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**Standing Committee on
Social Policy**

Working for Workers Act, 2022

2nd Session
42nd Parliament

Thursday 31 March 2022

**Comité permanent de
la politique sociale**

Loi de 2022 visant à oeuvrer
pour les travailleurs

2^e session
42^e législature

Jeudi 31 mars 2022

Chair: Natalia Kusendova
Clerk: Vanessa Kattar

Présidente : Natalia Kusendova
Greffière : Vanessa Kattar

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Thursday 31 March 2022

Jeudi 31 mars 2022

The committee met at 0903 in room 151.

WORKING FOR WORKERS ACT, 2022 LOI DE 2022 VISANT À OEUVRER POUR LES TRAVAILLEURS

Consideration of the following bill:

Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts / Projet de loi 88, Loi édictant la Loi de 2022 sur les droits des travailleurs de plateformes numériques et modifiant diverses lois.

The Vice-Chair (Ms. Bhutla Karpoche): Good morning, everyone. The Standing Committee on Social Policy will now come to order. We are here for clause-by-clause consideration of Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts.

We are also joined by Julia Hood, from the office of legislative counsel.

I would like to remind the committee that all amendments must be written before the committee can consider them. This way we can avoid problems and discrepancies in the wording and intent of amendments. Are there any questions?

Seeing none, the Clerk has distributed the amendment package to all members and staff. The amendments are numbered in the order in which the sections and schedules appear in the bill. Are there any questions before we begin?

We will now begin clause-by-clause consideration. As you will notice, Bill 88 is comprised of three sections and four schedules. In order to deal with the bill in an orderly fashion, I suggest that we postpone consideration of the first three sections in order to dispose of the schedules first. This allows the committee to consider the contents of the schedules before dealing with the sections on the commencement and the short title of the bill. We would return to the three sections after completing consideration of the schedules. Is there agreement to stand down the three sections and deal with the schedules first? Ms. Sattler?

Ms. Peggy Sattler: Yes, Chair, just seeking clarification: Will there be an opportunity to provide overall comments on the bill before we get into clause-by-clause?

The Vice-Chair (Ms. Bhutla Karpoche): Yes.

Ms. Peggy Sattler: Okay.

The Vice-Chair (Ms. Bhutla Karpoche): Okay. So is there agreement to stand down the three sections and deal with the schedules first? Yes.

Before we begin schedule 1, I will allow each party to make some brief comments on the bill as a whole. Afterwards, debate should be limited to the section or amendment under consideration. Are there any comments? Ms. Sattler?

Ms. Peggy Sattler: Thank you very much, Chair, for this opportunity to provide comments on this highly unusual bill, which has come to us through a highly unusual process, because this bill has already had one round of clause-by-clause, which I'm sure we all recall.

This bill is called an act to enact the Digital Platform Workers' Rights Act, but I would suggest that the better title would be "An Act to enact the digital platform companies act." Because we have heard from gig worker after gig worker who appeared before this committee who said that the schedule 1, which creates the Digital Platform Workers' Rights Act, does nothing for them. It does nothing to protect their rights. They made it very, very clear that if the government were serious about protecting a digital platform worker's rights, then they would include the digital platform workers in the Employment Standards Act. Gig workers do not need separate, stand-alone legislation that claims to deal with their rights, that gives them lesser rights, that legislates, entrenches a sub-minimum wage for those workers.

We heard gig worker after gig worker talk about the fact that this bill, if it is passed, will guarantee—guarantee—that they will make much less than a minimum wage in this province. We also heard a gig worker who said not only would it be less than a minimum wage, it would be less than what that gig worker is currently earning.

The deputants made it clear that what they are asking for is not a separate piece of legislation, is not a hodge-podge of rights that are plucked from the Employment Standards Act, it is the Employment Standards Act. That is what they want to be protected by. Those are the rights that they want to have access to, and this government has ignored the calls of gig workers.

We heard the minister talk about having consulted with gig workers. The gig workers who appeared before this committee told us that there had been no consultation. Perhaps there had been sort of a discussion with the OWRAC, the Ontario Workforce Recovery Advisory Committee, but that was well in advance of the development of this legislation. There was not a single gig worker,

not a single organization that represented gig workers who appeared before this committee and said that they were consulted in the development of this legislation that is being used by the government as an election ploy to help them brand campaign literature as being a government that cares about workers. The government clearly does not care about workers. They clearly do not care about gig workers, in particular, because they want to entrench gig workers as lesser workers than every other worker in Ontario.

We also heard, in particular on the second day of depositions, about the reality of the gig workforce as being mainly racialized, many newcomers. We heard a couple of the gig workers who actually were newly arrived in Ontario. Digital platform work was the only work that was available to them.

0910

This legislation, what it does is it institutionalizes the systemic racism that those racialized and new immigrant workers experience in the labour market, because it says that a workforce that is mainly racialized, mainly newcomers does not deserve the same rights and protections that other Ontarians deserve.

We hope that this government will withdraw schedule 1—just as they withdrew schedule 5—and go back to the drawing board, talk to gig workers, hear what gig workers have to say about their rights to access all of the protections that are afforded to other Ontario workers under the Employment Standards Act, and withdraw schedule 1 of this bill.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Fraser?

Mr. John Fraser: I guess we're down to brass tacks here, so I'll be repeating some of the things that you've probably heard me say a million times already in this committee.

The Working for Workers Act doesn't work for workers. The only reason that you called it the Working for Workers Act is, you just want to say it. Because this government is better at writing press releases than actually putting policy together that's going to change things for workers.

What you're doing is codifying a second class of workers here, a class of workers that doesn't get health and safety protections—none, zero, zilch, nothing; no vacation pay—it's not a complicated thing; no right for severance when dismissed without cause; no right to organize. This isn't just exempting people from one thing in the ESA.

Here's another close example to what you're doing here: migrant workers. For years in this province—it's on all of us—we treated migrant workers differently, and we all saw the results about a year and a half ago: no workplace safety protections. That's what you're doing here. You're creating another class of workers.

I have to ask myself, why would you do that? Why would the government not actually reflect an agreement that was bargained between workers and representatives, or even take a look at that? I don't see any of that in this bill. The two sides got together and said, "This is how we can work things out"—they just ignored it. Even the

employer and the union in question said, "You haven't talked to any of us."

I think that the approach that government is taking is that they are looking at gig workers as people who are using it for secondary income, so we don't need to protect them as much. But the government doesn't know who uses or contracts or who's on a platform that is using it as secondary income and who is using it to feed their families, to pay the rent, to pay insurance, to buy kids' clothes, to put food on the table.

I can't support a bill that's actually going to create a second class of workers. You've got to get rid of schedule 1. I think if the government really wants to protect gig workers—because that's what you're saying. That's what you're saying right now, that you're working for workers. The reason you're saying that is, you can say that for the next two or three months, until the gig workers actually figure out that you're not working for them. We all know how this works. Most gig workers—

Mr. Jim McDonell: You were a master at it.

Mr. John Fraser: Pardon me?

Mr. Jim McDonell: You were a master at it.

Mr. John Fraser: Yes, I am. We all know how it works; 15 years was a long time to be in the penalty box, Mr. McDonell—a long time. There was a reason for that.

The reason is things like this, because people knew that these are the kinds of things the government was going to do. They were going to say, "We're doing all this wonderful stuff for you and we're going to call it this." It's like I said: "We're going to call it the 'Working for Workers Act' so we can say we're working for workers," but in actual fact, you're not. What you're saying is, "Do you know what? If you work on a platform, you don't deserve any workplace and safety protections—none, zero. You don't deserve vacation pay. You don't deserve the right to organize. You don't deserve to get severance if they let you go for no cause."

Why don't they deserve it? Why don't gig workers deserve it? You're not even attempting to do these things, not even one of them. And the whole issue around minimum wage—you haven't sorted it out. Even one of the deputants who came out, who was using the platforms as a secondary income, said it's not going to work.

You're in too much of a hurry to say "We're working for workers." Legislation should be written before the press release. I can't support this bill—and this is the second clause-by-clause, because we had to pull out traditional Chinese medicine, which you stuck in there for some unknown reason; you thought it was okay to remove protections from patients.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Gates?

Mr. Wayne Gates: Thank you very much, Chair. It's nice to see you in the Chair's position. I think this is the first time in four years I've seen that you were the Chair when I was at committee, so congratulations.

I don't even know where to start, actually, if you want to know the truth. I've actually been very moved over the last few days listening to gig workers, something that maybe we all took for granted, quite frankly. You're

walking down Yonge Street or something and you see the bikes go by; you see some of the guys actually are walking or running to take the food. After listening to guys like Houston and others, I just couldn't believe what I was hearing.

So I took another look at the bill, and I'm saying to myself—because I know people here, and I know on that side you don't like it, but all I am is a worker. I've been a worker my entire life. I was fortunate enough to come out of high school and go right into General Motors, because I'm a little older than some here. Back in my day, you could almost pick your job and you'd get a good-paying job. Whether it be at General Motors or Hayes-Dana or Thompson Products—almost any manufacturing place in the mid-1970s—you could go to work, and you knew you were going to get fair wages.

I think back when I started in 1975, it was \$4.83 an hour, and it was one of the highest-paying jobs in the area. I remember my first paycheque. I thought I was rich. I actually ran to the Legion and started spending—

Laughter.

Mr. Wayne Gates: It's a true story. Me and my buddies went to the Legion, and you could buy 10 beers for \$1. They were 10 cents a glass for draft beer.

So I've been around a long time, and I do really appreciate workers. We all went to work. All my friends went to work, and I'm sure everybody went to work for one reason: We'd end up getting married, we'd have some kids and we'd be able to take care of them. In my case, I've had three beautiful girls. But as I was working at General Motors, I was able to provide for them what I would call a pretty good life, quite frankly. I had a house. We bought a house. I was able to. My daughter was a very, very good figure skater, and they both were exceptional in softball. Then I had my third child about 20 years later, so there's a little bit of a difference in age.

Because of where I worked, I was able to have a good life. I can't say that I had to struggle, quite frankly. I always had food on the table. I could always go watch the Leafs play or the Blue Jays play. I could do whatever the heck I wanted.

0920

Here, we're in 2022. I think we're all proud to live in the province of Ontario. I think we're all proud to live in this great country. It's the greatest country in the world. We have our faults; this is one of the faults.

Why would we bring in a bill that you call Working for Workers? It's got low wages. Think about that: low wages. They don't have regular working hours, so that means they're not spending the quality time I did with my family, quite frankly. They don't have paid sick days. We heard one of the guys say that he got hurt on the job. He didn't have WSIB. He actually kept going to work because he had to provide for his family.

It's very unsafe work. They work in conditions outside. It doesn't matter what it's doing—rain, snowing, it's cold. We've really misclassified these workers; we really have.

Being a union rep and bargaining collective agreements—and I've said this many, many times. I was

president of my local union. I came from starting to work there, got involved with my union, ended up getting elected by the membership, and then I ran to be president of my local union. I was successful. I held that job for 12 years. So for 12 years, I bargained collective agreements. I bargained about 150 collective agreements.

I know on that side of the House, they talk about, "Well, we've got to have scabs in Ontario because of so many strikes." I can tell you, I had one three-day strike in 150 collective agreements, and 98% of the contracts that are done in this province are resolved without work stoppage. There's nothing in here to allow these workers to unionize so they can get a fair collective agreement and get fair wages.

But I'll tell what you really hit me. Honestly, I know it sounds hard to believe, but it bothered me to a point where I was thinking about it while I was sleeping the last two nights. When Houston talked about the fact that he's working 18 hours a day, seven days a week to provide for his family—he's married; he's got a couple of kids—what really stung me when he said that when we talk about engaged time, that you're going to be paid for your engaged time, he says, "I sit around for a period of time and I get paid zero," no pay. I came to work today at 9 o'clock. I'm getting paid, right? He'd go to work at 9 o'clock, and if there wasn't anything for him for the first hour, hour and a half or, say, two or three hours during his shift, he's getting zero.

I say to you, I say to my colleagues, would any of you want your kids or your grandkids to go to work and get paid zero—I'll repeat it—in a great country like Canada, one of the richest countries in the world? Quite frankly, this province is one of the richest provinces in the country. I'm asking you, and you can answer this if you like when you have your opportunity: Would you like your kids or your grandkids to go to work and get paid nothing?

There are three of them, the three major companies. You know who they are. Do you know what they're worth, Chair? I know you can't talk to me, but I'll help you out, even to the Clerks. It's \$84 billion. That's what those companies are worth. The CEO himself is worth \$3 billion. And we're asking workers—mostly new Canadians, by the way, a lot of them. A lot of them are new Canadians. A lot of them are racialized. I think the figure is something like 80%. We're asking them, as a province, to go to work and work for nothing, and you'll get the minimum wage only when you have engaged time. That's the only time you're going to make money. And there was already other stuff that goes on.

I'm saying to myself, "Why would we do this and put it in legislation?" not for a company that is a local company, not for a company from Canada or Ontario; this is a multinational corporation that you're doing this for.

I spent a debate last night—I think a couple of you guys were there at the debate, a bill that was forced on us last night. One of the ministers stood up, and he was proud of the fact that for PPE, we're supporting local companies. I agree. I think we should support local companies. I've been talking about local companies for 40 years. I think it's a great idea.

But here we have a multinational corporation that doesn't want to come to this province and this country and live by the rules of Ontario, and that means the minimum rules of the Employment Standards Act. They're saying to you guys—because they're meeting with you, because you didn't meet with the OFL. You didn't think that was smart.

Do you know how many workers the OFL represents? The Chair is smiling at me, but I know she can't talk. Does anybody on that side know? You can yell it out. We should be trying to figure out what's best for workers in this province. It's 1.2 million workers, unionized workers, which means that they're probably covered by the Employment Standards Act, they're probably covered by sick days, they're probably covered by a fair wage and fair benefit package, they're covered by WSIB—all the things that, really, I took for granted. Listening the last couple of days—none of their gig workers have that.

Do you know how many gig workers there are in the province of Ontario? This jumped out at me as well. I don't know if my colleagues were surprised at the number. There are 800,000 gig workers; 20% of the workforce are gig workers. That means 20% of the workforce—not all of them, but a high percentage of them, particularly the new Canadians, who are trying to establish a life here in the province of Ontario—are working 18 hours a day, seven days a week, and sometimes not getting paid a penny, nothing.

I'm asking my colleagues—because I think you're all good people; I think you all care about your family, and I think you care about your province—how do you allow whoever writes this stuff for you guys to do this to workers? I have no idea who writes your bills. I don't even know who writes our bills. We don't write them; you guys do. I don't know how you can even defend it. I honestly do not know how anybody in this province can defend what we're doing to gig workers.

Again, I'm going to talk to Houston and Abdulah. I think it was Abdulah who worked 18 hours a day, seven days a week, because he had a family, he was married, he was a new Canadian—and he was begging you guys, the same way I'm trying to do.

This is the Working for Workers Act. We've had two Working for Workers bills now. I've talked about both of them, and so has my colleague, and, I believe, so has Mr. Fraser from the Liberals. We begged you, quite frankly, to repeal this, to take the schedule out. You've already taken one schedule out that you made a mistake on. You've made a mistake on this one. You're not even close to what gig workers need.

I would think that this is probably the last labour bill we'll get before we go to the polls. I've been asking this, on the bill—and it was discussed here, and that's why I think it's fair. When two of the workers talked about them getting hurt on the job—one hurt his arm, remember? He was saying he still had to go work because he had to provide for his family. Why did you guys not include deeming in this bill? You didn't do it in the last one, so why didn't you do it in this one—when injured workers are being deemed and are living in poverty when they get hurt on the job?

We had one of the unions here—I think it was the auto union. They talked about health and safety in the workplace. I know today—because I was president of the local union—that we have auto workers, whether it's with Chrysler, Ford, General Motors, Toyota, who get injured on the job and are deemed and are living in poverty. I explained to you that I was lucky because I didn't get injured on the job. I might have been off on compensation once or twice, but nothing so serious that I lost a lot of time. They're living in poverty.

Why wouldn't you bring the deeming bill as part of this? You decided not to.

The one that has upset the entire labour movement—it doesn't matter whether you're a nurse, whether you're a corrections officer, whether you work in a school board, whether you work with the colleges; it doesn't matter what it is, they are asking your government to repeal Bill 124.

Working for workers: Bill 124 doesn't work for workers, but you didn't include it in the bill. You could have. You could have corrected the two years of mistakes that you made on Bill 124, but you decided not to. You decided not to put the deeming bill in. But what did you do? You attacked gig workers. You want to make them second-class workers. It's disgraceful.

How much time do I have left? Or can I talk all day?

The Vice-Chair (Ms. Bhutla Karpoche): As much as you want.

Mr. Wayne Gates: Do you guys want to grab a coffee? I'm just asking.

Interjections.

Mr. Wayne Gates: Oh, you've already got one. That's good.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Gates, you have another eight minutes.

Mr. Wayne Gates: Thank you very much.

I'm going to talk about—and I want my colleagues to answer me. I don't have a problem if you disagree with me. I don't care if you come back at me on this. I'm going to ask my colleagues—and I'm guessing you all have children. I think some of you may have grandchildren. I think maybe Jim may have grandkids. I don't know who else, but you may have grandkids.

0930

Today, in this province, since COVID-19, we've seen the affordability of this province skyrocket. We've seen rents, particularly in Toronto—I don't know, outside your Chair job or Vice-Chair job or whatever you're doing, how many times you've raised that on behalf of not only your constituents but people right across the province of Ontario. Rents have gone through the roof. They've increased, and I can tell you—and again, you can correct me if I'm wrong, because maybe it's not happening in PC ridings.

In my riding, if I go into a restaurant and there are seniors there, they come and talk to me, and they're begging me: “You've got to do something about renovations. My husband has passed away.” As you guys know, when you have a partner—it doesn't have to be male or female—one of them may have a pension plan.

That pension plan goes from being 100% down to approximately 66.6%, so that means their income is actually decreasing when they lose a spouse—substantially. Yet their rents have gone where? Rents have gone up.

They've realized that if they do renovations in this province—and they are, and you can say they're not, but they are—it may be \$800 that they pay in rent. They do a renovation, they're offered that apartment—absolutely—but they're offered it at \$1,600 to \$1,700.

So I'm asking anybody here: If you're a gig worker in—I'll use Toronto because we're in Toronto; it's not necessarily just Toronto, but because we're in Toronto. If you are a gig worker, can you afford to pay your rent, when you're going to work and you're being paid nothing, zero? You're not being paid at all for some of your hours. How about food? Food has gone up about 6% or 7%. The cost of food is skyrocketing—for reasons. If you're a gig worker, can you afford to feed your family healthily? I would say no.

And then if you want to just take a few days off, you can't take days off because you earn sick pay. You don't get any sick pay.

What I was really struck with, with CUPE yesterday—it was Freddie Hahn who was here from CUPE, and he's the president of the Ontario CUPE. He's a good guy, a good brother, a guy I've known for years. Me and Freddie are kind of growing old together in the labour movement. I asked him a simple question, which I thought was fair, balanced and reasonable to ask. I said, "Did the Conservative government talk to your union?" Because 250,000 workers is a substantial amount of workers to represent in the province of Ontario. Do you know what I was surprised at? His answer. His answer was no. They never talked to his union. They never talked to Freddie.

Again, I'm looking across to my colleagues. Explain to me why you wouldn't talk to the head of the CUPE union that represents 250,000 workers in the province of Ontario. I don't understand that. I know you probably talked to the odd union, but I know you didn't talk to the OFL. They represent 1.2 million workers, and maybe they could say to you, "Let's slow down on the bill. We don't want to have anybody not covered by the Employment Standards Act. We don't want anybody in the province not being able to get WSIB. We don't want anybody to not have sick days. We don't want anybody not to be covered by a number of benefits that are covered by the Employment Standards Act." All those things could've been discussed.

I think my colleague said that we should pull this schedule out of the bill. I agree with her. I agree with the Liberals saying we should pull it out. If we're going to do something for gig workers, let's do it right.

Again, I'm asking you guys to answer this: Do you believe that your kids or grandkids should go to work and not be paid for time at work? Or if you take it over a balance—and I'm trying to be balanced here. I'm trying to be fair and reasonable. I think it's fair to say what I'm saying. If you take it over the balance of a shift, most of those hours are going to be paid probably at about \$7.50

an hour, because you're only getting \$15 during engaged time. You don't get your travel time; you don't get any of that. It's absolutely disgusting to me.

I can tell you, and I'm not stretching this at all, I was absolutely shocked at the presentations of some of the gig workers and how passionate they were. Because they love their job. You can't say anything negative about the gig worker who is out there working hard, whatever hours they're working, because they love what they do. I think that came across loud and clear.

I think one of the questions by the Conservatives, basically, was saying, "Well, if you're not being paid enough, why don't you go work somewhere else?" That's not what we should do. We all go to work. I love my job. I'll be honest, I love being an MPP. But I loved being president of my local union. I loved being a city councillor. Everything I've done, I've loved. But you know what the difference is between a gig worker and what I did? I was fairly compensated.

It didn't matter whether I sat on city council in Niagara Falls—I was fairly compensated. Or whether I was working on the line in General Motors, which I did—I pushed pistons on the line, on the V8. It was the worst job in the plant, by the way. It was my first job. I remember it. I hated it. But I liked the pay on Friday, so I put up with it. But then I started to love my job. I loved my job at General Motors, and I loved my time with the union.

These workers love their job, and all they're asking of all of us—they're asking the Liberals, the independents, my colleague, the Conservatives—is they want to be treated fairly under the Employment Standards Act. They want to be treated like a worker. If you're going to call the bill Working for Workers, let's treat them as workers. Let's treat them on the Employment Standards Act. Let's give them all the rights that we currently have, every one of us.

Chair, I don't know if you even know this, because I don't know how many days you've had off over the past four years; probably not many. But if I'm sick—and I've been lucky so far; I haven't got COVID, I haven't been sick—I get paid. If I don't go to work on a Tuesday, I get paid. I don't lose any money if I happen to be sick. I get paid. These gig workers don't get paid. They don't have sick days. So I'm saying to my colleagues, if we want to help gig workers, let's get the bill right, and we're not saying we don't want to.

The Vice-Chair (Ms. Bhutla Karpoche): Sorry to interrupt—

Mr. Wayne Gates: I figure I'm done.

The Vice-Chair (Ms. Bhutla Karpoche): Sorry to interrupt, Mr. Gates.

Mr. Wayne Gates: It's all good.

The Vice-Chair (Ms. Bhutla Karpoche): Are there any further comments? Ms. Sattler.

Ms. Peggy Sattler: I also wanted to make a comment. Perhaps the government will take this into consideration, although I don't know how many more pieces of legislation will be going through the legislative process. But the timelines around this bill are impossible to actually elicit

meaningful public input. We had this bill. It was announced that it was going to be going to committee on March—the deadline to request to appear before the committee was a couple of days after the announcement came out that there were going to be committee hearings. There was a deadline for written submissions that was two nights ago.

The deadline to submit amendments was the day after public input had been received and the day after the deadline for written submissions had passed. How can you possibly analyze or read all of the written submissions that were provided at 6 o'clock on March 29 and turn that around into an amendment the next morning at 10 a.m. or 11 a.m., whenever the deadline was yesterday? That's ridiculous. It's ridiculous to pretend that this is any kind of a meaningful process to engage the public in scrutiny and in providing recommendations to strengthen legislation.

It's clear that this government is not interested in using the legislative process to actually improve legislation, to respond to the concerns of Ontarians. We had the deadline yesterday for amendments, and here we are today in clause-by-clause reviewing those amendments. It is a completely unhelpful and dangerous process to rush through legislation that's going to have such an incredible impact on 800,000 workers in this province, when you set those kinds of deadlines and that kind of a timetable to get this legislation made into law. I hope that the government will think about that. There are a couple more bills that will be going through the committee process prior to the writ being dropped.

0940

It really is insulting to the people of this province who want to be able to participate in the legislative process, and it's insulting to the stakeholder organizations that have a direct stake in the implications of this legislation to ask them to turn around so quickly to meet these impossible deadlines that are set by the government. So I did want to go on the record with those concerns, and just really urge the government to take that into consideration with the few remaining pieces of legislation that will be going through the committee process.

The Vice-Chair (Ms. Bhutla Karpoche): Any further comments? Mr. Anand.

Mr. Deepak Anand: First of all, I want to thank everyone who came here and gave their presentation. I would like to commend them for their hard work, and I want to thank them for coming forward and giving us their valuable input.

Madam Chair, I just want to clarify a few things. Many times when I hear this racism—and then somehow we talk about racism, but we don't do much about it. But I want to talk about what we do on our side, in the government, on the PC side—our record. I am an immigrant. I came to Canada on January 15, 2000. In our caucus, out of the 70, 24 of our members are actually born outside of Canada, so they are immigrants. Talking about the diversity, we have a diverse caucus—and not just a diverse caucus in terms of numbers or saying it; we are actually the government. We are the government who is getting things done.

I can tell you, Madam Chair, the immigrants who come here are coming here because Canada is a land of opportunities. When they come here, they're not begging in their home country; they're doing well. But they want to improve their lifestyle. They want to have a better life for themselves, for their children. That's why they come here.

To those new immigrants: I would like to welcome them, and I want to let them know that I am an immigrant and there are many immigrants in our caucus. We know the pain and the hard work when you come here. But we guarantee you—we want to tell you—you're in the best country in this world.

Here, what we're doing as a government—I want to just clarify a few of the things which you should also know. We are the government who worked on recognizing foreign credentials. I'll give an example. In 2016, only one quarter of the internationally trained immigrants in regulated professions were working. Our Working for Workers Act created a clear path for them to fully apply their skills and remove barriers for newcomers to get licensed and find meaningful jobs in the qualifications they have. Why are we doing it? We're doing it because it is the right thing to do.

I know I'm going to give this data and the other side will boil, but I have to remind them: This is the province where we've seen over 300,000 manufacturing jobs leaving. And we are at the stage today where we have 330,000 jobs unfilled. Why has that happened? It's not because of the Canadian dollar; it is because of the hard work of this government. Why is this important? Why am I sharing this? I'm sharing this because I want to tell the immigrants that you are in the best place. You are in the best country in the world.

Through this bill, Madam Chair, what are we doing? We're looking at an entirely unregulated space, where nothing has been done in the last 15 years—and not only in the province of Ontario. I know the other parties have governments in other provinces. For example, BC has an NDP government, Alberta had an NDP majority for four years, and a Liberal government is in many other provinces as well. But we're the province, we're the party who is taking the steps. We're getting it done. As the minister said earlier, and I'm going to say it again, this is the first step in the right direction. It is not the ceiling. We will continue. We have always supported workers. We have been working for workers, and we will continue to work for workers.

We heard it from many deputations here. Our ministry heard it; the Ontario Workforce Recovery Advisory Committee heard it; and from many gig workers. In one of the deputations, when we had Deena Ladd, the executive director of the Workers' Action Centre, she herself talked about how she was contacted and she actually talked about the number of digital platform workers who were contacted and were consulted along with her. She did mention that, so I just wanted to put it on record. It's not that they were not consulted; they were absolutely consulted.

Going back to—and we heard it loud and clear. They talked about, "We want to maintain flexibility." We heard

from the digital platform workers. One of the biggest challenges they talked about was, “We don’t even know—sometimes we make \$500; sometimes we make \$1,000.” What is this bill going to do? It going to give you transparency. It is going to make sure that you will have a pay stub. You will actually have paper which will show and explain how much money you made, and we will make sure that money—I agree with you; some of the people were worried, they were concerned. They said, “I don’t think I make even minimum wage.” So what is this bill going to make sure of? Once you have that pay stub, once you have that transparency, once you know that number, we will make sure that number is over and above the minimum wage. We’ll take away that problem.

Work-related issues: Any time there is a problem, work-related disputes will be fixed right here in Ontario. There will be protection from reprisal. So we’re doing all this, and we’re not just doing this, Madam Chair, in this bill. We’re actually going above and beyond. We’re actually doing more on helping these employees. We all know, especially for the last couple of years, that we’ve seen a lot of people working from home, so we’re making sure that we’re working on electronic monitoring of these employees. As you know, 89% is the percentage of people in Ontario who believe that the workplace has changed permanently due to COVID-19. In this bill, we’re making sure to introduce legislation which will require employers with 25 or more workers to establish policies on electronically monitoring their workers.

We talked about the opioid crisis many times, and we know—we had deputations—that 30% of overdoses happen on construction sites. We’re making sure, by mandating access to life-saving kits in high-risk workplaces, that we’re able to help those and save those lives.

In Working for Workers Act 1, we heard loud and clear about the OHSAs fines. We believe and we understand on this side that severe injuries or death should never be a cost of doing businesses. They should not be a line item. That is why we’re the first ones to increase the fine to \$1.5 million. We want to protect our workers. We want to make sure no life is lost at work. We have hard-working workers, and we respect them.

Another thing which I talked about, Madam Chair, was, when the Premier says our economy is booming, it’s not just a line; we can see it. We have more jobs than in 2018. We had two years of a pandemic, but today, we have more jobs than we had before the pandemic. What does that mean? We need more people. In order to have prosperity, we need more people. That is why we’re fixing labour mobility. We’re making sure the Red Seal trades that are currently recognized in Ontario—there are a few of them that were not recognized. They will get recognized. We are making sure that they don’t have to wait for months and years to get into the jobs which are unfilled right now. We’re making sure we’re putting the time that the credentials are processed and continued—that these people should be working in 30 days. This is what we’re doing in this bill.

Madam Chair, I have a lot of respect for our military reservists. I have a lot of respect for people who serve our

nation. Because of them, we can sleep at night, comfortably. This bill is also helping and making sure that we are introducing legislation that will protect the day jobs of our military reservists while they put their lives on hold to protect our freedom.

0950

Overall, Madam Chair, this bill is a bill in the right direction. We started with the Working for Workers Act 1; this is the Working for Workers Act 2. As I said earlier, we respect our workers, we believe they need our help and we believe we’re team Ontario. It is a step in the right direction. We’re raising the base, and it is not the ceiling. We said earlier that we will continue to work for our workers. This is another great proof, and we will not stop, not even at this point. We will continue to support those workers. Thank you, Madam Chair.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Fraser?

Mr. John Fraser: Thank you, Chair. To my colleague across the way: I do have to refute a few things that you said there. You didn’t talk about jobs that were created in the last 15 years in the service sector and the technology sector; you talked about the manufacturing sector. The fact of the matter is that Ontario was in the top three for jobs and growth in the G7 for five years before you got here. We were also in the top three for five years for foreign direct investment in North America. That’s where we were, so you inherited a good economy. There’s no question about that. The pandemic has had an effect on that.

If our aspiration when trying to protect gig workers is to try to make sure they have a pay stub, I think we’ve missed the boat. Workplace health and safety protections, vacation pay, the right to be represented, the right to severance when dismissed without cause: What’s so complicated about that?

The Vice-Chair (Ms. Bhutla Karpoche): Sorry to interrupt. Mr. McDonell, did you have a point of order?

Mr. Jim McDonell: No, I’m just waiting.

The Vice-Chair (Ms. Bhutla Karpoche): Oh, okay.

Mr. John Fraser: Now I’ve lost my train of thought. I left the station. What am I going to do now? Good job. There we go.

Anyway, I’m not going to say anything more about this bill other than that I do see the parts in the bill that look good, that look tasty. But you’ve made a soup—you made a fish soup; you made a fish chowder—and the first thing you did was to put some not-so-good potatoes in it, and you had to take them out, because we needed to take it out of the bill. And you threw in some nice vegetables, and they look good and they’re tasty, but then you threw in some fish that was probably three or four days past where you should have been using it—I come from the food business—and that fish is schedule 1. It’s just not edible. So how do you expect us to eat the soup when you leave the rotten fish in it?

The Vice-Chair (Ms. Bhutla Karpoche): Any further comments? Mr. Gates.

Mr. Wayne Gates: I will say to my colleague that I appreciate your comments. I really do. I think it’s important that we have this kind of discussion. I will answer your

question around the 800,000 jobs, the gig workers: 78% are workers of colour and 50% of them are immigrants. You said that they come to this country—it's a great country; I've already said that it is. It's a land of opportunity. But no worker in the province of Ontario should go to work and, at the end of the day, get paid zero for time at work—nobody—and that's what's in this bill. That's a mistake, and it's wrong.

You did talk about foreign-trained workers. Our party has been arguing for foreign-trained workers for years. I'll tell you a quick story, because I've got time. In 2002, I ran for MP against a Conservative. I can say that he was a good guy; I became friends with him. It was Rob Nicholson. I got to know his family and his kids. I ran against him. The one thing I was running on was foreign-trained workers, because it made no sense to me that we had cab drivers all over the province of Ontario who could be doctors and nurses, and they were driving cabs. So we have always argued about foreign-trained workers. I want to say that.

You guys continue to talk about the 300,000 jobs. I can tell you, I lived it. It's nice that you said what you did. I lived it. I watched people lose their job. I watched people have their plants closed.

Interjection.

Mr. Wayne Gates: Let me finish. It's my time to talk. You guys can rebuttal this if you want.

At the end of the day, 300,000 jobs—you're right on the number, but the number was because of a Canadian dollar that was \$1.10. And the manufacturers—

Interjections.

Mr. Wayne Gates: You guys don't have to agree. You don't have to agree, but take a look at history.

Interjections.

Mr. Wayne Gates: Can I at least finish? I'll wait until they mumble and grumble, and then I'll—

The Vice-Chair (Ms. Bhutla Karpoche): Order, please.

Mr. Wayne Gates: Thank you. I appreciate that.

I lived it. I watched people lose their jobs. And I'll tell you, if you tell me that Canada could be competitive with a \$1.10 dollar today and attract manufacturing jobs, I would say that you're wrong. That was the issue.

In defence of Harper, he came from the West. He took really good care of those provinces out there, the oil-producing country. We had a petrodollar and it worked great. It worked great for the West. As a matter of fact, they were making so much money out west during that petrodollar, do you know what they were doing—because they were sitting on gas and oil. You know what they were doing? They were giving cheques out—something like you guys are doing now to buy votes—like candy to their citizens, \$500 here, \$1,000 here—

Mrs. Robin Martin: Point of order, Chair.

The Vice-Chair (Ms. Bhutla Karpoche): Point of order, Ms. Martin.

Mrs. Robin Martin: The member is impugning motive again.

The Vice-Chair (Ms. Bhutla Karpoche): Please keep comments related to the bill and do not impugn motive. Thank you.

Mr. Wayne Gates: I was just answering them.

In my humble opinion, I don't believe that Canada today, in 2022, could compete for manufacturing jobs at \$1.10 when you're competing against workers in the southern states that have no unions, no health and safety—something that's in this bill: no health and safety rights, no unionization. With \$1.10, we couldn't compete. It was the petrodollar that really hurt the province of Ontario. I'm not blaming any government other than the Harper government, because it was the petrodollar. You can look it up. History will even tell it.

As far as the rest of the bill, it is definitely misclassifying workers. You are not working for workers. I don't think any worker in this province should ever go to work for \$7.50 or, in some cases, not be paid for any time at work.

You talk about your fines. There are good parts in this bill. The opioid crisis is real; it's not made up. But it's not just in construction. It's right across society, quite frankly. We've got to correct it. We've got to look at the root cause of the opioid crisis.

One of the reasons in the construction sector is because of the fact that they're scared to go off on WSIB because they'll be deemed, and then what will happen is they will live in poverty. So they end up taking drugs of some kind. They end up doing opioids. You can talk to the construction trades, you can talk to any of the trades. They're aware of this and they agree with that statement. I'm not talking out of my hat here. I have talked to the carpenters—because I know this came from the carpenters. They want to correct the problem in construction.

As far as allowing foreign workers to come, there are some issues with that with the building trades, to make sure that their credentials are the same as what we have in our health and safety so there's no difference. That's a big issue.

I will talk about the fines. We've had fines in the province of Ontario for a long, long time. When I was at General Motors, one of our employees was killed on the job. I remember Joel Murray like it was yesterday. He had a wife. He had two kids. When they took him out of the plant, I was there. I helped them wheel him out with the paramedics.

General Motors was fined \$325,000. They admitted to guilt, that they were guilty. And you know what the fine does? When you see they get a \$325,000 fine, you would think it would go to the family, because that would make sense, right? You've lost your dad. You've lost your income. That fine just goes back into general funds. It doesn't go back to the worker who was killed or their family to put the kids through school. We had to do gate collections and that kind of stuff to help the family.

In long-term care, 5,000 people have died—5,000. Our moms, our dads, our aunts, our uncles, our friends, our neighbours: They've died in long-term care. I asked the government—because I'm not positive, but I don't believe

that any long-term-care company has been fined, and I certainly know that we are handing out contracts, 30-year contracts, to ConMed—that's in my riding—where they had close to 70 people die in their facilities. They just got awarded more beds.

The fines are probably a good thing. How they're distributed is something that we should be discussing. The fines should go to some sort of—if somebody is killed on the job, some of those funds should go to the family to help the kids go to school and raise their family. Because obviously, that morning when Joel went to work, his beautiful wife and his two kids were expecting Dad to come home, and he didn't.

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After two years, General Motors finally admitted they were guilty. The fine was \$325,000 and it went back into a general fund. That money should go to the family to help that family take care of those kids. Those kids were eight and 10 at the time.

You're talking fines. Maybe go back to your party and say, "How are you going to distribute those fines? If somebody is killed on the job, should the money go back into the family to help them raise their families?"

The fines aren't a terrible thing, but long-term-care fines didn't mean a thing. They just continued to be rewarded with more contracts, by the way.

I appreciate your time. Sometimes I do go off-subject a bit, so I apologize for that. But thanks for your leniency, Chair. I appreciate it.

The Vice-Chair (Ms. Bhutla Karpoche): Thank you, Mr. Gates.

Any further comments? Mr. McDonell.

Mr. Jim McDonell: I just wanted to comment on a couple of things. One thing is, yes, there were jobs increased when the former government was here, but we lost, as MPP Gates said, 300,000 jobs. The stat was, when this government took over in 2003-04, we were the number one auto industry jurisdiction in North America, and of the 14 car plants that were built between 2003 and 2018, none were in Ontario. There were 10 in the US and four in Mexico. So I think that states the conditions the government, propped up by the NDP, created. We're about returning—our employees are the best, most trained employees in the world, and they need the ability to compete with the rest of the world if they're going to succeed.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Anand?

Mr. Deepak Anand: I just want to acknowledge and say, Madam Chair, that I've been in those shoes, where you are feeling right now. I was once the Chair of social policy. It's a heck of a job. It's a very tough job. I just wanted to say thank you for taking good care of this job.

The Vice-Chair (Ms. Bhutla Karpoche): Thank you.

Any further comments? No? All right. Seeing that there are none, let's go to schedule 1. There are no amendments to sections 1 to 6 of schedule 1. I therefore propose that we bundle these sections. Is there agreement? Great. Is there any debate? No. Are members prepared to vote? Shall schedule 1, sections 1 to 6—

Ms. Peggy Sattler: Recorded vote, please.

The Vice-Chair (Ms. Bhutla Karpoche): Recorded vote. Okay.

Ayes

Babikian, Hogarth, Martin, McDonell, Scott, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Vice-Chair (Ms. Bhutla Karpoche): Carried.

We have a government amendment to schedule 1, section 7. Who would like to move it? Mr. Anand.

Mr. Deepak Anand: I move that paragraph 3 of subsection 7(5) of schedule 1 to the bill be struck out.

The Vice-Chair (Ms. Bhutla Karpoche): Is there any debate? Ms. Sattler.

Ms. Peggy Sattler: I am very concerned about the striking out of this section, even though I'm opposed to this schedule in general. But it just reinforces this government's complete disregard for gig workers, because we heard numerous gig workers talk about the impact of performance ratings on the amount of money that they get for their job. In particular, we heard from gig workers about the racism that is often involved in performance rating, and the vulnerability of racialized and immigrant gig workers to poor performance ratings and what that means for their next order that they will be picking up, and also the possibility of being deactivated, being just completely deactivated because of poor performance ratings.

So for this government to move that the right for a gig worker to know what the performance rating was and to know what the consequences of a poor performance rating were—it just really, really confirms, once again, that this government does not care about gig workers, does not care about the racialized and immigrant workers who make up the majority of the gig workforce.

Of all the things that this government listened to during the public input—and in fact, I would be very interested to know where this amendment came from, because no one who appeared before this committee on Monday and Tuesday and all of those hours of public input said that this performance rating information requirement should be removed. In fact, we heard the opposite. We heard gig workers talk about how vulnerable they were in their jobs because of the performance rating system that is created by the gig companies.

I think the government should be transparent in why they are suddenly proposing to remove this subsection from schedule 1 and replace it. I see the next amendment is replacing it with a different approach to performance ratings. But the public and ourselves, as members of this committee, need to understand from this government where this amendment came from, because we did not hear it in public input on Monday and Tuesday.

The Vice-Chair (Ms. Bhutla Karpoche): Further debate? Mr. Anand.

Mr. Deepak Anand: I just want to say that the reason we're trying to do this is that we heard, and we believe, that this could reveal the identity of the customer who provided the rating. As an example, if there's one digital platform worker who worked on a specific day—it stays for 24 hours. So that day, for example, let's say that platform worker only delivered one order. He was only available for X amount of time; that's why he could only take one order and deliver one order. Having this information would mean that digital platform worker would know about who gave this rating and may not be pleased with that rating. That would mean it would reveal the privacy of that customer who gave that rating. That is why, as the member opposite said, we're asking to strike this out. But we will be talking in the next motion of an alternative.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Fraser, is it a point of order or further debate?

Mr. John Fraser: It's just a comment when he's done.

The Vice-Chair (Ms. Bhutla Karpoche): Mr. Anand, are you done?

Mr. Deepak Anand: Yes, I'm done.

The Vice-Chair (Ms. Bhutla Karpoche): Okay. Mr. Fraser?

Mr. John Fraser: I appreciate people's privacy, and I think we can understand that, but how would you like it if every day there were five anonymous emails that rated any of our performances?

Mrs. Robin Martin: Oh, I get that all the time.

Mr. John Fraser: We're laughing now, but if your job depended on it, and they went to the Premier, who said, "You know what? I got these five emails about you. What's this all about?" And you don't know who it's from, what it relates to and you don't have a chance to defend yourself—and actually it's true, because there's no one to represent you in caucus, right? So what ends up happening? Do you know what ends up happening? You get a seat behind me. That's what would happen.

That's what's happening to these gig workers. They're anonymous complaints. What I think needs to happen here is, they need representation. They need fairness. They need a process to be able to be treated fairly if someone is criticizing them and putting their livelihood in jeopardy. It would be the same for any of us. You wouldn't like to be behind me—I know you wouldn't—simply because somebody who you didn't know sent a bunch of emails that you couldn't defend yourself against, and you weren't represented because you aren't represented in caucus; there are no unions—not that I know of, maybe in yours. So it's the fairness of it, and that's kind of the point of protecting people.

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We're in a new world—that's why you need to take more time—where you have these anonymous things that people could do. They don't have to face somebody and say, "I don't like the way you treated me." They can just send an email that says that you were bad, whether you were or not, and you have no chance to respond.

I hear what you're saying about protecting people's privacy, but you're not actually balancing it out by protecting the rights of people to know why their employment is being impacted.

The Vice-Chair (Ms. Bhutla Karpoche): Thank you, Mr. Fraser. Any further debate? Mr. Gates.

Mr. Wayne Gates: Yes, just real quick—I won't tie up a lot of time.

To your comment, the NDP—all our workers who work at Queen's Park or work in our constit offices are represented by a union. One is represented by OPSEU, and workers are represented by COPE.

It kind of runs into my next question: If you really want to protect workers, make it easier for them to join a union, where they have a collective agreement, they have agreement procedures, they have health and safety. That's the key to this—or at least have them covered under the Employment Standards Act.

The Vice-Chair (Ms. Bhutla Karpoche): Thank you. Any further comments? Are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

The Vice-Chair (Ms. Bhutla Karpoche): We are voting on amendment 1.

Ayes

Anand, Babikian, Hogarth, Martin, McDonell, Scott, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Vice-Chair (Ms. Bhutla Karpoche): The amendment is carried.

Amendment number 2: Who would like to move it? Oh, do you have a point of order, Mr. Gates?

Mr. Wayne Gates: I do. I just want to know, because we'll probably do more recorded votes: How many committee members does the government have in this committee?

The Vice-Chair (Ms. Bhutla Karpoche): Seven.

Mr. Wayne Gates: Seven? Okay. I was just wondering, because they certainly outnumber us.

Mr. John Fraser: There seem to be more every day.

Mr. Wayne Gates: They seem to get bigger. It almost looks like the Bills's offensive line over there, waiting to charge us. I'm not serious, though.

The Vice-Chair (Ms. Bhutla Karpoche): Order.

We're going to move to government amendment number 2. Who would like to move it? Mr. Anand.

Mr. Deepak Anand: I move that section 7 of schedule 1 to the bill be amended by adding the following subsections:

"Same, performance ratings

"(5.1) An operator shall provide information to a worker about performance ratings, as follows:

"1. If a worker receives five or more performance ratings for work assignments on a calendar day, the

operator shall provide to the worker the average performance rating for that day.

“2. If a worker receives fewer than five performance ratings for work assignments on a given calendar day but a total of five or more such ratings over two or more days including that day, the operator shall provide to the worker the average of all the performance ratings received on those days.

“3. The operator shall provide, if applicable, the aggregate details of the rating referred to in paragraph 1 or 2, whether there are any consequences based on the rating and a description of those consequences.

“Same, provision of performance ratings

“(5.2) The performance referred to in subsection (5.1) shall be provided within 24 hours after the end of the last day included in the calculation of the average performance rating.”

The Vice-Chair (Ms. Bhutila Karpoche): Mr. Anand, can you please repeat subsection (5.2)?

Mr. Deepak Anand: Absolutely, Madam Chair: “(5.2) The information referred to in subsection (5.1) shall be provided within 24 hours after the end of the last day included in the calculation of the average performance rating.”

The Vice-Chair (Ms. Bhutila Karpoche): Thank you. Is there any debate on the amendment? Are members ready to vote?

Mr. Deepak Anand: Yes.

Interjection.

The Vice-Chair (Ms. Bhutila Karpoche): Oh, sorry. Ms. Sattler.

Ms. Peggy Sattler: I—

Mr. Deepak Anand: I just answered yes to your question, Madam Chair. Let’s do it.

The Vice-Chair (Ms. Bhutila Karpoche): Ms. Sattler, please continue.

Ms. Peggy Sattler: I am concerned about this amendment, because earlier, on the amendment to strike paragraph 3 of subsection 7(5), I heard the member say that concerns were raised about the privacy of the customers who were providing the performance—

The Vice-Chair (Ms. Bhutila Karpoche): Ms. Sattler, I’m sorry to interrupt you. The committee will now recess until 1 p.m. this afternoon to resume clause-by-clause consideration of Bill 88.

The committee recessed from 1015 to 1302.

The Chair (Ms. Natalia Kusendova): The Standing Committee on Social Policy will now come to order. Good afternoon, colleagues and staff. We are here to resume our clause-by-clause consideration of Bill 88, An Act to enact the Digital Platform Workers’ Rights Act, 2022 and to amend various Acts.

This morning we left off on section 7 of schedule 1. We were debating government motion number 2, and I believe MPP Sattler had the floor, so I will invite her to begin our deliberations today.

Ms. Peggy Sattler: Thank you very much, Chair. I appreciate the opportunity to speak to this amendment that was moved by the government on this bill, one of two

amendments—just two—that the government has chosen to bring forward. I was curious as to where this amendment came from, because certainly in the oral deputations that were made to this committee on Monday and Tuesday of this week, we did not hear this concern raised.

I want to recognize the efforts of Heather Conklin and Amanda Boyce, who are the research officers in legislative research assigned to this committee, for their excellent summary of recommendations that were received both from the people who appeared before the committee, and also the written submissions that were provided to this committee just prior to the deadline on Wednesday night.

I was interested in noting that the written submission from Uber urges the government to amend the section on performance ratings, to amend the section on whether the worker has received a performance rating for the work assignment and the details of the rating. The reason that Uber gave the government is both that the impact of this legislation would be a threat to privacy and user safety, which is what we heard from MPP Anand, but also that “earners may unduly pressure customers to provide a positive rating, and could harass customers who give a poor rating.”

And then I noticed DoorDash’s written submission, which also urges the government to amend the requirements around disclosure of performance-rating information. DoorDash tells the government this disclosure may harm customers: “Workers are often making deliveries to customers’ homes and may pressure customers to provide a good rating or retaliate against them should the workers receive a poor rating.”

Now, the only place that the contents of this amendment around anonymizing performance ratings is in these two written submissions, one from Uber and one from DoorDash. So the comment that was first made when this bill was introduced by the government, that it may as well have been written on DoorDash’s letterhead, is looking more and more believable, Chair, when we see that the only amendment that the government chose to bring forward was to replace what it originally had around the workers’ rights to information regarding performance rating with Uber and DoorDash’s preferred approach to the disclosure of performance ratings.

Chair, it really is disgraceful that legislation that the government likes to call Working for Workers is actually working for DoorDash and Uber. The government doesn’t appear to have listened to a word that was said to this committee by the gig workers who spoke to this committee and by the gig workers who also provided written submissions to this committee. Instead, this government is working for, as I said, the digital platform companies. They’re working for DoorDash and Uber by bringing forward an amendment that is going to respond directly to written submissions from Uber and DoorDash.

Chair, we are definitely going to be opposing this amendment—we are opposing the schedule as a whole—but it is very revealing that the government chose to bring forward this amendment, the only amendment to this legislation, after two days of deputations from gig workers

who urged them to rethink this schedule, who spoke about the harm of schedule 1 to gig workers, yet those deputations were ignored.

The Chair (Ms. Natalia Kusendova): Any further debate? MPP Fraser.

Mr. John Fraser: I'm going to reiterate: I don't think any of us on the other side or on this side would want our boss, the Premier, getting five anonymous emails every day and that would dictate what happened to us; that we were disciplined for some reason and we couldn't even speak to the people who gave us a bad review or told our boss, the Premier, that we're doing something wrong. Actually, MPPs are in the same situation that these drivers are—for good reason, because we do okay for ourselves; we can defend ourselves. We're not represented, so at the whim of your boss, you could end up sitting over here, just like that.

And right now, for these drivers, they can end up out of work just like that, just with the push of a button. With a click, they're out of work, and they have no defence. And I could be out of a job too; it's quite likely that would happen as well. Who knows, right?

Ms. Christine Hogarth: It happened once.

Mr. John Fraser: If it was up to Mrs. Martin, I think that would happen.

Interjection.

Mr. John Fraser: Sorry, I was just poking a little bit of fun there. I love you guys too. You know that.

But it's just not right. It's not right. Why can't we actually treat these workers as what they are, as employees? There are almost—what, 880,000 or almost 900,000? A little less than a million—that's a lot of people.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Gates.

Mr. Wayne Gates: Thank you very much. Nice to see you back in the Chair position this afternoon.

I really want to make sure I say it again this afternoon that if you want to protect them and you really cared about working for workers, you would have made it easier for them to join a union and be represented, and have a collective agreement that protects all their rights.

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But my colleague really touched on something that I've been saying for the last, I don't know, three, four days, that you'd almost think that Uber, DoorDash, and SkipTheDishes actually wrote this schedule of the bill. We've been very clear that this schedule of the bill, like schedule 5, should be taken right out of the bill. There are a couple of things in the bill that we can like, but certainly not this.

I'm hoping that at some point in time, this government understands that. I don't think you do, because you haven't admitted it yet. I've waited for my colleague right across from me to admit it. We're talking about a multinational, international corporation—that's who we're talking about here—and we are allowing them not to play by the rules of Ontario by not having it covered under the Employment Standards Act. Now, I've said that a number of times, but for whatever reason, it hasn't gotten past the TVs here in the front. I've got to somehow get it to the other side so

you understand that every worker in the province of Ontario should be covered by the Employment Standards Act.

But what I want to say is—because we had this earlier today, and I think it's fair and reasonable to say this, and I think my colleagues can agree with this. I think we might have agreed with one thing, but I think we can all agree with this. I listened to question period today and we were talking about rents and housing and those types of issues. I challenge my colleagues on the other side to please tell me: 880,000—Chair, think about that, 880,000—workers work in the gig economy, and this morning we were talking about housing and affordability and rents and renovations. So I'm asking my colleagues, and maybe they can answer it for me: How do you think 20% of our workforce can afford to pay rents that in Toronto are about, for a two-bedroom apartment for a family, over \$2,000? It's \$1.8 million to own a house in Toronto today. In my area, we don't have as many workers that are involved with these platforms, but even in my area, where a lot of the jobs are in tourism, the average house now is almost \$800,000.

So I'm saying to my colleagues, and maybe they can explain this, when you're working hours in the day where you might not even get paid anything or you may end up at \$7.50 an hour or you may end up getting minimum wage, how do we expect these workers, these very valuable workers, these heroes—I think you guys called them heroes—that are making, if they're lucky \$15 an hour in Toronto—one fifth of the workers in this province—one fifth, incredible stat, and growing every day. So I really would like you guys to comment on that, to explain to me how one of those 880,000 workers could afford to pay rent or own a home here in Toronto on this bill and how it's going to help them.

And I'll close by saying, if you really cared about the workers, you'd make it easier for them to join a union. That's the way we're going to lift them up in the gig economy.

Thank you very much for your time, Chair. I appreciate it.

The Chair (Ms. Natalia Kusendova): Any further debate? MPP Anand.

Mr. Deepak Anand: I just want to say what we're doing here is that the proposed new approach would focus on average and aggregated information in respect of performance ratings, instead of individual ratings. That's why we're moving over to this. And we do agree. At the end of the day, our digital platform workers are supporting our economy and they are serving their clients, and many of those clients are actually themselves digital platform workers as well. What we're trying to do here is we're trying to protect the privacy of all those individuals while keeping and making sure that we have average and aggregated information on performance ratings.

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: This isn't just about a performance rating. There are no rights for the drivers under this other than to get a performance rating in a certain way, as a

certain average. It doesn't give them any right of appeal. It doesn't give them any right of representation. Yes, I guess it's nice that they're going to get an average, but if the company decides they're going to do something, just by pushing a button, they can do it. And you're not giving them the same rights as other employees. You're treating them like contractors. So I can't support the motion because it's not doing anything substantive for the people.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Sattler.

Ms. Peggy Sattler: I also want to point out that we heard from gig workers themselves about how performance ratings affect both their pay for orders—because all of a sudden, a negative performance rating can mean that they are knocked to the bottom of the pay scale, no incentive, no bonuses or whatever—but also, they can cause them to be deactivated arbitrarily. I guess now they will know that because there were five negative performance ratings, they've been deactivated, but they will have no way to get some context for the negative performance rating.

We heard directly from the gig workers who talked about the systemic racism that is involved in performance ratings and what that means for racialized workers who may be targeted with negative performance ratings because of racist attitudes on behalf of customers. Chair, the government's whole approach—

Interjection.

The Chair (Ms. Natalia Kusendova): MPP Anand, do you have a point of order?

Mr. Deepak Anand: Madam Chair, I just want to ask a quick question: Is the member opposite saying that the customers are racist?

The Chair (Ms. Natalia Kusendova): That's not a valid point of order. Back to MPP Sattler.

Interjections.

Mr. Deepak Anand: You just said that.

Ms. Peggy Sattler: No, I said that—

The Chair (Ms. Natalia Kusendova): You can speak after. You can speak as well.

Ms. Peggy Sattler: A racialized gig worker may receive a poor performance rating from a customer who is demonstrating racist behaviour: That is what I said. That is the experience of racialized gig workers. We heard it from Saurabh Sharma, who talked about the discriminatory nature of performance ratings.

The government's entire approach to so-called digital platform workers' rights is completely absurd, given the reality of the gig worker workforce, but this in particular, when these workers—they are already some of the most vulnerable workers in our economy, some of the most marginalized workers in our economy. By anonymizing these performance ratings that dictate very much how much these workers will earn, whether they will earn—because they can just be deactivated. To anonymize those performance ratings and take away any ability of the worker to be able to challenge a poor performance rating is completely unacceptable.

The Chair (Ms. Natalia Kusendova): Further debate? Are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

The Chair (Ms. Natalia Kusendova): MPP Gates, did you have further debate? No?

Are members ready to vote? Okay. We will have a recorded vote.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare the motion carried.

Mr. Wayne Gates: Multinational corporations would be proud of you guys.

Interjections.

The Chair (Ms. Natalia Kusendova): Order, please. Order. Thank you.

We will now vote on schedule 1, section 7, as amended. Is there any debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Sorry, what are we voting on?

The Chair (Ms. Natalia Kusendova): Schedule 1, section 7, as amended. Is there any debate?

Ms. Peggy Sattler: Recorded vote.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 1, section 7, as amended, carried.

We are moving on now. Since there are no amendments to sections 8—

Interjections.

The Chair (Ms. Natalia Kusendova): Okay, I would like to ask for the side chatter to stop, please, guys. We have a lot of stuff to get through today, so if we could please just focus on the task at hand, I would really appreciate it.

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Since there are no amendments to sections 8 to 68 of schedule 1, I therefore propose that we bundle these sections together. Is there agreement? Agreed? Agreed.

Is there any debate on schedule 1, sections 8 through 68, inclusive? MPP Sattler.

Ms. Peggy Sattler: I just want to point out section 9, the right to minimum wage. If there was one amendment I

would have liked to see the government bring forward, even though I'm opposed to this entire schedule of the bill, it is around the minimum wage provisions of the bill. Once again, we heard from gig worker after gig worker who came to speak to this committee, who talked about the fact that a minimum wage that only applies when the worker is doing engaged work, when they are actually delivering an order or picking up a customer—what that will mean is not a minimum wage. It is not a minimum wage because it does not pay them for the time that they are on the job. We know that a minimum of about 40% of a food courier's time is spent waiting for a customer. In some cases, that could be as high as 60%.

In fact, in the Ministry of Labour's ruling for Mr. Sharma, which found that he was an employee under the Employment Standards Act and entitled to all of the protections of the Employment Standards Act, the ministry investigator found that for one particular week, because of the way that Mr. Sharma's wages were calculated for the week of December 27, 2021, to January 2, 2022, he received an hourly wage rate of \$3.41.

The government might like to maintain this fiction that they are providing gig workers with a minimum wage, but we know and gig workers know that this bill is not going to be guaranteeing gig workers a minimum wage. It will enshrine, entrench, legislate the certainty that they will not be paid minimum wage because they are not going to be paid for the time they are on the job; they are only going to be paid for the time that they are doing engaged work.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Gates.

Mr. Wayne Gates: I really appreciate my colleague and her comments. Again, I've spoken about this, but I want to continue to speak about it. When we're talking about engaged work, they're not being paid compensation when they're not engaged. And it was very clear by the presenters that there are times of the day when they don't get paid at all. So you go to work—my shift is from, say, 8 to 4, just to make it easy so I'm not confusing my colleagues. You go from 8 to 4 and you don't get any orders for two hours. This is how much money you're making, because it's not engaged: zero. I ask my colleagues, do you think anybody should go to work and get no compensation while they're at work? It's absolutely amazing that you guys are putting this bill forward.

To my colleagues—I'll just finish with this, because I've said it over and over again and I really feel like it's falling on deaf ears. The part that you raise around December 22 to January 2: The hourly rate by the labour board was calculated to be \$3.41 an hour. I'm going to ask my colleagues, and maybe you'll respond to this: How do you think a gig worker can pay for their rent, their mortgage, their food, their gas, their bicycle—because some use a bicycle to get around—their car, car insurance? They made for that week—the week after Christmas, by the way, during the Christmas period—\$3.41 an hour. Do you know who makes that kind of money? Not in one of the richest countries in the world. It shouldn't be done in the province of Ontario. That would be a wage that is made

in Mexico or a Third World country. I think it's disgraceful. I really appreciate your comments, my colleague, because it sticks out. The only ones that are not getting it are the people across the aisle here.

Thank you very much, again, Chair, for allowing me to say a couple of words. I appreciate it.

The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

The Chair (Ms. Natalia Kusendova): We will have a recorded vote. We are voting now on schedule 1, sections 8 through to 68.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 1, sections 8 through 68, carried.

Now we are considering schedule 1, as amended, as a whole. Is there any debate? MPP Sattler.

Ms. Peggy Sattler: I think that we have made it very clear that we do not support schedule 1.

Can I just ask a question? Following the vote on schedule 1, will we then go to the notice of motions?

The Chair (Ms. Natalia Kusendova): We have received your notice of recommendation voting against schedule 1 to the bill.

Ms. Peggy Sattler: Right. So will that be considered after the vote?

The Chair (Ms. Natalia Kusendova): It's not a motion, so you don't have to actually bring it forward.

Ms. Peggy Sattler: It doesn't have to be brought forward, okay.

The Chair (Ms. Natalia Kusendova): But we are aware because we've all received the notice.

Ms. Peggy Sattler: Okay. Well, I am going to speak to that recommendation to vote against schedule 1 in its entirety, whether it was amended or not. I mean, it was pretty reprehensible prior to the amendment; it's even more reprehensible following the government's amendment. But we are very opposed to schedule 1, and we're not alone, Chair. We heard from numerous deputants who appeared before this committee that schedule 1 must be withdrawn. Not only did those deputants talk about the urgency of completely eliminating schedule 1, as the government did with schedule 5 when it served their political purposes—they were happy to convene a hasty process to walk us through this sham committee hearing, where we moved directly to clause-by-clause just so that they could—

The Chair (Ms. Natalia Kusendova): I'd like to caution the member not to use inflammatory language.

Thank you. This committee, we're all here, and the process should be respected. Thank you very much.

Ms. Peggy Sattler: Okay. Thank you, Chair. But clearly, the government was willing to remove a schedule when it was convenient for them politically, when they saw that there was political risk in moving forward with schedule 5.

I would have hoped that the government would have shown the same respect to all of the gig workers and organizations that appeared before this committee and urged the government to withdraw schedule 1. Some of those organizations—Don Valley Community Legal Services, Parkdale community legal clinic, CUPE Ontario, the Workers' Action Centre, Justice for Workers, the Ontario Federation of Labour, the Decent Work and Health Network, Gig Workers United—and numerous individual gig workers did not want to see schedule 1 move forward. Instead, they wanted to end the misclassification of digital platform workers that has been rampant in our economy for years, actually, but has become a particular pressure point now because of the explosive growth in the gig economy. After the experience of a global pandemic, when we were isolating at home, working at home, so many Ontarians—except for essential workers like the gig workers, who were still on the job, delivering food, delivering medication, delivering packages to people who were at home, at great personal risk.

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We heard from gig workers who had contracted COVID on the job, who were facing customers who refused to wear masks when packages were being delivered. We heard from gig workers who are at physical risk every day when they go on the job because of the nature of the delivery service they provide. In congested traffic, they are riding bikes and always at risk of dooring and everything else that cyclists face when they're cycling in a city. That's why so many of those gig workers said, "Withdraw schedule 1. Vote against schedule 1. Remove it from this bill and instead look at recognizing gig workers as employees under the Employment Standards Act."

End the misclassification of gig workers. Make sure that gig workers have access to basic workplace rights that every worker in this province should be able to count on, like a real minimum wage, a minimum wage that pays a worker from the time they log in until the time that they log out from the job, and an employment protection that ensures that they get that 4% vacation pay that every worker should be able to rely on.

They should be able to access WSIB if they are injured on the job. They should be able to access employment insurance if they need to take time off of work. They should be able to access the Canada Pension Plan like other workers, but they can't, because in Ontario, we have an Employment Standards Act that consistently misclassifies them. I have to recognize that really thorough investigator from the Ministry of Labour who issued that ruling that a SkipTheDishes food courier driver is actually an employee, even under the current Employment Standards Act, and should be recognized as such.

We have a problem with the Employment Standards Act right now because it is not clear who is an employee and who is an independent contractor. That's why I brought forward legislation, the Preventing Worker Misclassification Act, which would clarify and simplify the test for an employee in Ontario. Many of the deputants who appeared before this committee talked about the value of my private member's bill in ensuring that gig workers are appropriately and fairly recognized as the employees that they are. That is the direction that I encourage this government to go in and that gig workers want, expect and deserve this government to go in, not this misconceived Digital Platform Workers' Rights Act. And it's not even that this is a half measure; this actually drags digital workers back, because it suggests that there is this legal distinction between a digital platform worker and every other worker in this province.

This government claims to be opposed to red tape. They claim to be all about red tape reduction. This is massive red tape that they are creating with the Digital Platform Workers' Rights Act. It sets out a whole parallel process to the processes that are already there in the Employment Standards Act for digital platform workers who believe that these new so-called rights that they are being given under this bill—if they need to challenge access to those rights, there is this whole separate process that has now been put into place by this legislation in order for that to happen. Why didn't the government just eliminate this new red tape? Why did they decide to create new red tape? And why didn't they just make some regulatory changes that would recognize the uniqueness of gig workers' jobs? That could have been done under the Employment Standards Act. The Employment Standards Act could have been clarified and simplified, using the ABC test to identify who is an employee, who is an independent contractor, and that would have broadened the scope of the act to apply to hundreds of thousands of gig workers in this province. So we absolutely cannot support schedule 1 of this bill. We cannot support this bill, because it includes schedule 1. We will definitely be voting against this schedule of Bill 88.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Fraser.

Mr. John Fraser: I was talking about soup earlier on, in our earlier meeting, and section 1 is the bad fish I was talking about. It's just not going to work for folks. It's not going to work for folks who are trying to raise a family. It's not going to work for folks. They're not being protected. Like I said, there are things in this bill that are good—they're okay—but I just can't support section 1. I would ask the government, again, respectfully, to just take it out. Let's take more time to think about it and get it right.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Gates.

Mr. Wayne Gates: I appreciate it. Thanks, Chair. I want to give a compliment to my colleague, who did an incredible 10 minutes on why we should withdraw this bill. You touched on almost everything that needs to be touched on.

I still can't believe that my colleagues across have—they're not overly interested in what we're saying, and I don't understand why. We're talking about how 20% of the workforce in the province of Ontario are gig workers. You would think they would care about that voting bloc, quite frankly. I hear there's an election—I don't know if that's accurate, Chair; maybe you can help me out, but I hear there's an election coming. You would think that they would want to make sure that whatever they're doing working for workers in a bill, they would make sure the 880,000 gig workers were taken care of in the bill, and obviously they're not. I think it's pretty clear.

What's also clear is that they certainly need to join a union. That should be exactly where we're going. Unfortunately, as we heard from Freddie Hahn, who is the president of CUPE, with 280,000 members—didn't even talk to him about the bill. No talking to him. The OFL, with 1.2 million—didn't talk to them.

I believe, Chair—and you can correct me; this may be out of line, and you can correct me, as you have in the past—that schedule 1 should join schedule 5. It should be withdrawn and either be put in the garbage can, or let's discuss this a lot further. Let's get it right for gig workers. They deserve nothing less in the province of Ontario than to be treated as workers, be able to have a house, to pay their rent and the groceries—all that stuff I've already said 10 times here that nobody on that side seems to understand how important it is.

I'm going to say it again, because I know you don't like it, but it's true: A lot of the gig workers are workers of colour. The percentage is 78%, and 56% are immigrants. You may not like to hear this, either, but there is racism in our society, from coast to coast. We've seen that over the last little while with the attacks in London and attacks here in Toronto. I really believe what you guys agreed to—we voted against—is really only going to heighten that racism that's in this job.

I'll be very clear. I think we're clear, and I believe the Liberals will be clear, on a recorded vote, that you should withdraw this. Withdraw it and go back to the drawing board—or, better yet, maybe do the same thing you did with schedule 5 and rethink your position.

Thank you very much. I appreciate it, Chair.

The Chair (Ms. Natalia Kusendova): Further debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote, please.

The Chair (Ms. Natalia Kusendova): We shall have a recorded vote.

As a reminder, we are now voting on schedule 1, as amended.

Ayes

Anand, Babikian, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 1, as amended, carried.

Ms. Peggy Sattler: Chair, can I call a five-minute recess?

The Chair (Ms. Natalia Kusendova): Not at this point.

Interjection.

The Chair (Ms. Natalia Kusendova): We can seek unanimous consent from the committee to recess for five minutes.

Ms. Peggy Sattler: Okay. Can I move unanimous consent to recess for five minutes?

The Chair (Ms. Natalia Kusendova): Agreed? Agreed.

This committee is recessed until 1:45 p.m.

The committee recessed from 1340 to 1346.

The Chair (Ms. Natalia Kusendova): The Standing Committee on Social Policy will now come to order. We will continue our clause-by-clause consideration of Bill 88.

Committee members, amendments 3 and 4 are dependent on amendment 7. I will need unanimous consent to stand down consideration of section 1 of schedule 2. Once we have considered amendment number 7, we can go back to section 1. Do we have unanimous consent? Agreed? Agreed. Thank you.

We are now considering NDP amendment number 7. Let's flip to our package. Do I have a motion by the NDP? MPP Sattler.

Ms. Peggy Sattler: I move that schedule 2 to the bill be amended by adding the following section:

“1.1 The Act is amended by adding the following section:

“Test for employer-employee relationship

“1.1(1) A person (the “first person”) who is remunerated by another person (the “second person”), whether directly or indirectly, for performing work is deemed to be an employee of the second person for the purposes of this act unless the second person establishes that all of the following conditions are satisfied for the duration of the work performed:

“1. The first person is free from the direct or indirect control and direction of the second person in connection with the performance of the work, both under the terms of the contract for the performance of the work and in fact.

“2. The first person performs work that is outside the usual course of the second person's business.

“3. The first person is customarily engaged in an independently established trade, occupation or business of the same nature as that involved in the work performed.

“Business-to-business contracting relationship

“(2) Subsection (1) does not apply to the determination of whether a business (the “first business”) that contracts to provide services to another business (the “second business”) is an employee of the second business if the second business establishes that all of the following conditions are satisfied:

“1. There is a written contract between the first business and the second business.

“2. The first business is free from the control and direction of the second business in connection with the performance of the services, both under the terms of the contract for the services and in fact.

“3. The first business is providing services directly to the second business rather than to customers or clients of the second business.

“4. The first business maintains a head office or primary location of business that is separate from the business or work location of the second business.

“5. The first business is customarily engaged in an independently established business of the same nature as that involved in the services performed.

“6. The first business contracts with businesses other than the second business to provide the same or similar services and maintains a clientele without restrictions from the second business.

“7. The first business advertises and holds itself out as being available to provide the same or similar services to the public as those it is providing to the second business.

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“8. The first business provides its own tools, vehicles (other than a personal vehicle) and equipment to perform the services.

“9. The first business can negotiate its own rates.

“10. The first business can set its own hours and location of work, consistent with the nature of the work.

“11. The first business performs work for the second business under the first business’s own name.

“12. The first business has the right to perform similar services for others on whatever basis and whenever it chooses.

“13. The second business does not represent to its customers that the first business is an employee of the second business.

“14. If the first business hires employees,

“i. all employees are hired without the approval of the second business,

“ii. the first business pays the employees without reimbursement from the second business, and

“iii. the first business makes statutory remittances and reports the employees’ income to the Canada Revenue Agency.

“15. If the services being provided require a licence or a permit, the first business obtains and pays for the licence or permit in the first business’s own name.

“Clarification

“(3) For greater certainty, for the purpose of assessing the employment relationship of an individual worker who performs work for a second business described in subsection (2), subsection (1) applies and subsection (2) does not apply.”

The Chair (Ms. Natalia Kusendova): Ms. Sattler, could you please repeat, on page 2, point number 2?

Ms. Peggy Sattler: “The first business pays the employees”—

The Chair (Ms. Natalia Kusendova): I believe you have a different version. The one that we have says, “The

first business is free from the control and direction of the second business...”

Ms. Peggy Sattler: Oh, sorry. I was on page 2.

The Chair (Ms. Natalia Kusendova): Page 2 of 3, of the amendment.

Ms. Peggy Sattler: I’ve got it on page 1 of 3. Wait—page 2 of 3, and which point was it?

The Chair (Ms. Natalia Kusendova): Number 2.

Ms. Peggy Sattler: “2. The first business is free from the control and direction of the second business in connection with the performance of the services, both under the terms of the contract for the performance of the services and in fact.”

The Chair (Ms. Natalia Kusendova): Thank you very much.

Ms. Peggy Sattler: Sorry.

The Chair (Ms. Natalia Kusendova): No problem. Okay. So is there any debate on this motion? MPP Sattler.

Ms. Peggy Sattler: This amendment speaks directly to what we heard from the deputations that came to this committee on Monday and Tuesday, and also a number of the written submissions that were received that urged recognition for digital platform workers, for gig workers, as employees under the Employment Standards Act. This amendment would introduce the ABC test, which was explicitly referenced by several of our deputants—Don Valley Community Legal Services and Parkdale community legal clinic, among others—that spoke to the importance of a clear, simple test, written right into the Employment Standards Act, to determine whether a worker is an employee or an independent contractor. One of the issues that workers have faced historically in this province is that there is no definition within the Employment Standards Act for who is a worker and who is an independent contractor, and that means that workers have to go through a very cumbersome, detailed and onerous process in order to challenge misclassification.

Rulings have been developed in the courts, and that, in fact, is how the Ministry of Labour investigator, who just ruled on February 22 that Saurabh Sharma, the SkipTheDishes food courier—her ruling that he is actually an employee of the Ministry of Labour and not an independent contractor was made on the basis of numerous legal decisions. Her report on the ruling references Supreme Court of Canada decisions. It references the four-fold test, which is a test that’s been developed through numerous cases that have gone through the courts.

We heard from Mr. Sharma, who was an extraordinarily impressive deputant. I think somebody asked him about his background prior to his arrival in Canada, and he said he was studying to be a lawyer. That was no surprise, given the presentation that he made to this committee. Mr. Sharma had the knowledge and expertise and understanding of legal processes to be able to take his claim all the way through the process under the current Employment Standards Act. He did tell this committee that it required several thousand—I think he said 3,000 or 6,000—documents that had to be submitted to the investigator in order for that investigator to pursue his claim. So we’ve

got to fix the Employment Standards Act. We've got to make it easier for workers who are routinely misclassified as independent contractors to be able to gain access to all of the rights and protections of the Employment Standards Act that they would get if they were correctly identified as employees rather than wrongly identified as independent contractors.

We heard so many gig workers come before this committee—and also unions, CUPE, the OFL, the voice of organized labour in this province—and talk about the reality that misclassification is the biggest issue that gig workers face. It's not making sure that they get their tips. In fact, we heard that that is a very minimal problem in the scale of issues that gig workers have to face. They need access to the Employment Standards Act so that they can get vacation pay, so that they can get termination pay, so that they can get public holiday pay, so they can access WSIB if they are injured, so that they can pay into social security programs like employment insurance and Canada Pension Plan. They get none of those protections as independent contractors, which they are currently called under the Employment Standards Act—except for individuals like Mr. Sharma, who was able to successfully pursue a claim at the Ministry of Labour.

We have a moral obligation to make legislation responsive to the actual reality that people in this province face. In the context of the Employment Standards Act, when we're talking about workers in Ontario, we need to ensure that the process for workers to gain recognition of themselves as employees under the Employment Standards Act is as simple and as clear as possible. They shouldn't have to submit 6,000 pages of documents. They shouldn't have to sign on to a class action lawsuit—and we know that there's one that has already been certified in Ontario; there's one certified in Manitoba. But they shouldn't have to go through the courts in order to get access to the benefits and protections they deserve.

We also heard from several deputants who referred to court decisions in many other jurisdictions, in Amsterdam and Spain and the UK, that have already involved the courts in ruling that gig workers are employees under the Employment Standards Act. So my purpose in moving this amendment is to simplify that process and ensure that gig workers can be recognized as the employees that they are.

The Chair (Ms. Natalia Kusendova): Any further debate? MPP Anand.

Mr. Deepak Anand: I just want to say that the ESA already prohibits employers from misclassifying their employees as independent contractors, and the government takes the enforcement of the Employment Standards Act very seriously. So I just want to add that. At this time, I recommend voting against this motion.

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The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

The Chair (Ms. Natalia Kusendova): We shall have a recorded vote. MPP Anand, did you have a question? Okay.

Ms. Peggy Sattler: Sorry, what are we voting on?

The Chair (Ms. Natalia Kusendova): We're voting on your motion.

Interjection: And a recorded vote.

The Chair (Ms. Natalia Kusendova): We're having a recorded vote.

Interjections.

The Chair (Ms. Natalia Kusendova): Okay. Order, please.

We are now voting on NDP amendment number 7, as proposed by Ms. Sattler.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Babikian, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

Okay, members, we will now be considering schedule 2, section 1, and we have a motion by the NDP, NDP motion number 3. Who would like to read it into the record? We are on motion number 3 in the package. MPP Sattler.

Ms. Peggy Sattler: I'm going to withdraw this motion because it was contingent on motion 7.

The Chair (Ms. Natalia Kusendova): Withdrawn.

We will now move on to section 1 of schedule 2. We have an NDP motion number 4. Ms. Sattler.

Ms. Peggy Sattler: I'm going to withdraw that motion because it was also consequential to motion number 7.

The Chair (Ms. Natalia Kusendova): Withdrawn.

We now have an independent motion on subsection 1(2) of schedule 2, which is a new section. MPP Fraser?

Mr. John Fraser: I move that subsection 1(2) be added to schedule 2 to the bill:

“(2) Subsection 1(1) of the act is amended by adding the following definition:

““personal emergency pay leave” means pay for any paid days of leave taken under section 50; (“indemnité de congé d'urgence personnelle”)”

The Chair (Ms. Natalia Kusendova): MPP Fraser, can you read the first four words, “personal emergency leave pay”? Please read it into the record.

Mr. John Fraser: “Personal emergency leave pay.”

The Chair (Ms. Natalia Kusendova): Thank you very much. Is there any debate on MPP Fraser's motion?

Mr. John Fraser: The motion is brought forward as a consequence of—

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: Thank you, Chair. The motion is brought forward as a consequence to another amendment further in the package.

The Chair (Ms. Natalia Kusendova): Any further debate?

Mr. John Fraser: Recorded vote.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Babikian, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

We are now moving on subsection 1(3) of schedule 2. We have another motion by MPP Fraser.

Mr. John Fraser: I move that subsection 1(3) be added to schedule 2 to the bill:

“(3) The definition of ‘regular wages’ in subsection 1(1) of the act is repealed and the following substituted:

“‘regular wages’ means wages other than overtime pay, public holiday pay, premium pay, vacation pay, domestic or sexual violence leave pay, infectious disease emergency leave pay, personal emergency leave pay, termination pay, severance pay and termination of assignment pay and entitlements under a provision of an employee’s contract of employment that under subsection 5(2) prevail over part VIII, part X, part XI, section 49.7, section 50, subsection 50.1(1.2), part XV or section 74.10.1; (“salaire normal”)”

The Chair (Ms. Natalia Kusendova): Any debate on the motion? MPP Fraser.

Mr. John Fraser: It’s an amendment that is a prefix to another amendment coming up in the package.

The Chair (Ms. Natalia Kusendova): Any further debate? Are members ready to vote?

Mr. John Fraser: Recorded vote.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Babikian, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

Now we will consider schedule 2, section 1, as a whole. Is there any debate? Seeing none, are members ready to vote?

Mr. John Fraser: Recorded vote.

Ayes

Anand, Babikian, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 2, section 1, carried.

Now, moving on to schedule 2, section 2: NDP notice. Is there any debate on schedule 2, section 2? Ms. Sattler.

Ms. Peggy Sattler: The NDP is recommending that sections 1 and 2 of schedule 2 be struck from this legislation. What these sections do is create new exemptions for business and IT consultants from the protections of the Employment Standards Act.

We heard from deputants that the Employment Standards Act is already an inadequate floor, that there are numerous categories of workers who are exempt from some or all of the protections of the Employment Standards Act. The last thing—the last thing—that we should be doing is carving out more categories of workers from the Employment Standards Act. It was made very, very clear by Justice for Workers, by the Ontario Federation of Labour, by the Parkdale community legal clinic that these further carve-outs from the Employment Standards Act are completely unacceptable.

The whole purpose of having the Employment Standards Act is to provide that minimum floor of protections for all workers in this province. That can be enhanced through access to unions and collective bargaining, but the Employment Standards Act is supposed to be there to provide those basic, basic labour protections that every worker in this province should be able to count on.

We are also very troubled by the fact that there is a class action lawsuit that is proceeding based on a temporary work agency’s failure to recognize an IT consultant as an employee under the Employment Standards Act. That \$800-million class action lawsuit—the lead case in that lawsuit was an IT consultant who was placed with the Ministry of Transportation here with the Ontario government.

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The juxtaposition of this \$800-million lawsuit that revolves around the misclassification of an IT consultant as not being recognized as an employee, and therefore being denied all of the benefits and protections of the Employment Standards Act—the juxtaposition of that with legislation suddenly appearing in the Ontario Legislature that officially and legally exempts business and IT consultants is very troubling.

For all those reasons, we cannot support this additional carve-out of two new categories of workers from the Employment Standards Act.

The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote, please.

The Chair (Ms. Natalia Kusendova): We will have a recorded vote.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 2, section 2, carried.

We are now moving on to schedule 2, section 3. Is there any debate? Seeing none, are members ready to vote? Shall schedule 2, section 3, carry? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare schedule 2, section 3, carried.

We are now moving on to schedule 2, section 4. We have an independent motion, number 8. MPP Fraser.

Mr. John Fraser: I move that section 4 of schedule 2 to the bill be amended by adding the following subsection to section 41.1.1 of the Employment Standards Act, 2000:

“Meaning of electronic monitoring

“(0.1) For the purposes of this part, electronic monitoring constitutes,

“(a) the collection of information about an employee by the employer, or by a third party for the benefit of the employer, by means of electronic equipment, including the collection of information through employer-controlled electronic equipment, vehicles or premises, video cameras, electronic key cards and key pads, mobile devices or software installed on computing devices or mobile devices; and

“(b) any use of the information collected as described in clause (a).”

The Chair (Ms. Natalia Kusendova): Debate? MPP Fraser.

Mr. John Fraser: This was brought forward to us by the committee and supported by the Information and Privacy Commissioner. I think it’s a reasonable amendment, and I think it will help to provide a definition. Then there’s a subsequent amendment that I think will complement it in terms of the government having the kind of information that it needs to further refine things like regulations.

The Chair (Ms. Natalia Kusendova): Further debate?

Mr. Deepak Anand: To the greater extent, I agree with MPP Fraser, and that is why what we’re doing here is that we are including everything that MPP Fraser has said. But we want to make sure that—as we know, technology is evolving every day—we are not just restricting ourselves to this, plus the future technologies to be added to it as well.

So we are making sure that—we don’t want to risk only the technology which is available right now. We are basically making sure the definition of what is included in electronic monitoring in the bill—it risks missing existing and future new types of electronic monitoring. This could lead to an employer developing policies that do not include all of the types of electronic monitoring they conduct on employees, which would decrease the transparency to the employees and, in fact, will reduce the benefit of what we’re trying to achieve through this to the employee.

But again, thank you for moving forward that motion.

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: You’re welcome, but it’s not my amendment—it is my amendment, but it was brought forward by someone whose business it is to think about this all day long, for years and years and years. I’d like to

take credit for thinking it up, but I think it was sage advice given to this committee.

As this bill is going to pass, because the government has a majority, I just think it’s smart for us to put a definition in there, and then, in the subsequent amendment, to do the things that we need to do so we can talk about the things that you’re talking about. If we wrote bills based on worrying about what was in the future, we wouldn’t be writing a lot of bills.

The Chair (Ms. Natalia Kusendova): Further debate?

Ms. Peggy Sattler: The NDP supports this amendment. We had a Canada Research Chair in information and privacy who came and spoke before this committee and recommended this definition of electronic monitoring. When the Information and Privacy Commissioner appeared before this committee, she was asked about this definition of electronic monitoring and supported the definition.

It is surprising, but maybe not, that the government has decided to ignore this very useful recommendation that came before us from someone, as my colleague said, who has years and years of in-depth research knowledge and expertise in electronic monitoring policies. It just seems to make sense, when companies are expected to have policies on electronic monitoring, that there should be a definition of electronic monitoring to guide that policy.

The Chair (Ms. Natalia Kusendova): Further debate? Seeing none, are members ready to vote?

Mr. John Fraser: Recorded vote.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

We are now moving on to independent motion 9. MPP Fraser.

Mr. John Fraser: I move that section 4 of schedule 2 to the bill be amended by adding the following subsection to section 41.1.1 of the Employment Standards Act, 2000:

“Same, IPC

“(5.1) An employer that is required under this section to have a written policy with respect to electronic monitoring shall provide a copy of the policy to the Information and Privacy Commissioner within 30 days from the day the employer is required to have the policy in place and within 30 days from the day on which any amendments are made to the policy.”

Did I get it all perfect?

The Chair (Ms. Natalia Kusendova): Yes, thank you. Debate?

Mr. John Fraser: Again, this was an amendment that was suggested by the Information and Privacy Commissioner, a person with a great deal of expertise in the privacy of information. I think it's reasonable. If the government is serious about this bill and protecting people's privacy in the workplace, then they're going to want to get the information that will help the government, as the member opposite was talking about earlier, and anticipate things that the government is going to do to amend regulations or the legislation, to accommodate things like new technology.

Why would we not want to share with the Information and Privacy Commissioner a huge change that we're making with regard to information and privacy in the workplace? The government is making a lot of noise about how this is a big piece of this bill and it's really important. The person who all of us have here in the assembly, who reports to all of us, is saying, "You need to make sure that I get that information. You should put that in the legislation, because that's the only way that I'm going to get it."

I would ask my colleagues across the way to support it, to support the Information and Privacy Commissioner in her request for this amendment, because I think it's a reasonable and a smart thing to do.

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The Chair (Ms. Natalia Kusendova): Further debate? MPP Anand.

Mr. Deepak Anand: MPP Sattler, you go ahead.

Ms. Peggy Sattler: No, you can go.

The Chair (Ms. Natalia Kusendova): MPP Anand.

Mr. Deepak Anand: I know, I know, Madam Chair. I was a Chair before, so maybe that's the reason I can't stop thinking about that. You're doing an incredible job.

With Bill 88, once passed, Ontario would become the first province to update its employment standards legislation to require employers to develop electronic monitoring policies and share them with employees. So we're the first one, and we're doing it the first time. That's why we're taking an approach of understanding, developing the policies, making sure we implement those policies.

Bill 88 would require employers with 25 or more employees to have a written electronic policy in place for their employees. The policy would need to contain information on whether the employer electronically monitors its employees and, if so, a description of how and in what circumstances the employer does this. In addition, the employers would need to disclose the purpose of collecting information through electronic monitoring. So we're making sure that the flow of information is both ways. The new rules would not restrict employer decisions about what electronic monitoring they do.

Again, what we're trying to do through this is we're establishing something new. As the minister said earlier as well, this is a great step in the right direction. It's not the ceiling; it is a first great step. We are raising the bar, and we'll continue to work for the workers.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Sattler.

Ms. Peggy Sattler: One of the significant concerns about this section of the bill is that a written policy that is disclosed to employees may include a significant overreach of electronic monitoring. Just requiring the employer to have a policy and requiring that policy to be shared with the employee doesn't do anything to restrict the contents of that policy and the purposes for the collection of information through electronic monitoring.

There is a huge concern about employees who are uncomfortable with their employer's electronic monitoring policy and the vulnerability of employees who may challenge their employer's electronic monitoring policy and be terminated as a result, if they are non-union employees. The question of what happens to employees when there is a significant overreach in an electronic monitoring policy, what happens to employees who object to the policy, is completely unresolved.

Now, this amendment that has been brought forward, which was proposed by the Information and Privacy Commissioner, would take one small step toward shedding some light on what kinds of policies employers are developing as a result of this new legal requirement. It would allow the Information and Privacy Commissioner to identify when there is a significant overreach, which is important. However, the concern remains, in our view, that there is still no protection whatsoever in this bill for workers who are subject to unjustified electronic monitoring policies that may be developed by their places of employment.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Fraser.

Mr. John Fraser: Let me get this straight; I'm trying to square this all: We don't actually put a definition of what electronic monitoring is in the bill. We leave it up to employers. And then the person who will probably be asked to adjudicate or rule on that—we don't put a rule on that. It's going to be the Information and Privacy Commissioner. But we're saying the Information and Privacy Commissioner, who was just asking for information, not asking to rule; asking to be ready to be able to help the government with this legislation—and the government says no. You're saying no. You're saying no to putting that in the legislation.

Mrs. Robin Martin: No, we're not.

Mr. John Fraser: Yes, you're going to. That's what you just said. Are you voting for this? No? Okay; you're saying no. That's what you're saying.

You know, I would like to take credit for this amendment. It's not my amendment. I didn't think about it. I didn't ask for it. Somebody came here and asked us, and you didn't write it up. And do you know what?

Mrs. Robin Martin: We're putting it in regulation.

Mr. John Fraser: Yes, you put everything in regulation, just like your portable defibrillator bill that hasn't got regulations. It has been there for three years, so don't talk to us about regulations.

Mrs. Robin Martin: MPP Fraser, we—

The Chair (Ms. Natalia Kusendova): We're considering Bill 88 right now.

Mrs. Robin Martin: The regulations are being consulted on, Mr. Fraser, and—

The Chair (Ms. Natalia Kusendova): Okay. The side chatter is not helpful. We are right now considering Bill 88, so let us keep our comments on Bill 88. Thank you.

Mr. John Fraser: It’s just kind of hard, when I keep hearing something directed at me from the other side, to not actually respond to it. But I will resist, Chair. I will do my best to resist, even though I’m tempting the person on the other side to continue to do it by saying this.

But here’s the thing: You’d think that the government would have asked the Information and Privacy Commissioner before, “What do you need to see in this bill?” But you didn’t, and now you’re going to vote this thing down. The Information and Privacy Commissioner came here and asked for it. We didn’t ask for it, none of us on the other side. We’re not trying to subvert government and somehow mess up your bill, okay? We’re just saying that a person who is an independent officer of this assembly came and asked us to do something. I think we should do it. I don’t think it’s unreasonable. I don’t think she’s asking for something that is a high bar or a difficult standard to meet, or anything that’s going to make your bill weaker. It will make it stronger.

So I’ll just leave it at that. Thank you, Chair, for your tolerance and patience.

The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

Mr. John Fraser: Recorded vote.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

We are now considering schedule 2, section 4. Is there any debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

The Chair (Ms. Natalia Kusendova): We will have a recorded vote.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 2, section 4, carried.

We are now moving on to new section 4.1. We have an independent amendment, number 10. Go ahead, MPP Fraser.

Mr. John Fraser: It’s a long one. Go get some coffee, folks.

I move that section 4.1 be added to schedule 2 to the bill:

“4.1 Sections 50, 50.0.1 and 50.0.2 of the act are repealed and the following substituted:

““Personal Emergency Leave

““Personal emergency leave

““Definition

““50(1) In this section,

“““qualified health practitioner’ means,

““(a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the employee or to an individual described in subsection (3), or

““(b) in the prescribed circumstances, a member of a prescribed class of health practitioners.

““Personal emergency leave

““(2) An employee who has been employed by an employer for at least one week is entitled to a leave of absence because of any of the following:

““1. A personal illness, injury or medical emergency.

““2. The death, illness, injury or medical emergency of an individual described in subsection (3).

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““3. An urgent matter that concerns an individual described in subsection (3).

““Same

““(3) Paragraphs 2 and 3 of subsection (2) apply with respect to the following individuals:

““1. The employee’s spouse.

““2. A parent, step-parent or foster parent of the employee or of the employee’s spouse.

““3. A child, step-child or foster child of the employee or of the employee’s spouse.

““4. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee’s spouse.

““5. The spouse of a child of the employee.

““6. The employee’s brother or sister.

““7. A relative of the employee who is dependent on the employee for care or assistance.

““Advising employer

““(4) An employee who wishes to take leave under this section shall advise his or her employer that he or she will be doing so.

““Same

““(5) If the employee must begin the leave before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it.

““Limit

““(6) Subsection (7), an employee is entitled to take a total of 10 paid days of leave under this section in each calendar year.

“Same, employed for less than one week

“(7) If an employee has been employed for an employer for less than one week, the following rules apply:

“1. The employee is entitled to unpaid days of leave under this section, rather than paid days of leave.

“2. Once the employee has been employed by the employer for one week or longer, the employee is entitled to paid days of leave under this section, and any unpaid days of leave that the employee has already taken in the calendar year shall be counted against the employee’s entitlement.

“Leave deemed to be taken in entire days

“(8) If an employee takes any part of a day as paid or unpaid leave under this section, the employer may deem the employee to have taken one day of paid or unpaid leave on that day, as applicable, for the purposes of subsection (6) or (7).

“Personal emergency leave pay

“(9) Subject to subsections (10) and (11), if an employee takes a paid day of leave under this section, the employer shall pay the employee,

“(a) either,

“(i) the wages the employee would have earned had they not taken the leave, or

“(ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee’s hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave; or

“(b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

“Personal emergency leave where higher rate of wages

“(10) If a paid day of leave under this section falls on a day or at a time of day when overtime pay, a shift premium or both would be payable by the employer,

“(a) the employee is not entitled to more than his or her regular rate for any leave taken under this section; and

“(b) the employee is not entitled to the shift premium for any leave taken under this section.

“Personal emergency leave on public holiday

“(11) If a paid day of leave under this section falls on a public holiday, the employee is not entitled to premium pay for any leave taken under this section.

“Evidence

“(12) Subject to subsection (13), an employer may require an employee who takes leave under this section to provide evidence reasonable in the circumstances that the employee is entitled to the leave.

“Same

“(13) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence under subsection (12).

“Personal emergency leave program

“50.0.1(1) The minister shall implement an employer support program to provide resources and supports to assist employers in providing personal emergency leave as required by section 50.

“Financial support

“(2) The program may include financial support to cover the cost of providing personal emergency leave, but only if money has been appropriated for that purpose by the Legislature.

“Consultation

“(3) The minister shall ensure that industry leaders are consulted with on the development and implementation of the program.”

What did I miss? I should have gotten some water.

The Chair (Ms. Natalia Kusendova): MPP Fraser, if you could go to page 3 of your amendment.

Mr. John Fraser: Page 3? Yes.

The Chair (Ms. Natalia Kusendova): Subsection (6): Can you read—

Mr. John Fraser: Okay.

“Limit

“(6) Subject to subsection (7), an employee is entitled to take a total of 10 paid days of leave under this section in each calendar year.”

The Chair (Ms. Natalia Kusendova): Thank you. Please read point number 7 as well.

Mr. John Fraser: “Same, employed for less than one week

“(7) If an employee has been employed by an employer for less than one week, the following rules apply:

“1. The employee is entitled to unpaid”—

The Chair (Ms. Natalia Kusendova): That’s good enough. Thank you very much.

Any debate on this—actually, no. There’s no debate. Sorry.

Committee members, Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.” I therefore rule the motion out of order because sections 50.0.1 and 50.0.2 of the parent act are not opened by the bill.

MPP Fraser.

Mr. John Fraser: I’d like to ask for unanimous consent to consider this clause.

The Chair (Ms. Natalia Kusendova): Is the committee granting unanimous consent to consider the clause? I heard a no. Therefore, we don’t have unanimous consent and I’m ruling the motion out of order.

MPP Anand.

Mr. Deepak Anand: Madam Chair, I just want to say that MPP Fraser’s motion actually raised my expectations. Maybe I could have put in my Bill 231, gas and dash, also through this, but that’s okay. All good.

Mr. John Fraser: Chair, very briefly: It was a lot of reading, and I did it for a reason. I think that members should give me a little bit of credit for that.

Just trying to make a point.

The Chair (Ms. Natalia Kusendova): Thank you very much.

I propose that we take a seven-minute bathroom break—or health break, sorry.

We will be back at 2:45. This committee is now in recess until 2:45 p.m.

The committee recessed from 1438 to 1449.

The Chair (Ms. Natalia Kusendova): The Standing Committee on Social Policy will come to order. We are resuming our clause-by-clause consideration of Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts.

We are now on NDP amendment number 11. Who would like to read it into the record? MPP Sattler, go ahead.

Ms. Peggy Sattler: I move that schedule 2 to the bill be amended by adding the following section:

“4.1 Sections 50, 50.0.1 and 50.0.2 of the act are repealed and the following substituted:

““Personal Emergency Leave

““Personal emergency leave

““Definition

““50(1) In this section,

“““qualified health practitioner” means,

““(a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the employee or to an individual described in subsection (3), or

““(b) in the prescribed circumstances, a member of a prescribed class of health practitioners.

““Personal emergency leave

“(2) An employee is entitled to a leave of absence because of any of the following:

““1. A personal illness, injury or medical emergency.

““2. The death, illness, injury or medical emergency of an individual described in subsection (3).

““3. An urgent matter that concerns an individual described in subsection (3).

““Same

“(3) Paragraphs 2 and 3 of subsection (2) apply with respect to the following individuals:

““1. The employee’s spouse.

““2. A parent, step-parent or foster parent of the employee or the employee’s spouse.

““3. A child, step-child or foster child of the employee or the employee’s spouse.

““4. A child who is under legal guardianship of the employee or the employee’s spouse.

““5. A brother, step-brother, sister or step-sister of the employee.

““6. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee’s spouse.

““7. A brother-in-law, step-brother-in-law, sister-in-law or step-sister-in-law of the employee.

““8. A son-in-law or daughter-in-law of the employee or the employee’s spouse.

““9. An uncle or aunt of the employee or the employee’s spouse.

““10. A nephew or niece of the employee or the employee’s spouse.

““11. The spouse of the employee’s grandchild, uncle, aunt, nephew or niece.

“12. A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.

“13. Any individual prescribed as a family member for the purposes of this section.

““Advising employer

“(4) An employee who wishes to take leave under this section shall advise his or her employer that he or she will be doing so.

““Same

“(5) If the employee must begin the leave before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it.

““Limit

“(6) Subject to subsection (7), an employee is entitled to take a total of 10 days of paid leave under this section in each calendar year.

““Same, entitlement to paid leave

“(7) If an employee has been employed by an employer for less than one week, the following rules apply:

““1. The employee is not entitled to paid days of leave under this section.

““2. Once the employee has been employed by the employer for one week or longer, the employee is entitled to paid days of leave under subsection (6), and any unpaid days of leave that the employee has already taken in the calendar year shall be counted against the employee’s entitlement under that subsection.

““3. Subsection (9) does not apply until the employee has been employed by the employer for one week or longer.

““Leave deemed to be taken in entire days

“(8) If an employee takes any part of a day as paid leave under this section, the employer may deem the employee to have taken one day of paid leave on that day for the purposes of subsection (6) or (7).

““Paid days first

“(9) The 10 paid days must be taken first in a calendar year before any unpaid days that are otherwise provided under the terms of the employee’s employment can be taken.

““Personal emergency leave pay

“(10) Subject to subsections (11) and (12), if an employee takes a paid day of leave under this section, the employer shall pay the employee,

““(a) either,

““(i) the wages the employee would have earned had they not taken the leave, or

““(ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee’s hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave; or

““(b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

““Personal emergency leave where higher rate of wages

“(11) If a paid day of leave under this section falls on a day or at a time of day when overtime pay, a shift premium or both would be payable by the employer,

“(a) the employee is not entitled to more than his or her regular rate for any leave taken under this section; and

“(b) the employee is not entitled to the shift premium for any leave taken under this section.

“Personal emergency leave on public holiday

“(12) If a paid day of leave under this section falls on a public holiday, the employee is not entitled to premium pay for any leave taken under this section.

“Evidence

“(13) Subject to subsection (14), an employer may require an employee who takes leave under this section to provide evidence reasonable in the circumstances that the employee is entitled to the leave.

“Same

“(14) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence under subsection (13).”

The Chair (Ms. Natalia Kusendova): Thank you.

Committee members, Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.” I therefore rule the motion out of order because sections 50.0.1 and 50.0.2 of the parent act are not opened by the bill. So it’s out of order.

Okay. We are now moving on to new section 4.2, and we have NDP amendment number 12. Who would like to read it? MPP Sattler.

Ms. Peggy Sattler: I move that schedule 2 to the bill be amended by adding the following section:

“4.2(1) Section 50.1 of the act is amended by adding the following subsection:

“Clarification

“(1.2.1) For greater certainty, the entitlement to paid leave referred to in subsection (1.2) is in addition to any other entitlement to paid leave under section 50.’

“(2) Subsection 50.1(1.3) of the act is amended by striking out ‘three paid days’ and substituting ‘14 paid days’.

“(3) Subsection 50.1(1.7) of the act is amended by striking out ‘three paid days’ and substituting ‘14 paid days’.”

The Chair (Ms. Natalia Kusendova): Committee members, Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.” I therefore rule the motion out of order because section 50.0.1 of the parent act is not opened by the bill. So it is out of order.

We will now move on to independent motion number 13. MPP Fraser.

Mr. John Fraser: I withdraw the motion.

The Chair (Ms. Natalia Kusendova): Withdrawn.

We are now considering schedule 2, section 5. Is there any debate?

Interjection.

The Chair (Ms. Natalia Kusendova): We are on schedule 2, section 5. Is there any debate on schedule 2, section 5 of the bill?

Are members ready to vote? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare schedule 2, section 5, carried.

We are now moving on to new section 5.1, and we have NDP amendment number 14. MPP Sattler.

Ms. Peggy Sattler: I move that schedule 2 to the bill be amended by adding the following section:

“5.1 The act is amended by adding the following section:

“Financial support program

“53.2(1) The minister shall implement a financial support program as described in this section.

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“Same, cost of personal emergency leave

“(2) The financial support program shall provide for temporary financial support to be given to employers to help them adapt to any increased costs associated with paid leave under section 50, as established by the amendments to this act made by schedule 2 to the Working for Workers Act, 2022.

“Same

“(3) Subject to subsection (4), the minister may provide funding to employers under the financial support program for the purpose referred to in subsection (2).

“Appropriation required

“(4) The minister may only make a payment under subsection (3) if money has been appropriated for that purpose by the Legislature.”

The Chair (Ms. Natalia Kusendova): Committee members, the proposed amendment is out of order as it is out of the scope of the subject matter of the schedule. As Bosc and Gagnon note on page 771, “An amendment to a bill must be relevant in that it must always relate to the subject matter of the bill or to the clause thereof under consideration.” So I’m ruling it out of order.

We are now moving on to sections 6 and 7 of schedule 2. There are no amendments. I therefore propose that we bundle the two sections together. Agree? Agree.

Is there any debate on these two sections? Seeing none, are members ready to vote? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare schedule 2, sections 6 and 7, carried.

Now we are considering schedule 2 as a whole. Is there any debate? MPP Sattler.

Ms. Peggy Sattler: Thank you, Chair. The NDP is recommending voting against schedule 2 to this bill. The government had an opportunity to amend this schedule to make it supportable by removing sections 1 and 2, by removing the new exclusion of business and IT consultants from the Employment Standards Act, but they chose not to.

They also had an opportunity, prior to bringing this legislation forward, to implement provisions for paid sick days. For the past two years of this pandemic, we have heard of workers who have had to go in sick because they have had no choice. Their employer does not provide them paid sick days. If they don't go to work sick, they may not be able to pay the rent; they may not be able to buy the groceries. Many of these workers are the gig workers who have appeared before this committee. They are precarious workers. They are vulnerable workers. They are racialized workers.

We heard, way back in the early part of January 2021, stories that 25% of Peel workers—in a study by Peel Public Health—in Brampton and Mississauga were going into work sick. One in four workers admitted in a survey that they were going to work sick because they had no choice. This was just as the second wave was building and the third wave was about to hit this province, with the deadly result of thousands of people who lost their lives.

If this government really cared about working for workers, they would have put in provisions to implement paid sick days for Ontario workers. They're opening up the Employment Standards Act. They have no hesitation opening up the Employment Standards Act to exclude new categories of workers from the act. While they were in the process of opening up the act, they should have taken a look at the things workers really need. Paid sick days are absolutely one of those priority measures that this government could have taken to demonstrate that they really are working for workers, that they have workers' backs, as we've heard the minister say, but this government chose not to. As a result, we cannot support schedule 2 to this bill.

The Chair (Ms. Natalia Kusendova): Further debate?

Mr. Deepak Anand: I just want to say that schedule 2 of the proposed bill contains the government's critical amendment to the Employment Standards Act, and I want to add to that:

"Section 50.2 of the act, which governs reservist leaves of absence, is amended to provide that an employee is entitled to leave under that section if the employee is participating in Canadian Armed Forces military skills training. The section is also amended to provide that an employee is entitled to leave after being employed by the employer for three consecutive months." Voting against schedule 2 would be voting against support which is being provided by the government to reservists.

Along with that, we've seen, over the last many years, thanks to the discipline and the resilience of team Ontario, that we are a prime destination for top talent, and that's what we're doing here in Bill 88. We are building on our bold actions in our first Working for Workers bill, and we're going to continue to ensure that Ontario stays the best place to live, work, raise a family and thrive. That's why, Madam Chair, I would appreciate and urge all the members to support the schedule and Bill 88.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Gates.

Mr. Wayne Gates: First of all, I heard my colleague talk about paid sick days. As we've seen during COVID, I actually gave you guys almost a mulligan on the first wave, but the second wave was worse than the first and more people died in long-term care in the second wave than the first. The military that you just spoke about gave you a report on how bad it was in long-term care because they had to go in there and saw people dying because of dehydration. They saw them dead, quite frankly, in their beds overnight. Nobody went to see them. They got no PSWs because they didn't have enough of them; they didn't have PPE.

On the military part of this, it's not bad—I said this before, during debate. My dad was in the military from 1939 to 1945. He stayed an extra year. He was one of the fortunate ones that came home. There were a lot of Canadians in World War II that didn't come home; a lot of young Canadians that didn't come home. We had a lot of young people who signed up to fight in that war.

I don't need any lessons around my support for the military, but it's what you do in almost every bill. You put a bunch of stuff in here where there's no way anybody who's standing up for workers could ever support, and then you put something like the military in and say, "Well, they don't support the military." It's not accurate, it's not the truth and it's misleading—can I say that word? Misleading—I think that's fair, right, Chair? It's not too bad, right? How about, it's a myth? It's a myth on the military leave.

Then we talk about paid sick days and why they need paid sick days. There is no better place in the province of Ontario to talk about paid sick days than what my colleague talked about: Brampton. She talked about Peel. She talked about Mississauga. Up in Toronto where they have a lot of workers up there—and I'll use Amazon because it's probably the easiest one for me. It's another corporation that's worth billions of dollars that can certainly afford to pay their workers fairly, although they didn't up there. That's why workers went to work. If you recall, we had thousands of people without breaks at Amazon. When you talk to those workers—we said, "Why didn't you stay home?" They were very clear; they were honest with everybody. They said, "We didn't stay home because we didn't have paid sick days. We couldn't stay home. If we stay home, we can't provide food for our families. We can't pay our rent. We can't pay our mortgages."

We also saw up at Amazon—because what they used to do up there and I'm sure they still do—they had ATU drivers that would drive, pick up them and either take them to their cars or however they had the set-up up there, and as we found out, an ATU driver that was driving for Amazon got COVID—a relatively young man, and he died of COVID. He died of COVID because he didn't have sick days. Whoever came on his bus who had COVID gave him COVID, and he ended up dying.

I have no idea why you guys don't support paid sick days. We know three days isn't enough. We know when you first came in, you got rid of the two that the Liberals

did, and then you went to three after voting it down about 47 times.

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And then the second part of that—which my colleague didn't touch on—which I think is fair and which I think you guys can agree to, quite frankly, is Bill 124. If you really care about workers—and I've said this; it's in here. I think I'm okay on this one—

The Chair (Ms. Natalia Kusendova): No. We are debating Bill 88, so please keep your remarks to Bill 88.

Mr. Wayne Gates: But what I'm asking, though, Chair—and you can tell me if I'm wrong or not—is that it should be in the bill, Bill 124. That's what I'm saying. When you talk about working for workers and we're talking about what's good for workers, Bill 124 isn't good for workers, and it wasn't in the Working for Workers Act the first time. They didn't put it in. So I think it is fair to mention they should put—

The Chair (Ms. Natalia Kusendova): No. I'm going to ask the member to keep his remarks focused on Bill 88. Thank you.

Mr. Wayne Gates: Okay. I think it's already in Hansard, so I think it's fair, on Bill 124.

What I'm saying to you—I don't believe we're going to support it, but I really wanted to touch on the military. I really did, because I know exactly where you guys go. You've been doing it for four years. You have a budget. You put a bunch of poison pills in the budget, and then you say, “Oh, they didn't vote for this. They didn't vote for that.” I can tell you, there is nobody on our side who doesn't support the military. Jen from St. Catharines—

Ms. Peggy Sattler: Jennie Stevens.

Mr. Wayne Gates: Jennie Stevens's son is in the military, and he has been in the military for a long, long time. We support the military. If it wasn't for the military, we wouldn't really know what was going on in long-term care. This side of the House loves the military. They do incredible work. They are very brave. And in the world today, with what we see going on with Ukraine—and we're sending help over there—it's our military that is over there trying to find a way to get peace over there. I just wanted to be clear on the military part of it.

I certainly support the military, and I support them in a different way too: I go to the Legion almost every Friday night. I know this isn't in the bill, but I go to the Legion on Friday night for fish and chips, like I'm sure a lot of us do. That way, we're supporting our Legions, we're supporting the military, particularly the ones who have fought and are living in poverty. I wanted to make sure I got that point out.

Thanks very much for a little bit of your lenience, Chair. I appreciate it.

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: Not to put too fine a point on the analogy, but the soup I was talking about earlier—this is the stuff that tastes good to him, not the fish and not the potatoes.

The Chair (Ms. Natalia Kusendova): I haven't had lunch. You're making me very hungry.

Any further debate on schedule 2? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote.

Ayes

Anand, Bailey, Ghamari, Hogarth, Martin, Triantafilopoulos.

Nays

Gates, Sattler.

The Chair (Ms. Natalia Kusendova): I declare schedule 2 carried.

We will now be moving on to schedule 3. Since there are no amendments to sections 1 to 8 of schedule 3, I therefore propose we bundle them together. Agreed? Agreed. Is there any debate? Seeing none, are members ready to vote? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare schedule 3, sections 1 through to 8, carried.

We will now consider schedule 3 as a whole. Is there any debate? No debate. Are members ready to vote? Those in favour of schedule 3, please raise your hand. Those opposed, please raise your hand. I declare schedule 3 carried.

We are now moving on to schedule 4. We have an NDP amendment, number 15. Go ahead, MPP Sattler.

Ms. Peggy Sattler: I move that section 1 of schedule 4 to the bill be amended by striking out “an employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a workplace where” in subsection 25.2(1) of the Occupational Health and Safety Act and substituting “a worker may be exposed to hazards related to an opioid overdose in the course of their work, the employer shall take every reasonable precaution to protect the worker's health and safety, including the provision of education and training so that workers have the knowledge and skills to respond immediately, and where”.

The Chair (Ms. Natalia Kusendova): Is there any debate? MPP Sattler.

Ms. Peggy Sattler: Yes, thank you, Chair. We heard from the OFL, CUPE and other presenters about concerns regarding the current language of the bill, which states, “Where an employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a workplace...” The use of the word “risk” raises lots of concerns because if an employer is aware of a risk, they are legally obligated to take action to mitigate it. So if there is a risk of harm in the workplace, the onus is on the employer to address that potential harm.

Our motion reinforces this notion regarding the potential for risk in the workplace and the employer's obligation to take action to address that risk, including things like providing education and training so that workers have the knowledge and skills they need to respond immediately.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Gates.

Mr. Wayne Gates: I want to say again that a worker is a worker in the province of Ontario. We certainly know—because with this part of the bill, it's my understanding—and I'm sure that the parliamentary assistant can correct me if I'm wrong. This really came from the trades, more or less the carpenters. The reason why it did is that they are having an incredible amount of outbreaks of opioids on the construction sites. I think we can all agree on that, that opioids are a crisis right across the province and right across the country, not just in skilled trades. It's in every one of our communities that we represent. So I think it's important that we can try to do everything we can to make sure that we're providing the health and safety for those workers.

The one thing that has been very clear is you have to ask for the root cause. We have to find out the root cause of opioid use in our communities, but we have to know what the root cause is in the construction trades. I'm going to try to explain what that is. This has been given to me by the construction trades.

They have said very clearly that they know there is a serious issue with opioids on the job site. They also know that the reason why it's happening is because their workers—I just met some trades at lunchtime. They were getting lunch at Rabba. I don't eat very well, so I was actually buying food from there. They were with sheet metal, and they were talking about a worker who got hurt, and he has now been deemed. I told them to give me a call. He was a construction worker who worked with these tradespeople.

If you want to fix this problem, yes, putting the kits there is a start. But if you want to fix the problem, you have to fix the deeming issue, where people are deemed—a construction worker gets deemed; he ends up living in poverty. That's why they start—it starts with pain pills and then it goes to maybe other medication, and then they end up on opioids. If you want to fix this problem, if you really care about workers, if you care about skilled trades, whether that's in the construction trades, IBEW, the carpenters—I know Mr. Bailey is familiar with some trades issues. He's nodding his head because he knows it's completely accurate.

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You have to get rid of deeming in the province of Ontario. No construction worker, no skilled trade, no worker—like I said, a worker is a worker, but most of this was driven by the trades. If you want to fix the crisis in construction, you've got to fix the deeming bill. And it just happens that I have a deeming bill, Bill 119, that I've been asking this government for four years to say that no worker—if you're telling me a worker is a worker in the province of Ontario and you care about workers, you have to fix the deeming crisis.

And I understand what you did. You gave all kinds of money back to companies and corporations and all that stuff. It should go to the workers. It's the workers that are living in poverty. It's the construction guys, the skilled

trades guys that you guys talk about all the time. When this happens to them, they're living in poverty.

I'm looking at you, right across. You know I'm right. Bob, you know I'm right. You've got to talk to your caucus. You've got to tell them. You've got friends, I know you do, because people respect you down in your area. I know you've got friends that are going through this. So talk to your caucus and say, "You know what? We've got four weeks left or five weeks left before we're into an election. We really care about the skilled trades. We care about workers." Pass my deeming bill, and we can hopefully have another piece to fix the opioids crisis in the skilled trades, where 30% of the opioid crisis is in the trades.

Thank you very much. I wanted to get that out. I appreciate it.

The Chair (Ms. Natalia Kusendova): Any further debate? MPP Anand.

Mr. Deepak Anand: Thanks for the opportunity. Madam Chair, it looks like by changing the way it is written, this motion—the member opposite is trying to amend the proposed amendment of this motion relating to the naloxone so that the employer would no longer be required to provide naloxone kits and comply with the associated requirements.

I know, Madam Chair, you have worked very hard on the opioid crisis and the naloxone question. I actually have one of our members from the staff, Antonio, who has worked very hard on this. So I would recommend voting against this motion because as a result of this change, the motion is not consistent with government's intention to focus on saving the lives of workers who suffer opioid overdose by ensuring access to the naloxone kits in the workplace. So I just wanted to put that on the record.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Sattler.

Ms. Peggy Sattler: I did want to respond to the member and clarify that this motion does not in any way undermine the requirements that employers provide and maintain naloxone kits in good condition in the workplaces that will be prescribed under this bill. All the language of the amendment does is highlight the onus of the employer to take every reasonable precaution to protect workers' health and safety, including providing education and training so that workers have knowledge and skills to respond immediately. But my amendment only changes the first paragraph of section 25.2(1). It does not have any impact whatsoever on the provisions of (a) and (b) that relate to providing naloxone kits in the workplace.

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: My colleague is right: It doesn't amend that part of the bill, so I don't understand. Maybe the government can explain the rationale for saying that in the last round of questions.

It's a reasonable amendment. At the end of the day, I think we want all employees—we want everyone—to know about naloxone and how it can be used, and that it should be in the workplace. I think that's reasonable. Again, I think this amendment is reasonable. It does not

affect the availability of naloxone and may, in fact, expand and make it part of things like joint health and safety committees. So I would recommend supporting this motion.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Anand.

Mr. Deepak Anand: Madam Chair, again, the motion is, in my opinion, duplicative of a protection that is already included in the proposed amendments. There's always a provision that reminds employers that current OHSA requirements, including the duty to take every reasonable precaution to protect workers' health and safety, apply with respect to the administration of naloxone kits.

The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

Ms. Peggy Sattler: Recorded vote, please.

The Chair (Ms. Natalia Kusendova): We shall have a recorded vote.

Ayes

Fraser, Gates, Sattler.

Nays

Anand, Bailey, Ghamari, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

Shall schedule 4, section 1, carry?

Interjection.

The Chair (Ms. Natalia Kusendova): Is there any debate? Are members ready to vote? Shall schedule 4, section 1, carry? Those in favour? Those opposed? I declare schedule 4, section 1, carried.

We are now moving on to new section 1.1. We have an NDP amendment number 16. MPP Sattler.

Ms. Peggy Sattler: I move that schedule 4 to the bill be amended by adding the following section:

“1.1 Subsection 50(1) of the act is repealed and the following substituted:

“No discipline, dismissal or other forms of reprisal

“(1) No person, including an employer, shall take a reprisal against a worker because the worker, in good faith,

“(a) acts or has acted in compliance with this act or the regulations or an order made under this act;

“(b) seeks or has sought advice about a possible contravention of this act or the regulations or the enforcement of this act or the regulations;

“(c) seeks or has sought the enforcement of this act or the regulations;

“(d) assists or has assisted with the activities of a joint health and safety committee or health and safety representative;

“(e) seeks or has sought the establishment of a joint health and safety committee or the designation of a health and safety representative;

“(f) performs or has performed the function of a joint health and safety committee member or occupational health and safety representative;

“(g) refuses or has refused to perform an act or series of acts that the worker reasonably believes violate this act or the regulations;

“(h) gives or has given information to a joint health and safety committee, a member of the joint health and safety committee, a health and safety representative, a trade union, an inspector or any other person responsible for the administration of this act or the regulations;

“(i) makes a report of workplace violence or workplace harassment or a report of any other contravention of this act or the regulations to an employer, supervisor, joint health and safety committee or member of a joint health and safety committee, health and safety representative, trade union or inspector;

“(j) participates in a workplace violence or workplace harassment investigation or in any other health and safety investigation;

“(k) is about to testify or has testified or otherwise given evidence in a proceeding in respect of the enforcement of this act or the regulations or in an inquest under the Coroners Act; or

“(l) provides information to the public or makes a disclosure or complaint to the public about workplace violence, workplace harassment or any other possible contravention of this act or the regulations.

“Same

“(1.1) For the purposes of subsection (1), a reprisal is any measure taken against a worker that adversely affects the worker's employment, and includes, without limiting the generality of the foregoing,

“(a) ending or threatening to end the worker's employment;

“(b) demoting, disciplining or suspending, or threatening to demote, discipline or suspend, a worker;

“(c) imposing or threatening to impose any penalty related to the worker's employment, including any penalty such as layoff, transfer, discontinuation or elimination of a job, change of a job location, reduction in wages or change in hours of work; or

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“(d) intimidating or coercing a worker in relation to the worker's employment.”

The Chair (Ms. Natalia Kusendova): Thank you. Committee members, Bosc and Gagnon note on page 771 of the third edition of the House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.” I therefore rule the motion out of order because subsection 50(1) of the parent act is not opened up by the bill.

We are now moving on to schedule 4, sections 2 to 6. There are no amendments. I therefore propose we bundle them together. Agree? Agree. Is there any debate? Seeing none, are members ready to vote? Those in favour, please

raise your hand. Those opposed, please raise your hand. I declare sections 2 to 6 of schedule 4 carried.

We are now considering schedule 4, as a whole. Is there any debate? MPP Sattler.

Ms. Peggy Sattler: Yes, Chair. I regret that my amendment was ruled out of order, because this schedule of the bill deals with the Occupational Health and Safety Act and we know from health care workers that one of the biggest issues that they face in terms of occupational health and safety is violence in the workplace. Again, like paid sick days, addressing violence in the workplace by putting in measures to protect workers who experience violence in the workplace from reprisal would have been a very important measure to show that this government is working for workers.

In particular, violence in the workplace is a huge crisis right now among health care workers, 85% of whom are women and who are in very vulnerable positions in the workplace and really need protections such as the ones that have been proposed in amendments to the Occupational Health and Safety Act to protect workers who speak out about workplace violence and workplace harassment. So I'm disappointed that the government did not show leadership in incorporating those necessary amendments into this bill before it was brought to the chamber.

But I do want to say, on the record, that the NDP supports the provisions that require the naloxone kits in the workplace. We recognize that opioid overdose in the workplace is a problem, in particular among construction workers. We will continue to do everything we can within the Legislature to urge this government to implement a comprehensive plan that acknowledges opioid addiction as a public health emergency that is not just a workplace issue. It is a societal issue and it requires a very broad suite of measures to address appropriately.

That being said, this is one of those measures to deal with opioid addiction in the workplace. It is a small, small piece of the puzzle, and we will be watching for this government, in the budget that is going to be coming forward, to demonstrate that they are serious about tackling the presence and the widespread pain and suffering that Ontarians are experiencing because of opioid addiction. Thank you, Chair.

The Chair (Ms. Natalia Kusendova): Any further debate? MPP Gates.

Mr. Wayne Gates: I'm not going to talk too long. Obviously, my colleague covered some of the workers. But I want to make sure that we don't think it's just one sector of the economy. We have teachers who are really having a lot of trouble. We have education workers who are having violence in the workplace, hospitality workers. And one that you don't think of regularly, quite frankly—I've had a lot of calls in my office, as we have a jail just down the street in Niagara: Corrections officers have been brutally attacked in the workplace, both male and female. I know the other ones I listed were more female-related industries, but corrections officers are really having a tough time with what's going on there.

So I just wanted to make sure I got those on record. It's an important issue. It's an issue that has to be addressed by all levels of government, and I wanted to make sure I got it on the record that we're talking about that. Thank you.

The Chair (Ms. Natalia Kusendova): MPP Fraser.

Mr. John Fraser: I wanted to echo the comments of my colleagues on this side. I think that the amendment that was put forward was a reasonable one.

We have to look at other workplaces. I know this was driven by the construction industry, but there are some industries that are really challenged, the hospitality industry in particular. And it's not just for workers.

I support what the government is trying to do; I just think it could have gone further to get it done.

The Chair (Ms. Natalia Kusendova): Any further debate? Seeing none, are members ready to vote?

We are voting on schedule 4. Shall schedule 4 carry? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare schedule 4 carried.

We are now moving on to new schedule 5. We have an independent motion, number 17.

Mr. John Fraser: I move that schedule 5 be added to the bill:

“Schedule 5

“Workplace Safety and Insurance Act, 1997

“1. Section 2 of the Workplace Safety and Insurance Act, 1997 is amended by adding the following subsection:

“Residential care facilities and group homes

“(3) An employer, whether public or private, in either of the following industries is a schedule 1 employer for the purposes of this act:

“1. Residential care facilities, including retirement homes, rest homes and senior citizens' residences.

“2. Group homes.

“Commencement

“2. This schedule comes into force six months after the day the Working for Workers Act, 2022 receives royal assent.”

The Chair (Ms. Natalia Kusendova): Thank you.

Committee members, Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.” I therefore rule the motion out of order because the Workplace Safety and Insurance Act, 1997, is not opened by the bill.

MPP Fraser.

Mr. John Fraser: I'd like to ask for unanimous consent to consider this clause.

The Chair (Ms. Natalia Kusendova): The member is seeking unanimous consent to consider his motion. Do we have unanimous consent? I heard a no. Therefore, the motion is out of order.

We will now return to sections 1, 2 and 3 of the bill, which we stood down at the beginning.

Is there any debate on section 1 of the bill? Seeing none, are members ready to vote? Those in favour, please raise

your hand. Those opposed, please raise your hand. I declare section 1 carried.

We are now considering section 2 of the bill. Is there any debate? Seeing none, are members ready to vote? Those in favour of section 2, please raise your hand. Those opposed, please raise your hand. I declare section 2 carried.

1540

We will now consider section 3, the short title. Is there any debate? Seeing none, are members ready to vote? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare section 3 carried.

We will now be considering the title of the bill. Is there any debate? Seeing none, are members ready to vote? Those in favour, please raise your hand. Those opposed, please raise your hand. I declare the title of the bill carried.

Shall Bill 88, as amended, carry?

Ms. Peggy Sattler: Recorded vote.

Ayes

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

Nays

Fraser, Gates, Sattler.

The Chair (Ms. Natalia Kusendova): Thank you. I declare Bill 88, as amended, carried.

MPP Gates?

Mr. Wayne Gates: I have a question. Maybe you can help me. Can you tell me how many amendments that were brought forward by the NDP and the independent Liberals were passed by the government, were supported by the government?

Mr. John Fraser: None.

The Chair (Ms. Natalia Kusendova): I think you can assert that from today's deliberations.

Mr. John Fraser: Yes. I think it's none.

Mr. Wayne Gates: Okay. I was just asking.

The Chair (Ms. Natalia Kusendova): We can send you the Hansard record.

Mr. Wayne Gates: That would be great. Thank you. It's almost the same as the gig workers, you know? We don't get anything either.

The Chair (Ms. Natalia Kusendova): Okay. Well, that is not really a valid point of order.

Shall I report the bill, as amended, to the House? Is there any debate? Those in favour, please raise your hand. Those opposed, please raise your hand. I shall report the bill, as amended, to the House.

Are there any questions before we conclude? MPP Fraser.

Mr. John Fraser: Chair, I have a motion that I'd like to bring forward to the committee.

The Chair (Ms. Natalia Kusendova): Go ahead, MPP Fraser.

Mr. John Fraser: I move that the Standing Committee on Social Policy convene to begin a study as to whether political interference from the Ministry of Health led to the dismissal of Dr. Brooks Fallis from the William Osler Health System.

The Chair (Ms. Natalia Kusendova): We will share the screen to consider this motion brought forward by MPP Fraser.

Is there any debate on the motion? MPP Fraser.

Mr. John Fraser: Yes. Thank you very much, Chair. I appreciate my colleagues, after a long day, hearing this motion. I think that if—

Mrs. Robin Martin: Point of order.

The Chair (Ms. Natalia Kusendova): MPP Martin, do you have a point of order?

Mrs. Robin Martin: This doesn't have anything to do with what we were called here to debate, and I'm just wondering if it's in order for this motion to come forward at this time.

Mr. John Fraser: I gave notice.

The Chair (Ms. Natalia Kusendova): Okay. Since we have concluded business on Bill 88, it is within the scope of this committee's work to consider motions relating to the ministries that this committee serves, including the Ministry of Health. Therefore, it is admissible to consider MPP Fraser's motion at this time.

I will call again for debate on the motion. MPP Fraser.

Mr. John Fraser: If you haven't watched the CTV W5 show of last weekend, you can find it on YouTube. You should watch the show. You'd understand the extent of—

Interjections.

The Chair (Ms. Natalia Kusendova): Order, please.

Mr. John Fraser: We can make this less painful by just getting through it. I know that you're going to vote against it.

If you'd watch it, you'd see the extent of the political pressure that not only Dr. Fallis but many doctors throughout the system have been put under for disagreeing with and being critical of the government and the government's approach. Specifically, what is really concerning is the Premier's inappropriate call to Dr. Naveed Mohammad, the CEO of William Osler Health System, to complain about the social media of Dr. Brooks Fallis.

The Chair (Ms. Natalia Kusendova): MPP Fraser, I believe you are impugning the motivations of the Premier of Ontario for his call, so I will caution you to not do that.

Mr. John Fraser: I will withdraw "inappropriate call." But I will say that the call was made to the CEO of William Osler Health System to complain about the social media of Dr. Brooks Fallis.

The Chair (Ms. Natalia Kusendova): Once again, you are impugning the motive of the call, and therefore I have to ask you to revise your language.

Mr. John Fraser: Okay. The sequence of events was clear: a tweet, a phone call, a firing. We know that the Premier called Dr. Naveed Mohammad. We know that Dr. Mohammad said that he felt the funding for his hospital was being threatened or put at risk.

I just think that it's important that we—for the government, too; if the government says there's nothing here, then there's nothing here, so it's not going to take us very long—get to the bottom of this and that we have some transparency and some clarity and have some sunshine around it, to provide some light on it. It's not a complicated motion. It shouldn't take us a lot of time. If there's nothing there, maybe we'll spend a couple of hours on it, or less. But to say no to actually inquiring as to why, in this particular case, a particular hospital CEO felt pressured to discipline a senior member of staff, an interim head of critical care—I think that should be of deep concern to Ontarians. I'll leave it at that.

Mrs. Robin Martin: Point of order.

The Chair (Ms. Natalia Kusendova): MPP Martin, on a point of order.

Mrs. Robin Martin: I'm sorry. Again, MPP Fraser is imputing the motive for whatever the CEO was thinking. He's making things up. We don't know what the CEO was thinking or why he disciplined the doctor.

The Chair (Ms. Natalia Kusendova): I do believe that your remarks are imputing motive. The Premier of Ontario can call CEOs of various hospitals for various reasons. So I caution the member.

Mr. John Fraser: If we know the Premier made the call and that the CEO, Dr. Mohammad, said that they felt that their funding and their relationship with the government was being threatened, I don't think that's imputing motive. That's just what's there. Watch the show. Watch the investigation.

I know you're not going to support this. I just firmly believe that this is something we should take seriously—critics feeling like they can't say things, people feeling like if they say something that's critical of a government or a ministry or a minister or any politician, it's going to bring some sort of pressure or retribution on that. We have to clear the air. That's the question that exists out there right now, and that's why I think we need to look at it.

1550

The Chair (Ms. Natalia Kusendova): Before I call for further debate, I just want to make a statement that this committee—the purpose of our work is to review the actions of the Ministry of Health, not the actions of associated governmental agencies. That is the scope of our committee. We can continue the debate, keeping that in mind.

I'm now going to give the voice to MPP Sattler.

Ms. Peggy Sattler: Thank you very much, Chair. The NDP is equally concerned over the shocking revelations in that W5 investigation. This morning, MPPs on all sides supported an emergency and pandemic preparedness plan. Surely, if there is another public health emergency, however much longer this pandemic lasts, isn't it important that we understand the conditions that medical experts like Dr. Brooks Fallis—isn't it important that we understand the environment in which he felt subject to discipline because of opinions that he expressed about the government's approach to dealing with COVID-19?

This is exactly the kind of information that this government and future governments will need to ensure that

decisions that are made when there are public health emergencies, when there are pandemics, are made on the best advice of the experts, and that they are science-based, evidence-based and not subject to political whim.

The Chair (Ms. Natalia Kusendova): Further debate—and I just wanted to correct my record. This committee can study the agencies of the Ministry of Health. However, the Premier's office and any actions thereof do not fall within the scope of this committee. So I just wanted to correct my record.

Now I will give the floor to MPP Martin.

Mrs. Robin Martin: As Minister Elliott has already said several times in the House when this was raised, the hospital itself at issue has said that nothing of the kind happened. The Premier's office and the Minister of Health and the minister's office know nothing about this individual. Many, many doctors offered opinions publicly throughout the pandemic and they're still working. This has nothing to do with this government. We rejected it already in the House, and I don't think it's appropriate for us to be investigating innuendo, insinuation and other groping for something by the opposition or independent members at this committee.

The Chair (Ms. Natalia Kusendova): Further debate? MPP Fraser.

Mr. John Fraser: Just for clarification, I'm not groping for anything here. But I do want to say that I was remiss in saying that the object of this motion is the Ministry of Health. It's very clear in that investigation, in the conversation between the chief of staff and Dr. Fallis, that there was pressure coming from the ministry and higher-ups. That's the purpose of this motion in the meeting. It's not specifically at the Premier. This is the first stop, just in case you were wondering.

What I would like the committee to consider is the involvement of the Ministry of Health, as was put forward in that interview that we all should have watched on CTV's W5, and that we consider the actions of the Ministry of Health that were put forward or claimed, as we saw in that interview. I think it should be of deep concern to us. As I said, this is just a first stop.

The Chair (Ms. Natalia Kusendova): Further debate? Seeing none, are members ready to vote?

Mr. John Fraser: Recorded vote.

The Chair (Ms. Natalia Kusendova): Yes, we can have a recorded vote, but I have to say that because we don't have a sub slip for MPP Sattler and MPP Gates, we will be unable to record their votes.

Interjections.

The Chair (Ms. Natalia Kusendova): As a point of clarification: We had sub slips for all business related to Bill 88, but no other further business.

Mr. John Fraser: Oh, so I don't stand a chance.

The Chair (Ms. Natalia Kusendova): You never did. Sorry.

Okay. Are members ready to vote on the motion?

Mrs. Robin Martin: On a point of clarification.

The Chair (Ms. Natalia Kusendova): Yes, go ahead, MPP Martin.

Mrs. Robin Martin: I'd like to know who can vote, and I may have to adjourn the meeting accordingly.

The Chair (Ms. Natalia Kusendova): All government members are eligible to vote, and MPP Fraser is eligible to vote.

Is there any further debate? Okay. We will have a recorded vote.

Ayes

Fraser.

Nays

Anand, Babikian, Bailey, Hogarth, Martin, Triantafilopoulos.

The Chair (Ms. Natalia Kusendova): I declare the motion lost.

This concludes our business for today. I'd like to thank all of our members and our staff for your great work today. Thank you, and have a wonderful evening.

The committee adjourned at 1556.

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