she wants. That is the duty of an elected person to do. They are both wrong; the words are both bad. I make this argument now, and I will vote against it when it comes.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Witmer.

Mrs. Elizabeth Witmer: We have a similar motion, so I would be supporting Mr. Marchese.

Mr. Rosario Marchese: I want a recorded vote.

Ayes

Jones, Marchese, Witmer.

Nays

Aggelonitis, Albanese, Lalonde, Mitchell, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 27 defeated.

We'll proceed to PC motion 28. PC motion 28 I declare out of order, as it's an exact duplicate. We'll proceed to government motion 29.

Mrs. Liz Sandals: I move that clause 218.1(d) of the Education Act, as set out in section 26 of the bill, be amended by striking out "support" at the beginning and substituting "uphold".

This would have the effect that it would say to "uphold the implementation." I'm going to go back to the testimony of Mr. Matlow before the committee because he raised the issue himself. He was on record as opposing the creation of Afrocentric schools. There is nothing here in the wording of this that would prevent that particular trustee from continuing to speak out against the implementation of Afrocentric schools, of bringing a motion of reconsideration if he thought that was useful. But upholding the implementation means that when it comes to actually creating that school, which has been approved by resolution of the board, the individual trustee cannot block the implementation of things that have been duly approved by the board. That is the effect which we want to achieve and which the governance review committee recommended.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Marchese.

Mr. Rosario Marchese: It's a useless motion; it's a useless wording change. The parliamentary assistant claims that nothing prevents a trustee from saying, "I disagree with what the board did." With the word "uphold" now, that individual cannot block—what can one individual do? How can one individual block anything? In my view, it's the duty of the trustee to be able to do whatever he or she wants to be able to put forth his or her disagreement with a bill—by way of a motion, by way of a public statement, by way of doing whatever he or she wants in his or her ward or at the board level.

If this has no effect on the trustees whatsoever, then why do you have it? Why is it here? There is an obligation on trustees and the obligation legally, in my mind, is very clear and the language is very strong on this.

What the parliamentary assistant is saying is contradictory. If it has no weight, then we don't need this motion here.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Witmer.

Mrs. Elizabeth Witmer: We support this. In fact, we have a similar motion here. I know that the Ontario Public School Boards' Association, after taking a look at this, did believe that trustees should be asked to uphold

decisions that were made rather than support them. They should be in a position where they could explain and communicate the decisions, and they should also be able to explain why they may or may not have been able to support the decision at the time.

However, I think if you take a look at this, if you're going to leave this in and you strike out "support" and put in "uphold," the new language balances the freedom of expression, the opportunity for the trustee to speak out about why they did or didn't support the decision.

However, there is a responsibility on the part of the trustee, once the decision is made, to uphold that. I think that's very important.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Rosario Marchese: Recorded vote.

Ayes

Aggelonitis, Albanese, Jones, Lalonde, Mitchell, Sandals, Witmer.

Nays

Marchese.

The Chair (Mr. Shafiq Qaadri): I declare government motion 29 to have been passed.

PC motion 30, as you know, is a duplicate, so it's withdrawn—out of order.

PC motion 31.

Mrs. Elizabeth Witmer: I move that clause 218.1(e) of the Education Act, as set out in section 26 of the bill, be struck out and the following substituted:

"(e) entrust the day to day management of the board to the director of education;"

This replaces, I guess, a part of the bill which was rather negative. It did say here "refrain from interfering in the day to day management of the board by its officers and staff;". It was calling upon members of the board to do this, and I think this would be more positive language and it would communicate the same message. In other words, it basically is saying, "Don't interfere. Entrust the day-to-day management of the board to the director of education."

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Ms. Sandals.

Mrs. Liz Sandals: You'll note that there is a government motion number 37. We are agreeing on the intent here, which is that we need to word this in a more positive way: "entrusting the day-to-day management of the board." The question here is, how do we get that correctly worded?

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I notice that in the PC motions, there is one that mentions just the director of education, and there's another that mentions director of education and senior staff. Our motion talks about entrusting the day-to-day management of the board to its staff through the director of education, which I think accurately reflects the flow of account-

ability. So we agree with the intent of 31 and 32, but we will oppose them so we can get the number 37 wording, which is the correct accountability chain, into the books.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 31? Seeing none, we'll proceed to the vote. Those in favour of PC motion 31? Those opposed? PC motion 31 is defeated.

PC motion 32, Ms. Witmer.

Mrs. Elizabeth Witmer: I would withdraw this, because it appears that the government is going to be introducing a motion which captures the essence of making sure we appropriately identify who should be in charge of the day-to-day management: the director and staff. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. PC motion 32 is withdrawn.

NDP motion 33, Mr. Marchese.

Mr. Rosario Marchese: I think this motion is a better one, actually.

I move that clause 218.1(e) of the Education Act, as set out in section 26 of the bill, be struck out.

This is an incredibly offensive piece of work that the government has introduced here. It says to "refrain from interfering in the day to day management of the board by its officers and staff..." It's the government's choice of words that speaks volumes about their attitude towards trustees and the parents they represent. If the parents who elected a trustee have concerns about the day-to-day management of the school their child attends, then the trustee has every right to make inquiries and work on behalf of the parents. That is their obligation. That's their duty as trustees.

So when the Conservative member and the government member introduce a motion that says to "entrust the day to day management of the board to the director of education and senior staff"—which is the way it is. I mean, principals manage the affairs of the school. Superintendents, who are their superiors, are subject to the same kinds of obligations, and the director is. We understand that that's the day-to-day management. We know this. So I'm not quite sure what it says. If this is the motion that the government wants now to introduce, does it mean the trustees have the right, then, to inquire or make inquiries about a problem that a parent brings forward to an MPP or a trustee?

I know Conservative members had this issue around sexual abuse when we dealt with it, where a lot of trustees were not very responsive to it and should have been, and the members had to raise this issue in committee, as I did. There is an obligation on trustees to represent parents when something goes wrong, and if a trustee doesn't have the power to represent a parent, who does? If a trustee cannot intervene or interfere or get involved—whatever language—to be able to represent a parent, what do they do? What is their role?

I was just amazed at how the government could nonchalantly introduce this and think nothing of it. I was, quite frankly, amazed at the Liberal members, including so many who were school trustees and former teachers,

and parents, of course. I just have to tell you, I think this whole thing should be scrapped, should be eliminated. That's why we put it forth.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 33? Ms. Sandals.

Mrs. Liz Sandals: This removes the—we agree that the idea needs to be more positively worded. I do not agree, nor did the governance review committee agree, that it was the responsibility of trustees, the elected officials, to step in and micromanage schools. It is the responsibility of trustees to set policy. It is the responsibility of trustees, when they get complaints from parents, to work with the senior staff to try to have those issues resolved. It is not the responsibility of trustees to micromanage on a day-to-day basis.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Witmer.

Mrs. Elizabeth Witmer: I would agree with Ms. Sandals. Based on my own personal experience, trustees do have a role, and their role isn't to manage on a day-to-day basis, but regrettably, there are individuals who sometimes do so.

There's a chain of command that you need to follow. You have a responsibility to represent the constituents who elected you, but that doesn't mean that you go in and, for example, attack a teacher. You would approach the superintendent or the principal and you would look for a resolution to the problem or the conflict that way, rather than barging into a classroom and deciding you're going to do it.

The Chair (Mr. Shafiq Qaadri): Any further comments? Those in favour of NDP motion 33? Those opposed? NDP motion 33 is defeated.

NDP motion 34.

Mr. Rosario Marchese: Mr. Chair, to avoid confusion, I would like to deal with 34, 35 and 57 together rather than separately, otherwise it will not make sense.

The Chair (Mr. Shafiq Qaadri): If that's the will of the committee, I think you have agreement for that, so 34, 35 and then 57.

Mr. Rosario Marchese: Shall I read them all?

The Chair (Mr. Shafiq Qaadri): One at a time.

Mr. Rosario Marchese: Right, one at a time, but read all three of them?

The Chair (Mr. Shafiq Qaadri): No. I think the intent, Mr. Marchese, probably in the English language and by precedent, is that one at a time means one at a time.

Mr. Rosario Marchese: That's so very clever.

I move that section 26 of the bill be amended by adding the following subsection:

"(2) Section 218.1 of the act, as enacted by subsection (1), is amended by striking out 'and' at the end of clause (e) and by adding the following clause:

"(e.1) maintain focus on student achievement and well-being; and"

This motion is related to section 26 of the bill—clauses 218.1(e) and (f) of the Education Act—and section 54 of the bill.

Mr. Chair, in your capacity as Chair, shall I just make the argument now for all three subsections that I will be introducing?

The Chair (Mr. Shafiq Qaadri): You're welcome to do that. The vote will be individual, obviously.

Mr. Rosario Marchese: Okay. The government proposes that all partners have a role in enhancing student achievement, and we want to guarantee that all partners will have a role in defining student achievement.

Currently, the government, we say, is obsessed with standardized test scores as the primary measure of student success. There are a growing number of educators, parents and stakeholders who are very concerned about this extremely limited view of student success. The stated goal of closing gaps in student achievement is admirable if we are offering our students a wide range of alternative programming which recognizes the unique and varied skill sets of our students and their individual learning styles.

The government's current position is that closing gaps in student achievement means orchestrating and fabricating higher EQAO scores at the expense of all other learning opportunities. The government's limited definition of success and the perceived political advantages of driving up test scores are the most serious threats in Bill 177, and parents must exert an influence on the definition of student success.

Here's what a deputant from Windsor-Essex said:

"The purpose of the education system in Ontario is more complex than just higher student achievement. Not including socialization or soft-skills development does a disservice to those students who, for whatever reason, cannot perform well on standardized tests.

"High achievement levels and closing the gaps in achievement create a two-tiered system across the province: schools that do well and students who" don't.

Anthony Marco: "With the term 'student achievement' ready to be cast in stone, or at least the Education Act anyway, as a key goal for all students, education workers and now trustees across Ontario, one should have a concrete definition in order to set goals and know the potential risks for job performance."

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Cassie Bell said, "Bill 177 has not defined student success, and that is a big problem. I believe the reason it is not defined is because not everyone can agree, which I completely sympathize with. It's not easy to designate one student a success and another child unsuccessful or to decide what counts in success, and what doesn't. Does a child with a mental health issue who makes it to school four out of five days count as successful or unsuccessful? What about a poor child who is hungry and can't focus to learn to read but doesn't act out in class? Is he unsuccessful because he has difficulty learning or is he successful for his good behaviour? What about the child whose family has been ravaged by domestic abuse, living in shelters, has moved schools three times in one year and who, slightly distracted, does very poorly on her grade 3

EQAO assessment? Is she successful for just being there or is she unsuccessful for her results?"

We say: Do not use EQAO test results as the definition of student success. Do explore and expand the meaning of success within the context of the whole child. Do not hold a school board accountable for delivering something that cannot be defined or adequately funded within this model—which leads me to my last point: governance, curriculum and funding.

Just to point out, in motion 57 on the bill, what we are saying is, "A proclamation under subsection (2) shall not be issued unless the Minister of Education is satisfied that the government of Ontario has engaged in comprehensive consultations to develop a broad definition of what constitutes student achievement and well-being that will recognize the importance of indicators other than the results of tests developed by the Education Quality and Accountability Office."

It's this motion that I will be reading later that determines the language on pages 34 and 35. The arguments that I made and the motion that I will move on page 57 are what I'm speaking to.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 34, which is before us now? Ms. Sandals.

Mrs. Liz Sandals: I must admit I'm a little bit confused, because when we moved that we add "promote student achievement and well-being" to the duties of the board—which is where we believe it more correctly goes because it's a collective responsibility as opposed to an individual duty of a board member—I thought that the NDP argument was that this was quite horrid wording and we wouldn't want to include this in the bill. So I'm a little bit surprised that you're now suggesting that we put "maintain focus on student achievement and well-being" as an individual responsibility rather than a collective board responsibility. We will vote against this because we already put it as a board responsibility, which is where we think it belongs.

Mr. Rosario Marchese: I think she misunderstands what this motion does. What we're asking the government to do—we know that she likes this language; we know that the government likes the language that they have proposed. What we're saying is that this bill will not pass until the government of Ontario is engaged in comprehensive consultations to develop a broad definition of what constitutes student achievement and well-being. That's what I'm asking the government and the parliamentary assistant to do, that they define what constitutes—we don't have to worry about that, Mr. Chair. I don't know if I need to make my argument again. Did the parliamentary assistant hear my argument?

Mrs. Liz Sandals: Yes.

Mr. Rosario Marchese: I see. Okay, then. I was just saying that she misunderstood, clearly, what I'm trying to get at.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments on NDP motion 34?

Mrs. Liz Sandals: Just to note that I hear what you're saying but what I'm reading is that we add this specific

clause, “maintain focus on student achievement and well-being,” to the list of duties of individual board members. That’s what the motion that is before us says. So I hear what you’re saying but that’s not what I’m reading.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we can proceed to vote on NDP motion 34. Those in favour? Those opposed? NDP motion 34 is defeated.

NDP motion 35, Mr. Marchese.

Mr. Rosario Marchese: I’ll just read it, but will not make any additional arguments.

I move that section 218.1 of the Education Act, as set out in section 26 of the bill, be amended by adding “and” at the end of clause (e) and by striking out clause (f).

These suggestions were made by legal counsel in terms of making sure that it is in conformity with a motion I’m making on page 57.

The Chair (Mr. Shafiq Qaadri): Further comments?

Those in favour of NDP motion 35? Those opposed? NDP motion 35 is defeated.

I declare NDP motion 57 out of order due to defeat of the preceding two amendments. We’ll therefore proceed to NDP motion 36, Mr. Marchese.

Mr. Rosario Marchese: I move that clauses 218.1(e), (f) and (g) of the Education Act, as set out in section 26 of the bill, be amended by,

- (a) adding “and” at the end of clause (e);
- (b) striking out “and” at the end of clause (f); and
- (c) striking out clause (g).

The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Liz Sandals: Yes. Striking out clause (g) would remove the requirement for board members to comply with their board’s code of conduct, and I would note that the governance review committee actually specifically asked for legislation that would require trustees to comply with their board’s code of conduct. So we will not be voting for motion 36.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 36? Those opposed? Motion 36 is defeated.

Government motion 37, Ms. Sandals.

Mrs. Liz Sandals: This goes back to the discussion we were having before.

I move that clause 218.1(e) of the Education Act, as set out in section 26 of the bill, be struck out and the following substituted:

“(e) entrust the day to day management of the board to its staff through the board’s director of education;”

We’ve already discussed the fact that it’s important that this be worded in a more positive manner but that we do capture the idea that day-to-day management is the responsibility of the staff.

The Chair (Mr. Shafiq Qaadri): Further comments?

Those in favour of government motion 37? Those opposed? Motion 37 is carried.

Government motion 38, Ms. Sandals.

Mrs. Liz Sandals: I move that section 218.2 of the Education Act, as set out in section 26 of the bill, be struck out and the following substituted:

“Code of conduct

“218.2(1) A board may adopt a code of conduct that applies to the members of the board.

“Minister’s regulations

“(2) The Minister may make regulations,

“(a) requiring a board to adopt a code of conduct under subsection (1);

“(b) governing matters to be addressed by codes of conduct under this section.”

What this rewrite of section 218.2 accomplishes—this actually goes back to, again, some of the requests from the governance review committee—is to make it clear, by setting out the board having a local code of conduct, first, that the board is authorized to have its own code of conduct, as many boards already do; when we get to the language around enforcing the code of conduct, that the enforcement language will apply to the board’s local code of conduct—again, that was requested by the governance review committee; finally, that the minister may make regulations around things that should be included in that local code of conduct but that the ministerial regulations are not required; and that the board, and many boards do, have a code of conduct of its own and that that can sit on its own.

The Chair (Mr. Shafiq Qaadri): Further comments?

Those in favour of government motion 38? Those opposed? Government motion 38 is carried.

NDP motion 39, Mr. Marchese.

Mr. Rosario Marchese: I move that section 218.3 of the Education Act, as set out in section 26 of the bill, be struck out and the following substituted:

“218.3(1) The Office of the Education Integrity Commissioner is hereby established and it shall be headed by the Education Integrity Commissioner.

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“(2) The Lieutenant Governor in Council shall appoint a person to be the Education Integrity Commissioner.

“(3) The Education Integrity Commissioner shall investigate any alleged breaches of a board’s code of conduct.”

A large number of presenters called for an independent third party to investigate breaches in boards’ codes of conduct. We ourselves have called—I did many years ago—in the past for Ombudsman oversight. Investigations into breaches must not only be fair and transparent; they must appear to be so.

We know that there are a lot of parents who often face many, many problems in the school system. They go through the various levels. They go to the principal—sometimes to the teacher and then they go to the principal. Sometimes they go to the trustee. Sometimes they get a good hearing from them, and many times they don’t. They are at their wits’ end in terms of what to do when they face barriers in the system in terms of speaking to anyone that might hear what they have to say. They have nowhere to go. The system simply encourages you to go through the various channels, and when that fails, where do you go?

This is a motion that, in my view, is critical to be able to help parents out when they have a problem, whatever

problem they've been facing. Sometimes these problems plague them for years. We actually need this type of office.

Rob Davis spoke about this, and many others. He said, "The province should create an office of integrity commissioner so that breaches of conduct can be heard in a quasi-judicial framework, allowing for the rules of evidence etc., and so that the rules of natural justice can apply, but also so that members of the public can pursue a remedy, should they wish, when there's an issue of integrity."

In my view it's vitally, vitally needed.

The Chair (Mr. Shafiq Qadri): Thank you. Further comments? Ms. Sandals.

Mrs. Liz Sandals: Yes. First off, I would like to point out that, again, I know that the description that has just been given to us of the role of the education integrity commissioner would be someone that parents could appeal to on all sorts of issues. But in fact what the actual motion says is, "The Education Integrity Commissioner shall investigate any alleged breaches of a board's code of conduct." In fact, it's not even given power to rule on the board's code of conduct. It's simply an investigation of a breach of a code of conduct by a board member.

So, again, what I'm reading is quite different from what I'm hearing.

Mr. Rosario Marchese: Yes, quite right.

Mrs. Liz Sandals: Ironically, perhaps, given everything we've heard about the government and its relationship with school boards, it seems to be the government here that actually trusts the school boards to go about their own business and to deal with their own breaches of their own code of conduct. We think that we don't need an education integrity commissioner to deal with school board breaches of code of conduct. We think that boards are quite qualified to deal with those on their own.

The Chair (Mr. Shafiq Qadri): Thank you. Those in favour of NDP motion 39? Those opposed? NDP motion 39 is defeated.

Government motion 40, Ms. Sandals.

Mrs. Liz Sandals: I move that paragraph 2 of subsection 218.3(3) of the Education Act, as set out in section 26 of the bill, be struck out.

This was the section of the bill that dealt with penalties for breaching the code of conduct. This particular penalty had to do with reducing the honorarium. There were a number of people who appeared before the committee who said that that was an inappropriate power for a board, that it was out of proportion to the powers that other governmental bodies had to police their own. We have listened to that. We agree with what the presenter said, so we're suggesting that boards in fact should not have the power to impose a reduction of honorarium on colleagues.

The Chair (Mr. Shafiq Qadri): Thank you. Ms. Witmer.

Mrs. Elizabeth Witmer: We have a similar motion in the PC Party, so we will be supporting this.

The Chair (Mr. Shafiq Qadri): Thank you. We'll proceed to the vote, then. Those in favour of government motion 40? Those opposed? Motion 40 is carried.

I take it that PC motion 41 is out of order.

I would now invite Ms. Witmer to present PC motion 42.

Mrs. Elizabeth Witmer: And we would withdraw motion 42.

The Chair (Mr. Shafiq Qadri): Thank you. PC motion 42 is withdrawn.

PC motion 43.

Mrs. Elizabeth Witmer: I move that section 218.3 of the Education Act, as set out in section 26 of the bill, be amended by adding the following subsection:

"Same

"(3.1) If a resolution of the board imposes a sanction under subsection (3) barring a member from attending all or part of a meeting, the resolution shall be entered in the minutes of the board and shall be deemed, for the purpose of clause 228(1)(b), to authorize the member to absent himself or herself from the meeting."

So this is raised here, and it was an amendment proposed by the Ontario Catholic School Trustees' Association, who were concerned with the possibility that a board could use the clause to actually remove one of its members from the office of trustee. So they put forward this amendment, and we have it here.

The Chair (Mr. Shafiq Qadri): Ms. Sandals?

Mrs. Liz Sandals: We agree with the intent of the motion that has been put forward here and have actually dealt with it in our government motion 46. In order to make our motion 46 hang together, we will not be voting for this, but the content of this amendment will get covered in number 46.

The Chair (Mr. Shafiq Qadri): Those in favour of PC motion 43? Those opposed? PC motion 43 is defeated.

PC motion 44: Ms. Witmer.

Mrs. Elizabeth Witmer: I move that section 218.3 of the Education Act, as set out in section 26 of the bill, be amended by adding the following subsection:

"Same

"(3.2) The board shall engage the services of a neutral third party to assist the board in making inquiries under subsection (2) and in the hearing of any possible appeal of a determination made or sanction imposed under subsection (3)."

Again, this is an amendment that was recommended to us during the hearings by the Ontario Catholic School Trustees' Association, and according to them: "In the absence of a formal appeal procedure at the local board level, a member found by a board to have contravened the code of conduct would be forced to seek redress from an improper finding" or inappropriate sanction through a judicial review. Therefore, fairness suggests that a more accessible process be made available.

The amendment here in front of us establishes the provision for the appointment of a neutral third party, and this would of course, then, substantially strengthen the

transparency which is believed to be necessary, and also the objectivity.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals?

Mrs. Liz Sandals: Yes. We, again, were listening when OCSTA mentioned, "How are you going to have an appeal mechanism?" We have suggested in our motion 46 a different appeal mechanism from this one. So it will not be exactly the same as this one, but we have included an appeal mechanism.

The Chair (Mr. Shafiq Qaadri): Any further comments? Those in favour of PC motion 44? Those opposed? PC motion 44 is defeated.

PC motion 45.

Mrs. Elizabeth Witmer: I move that section 218.3 of the Education Act, as set out in section 26 of the bill, be amended by adding the following subsection:

"Same

"(4.1) Despite subsection (4) and section 207, a meeting of the board shall be closed to the public if,

"(a) a sanction is or may be imposed at the meeting; and

"(b) the subject matter under consideration involves the disclosure of intimate, personal or financial information in respect of the member."

This particular motion is intended to protect the privacy rights that are afforded to board members.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

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Mrs. Liz Sandals: Yes, I think in this case we've arrived at, perhaps, a different conclusion because what we will be doing in motion 46 is clarifying how you would apply the normal in-camera rules that exist in the Municipal Act and the Education Act, to apply it to proceedings around trustee code of conduct breaches or allegations. So, we will be dealing with the subject matter but in a different way.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Those in favour of PC motion 45? Those opposed? PC motion 45 is defeated.

Government motion 46.

Mrs. Liz Sandals: This is the promised motion that deals with absolutely everything.

I move that subsection 218.3(4) of the Education Act, as set out in section 26 of the bill, be struck out and the following substituted:

"Same

"(4) For greater certainty, the imposition of a sanction under paragraph 3 of subsection (3) barring a member from attending all or part of a meeting of the board shall be deemed, for the purpose of clause 228(1)(b), to be authorization for the member to be absent from the meeting.

"Same

"(5) A member of a board who is barred from attending all or part of a meeting of the board or a meeting of a committee of the board under subsection (3) is not entitled to receive any materials that relate to that meeting

or that part of the meeting and that are not available to members of the public.

"Same

"(6) If a board determines that a member has breached the board's code of conduct under subsection (2),

"(a) the board shall give the member written notice of the determination and of any sanction imposed by the board;

"(b) the notice shall inform the member that he or she may make written submissions to the board in respect of the determination or sanction by a date specified in the notice that is at least 14 days after the notice is received by the member; and

"(c) the board shall consider any submissions made by the member in accordance with clause (b) and shall confirm or revoke the determination within 14 days after the submissions are received.

"Same

"(7) If the board revokes a determination under clause (6)(c), any sanction imposed by the board is revoked.

"Same

"(8) If the board confirms a determination under clause (6)(c), the board shall, within the time referred to in that clause, confirm, vary or revoke the sanction.

"Same

"(9) If a sanction is varied or revoked under subsection (7) or (8), the variation or revocation shall be deemed to be effective as of the date the original determination was made under subsection (2).

"Same

"(10) Despite subsection 207(1) but subject to subsection (11), the part of a meeting of the board during which a breach or alleged breach of the board's code of conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2)(a) to (e).

"Same

"(11) A board shall do the following things by resolution at a meeting of the board, and the vote on the resolution shall be open to the public:

"1. Make a determination under subsection (2) that a member has breached the board's code of conduct.

"2. Impose a sanction under subsection (3).

"3. Confirm or revoke a determination under clause (6)(c).

"4. Confirm, vary or revoke a sanction under subsection (8).

"Same

"(12) A member who is alleged to have breached the board's code of conduct shall not vote on a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11).

"Same

"(13) The passage of a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11) shall be recorded in the minutes of the meeting.

"Same

"(14) The Statutory Powers Procedure Act does not apply to anything done under this section."

Working through there, we have covered the issue that a sanction of non-attendance cannot be used to count to the ticking time clock that can lead to a trustee being removed from the board, and that if a sanction includes being barred from an in-camera meeting of the board, then you would not be eligible to receive the materials that are related to the in-camera portion of that meeting. In many cases where there is a dispute in the board about allegations of misconduct, it often involves a breach of confidentiality, and that's actually the subject that is the contentious piece of the discussion. Then we go on to have some detailed rules around how to handle an appeal—

Mr. Rosario Marchese: Dispense.

Mrs. Liz Sandals: Well, that's what the rest of it does, anyway.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 46? There are none, so we'll proceed to the vote. Those in favour of government motion 46? Those opposed? Motion 46 is carried.

Government motion 47.

Mrs. Liz Sandals: I move that clause 218.4(f) of the Education Act, as set out in section 26 of the bill, be amended by striking out "views and".

There were a number of presenters who noted that that Chair should be responsible for reporting the resolutions of the board but could hardly be responsible for reporting individual views to the director.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer?

Mrs. Elizabeth Witmer: We have a similar motion, the PC Party, and we will be supporting this.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 47? Those opposed? Motion 47 is carried.

PC motion 48, as Mrs. Witmer has just stated, is essentially withdrawn or dealt with.

We'll now move to government motion 49.

Mrs. Liz Sandals: I move that clause 218.4(g) of the Education Act, as set out in section 26 of the bill, be amended by striking out "plans" and substituting "plan".

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of motion 49? Those opposed? Motion 49 is carried.

PC motion 50.

Mrs. Elizabeth Witmer: I move that section 218.4 of the Education Act, as set out in section 26 of the bill, be amended by striking out "and" at the end of clause (g) and by adding the following clause:

"(g.l) provide leadership to the board in maintaining the board's focus on the board's mission and vision; and"

Again, one of the primary responsibilities of the Chair is to lead the board in maintaining their focus on the mission statements and values, and that's why it's here.

The Chair (Mr. Shafiq Qaadri): Mrs. Sandals?

Mrs. Liz Sandals: We think this is a very constructive amendment, so we will be supporting it.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of PC motion 50? Those opposed? Carried?

Shall section 26, as amended, carry? Carried.

Shall sections 27 and 28 carry? Carried.

Section 29, government motion 51: Ms. Sandals.

Mrs. Liz Sandals: We now get into some money motions, I think—yes. I move that section 242.1 of the Education Act, as set out in section 29 of the bill, be amended by adding the following subsection:

"Transition

"(2) Subsection (1) does not prevent regulations made under subsection 241(6) or clause 247(3)(b) after the day the Student Achievement and School Board Governance Act, 2009 receives royal assent from applying to investments held by sinking funds or retirement funds immediately before that day."

If somebody wants me to try, I will.

The Chair (Mr. Shafiq Qaadri): Further comments? Those in favour of government motion 51? Those opposed? Carried.

Shall section 29, as amended, carry? Carried.

Shall section 30 carry? Carried.

Government motion 52.

Mrs. Liz Sandals: I move that section 31 of the bill be amended by adding the following subsection:

"(10) Section 247 of the act is amended by adding the following subsection:

"Transition

"(11) Despite subsection (3) and subsection 242.1(1), subsections (1) and (2) do not authorize the issuance of debentures for the purpose of repaying, refunding or refinancing any debentures that were issued before the day the Student Achievement and School Board Governance Act, 2009 received royal assent."

The Chair (Mr. Shafiq Qaadri): Further comments? Those in favour of government motion 52? Those opposed? Motion 52 is carried.

Shall section 31, as amended, carry? Carried.

We'll do a block vote now. Shall sections 32 to 40 inclusive carry? Carried.

Section 41, PC motion 53.

Mrs. Elizabeth Witmer: This one, on section 41 of the bill, I would withdraw it.

The Chair (Mr. Shafiq Qaadri): PC motion 53 is withdrawn.

Shall section 41 carry? Carried.

Block consideration: Shall sections 42 to 47 carry? Carried.

Section 48: Government motion 54.

Mrs. Liz Sandals: I move that subsection 283.1(1) of the Education Act, as set out in section 48 of the bill, be amended by,

(a) striking out "plans" in clause (a) and substituting "multi-year plan";

(b) striking out "ensure plans developed under clause 169.1(1)(e) establish the board's priorities and identify specific measures" in clause (b) and substituting "ensure that the multi-year plan developed under clause 169.1(1)(e) establishes the board's priorities and identifies specific measures";

(c) striking out "plans" in clause (c) and substituting "multi-year plan"; and

(d) striking out “plans” in clause (d) and substituting “multi-year plan”.

The Chair (Mr. Shafiq Qadri): Government motion 54: Any further comments?

Those in favour of government motion 54? Those opposed? Motion 54 is carried.

Government motion 55.

Mrs. Liz Sandals: I move that clause 283.1(1)(g) of the Education Act, as set out in section 48 of the bill, be amended by striking out “advise the minister” and substituting “advise the deputy minister of the ministry.”

The rationale here is that the person who’s doing the advising is the director of education. Traditionally, the director of education would talk to the deputy minister, whereas the Chairs would talk to the minister. So this is just sorting out the correct relationship.

The Chair (Mr. Shafiq Qadri): Those in favour of government motion 55? Those opposed? Motion 55 is carried.

PC motion 55.1.

Mrs. Elizabeth Witmer: We would withdraw that.

The Chair (Mr. Shafiq Qadri): Thank you. Government motion 56.

Mrs. Liz Sandals: I move that section 283.1 of the Education Act, as set out in section 48 of the bill, be amended by adding the following subsections:

“References to secretary

“(3) A reference in this act or any other act, or in the regulations made under this or any other act, to the

secretary of a board is deemed to be a reference to the director of education of the board.

“Same

“(4) Subsection (3) does not apply to the references to secretary in clause (1)(e) and subsection (2), or to the reference to secretary in the definition of ‘employee’ in section 57 of the Ottawa-Carleton French-Language School Board Transferred Employees Act.”

Those who have been reading the Education Act for years will understand that the archaic wording is the “secretary of the board,” or at least the traditional legal wording. That is, in today’s lingo, really the director of education. So this just makes it clear that all references to the “secretary of the board” are really, in today’s lingo, talking about the director.

The Chair (Mr. Shafiq Qadri): Those in favour of government motion 56? Those opposed? Carried.

Shall section 48, as amended, carry? Carried.

Block consideration: Shall sections 49 to 55 carry? Carried.

Shall the title carry? Carried.

Shall Bill 177, as amended, carry? Carried.

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

If there’s no further business before this committee, clause-by-clause concludes. Thank you.

The committee adjourned at 1610.

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