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

**Monday 6 December 2010**

## **Journal des débats (Hansard)**

**Lundi 6 décembre 2010**

**Standing Committee on  
Finance and Economic Affairs**

Helping Ontario Families and  
Managing Responsibly Act, 2010

**Comité permanent des finances  
et des affaires économiques**

Loi de 2010 sur l'aide  
aux familles ontariennes  
et la gestion responsable

Chair: Pat Hoy  
Clerk: Sylwia Przedziecki

Président : Pat Hoy  
Greffière : Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES  
ET DES AFFAIRES ÉCONOMIQUES**

Monday 6 December 2010

Lundi 6 décembre 2010

*The committee met at 1400 in room 151.*

**HELPING ONTARIO FAMILIES AND  
MANAGING RESPONSIBLY ACT, 2010**

**LOI DE 2010 SUR L'AIDE  
AUX FAMILLES ONTARIENNES  
ET LA GESTION RESPONSABLE**

Consideration of Bill 135, An Act respecting financial and Budget measures and other matters / Projet de loi 135, Loi concernant les mesures financières et budgétaires et d'autres questions.

**The Chair (Mr. Pat Hoy):** The Standing Committee on Finance and Economic Affairs will now come to order. We are here for clause-by-clause consideration of Bill 135, An Act respecting financial and Budget measures and other matters.

At the onset, are there any questions or comments before we actually begin clause-by-clause? Hearing none, we'll go forward.

Committee, there are no amendments to sections 1 through 3: Shall they carry? Carried.

Now, this is a little different situation. There are no amendments to schedules 1 through 3. Is it the wish of the committee that they carry? Carried.

The other was sections; this was schedules, which can be quite lengthy.

Now we are at schedule 4, section 1; page 1 of your package. It is a government motion. Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subsection 74.2(3.1) of the Corporations Tax Act, as set out in subsection 1(5) of schedule 4 to the bill, be amended by adding "on or after December 1, 2010" after "a qualifying trust may elect" in the portion before paragraph 1.

**The Chair (Mr. Pat Hoy):** Any comment?

**Mr. Norm Miller:** If the member could explain what the logic for this amendment is, it would be appreciated.

**Ms. Leeanna Pendergast:** Section 74.2 of the Corporations Tax Act provides for the calculation of a tax in respect of benefit plans. The proposed amendments to section 74.2 of the act, included in schedule 4 to Bill 135 as introduced, would allow a funded benefit plan that is a qualifying trust to elect to be treated as an unfunded benefit plan. An unfunded benefit plan is subject to the tax at the time that benefits are paid under the plan rather than at the time that contributions are made to the plan. This amendment, together with a change to the com-

mencement date, would allow a qualifying trust to make the election on or after December 1, 2010. The amendments contained in the introduction version of Bill 135 would only allow the election to be made after royal assent. This change would be consistent with the definition of "qualifying trust," which refers to a trust established on or after December 1, 2010.

**The Chair (Mr. Pat Hoy):** Any other comments? Hearing none, I'll put the question. All in favour? Opposed, if any? Carried.

Shall schedule 4, section 1, as amended, carry? Carried.

There are no amendments to schedule 4, section 2: Shall it carry? Carried.

Now we have schedule 4, section 3; page 2 in your packet. Government motion. Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that section 3 of schedule 4 to the bill be struck out and the following substituted:

"Commencement

"3(1) Subject to subsection (2), this schedule comes into force on the day the Helping Ontario Families and Managing Responsibly Act, 2010 receives royal assent.

"(2) Section 1 is deemed to have come into force on December 1, 2010."

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

Shall schedule 4, section 3, as amended, carry? Carried.

Shall schedule 4, as amended, carry? Carried.

Now, I'm not talking about sections, I'm talking about schedules; 5 through 12 have no amendments. Is it the wish of the committee that those schedules carry? Carried.

Schedule 13, section 1 has no amendments. Shall it carry? Carried.

Schedule 13, section 2 has a number of amendments. The first one is on page 3: a government motion, Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that the definition of "consumer" in section 2 of schedule 13 to the bill be struck out and the following substituted:

"'consumer' means a person,

"(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

“(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; (‘consommateur’)”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I’ll put the question. All in favour? Opposed, if any? Carried.

Page 4 is a government motion.

**Ms. Leeanna Pendergast:** I move that the definition of “eligible period” in section 2 of schedule 13 to the bill be amended by striking out “or on such earlier day as may be prescribed by the regulations” at the end.

**Mr. Norm Miller:** Chair, if I could have an explanation, please?

**Ms. Leeanna Pendergast:** Absolutely. This amendment would provide that the OCEB program lasts for five years—as we’ve heard in debate, including debate from the NDP, with the same concerns, and I’m sure we’ll concur—January 1, 2011, to December 13, 2015, by removing the option to end the program earlier by regulation.

**The Chair (Mr. Pat Hoy):** Any other comments? Hearing none, I’ll put the question. All in favour? Opposed? Carried.

Government motion, page 5.

**Ms. Leeanna Pendergast:** I move that section 2 of schedule 13 to the bill be amended by adding the following definitions:

“‘unit sub-metering’ means activities that are unit sub-metering for the purposes of the Ontario Energy Board Act, 1998; (‘activités liées aux compteurs divisionnaires d’unité’)

“‘unit sub-meter provider’ means a person who is licensed to engage in unit sub-metering by the board under part V of the Ontario Energy Board Act, 1998. (‘fournisseur de compteurs intelligents d’unité’)”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I’ll put the question. All in favour? Carried.

Page 6: a government motion, Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that section 2 of schedule 13 to the bill be amended by adding the following subsection:

“Eligible account

“(2) For the purposes of this act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

“(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

“(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.”

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**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, all in favour? Carried.

Shall schedule 13, section 2, as amended, carry? Carried.

Schedule 13, section 3: There is a government motion number 7. Mr. Delaney.

**Mr. Bob Delaney:** I move that clauses 3(1)(b) and (c) of schedule 13 to the bill be struck out and the following substituted:

“(b) the rates and charges set out in the applicable rate order issued by the board under subsection 78(3) of the Ontario Energy Board Act, 1998 that are not required under subsection (2) or the regulations to be excluded;

“(c) any charges related to an assessment under section 26.1 of the Ontario Energy Board Act, 1998;”

**The Chair (Mr. Pat Hoy):** Any comment?

**Mr. Norm Miller:** Just an explanation, please.

**The Chair (Mr. Pat Hoy):** Explanation? Ms. Pendergast.

**Ms. Leeanna Pendergast:** This deals with benefit on pure electricity cost. Subsection 3(1) of the proposed act specifies amounts on the invoices of licensed distributors and licensed retailers that are included in the base invoice amount. This would attract the 10% OCEB. This amendment simplifies the references to delivery and regulatory charges by providing that all rates and charges set out in a rate order issued by the Ontario Energy Board are generally included in the base invoice amount. This motion was developed with the advice of the Ontario Energy Board.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, I’ll put the question. All in favour? Carried.

Government motion, page 8: Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that clause 3(1)(f) of schedule 13 to the bill be struck out and the following substituted:

“(f) the amount of harmonized sales tax payable under part IX of the Excise Tax Act (Canada) in respect of amounts that are included in the base invoice amount by reason of clauses (a) to (e) or the regulations.”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, all in favour? Carried.

Page 9: government motion, Mr. Delaney.

**Mr. Bob Delaney:** I move that clause 3(1)(f) of schedule 13 to the bill be struck out and the following substituted:

“(f) the amount of harmonized sales tax payable under part IX of the Excise Tax Act (Canada) in respect of amounts that are included in the base invoice amount by reason of clauses (a) to (e) or the regulations.”

**The Chair (Mr. Pat Hoy):** My page nine is different.

**Mr. Bob Delaney:** Did I read—I’m sorry; I thought you said eight.

**The Chair (Mr. Pat Hoy):** Nine.

**Mr. Bob Delaney:** I beg your pardon, Chair.

I move that subsection 3(2) of schedule 13 to the bill be amended by striking out “and” at the end of clause (c) and by adding the following clauses:

“(c.1) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the Ontario Energy Board Act, 1998, that is classified as

'microFIT' in a rate order issued by the board under subsection 78(3) of that act;

"(c.2) charges labelled as 'specific service charges' or 'retail service charges' in the applicable rate order issued by the board under subsection 78(3) of the Ontario Energy Board Act, 1998;

"(c.3) the amount of any harmonized sales tax payable under part IX of the Excise Tax Act (Canada) in respect of amounts excluded from the base invoice amount for the billing period under clause (c), (c.1) or (c.2) or the regulations; and"

**The Chair (Mr. Pat Hoy):** That's on page 9. Any comments? Mr. Miller.

**Mr. Norm Miller:** Yes, an explanation, please.

**The Chair (Mr. Pat Hoy):** Explanation? Ms. Pendergast.

**Ms. Leeanna Pendergast:** The focus of this is to make sure that the consumer receives the benefit. This motion would exclude from the base invoice amount the distribution service charge paid by a microFIT generator and specific service charges, which are charges imposed by licensed distributors for one-time administrative activities. Examples include charges for customer administration, e.g., issuance of a duplicate invoice; non-payment of account, e.g., a charge for reconnection of electricity, and access to the power poles of a distributor; also retail service charges, which are a one-time administrative charge for services provided by a licensed distributor to consumers who have retail contracts, and the HST on these amounts or other amounts excluded from the base invoice amount by regulation.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, I'll put the question. All in favour? Carried.

Shall schedule 13, section 3, as amended, carry? Carried.

Page 10, government motion to schedule 13, section 4: Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subsection 4(1) of schedule 13 to the bill be amended by striking out "or such other amount as may be determined under rules prescribed by the regulations" at the end.

**The Chair (Mr. Pat Hoy):** Any comment?

**Mr. Norm Miller:** Yes, an explanation, please.

**Ms. Leeanna Pendergast:** This again has to do with keeping the benefit at 10%. Section 4(1) of the proposed act entitles a consumer with an eligible account to receive financial assistance equal to 10% of the base invoice amount. This motion would remove the option to specify, by regulation, an amount of financial assistance that is different from 10% of the base invoice amount.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

Government motion, page 11: Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that clause 4(2)(a) of schedule 13 to the bill be struck out and the following substituted:

"(a) in respect of electricity consumed in generation station service; or"

**The Chair (Mr. Pat Hoy):** Any comment?

**Mr. Norm Miller:** An explanation, please.

**The Chair (Mr. Pat Hoy):** Could you explain for Mr. Miller?

**Ms. Leeanna Pendergast:** Yes. Again, this is to ensure that the consumer receives the benefit. Section 4(2)(a) of the proposed act states that a consumer is not entitled to financial assistance under the act for electricity consumed in generation stations service "within the meaning of the market rules." This description of generation station service is similar to the description in the regulation prescribing the regulated price plan or the RPP classes.

It was determined through consultations with licensed distributors that industry has interpreted this provision to exclude all generation station service, not just those associated with IESO market participants governed by the market rules.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, I'll put the question. All in favour? Opposed, if any? Carried.

Page 12: government motion, Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that section 4 of schedule 13 to the bill be amended by adding the following subsections:

"Same

"(6) Subsection (7) applies if,

"(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

"(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

"Requirement to pass on benefit

"(7) Despite subsections (1) and (5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (6)(b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person."

**1420**

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I'll put the question. All in favour? Carried.

Shall schedule 13, section 4, as amended, carry? Carried.

Schedule 13, section 5: government motion, page 13. Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subsection 5(2) of schedule 13 to the bill be struck out and the following substituted:

"Invoice issued by consumer, etc.

"(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations."

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

Shall schedule 13, section 5, as amended, carry? Carried.

Page 14: government motion.

**Mr. Bob Delaney:** I move that subsection 6(1) of schedule 13 to the bill be struck out and the following substituted:

"Financial arrangements

"Purposes

"6.(1) The purposes of this section are,

"(a) to ensure that financial assistance under this act and the regulations is provided to those persons entitled to receive it; and

"(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this act and the regulations."

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I'll put the question. All in favour? Carried.

Page 15: government motion, Mr. Delaney.

**Mr. Bob Delaney:** I move that clause 6(2)(b) of schedule 13 to the bill be struck out and the following substituted:

"(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this act or the regulations and prescribing methods for determining the amounts payable;"

**The Chair (Mr. Pat Hoy):** Any comment? I'll put the question. All in favour? Carried.

Government motion, page 16.

**Mr. Bob Delaney:** I move that clause 6(2)(d) of schedule 13 to the bill be struck out and the following substituted:

"(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;"

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, all in favour? Carried.

Page 17: government motion.

**Mr. Bob Delaney:** I move that clause 6(2)(f) of schedule 13 to the bill be struck out and the following substituted:

"(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;"

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

Shall schedule 13, section 6, as amended, carry? Carried.

Sections 7 through 9 have no amendments. Shall those sections carry? Carried.

Government motion, page 18. Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that the definition of "overpayment" in subsection 10(1) of schedule 13 to the bill be struck out and the following substituted:

"'overpayment' means an amount received by a person in excess of any reimbursement to which the person is entitled under this act and the regulations. ('trop-perçu')"

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, all in favour? Opposed? Carried.

Government motion, page 19.

**Ms. Leeanna Pendergast:** I move that subsection 10(2) of schedule 13 to the bill be struck out and the following substituted:

"Notice of overpayment

"(2) If it appears to an inspector that a person has received an overpayment, the minister may send a written notice to the person advising the person of the following:

"1. That the person has received an overpayment.

"2. The amount of the overpayment and how it was calculated.

"3. The required steps to be taken by the person with respect to the overpayment.

"4. The date, not more than six months after the date of the invoice, by which these steps must be completed.

"5. That the minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date."

**The Chair (Mr. Pat Hoy):** In number 4, you said "date of the invoice."

**Ms. Leeanna Pendergast:** "4. The date, not more than six months after the due date of the notice, by which these steps must be completed."

**The Chair (Mr. Pat Hoy):** Mr. Miller.

**Mr. Norm Miller:** Just an explanation of who this amendment applies to and also what particular inspector you're talking about in this amendment.

**Ms. Leeanna Pendergast:** This motion would ensure that this provision refers to a person who has received a reimbursement of financial assistance and not just to an electricity vendor.

**Mr. Norm Miller:** Okay, and who is the inspector that you're referring to? It says, "If it appears to an inspector that a person has received an overpayment..."

**Ms. Leeanna Pendergast:** I'm going to read you the entire explanation for 18 to 24, because they're all pretty much the same amendments. Section 10 of the proposed act sets out enforcement mechanisms where upon audit it's determined that an electricity vendor has received an overpayment. This proposed amendment and the following six motions to amend ensure that the section applies to any person who receives a reimbursement of financial assistance and not just to electricity vendors. This would enable these enforcement mechanisms to

apply to unit sub-meter providers if they are reimbursed for payments of financial assistance.

**Mr. Norm Miller:** Okay, so—

**Ms. Leeanna Pendergast:** Do you want further details?

**Mr. Norm Miller:** I'd like to know what inspector. Is it an electrical inspector? Is it—

**Ms. Leeanna Pendergast:** They would be inspectors appointed by the Ministry of Revenue.

**Mr. Norm Miller:** So it's a tax.

**The Chair (Mr. Pat Hoy):** Thank you. Any other comment?

Now, in number 4, when you corrected it, you made an error. You said "after the due date" rather than "after the date." So if you would read number 4 and number 5 again, please. Read them both—both 4 and 5.

**Ms. Leeanna Pendergast:** Yes, sir.

"4. The date, not more than six months after the date of the notice, by which these steps must be completed.

"5. That the minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date."

**The Chair (Mr. Pat Hoy):** Thank you. Any other comment? All in favour? Opposed? Carried.

Page 20: government motion, Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subsection 10(4) of schedule 13 to the bill be struck out and the following substituted:

"Assessment

"(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the minister, the minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3)."

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**The Chair (Mr. Pat Hoy):** Any comment? I'll put the question. All in favour? Opposed? Carried.

Government motion, page 21.

**Ms. Leeanna Pendergast:** I move that subsection 10(5) of schedule 13 to the bill be struck out and the following substituted:

"Penalty

"(5) If the minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed."

**The Chair (Mr. Pat Hoy):** Any comment? I'll put the question. All in favour? Opposed? Carried.

Page 22: government motion.

**Ms. Leeanna Pendergast:** I move that subsection 10(6) of schedule 13 to the bill be struck out and the following substituted:

"Time limit

"(6) The minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment."

**The Chair (Mr. Pat Hoy):** Any comment? All in favour? Carried.

Government motion on page 23.

**Ms. Leeanna Pendergast:** I move that subsection 10(7) of schedule 13 to the bill be struck out and the following substituted:

"Exception, where misrepresentation, etc.

"(7) Subsection (6) does not apply if the minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this act or the regulations or in omitting to disclose information."

**The Chair (Mr. Pat Hoy):** Any comment? All in favour? Carried.

Government motion on page 24.

**Ms. Leeanna Pendergast:** I move that subsection 10(8) of schedule 13 to the bill be amended by striking out the portion before clause (a) and substituting the following:

"Deemed debt retirement charge

"(8) An amount assessed or reassessed by the minister under this section is deemed for the purposes of the administration and enforcement of this act to be a debt retirement charge, as defined in subsection 85(1) of the Electricity Act, 1998, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3(1) of the Electricity Act, 1998 and, for those purposes,"

**The Chair (Mr. Pat Hoy):** Any comment? All in favour? Carried.

Shall schedule 13, section 10, as amended, carry? Carried.

There are no amendments to sections 11 through 14. Shall they carry? Carried.

Schedule 13, section 15; government amendment on page 25: Mr. Delaney.

**Mr. Bob Delaney:** I move that clause 15(1)(g) of schedule 13 to the bill be struck out.

**The Chair (Mr. Pat Hoy):** Any comment?

**Mr. Norm Miller:** Chair, an explanation, please.

**The Chair (Mr. Pat Hoy):** Can we have an explanation?

**Ms. Leeanna Pendergast:** It simply has to do with maintaining the 10%; no more, no less. Consequential to the proposed amendments in section 4(1), this motion would eliminate regulation-making power authorizing the payment of financial assistance to a consumer in an amount other than 10% of the base invoice amount.

**The Chair (Mr. Pat Hoy):** Any other comment? All in favour? Opposed? Carried.

Government motion, page 26.

**Mr. Bob Delaney:** I move that subsection 15(1) of schedule 13 to the bill be amended by adding the following clause:

“(i.1) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

“(i) the circumstances in which the financial assistance is to be provided,

“(ii) the person or class of persons entitled to receive the financial assistance,

“(iii) the method of determining the amount of the financial assistance to be provided,

“(iv) the manner for paying or otherwise providing the financial assistance;”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 13, section 15, as amended, carry? Carried.

There are no amendments to sections 16 through 20 inclusive. Shall they carry? Carried.

Shall schedule 13, as amended, carry? Carried.

Government motion, page 27: Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subparagraph 2i of subsection 5(2.1) of the Ontario Municipal Employees Retirement System Act, 2006, as set out in section 1 of schedule 14 to the bill, be struck out and the following substituted:

“i. if the investment entity provides eligible services described in subsection 35.1(5), and”

**The Chair (Mr. Pat Hoy):** Mr. Tabuns?

**Mr. Peter Tabuns:** Could you tell us what that does?

**Ms. Leeanna Pendergast:** I could. The explanation will pertain to motions 27 to 30 as well.

Proposed subsection 5(2.1) of the Ontario Municipal Employees Retirement System Act, 2006, would authorize the sponsors corporation to determine whether employers who satisfy specified criteria may participate in the OMERS pension plans and the applicable conditions. In the case of an investment entity, one criterion provided for in subparagraph 5(2.1)2i of the proposed amendment is that it directly or indirectly supports the administration corporation in providing eligible services described in subsection 35.1(5) of the act.

This amendment would narrow the scope of subparagraph 5(2.1)2i by replacing the phrase “directly or indirectly supports the administration corporation in providing eligible services” with “provides eligible services.”

**Mr. Peter Tabuns:** So what you’ve done with this amendment is make it more difficult for employees of entities connected to OMERS to become members of the pension plan. Do I understand you correctly?

**Ms. Leeanna Pendergast:** It’s a technical correction. That’s all.

**Mr. Peter Tabuns:** Many things hide in technical corrections. Is this a technical correction that will reduce the number of people who can, in the future, take part in the OMERS pension plan, or will it increase the number of people who can participate in the OMERS pension plan?

**Ms. Leeanna Pendergast:** I’m going to see if we can get someone to give you an answer to that.

**Mr. Peter Tabuns:** That would be very good.

**The Chair (Mr. Pat Hoy):** Just state your name for Hansard and then you can continue.

**Mr. James Sinclair:** My name is James Sinclair; I’m director of legal services at the Ministry of Finance.

**Mr. Peter Tabuns:** Excellent.

**Mr. James Sinclair:** It’s not intended to narrow the scope. It’s simply intended to tighten up the way in which the proposed amendment was drafted. It’s not intended to narrow the field of eligible employees who could qualify for the OMERS plans.

**Mr. Peter Tabuns:** What error would have been there if the original wording had been allowed to stand?

**Mr. James Sinclair:** The original wording said “directly or indirectly,” and we’ve now taken that out. That was at the request of the OMERS folks themselves. This is something that is consistent with what they were looking to achieve in terms of the amendments.

**Mr. Peter Tabuns:** If I can parse through, “indirectly” is a problem because they wanted to be more precise about who would be eligible and who would not be eligible?

**Mr. James Sinclair:** Yeah, I think so. If you look at the body of the entire amendments, what they’re trying to capture are employees throughout a relatively complex group of companies that provide advice to the OMERS pension plan, and it was thought that the removal of the “directly or indirectly” and the way in which the other amendments have been drafted would get them to where they wanted to be.

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**Mr. Peter Tabuns:** Okay. Thank you for the answer.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, I’ll put the question. All in favour? Opposed? Carried.

Page 28: government motion.

**Ms. Leeanna Pendergast:** I move that subparagraph 2iiA of subsection 5(2.1) of the Ontario Municipal Employees Retirement System Act, 2006, as set out in section 1 of schedule 14 to the bill, be struck out and the following substituted:

“A. in the case of an investment entity that is a corporation, directly or indirectly has beneficial ownership of the issued and outstanding shares of the investment entity representing more than 50% of the shareholders’ equity,”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, I’ll put the question. All in favour? Opposed? Carried.

Page 29: government motion.

**Ms. Leeanna Pendergast:** I move that subparagraph 3i of subsection 5(2.1) of the Ontario Municipal Employees Retirement System Act, 2006, as set out in section 1 of schedule 14 to the bill, be amended by striking out “directly or indirectly”.

**The Chair (Mr. Pat Hoy):** Any comment? All in favour? Carried.

Page 30: government motion.

**Ms. Leeanna Pendergast:** I move that sub-subparagraph 3iiA of subsection 5(2.1) of the Ontario Municipal Employees Retirement System Act, 2006, as



set out in section 1 of schedule 14 to the bill, be struck out and the following substituted:

“A. in the case of a corporation, directly or indirectly has beneficial ownership of the issued and outstanding shares—shares of any class—of the corporation representing more than 50% of the shareholders’ equity.”

**The Chair (Mr. Pat Hoy):** Any comment? All in favour? Carried.

Shall schedule 14, section 1, as amended, carry? Carried.

NDP motion, Mr. Tabuns?

**Mr. Peter Tabuns:** I move that schedule 14 of the bill be amended by adding the following section:

“1.1(1) Subsection 6(1) of the act is amended by adding the following paragraphs:

“4. Any other classes of persons, association of persons or entities as may be provided for by the sponsors corporation.”

“(2) Subsections 6(2) and (3) of the act are repealed and the following substituted:

““Ineligible employees

“(2) A person who contributes to a pension plan under the Ontario Public Service Employees’ Union Pension Act, 1994, the Public Service Pension Act or the Teachers’ Pension Act is not eligible to be a member of the OMERS pensions plans.””

**The Chair (Mr. Pat Hoy):** I’ll stop you there. I would just like to inform the committee that the motion would open section 6 of the Ontario Municipal Employees Retirement System Act, 2006. This section was not previously open in Bill 135. An amendment that opens a section of an act not open in the amending bill is out of order, so therefore the amendment on page 31 is out of order.

Do you have any comment?

**Mr. Peter Tabuns:** I always prefer that the Chair rules in my favour rather than rules my amendments out of order. As you might understand, I do feel badly, but I understand you’re moving on.

**The Chair (Mr. Pat Hoy):** Now we move to page 32.

**Mr. Peter Tabuns:** Given 31 was defeated, I will not go further and I will withdraw 32.

**The Chair (Mr. Pat Hoy):** He’s withdrawn page 32. Thank you.

All right, then. Shall schedule 14, section 2 carry? Carried.

Schedules 15 through 16, inclusive, have no amendments. Shall they carry? Carried.

I skipped a section. Schedule 14, section 3 has no amendments. Shall it carry? Carried.

Then shall schedule 14 carry?

*Interjection.*

**The Chair (Mr. Pat Hoy):** As amended? I’ll put it again. Shall schedule 14, as amended, carry? Carried.

I did schedules 15 through 16, which have no amendments. Sections 1 through 14 of schedule 17 have no amendments. Shall they carry? Carried.

Shall schedule 17—oh, we do have an amendment. Page 33: government motion, Mr. Ramal.

**Mr. Khalil Ramal:** I move that section 15 of schedule 17 to the bill be struck out and the following substituted:

“Commencement

“15.(1) Subject to subsections (2), (3) and (4), this schedule comes into force on the day the Helping Ontario Families and Managing Responsibly Act, 2010 receives Royal Assent.

“Same

“(2) Subsections 1(2), (4), (6), (7), (8) and (10) are deemed to have come into force on December 1, 2010.

“Same

“(3) Section 2 is deemed to have come into force on July 1, 2010.

“Same

“(4) Subsection 3(2) is deemed to have come into force on November 18, 2010.”

**The Chair (Mr. Pat Hoy):** Any comment? Hearing none, all in favour? Carried.

Shall schedule 17, section 15, as amended, carry? Carried.

Shall schedule 17, as amended, carry? Carried.

There are no amendments to schedules 18 and 19, inclusive. Shall they carry? Carried.

We’re on to schedule 20, section 1. Government motion on page 34: Mr. Ramal.

**Mr. Khalil Ramal:** I move that section 1 of schedule 20 to the bill be amended by adding the following subsection:

“(3.1) Paragraph 7.1 of subsection 23(1) of the act is repealed and the following substituted:

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““7.1 Subsection 103.1(7) and clause 103.1(9)(b) with respect to taxation years ending after December 31, 2010.””

**The Chair (Mr. Pat Hoy):** Any comment? If you would read the last—

**Mr. Khalil Ramal:** Yes. “Subsection 103.1(7) and clause 103.1(9)(b) with respect to taxation years ending after December 31, 2010.”

**The Chair (Mr. Pat Hoy):** Thank you. Any comment? All in favour? Carried.

Shall schedule 20, section 1, as amended, carry? Carried.

Sections 2 through 19 of schedule 20 have no amendments. Shall they carry? Carried.

Schedule 20, section 20, does have an amendment from the government. Page 35, Ms. Pendergast.

**Ms. Leeanna Pendergast:** I move that subsection 20(5) of schedule 20 of the bill be amended by adding the following paragraph:

“2.1 Section 11.”

**The Chair (Mr. Pat Hoy):** Any comment?

**Ms. Leeanna Pendergast:** I’d like to make a comment. Section 11 of schedule 20 of Bill 135, as introduced, would add subsection 104.12(22.0.1) to the Taxation Act, 2007. The proposed subsection in Bill 135, as introduced, would specifically allow Ontario sales tax transition benefit payments to be garnished under the Family Orders and Agreements Enforcement Assistance

Act of Canada. Under the proposed paragraph 2.1 of subsection 20(5) of schedule 20 of the bill, section 11 of the bill would come into force on proclamation.

**The Chair (Mr. Pat Hoy):** Any other comment? Hearing none, all in favour? Carried.

Shall schedule 20, section 20, as amended, carry? Carried.

Shall schedule 20, as amended, carry? Carried.

Now we have a notice of vote on page 36. Do you want to put that, Mr. Tabuns?

**Mr. Peter Tabuns:** I do indeed. The NDP recommends voting against section 1 of schedule 21.

We were very surprised when we read this bill and saw these very large-scale changes to the Workplace Safety and Insurance Act. There have not been public hearings on this. As you are all well aware, another Mr. Arthurs was appointed to a panel to review the WSIA and there was a general expectation in the community, both by unions, injured workers and by companies, that it was within the context of that panel that the problems related to funding of the plan, related to the payments to injured workers, would be dealt with. Frankly, given the consequence of the act for the lives of many, that would have been a far more proper channel.

What is astounding to an awful lot of people is that the Arthurs panel has, in effect, been prejudged by this legislation. What has been brought forward changes the way the WSIB functions. So one has to ask, what is the rationale for proceeding with these changes without either waiting for the Arthurs panel to report or, in the alternative, having full hearings? This is a Monday afternoon, just before Christmas, with a bill that is time-allocated. Very few people really know about it, so I think that the proper thing for this committee to do is to reject this whole schedule, starting with this particular section. But I would ask the government, why would anyone treat Mr. Arthurs and his panel as credible, given this legislation you've brought forward?

**The Chair (Mr. Pat Hoy):** Any other comment?

**Ms. Leeanna Pendergast:** I'd just like to respond to Mr. Tabuns and say that the changes that we propose, in fact, are supportive of the Arthurs review and provide the regulations that are necessary to facilitate the Arthurs panel and the Arthurs review and recommendations. So the government does support sections that comprise this schedule of the bill.

**The Chair (Mr. Pat Hoy):** Mr. Tabuns.

**Mr. Peter Tabuns:** If, in fact, this is your vision of the WSIA, the Workplace Safety and Insurance Act, can you tell us when the hearings were held in public for all those who will be affected by the changes to have their say? Were there hearings?

**Ms. Leeanna Pendergast:** We're going to get you some information.

**Mr. Peter Tabuns:** I'm happy to have others comment.

**The Chair (Mr. Pat Hoy):** Identify yourself for Hansard, and then you can begin.

**Mr. Nick Robins:** My name is Nick Robins. I'm in the policy division of the Ministry of Labour.

To provide a bit more information about the legislative amendments, if the bill is passed, the bill would need to be proclaimed to come into force. There are various regulation-making authorities under the proposed amendments, and some of those authorities deal with the subject of Mr. Arthurs's consultations. For instance, one regulation-making authority under 100(c) would allow the LGIC to prescribe the amount of the insurance fund required to make the fund sufficient by the prescribed date.

These are some of the topics of the consultations that Mr. Arthurs is leading. What has been described as the intent here is the Arthurs consultation would be providing some valuable information that could then be considered.

**Mr. Peter Tabuns:** Maybe it's because I'm new around here, but generally, before you bring forward a law, around here you generally have some level of consultation with the stakeholders. Unless you're prepared to surprise me in the next few minutes, I don't remember any hearings on reshaping the law. Can you inform me of any hearings that were held?

**Mr. Nick Robins:** I cannot.

**Mr. Peter Tabuns:** None?

**Mr. Nick Robins:** The primary purpose of the Harry Arthurs consultation is to assist in informing some of the key questions related to the regulations that would be able to be made under the legislation, if passed.

**Mr. Peter Tabuns:** Can you tell me now that the regulations that will come forward will protect all injured workers from any reduction in their benefits?

**Mr. Nick Robins:** The legislative amendments that are proposed to the Workplace Safety and Insurance Act do not contain any provisions that would negatively affect workers' benefits.

**Mr. Peter Tabuns:** And that's the opinion of the government, that workers will be fully protected?

*Interjection.*

**Mr. Peter Tabuns:** Nodding is not adequate. I need someone to speak up.

**Ms. Leeanna Pendergast:** Yes, Mr. Tabuns. Yes.

**Mr. Peter Tabuns:** So if, in fact, it's found that there are financial problems with the WSIA, the government will ensure that the changes that are needed are not going to be done on the backs of workers. Is that correct?

**Ms. Leeanna Pendergast:** That's correct, Mr. Tabuns. Full funding will not be achieved on the backs of injured workers.

**Mr. Peter Tabuns:** So this schedule—and I apologize to you, witness. I find it very frustrating that we have an act before we have the consultations. As you might imagine, I don't think that's the proper order of things, but I will go back to the parliamentary assistant.

We're in a situation where you're going to bring forward this act, and you're saying that the regulations that can be made by cabinet will be so far-ranging that they could, in fact, go against the spirit of what's in the schedule. Is that correct?

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**Ms. Leeanna Pendergast:** What I'm saying, Mr. Tabuns, is that these regulations have to be made. The Arthurs committee hearings that we're talking about will support the eventual regulation changes so that when the committee comes back after their consultations and hearings, we will be able to implement the recommendations, and that's what we're doing now.

**Mr. Peter Tabuns:** I appreciate you answering the questions. I'd like to just say I think that a process where you bring forward the legislation before you've actually held the consultations is really bad process. It is not good lawmaking. It makes everyone who is involved in the process nervous, including the Canadian Federation of Independent Business, because they have to ask themselves, "Are the major parameters of the changes already set before we even step up and testify?"

I appreciate the assurances from the government that workers will be protected. I look forward to holding the government of the day to that statement that no changes will be made on their backs, that there will not be reductions in their payments because of a change in the financing, that this whole approach will keep them whole and, in fact, address some of their underlying problems. I look forward to that in fact being the case; I hope that is the case.

I have to say to you that I still urge this committee to vote against this because, notwithstanding those reassurances, I don't believe that this is the way that one should be making law and I don't believe that, having set forward a structure, one can adequately, in the regulation-making process, protect workers.

I would ask for a recorded vote on this, Mr. Chair.

**The Chair (Mr. Pat Hoy):** Very good. Any other comment?

I just want to advise the committee that the reason for notice rather than motion is that if the committee wishes to remove an entire section of the bill, the rules of parliamentary procedure require that the committee vote against the section rather than pass a motion to delete it. Now what I would do is ask, shall schedule 21, section 1, carry?

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** It carries.

There's another notice to vote. Mr. Tabuns?

**Mr. Peter Tabuns:** The NDP recommends voting against section 2 of schedule 21.

Chair, I've made my arguments; the government has made its. I would ask for a recorded vote.

**The Chair (Mr. Pat Hoy):** Thank you. Is there any other comment? Ms. Pendergast.

**Ms. Leeanna Pendergast:** I'm sorry, I did have a comment that I wanted to make when Mr. Tabuns was speaking and it's pertinent, I think, to all of the recommendations. It's just to follow up on your comment about cabinet. The government will recommend that cabinet proclaim legislation into effect only after the conclusion of the Arthurs consultation.

**The Chair (Mr. Pat Hoy):** Any other comment?

**Mr. Peter Tabuns:** No. I think the arguments have been made. I appreciate the clarification.

**The Chair (Mr. Pat Hoy):** And you would like a recorded vote on this.

**Mr. Peter Tabuns:** Yes, I would, Mr. Chair.

**The Chair (Mr. Pat Hoy):** Okay, then. Shall schedule 21, section 2, carry?

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** The section and schedule have carried.

A notice again by Mr. Tabuns.

**Mr. Peter Tabuns:** The NDP recommends voting against section 3 of schedule 21.

The arguments have been made. Recorded vote, please.

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** It carries.

Schedule 21, section 4: Mr. Tabuns.

**Mr. Peter Tabuns:** The NDP recommends voting against section 4 of schedule 21. Recorded vote, please.

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** Carried.

Schedule 21, section 5: Mr. Tabuns.

**Mr. Peter Tabuns:** The NDP recommends voting against section 5 of schedule 21. Recorded vote, please.

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** Carried.

NDP notice to vote against: Mr. Tabuns.

**Mr. Peter Tabuns:** The NDP recommends voting against section 6 of schedule 21. Recorded vote, please.

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** Carried.

Shall schedule 21 carry?

**Mr. Peter Tabuns:** Recorded vote.

**Ayes**

Arthurs, Delaney, Flynn, Pendergast, Ramal.

**Nays**

Norm Miller, Tabuns.

**The Chair (Mr. Pat Hoy):** Carried.

Shall the title of the bill carry? Carried.

Shall Bill 135, as amended, carry? Carried.

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

Committee is adjourned.

*The committee adjourned at 1508.*







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