

From: Richard Laurence [mailto:richard.laurence@trillys.com]
Sent: July-21-15 1:58 PM
To: CWR Special Advisors (MOL)
Cc: Rosenberg, Jesse (MOH); Lesley Holmes; Richard Laurence
Subject: Consultation: The Changing Workplaces Review (Trillys)

Reference: Consultation: The Changing Workplaces Review (Issued: May 14, 2015)

This is an email providing feedback on the ESA. In November 2013, we met with Mr. Jesse Rosenberg Policy Advisor, Office of the Minister, Ministry of Labour. The attached emails explain in detail the background and the recommendations.

In summary, following are the problems and recommendations:

- A 12 permanent full time employee of the company used the 2009 amendment of the ESA relating to assignment workers and temporary help agency to bypass her employment agreement and steal a contract for professional service. Although the company is not a temporary help agency, the lack of definition of “Temporary Help Agency” and “Assignment Worker” is the cause of the problem. The Act is unclear about the fact that a permanent full time employee can also be an assignment worker.

- As the company was trying to resolve this problem, it realized that in practice the Ministry of Labour provided support only for employees against abusive employers. As a small company, we were seeking help from the Ministry against abusive employee and we found the Ministry totally useless in that regards (other than lips service). The only recourse for the company against this abusive employee was the legal process. In contrast, the Ministry of Labour offers other mandated recourse to support employees against abusive employers. We recommend changes to the ESA to mandate the Ministry of Labour to re-balance its services and processes to support small and medium businesses against abusive employees.

Thank you for providing me an opportunity to contribute to this consultation.

Richard Laurence
President – Trillys Systems
613-686-1975



From: Rosenberg, Jesse (MOL) [mailto:Jesse.Rosenberg@ontario.ca]
Sent: December-03-13 11:59 AM
To: Lesley Holmes
Cc: Richard Laurence
Subject: RE: Meeting with Lesley Holmes and Richard Laurence - Ottawa

Lesley and Richard,

Please see attached – it's lengthy.

Jesse

416 326 7713

From: Lesley Holmes [mailto:lesley.holmes@trillys.com]
Sent: November-11-13 3:26 PM
To: Rosenberg, Jesse (MOL)
Cc: Richard Laurence
Subject: Meeting with Lesley Holmes and Richard Laurence - Ottawa

Jesse,

I would like to thank you for coming to our premises on Friday it was very much appreciated. Below you will find minutes of Friday's meeting and it is our wish that you assist us as best you can in our quest to resolve our current dilemma.

Again, thank you,

Lesley

Date and time: 2013-11-08 from 10:00 AM to 11:30 AM

Location: Conference Room, Trillys Systems, 1645 Russell Rd, Unit 3, Ottawa, Ontario

Attendees:

Jesse Rosenberg, Policy Advisor, Office of the Minister, Ministry of Labour
Lesley Holmes, Manager, Trillys Systems
Richard Laurence, President Trillys Systems

Agenda

- Introduction
- Situation
- Request for assistance

Minutes

Lesley Holmes described the situation.

- A long term permanent full time employee of Trillys sought and obtained employment for Trillys clients for which she delivered professional services as a Trillys employee. In her defense, she

invoked article 74 of the labour act to circumvent her obligations pertaining to the “non-solicitation” clause of her employment agreement. She claims that Trillys – a software development company providing professional services – is a Temporary Help Agency. Consequently, the non-solicitation clause is invalid according to the Act.

- The Ministry does not offer any conflict resolution process to Ontario employers. Consequently, the only recourse is the legal route and the courts. Trillys started a lawsuit against the ex-employee.
- If Trillys is deemed by the courts to be a Temporary Help Agency, all Ontario companies offering professional services using permanent full time employees would have their business model threatened. Consequently, chaos would result and companies would be discouraged to employ full time employee. This is a perverse side effect of the ambiguity (lack of definition) in the Act. Specifically, the Act fails to clearly define what is a Temporary Help Agency and what is an Assignment Worker. This ambiguity is exploited by our ex-employee.

General Discussion

There was a general discussion including clarifications. Mr. Rosenberg requested clarifications as necessary and provided an insight of the parliamentary process and the background of the Act.

Trillys showed evidence that the ex-employee has been employed on a full time bases for the last 12 years without ANY gaps in the employment. We discussed the problems and the risk of our court proceedings. We described our social concerns and the “common good” objectives. We also described our immediate needs to support our court case.

Requests and Action Items for Mr. Rosenberg

Trillys requested the following from Mr. Rosenberg

1. An amendment to the Labour Act of Ontario to defined Temporary Help Agencies and Assignment Workers.
2. The Ministry of Labour should create a process for Employers to resolve conflicts with Employees. The Ministry Web site conflict resolution is entirely focused on Employees dealing with Employers’ abuse. We could not find anything to support Employers to deal with conflicts.
3. Trillys requests a formal audit from the Ministry of Labour and a formal written determination whether Trillys is or is not Temporary Help Agency as the intention of the Labour Act of Ontario. This determination will be used for our legal proceedings.
4. Trillys requests the name and contact information subject matter expert (s) that we can interview and use as witness in our court case (including mediation and court case).
5. The Ministry web sites refers to a Temporary Help Agency blitz that occurred prior to bill 139 and the amendment of the Labour Act in 2009. It also refers to the fact that there were 1000 Temporary Help Agencies in Ontario. We would like to have the name of the 1000 agencies, how the Ministry came to this number (what criteria were applied) and the list of Agencies that were blitz by the Ministry. This information will be part of the evidence we need for our legal proceedings.

6. We would like to obtain all the transcripts of the parliamentary debates or similar documents that would help us understand the intents of the 2009 Labour Act amendment pertaining to Temporary Help Agency.

Lesley Holmes, LLB, MBA
613-686-1976



ATTACHMENTS – 2:

- 1) Bill 139, THA Debate
 - 2) Bill 139, THA Oral Questions
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BILL 139 - THA DEBATE

December 9, 2008
EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2008 /
LOI DE 2008 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

Mr. Fonseca moved first reading of the following bill:

Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Speaker (Hon. Steve Peters): Is it the pleasure of the House that the motion carry? Carried.

First reading agreed to.

The Speaker (Hon. Steve Peters): The member for a short statement?

Hon. Peter Fonseca: I'll make a statement during ministerial statements.

TEMPORARY EMPLOYMENT AGENCIES

Hon. Peter Fonseca: I'm pleased to introduce legislation that would amend the Employment Standards Act to enhance protections for employees working for temporary help agencies and help create opportunities for more temp employees to move to sustainable employment. I would like to give special thanks to my parliamentary assistant, Vic Dhillon, for his hard work.

A few decades ago, temporary help agencies provided workers for short-term clerical jobs. Today, agencies supply workers in a wide range of occupations, and an employee of an agency might be assigned to a single-client business for several months or even years. The nature of work may have changed, but our labour laws and regulations have lagged behind. Our intent is to ensure that Ontario's employment legislation reflects the realities of today's labour market in a balanced and fair way.

Before I outline the provisions of our proposed legislation, I'd like to inform the members of an amendment to a regulation under the Employment Standards Act. Our amended regulation has removed an exemption from public holiday pay that affected many temporary help agency employees. This will come into effect on January 2, 2009. Temp agency employees will have the same rights to public holiday entitlements as other employees in Ontario. If our proposed legislation passes, we intend to make another regulation on royal assent, this time removing the exemptions around termination and severance that affect many temp agency employees.

I will now outline some of the major elements of our proposed legislation. Many people working for temp agencies face barriers to permanent employment. Our approach would remove some of the barriers they may face, allowing them to seize opportunities if they should arise. If our proposed legislation passes, temporary help agencies would be prohibited from preventing a client from hiring an agency's assignment employee, charging the client a temporary to permanent fee after six months or more have passed since the employee was first assigned to the client; agencies would also be prohibited from charging assignment employees certain fees, including: a fee for taking permanent employment with a client, a fee for becoming an assignment employee, a fee for assistance in finding work with a client or a fee for assistance in preparing a resumé or preparing for job interviews. Since agencies are receiving fees from clients, there is no good reason for them to double-dip and also demand a fee from the employee. It's not right and it's not fair. We want to put an end to this practice.

We would also require agencies to provide the employees, in writing, with the agency's name, contact information and information sheet on the employee's rights. They would also be required to provide in writing the client's name and contact information as well as the wages, benefits, hours of work and pay schedule associated with the assignment and a general description of the work to be performed for the client.

Our proposed legislation would also prohibit clients of agencies from engaging in reprisals against assignment employees for asserting their rights.

1540

Our proposed legislation supports Ontario's poverty reduction strategy, as it is designed to create more opportunities and build a stronger economy. It would put an end to unscrupulous agencies that take advantage of and exploit vulnerable workers.

I believe we have a fair and balanced proposal before the House, and I urge all members to support it. In closing, I would like to thank all the people who participated in our consultations and whose proposals form the basis of our legislation. Some of them are with us here today: Deena Ladd and her members from the Workers' Action Centre, and Mary Gellatly from Parkdale Community Legal Services, and some of her members. I thank them very much.

The Speaker (Hon. Steve Peters): Statements by the ministry? Responses?

TEMPORARY EMPLOYMENT AGENCIES

Mr. Robert Bailey: I'm rising today on behalf of the official opposition to respond to the Minister of Labour's announcement of a few minutes ago regarding changes to the Employment Standards Act, and also changes to some of the regulations regarding temporary workers.

In general, we are supportive of the government's efforts to offer protection to workers in temporary agencies, and look forward to the debate on this bill. However, we do have concerns about some of the unintended consequences of the government's announcements. First, I would have to wonder why the government would announce changes to the regulations today, December 9, that do not come into effect until January 2. It seems to me that there are going to be many temporary workers who are going to expect to be paid for Christmas and other holidays, and are going to be out of luck. You can't tell me that the extra week is going to make a difference, and whether temporary agencies are ready to pay for these statutory holidays or not. What I think this is going to do is create a lot of confusion for temporary workers and their employers.

The other question I have is, does the government know how much these changes are going to cost temporary agencies and, in turn, their clients? Has the government done the cost analysis that they should have done before they introduced this bill and these regulatory changes? Or have they simply decided upon a course of action without doing their homework, like with their recent bill on the WSIB, Bill 119?

It's also interesting to point out that the temporary workers hired for this very government were not allowed to apply for permanent jobs. This government itself refused to afford them the rights that they now wish to include in this bill. So I would certainly hope that the government will remove barriers for temporary workers within our own government of Ontario as well as elsewhere.

While we will work with the government on protecting temporary workers, we also think it is important not to demonize the good temporary agencies that are out there. If you look at the increase in the number of temporary workers today, you can see how that has become an option which businesses are now turning to for staffing solutions. I am sure that there are many good temporary agencies out there, and there are also good employers. Yet, the government hasn't mentioned them here today, but instead it lumps all of these businesses in with the bad apples that do exist.

On our side of the House, we hope that the government will listen to industry associations and also work with them on relieving some of their anxiety over these changes announced today. I know that the minister has a reputation of consulting with groups impacted by government decisions, but also has not taken the time to deal with those industry groups that are affected, for example, in Bill 119. However, I hope that he will turn over a new leaf, listen to this industry and try to come to a compromise that can see the industry continue to be successful, and for the betterment of all Ontario workers.

TEMPORARY EMPLOYMENT AGENCIES

Ms. Cheri DiNovo: If there has been progress today made by our friends on the other side, it's certainly due to the incredible work that has been done by Workers' Action Centre—Deena Ladd and Mary Gellatly; and not only Workers' Action Centre but the Ontario Federation of Labour, Toronto and York Region Labour Council, and CLC with their Good Jobs Summit and the thousands of members that were there. Certainly a great deal of work has gone into this. We in the New Democratic Party would have liked to see a quantum leap rather than a baby step. What we see here is a baby step.

In fact, when I used to work in the agency business, back in pre-Harris days, there were no fees allowed to be charged to applicants after six months. Those who were working on a temporary basis for most of the larger agencies were not charged, or the client companies were not charged an extra fee for taking them on permanently. So only with this government would a step backward be a step forward.

What we need, and we need incredible action and we need it soon, is for the almost one in two Ontarians who work in precarious employment, for the 700,000 Ontarians who work through temp agencies. Almost 10% of the workforce works through temp agencies. This is astronomical; this is frightening. Most people work in precarious employment.

So when you look at CUPE 3903, who are on strike at York University, you have people with Ph.Ds. reapplying for their jobs every single year, and this will not help them at all. When you look at janitors who are being forced to take out their own incorporation papers and become client companies de facto and earn under minimum wage—because they really are workers even though they are called contractors—certainly SEIU and Justice for Janitors, this will not help them at all. For all of those who aren't working through temporary agencies, this will not help them at all.

Will it help collect holiday pay? Yes, it will. That's a good thing. Will it stop some of the most egregious offences of temporary agencies? Yes, it will.

But what do we want in the New Democratic Party? What do all socially conscious workers and activists want? We want equal pay for equal work. Tomorrow is the day that we celebrate, around the world, human rights. It is a human right to have equal pay for equal work. This bill does not give workers equal pay for equal work. You could be a temp working in accounts payable sitting right next to somebody

who is earning \$15 an hour while you're earning \$12. This bill will not help that worker. That worker in that accounts payable job will still be paid \$3 less than the full-time worker. That university professor working on contract will still make less.

What else do we want? We want pay equity. Women make 71 cents for every dollar that men make in this province, and the equity commission has been calling for absolute funding for what they need so that they can actually enforce the law that is now 20 years old. It's not in force. This baby step will not help with pay equity.

It will not help with the living wage. We do not have a living wage in this province. If you are making minimum wage, you are not able to live above the poverty line. If this government was serious about its anti-poverty measures, the first thing it would do would be to raise the minimum wage to at least \$10.25 right now. That's the poverty line.

Of course, there's the question of enforcement. I just received the bill; I haven't yet read the fine print, so we don't know if there is a poison pill in here, but we want to know about enforcement. We want to know if there are going to be adequate fines for breaking this law. Also, we want to see this law enforced.

We in the New Democratic Party want to sit next week, and we want to debate this bill and pass this bill this session. We don't want to wait a month, maybe two, maybe three, to see this bill come to pass. We want to pass it now. If this government was interested in workers' rights, they would want to see it passed now too, and wouldn't prorogue this House without passing it. Instead of taking a two-month vacation when workers don't get one, why don't we come back next week, work hard, pass this bill and see, as the member just said, that these workers get their Christmas pay and these workers get the justice that's due them?

This is certainly an equal playing field for temporary agencies. What we want to see is an equal playing field for all workers—equal pay for equal work—and let's pass this immediately.

Thank you, Workers' Action, for coming out and thank you for all your hard work.

The Speaker (Hon. Steve Peters): Our guests are always welcome to the Legislature. We certainly allow you to observe, but we ask that you not participate.

Feb 18, 2009

EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009 /
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

Mr. Fonseca moved second reading of the following bill:

Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Deputy Speaker (Mr. Bruce Crozier): Mr. Fonseca has moved second reading of Bill 139. Mr. Fonseca?

Hon. Peter Fonseca: Mr. Speaker, I will be sharing my time with my parliamentary assistant, the member from Brampton West.

I'm proud to begin the second reading of Bill 139. This bill would amend the Employment Standards Act to enhance protection for employees working through temporary help agencies. I'm especially proud that this bill is before the House during one of the most challenging times in the economic downturn that we see right now in Ontario.

During such difficult times it's even more important to protect the most vulnerable members of our society. This legislation is an integral component of our poverty reduction strategy, led by my colleague the Minister of Children and Youth Services. Through the poverty reduction strategy, we're committed to reducing poverty and enhancing opportunities for all Ontarians.

Many Ontarians who work through temporary help agencies are vulnerable workers. They have little employment security and typically have low incomes compared to permanent workers. They look to the law to help protect them. It's important that when people are working they're treated with dignity and respect and have access to their employment standards rights.

The nature of work has changed. Today, temporary employees are an important part of Ontario's workforce. They actually make up about 11% of our workforce. More than 700,000 people in the province have temporary jobs, many through temporary help agencies. There are about 1,000 such agencies currently operating in Ontario. They provide their employees to client businesses that want staff on a non-permanent basis.

A few decades ago, temporary help agencies provided workers for short-term clerical jobs that lasted a few days or weeks. Agency workers were called in when regular staff members were away sick or on vacation. Today, agencies supply workers in a wide range of occupations: to industries such as manufacturing, construction, the service industry, and information technologies. An employee of an agency might be assigned to a single client business for several months or even years. They work side by side with permanent regular employees. However, their job security pales in comparison. They can be dismissed by the client at a moment's notice. In addition, they may have difficulty accessing their employment standards rights.

The nature of work may have changed, but our labour laws and regulations have sorely lagged behind. Our intent is to put in place legislation and make regulatory changes to reflect the real situations faced by temp agency employees. We want to ensure that Ontario's employment legislation reflects the realities of today's labour market in a balanced way.

1640

I would like to point out that the vast majority of Ontario's temporary help agencies are decent employers. They treat their employees fairly. In fact, many of them have practices in place that recognize the needs of their employees. They do not take advantage of vulnerable workers. As a result, they have found themselves at a competitive disadvantage to those who break the law or mistreat their employees, those who engage in practices that do not serve the temporary employment market well. Last May, we launched a comprehensive consultation on work through temporary help agencies. My parliamentary assistant, Vic Dhillon, and staff of the ministry met with 19 stakeholder organizations representing employee and employer interests. We also received an additional 130 written submissions from the public and other interested parties. Our consultation dealt with issues that had been brought to our attention by individuals and groups, as well as through employment standards inspections and investigations. We covered five main topics:

- the elect-to-work exemptions in the Employment Standards Act;
- barriers to permanent employment faced by temp agency employees;
- fees charged to workers by temp agencies;
- liability for Employment Standards Act violations; and
- information given to temp agency employees about their assignments.

Now I'd like to turn to the main elements in Bill 139 and the rationale behind those.

During our consultations, one of the main concerns raised was the barriers faced by temp agency employees in obtaining permanent employment. These barriers include restrictions on the permanent hiring of agency workers by client companies—so, a worker would be at that client company working for months or even years without the opportunity to be able to find permanent employment, even though they may be doing an exemplary job with that client company. They also include significant temporary-to-permanent fees charged to client businesses of agencies or the employees of agencies. As well, many pointed out that some agencies prohibited their client businesses from providing reference letters for agency employees, something that anybody would need to be able to find employment with a company—where they would want to check where they had worked and to get some references in terms of their skill set and what others have to say about them.

We know that many people working for these agencies want permanent work, and we want to help them get that permanent work. One of the main elements in our poverty reduction strategy is enhancing opportunities for all Ontarians. Enabling people to obtain permanent employment is one of the ways of achieving this goal. Obtaining sustainable permanent employment benefits not only those who are striving to better their lives, it benefits all of society. Our approach would remove some of the barriers that temp agency employees may face. It would allow them to seize opportunities if they should arise.

If Bill 139 passes, temporary help agencies would be prohibited from preventing a client from hiring an agency's assignment employee. They would also be prohibited from charging the client a temporary-to-permanent fee after six months or more have passed since the employee was first assigned to that client. So, once a temporary agency employee is assigned to a client, they could be assigned for one day and the clock starts ticking. After six months—they may have only worked there one day, or may have worked there through the whole six months—that client business would be able to hire them permanently without a fee. As well, clients would no longer be restricted from providing references, as we just mentioned, to an assignment employee. So they'd be able to tell a future employer, where that temp agency employee may be looking for permanent employment, the skill set and knowledge an employee has and the type of attitude that employee has, and help them obtain that permanent employment.

Agencies would also be prohibited from restricting an assignment employee from taking permanent employment with a client of the agency, and they would be prohibited from charging the employee a

fee if the employee should find permanent employment with a client. Temporary agencies will no longer be able to prevent their employees from obtaining permanent work. This is only fair.

Our legislation would also prevent agencies from charging other fees to employees. In some cases, these fees are mandatory if a person wants to be placed on assignments. We had heard that some agencies may be charging somebody, with just the hope of finding a job for that temporary agency employee. We didn't feel this was fair. Even when that employee did get an assignment, we heard that the fees they paid to that temporary agency employer may not have been made up by the type of employment they got through that temporary help agency.

Under our proposed legislation, agencies would be prohibited from charging a fee to a person for becoming an assignment employee. They would also be prohibited from charging their employee a fee for assistance in finding or attempting to find work with a client. Temporary agencies would also be prohibited from charging assignment employees or prospective employees a fee for assistance in preparing a resumé or preparing for job interviews.

Temp agency workers are some of the more vulnerable workers in Ontario. For an unemployed person, these fees can represent a lot of money. Many simply cannot afford to pay to get a job, yet in many cases they are forced to do so. How can we deny them an opportunity to improve themselves or even feed their families if we allow unscrupulous agencies to demand money for the promise of a job? Agencies receive fees from clients, so there is no good reason for them to receive them from employees. Indeed, it can in some cases be seen as immoral for them to double-dip and also demand a fee from an employee. It's not right, and it's not fair. We want to put an end to this practice.

In our consultations, we heard that quite often employees do not even know the legal name of the temporary help agency where they are working. Our proposed legislation, if passed, would require agencies to provide employees, in writing, with the agency's name and contact information. Agencies would also be required to provide an information sheet on the employee's employment standards rights. The information sheet would be developed by my ministry.

Quite often, temporary agency employees are sent to assignments without knowing whom they will be working for and even where they will be working. This can leave them open to abuse and exploitation. Under Bill 139, temp agencies would be required to provide the employee, in writing, with the client's name and contact information when offering a work assignment. The information would also outline the wages, benefits, hours of work and pay schedule associated with the assignment. It would also provide a general description of the work to be performed for the client.

We heard from some temp agency employees who came in and shared their stories with us that they were hired to do one thing, but when they found themselves at a client's business, they were told to do something else. We felt this was unfair. People should know what work they will be doing and where. They should also have enough information to know if the job they're being sent to is something they want to do. Our proposed legislation would also strengthen the protection of employment standards rights for temporary agency employees.

A temporary help agency is generally considered to be the employer of a person it sends to work for a client business. The client business is not the employer. As the employer, the agency is responsible for making sure that a worker's employment standards rights are met. The law does not permit the agency to hide behind the curtain of "I didn't know."

1650

Our legislation would strengthen the protection provided by the Employment Standards Act. Bill 139 would prohibit the clients of agencies from engaging in reprisals against assignment employees for asserting their rights. The agency, as the employer, would continue to be prohibited from reprisals against its employees under the current provisions of the act.

In addition, we would be making it easier for temporary help agency employees to get wages owing to them if the agency fails to pay. If an agency owes an assignment employee wages and if a client owes

the agency money, now the director of employment standards would be able to make a demand on the client. The demand would require the client to pay those monies to the director in trust, instead of paying the agency, for disbursement later to the employee. In the past, we have found it difficult to obtain monies owed, especially by fly-by-night agencies. This added enforcement power should make it easier for employees to receive wages owed.

Those are the main elements of our proposed legislation, legislation that would enhance employment standards protections for temporary help agency employees. We believe that our legislation would improve the overall well-being of the temporary help agency industry. It would benefit those agencies that have played by the rules and have treated their employees fairly, and we believe it would put an end to unscrupulous agencies that take advantage of and exploit vulnerable workers.

It is also important that when people are working, they are doing so in environments where employees are treated with dignity and respect. By removing some barriers to permanent employment, we are opening doors to opportunity for many. Our strategy is about helping people achieve their potential. I'm proud of this legislation. I believe we have a fair and balanced proposal before the House, and I urge all members to support it.

In closing, I would like to thank all of the people who participated in our consultations and whose proposals formed the basis of this legislation. Thank you.

Mr. Vic Dhillon: I rise in support of Bill 139, a bill that would enhance the Employment Standards Act protections for temporary help agency employees. I hope our government can count on member support, as it affects some of the most vulnerable in our society: women, immigrants and visible minorities.

Two years ago, I introduced a private member's bill on this issue. I am proud that our government has taken up the cause of these vulnerable workers. They are excessively represented in the lowest-paying and most insecure forms of work. I believe Bill 139 would help provide much-needed oversight in this industry.

Most often, vulnerable workers are not aware of where they can turn to make a complaint because they are so fearful of the repercussions if they do so. Over the past several years, I have received many complaints of fraudulent, fly-by-night employment agencies. I have heard of situations where employees are not paid for work, wages are below the legal minimum wage, there's no public holiday pay, no overtime pay and their health and safety are jeopardized. I heard endless horror stories that people had to tell as a result of questionable practices of these fly-by-night, fraudulent employment agencies.

As well, I heard many other comments on the need for changes in the industry when I chaired the Ministry of Labour's consultations last summer. There is no room in our society for abuse of people who simply are not able to exercise their rights. Bill 139 would go a long way to helping ensure that temp agency workers enjoy the same protections that other regular workers have. Bill 139 would put an end to the exorbitant fees charged to assignment employees, fees for spurious items such as resumé preparation, job interview skills and others. Bill 139 would put an end to prospective employees being charged a fee just to be able to work for the agency, or a fee for a job or assignment. Most of these individuals working for temp agencies are not rich. Many are struggling just to pay for their rent and put food on their families' tables. They can't afford to make the choice between food for a child or a job. This type of abuse must stop.

Bill 139 would also put an end to the sometimes impossible-to-overcome barriers placed in front of temp agency workers, barriers that prevent them from accessing permanent work with a client. Agencies would not be able to prevent a temp from taking a permanent job with a client. Agencies would not be able to charge temporary-to-permanent fees to a client after six months or more have passed since the employee was first assigned to the client. They would not be able to charge the employee with a temporary-to-permanent fee, ever. Temp agency workers would now be given in

writing the agency's name and contact information. They would also receive in writing full details of their assignment, including: the client's name and contact information; the wages, benefits, hours of pay and the pay schedule associated with the assignment; and a general description of the work to be performed for the client.

These are important changes to the Employment Standards Act. These changes are one of the first steps in our government's poverty reduction strategy. These are changes that would help some of the most vulnerable workers in our province, workers with little employment security and low incomes. They, like everyone else in our province, deserve dignity and respect. I urge all members to support this important legislation and bring some order to this important sector.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments? There being none, further debate?

Mr. Khalil Ramal: First I want to take the opportunity to congratulate the minister for bringing such important legislation to this place to be discussed and debated in order to protect the vulnerable people in our society. I know this issue has been around for many years. I know that the parliamentary assistant for the Minister of Labour was a great advocate on behalf of many workers in the province of Ontario, especially the people who worked through temp agencies. I know he brought it in a different format, as a private member's bill, many times to this House, and I'm glad to see our government, our Minister of Labour, adopting this issue and making it go the further steps to make it a law in the province of Ontario in order to protect thousands and thousands of people who want to work.

I was listening to the Minister of Labour speaking at the beginning, when he said that almost 700,000 across the province of Ontario are working through temp agencies. I think that's a huge number. I know the majority of those temp agencies are legitimate agencies. They want to work, they want to do good things for our economy, for the people around them, they want to help many workers to find jobs, and they also want to assist many different companies, factories and offices and many people looking for good, skilled workers, and to do the matching with different agencies. I think they do an excellent job. I believe strongly that it's our obligation as a government to protect those people, to put the regulations and rules in place, to make sure everyone in the province of Ontario is treated fairly and is protected, because it's important for all of us to make sure that every person who wants to work has a right to work under certain conditions according to the laws and regulations of the province of Ontario. As we mentioned many times, especially the Minister of Labour, there was no rule to regulate those temp agencies in the province of Ontario. We know a lot of them open with goodwill and want to do good. But so many of them across the province of Ontario are what we call fly-by-night operations. They open one week or two weeks, a month or a year and all of a sudden they close and they don't pay the people who work for them, and therefore, so many workers become victims of those organizations. I'm glad to see this being addressed, being looked after, by Bill 139, if this bill passes.

1700

It's important to have rules and regulations to protect the vulnerable people among us, especially in these days when jobs are so rare and so many people are losing their jobs; especially when our government, under the leadership of our Minister of Children and Youth Services, the Honourable Deb Matthews, is launching a poverty reduction strategy across Ontario.

I believe that when you have a permanent job, you assist the community, society and the families, and also help to reduce poverty in the province of Ontario.

In order to protect vulnerable people, we have to create the rules, and I believe now, if this bill passes, we'll have the rules to protect the workers.

I was shocked when I learned that many people, when they work for a temp agency, have no right to know their job descriptions; they are not allowed to know if they are getting a permanent job or not; and they are prohibited from finding a permanent job if they want to. I was shocked even more when I learned that some of the temp agencies used to charge the employees in order to find them a job and

the clients in order to find them employees. If this bill is passed, it will put an end to these circumstances. It will have a fair strategy, a fair way to treat the workers in the province of Ontario. I was also shocked when I learned that sometimes a person who is looking for a job because they need it badly—they want to put food on the table for themselves and for their families—has no chance to say no. They go for whatever job the agency finds them. Sometimes they don't even ask about the circumstances or what kind of a job it is; they don't ask about how long they will have the job and who they are going to work for. It's sad, especially in the province of Ontario, where we believe strongly in people's right to know the conditions of their work and the conditions of their employer.

If this bill passes, it will create the conditions which will obligate the temp agency to send all the information to the workers and give them all the descriptions about the nature of the job they are going to do. It will also prohibit the agency from charging the workers a fee. Also, more interestingly, if this bill is passed, the workers will have a right to obtain a full-time job if the client finds them well-skilled and able to do the job for them. So I think it's right.

Also, if this bill passes, it will protect the workers from working in an environment that does not suit them and doesn't give them the chance to express their opinions. I think it's very important for all the people who want to work, to find a place to work and provide support for themselves and their families. Many people, especially newcomers to this land, have no ability to know or navigate the system and they don't know the nature of their rights. They also have no idea about the different jobs and different kinds of jobs around them, so they fall in this trap with no way to express themselves or to defend themselves because, as I mentioned, they don't know the rights that exist in the province of Ontario. So, if this bill passes, it will give them the rights, the tools and the mechanisms to give them the protection they're looking for.

I want to congratulate, again, the minister for working hard for the people of Ontario, and also the parliamentary assistant who, as I mentioned at the beginning, brought this issue to our attention many different times. He wanted to pass a private member's bill because he was shocked when he learned that, in the province of Ontario, for so many people, they have no conditions; they just want to work. Some of those temp agencies take advantage of these people. Also, those fly-by-night organizations with temp agencies, sometimes the contract, at the present time, is made between the temp agencies and the workers and they have no idea who they are working for. So therefore, the people are working for the temp agency and the temp agency is the employer. Sometimes those temp agencies close and they don't pay the workers. Therefore, they lose the work and also their ability to provide support for their families.

In this bill, the government is obligated to make sure that the temp agency is paying the workers the money they owe them. Also, if they don't pay them, they go back to the clients who hired those temp agencies to make sure they pay the workers who worked at their companies. Overall, I think this bill, if passed, will create a safety mechanism for the people of Ontario, especially the vulnerable people who want to work.

As I mentioned, especially in these days, those temp agencies have become so big and so huge everywhere in the province of Ontario, and sometimes they employ people for a month or two, sometimes for years. I think our obligation as a government is to put the tools and mechanisms in place in order to create protection for the vulnerable people who want to work.

I think if this bill passes it will make sure that people who want to work for a temp agency will be protected and there will be rules applied. They have a right to know where they work and how many hours and the condition of the work, and if they have any complaints, if they feel or they think that the workplace is not fit or not safe, they can complain at the job and they will be protected, not abused. All these elements will be enshrined in the bill. I think this is a good step forward in order to protect the vulnerable people in the province of Ontario, to protect the workers, because I think we owe them respect. We want to create good conditions for them to work with respect and dignity, because they

come with the full intention to work. I think our obligation as a government, as the people who are in charge, is to make sure all the people get the right not to be abused. If this bill passes, it will create a great step toward a brighter future for many people who work in the province of Ontario and also give the legitimate temp agencies that work according to rules and laws an advantage and give them the ability to continue to do good things for all the people, especially for the workers. Also, as I mentioned, temp agencies that are fly-by-night organizations will have no room and no time in the province of Ontario.

Again, Mr. Speaker, I want to thank you very much for allowing me to speak and I want to congratulate the minister and his parliamentary assistant for bringing such important legislation to this place in order to regulate temp agencies and create a good environment for workers in the province of Ontario.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. Kevin Daniel Flynn: It's a pleasure to rise and speak to Bill 139. I think it's certainly an example of fairness, something that we really wanted to see move ahead in this province. My congratulations go out to the minister and to the member for Brampton West for bringing this initiative forward. I think it's been very clearly stated in the minister's remarks and in the remarks that came forward from the parliamentary assistant and the previous speaker that this bill is intended to help those who are often noted as the most vulnerable in our society and those people who often are taken advantage of. Sometimes they don't understand what the rules are in a new country, perhaps; sometimes they don't understand what rights they have; sometimes things are being done to them that are illegal and they don't realize that they are illegal.

Bill 139, if passed, will make it clear to all Ontarians what the rules are surrounding the issue of temporary help. If you put yourself in a position where you become an employee in a temporary situation or you're in a position where you're actually the agency or the company that is using temporary help, the rules will be very clear. I think we would all agree in this House that they're rules that are very reasonable and rules that we ourselves would like to know we could avail ourselves of if we were to find ourselves in that situation, working temporary.

Some people work temporary as a choice; other people work because they have to. But certainly I think it's something we've seen in our society in the employment sector, that people are exercising a number of choices in their employment options. If this is something that is going to continue off into the future, I think any responsible level of government needs to implement policies that are going to allow those in our society who, as I said, are the most vulnerable, to be protected.

1710

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. John O'Toole: I listened attentively to the minister's remarks and the parliamentary assistant's remarks on Bill 139, and I'm confident that this bill will go to committee.

What I really think is important here is not to lose sight that everyone in this Legislature, I would think—certainly on this side—would like everyone to have a job and the security of a job and the security of income. So I don't want to be portrayed as someone who is against the provision of job security. What I am saying, though, is that the status of the economy of Ontario today is such that there are no jobs. Two hundred and seventy-five thousand individuals and their families are without work. The economy is heading south at astronomical speed, and we're talking here about a bill protecting employment. We should have more employment agencies, not fewer. McGuinty is not trying to find jobs for people; he's closing them down. He's got more inspectors and things that are actually red tape in the economy. So Bill 139—

The Deputy Speaker (Mr. Bruce Crozier): The member for Eglinton–Lawrence on a point of order.

Mr. Mike Colle: The rules of this House are quite clear: You're supposed to speak to the bill before us, which he is not. Secondly, the veteran member knows full well that if you refer to another member, you're to refer to him or her by riding or by ministry—

The Deputy Speaker (Mr. Bruce Crozier): Thank you. I'll address each of those.

Interjections.

The Deputy Speaker (Mr. Bruce Crozier): Order. One is that in questions and comments you're not necessarily to speak to the bill, but you are to speak to the comments of the person whose address you're questioning and commenting on. Secondly, it's not uncommon in our Legislature for the government or the Premier to be referred to by his last name; many members refer to the McGuinty government and such. Thank you for your point of order.

Questions and comments?

Mr. Mike Colle: The member from London—Fanshawe made some very relevant points about the fact that we need to protect vulnerable workers who have been in a position where they can't find full-time work and go to these temporary agencies. Until this bill, there wasn't the protection to ensure there would be fair working conditions and fair treatment of these workers.

In the long run, if you treat workers fairly, the operators of these temporary agencies would also prosper in their attempts to provide employment. That's what has been missing, and many vulnerable workers in communities across Ontario have been asking for this type of protection from unscrupulous temporary agencies—we all know of them. That's what this bill tries to address in a meaningful way. The Minister of Labour and his able assistant, Mr. Dhillon, the member from Brampton West, should be congratulated for having the interest in putting this forward. They have brought this forward for that reason, and I applaud them for doing that.

We all know that the economy is fragile in these times. Like someone said, this is not an economic storm; this is economic climate change we're seeing. We're trying to do the best we can to deal with it with measures like this. Like someone said, this recession really is international—global—and we are trying to deal with it in a meaningful way. It doesn't do any good for the member from Durham to sit here and talk down the Ontario worker—

The Deputy Speaker (Mr. Bruce Crozier): Member for Eglinton—Lawrence, I just finished reminding members that you're to speak to the remarks, in this case, by the minister and the member for Brampton West. I'd appreciate it if you would do that.

Questions and comments?

If there are no further questions and comments—the minister isn't here. Oh, no, I'm sorry. I was a little behind. Even I lost track a little bit here.

The member for London—Fanshawe, you have two minutes to respond.

Mr. Khalil Ramal: Thank you, Mr. Speaker. I know so many people from both sides of the House are trying to confuse you. Anyway, you do an excellent job.

I want to thank the members from Oakville, Durham and Eglinton—Lawrence for commenting on my speech.

I want to tell the member from Durham that the intent of this bill is not to penalize the temp agencies; as a matter of fact, it's to regulate this industry. So many temp agencies in the province of Ontario do an excellent job.

The minister mentioned in his speech that temp agencies do an excellent job for our economy. They try to find a match between the workers and the companies that are looking for special kinds of skills. I think they do a good job. He mentioned, too, that some temp agencies are good and that they want to expand their business and do an excellent job. We have to protect them too, because so many fly-by-night temp agencies open and then ruin the reputation of the good temp agencies.

If this bill is passed, it will protect everyone. It will protect the workers and make sure they are working in a good environment. It will also create good conditions for the good agencies to maintain their image and give them a chance to support many workers across the province of Ontario in finding good jobs.

It's very important, because at the present time almost 700,000 workers in the province of Ontario get their jobs through temp agencies. It's a huge number. It's our obligation and duty, as elected officials, to

create rules to make sure that everyone working through those temp agencies is protected in such a way as to respect their dignity, time, effort and skills, and also to make sure they get paid. As I mentioned, so many people work through illegitimate temp agencies and lose their payments. Therefore this bill, if passed, will protect everyone.

The Deputy Speaker (Mr. Bruce Crozier): Further debate?

Mr. Kevin Daniel Flynn: It's a pleasure to join the debate once again on Bill 139. Once again, it gives me the opportunity to extend my congratulations to the people who have worked hard to bring this bill to this stage.

I'm hoping, from what appears to be the compliance from the other side of the House, that this proposed bill would move forward to hearings at committee shortly and we can hear from the people of Ontario again.

From what I've heard from my constituents and from those who have visited my office and those who have brought this issue up over the years, there is a section of the population out there that is not receiving the protection it should under the current legislation. That's legislation that I think all parties in this House have had their hands on at some point in time. A hallmark of a good government is that you're able to improve legislation, you're able to move existing legislation, or amend existing legislation, to make the working conditions of people in Ontario a little bit better than those of the generation before. We're able to do that, because what this bill essentially does is strengthen the protections that Ontario workers currently have under the Employment Standards Act. As I said, all three parties in the House today have had their shot at the Employment Standards Act over the years and have made changes that they thought would be in the best interests of workers. This bill, I think, follows that concept.

This proposed bill, if passed, would allow the people who are currently bringing forward their concerns about the working conditions they find themselves in—they find themselves in situations that, simply, all Ontarians should find untenable. Sometimes they find themselves in situations that we wouldn't like to see our own sons or daughters in, that we wouldn't like to be in ourselves. As legislators, I don't think that we can sit back and allow that situation to continue.

By bringing Bill 139 forward, the minister and the parliamentary assistant speak very highly to the impact of the bill and make us understand that if this bill is passed, some people in Ontario are going to have a much better life than they currently have. That's something we should all aspire to in this House, and I think we should look at the bill in that vein.

1720

Often, a person who works for a temporary employment agency doesn't really understand who their actual employer is. Some people think it's the client business they work for; other people think it's the temporary agency. What should be made clear today, I think, and is made clear by this bill, is that the client business is not the employer of the temporary person who is working there. The temporary employee actually works for the temporary agency. Therefore, all the protections under the legislation that are being proposed today will flow through that agency, and that agency will be required to provide the protections that are being proposed today.

If you look at the work experience, if you look at the history of Canada, if you look at the immigrant experience of this country, it's not unusual for people to come to this country to get a new start. It's not unusual for people to choose Canada out of many other countries in the world they could have chosen as a place where they think they're going to get more opportunities than they had in their previous country. Often, they've got a job when they land here. But quite often, part of that immigration experience is finding a job once you get here. Quite often, people come over, they've been sponsored by friends or by family, and their first priority is to make sure that they can support themselves and their family. The first thing that they want to do is to start earning their own income. I think there's a sense that they want to prove to their new countrypeople that they're capable of providing for themselves

and that they're the sort of person whom we would like to see in our country and who is going to contribute to our country.

Quite often, that employment experience doesn't start with a permanent job. Quite often, it might start with a part-time job. Quite often, it may start with volunteer work. Quite often, it may start with learning English as a second language, or maybe skills training. All sorts of ingredients, I think, are part of that mix that allows people to become new Canadians. But often enough, I think, to be significant, it's important to note that that experience also involves a temporary job. People who move to this country from other countries should expect that what they're going to find in this new land of opportunity is a country where we value each other. The employment relationships that we enter into with each other are ones that I think will typify what is the hallmark of our country, and that is that we treat each other fairly and with respect. That's exactly what this bill does today. I think it says that we understand that there is a significant portion now of the population that, either by choice or out of necessity, has decided that it wants to perform its work on a temporary or a part-time basis, and often they will go through an agency to do that.

The rules in some cases in the past, I think, were unclear. People didn't understand the rights that they already had. That gave rise to people bringing their concerns forward to the Minister of Labour and to individual MPPs' offices, asking that something be done. Often, that was a matter of enforcing existing rules. There were people out there—a few bad apples—who were simply breaking the existing rules. But it also gave this government the opportunity to take a look at the existing rules and see if perhaps it wasn't time for us to move forward as a society here in Ontario, if it wasn't time to strengthen the employment protections that we should all enjoy in this province, and it was decided that it was. The first initiative brought forward by the member from Brampton West really laid the issue on the table and got us all thinking about it. To their credit, the Ministry of Labour, the Premier, the government and the cabinet decided that this was an initiative that was worth taking forward, that the work that had been done by the member from Brampton West had set the stage for a much larger piece of legislation that was going to provide even more protections.

That's what we have before us today in Bill 139. We have an opportunity, I think, before us that's going to allow us to make Ontario the place that people really, truly want to call home, where we know that we have the protections that we would want for ourselves and for our families as well and that we extend to all people in Ontario by passing a bill like Bill 139.

I'm going to ask that all members of the House support this bill and allow it to move forward. If there are any concerns, if there are any amendments to be made, if there's anything that needs to be strengthened, anything that needs to be changed, I think, in the past, this government has demonstrated that it's open to those sorts of changes if they're presented in a reasonable manner and a logical case is made for them. So I'm asking for all members of the House to support this. By doing this, you're going to make the lives of some people who work currently for temporary agencies a whole lot better.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. John O'Toole: I listened carefully to the member for Oakville and I pretty much agree with most things he said on the bill. Our position on this would likely include protection for workers.

I tried to make the point earlier, before I was interrupted, in the context of the economy today and this bill. The member for Eglinton—Lawrence was probably right to take a point of order, but I think it's fair that I'm allowed to make a point on the economy.

In this time of the economy, they should be working with employee groups as well as employer groups. The Employment Standards Act, the long-standing piece of legislation which this amends, is a bill that we could all take a share in because it was amended in almost every Legislature.

I heard in recent times that one of the provisions in this is the issue of severance pay and the qualification period. In here, I think three months is the number I heard. Those things need to be

discussed because right now, in these troubled economic times, I'm looking at and hearing from companies where there's no severance pay. These are full-time jobs; 275,000 jobs have been lost in the economy. We're amending the wrong act here. We should be looking at protecting pension provisions for employees whose pensions could be dissolved because of lack of funding in these tough economic times.

I know there are portions of the bill—having spent about 10 years in personnel myself, I'm very familiar with many provisions under the Employment Standards Act. The temporary agency thing is often—one case you might be interested in is nursing, for instance. Often, nurses have employment agencies because they work in an environment where there often could be sickness. I want to understand: Are these agencies exempt from these provisions? It's my understanding that to some extent they are.

The Deputy Speaker (Mr. Bruce Crozier): Thank you.

Mr. John O'Toole: There's much more to be said on this bill.

The Deputy Speaker (Mr. Bruce Crozier): Thank you. Questions and comments?

Mr. Bob Delaney: I have the pleasure and privilege of sitting beside the member for Brampton West. He's been my seatmate now for the past two Parliaments; indeed, he is my neighbour just to the north of the great riding of Mississauga–Streetsville.

I know how hard the member worked on this particular bill. In particular, the member had a lot of representation from within the South Asian communities, among people who found that, lacking language skills, lacking some experience in Canada, they were the ones being taken advantage of—dare I say the words “ripped off”—by some of the more unscrupulous operators.

This particular member brought this concern to this Legislature, talked about it in caucus, brought it up as a private member's bill, and now it's going to be the law of the land for such simple things as preventing reprisals when an employee complains about something that's not right, so that the employee can't be blacklisted. The member for Brampton West deserves a lot of credit for this and he should feel very, very proud of it. A lot of the people whose lives are going to be made a great deal easier, who will be treated more fairly, more humanely, will owe a lot of that treatment to the member for Brampton West.

Among the other things this member can take some credit for is outlawing the practice of charging a fee to a person who becomes an assignment employee. That's wrong; that's double-dipping. That's gone now.

Another thing he cleaned up was the charging of fees for finding assistance—that's wrong; that's double-dipping and that's been cleaned up now; or charging employees or prospective employees a fee to help them prepare a resumé or prepare for a job. That's wrong, and that's been cleaned up now.

The member for Brampton West has done an outstanding job in his contributions to this bill, and I think he deserves credit for it.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. Mike Colle: In response to the points made by the member for Oakville: As he said, this is about ensuring that vulnerable workers are not taken advantage of.

One of the things temporary employers have sometimes been doing is charging these vulnerable workers a fee to work. If you paid the fee, you would get the job; if you didn't pay the fee—these were sort of like kickbacks in many ways. It was an unfortunate practice that this legislation will prohibit, so that the temporary worker who is desperate to make those dollars will not be subject to these under-the-table arrangements. Also, there was no protection against reprisals or forcing people to work when they weren't well or to work extra hours. I think it's sometimes the hidden workforce in Ontario. If you were to take a bus tour to Brampton, you would see the new face of Canada, the new face of Ontario. You'll see that people from 120 countries of the world live in Brampton. They work very hard. They raise their families. They've come to Canada with very little and they've made Brampton—I remember when

Bill Davis was Premier, I think it was about 70,000 people. I think the member from Brampton West will tell us there are—what?—over 300,000?

Interjection: Five hundred.

Mr. Mike Colle: Up to 500,000 people. The member from Durham, being in the far east of the GTA, probably never travels to Brampton. But if he were to go to Brampton—it's one of Canada's largest cities, and it's been built by many of these hard-working newcomers who get their start with these temporary jobs and then work their way up, through their blood, sweat and tears. What this bill is doing is ensuring that their voices are heard. The member from Brampton West, the honourable Victor Dhillon, has heard them and has put this forward and it's now hopefully going to pass.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments? The member for Oakville, you have two minutes to respond.

Mr. Kevin Daniel Flynn: I'd like to take those two minutes to start by thanking the member from Durham for his illuminating comments, the member from Mississauga—Streetsville and the member from Eglinton—Lawrence, who all spoke eloquently about the bill and I think really hit the nail on the head as to why we should pass it and why we should move it ahead. It's simply a bill whose time has come.

I'd also like to take this opportunity to thank the temporary agency business, to thank those people who are in the business, and actually—

Interjection.

Mr. Kevin Daniel Flynn: Yes, there are some great businesses out there. As is often the case, the initiative behind this is to solve the problems of a few of the bad apples out there. I don't want anybody thinking that anyone in this chamber has it in for the temporary agency profession. I think it's an honourable profession that often provides us with professionals—nurses, office staff, anybody from engineers to surveyors—a variety of things. The list goes on and on. As I said earlier in my comments, many people in a lot of professions now are deciding that full-time permanent work isn't the way for them and that they would much prefer temporary work or a less permanent set-up, and they should be entitled to the same employment rights as anybody else around here, anybody else in this room. I think we all enjoy employment rights ourselves, and we would want to see them extended to everybody in the province of Ontario.

During consultations, one of the main concerns that were raised was the barriers that are faced by temporary agency employees in obtaining permanent employment. I think that in economic times such as we're in, in the situation that we find ourselves in as part of the global recession, and also dealing with a poverty reduction strategy, we want to bring them together, and we need to enhance every single opportunity we can find for Ontarians. Often, that enhancement means finding a full-time job. This knocks down a lot of barriers and will allow that to happen for Canadians who are seeking full-time work.

The Deputy Speaker (Mr. Bruce Crozier): Further debate? Does any other member wish to speak? The Minister of Aboriginal Affairs and deputy government House leader.

Hon. Brad Duguid: I move adjournment of the debate.

The Deputy Speaker (Mr. Bruce Crozier): Is it the pleasure of the House that the motion carry? Carried.
Second reading debate adjourned.

February 24, 2009
EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009 /
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

Resuming the debate adjourned on February 18, 2009, on the motion for second reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Speaker (Hon. Steve Peters): Further debate?

Mr. Robert Bailey: I'm pleased to join the debate on Bill 139, the Employment Standards Amendment Act, 2008, that was introduced on December 9 of last year.

Since this bill was introduced, we have done some consultations on it and found that not everyone is happy with the direction that the government is going with this bill. The minister's rhetoric doesn't seem consistent with what this bill will actually do or not do.

My party will be looking forward to this bill going to committee so that it can be studied and we can hear from some in the industry who would like to see positive changes that will still allow temporary hiring agencies to operate in Ontario.

While I appreciate the rhetoric that the government members have used when it comes to this bill, I find it hard to believe that with the economy in the situation that it is, with all of the issues facing this government, they would choose at this time to bring forward a bill like this.

I have been an MPP and a member of this House for approximately a year and a half, and I haven't had one single call or conversation with a constituent who is concerned with this issue. Certainly this isn't a huge crisis in the world of labour that should take up valuable legislative time when there are far more pressing matters that we could be dealing with. I don't get the sense that Ontarians are seized with cracking down on temporary agencies. I think they would much prefer if we were debating a budget or some kind of effort so that the citizens of Ontario think that we care and wish to act on their issues. However, more to the point of this particular bill, one of the concerns we have had with this bill is that we believe that the government has taken the position that all temporary agencies are bad and that they all need to be improved. What we believe is that you shouldn't treat the good agencies the same as the bad agencies; you cannot paint the industry with a broad brush. If this bill is not amended, it will cause considerable problems, not just with temporary agencies but with companies that use them. Right now, with the economy going as badly as it is, government actions that are going to put more people out of work and make it harder for others to find work need to be stopped.

The government may have the right intention on this bill, but we don't believe they did the homework necessary to completely understand its implications. To give you some examples of why we need changes, many in our caucus have heard from the Association of Canadian Search, Employment and Staffing Services, or ACSESS, who represent many temporary agencies. They presented us with three technical changes to the bill that need to be made in order for their industry to remain viable and thrive. Now, remember, when their industry is viable, people go to work, so I believe we need to listen to them and act on some of their suggestions. One of the stats that I did learn in some of the background is that approximately 11% of employment in Ontario is through temporary agencies.

One of their biggest concerns is around termination and severance. What the government is proposing is that after 35 weeks of not being sent on an assignment, an employee is terminated and severance needs to be paid. ACSESS pointed out to us that this clause will cause significant harm to term employees in Ontario. Short-term workers who are unemployed or underemployed are the ones who

are most in need of work. Staffing companies will be forced to make a decision as to whether they can place that person consistently, and if not, they won't hire them for term work or will terminate them prior to the three months. The severance issue alone will erect new barriers to job creation. On our side of the House, we want to make sure that barriers are taken down. We also think that this clause can be fixed in committee, and I hope that the government will give consideration to our and the third party's amendments that we will be bringing forward.

One of the other issues we have heard a lot about is the idea that the government is going to crack down and restrict the fees that staffing services charge when a placement gets hired full-time. Generally speaking, many in the industry will charge a fee in the first six months but not after that. I'm not sure how big an issue this actually is; a company in my riding said that they support a number of these changes because they think it will help drive out the unscrupulous operators.

First, the client of a staffing service is a company. The person who is placed is not the client. ACSESS raised some serious concerns with using the Employment Standards Act as a tool to regulate how two businesses deal with each other. The Employment Standards Act governs how employees and employers relate to each other, not how two businesses relate to each other. Temporary agencies incur significant costs when it comes to advertising, recruiting, screening and so forth. There's something to be said for allowing them to function without the arbitrary limitations and regulations put on them by government. This particular clause does not benefit a worker in any way at all. What it does do is put up another barrier to job creation; our party believes in taking down barriers to job growth.

The current government of Mr. McGuinty is doing its best to stifle entrepreneurship and ingenuity. With bills like this—this is the best they can do? I would be surprised if any of your constituency offices have had any calls complaining about temporary agencies, yet here we are, dealing with it. What we should be dealing with today is a budget. The government had to have pre-budget hearings completed so that we could have an early budget. Now they tell us that the budget will be as late in the fiscal year as it could possibly be. Mr. McGuinty and his government should be showing the people of Ontario what their plan is to get people back to work, to keep the economy moving and to get jobs created in this province. They won't do that. I believe it's because they have no idea how to deal with this crisis. But why would we expect them to act any differently? It was on this government's watch that we went from a have to a have-not province. The government barely blinked its eyes at that.

Governments around the world have been moving quickly to do what they can to deal with the worldwide recession. The United States government has moved quickly. The Canadian government has moved. Quebec and BC have started moving as well. Dealing with this economic crisis is what governments do, except here in this province. The McGuinty government is frozen like a deer in the headlights. They know there's a problem—he said so just a few weeks ago—but seem afraid to do anything. We don't think that is acceptable. That's why we have presented our economic plan and we have stuck with it. We thought—

The Speaker (Hon. Steve Peters): You're supposed to stick to speaking to the bill too.

0910

Mr. Robert Bailey: Yes. I'm going to get right back to that. I think that it's time for this government to come to the table with a meaningful package of reforms that will show that they understand the people are concerned about jobs. That's why we think the debate on Bill 139 should move ahead and go to committee as soon as possible. Don't waste this Legislature's valuable time on issues that Ontarians don't care about.

The Speaker (Hon. Steve Peters): Questions and comments?

Ms. Cheri DiNovo: It will be my pleasure and privilege to speak about the dignity of work and how this bill falls into that in a few minutes at great length, but suffice it to say, I couldn't disagree more than with the previous speaker from Sarnia-Lambton.

In fact, what we need is this bill and a whole lot more. We need a complete revamp of the Employment Standards Act, we need a living wage of at least \$10.25 an hour, we need equal pay for equal work, we need limits on the time that people spend in temp work before they become full-time, we need card-check certification, we need anti-scab legislation, we need sectoral bargaining, and finally, we need enforcement of the employment standards we already have, which we don't have.

So I'll certainly be privileged to speak at length about all of those topics and about how this bill is really kind of like the icing without the cake. We in Ontario, particularly at a time of recession, need a lot more than just this kind of photo-op bill. We need something with substance; we need something that's going to address the fact that we now have in Ontario 37% of the workforce working in precarious employment—most of those, women; most of those, people of colour; most of those, people who are immigrants to this province and deserve better. Their rights have not been considered in the past, and their dignity of work has not been considered.

I'm in a unique position to speak to this bill, in fact, because unlike anyone else in this House, I owned an agency, and I'm also the employment standards critic. I worked through an agency, owned an agency, am standing here as an employment standards critic and the small business critic. So I look forward to speaking to all aspects of this bill as it relates to agency work, as it relates to the employees that they employ and as it relates, as I said, to the bigger, fuller picture of employment standards in Ontario.

The Speaker (Hon. Steve Peters): The member from Ottawa Centre.

Mr. Yasir Naqvi: Thank you very much, Speaker, for giving me the opportunity to respond to my colleague from Sarnia–Lambton, to talk about Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters.

This piece of legislation is extremely important because it really brings the temporary jobs, those individuals who are employed through temporary agencies, into the scope of the Employment Standards Act. We know that the act exists to protect the rights of employees when they are working in employment situations. Thus far, this legislation has precluded people who work on a temporary basis, who are employed through temporary agencies.

It's an important step; it's a step in the right direction. Most importantly, it's a step to ensure that as this government moves forward with its poverty reduction strategy, we put safeguards in place that will ensure that the rights of those individuals, those working families within our communities who are working very hard through temporary agencies, are protected in their employment, that they are not taken advantage of, that they are able to take as much of their pay as they make home so they can spend that money on themselves and on their families within our economy.

This legislation I also see going hand in hand with the payday loan legislation which the McGuinty government just passed here, another very important piece of legislation to ensure that we provide the safeguards necessary for our working families, not to mention the minimum wage increases which this government has put in place, which will be seeing the minimum wage rise to \$10.25 by next year. All these steps go hand in hand in ensuring that our working families have the tools necessary to succeed in the community.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Randy Hillier: I want to congratulate my colleague from Sarnia–Lambton for putting together a good presentation on Bill 139.

I think we ought to look a little bit deeper into this bill as well, and really look at what are going to be the consequences and the effects. I know it's well-intended and offering up more protection, but is it going to reduce temporary employment? Is it going to restrict employers from hiring temporary workers? The people in that industry suggest that it will.

We also have to look at this Liberal government, what they're saying about removing barriers and restrictions and having too much red tape in this province. Then another red tape bill comes in.

We know that they're going to hire another 100 employment standards officers into the bureaucracy at the Ministry of Labour. Right now, over 50% of the employees in that ministry are enforcement and compliance officers, and now we're going to add another 100 and add another \$10 million to the cost. I'd like to comment on the member from the opposite side who mentioned that the Liberals want people to take home as much money as possible from their paycheques. Well, they can't take a lot of money home if you keep taxing and spending and hiring more and more bureaucracy. That should be evident; that doesn't need anybody else to go to a committee. We can't keep increasing the costs of doing business and then suggest at the same time that you want to have people taking more money home.

Let's reduce some of these barriers and expenses.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Gilles Bisson: Well, my, my, my. They're still calling for more deregulation in the face of everything we're seeing in the world economy today. The market went down by how much yesterday—300 points? And we've still got Conservatives who are standing there with the old mantra that you need more deregulation, you've got to get government out of the way of business? These guys just don't learn. At least George Bush started to get it at the end. He had a policy with which he wanted to nationalize banks. He was more progressive than the Conservative Party of Ontario. I just say, my, my, my. Sometimes a lesson is hard-learned.

I want to say to the member from Sarnia–Lambton that I was interested to see that he said nobody's interested in this issue and hardly anybody is getting any phone calls. Nothing could be further from the truth. Listen, I've been travelling around this province along with my fellow colleagues who are running for the leadership of the Ontario New Democratic Party. At almost every public event we go to, this issue is raised, and it is because it is an issue out in Ontario.

People are seeing that more and more jobs that used to be full-time jobs, that were directly created by the employers themselves, are now being farmed out through temporary agencies. Why? Because you can get around many of the provisions of the Employment Standards Act, everything from holidays to the amount of pay that you get and the number of benefits that you may get as a result of working for the employer directly. So people get it. The average worker out there understands that temporary work placement agencies are not necessarily a good thing for the province of Ontario.

I would say this as well: There's something to be said about allowing temporary agencies to function in the first place. I was talking to an individual about three, four months ago who had himself set up a temporary work agency. He used to work for one of the Ontario government ministries when the Tories were in power. He was on a particular project, and when that project was going to be ramped up, he went out and started his own temporary work agency. He was making oodles of money sitting at home and sending people there because he was keeping 30% back for himself. Is that fair to workers?

The Acting Speaker (Mr. Ted Arnott): That concludes the time for questions and comments. I will return to the member for Sarnia–Lambton.

Mr. Robert Bailey: I'd like to thank the members from Parkdale–High Park, Ottawa Centre, Lanark–Frontenac–Lennox and Addington, and Timmins–James Bay. I thank the different people who tried to paint me as a rabid capitalist just for wanting to see free enterprise and people prosper in some jobs in this province.

I don't have a problem with the overall intent of the bill. I just tried to point out that at this time there are other, just as important items that we should be debating in this House.

I've spoken with people at a number of these temporary agencies, and they don't have a problem with the overall thrust of the bill. They said it will force out the unscrupulous people anyway. What we would like to do, on our side of the House, is see it go to committee; make those improvements that people point out to us when we have committee. We can have the labour community come in. Also, the temporary agencies, like ACSESS and others, can come in and present their side of the story to all the

members of the committee. At that time I'm sure everyone would agree that there's no legislation that's perfect when it's first drafted and that we would like to work with all three parties: the opposition—I mean the government party—the third party and ourselves—

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Interjection.

Mr. Robert Bailey: I'm getting there ahead of ourselves, eh, Mike? Anyway, we'd like to work together to try to make this bill better for the workers of Ontario and for the province.

The Acting Speaker (Mr. Ted Arnott): Further debate?

Ms. Cheri DiNovo: As I said before, it is a pleasure and a privilege to rise and to speak about what I hope is the dignity of work in the province of Ontario, which is certainly not the state we find ourselves in now.

Right now, about 37% of our workforce, as I said earlier, mainly women, people of colour and new immigrants, are working in precarious jobs. That is to say they don't know when their job will end. Many of them don't have anything but the most basic mandated benefits. They don't have any pension plan and, quite frankly, they don't have much recourse to the halls of power either. What we're talking about is a very large group of people. In the United States, just to the south of us, you're looking at the largest employer being Manpower, a temporary agency. The largest employer in the United States is a temporary agency. The question to my mind is, how ethical is that?

We're a society that deals with lots of stuff, and the stuff is made by people. It's produced by people from offices to factories. We often think, or perhaps we should think more, about the labour that goes into the pens, the glasses, the paper that we use.

We know that in this province we've lost almost 300,000 well-paying manufacturing jobs. The government across the aisle professes to have created more jobs than they've lost, but what kind of jobs are those? These are low-paying jobs, many of them precarious jobs, temporary jobs, jobs without anything but the most basic of benefits, with no security and with no pensions, of course. That's what we're replacing good work with. We're replacing good work with poor work. We're doing that not just in Ontario but around the world. I mean, when we think about how much is produced in China and under what conditions, we should be ashamed as consumers, never mind as producers. When we think about huge towns that have been given over to sweatshops in the global economy, is that what we want as our future in this province? I'd say no, absolutely not.

When it comes to Bill 139, what are we dealing with here? Are we dealing with something that will substantially change what labour looks like in this province? I would say, and the New Democratic Party would say with me, absolutely not. Is it, again, a step in the right direction? As I've said, it's kind of like the icing with no cake. It's tinkering around the edges of the problem.

The problem is the difference in the way we see the dignity of work. That's the larger ethical problem. We, for some reason, as a community in Ontario no longer see it as a problem that someone works 40 hours a week and can't pay the rent or feed their children. I have many people in south Parkdale, in my riding, who work 40 hours a week at minimum wage and have to use a food bank. Now somehow collectively, we've said that's okay.

I would submit to this group and to you, Mr. Speaker, that that's not okay, that that's absolutely unfair. I grew up in an Ontario, quite frankly, where that wasn't considered fair, where it wasn't considered de rigueur to see people lining up at community soup kitchens, sleeping on the grates at night and working hard all week with no expectation of ever getting ahead, of ever getting their children ahead, of even paying for the basics out of their pocketbook.

In fact, we know, because we've been told by over 60 economists across the country, that the real minimum wage has significantly gone down since the 1970s, that if we were to pay the minimum wage today based on the consumer price index that we were paying in the 1970s, we'd be paying about \$10 an hour right now. What is that really? Even if we were paying \$10.25 right now, we'd only be paying

just over the poverty line. So the ethical question, which to me is always the major question in these debates: Is it ethically and morally right to pay someone below the poverty line in a city like Toronto, in a province like Ontario, for their work? Is that dignity of work? I would submit that it is not.

What we in the New Democratic Party see is a real need for a complete overhaul of the Employment Standards Act to reflect the new reality in which we find ourselves. Quite frankly, there is some global imperative to this as well and there are some global responses. We don't need to reinvent the wheel here in terms of employment standards or Bill 139, we just need to look to other jurisdictions.

Other countries—New Zealand, Finland—have expanded the scope of their employment standards to address exactly what we are facing here: atypical or non-standard work. Germany has expanded its definition of “employee” to reduce the opportunity to disguise the employment relationship: in other words, an employee working for a client company of a temporary agency, but seen as an employee of the agency. The International Labour Organization has developed conventions on home work, part-time work and employment agencies. The economic union in Europe has established directives on part-time and fixed-term contracts to bring equity between atypical or non-standard work and permanent employees.

The European Union, in fact, has brought in what we think should be brought in immediately, and what OPSEU happens to agree with, and that is equal pay for equal work. What is the concept that the European Union has brought in that would really suffice to address most of our problems with precarious labour right here? That concept is a simple one, a very ethical one. It simply says: equal pay for equal work. That would be dignity of work.

What does that mean? That means if you are the full-time employee doing bookkeeping in an office or you are a part-time temporary agency employee doing bookkeeping in the same office, the same job in the same office should get the same pay. That is not the case in Ontario. In Ontario, the agency employee will get substantially less for doing the same work as the full-time employee. That's our reality. I would submit that reality is absolutely unfair and unethical.

So instead of really attacking temporary agencies, the icing, we should be attacking the cake, the problem. The problem is we do not have equality of pay for work. We don't have it in Ontario; we simply don't have it. I would also submit that if temporary agencies marked up their third, or whatever they do, over that basic salary, that it would become real money to a company instead of cheaper to go through an agency. It wouldn't affect their profit margin at all and it certainly would be better for the employees. Of course, all the other things included in Bill 139 should be part and parcel of an overarching employment standards response to the issue of undignified, precarious work.

Also, just to go on to other jurisdictions, the UK government has finally recognized the need for regulating temp agency work and providing for equal treatment. This is notable, since the UK has one of the largest temp industries in the EU. Here is a country that has a large temporary industry and that is addressing this problem in a real way. The UK government agreed to a deal on May 20, 2008, between unions and employers that will see agency workers in the UK receive equal treatment. Again, it's equal pay for equal work.

It's interesting that also in the UK—looking back not too long ago when this House was brought back to look at the CUPE 3903 strike at York University, where you have this huge pool of contract labourers, belying the fact that temporary and precarious work is the domain only of the disenfranchised, only of those without enough education, only of those in the poor or marginalized aspects of our community. No. Temporary, contract, precarious work is also the domain of those with PhDs, contract faculty. Our universities are built on the backs of temporary, precarious workers—educated workers—which quite frankly also sort of puts the finger in the face of Richard Florida and those who would say we should become a creative class of Ontarians. Well, here we have not only educated but many of them very educated people who've done all the right things, according to Richard Florida and his ilk. They have their PhDs, many of them, in areas that he cited in his report, and yet what are they doing? As NOW

Magazine once said in its famous headline, “Did You Know that Your Professor Makes Less than You Do?” They’re working for less, many of them, than what we would consider a living wage. There’s a pool of 900 workers at York University, out of which very few have any remote hope of being hired on full time or for tenure-track situations.

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In the UK, what have they done with that? They have addressed that, not by tinkering around the surface of it but by addressing the problem of post-secondary institutions exploiting contract labour. They have said that you can teach for four years on a contract basis, but after that you must be hired full-time.

I remember one CUPE 3903 worker who said to me that she had been teaching on a contract basis at York University for 16 years. Every year she has to reapply for her job. Every year she may or may not get that job. She has a PhD, but every year no job security, minimum benefits, working for half, probably, of what the tenure-track professor was making. This is unconscionable. This is unethical. This is not dignity of work in the province of Ontario.

So we know that other jurisdictions do it better. My husband and I had the great good fortune—and I know many of you have heard about our trip to Sweden, but, hey, it’s eye-opening for a social democrat to see social democracy in action. There you have a country where 85% of the workforce is unionized. Let’s contrast it with ours in the low 30-something. To really have dignity of work, you need to be unionized. We know this because of the sweep of history, and we so quickly forget history. We forget that there was, at one point, child labour. We forget that there was, at one point in my lifetime, “Help Wanted: Male” and “Female.” We forget that every advance, from the 40-hour week to overtime to statutory holidays, to the end of child labour, to equal rights for women in the labour force, all of these rights have been fought for by the union movement and won. Certainly what we need is more organized labour.

What does it mean in Sweden to have the difference, 85% unionized labour? To be fair, some of those unions are “company” unions, so-described, but still, it’s a certain advance over what we’ve got here. It means that when you go into a McDonald’s in Stockholm you are served by somebody who is a unionized employee—in McDonald’s, of all places. Guess what that means to that unionized employee? It means that they’ve got bargaining rights and better benefits, that they earn about \$12 an hour in comparison to our employees here. The equivalent of an MPP we sat down and had lunch with over there, who, by the way, was a Liberal, said that if they weren’t unionized, nobody would eat there. That’s the consciousness of a community that sees dignity of work and that believes in the ethicality of the dignity of work and believes that you need that to have a just society.

Sweden is no bigger than Ontario. It’s nine million people; we’re 13 million, more or less, here. It’s smaller than we are. It’s as multicultural as we are, too. I’ve heard that rather racist argument, “Well, they’re a monoculture.” No they’re not. They’re one of the most multicultural communities in Europe. This is a community that also has free post-secondary education. Imagine that revolutionary concept. It also has a dental care program and medicare. And yet, guess what? It still has Sony Ericsson, H&M, Ikea, Volvo; capitalism is alive and well in Sweden and yet somehow they manage to extend dignity to their workforce, even those at the lower echelon, in the service sector jobs, like McDonald’s. They manage to extend some dignity to them. That’s what we’re speaking about in the New Democratic Party. We’re just speaking about dignity.

I was on the radio yesterday talking about the pushback over the government’s increase in the minimum wage. Well, not only do I disagree with the person who was against me on that radio debate that the minimum rate should go up—of course it should—I think it should go up more. It should go up to at least above the poverty line and then be indexed to inflation. We all remember that wonderful campaign, the \$10 minimum wage campaign, where, really, town halls were full across this province and

this government was swamped with at least 10,000 e-mails demanding a living wage, but we don't have a living wage by that definition yet.

Again, this is a global movement: In Mexico they're having demonstrations for a dignified living wage. It's everywhere, this demand, and the demand at its basis is about ethics. At its basis it's about dignity to labour. It's about knowing that you're valued, and—let's face it—we value people in proportion to what we pay them. We know we do. We pretend we don't. But if we don't, then why is it so necessary that our CEOs in Canada make more than they ever have in history? The average CEO right now makes between \$9 million and \$10 million a year, yet nobody is objecting to their pay raises. No, people object to the pay raises at the lower echelon.

Well, I ask you: If we pay people their value, if we recognize people's labour with what we pay them, if this is a reflection of the dignity we accord their labour, then is a CEO worth a thousand times more than a woman working in a factory at minimum wage? How on earth is this possible? How on earth do we tell that person working at minimum wage that their life and their labour—because let's face it, our labour is a lot of our lives. Most of what we spend our day doing is working, whoever we are, if we're in the workforce. Do we tell those people that they don't deserve the dignity of living above the poverty line, but the CEO, yes, they're worth a thousand times more even, quite frankly, if they run their company into the ground?

On my Facebook page, I challenged some of my friends to come up with some innovative, witty responses to changing or assisting our economy. One of the wittier of them was a young man who wrote in and said: "Why don't we all start car companies and just run them into the ground?" I thought that was good. Is that what it takes to get the government's attention, to get assistance? Is that what it takes to get help from the government, that we are the CEOs of large corporations, run them into the ground and then expect the government to bail us out? Why do we not afford dignity to those at the lower echelon of the earning spectrum, to bail them out when the recession hits? Where's the bailout for them? Where are the millions for them? Certainly, the very least we could do—and Bill 139 is, trust me, the least we could do when it comes to temporary agencies and their clients—is to raise the minimum wage above the poverty limit.

The other thing that we need to do, as I said, is equal pay for equal work. This is a much more elegant solution than what we see in Bill 139. In any employment standards rewrite, we need to enshrine that. Now, I want to talk from the small business side of my portfolio for a minute and also my experience as an agency owner. I started working, when I was a young woman after university, for Drake Personnel. Now Drake owns Office Overload, a Canadian company privately owned. It was a really eye-opening experience to work for a corporation like that, which was multinational in those days.

Quite frankly, it was one of the few places that a woman—then, as probably now—with a B.A. and nothing much else under her belt could get a job that would pay a living wage. We were paid reasonably well for what we did, with bonuses to boot. It was an also an interesting insight into corporate structure, the corporate structure that, unfortunately, is still the case in most corporations, which is to say that at Drake and at Office Overload, you had a lot of women working the phones. As you got up the corporate ladder, there were fewer and fewer women, until you got to the executive suite, where it was all men. Beyond the phones and the women working them were their temporary clients, who were mainly and mostly women too. So here you had a women-driven agency business dealing with women applicants mainly, servicing companies run by men. I can tell you, if you wanted to look at racism in that mix, that would hold too. You had mainly women, many of them of colour, working the phones and dealing with temporary applicants, many of them of colour, who were working in the offices for executive-suite-held companies made up of an incredible majority of white men. Quite frankly, unfortunately, that's still the case.

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For some plucky women working the phones in a sales environment who decided, “Enough of this. If there’s money to be made, I’d like to keep it in my own pocket, thank you very much”—which is, after all, the entrepreneurial instinct that we pride ourselves on in this country and in this province. You decide at some point that you’re going to go out and do it yourself and for yourself, which is exactly what I did and many women like me did. In fact, I think if you were to look at temporary agencies and permanent placement agencies across this province, you would see that the majority of them are still owned by women and still staffed by women. The difference for the smaller ones is that women own them, instead of the larger corporations owned by men.

So for those plucky women entrepreneurs who went forward, as I did, running a company—and it was a phenomenal success, I might say. I started that company with a \$5,000 loan and billed half a million in my first year, and billed it not by exploiting those who came through our doors but by enriching them, in fact. We’re talking about back in the early 1980s. That was a quarter of a century ago. We were mainly a permanent placement agency, I have to say, and I’ll talk more about the difference between permanent and temporary in a minute. We paid our temporary employees \$10 an hour. That was 25 years ago. If you came through our agency and got a job filing, you got paid \$10 an hour, and I didn’t know, quite frankly, many agencies that paid less. We marked up over that.

I also paid the women who worked with me as if they worked with me and not for me. So all of us made six figures back in those days. We did well. We were an all-women company, and we placed women not only in secretarial positions, but, for a change, moving them up the ladder in communications and PR and advertising, which were the major clients that we serviced.

What I found as an agency owner—and certainly, it was interesting to meet with those representatives from ACSESS because of my background—was that if there was racism, if there was an attempt to beat down wages, if there was an attempt to pay employees less than they were worth, not equal pay for equal work, it came more from our client companies, the big corporations that really, quite frankly, are shielded. They’re invisible, they’re anonymous, behind the agencies that service them. When Bill 139 comes into effect, which I assume it will, it will not touch those companies that hide behind the agencies that service them, when it comes to exploiting employees.

So, first of all, hats off to all of those, mainly women, who see an opportunity in the market to actually make a decent living and start their own companies. Certainly, hats off to those who run scrupulous, ethical businesses that recognize the value of an employee—and I’m not talking about those many that don’t and those many that this bill attacks. Should they be out of business? Absolutely. Nobody in the agency business would argue that they shouldn’t.

It’s interesting that back in the early 1980s when I was in the business, it was illegal to charge a fee to an applicant. Here we are, in 2009—great progress, indeed—bringing in another bill that says it should be illegal to charge a fee to an applicant. I guess that’s what passes as progress in the province of Ontario. What happened in the interim? What happened in the interim were the Harris years, which undid that law. So now here we are, bringing back what should have been all along. I don’t see that, really, as progress; that’s simply a rescinding of something onerous. There should never be a fee charged to an applicant from an agency.

Interestingly enough, though, there are huge loopholes in Bill 139 when it comes to charging fees for applicants, and that’s something the New Democratic Party will be addressing at committee, because the way that temporary agencies are defined in this bill leaves a lot of unscrupulous agencies and middlemen and women out there who will not be covered by this bill. What do I mean by that? I will go into the incredible and wonderful work done by Workers’ Action in some detail on this bill.

Suffice it to say that one of the most egregious abuses of the dignity of labour in this province is the way that many cleaners in corporate buildings are treated. What agencies will do—although they don’t call themselves agencies, so they won’t be covered by Bill 139—what many of these cleaning contracting companies do is claim that their employees are independent contractors, not employees. In fact, some

of them charge their independent contractors money to get them jobs cleaning the buildings that are their client companies. Not only do these poor, mainly immigrant—many of them not with English as a first language—individuals have to pay to get their work; they have to pay for their equipment and their cleaning products. Many of them get into a bidding situation, which should be highly illegal, just for the opportunity to work at all. And what do they make, when all is said and done and all of the fees and charges are paid? Many of them make below minimum wage. That goes on everywhere in the province of Ontario. It does not happen in Quebec, by the way, which has more forward-thinking legislation. It happens here. Unfortunately, that situation of cleaners in buildings will not be touched by Bill 139 because they don't bill themselves as temporary agencies. They don't call themselves that; they call themselves cleaning contracting firms.

Another group that Bill 139 doesn't touch at all because of its definition and because, in this case, they're actually excluded, is health care agency workers. Health care workers employed by agencies under contract with community care access centres can now get public holiday pay like other workers, but they are not considered covered until 2012. One might ask: Why is that? Why single out health care workers in an act like this? Why not everybody? There's a simple answer to that. Guess who their employer is: the Ontario government. Guess who would be liable for the extra costs of health care workers: the Ontario government, the Ministry of Health. So that's why they're excluded until 2012. It's easy to pass legislation when it affects somebody else, but when it gets a little too close to home and affects your own wallet, it's more problematic. That's what we see here. That is absolutely unacceptable, and we, the New Democratic Party, will fight tooth and nail that change in this bill. Information about work assignments and employment standards rights: This is good. Yes, people should have information, but quite frankly, a member here mentioned the Payday Loans Act—another bit of “icing” legislation that doesn't affect the cake; another piece of legislation that doesn't really affect the rates charged to people who go to a payday lending place for a payday loan, but in some ways very similar to Bill 139 because one of the things that that Payday Loans Act does is demand that payday lenders post information about the real interest rates, the cost of rollover loans etc. Remember: We're dealing with basically a usurious industry here. They're loan sharks; let's call them what they are. They charge between 300% and 1,000% interest, and they still do—even after this bill will be passed. Imagine, if you're going to them—you're not going there because you have options; you're going there because you've run out of any other options. You go to a payday lender because the bank won't give you credit. You go to a payday lender because a bank or a credit union won't give you an advance on your paycheque. That's why you'd go to them: because you're desperate, you're starving and you don't have any money, and they're the last place in town that will give you any money. Posting the rates for a person like that and all the downsides of going to them is not going to deter someone who is desperate; it's not going to. We have to protect them; payday lenders won't.

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The same thing happens here: Information about work assignments, information on employment standards rights is all well and good. All the information will probably be pretty negative, but the person who's going to the temporary agency for work is the one who can't get a permanent job, who can't get any other work. That's why they're there. Telling them, “Guess what? Unfortunately, you won't get this and that if you work through us, and this is your legal right and this is not your legal right”—you know, it's like reading contracts. We've all signed contracts with all that fine print. Who reads them? Nobody reads them. We trust. Maybe we're far too trusting as Ontarians; I think we are. But in this case, certainly people would trust and sign. It's not going to make any difference to the reality of their lives. It certainly isn't going to make any ethical, moral difference to the dignity in which they find themselves in the workplace.

The idea in Bill 139 that after six months the temporary agency cannot charge a fee, or can charge a fee up until that point—in other words, removing a barrier to permanent employment for the temporary

employee working through that agency—is a step in the right direction. But—here is the big “but”—first of all, quite frankly, I think that there’s something afoul of the Canadian Charter of Rights and Freedoms in charging a fee for a temporary employee to go permanent. I quite frankly think that if these poor individuals who find themselves in that situation had good lawyers and could band together as a group, they could have a charter challenge on their hands, because I don’t think you can prevent somebody from hiring somebody and I don’t think, legally, you really can get away with preventing somebody from being hired. I think that’s a charter challenge waiting to happen, and I certainly would advise those who are employees to think about it if the issue comes up in their own lives. It’s very much like non-competition clauses. Many corporations ask you to sign a non-competition clause knowing full well that it really doesn’t have a lot of legal weight behind it, that you can’t prevent someone from earning a living. That’s the reality. Much as this is a good thing, I wonder, in terms of the true reality of the lives of the individuals it affects, how effective it will be.

The other bizarre side effect of this little point, by the way—remember my background as somebody who owned a permanent agency. I think most of us in this chamber would agree that it’s better to have a permanent job than to have a temporary one, and quite frankly, at no time soon are executive recruitment firms going to disappear from our landscape. They are part of our landscape and, they would argue, for good reason, because if you’re a company and you don’t have a huge personnel department, or even if you do, sometimes you need an executive recruitment and outplacement firm. The government uses them; we all use them; everybody uses them. They’re a fact of life in business, in capitalism. Unless we want to revamp capitalism—some of us might want to do that—they’re always going to be here. That’s essentially what I had when I was in the business.

What this funny little part of Bill 139 will do will be to encourage people to hire temporary employees rather than permanent ones. I just throw that out to the government because I wonder if they’ve considered the side effect of this aspect of the bill. In other words, if I can hire somebody through a temporary agency, be they an IT person, an engineer—remember, this is not just people doing bookkeeping and in the steno pool; these are agencies, many of them that place fairly high-paid individuals. If I were to hire them for six months and then get them for no extra cost, why would I ever place an order with an executive recruitment firm for the same person and pay a percentage of their salary, which would be way in excess of that six-month fee?

I really suggest that the government simply look at that angle of it. We haven’t heard very much from permanent agencies and executive recruitment firms yet, but we might, because once they read the fine print of this bill, they may have an issue with it. Suffice it to say, though, that I don’t think that under the charter you can prevent someone from hiring somebody without paying any fee at all. I would really be surprised to see a temporary agency challenge that if somebody held that up as a right, either as an employee or as an employer. Still, in all, it’s good to remind people that we can’t and should not restrain anybody from being hired by anybody at any time. So there is that. It could be strengthened; it might have problems.

Again, you see the kind of bill we’re dealing with here, the kind of bill that plays at the periphery of the problem of precarious, undignified, unstable, unrewarded labour in the province by tinkering around the edges of one of the industries that services that problematic labour force instead of dealing with the problematic labour force and the problematic labour relations that it implies.

What else? If we are to have a dignified labour force and less precarious employment, we need something—and this is where the rewrite of the Employment Standards Act is so imperative. We need something that demands of a company—not the agencies that service the company, but the company that has full-time employees—that there be a limit to the number of hours worked on a temporary basis within the framework of that company, because we know that companies these days are using huge pools of temporary labour to replace dignified full-time jobs. We know that’s what’s going on; we can see it everywhere.

How do you attack that? You attack it by saying, “You know, there’s a reason”—and there is a reason for temporary help—“for temporary agencies.” If somebody leaves on maternity leave, you need somebody to take over. You know it’s not going to be full-time; you know it’s going to be maybe nine months to a year that you need somebody. If somebody’s sick or on leave, you need somebody for that week or two. The European Union, I think, and very rightly, has looked at the limit of time that somebody works on a temporary basis. Now, of course, this has to be well done, because nobody would want to produce a scenario where people are simply firing and hiring to get around the spirit of the law by the letter of the law. You have to make sure it’s that person who’s hired on full-time.

We should not have the situation, as I described earlier, that I witnessed—CUPE 3903; a woman working 16 years on a contract basis. That should not be allowable in the province of Ontario. If you’re working on a temporary assignment, it should be a temporary assignment and have clear, clear parameters. I would suggest that the clear parameter be a time frame and that the time frame be about a year, because, quite frankly, I can’t foresee—prove me wrong—a situation where you would need a temporary—remember, in the true sense of the word “temporary”—employee for more than a year. So we need, in the Employment Standards Act, something that embeds the principle that temporary labour is exactly that—temporary—and that it doesn’t go on forever. We need that.

So limits on temp work, minimum wage, equal pay for equal work, and then—this is so critical—we need to do everything in our power, in this government, to enable organized labour to organize. There’s no other way of saying it than that. We need to do everything, from getting the votes counted at York University and others by OPSEU, to having card-check certification, not just for those in the construction trades but for everyone, so that that process can be democratic, so that it can’t be marked by intimidation by employers; and, certainly, sectoral organizing, so that the same battle doesn’t have to be fought over and over and over again.

This is something else that’s very interesting that they do in Sweden—I call it the “Swedish way”—and, again, it’s favourable to employers as well as employees, otherwise they wouldn’t be doing so well—and that’s sectoral organizing. That means that when a union comes up for renegotiation for their workforce, they do it together—all steelworkers, not company by company. They do this in Sweden; they do it with great good results both for companies and for the unions concerned. So that’s what we need as well—sectoral organizing.

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Finally, and this is a huge topic that I’ll spend some time on, no matter what we do when we look at the Employment Standards Act and we revamp it—and remember, the ethical, moral imperative is the dignity of human labour, the dignity of work. Essentially the philosophic and ethical undergirding of everything I’ve said is that whether you work on an assembly line or you work in the executive suite, your work should be dignified, you should be rewarded above the poverty line for what it’s worth, you should be able to hold your head up high when you go to work, and you should have rights, including the right to strike. That is then a dignified workplace. We want to make that available, as much as we can, to everyone. That undergirds everything.

But even if we were to rewrite the Employment Standards Act, including everything I have described in the last 40 minutes, we would still not be there unless we enforced it. Here is another problem. It’s a very large problem with Bill 139 and all the bills, quite frankly, that this government has brought forward around the issue of employment standards, and that is that there’s no law if it’s not enforced. Many times I’ve spoken in many communities, particularly around the \$10 minimum wage campaign that we wage, and I’ve stood there and I’ve said, “We don’t have employment standards in the province of Ontario.” People say, “What do you mean, we don’t have them? There’s an act, isn’t there? I mean, there’s inspection”—because we don’t enforce the act we have.

Now, I know the government has hired more inspectors. That’s a good thing, but it’s not enough, not nearly enough. A motion that I have on the order paper demands, because it’s been so long coming and

so long ignored, that 25% of all workplaces be inspected by employment standards, by the Ministry of Labour—25%. Why such a high figure? Because it's about 1% now—1%. That means if you're an employer, you have about a 1 in 100 chance of anybody from employment standards ever walking through your door.

What does that mean in terms of the ethicality and the dignity of labour? This is what it means for my constituents, and I'm sure we've all heard the stories: I have heard stories of people who have worked without getting paid at all, pure and simple, not at all. They worked for a week, and then the person said, "I didn't like what you did. Sorry, I'm not paying you." Now, who are these people? A lot of them, of course, don't know their rights. They're recent immigrants, some of them illegal immigrants. They have no recourse. Where do they take them? Are they going to fight through the bureaucracy of the Ministry of Labour to collect a couple of hundred dollars? No, they let it go and they move on. This happens all the time to immigrant communities, unfortunately. We know that the Ministry of Labour and employment standards has a huge, huge waiting list of cases, and it has a huge backlog of unpaid wages. We know that, because it's so difficult to collect, and really, the impetus to collect on your unpaid wages falls on the employee. Remember, we're not talking about CEOs with lawyers in their back pocket here. We're talking about people who work in the lower echelons of the pay scale, on the margins of our communities, in the minimum-wage or less-than-minimum-wage jobs. That's who we're talking about. That's who desperately needs an inspection from employment standards, not the corporate suite, and they don't come. Anybody who's ever spoken to a group of new immigrants in their riding will have heard these stories. I've heard them. Certainly they're not often paid overtime when it's due. Holiday pay, which this bill enshrines for temporary workers—I know a lot of permanent workers don't get holiday pay. They don't get the benefits they're due because they don't know they're due, and their workplace has never been inspected and, quite frankly, probably never will be, at the current rate of the rollout of labour inspections. That's the situation in which we live.

I remember when I was first married, my husband was eventually in advertising, but in the graphic arts business, and he was working for somebody else, and the hours were outrageously long. He was paid on a salary; he was not paid hourly. But when you figured out his hourly rate, it was actually less than minimum wage. The laws around overtime, which were in place at the time, would have helped him, but it would have required him, then as now, to file a grievance, to come forward to talk about what was going on in the design shop. Now, unless you're in a huge company where you're one of 1,000 employees, your employer is going to know who filed a grievance, who complained about them. Do you think there aren't going to be reprisals for that? Even if you did it anonymously, do you think they won't figure out who filed a grievance anonymously?

Employment standards enforcement cannot fall upon the shoulders of employees, ever—ever—because there are too many checks and balances in the workplace to make it unlikely that they'll ever step forward, number one among which is that they'll lose their job, and they don't have the lawyers to fight in civil court to try to get the employer to pay them for what they lost. Only people with money, cultural capital, are able to do that. These folk won't. No, they'll just disappear into the crowd and go to work for another unscrupulous employer. The Ministry of Labour and employment standards needs to inspect at least 25% of all workplaces now and do one sweep of them. I can tell you that you would already uncover huge, huge abuses of the Employment Standards Act without even adding to it. So when we add to it, like Bill 139—in this case dealing with agencies alone and not the big picture, the problem—who's going to enforce it? Who's going to enforce this? Unless we hire more enforcement officers, unless we make it mandatory that a percentage of places of employment be inspected, this is just going to be another piece of legislation that only those who know it exists will enforce and find recourse to. Those who are working through temporary agencies are usually the least able to challenge this.

Interjection.

Ms. Cheri DiNovo: My friend over here says, “It’s a good Liberal bill.” Exactly. That’s what a Liberal bill looks like: icing, no cake. It’s fascinating too that even the agency advocates who say they support this bill because it will drive those fringe agencies—this is the same way that the payday lending association said, “We like the payday lending bill”—that that should be a red flag in and of itself—“because it drives the fringe elements out of business.” Well, come on. Do we exist, as legislators, to help one company fight against another? In a sense, this bill will do the same. It will help to weed out some of the competition for some others that can afford to raise their rates, etc. But really, will it? Will it even do that? That’s a question. The fly-by-night temporary agency people that my friend Gilles Bisson was talking about, who operate out of apartments and don’t even have offices, who place their friends from immigrant communities for a mark-up, who basically break everything that Bill 139 is trying to address and every employment standards part of the Employment Standards Act is trying to address—will it really touch those people? This is the quintessential Liberal bill, in that sense.

This is like the bill that our friend Mike Colle brought in which said that people driving with illegal guns in cars should be illegal. Yes, sure, they should be illegal. They’re already illegal. Let’s make them more illegal. Let’s make them illegal and they’ll lose their driver’s licence. Do you really think that somebody driving in a car with a loaded gun cares about losing their driver’s licence? Come on. Do you really think that a person operating out of their apartment, placing friends and neighbours or friends of friends completely under the radar of the law, breaking every employment standard regulation, going against Bill 139, is going to stop their activities because we passed this bill? I wish they would. I wish it could effect that change. Quite frankly, it might even effect that change if there was enforcement, but there isn’t. There simply isn’t enforcement. We don’t have enforcement of what we’ve already got, and so Bill 139, like so much other paper that’s produced by this place, will sit on a shelf somewhere, drive a couple of smaller business people out of business, leave most of the abusers beyond the reach of the law and still not—and this is really what we need here in this province—add to the dignity of labour, the dignity of someone working.

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Now, I’ve spoken for almost 50 minutes without telling a story about someone who is actually affected by all this, so I will. There are a myriad of them. I’ve told in passing one such story about an immigrant who wasn’t paid for the work she did. But what about the ones who are paid? I can think of cases in my own family. Certainly, if you go back in my family one generation, you’re talking about first-generation immigrants. Some of them from England, some of them from Italy—cold, Mr. Speaker—some of them from Portugal. Sorry, flu is going around.

My mother-in-law from Portugal came over, worked in houses cleaning, like so many people, then worked as a health care worker—one of the ones excluded from this bill until 2012—needed to retire for health reasons just recently—thank you very much; honour among thieves—and retired without any pension or benefits even though she had worked her entire life in this industry. Essentially, the industry acted as a temporary agency, sending her out here and there to client companies. This is happening to our own, ladies and gentlemen. For those who are watching at home, you know somebody who is being touched by this industry. When 37% of the labour force is working in precarious employment, you know it touches everyone. This bill will not help my mother-in-law. This bill will not help other workers like her until 2012. This is another classic government move, isn’t it? “We’ll do it after the next election.” MPAC overhaul: “We’ll do it after the next election; we’ll freeze property taxes now.” “We’ll do it after the next election,” closing the coal-fired plants. Here’s another instance of that. “We’ll do it after the next election,” cover health care workers, community care access workers under this bill.

I know a woman in my riding who worked many years, always on temporary assignments, made minimum wage at all of them. She would come home, feed her children, get them doing their homework, put them to bed and then go out and work for another temporary industry, and that is the cleaning company contractors. She would go out and work at night cleaning buildings as an independent

contractor, so-called—of course she wasn't; she was a temporary applicant, not covered by Bill 139—to clean companies and then work through another temporary agency during the day. At the end of all this outrageous labour, at the end of a week, she was also one of the ones who I handed a free turkey to at the food bank just before Christmas because she didn't have enough money, even with those two jobs, as a single parent to really make ends meet. She said to me, "You know, really, at the end of the day, after deductions, I would have more time with my children and they would have a better quality of life if I were on social assistance." Quite frankly, I couldn't argue with her. She was right. She might clear a little less on social assistance, but then she wouldn't have to do back-breaking labour for 10, 12 hours a day, and she would have more time with her children and she wouldn't have to find neighbours to look after them, pay other people etc. and the cost associated with getting to work, transportation etc. I mean, she's not alone. Even middle-class women find themselves in this position because of the lack of dignity of work. Even middle-class women find themselves unable to really work with any sense of fair play because of the expenses associated with working.

I see that the hour is drawing nigh. I know I still have about five minutes left and I will save my five minutes for tomorrow to continue on speaking about this bill and to summarize exactly what I've been saying. Suffice it to say, we need to keep in mind, when dealing with Bill 139, what it doesn't do. It doesn't give equal pay for equal work. It doesn't give a living minimum wage. It doesn't extend the right to organize in labour for a vast majority of Ontarians. It doesn't put a limit on the length of time that people work temporarily before they must be hired full-time. It doesn't do that. Most importantly, it doesn't affect the client companies that the temporary agencies deal with, that are the source of the problem. Thank you.

Second reading debate deemed adjourned.

Feb 25, 2009

EMPLOYMENT STANDARDS

AMENDMENT ACT

(TEMPORARY HELP AGENCIES), 2009 /

LOI DE 2009 MODIFIANT LA LOI

SUR LES NORMES D'EMPLOI

(AGENCES DE PLACEMENT TEMPORAIRE)

Resuming the debate adjourned on February 24, 2009, on motion for second reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Deputy Speaker (Mr. Bruce Crozier): Further debate?

Mr. Yasir Naqvi: Thank you very much for giving me the opportunity to speak on Bill 139, An Act to amend the Employment Standards Act 2000, in relation to temporary help agencies and certain other matters. In simpler terms, this legislation, this proposed Bill 139, deals with regulating temporary agencies that hire individuals and assign them to a client site, and I will talk a little bit more about that further in my comments.

Before I do that, I want to make a couple of observations. I have often in this House spoken about the need to create sensible legislation, legislation that strikes the right balance: balance between the rights of the workers or employees and balance ensuring that we don't stifle entrepreneurship, that we give our businesses, our employers, the tools necessary to ensure that they run profitable, good, healthy businesses and employ more people in our community and in our economy. I believe that this particular legislation, Bill 139, strikes that right balance. It really, on one hand, upholds and further protects the rights of the workers, those temporary workers who use temporary agencies to get employment, and also the rights of the employers to make sure that they can rely on that type of temporary employee to conduct their business in a proper manner and be able to further contribute to our economy.

That type of balance is extremely necessary, especially for us as legislators, as policy-makers, when we are debating this type of legislation, to ensure that we have that right element in the legislation. In that regard, I want to congratulate the Minister of Labour, Peter Fonseca, for proposing Bill 139, and I also want to congratulate his parliamentary assistant, Vic Dhillon, for the work he has done to ensure that we have this bill in front of us for debate.

I have heard about this issue quite a few times in my riding of Ottawa Centre. Since I was elected a year and a half or so ago, this issue has been brought up to me: For employees who go through temp agencies, what are their rights? What kind of benefits do they receive? There are a few groups who have brought that issue to me, but I'm going to focus on one group who has often spoken to me about this particular issue. Those are immigrants in our community, or new Canadians, as we may refer to them, those who recently arrived in Canada, in Ontario, to build a new life. They have often spoken to me about the need to have more safeguards in place to ensure that those individuals in our society who get jobs through temp agencies have their rights protected.

We are a country of immigrants, as you know, Mr. Speaker. We've built this country along with First Nations, the aboriginal communities, over many, many years to be a very prosperous society. We welcome people almost every day who come to Canada, who come to Ontario—my family included, almost 20 years ago. The majority of the people who come to Ontario are here in search of a better life. They are here to make sure that they are more prosperous than where they lived before, that their children receive good education and have those opportunities to succeed, so that they have equal rights, which is something extremely important to cherish—to prosper right here in Ontario, right here in Canada. So they, in essence, are economic immigrants. They are not really here for political reasons. Some are, but most of the people who come to Ontario are economic immigrants. They're here to build

a better life. It is important for us to ensure that, as newcomers to our society, their rights are well known to them and are protected.

A lot of the new immigrants who come in are building a new life. They're starting out. It's akin to learning how to walk again. You're living in a new country, a new culture, a new society, a new climate, and you need to deal with that. You also need to build your economic life: to find a job; to fit into the profession, if you're a doctor, a lawyer, an engineer, and go through the whole accreditation process to make sure that you can practise in your respective profession.

Most of the immigrants, when they come in initially, so they can start sustaining themselves, so they can start paying their bills, so they can start making sure that their kids are going to school, engage in temporary employment because they've got to start living right away. They have to make sure. Those realities are very important. Not many people come to Canada with a lot of savings, so they have to integrate into the workforce right away. One recourse they have is temporary agencies, so they can find temporary employment. As they are adjusting well into their new community, as they are going back to university or college to get their new diplomas or degrees, as they are going through the process of getting their professional credentials recognized, they need to make sure that they are paying their bills. Today, we don't have many rights for those employees who work through temp agencies, which this bill, Bill 139, is trying to rectify. Those individuals who are working through these temp agencies are finding that they are really not taking that much of their salary home, that they are paying most of their salary through various fees, that there are barriers to them getting into permanent jobs while they are in these temporary positions etc.—and in a moment, we'll go through some of the elements of this legislation. It really creates a significant impediment for new Canadians as they are working very hard to integrate in the economic fabric of Ontario, and this legislation really goes to the heart of that.

I do want to acknowledge a lot of good work that is already being done in our cities, in our towns, in our villages, to help new Canadians better integrate, both socially and economically, in our communities. I know in Ottawa Centre, in my riding, there are a lot of great organizations that are working with newcomers to ensure that they have all the tools necessary. I want to take the opportunity to mention Carl Nicholson at the Catholic Immigration Centre, Lucya Spencer at the Ottawa immigrant women's organization, Hamdi Mohamed at the Ottawa Community Immigrant Services Organization, and Mengistab Tsegaye at LASI World Skills—great individuals, fantastic organizations, and they're working hard. I want to congratulate their staff, their boards and their volunteers for the tremendous work that they are doing in Ottawa alone and in my riding so that those who are making Ottawa their home are getting the right supports, are given the necessary tools, to build a better and more prosperous life in the city of Ottawa.

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This government has taken many other steps to ensure that immigrants have the right tools to integrate in their communities. The Fair Access to Regulated Professions Act, 2006, is another important example by which we are collectively working to ensure that we make it easier, more fair and equitable, so those individuals who have foreign credentials are recognized in a manner that is more effective right here in Ontario. There is a lot of work, no doubt, that needs to be done on that front, but I'm very happy that this government, in 2006, brought in the Fair Access to Regulated Professions Act and passed it. Through this legislation, the Honourable Jean Augustine is the first Fairness Commissioner, who is overseeing the work that is being undertaken. But we need to continue working on that front, because all these pieces together will ensure that immigrants who come to Ontario have the right tools necessary to succeed. When they succeed, we all collectively prosper: as a community, as a society. So it is in our best interests to make sure that those who are coming and making Ontario their home every single day have the right, necessary tools.

Let me talk about this legislation, Bill 139, and what it's trying to accomplish. What does it do? Again, I repeat that it's very important to remember that it really strikes the right balance between the rights of the employees and ensures that our businesses are running successfully.

First of all, I think at the most fundamental level what this legislation is trying to do is bring the whole mechanism that works through temp agencies—that is, the employment opportunities that are provided through temp agencies—under the fold and scope of the Employment Standards Act, 2000. For those who are watching these proceedings who don't know what the Employment Standards Act does, essentially the Employment Standards Act enshrines the rights of the employees and the obligations of the employers. In our daily lives, as we have various jobs in our communities, we are protected pretty much through the Employment Standards Act. So the number of hours you work, how much time you should get in terms of lunch break, statutory holidays or public holidays, how many and what days—all these things are within the scope and ambit of the Employment Standards Act. So essentially what we are doing through Bill 139 is that if you are hired through a temp agency and you've been assigned to a client, as they refer to a third party, to provide your services, you are also protected through the Employment Standards Act. That is what Bill 139 is trying to do and that's a big step, to ensure that the rights of those employees who are hired through temp agencies are protected through the Employment Standards Act.

There are four, I believe—in my reading through the act—factors which are extremely important or rights which are enshrined in this legislation which are worth discussing. The very first aspect is fees that are charged by temp agencies of the temporary employees. At the moment, in some circumstances and through some temp agencies, there are enormous amounts of fees which are being charged. So when an employee goes through this agency, not only is the temp agency charging the client, where they are placing the individual, but they are also charging the employee, I've heard, up to 30% or 35% of their salary. Of course that creates a huge, tremendous, onerous limitation on the individual, who is working very hard and then forgoing that much of their salary to the temp agency. Bill 139 would prohibit agencies from charging a fee to a person for becoming an assignment employee or a temporary employee, charging a fee for assistance in finding or attempting to find work with a client and charging assignment employees or prospective employees a fee for assistance in preparing a resume or for job interviews. This is a great direction.

However, agencies, of course, will be free to receive fees from clients because it's a business and they have to earn a profit as well. If a client comes to a temp agency, "I'm looking to hire a person to do some computer programming" and this temp agency finds an individual who meets the qualifications, then that client who requested them to find somebody is the one who will be paying a fee, not the employee who has been assigned to do the work. That employee, then, can take all the money they make, everything they're earning from that particular position, to their home, to their families and, as a consumer, spend it back into our economy—an important aspect.

The second element that's very important is the issue of reprisals. In many instances, we know that if the relationship goes sour or if the person leaves—a person is looking for a permanent job at the same location—that there are circumstances where there are reprisals. There are some significant prohibitions and enforcement measures in Bill 139 to ensure that reprisals don't take place.

Just to give you an example, Bill 139 would prohibit the clients of agencies from engaging in reprisals against assignment employees for asserting their rights. Currently, if a temp agency employee is on an assignment and finds his or her rights are being abused—for example, being forced to work excess hours—and if that employee complains to the client, he or she could be labelled a troublemaker and told not to come back. Even though the client company has reprised against the employee, that individual has no remedy currently against the client company under the current Employment Standards Act rules. Bill 139 would prohibit this kind of reprisal, a very important element in order to ensure that the rights of those employees who work in temp agencies are fully protected.

There are very important information provisions as well in this bill. Agencies will be required to provide certain information to the assignment employees in writing, such as the client's name and contact information when offering a work assignment, wages, benefits, hours of work, the pay schedule associated with the assignment and a general description of the work to be performed for the client. On the surface, this sounds very basic, as to, "Oh, why would you need this?" or "Of course that should be done." We have seen and heard of circumstances in our communities where people have been given an impression that they would be working at a certain location for certain hours, but in reality the job is totally different, the work hours are far in excess of what the person is getting paid, and there's no accountability. There is no legal enforcement against that.

What this particular provision around information is trying to do is to rectify the situation where there is an obligation on behalf of temp agencies to provide certain information to the potential employee so that the person can make a decision on whether to take the job or not based on proper information; there is full transparency associated with it.

Lastly, there are provisions dealing with undermining and eliminating barriers to permanent employment, because one of the things we want to see is that if a person gets a temporary position and if it can become permanent, that it takes place. So Bill 139 will prohibit preventing a client from hiring an agency's assignment employee, charging the client a temporary-to-permanent fee after six months or more have passed since the employee was first assigned to the client, restricting clients from providing references to an assignment employee, preventing an assignment employee from taking permanent employment with a client of the agency and charging the employee a fee if the employee should find permanent employment with that client. These are very important provisions to ensure that the rights of the employees who get a position through temp agencies are fully met.

I see that my time is running out. I think what I would like to say in conclusion is that this legislation very much works hand in hand with this government's poverty reduction strategy to ensure that members in our community, our families, working families, have the right opportunities to succeed. Making sure that we enshrine the rights of those employees who get jobs through temp agencies is extremely important. Yesterday, I mentioned the Payday Loans Act, which was passed last year through this Legislature. It's another important step to make sure that the rights of those individuals and working families in our communities are protected, that they have the safeguards on their side to ensure that they're not being taken advantage of and they have the means to take their hard-earned incomes home so they can spend it on themselves and their families and put themselves first.

Thank you very much, Mr. Speaker, for giving me the opportunity to speak on Bill 139.

0950

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. John O'Toole: I listened carefully to the comments made by the member from Ottawa Centre. For the most part, I would say, having worked in personnel and labour relations for a number of years with General Motors—in better days of General Motors, I might say. My point is this: I think almost everyone here would agree that on compliance with the existing Employment Standards Act, we're onside. I think, more importantly, it's important to put on the record that the main debate today is about the status of the temporary worker. This is someone—it may be a young person, a person re-entering the workforce, a person wanting to work part-time, different kinds of things to maybe augment the family income; but most important here, we should keep the focus on this: It's about a job. First, it's about a job.

What do we have in Ontario? We have a slightly contracted labour force—about 300,000 people without a job. Don't lose sight of the state of the economy and talk about these small fragments of important economic issues. That being said, if you read the sections carefully, there are a few sections that should cause you some concern. I'm referring to section 74.2 of the act that it's amending. It says: "... the part" of the act "does not apply to certain kinds of work assignments made under certain

contracts with community care access corporations.” Wait a minute here. What are the exclusions, if it’s good for all and you are making great trumpeting sounds about the fairness of it all? It is not consistent. It’s my understanding as well that certain agencies—let’s look at the health care debate. When they know that there’s an outbreak of SARS or whatever, they need to man up quickly for a period of time until they deal with this emergency issue, and then they go back to their normal employment levels. I’m not certain that this bill is clear enough on what it’s trying to achieve, so I’m looking forward to public hearings on this bill, because it’s poorly drafted.

The Deputy Speaker (Mr. Bruce Crozier): The member for Nickel Belt.

M^{me} France Gélinas: I want to talk about some of the comments that were made, basically about the issues facing temporary agency workers. One would tend to believe that they can all be put into the same basket and treated the same way, when this is not the case at all. The issues addressed in this bill represent only some of the issues facing temporary agency workers and peripheral workers more generally, but it certainly doesn’t cover it all. In reality, we need to get at the fundamental changes in peripheral workers in today’s market. There are broader issues that have to do with fundamental rethinking of the Employment Standards Act.

In Sudbury, up to a few months ago, mining was booming. They couldn’t hire people fast enough and they certainly relied on temporary agency workers to come and fill the need, the intention being that they were not able to recruit and give full-time employment, so they used agencies to help in the short term. But here again, even in those circumstances, the Employment Standards Act failed those people. It failed them in terms of WSIB coverage. Might I remind you that mining is still a very high-risk occupation in this province. Once you deal with a temporary agency and you’re considered an independent contractor, you are not covered.

So there are all kinds of issues that need to be added on to this bill if we want it to achieve the goal that it set out to do. We, too, are looking forward to seeing this bill in committee so that it can be modified to do what it set out to do.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Mr. Khalil Ramal: I want to thank my colleague the member from Ottawa Centre for his eloquent speech detailing the important elements of this bill. I think he said it right. This bill is an important step toward reforming temporary agencies in the province of Ontario, which play a pivotal role in our community, but sadly, there was no regulation in this element of our economic structure. I think it’s important to regulate them and make sure all the people who are working through those temporary agencies are well protected, especially, as you mentioned, the newcomers who do not understand the rules and regulations of this province, who are looking badly for jobs and do whatever is possible to feed their families. I think that it’s our obligation, our duty, to protect everyone, especially the vulnerable among us who are looking for jobs.

So I want to congratulate my colleague for telling this House and the people of Ontario about the important elements of every step and why we introduced this bill and why it’s important for all of the people of Ontario that this bill pass and become law in the province of Ontario to govern those temporary agencies.

Also, and I heard many different people speaking before us today and the other day, it’s not against the temporary agencies. It’s not against anyone. I know some of them do a good job trying to find jobs for many people across the province of Ontario. But it’s important to make some rules and regulations to make sure all those temporary agencies are working according to the rules and laws. Many people, especially the workers, sometimes pay the price because some of those temporary agencies are fly-by-night agencies and they don’t pay the workers. That’s why it’s important to regulate this industry.

The Deputy Speaker (Mr. Bruce Crozier): Questions and comments?

Member for Ottawa Centre, you have two minutes to respond.

Mr. Yasir Naqvi: I want to thank my colleagues from Durham, Nickel Belt and London—Fanshawe for their insightful comments in response to my comments on Bill 139.

I want to reiterate that this legislation is important to ensure that, for those individuals who are working through temp agencies, those individuals who are working very hard—and as I was alluding earlier, a lot of them happen to be newcomers to Canada—to build their lives, to integrate into this new society, into this new province, this country which they are calling their home now, those workers' rights are protected under the Employment Standards Act. Bill 139 is doing exactly that. It's making sure that temp workers, or assignment workers, as they are referred to in Bill 139, are recognized in the legislation, that they are protected by the obligations and the rights that are outlined in the Employment Standards Act so that they are full participants in our economy.

I think it's even more important today, given that we're going through some tough economic challenges not just in Ontario, not just in Canada, but across the globe, if you look at some of the Asian countries which are suffering far more than we are in Canada—and we are fortunate for that—that we create measures and we have safeguards like that so we encourage employees to be full participants in the workforce so that their rights are protected. We need all of us at our best to ensure that we contribute to the economy.

The Deputy Speaker (Mr. Bruce Crozier): Further debate?

Mrs. Joyce Savoline: Good morning and thank you for the opportunity to speak to Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters.

I'm disappointed that we're here in this Legislature once again debating another regulatory bill when hard-working Ontarians are losing jobs by the thousands. As a result of this bill, if it passes the way it has been written, there will be more unemployment. Ontarians are looking to their government for some help. You can't call a late budget help, or the fact that we were fiscally in a full-blown recession—

The Deputy Speaker (Mr. Bruce Crozier): Member for Burlington, you may be disappointed, but we are discussing Bill 139 and I would appreciate if all members would keep that in mind in their debate.

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Mrs. Joyce Savoline: Thank you, Mr. Speaker.

I would like the minister to tell me why he is creating make-work projects when we have much more urgent business to attend to. Deflecting from that business with this bill does not serve us well in this Legislature.

Taking up valuable debating time when we are struggling is not appropriate. This is yet another bill and another example of a good idea not being followed through appropriately. It does not identify the hardships that will ensue for firms that are scrupulous and for their employees. I understand that there are some firms that take advantage of employees, but the legislation should target those companies and those companies only.

Did Minister Fonseca say, "Mr. McGuinty, I know that the economy is weak and that we don't have a plan to make it better, but what I'd like to do is make it harder for the businesses who are out there finding employment for transitional and temporary labourers to operate"? What planet are we on here? This is yet another bill that is taking time in this House when we need to focus on other business. The private sector is the only sector that will suffer from this bill, because those contracted by government agencies will not be affected by this bill. Why is that? That creates a very unlevel playing field. I've amassed a great deal of experience in how some of these regulations are rammed through without much public consultation. The honest truth is, we are hurting the very businesses who are picking up the slack for this government's inaction.

A constituent of mine who provides non-medical in-home care to seniors and others in need of daily assistance shared their concerns with me over the impact that Bill 139 would have on their clients and their business. Their business is thinly margined. The proposed changes will add costs and ultimately

drive up the cost of their services for their seniors who can ill afford that increase right now. Many of their home care workers want the flexibility of casual labour. As employers, they need to tailor work schedules based on clients' needs. This should not trigger termination. There are parts of the bill that are clearly aimed at preventing abuse from unscrupulous employers and they wholeheartedly support those, as I do, as it works to improve those situations.

My colleague from Thornhill's stakeholders have shared these objections to Bill 139:

"Our primary concern is the removal of the 'elect to work status' and how it will effect notice of termination.

"This cost burden will make it impossible for clients to continue to use agencies which they have come to depend on to remain competitive in a global economy. The use of temporary workers helps them manage peak periods and fluctuations." This bill wipes all that out.

"This will remove the flexibility that many organizations have come to require in this global economy with goods arriving from various ports.

"Many of these organizations will leave this province if that flexibility is lost and move to a more business-friendly environment. With what is occurring in the US, they will continue to receive an even greater incentive to do so.

"Numerous large organizations have temporary workers as part of their business plan, including many with unionized environments.

"Those organizations that do not move will ultimately be forced to consistently turn over its workforce in an effort to minimize such impact.

"This will force all parties to immediately turn over the staff prior to three months of employment to avoid the issue altogether.

"How can such a policy truly benefit a worker that is trying to develop the skills to gain better full-time employment, when they are displaced every 10 weeks?

"Please remember that many of these workers are new Canadians with good work ethic and skills, but lacking the communication skills clients would require for them." They try to take temporary employment while they gain the communication skills in order to obtain full-time employment.

"Working temporary assignments as a starting point provides them with an opportunity to contribute, pay taxes and feel proud of themselves.

"Statutory holiday pay" is "becoming mandatory effective January 2, 2009. Our agency has paid statutory holiday pay to a percentage of our workforce based on attendance, longevity etc. so we will be able to digest such a notion," says this company.

"However, the cumulative effect of this with the other proposed changes will be economically devastating to our industry and our clients.

"Overall it is the timing of such a mandate that is disturbing. Our province is facing a financial crisis" — just as it is in the US and globally.

"Many areas are constructively working with business to increase cash flow and employment opportunities. Ultimately such a mandate increases the cost of our client organizations at a time when even the largest, most stable organizations are struggling to survive.

"Such policies will have a negative impact on our clients, ourselves and ironically the workers that such a bill was trying to protect.

"These workers will be easily replaced in such a market, and given no chance for longer assignments unless they are truly extraordinary yet will have a negative impact on morale and overall efficiencies." Sad tale to tell.

The Association of Canadian Search, Employment and Staffing Services, more commonly known as ACSESS, says:

"There are three technical shortcomings within the bill which require improvement, otherwise these areas will cause an overall failure to achieve the stated objectives.

“These shortcomings unintentionally create an overly complex set of rules that are administratively unmanageable for any employer and may be impossible to monitor and enforce.

“These shortcomings will also unintentionally cost thousands of jobs and cause significant hardship for the people the bill was specifically designed to protect.”

In the continuance of employment while not working category, ACSESS is very concerned with subsection 74.4(2) because it creates an implied continuance of employment while not on assignment, which in turn constructs an inconsistency between the employer’s obligations and the reality of the employment context. This is inconsistent with every other jurisdiction within not only Canada, but North America. The legislation fails to appreciate the nature of temporary employment and the staffing services industry. It creates a different and higher standard for staffing company employers and creates a higher cost of burdens and liabilities for temporary staffing companies compared to all other employers within every other industry. ACSESS is very concerned that this proposed amendment will result in a significant reduction in the number of short-term employees being hired and will result in higher unemployment in the province of Ontario. This provision will cause the greatest harm to the thousands of employees who choose—because there are people who choose—temporary employment and benefit significantly from the flexibility and training that is provided. Moreover, it imposes a higher legislative standard on staffing industry employers and contrasts existing provisions of the Ontario ESA. There are recommendations for the continuance of employment while not working. They suggest that we don’t codify a continuance of employment and recognize and respect periods of active versus inactive employment. There is no employment when the assignment employee is inactive—that means not on assignment. So they’re suggesting we delete clause (b). Do not impose a different and higher legislative standard on staffing firm employers.

ACSESS is also very concerned with the proposed amendments in the area of notice of termination and severance. The amendments set up a general rule that an assignment employee will be deemed to be terminated and severed if he or she is not assigned work for a period of 35 consecutive weeks, subject to some exceptions. The amendments also set out detailed rules respecting how to calculate termination and severance pay for assignment employees. As is the case with the issue of continuance of employment, the amendments proposed within Bill 139 construct an inconsistency between the employer obligation and the reality in the employment context. This is inconsistent with every other jurisdiction within Canada and within North America, and the legislation fails to appreciate the nature of temporary employment term contracts and the staffing services industry.

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Section 74.11 amendments establish a new obligation for staffing services employers in the areas of notice and termination. This section creates a separate and higher standard for staffing company employers and creates a higher cost of burdens and liabilities for staffing companies compared to all other employers within every other industry. This is not fair. These amendments also stand in direct contrast to the government’s stated intent, which is to ensure that Ontario’s employment legislation recognizes the needs of temporary employees and employers in a fair and balanced way. The proposed amendments will, however, create confusion and ambiguity for workers and employers, while also creating an impossible standard for record-keeping and administration associated with inactive workers. The amendments are prohibitive from an administrative standpoint. What are we doing? Increased costs disable staffing companies’ ability to provide services to clients and to job seekers. This isn’t right. Short-term workers who are unemployed and underemployed and who are in most need of work will either not be offered employment because of the increased costs associated with not remaining consistently employed, or they will be permanently terminated prior to achieving the three months of tenure. This will not have a positive impact on the removal of barriers and will serve to limit employment opportunities for Ontario workers.

There are recommendations for termination and severance. That is to delete subsection 74.4(2):

“An assignment employee of a temporary help agency does not cease to be the agency’s assignment employee because, ...

“(b) he or she is not assigned by the agency to perform work for a client on a temporary basis.”

Do not impose a different and higher legislative standard on staffing firm employers. Respect well-established and recognized employment principles and provisions contained in the act.

Ontario Employment Standards Act regulation 288/01 identifies employees who are not entitled to notice of termination or termination pay under part XV of the act, subsection 2(1). It states that the notice of termination and termination pay requirements of the ESA do not apply to an employee who was hired for a specific length of time or to do a specific task. Now we’re contradicting.

Regulating business terms and client fees within service agreements: Paragraph 8 of subsection 74.8(1) and “Exception” subsection (2) limit a temporary help agency from charging a fee to a client in connection with the services provided. The client is always a company or organization and is never the worker or candidate. Controlling financial business terms between a staffing service and client represents a misapplication of employment standards legislation in the area of consumer and commercial transactions.

The ESA governs the relationship between employers and employees in Ontario. The act should not be misused to interfere with established contractual business agreements between staffing firms and their clients. Temporary help services incur significant advertising, recruitment, background, screening, risk and other overhead costs and should be permitted to offer their services to clients without the government’s arbitrary interventions, limitations and restrictions upon legitimate business terms.

This provision fails to provide any meaningful benefit to low-wage workers and will significantly damage the largest percentage of the industry providing this important service in the areas of information technology, accounting, engineering, medical services and other professional services. These amendments will cause significant hardship and irreparable harm to staffing service companies, and by extension to their clients and the candidates for employment.

There is a recommendation for regulating business terms and client fees within service agreements. The suggestion is to remove paragraph 8 of subsection 74.8(1) and “Exception” subsection (2), which interfere with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

The timing of this legislation is concerning, both in terms of meddling with employers—good employers—in a challenging economy, and how swiftly Mr. McGuinty wants to implement this bill. The implementation is to be a mere six months after the bill receives royal assent. That seems a little quick to me. I would say that the stakeholders have given this bill more thought than the government has and the quality of their argument proves that. It’s a true shame—

The Deputy Speaker (Mr. Bruce Crozier): Excuse me, member for Burlington. I’m sorry, but we’ve reached 10:15.

Second reading debate deemed adjourned.

March 2, 2009
EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009 /
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

Resuming the debate adjourned on February 25, 2009, on the motion for second reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Speaker (Hon. Steve Peters): Further debate?

Mrs. Joyce Savoline: Thank you, Mr. Speaker. I am appreciative of the opportunity to finish this last couple of minutes of my comments, which I started last week.

I want to continue by saying that the timing of this legislation is concerning. It's concerning both in terms of meddling with employers in a challenging economy and also how swiftly Mr. McGuinty wants to implement this bill. The implementation is to be a mere six months after the bill receives royal assent. That seems a little quick to me. I would say that the stakeholders have given this bill far more thought than the government, by the quality of their arguments. It's a true shame that the McGuinty government has chosen to waste this Legislature's time with non-urgent issues when our economy is in a tailspin.

I also have trouble reconciling the notion of penalizing employers at a time when our job market is in such distress, a peculiar and sad statement about the McGuinty government. Please note that the temporary agencies that are contracted by the provincial government are exempt from these new regulations. What is that about? It has been obvious to me and my colleagues for quite some time that there are rules for the McGuinty government and rules for the rest of us, but I have never seen it codified quite this way before. That is very unfair and it is sheer arrogance on the part of this government.

I thank the stakeholders who did their research on Bill 139 and provided such valuable feedback. I hope that the government takes their concerns to heart, as my caucus colleagues and I have, and that they will be making suggested changes to this bill because it is a challenged bill.

To the government and to Mr. Fonseca, I say: Back to the drawing board. This bill isn't even close to being ready. It is wasting precious time in our legislative agenda that should be dedicated to getting our economy back on track.

The Speaker (Hon. Steve Peters): Questions and comments?

Mr. Peter Kormos: I'm going to be speaking to this bill further on behalf of New Democrats in just about eight minutes' time, and look forward to that opportunity.

I think in the discussion of the bill we'd better look at ourselves. This Legislative Assembly should do some housecleaning of its own, because the Legislative Assembly, of course, uses temp workers hired by temporary agencies. These workers are inevitably underpaid; they're not given the same rights as full staff of the Legislative Assembly. They work the same hours, some have worked for weeks and months, but this very Parliament uses temp agency workers who are being ripped off, scammed, not only by the temp agency, but by the Legislative Assembly itself. Shame on us. We indeed should be putting our own house in order and should be demonstrating leadership.

The other observation and reality, of course, is that as more and more jobs are lost here in the province of Ontario, working for anybody becomes increasingly a novelty. As unemployment skyrockets, working women and men are going to become increasingly desperate for any employment under any circumstances and under any conditions. They will be competing with each other and they will be

underbidding each other for work. That's the kind of desperation that's developed in a provincial climate where our government has abandoned the workers of the province and where the government has abandoned any hope for those workers seeing their jobs maintained, never mind the prospect of them being restored.

This bill is not just about temp agencies per se; it's about the nature of a failing economy that this government has done nothing to address.

The Speaker (Hon. Steve Peters): Questions and comments?

Mr. Norm Miller: I'm pleased to have a chance to comment on the speech from the member for Burlington on Bill 139, which is the temporary help agencies bill put forward by the Minister of Labour. I would agree with the member for Burlington that the timing of this bill could, in fact, hurt employees versus helping them, and it could hurt businesses at a time when we're losing all kinds of jobs in the province of Ontario. We lost some 70,000 jobs last month. I don't think we should be rushing something through that could have a negative effect on those people who are currently employed through temporary agencies.

I note that under our labour law, severance is payable at three months, and there is a trending toward longer terms at temporary agencies, so this certainly becomes an issue. This government and this minister recently passed the WSIB bill that's going to be an additional cost on business as well. On that one, they're not implementing it for three years—I think, conveniently, after the next election, so I see maybe a little compromise and delay in bringing this one in. I certainly hope that there's going to be fulsome time spent at committee so that those people who have concerns with this bill will be able to voice their opinions and hopefully improve it, because the last thing we need at this time, when the economy is so weak, is to bring forward legislation that's going to further hurt our competitiveness in this province of Ontario. So I hope they will take the time to make sure they listen to those people who work for, and those people in the business of, temporary agencies.

The Speaker (Hon. Steve Peters): Questions and comments? The member for Burlington has two minutes to respond.

Mrs. Joyce Savoline: I want to thank the member for Welland for his comments and also the member for Parry Sound—Muskoka.

I agree that there are agencies that are managed by folks who are opportunists and who will take advantage of situations. There's no question that that's going on. But I really don't believe that they're in the huge majority; I really believe that most agencies are abiding by the law and are very much so law-abiding citizens and they follow the rules. They have successful businesses with folks who join these agencies as temporary workers by choice, not being forced to do this. For a lot of them, it suits their lifestyle, or this is their preference in how to seek employment. I think what we're doing here is going in with a sledgehammer to fix something that can be fixed far more easily and be focused on those folks who are not law-abiding and who do not follow the rules.

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I too hope, as does the member from Parry Sound—Muskoka, that this bill receives fulsome hearings, that there is an ability for people across our province to comment on this. I know I have received many such requests. There should be an opportunity given both to people who are working as temporary workers and the agencies they work for to be able to come and speak to the inadequacies of the way the bill is written so far. It is my hope that the government listens and that, by the time we are through with the hearings, the amendments are taken for what they are, good suggestions, and that we can move on and make this bill into something that we can all be proud of.

The Speaker (Hon. Steve Peters): Further debate.

Mr. Peter Kormos: First, it's a delight to be able to speak to this bill because I know that page Olivia has her parents visiting today. It's always nice, and I know the other pages would hope they all get a chance to bring folks or kin here if at all possible.

Olivia, of course, and her folks are residents of the riding of Trinity–Spadina. That’s Rosario Marchese’s riding. I explained to Olivia how we have a tradition here that the page has lunch with his or her member during the time that they are here. We usually do it in the dining room downstairs. They haven’t made an arrangement yet, Olivia told me.

Mr. Rosario Marchese: We have.

Mr. Peter Kormos: Oh, you have. What date is it, Rosie?

Mr. Rosario Marchese: Just a couple of days ago.

Mr. Peter Kormos: You did it a couple of days ago? Oh. You don’t do it when the folks come, huh?

Mr. Rosario Marchese: Well, I talked to them, because—you should have let me go.

Mr. Peter Kormos: You should have been here a couple of days ago. Your MPP would have bought you lunch.

I’ve just got to say this. Twenty-one years later, I never fail to be amazed by the quality of pages that we have here. It’s just truly amazing. And over the course of that time, like with so many others here, you go to a university campus or some town somewhere in the province and someone will come up to you and tug on your sleeve and say, “Mr. Kormos, do you remember me?” Of course I don’t, because you’re in grades 7 and 8 when you’re a page here, and then you are in university, you’re a graduate. They remind me—

Mr. Garfield Dunlop: But you’re still here.

Mr. Peter Kormos: Garfield Dunlop says I’m still here. I obviously haven’t progressed the way these pages have. They’re going to go on to pursue real careers. But it’s truly fascinating. You have pages come up—they’ve done it with so many members here—tug your coat sleeve and say, “Remember me?” Of course, once they explain what year, which Premier, which Speaker—but the pages also, and you folks should know this, pick up more parliamentary procedure in their four and five weeks than more than a few members of the assembly have picked up in decades. They’re just tremendous people. Olivia has been an absolute delight, and I hope her folks are very proud of her, as I’m sure all these young people’s folks are.

We’re talking about temp agencies. That means temp workers. That means people who don’t have full-time permanent jobs in most cases, but for that, again, interesting little angle and spin on it here.

Talk about us getting our own House in order. You know, Speaker, don’t you? We have people working in this building who are hired through temp agencies. You know they receive but a fraction of the wage earned by their co-workers who are full-time employees of the assembly. You know that, don’t you, Speaker? They do the very same work, and they’re not filling in for a couple of weeks while another worker is off on sick leave or maternity leave. They are working here for weeks and months at a time. I’ve met them; I’ve talked to them. We’ve got a human resources department, for Pete’s sake. Why are we hiring workers through a temp agency? Can the Minister of Labour ever justify that? I don’t blame him, because it’s not within his bailiwick.

Mr. Mike Colle: Talk to the Speaker, will you?

Mr. Peter Kormos: I am speaking to the Speaker. We’ve got a human resources department, fully staffed. Why we’re hiring temp workers who are being paid a fraction of what their co-workers are making just boggles the mind, which brings me to Eurest, the private contractor running our food services downstairs.

I remember, just like you do, Speaker, when the Conservative government dismantled the staffing of that cafeteria and restaurant downstairs. I want to make it very clear that, unlike many rumours and unlike the reality in some other Parliaments, that food service downstairs was never subsidized by the taxpayer. Even when the staff there worked directly for the Legislative Assembly, we—and it’s not as if we couldn’t afford it—paid whatever it cost to produce the food and pay the workers there. The Conservative government dismantled that and contracted out the service. And you’ll recall as well—because I recall sitting with them right up there—those workers, some of whom had worked for 15, 20

and 25 years, most of whom were women, most of whom were new Canadians, were told they could keep their jobs, but at a fraction of the wage that they had been paid.

Now I'm told by some of those same workers downstairs that they're having hours cut back and that Eurest is hiring part-time staff. We know their wages are deplorable. Again, I don't mind paying an extra quarter or 50 cents or whatever it is the most recent price increases were for a bowl of soup or a sandwich, but I sure as heck expect those workers to get a piece of that.

We'd better take care of our own house first and get our own house in order. I think that would be a subject matter for BOIE, Board of Internal Economy.

For the life of me, I can't see why we're letting a contract out to a private company that won't commit to full disclosure of things like wages, that won't commit to a pattern of wage increases when there are price increases, and that won't commit to maintaining full-time jobs for hard-working people.

Look, all of us go downstairs to that cafeteria, and the staff are just stellar, aren't they? They treat us with such respect, with such warmth and with such politeness. They work as hard as anybody could ever work, and in the food service industry that means working pretty hard, on your feet all your shift.

It seems to me that we, as a Parliament, should ensure that workers in this building, whether they're working for the Legislative Assembly through a temp agency or whether they're working for a contract servicer, a contract provider, like our food services—oh, yes, it was the Conservatives that contracted it out, but it was the Liberals who, after five years, have done nothing about bringing it back in to a Legislative Assembly service.

You know full well food ain't cheap down there. It's not as if somehow we're getting discount food—and we don't deserve discount food; everybody here makes a pretty good wage, a pretty good salary. I'm talking about in the chamber, not necessarily the people who work for us. I am not whinging. Did you get that word, Speaker? Whinging. I'm not whinging about the prices, but I am whinging about the fact that those workers are very much part of that class of workers who are being treated as second-class workers.

As the economy gets harder, it's going to become more and more frequent. My colleague Mr. Marchese and I were just talking during petitions about how when you have these kinds of tough economic climates, this is where labour relations suffer. You know why? Because in a tough economic climate like this, with huge levels of unemployment, it's easier to generate busloads of scabs.

Even good people, when they're afraid of losing their houses, start reflecting on the prospect—people who would never in a million years ever think of scabbing or crossing a picket line. Even good people in tough, tough times—oh, and I'll never countenance scabbing. You've heard me quote Jack London's definition of it, and I don't want to have to do that again. We'll wait a couple more rounds before I repeat that. Scabbing, of course, is one of those dangerous things to labour relations, because it means that there's no incentive on management to settle. You get people underbidding each other for the same work. It becomes easier and easier to force people to work for less and less.

Cheri DiNovo, our member from Parkdale–High Park, has advocated for effective, meaningful reform of the temp agencies for a long time—since her election here.

Look, we're going to support this bill on second reading. It has got to get into committee, because there's a whole lot of work that remains to be done, as has already been noted by Ms. Savoline, amongst others.

1400

We are particularly concerned about the exclusion of, amongst others, home care workers—section 74.2—the contract services that are provided by CCACs. We already saw the vicious attack on CCACs with the competitive bidding model. Victorian Order of Nurses, Red Cross—who else, Mr. Marchese? You recall the lengthy list—done in. Mrs. Caplan, the former Peterson minister, was called upon to investigate the matter and to report back. She maintained that the competitive bidding model was the

best possible model, when we know full well it isn't. So we have serious concerns about section 74.2, and we question the purported premise of the government in that regard.

It is imperative that the committee hearings focus on, amongst other things, the exemption of home care workers, something that the SEIU, CUPE, OPSEU, ONA and others are adamant about. They need an opportunity to talk about the people they represent. In those very difficult working conditions, why they would be exempt just boggles the mind. It beats me. I can't for the life of me figure out any honest reason for exempting them.

Again, these are people who work hard, especially in the contract services area and in the temp agencies area, where they're earning a fraction of what their peers are earning—and in home care, where they're travelling to several homes possibly in one day, dealing with a high-needs Alzheimer's person in the morning, dealing with another person in the afternoon, dealing with people who are in any number of physical and mental health conditions, and doing it knowing full well that they aren't being given enough hours with each client to do justice to that client.

You know these home care workers too. They go the extra mile. They're the ones who bring little gifts to people whose homes they attend. They're the ones who stay a little longer if it's the end of the day or the end of the shift and they can get away with it with a particular client, even though they know that the agency isn't going to pay them for it.

Any of us who have or have had aging parents who have been fortunate enough to get a few hours of home care a week know who these people are: some of the hardest-working people, some of the most professional people in our community; people who are being called upon to do jobs that many of us not only couldn't do but wouldn't do—and they're exempted.

The issue really isn't just temp agencies; the issue is the Employment Standards Act.

I like the minister. The minister is an ambitious and hard-working member of this Legislature. I have no hesitation in saying that. The problem is, the minister doesn't call the shots; the Premier's office does. We know that. You can attend all the cabinet meetings you want and it ain't worth spit, because it's vetted by the brain trust in the Premier's office.

You know that yourself, Speaker. There's a member of this Legislature who has produced a very, very important piece of legislation that deals with fire alarm systems—well, not the alarms, but the water systems. Everybody supports it. It could be phased in with new home construction, it could be phased in in any number of ways, to control or contain the supposed costs argument. Notwithstanding that member's best efforts—and she's a hard-working member too—if the Premier's office don't give it the nod, it simply don't happen, which is why when people call me about those types of efforts, on this particular bill, this water system, I say, "Look, call me if you like. Don't blame the member. But I'll tell you what: Here's Dalton McGuinty's office number. Lean on him, because that's how it's going to happen."

What we need is a thorough overhaul. This is why I speak in such complimentary tones of the minister, because I am buttering him up for what we really would dearly love to see and what he could have as a legacy piece of legislation, and that would be a major overhaul of the Employment Standards Act, all-encompassing, instead of little bits and pieces, an Employment Standards Act that applied to every worker in this province. Because one of the concerns with the temp agencies act is the increasing trend to treat workers and employees as contract persons. That way, you get them in under the radar and you have them work for less than minimum wage, because, of course, they are contractors. A whole lot of home workers, people in the needle trades—Rosario Marchese is very familiar with that group of workers. They're a big chunk of his constituency: people, usually women, who sew garments at home. You see, they are contractors, so they are not entitled to any Employment Standards Act legislation. They end up working for \$2 and \$3 an hour. And they work hard. They work darned hard, sewing designer labels into high-end couture so the Bloor Street carriage trade, Yorkville crowd can show up on the lifestyle/social pages of the Toronto Sun or the Toronto Star on the weekend at their opera house

opening or at their charity ball, while some woman sat in a basement apartment sewing that garment for a couple of bucks an hour.

Please. How can we talk about temp agencies and regulating them and protecting the interests of workers who are employed through temp agencies without talking about the minimum wage? It's always, "Oh, not now. Now is not a good time." You see, the problem is that minimum wage workers didn't receive a single increase in minimum wage for 10 years plus. So I appear on one of these talking-head shows with the CFIB, the Canadian Federation of Independent Business, Catherine Swift et al.

Mr. Garfield Dunlop: I like her.

Mr. Peter Kormos: Garfield Dunlop likes her. He would. She is on the far right wing. She doesn't want workers to get increases in minimum wage either.

So I appear on these talking-head shows, and the CFIB types, many of whom I like except that they are so right-wing, say, "Well, you know, now is not a good time because employers can't afford to pay more." But, you see, I have to point out that workers were subsidizing the employer for 10 years plus, weren't they? They don't have a response to that. Think about it. Minimum wage workers who didn't receive a penny increase for over 10 years—in that instance, it was literally like paying money out of their own pocket to their bosses. Now it's time to pay the piper. It's time to catch up.

That's why New Democrats are adamant that the minimum wage, right now, right today, should be \$10.25 an hour. And we know—because, you see, the vast majority of employers of hard minimum wage workers are not small business people. Most small business people pay a dollar or two dollars above the minimum wage. We're talking about family businesses, for instance. The vast majority of minimum wage workers, for whom they live to the letter of the law and not a penny more, are the Tim Hortons and the McDonald's of the world, the big chains, the ones who can most afford to pay a decent wage—still not a living wage—to workers who haven't received a penny increase in 12 years. Twelve years they went without a penny increase.

And every penny of that minimum wage earned by that minimum wage worker is spent. They weren't out buying RRSPs today, let me tell you. They don't stash their money in offshore bank accounts. They don't take vacations in Nassau in the Bahamas. They don't cross-border shop. They spend every penny in their own communities, usually in their own neighbourhoods, usually in those same small businesses that we're talking about. What better way to provide some local economic boost than to increase the minimum wage to \$10.25 an hour?

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So I tell you, we're going to vote for this with some real hesitation, because we think it's imperative that this get into committee. Those committee hearings should be broad based. They should travel the province because—how many times have I got to say it?—reality for the folks up in Attawapiskat and Peawanuck is light years away from the reality for people in southern Ontario. I say that that committee, if it's serious about seeing the impact of this legislation and the legislation's failures, should be ensuring that every Ontarian, regardless of how small the town is that they live in, how far north they live, how remote they live, has an opportunity to have their views heard and, more importantly, considered.

The Acting Speaker (Mrs. Linda Jeffrey): Questions and comments?

Ms. Lisa MacLeod: Thank you, Madam Speaker. It's a pleasure to see you in the chair.

I wanted to enter the debate today. My colleague and I don't often see eye to eye on public policy, though we are quite collegial. I just wanted to say this is the second bill today that has been introduced in reading, or I guess this is a bill that is being debated, from the Minister of Labour. It's also the second bill today that we've discussed because there was first reading of another bill. I was sitting in the gallery while he was making his remarks about organ donation, and while we may not see eye to eye on this piece of legislation, I certainly listened with great interest in and support of his comments with respect to organ donation and the real issue in terms of making sure that we encourage as many people as possible to donate their organs and make that as easy as possible, so I appreciate that.

I'll be up to speak in a few minutes about my opposition to this piece of legislation and some of the circumstances that we're facing here in the province of Ontario and some of these bills. As my good colleague from Welland notes, this is another piece of legislation that is introduced to distract us from the challenges we're facing in the economy. Rather than us working hard together to get us out of some economic strife, the Premier's office has mandated this piece of legislation to divert our attention from some of the real challenges this province is facing.

I just want to conclude in again saying that I fully support my colleague from Welland and his views on organ donation and I appreciate all of the work that he has done over the years to make that issue an important one that many of us need to address in this province.

The Acting Speaker (Mrs. Linda Jeffrey): Further comments?

Mr. Rosario Marchese: I want to congratulate my colleague on the comments he has made for those men and women who work in precarious working conditions, because they do need many of us to defend the work they do. The member for Welland reminds us that 37%—maybe he mentioned it or didn't—of all workers are part-time, temporary workers or others who classify themselves as independent workers. It's a large, large figure.

The reason why that is true is because all employers are looking for cheap labour. It's about paying them the prices you don't want to pay your full-time employees. It's about making sure that those people are working in substandard conditions. He mentions the fact that even in this Legislature, we hire people on a part-time basis and pay them so very little. He talked about the foodservices and some of the problems we have there.

I remind the government and those listening that half of our college teachers are part-time. It's cheap labour and the government condones it. The reason why community colleges are hiring on a part-time basis is because they don't have the support from the government to be able to hire full-time professors. Some 20% to 25% of our university professors are part-time. That's why they went on strike at York University for a long, long time.

We condone it. We think it's okay because we don't want to pay workers adequate wages. That's what this is about. Some people think it's okay. If you're an employer and you hire people cheaply, that's okay. But those workers need a voice when they don't have the benefits, when they don't have the support, when they get laid off, when they're fired without any reason. These are the things that we will be speaking to again.

Thank you, member for Welland—

The Acting Speaker (Mrs. Linda Jeffrey): Questions and comments?

The member for Welland has two minutes to summarize.

Mr. Peter Kormos: I appreciate the generosity of my colleagues in their comments. It's Monday. I always look forward to Mondays, for that very reason. By Tuesday and Wednesday, the climate changes considerably and they're less inclined to be as generous. I perhaps attract that, or am as much the cause of it as anything.

Public hearings: I encourage people to start getting a hold of the clerk's office, indicating—if this bill goes to a vote today or in the next few days, we will be saying no to third reading so that it has to go to committee. I think the minister intends for it to go to committee in any event. We need broad-based hearings. That's been referred to by the Conservatives, when Mrs. Savoline spoke, and I've underscored it. I suspect that Mr. Marchese is going to be speaking to it and I suspect he'll reinforce that as well. We're talking about, in many cases, people who are hidden away, a class of invisible people, because they're the people who, as temp workers—not always. They're the people who clean hotel rooms; they're the people who do the work in the middle of the night. They're the people who work in the basements and in the backroom, not in the front of the business or in the restaurant—not always, but as often as not.

Unions like UNITE HERE have worked very, very hard trying to give these people a voice. Of course, without card-based certification, it's very hard for these people to organize into a union. The government doesn't think card-based certification is good enough for these folks, either—good enough for the building trades, but not good enough for the poorest workers and the hardest-hit workers. We've got to have those full hearings and they've got to travel about Ontario or else this government will have displayed thoroughly genuine insincerity in its approach to this important matter.

The Acting Speaker (Mrs. Linda Jeffrey): Further debate?

Ms. Lisa MacLeod: I appreciate the opportunity to join debate today on Bill 139, legislation that will amend the Employment Standards Act.

Let me say at the outset that I think this piece of legislation goes along with several others of its kind which do not address the real needs of our economy. It has essentially been introduced to fill up time in this chamber and I will not be supporting it. I don't think it looks at the economy as a whole and how we can better provide, in this chamber, a better economic climate.

This is the same ministry that in the last year has imposed an \$11,000 tax on small business. They have rapidly increased the minimum wage so that businesses in my community are speaking out and saying that they may have to lay people off because they will not be able to afford their labour.

Earlier today, this minister announced another piece of legislation to which, in the coming days, this party and I'm sure the New Democrats will provide sober second thought, and of course now, this bill. We have several concerns. I don't have to tell anyone in this chamber about the sad state of our economy. The situation we are in, yes, has been dealt with by economies worldwide, including in other parts of this country. But that does not mean that the McGuinty Liberals can just abdicate their authority in this chamber by producing one-off bills that in the larger economic landscape do nothing for the taxpayers, the residents and the workers of this province.

We have a number of concerns, in the official opposition, with this legislation, including the cost to Ontario businesses and the subsequent job losses that this piece of legislation could cause. As you know, in the month of January alone, the people of this province grappled with the fact that 71,000 of our friends, family and neighbours lost their jobs. They lost their entire income. These are people, we must remember, who are paying mortgages; they are trying to put food on the table for their children; they are trying to put other kids through university. This is a real challenge, and the bill in its current form can actually do the opposite of its original intent. It could scare businesses away from hiring temporary employees because it may make it more expensive to do so. We can't have these agencies fold when so many Ontarians are relying on a second chance. As I mentioned, the McGuinty Liberals have already dealt a few serious blows to small businesses through the Ministry of Labour in the last year.

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I like to join the debate when I know that legislation will directly impact my residents. I like to bring their views to the floor, as I'm sure all of my colleagues like to do as well. I received a letter from Comfort Keepers: Comforting Solutions for In-Home Care, in my constituency in Nepean–Carleton. My constituents write me a letter: "I am writing to implore you to oppose Bill 139, 'An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters' which is currently before" the Ontario provincial Parliament.

The letter goes on to say: "We believe that the proposed amendments are based on the experiences made with a number of unscrupulous temporary employment agencies which have made a living by taking advantage of their untrained, unsupervised workers (and to some degree their clients). By contrast, our company's philosophy is to conduct ourselves in an ethical and professional manner and, more importantly, give our staff the kind of flexible work they are seeking, be that daytime, evening, or holidays: in other words, schedules which meet their needs while, at the same time, meeting the needs of our clients/patients.

"The following are important considerations," Comfort Keepers goes on to say:

“1. These changes will add further costs and burden to small businesses such as ours, which ultimately will need to be reflected in the pricing to our clients who are seniors, often on fixed incomes, and who may well no longer be able to afford our services.

“2. We are serving an important segment of our society: seniors who would prefer to age at home and who have found reliable, trustworthy and cost-effective ways of getting” the help they need.

“3. If seniors migrate toward public alternatives, this will put tremendous pressure on the government’s ability to provide home care and accept residents to long-term-care facilities....”

I’m just going to deviate from this particular bill for one minute to make my point. In the city of Ottawa—and I’ve got a few colleagues here from Ottawa—we know that we have significant pressures on our long-term-care facilities as well as our hospitals. It’s not a secret; it’s been mentioned several times in the newspaper and I’m sure, as many of my colleagues who have talked to our CEOs and the presidents of our hospitals know, it’s a real challenge. What we need in the city of Ottawa and we need probably right across the province is an integrated approach which not only builds more capacity in our long-term-care facilities but also helps seniors live independently longer.

When you read this letter from Comfort Keepers, they’re talking about how they are able to work through the current system that we have and are keeping more seniors at home rather than in nursing homes and helping us with our long-term-care deficit; it’s really important that we take into consideration the views that I’ve just put on the table from Comfort Keepers. I implore the minister, who I’m pleased to see here in this debate, to take these concerns into consideration as this bill goes to committee.

One of the things that has disappointed me is that through this debate the Liberals haven’t been participating. They’ve skipped their rotation, not only in debate when the NDP or the Conservatives were using their allotted time, but then they also skipped their rotation when it was their turn to debate. I can’t imagine that I am the only member of this Legislature or that Conservatives and New Democrats are the only members and caucuses in this Legislature who are getting feedback from this legislation. There are some real concerns here.

I’d like to move on. Another group approached our caucus with some of their concerns with this legislation. I’m happy that the minister is here to listen to this, because there is a real concern with the removal of the “elect to work status” and how it will affect notice of termination.

The constituent writes, “This cost burden will make it impossible for clients to continue to use agencies which they have come to depend on to remain competitive in a global economy. The use of temporary workers helps them manage peak periods and fluctuations.”

Granted, all of those stakeholders who oppose this bill know the bill is going forward. They know, in essence, that they’ve lost the game. But I think what we’re trying to do in this chamber, and what I hope the minister will take away from this, is express the concerns that these stakeholders have and maybe find a way we can improve the legislation so that there will not be a negative economic impact on small and medium-sized businesses across the province of Ontario.

I remind the chamber that this is a period of time that we have not seen in many years. We are in a serious recession. People are losing their jobs daily in this province. We must not put more obstacles in the way of those who are employing Ontario’s workers.

This constituent goes on to say: “This will remove the flexibility that many organizations have come to require in this global economy with goods arriving from various ports. Many of these organizations will leave this province if that flexibility is lost and move to a more business-friendly environment. With what is occurring in the US they will continue to receive an even greater incentive to do so.

“Numerous large organizations have temporary workers as part of their business plan, including many with unionized environments.

“Those organizations that do not move will ultimately be forced to consistently turn over its workforce in an effort to minimize such impact. This will force all parties to immediately turn over the staff prior to three months of employment to avoid the issue altogether.”

I think the minister would have to agree that that is a serious concern.

We are also told, “How can such a policy truly benefit a worker that is trying to develop the skills to gain better full-time employment, when they are displaced every 10 weeks?”

Let’s go back to the example of those offering home health care. As we know, seniors who are aging would prefer to have someone they are familiar with, comfortable with and who they trust looking after them. I don’t think there is any benefit in seeing a 10-week turnover in that type of environment, where in some cases end-of-life care is what these temporary workers are giving.

There’s also a concern that many of these workers are new Canadians with good work ethic and skills but lacking the communication skills clients would require for them to obtain full-time employment. Working temporary assignments as a starting point provides them with an opportunity to contribute, pay taxes and feel proud of themselves.

1430

This comes from one of my colleague Peter Shurman’s constituents—it’s a direct quote—who actually owns a temporary agency. He lists several more points, including statutory holiday pay becoming mandatory effective June 2, 2009:

“Our agency has paid statutory holiday pay to a percentage of our workforce based on attendance, longevity, etc. so we will be able to digest such a notion. However, the cumulative effect of this with the other proposed changes will be economically devastating to our industry and to our clients.”

The Association of Canadian Search, Employment and Staffing Services, ACSESS, executive summary says, “There are three technical shortcomings within the bill which require improvement; otherwise, these areas will cause an overall failure to achieve the stated objectives. These shortcomings unintentionally create an overly complex set of rules that are administratively unmanageable for any employer and may be impossible to monitor and enforce. These shortcomings will also unintentionally cost thousands of jobs and cause significant hardship for the people the bill was specifically designed to protect.” Again: “These shortcomings will also unintentionally cost thousands of jobs and cause significant hardship for the people the bill was specifically designed to protect.” That is such an important and relevant point to make when debating Bill 139, the Employment Standards Amendment Act (Temporary Help Agencies).

The minister ought to be concerned about that. I don’t have to remind him that in the last year, the province of Ontario has seen hundreds of thousands of jobs disappear. We’ve seen our economic growth in this country go from first to worst. We’ve actually become a have-not province, though we were once the economic engine of Canada, and we’ve seen a limited but patchwork response from this government in actually dealing with some of the greatest challenges our economy has faced. We deserve better as a province.

This bill needs to go to committee. It needs to see some of the necessary amendments passed. I would urge the members opposite in the government to understand that to fix the state of our economy requires more than just one-off pieces of legislation, whether it’s the minimum wage, whether it’s the Green Energy Act, whether it is this piece of legislation or it’s the WSIB legislation. The fact remains: Our economy is at its weakest. We need real help for the real people who are suffering.

That’s why I will not support this bill: because I do not believe it addresses the challenges which we are facing right across Ontario and which deserve and require serious debate in this Legislature. It requires a budget to be tabled almost immediately, and we’ve only seen delay and dithering on that front.

Madam Speaker, again I would like to thank you for the opportunity to debate. I do hope that this debate will continue and that we will see members of the government actually participate.

The Acting Speaker (Mrs. Linda Jeffrey): Comments and questions?

Mr. Peter Kormos: I say to the member for Nepean–Carleton, Ms. MacLeod: Don't hold your breath. Clearly this is a far more controversial bit of legislation than the brain trust in the Premier's office had planned it to be. New Democrats have concerns about the bill—not the same concerns as the Conservatives do, but all that this indicates is that there have to be full committee hearings, that this somehow can't be short-circuited and rushed through committee with, oh, a dozen or so hand-picked presenters.

I'm prepared to sit down and hear what the temp agencies have to say. I'm not afraid of what they say. I'm prepared to—more important, in my view—sit down and hear what the workers have to say. I know that Ms. DiNovo will be following this bill carefully as it progresses through the process. Mr. Marchese, the member for Trinity–Spadina, is going to be speaking to the bill for the modest 20 minutes allowed him, not because he's Mr. Marchese, but because that's what the rules here say, that you can only speak for a maximum of 20 minutes, unless you're doing the lead. I know he's got a lot to say. I'm looking forward to hearing the member for Trinity–Spadina, because I know there are a whole lot of people in his riding who are directly affected by this legislation, just as there are, dare I say, in every riding in this province.

Full committee hearings, broad-based, travelling across the province, because what happens—you see, governments don't come back to this sort of legislation year after year. It's going to be 10 years, 15 years before this issue is ever addressed again. Let's try to get it as right as we can this time around.

The Acting Speaker (Mrs. Linda Jeffrey): Comments or questions?

Mr. Garfield Dunlop: I'm pleased to rise today to speak to the member from Nepean–Carleton's comments on this temp agencies bill.

I think one of the things I got out of her message was that it's important that we debate this type of legislation, but here we are talking about temporary agency types of jobs. I understand it should go to committee. We'll have to get out and do our job as parliamentarians and make sure we get the bill right, and there are obviously conflicting views on it.

My worry here today, though, is, every time I open the paper I'm basically seeing another manufacturing plant or small businesses losing tens of thousands of jobs per week now. We have a crisis here.

One of the things that's really disturbing me is that we're leaving our provincial budget so late. I thought that we had to have our travelling road show, our Standing Committee on Finance and Economic Affairs, all done so that we could have an early budget. We had meetings prior to Christmas, which was a change, with the understanding that we were coming back here to have a budget presented immediately, that would sort of parallel what was happening in Ottawa. Now we're hearing it's not going to happen for another month—yes, another month this week—and I don't think that's acceptable to the business people and to the citizens of the province of Ontario who have witnessed some 300,000 lost manufacturing jobs in a world economic crisis.

I'd like to be debating the budget here today. That's what I'd like to be debating. Let's get this temporary agencies bill out of the way. We'll make sure we get it right and get it to hearings, but the reality is, we need to be spending a lot more time on the \$90 billion or the \$100 billion it takes to run this province and where the money is going to come from and how we can save those jobs here in the province of Ontario.

The Acting Speaker (Mrs. Linda Jeffrey): Comments or questions?

I return it to the member from Nepean–Carleton.

Ms. Lisa MacLeod: I appreciate the comments from my colleagues from Welland and Simcoe–Grey—

Mr. Garfield Dunlop: North.

Ms. Lisa MacLeod: Simcoe North; I apologize. My colleague from Simcoe North made, I think, the best point of the day. We should be debating the budget, the budget that will come out 25 days from now, or 22 days from now, or 23 days from now, whenever it is—it's March 26, and it's far too long.

Again, he makes the point that committee hearings for the finance committee were rushed out the door before Christmas, supposedly so that they would have recommendations for the finance minister and we could have an early budget. Well, “early” means late with the Liberals. I’m just very concerned with this legislation. He makes a valid point. We should actually be debating a bill that speaks more to the economy than just one-offs.

The Acting Speaker (Mrs. Linda Jeffrey): Further debate?

Mr. Rosario Marchese: I’m a New Democrat who’s happy to be debating this bill. I’m always pleased when, as New Democrats, we’re able to push the Liberals to do something that can at least be classified as progressive. It takes a long while to push Liberals, you understand, and it takes a whole lot of pushing and a whole lot of political pressure to get them to do some things. Eventually they deliver on some modest bills like this one, including Bill 150, which I will speak to either today or another day.

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It’s always a pleasure to be able to comment on these things. When we look at some aspects of the bill, where they talk about ending fees charged to workers by temporary assignment agencies, do I agree with that? Yeah, I think it’s a good idea. Reducing barriers to permanent work for temporary agency workers—okay, it’s a good idea. Whatever barriers we can reduce to permanent workers is good. I’m not quite sure how successfully that particular aspect of the bill is going to work, but who could disagree with that?

Ensuring public holiday pay for all temp agency workers, whether on assignment or laid off from assignment—I think that’s a good idea. People should be entitled to benefits such as ensuring public holiday pay. Requiring agencies to give workers information about assignments and basic rights sounds basic to me. It’s hardly radical—pretty basic stuff. Ensuring that temp agency workers will get some termination and severance protection—I kind of think it’s a good idea.

Requiring that both the agency and the client company are legally responsible when a worker is penalized for trying to enforce his rights—these things are okay. Again, they’re not radical, but they’re okay and they’re moving in the right direction. That’s why I say that, as is typical of Liberal bills, they move you in that direction, and it’s sometimes very difficult for New Democrats to defeat them because, in and of themselves, they’re good to do. It should be doing so much more, and it never will. It will take them yet another term, should they be re-elected, to make some more progressive changes to the Employment Standards Act or the Ontario Labour Relations Act, and they will make those changes only if New Democrats are pushing and only if the Toronto Star has an editorial from time to time saying to the Liberals what they should do. When that happens, it’s good.

I’m happy that the Liberals listen to the Toronto Star editorials, because when the Toronto Star beats them up, they have no option but to find a way to deliver. Now, they never deliver completely, but that’s okay. The Toronto Star will say, “That’s a good as a first step,” and they’ll buy peace for a couple of years until the Toronto Star decides, “Maybe we can push them a little more.” So we’re lucky. From time to time we’re able to get the Toronto Star to help New Democrats as well, so that we can eventually encourage Liberals to do the right thing.

But it comes with pushing. It comes with a whole lot of political pressure. When I think of the 37% of workers who are part-time, temporary or contract workers, that’s a whole lot of people who live and work in precarious conditions. Sometimes I think many MPPs live such sheltered lives that they don’t know too many people who live in temporary and part-time employment—precarious work environments. My sense is that sometimes some of those here in this Legislature, both on the right and in the middle, don’t know too many of those workers. I get that impression. We’re so cozy in our own homes that we don’t worry about whether people are getting an adequate wage to have a modicum of the standard of living we enjoy.

I think about that from time to time. I think about how this government could allow community colleges to hire part-time staff, who constitute half of college teachers, and think that’s okay. How could Liberals

believe that's good for the quality of education of those students when you've got part-time workers, some of them doing two jobs, which is usually the norm, and that that makes a good contribution to the quality of education of the students in those colleges? It cannot be good. It's cheap labour; that's what it's about. The Liberals would never say that, but that's what it is: cheap labour. And it deals with the fact that governments are not providing the support to those community colleges and, as such, community colleges have had to hire part-time college professors for many, many years, and it was getting worse. It is getting worse, was getting worse until the time when OPSEU, many college professors and others said, "They need to have the power to organize, to bargain." That took a long time. That didn't come easily. The Liberals were not quite happy to give them that right, and, of course, that's typical of Liberals. They give one right and then make sure they take away three, making it difficult for New Democrats to oppose the bill, because it allows them to unionize while taking other rights away. How do you oppose one without getting caught in facing another problem? But that's what Liberals do. University professors: 20% to 25% of the university professors are part-time. It's the same problemo. They don't have any money. They've been underfunded for so long that governments, and in this particular instance a Liberal government, have been quite happy for universities to be able to hire on a part-time basis.

I just asked a question of the minister today, where we've discovered that universities have a \$2.6-billion deficit and each university, on average, is in debt to the tune of \$150 million—big dollars; big, big problemos in our university system. We have the largest class sizes in Canada, and the government feels happy about that.

Each and every day, the minister gets up and says, "We're doing great; we're doing really good." He says that every day. Every time I ask him a question, he's saying, "It's great"—the largest class sizes in the country. We are numéro 10 in the country in terms of per capita funding. The minister stands up and says, "No, we're doing good; we're doing great." He says that every day. Every day we ask the minister questions about the quality of our education system, about student debt, and every day he stands up saying, "No, things are good."

But we need to worry about people who work in precarious employment, because these are human beings who are working for modest wages, desperately trying to gain enough dollars to pay their rent and feed themselves and their kids. They can't even provide for basic necessities. We have a rise in food banks unlike we've ever seen before. We saw a rise under Mike Harris; we see a rise in food bank use under the Liberals that we've never seen before. Yet the government boasts about how great they have been in managing that economy under Harris before and now under McGuinty. For years they've been boasting about how great the economy was and how great people are doing, and here we have the highest use of food banks that we've ever seen. Imagine how bad it's going to be in the next year. If you think the Bob Rae years were bad, wait until the McGuinty years come in the next year and a half. It's going to be pretty tough. You might have McGuinty join the NDP after this stint of bad economic problems.

Mr. John Yakabuski: They wouldn't take him. Surely, Rosie, you wouldn't take him, would you?

Mr. Rosario Marchese: We don't get too many. We lose a few, but we don't get too many. This is true. The economy is in a shambles and it's tough for working men and women. Our economy is not served well when we pay people poorly. You've got MPPs arguing that you have a whole lot of businessmen and women who are struggling, and never a word about the poor people who work for them for minimum wage or less and are afraid to speak up, never talk about whether or not they are able to pay for their rent, let alone pay for their mortgages, because they can't afford to own a home. Yet we have the fortitude on the right here—my right—to speak about how tough it's going to be for businessmen and women.

Of course it's tough for them, and under these conditions it's going to get tougher, but if it's tough for them, how is it going to be for that worker who is earning a minimum wage and works in substandard

conditions where he or she is afraid to speak up if he or she doesn't get overtime pay? We don't talk about their rights. We talk about middle-class people worrying about paying their mortgages, but we don't worry about working men and women who can't even afford to pay their rent. That's how cozy we are around this place, because we only relate to people who earn our salaries, and they're middle-class professionals.

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We don't seem to connect to the underbelly of our economic system, those who work because it's cheap labour and it's convenient for people who are making money off of them. It's not just here in Canada. It's done all over the world. Men and women are used for cheap labour, and in this economy it's going to get worse. And where you don't have a union to bargain for you, to defend you whenever there's a miscarriage of justice, you are on your own. Only 30%, 35% of people are unionized. The rest have no union, no one to protect them, no one to speak for them. They are on their own.

Under these economic conditions, where we are deindustrializing, we're losing our manufacturing jobs that were well-paying and were unionized. That was the middle class. We're losing our middle-class jobs. We think globalization is good; globalization has deindustrialized Canada and is deindustrializing most of the European countries to the extent that we are losing our middle class, which was, in my view, a social necessity for having what—I predict in 10, 15 years, social wars between those who have, at the very top, the 10% of the population, and the rest of the people, the 60% or 70% down below those economic levels where, when they are desperate, they will do desperate things.

Many young Tories have forgotten why those safety nets were put in place a long time ago. In the 1930s, 1940s, 1950s and 1960s there were safety nets that were put in to protect the institutions and to protect the well-to-do, to protect the people with money. Now we're forgetting that that's why we had put in place workers' compensation or unemployment insurance benefits or pensions and the like. Now people are saying, "We can't even afford people's pensions." Defined pensions: "We can't afford that. Let's put all of our money in RRSPs"—so we could lose it all when faced with this economic meltdown. So people who don't have a defined plan—

Mr. John Yakabuski: Like you, Rosie.

Mr. Rosario Marchese: Like most of us here, but we have better wages than most out there.

They now are encouraged, as part of their pension plan, to make their contribution, and maybe the employer puts in a couple of thousand, to put it into their registered retirement savings plan—as if somehow that money isn't gambling money. It's gambling money, my friends. It comes and goes. It's gambling. It's casino money. It's paper money. It's people who play with our money. Some people who have a few bucks think that somehow capitalism works for them. It doesn't work too well for you either, because the people with the hedge funds, those are the ones who move money around from one place to the other in an instant, in the trillions, destroying all of us in seconds, not minutes—or in minutes, if not seconds.

This money is not protected anymore. Workers are not protected. The middle class is no longer protected. If the middle class is not protected, think about these workers who have no protections whatsoever. So I say to the minister, am I going to support your bill? How I could not support these few modest measures? We just appeal to Liberals to do a little better, a little more. We appeal to them to look at other countries in terms of efforts other countries have made to deal with some of these worker-related problems.

Ontario does lag behind European policy-makers on both the national and European union levels. Their policy-makers have developed a range of strategies to extend protections and rights to economically dependent workers in new forms of work organization. This is largely being done through measures to expand the boundaries of the scope of employment and bring some legal protection to workers previously excluded.

In countries such as New Zealand and Finland, they've expanded the scope of employment standards to address atypical and non-standard work. Germany expanded its definition of "employee" to reduce the opportunity to disguise the employment relationship. The International Labour Organization has developed conventions on home work, part-time work and employment agencies; the European Union has established directives on part-time and fixed-term contracts to bring equity between atypical or non-standard work and permanent employees, and is currently working on a temporary agency work directive. These are the kinds of things we should be looking at.

Employment is being disguised as independent contracting or franchising, as employers seek to bypass labour relations laws. Many of these practices seek to shift the costs and liabilities off the employment relationship on to intermediaries and workers who can least afford it. Employers rationalize these practices as necessities to improve flexibility in an increasingly globalized world, but workers' experiences show that outsourcing, indirect hiring and misclassifying workers takes place in sectors with distinctly local markets: business services, construction, retail, warehousing, transportation, health care, and the manufacture of goods consumed locally. This is why we need to look at what other jurisdictions have done, and Europe often leads in this particular area.

We also need to look at how we enforce anything that we do, and we have lacked enforcement powers for a long, long time. Even if we pass these modest measures, who's going to enforce any of these practices embodied in this bill? Nobody is going to be there to enforce them. Does the minister make a commitment to hiring 100, 150 or 200 inspectors to make sure that aspects of this bill and other related labour practices are going to be—

Interjection.

Mr. Rosario Marchese: You're saying yes?

Hon. Peter Fonseca: We did it.

Mr. Rosario Marchese: You did? Oh, okay. This is why, I guess, you've introduced this bill, because you have the enforcement. If you had hired these people, we wouldn't even need this bill, for God's sake. If you'd hired these inspectors, we would already be exposing problems from years ago to the present. Come on. You talk about hiring these inspectors. You haven't hired—

Mr. Peter Kormos: Squat.

Mr. Rosario Marchese: Squat. Exactly. If you're going to enforce any aspects of this bill, you're going to have to hire a few inspectors, and by a few, we think it should be 100 to 150 to 200 new inspectors to be able to do the job; otherwise what you're doing means very, very little.

We also worry that regulating temp agencies' work alone may act as an incentive for employers to shift practices to other, more unregulated forms. In other words, we need to integrate legislation that deals with temporary workers into a broad update of employment standards to protect all workers. Unless we do that, all these little Liberal measures are not going to amount to much. It will make you feel good—some of you at least—but it's not going to make the workers feel that great.

We need to make sure that we protect those workers who live and work in precarious conditions, because it's an economic benefit to all. When we raise the conditions and the salaries of the working poor, we raise the conditions of all of society. We all benefit.

So I urge the minister, as he speaks or talks or negotiates about these hearings, that we have more than adequate hearings, that we have more than one or two meetings here in Toronto to give people an opportunity to talk about these issues that we, New Democrats, have raised—and, yes, to even give Tories the opportunity to make sure their ideas are heard as well. So we look forward to the minister saying, "We think hearings across Ontario are good for all of us," and I hope he will do that.

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The Acting Speaker (Mrs. Linda Jeffrey): Comments or questions?

Mr. Peter Kormos: I'm sure people who have been watching and listening agree that the New Democrats' concerns about this legislation warrant it going to committee for broad-based committee

hearings, for thorough consideration, and not just here in Toronto, but to give those people, many of whose working lives have been nothing but temp agency work—and again, increasingly for worker after worker after worker, their life is one of temporary work. Permanent jobs under the McGuinty government have all but ceased to exist; there has been a crisis that this government has not responded to.

New Democrats are insisting that this bill travel the province. Otherwise, the people whom it really affects—oh, the lobby groups and the organized groups and the trade unions: they'll all be able to come here to Queen's Park. The temporary agencies and whatever little groups they manage to put together: They'll come here to Queen's Park. And, oh yes, the Canadian Federation of Independent Business will come here to Queen's Park—but the little people, and I don't say that disparagingly, the hardest-working people, the people whose lives hang by a thread, paycheque to paycheque.

It's remarkable: You can't talk about people who are hired out by temp agencies without talking about those payday loan operations because, as often as not, these are the same people who get ripped off by payday loan operations. This government has done nothing to protect them from those vultures either, have they? People are being victimized. I'm talking about workers, many of them women, almost all of them poor. We're not talking about high-end head-hunting agencies that go out and find executives who can rip off taxpayers—a Hollinger. We're not talking about the Conrad Blacks; we're talking about the little people.

The Acting Speaker (Mrs. Linda Jeffrey): Comments or questions? The member from Dufferin–Caledon.

Ms. Sylvia Jones: I wanted to raise an issue with Bill 139 because the minister is in the House, and he's listening intently to the debate led by the member for Trinity–Spadina. It's in reference to 74.2, "This part does not apply in relation to an individual who is an assignment employee assigned to provide professional services, personal support services or homemaking services as defined in the Long-Term Care Act." They are specifically referencing community care access centres. I'm wondering why the Liberals are attempting to bring forward a piece of legislation that is saying that the private sector is going to have a certain set of standards but the community care access centres who use temporary employees are not going to be held to the same standards. I would hope that the minister would clarify that in the House here today because I find it hard to believe that we're saying that the private sector is going to have different sets of standards than the public sector. It couldn't be because they understand the repercussions of what this would mean to the community care access centres and the added costs that would be incurred if they were having to maintain the same standards with Bill 139. I'd love to have that clarified here in the House today or certainly when Bill 139 goes forward to committee. I can't, for the life of me, understand how they would justify CCAC temp workers not being held to the same standards as temporary workers in the private sector.

The Acting Speaker (Mrs. Linda Jeffrey): Further comments or questions?

I return to the member for Trinity–Spadina for a summary.

Mr. Rosario Marchese: We are appealing to those part-time workers and temporary workers to come and tell their stories. This is an opportunity for people to be able to come for five or 10 minutes and talk about what it is that they do, talk about some of the abuses in the workplace, talk about the lack of government support and talk about how we can improve this bill so the lives of men and women are changed in a much more positive way.

The member from Dufferin–Caledon raised an issue that the member from Welland also talked about, where section 74.2 excludes a worker who is an assignment employee assigned to provide services under contract with the community care access centre or who is doing work governed by a contract to a CCAC. We don't understand why they're excluded. We want people to come and talk to us about that. We want the government members to come and defend their position. We want to hear the stories that you have to tell us. That's what hearings are all about. If you can do that and if you can come to those hearings, you'll be able to help cozy MPPs live a little bit more consciously about the kinds of things that

you have to face. Because, as Kormos says, our work here is not as hard as some of the work that some people do. I wouldn't go as far as he does when he says that we don't work hard, but it's a different point.

Mr. Peter Kormos: Show me your hands.

Mr. Rosario Marchese: These are a working man's hands. These hands come from a father who was a construction worker.

But we want to hear those stories, and I'm hoping that you'll come and depute, and call us if you need help to get on that list.

The Acting Speaker (Mrs. Linda Jeffrey): Are there any other members who wish to participate in this debate?

The Minister of Labour has moved second reading of Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters.

Is it the pleasure of the House that the motion carry? I heard some noes.

All those in favour, please say "aye."

All those opposed, say "nay."

In my opinion, the ayes have it. I declare the motion carried.

Second reading agreed to.

The Acting Speaker (Mrs. Linda Jeffrey): Shall the bill be moved for third reading?

Hon. Peter Fonseca: I ask that the bill be referred to the Standing Committee on the Legislative Assembly.

The Acting Speaker (Mrs. Linda Jeffrey): So ordered. The bill is referred to the Standing Committee on the Legislative Assembly.

March 25, 2009
EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

- Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

MINISTRY OF LABOUR

- **The Chair (Mr. Bas Balkissoon):** The first presentation is by the Ministry of Labour.
- Come on up and introduce yourselves for Hansard. You'll have 10 minutes, and then we'll have 10 minutes of questions.
- **Ms. Cara Martin:** I'm Cara Martin from the Ministry of Labour.
- **Ms. Debbie Middlebrook:** I'm Debbie Middlebrook, Ministry of Labour.
- **Ms. Benita Swarbrick:** Benita Swarbrick, Ministry of Labour.
- **Ms. Cara Martin:** Bill 139, if passed, would amend the Employment Standards Act, 2000, to address certain barriers to permanent employment by prohibiting temporary help agencies from doing the following:
 - —restricting client businesses from providing references to employees;
 - —restricting client businesses from hiring a temporary agency employee if that employee has never been placed with that client by the agency;
 - —imposing on employees any temporary-to-permanent fees or any restrictions on accepting employment opportunities; and
 - —limiting a client from entering into an employment relationship with an assignment employee.
- Bill 139, if passed, would also prohibit agencies from charging assignment employees fees. It would amend the ESA to prohibit agencies from charging any fees to employees or prospective employees, including fees for assistance in finding or attempting to find employment with a client or for services, such as courses on resumé writing, job interview preparation etc.
- It will prohibit agencies from charging temporary-to-permanent fees. A temporary-to-permanent fee is a fee that a temporary help agency charges a client to hire an assignment employee directly. Bill 139, if passed, would amend the ESA to prohibit a temporary help agency from charging a temporary-to-permanent fee, except during the six-month period after the day when the employee first began to perform work for the client. The intent of this provision is to remove a barrier to permanent employment.
- Determining when an employment relationship ends: The bill, if passed, includes a statement about when an employment relationship ends. The bill states that an assignment employee of a temporary help agency does not cease to be the agency's employee during periods between assignments. Employers need to terminate the employment relationship in order to end employer obligations. This section sets out existing law; it does not change it. This section was needed to make the part of the bill clear and comprehensive.
- Bill 139, if passed, creates termination and severance rules that are specific to temporary help agencies. If an employee is not assigned by the agency for a period of 35 consecutive weeks, his or her employment would be deemed to be terminated on the first day of the 35-week period. In contrast, the general provisions of the ESA set out that a temporary layoff cannot be more

than 13 weeks of layoff in any period of 20 consecutive weeks or more than 13 weeks in any period of 20 consecutive weeks, but less than 35 weeks of layoff in any period of 52 consecutive weeks, where certain conditions are met.

- Under the bill, a temporary help agency assignment employee's employment would also be severed where the agency does not assign the employee for a period of 35 consecutive weeks. The employee would then become entitled to severance pay, if the general requirements under the ESA for receiving that entitlement are met.
- **1240**
- Severance pay is compensation to an employee for loss of seniority and job-related benefits. It also recognizes an employee's long service. The current provision of the ESA from most other employers states that if the general requirements for severance pay are met, employees will receive severance pay when their employer lays the employee off for 35 or more weeks in a period of 52 consecutive weeks.
- The bill excludes home care workers that are under contract with community care access centres. The provisions of this bill are not relevant to CCACs. Issues such as possible ESA reprisal by a client, or the need to provide the employee with information about the client to ensure that it is reputable, are not relevant when the client is a CCAC.
- The bill, if passed, would also amend the ESA to prohibit a client of a temporary help agency from engaging in reprisals against assignment employees. The agency, as the employer, would continue to be prohibited from reprising against its employees under the current provisions of the ESA.
- The bill, if passed, would amend the ESA to specify that if the ministry is unsuccessful in its attempts to collect an order for unpaid wages, but obtains information about a client that may owe monies to the agency, the director of employment standards may require the client to pay the amount outstanding to the temporary agency instead to the ministry, and the ministry would then pay the employee.
- The bill, if passed, would also amend the ESA to provide that assignment employees of temporary help agencies receive the following information when being referred to a client for an assignment that they have accepted:
 - —the temporary help agency's and client's names, including corporate names, address, phone numbers and contact names;
 - —the hourly rate, piece rate, and/or commission and benefits associated with the assignment;
 - —pay schedules;
 - —hours of work;
 - —a general description of work to be undertaken; and
 - —general information on ESA rights and obligations of assignment employees, temporary help agencies and clients, as prescribed.
- That concludes the technical briefing.
- **The Chair (Mr. Bas Balkissoon):** Thank you. We will now go to questions from the various parties.
- **Mr. Robert Bailey:** Thank you for the presentation this morning. How long do we have, Mr. Chairman?
- **The Chair (Mr. Bas Balkissoon):** About three minutes each.
- **Mr. Robert Bailey:** Okay. My first question is in two parts. Did you meet with the agency representatives and get their input and advice as to how the severance issue would affect their businesses and also the clients that they represent?

- **Ms. Cara Martin:** There was a consultation process that was undertaken between May and July 2008, where we met with ACSESS to get information about various things. Since the introduction of the bill, there have been other meetings with ACSESS as well.
- **Mr. Robert Bailey:** And they made their points to you?
- **Ms. Cara Martin:** Absolutely.
- **Mr. Robert Bailey:** Second question: Why are the CCACs exempt? What was the reasoning behind CCACs being exempt from this act?
- **Ms. Benita Swarbrick:** Benita Swarbrick. The CCACs are not like regular clients of agencies. They're also not receiving the services of home care workers directly themselves. CCACs, for example, are not going to engage in ESA reprisals against the workers. They also are well known to home workers and agencies, and so the home workers do not need information on the CCACs in order to know that it's a reputable client. Those are the provisions that we have in the bill to ensure that employees of agencies are protected with respect to the clients that they deal with. It's not a relevant type of employment when the contracts are being done through CCACs.
- **Mr. Robert Bailey:** Do I have a little more time?
- **The Chair (Mr. Bas Balkissoon):** Time for one more.
- **Mr. Robert Bailey:** Okay. Back to the presenter. As regards the severance issue for temporary employees, was it made plain and understood by the ministry staff that there could be impacts on business and their temporary employees as well by the implementation and the provision of this severance issue?
- **Ms. Cara Martin:** Was it made plain?
- **Mr. Robert Bailey:** Yes. Was it understood what the implications could be to business during this time of—we're going to need a lot of temporary employees as we come out of this recession period.
- **Ms. Cara Martin:** Yes—do you want to take it?
- **Ms. Benita Swarbrick:** I just wanted to make clear that what we're doing with the severance and termination provision of this bill is essentially providing for a longer period of time, 35 weeks, that will occur before there's an automatic termination of the employment relationship. Normally, it's 13 weeks out of 20. The reason why it's there is to provide greater flexibility for both employees and employers of temporary help agencies because of the intermittent type of work that they do. That's the entire purpose of it.
- Other than that, there is no difference in the way that temporary help agencies are being treated with respect to notice of termination and severance obligations relative to other employers in the province.
- **The Chair (Mr. Bas Balkissoon):** Okay. We'll move to the NDP. Ms. DiNovo.
- **Ms. Cheri DiNovo:** Thank you for your hard work on this bill. I have a few questions. First of all, in terms of the six-month temp-to-perm issue, why six months? Why not three months, a year, two years, two months, two weeks? Why six months?
- **Ms. Benita Swarbrick:** We thought that six months represented a good balance between the ease of employees to have access to permanent employment without undue barriers and also a period of time for temporary help agencies to be able to charge—they have ongoing fees, we believe, typically, in their relationships with their clients—to be able to have those fees and to have a fee that they could charge a client if they do try to hire one of their employees. That's a reasonable period of time for them to be able to recoup the investment they made to make the match between the employee and the client.

- **Ms. Cheri DiNovo:** I'm aware that the Canadian Charter of Rights and Freedoms precludes barriers to employment. Would the six months be seen as a barrier to employment? Did you check the legal standing of this under a possible charter challenge?
- **Ms. Cara Martin:** I'll let our legal counsel answer that question.
- **Ms. Debbie Middlebrook:** If I could just quickly respond to that: It wouldn't be seen as a barrier because the amount of fees is looked at to be reasonable, so it's a six-month period and, as indicated by Benita, it's intended simply to allow an employer to recoup any costs that may be associated and to allow the employee to be able to receive an opportunity for permanent employment. So for the Charter of Rights and Freedoms, we have not identified any—
- **Ms. Cheri DiNovo:** Okay. But what if the employer says it is a barrier for them to hire this person?
- **Ms. Debbie Middlebrook:** Then it would be a legal question of whether or not that would in fact be seen by the courts as a barrier.
- **Ms. Cheri DiNovo:** Right. So an employer could challenge this, as well as an employee.
- The other question I have is around the CCACs and home care workers. You were talking about the different relationship with the CCAC as contrasted with a temporary agency. But temporary workers who work through temporary agencies get to know their agency workers pretty darn well and presumably trust them to a degree, or have to. I don't see the difference here. I heard your explanation, but I don't really buy it, so perhaps you could explain it again.
- **Ms. Benita Swarbrick:** The distinction that I really want to make clear is that we're not talking about the CCAC as being an agency but as being a client. This is the important distinction. It's a different kind of client because it is a government agency. It's not going to engage in reprisals, for example, under the—that's a part of this bill. It's a provision that we've put in to make sure that clients do not reprise against employees of temporary help agencies. That is not an issue that's going to come up with CCACs.
- For example, also, they are not going to be in a situation where they have to provide information to their employees; that's the agency that's providing information to their employees about the client, so we have to think of the CCAC as being a client. That's how the CCAC operates with respect to these home care agencies—
- **The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll move to the government. Mr. Flynn.
- **Mr. Kevin Daniel Flynn:** Thank you for your presentation. I'm sure at the ministry you have heard from people who think that the proposal you put forward perhaps goes too far. You've probably heard from people who think it doesn't go far enough and, as the old fairy tale goes, from people who think it's just right. From the questioning that we've had so far and from the presentation that you've given so far, and mindful that we're going to start hearing from the public and the stakeholders now and they're going to bring forward their presentations and opinions, is there anything outstanding that you haven't presented, any decisions you made along the way that you could perhaps highlight, reasons you did not move ahead with a suggestion or perhaps reasons that you did incorporate a suggestion that came from the stakeholders to date?
- **1250**
- **Ms. Cara Martin:** I'm not sure that that question might not be more appropriately answered by political staff, but certainly at the Ministry of Labour we consulted with the stakeholders, we heard their views. We and options forward to political staff, and decisions were made on that basis.

- **Mr. Kevin Daniel Flynn:** Okay. So there isn't anything that you can think of that you maybe didn't cover enough in your presentation or maybe that we should hear a little bit more about; we're ready to hear from the public now.
- **Ms. Cara Martin:** Yes.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for coming and being with us.

ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Ontario Council of Agencies Serving Immigrants.
- If you could come forward and state your name for Hansard. You have 10 minutes to make your presentation. If you're finished ahead of your 10 minutes, there will be questions from all parties.
- **Mr. Roberto Jovel:** Thank you to the committee for this opportunity to present the views of the Ontario Council of Agencies Serving Immigrants regarding this bill. We have been involved in a process of consultation around this matter ever since the consultation process started. So we are very happy to be able to provide further input.
- The Ontario Council of Agencies Serving Immigrants is an umbrella organization whose members are agencies serving immigrants, refugees, people without status—
- **The Chair (Mr. Bas Balkissoon):** Can I have your name for Hansard and the name of the person with you?
- **Mr. Roberto Jovel:** My name is Roberto Jovel. I am the policy and research coordinator at OCASI.
- **Ms. Tanya Chute-Molina:** My name is Tanya Chute-Molina. I'm a board member at OCASI.
- **The Chair (Mr. Bas Balkissoon):** Carry on.
- **Mr. Roberto Jovel:** As I was saying, we are the umbrella organization for agencies serving immigrants, refugees, people without status and temporary workers in Ontario. The council was created 30 years ago to act as a collective voice for these agencies and to work towards the full integration of refugees and immigrants in Ontario and in Canada.
- We are going to be sending the written submission before the end of the day today. I apologize for not having it here with us. I would like to make some introductory comments before we actually go into our recommendations regarding the bill.
- One of the reasons why OCASI is concerned about the situation with temp help agencies is, if you look at information coming from Statistics Canada, particularly the labour force survey and the situation of immigrants in the labour market, it shows that unemployment rates are higher for recent immigrants and way higher than the average for Canadian-born people. Particularly, people coming from Africa and women coming from all over the world are in very difficult situations, with higher rates of unemployment; really high. There's a connection between that and of course the recourse that they may have to take temp-help employment.
- There's also information coming out of Statistics Canada regarding the quality of employment, so when we talk about the rate of employment among recent immigrants, we need to look at what kind of employment we're taking about. Are we talking part-time; are we talking precarious and all of that? There's reason for concern amongst our member agencies and the people we serve around overrepresentation of immigrants, refugees, refugee women and racialized people among those who have been undergoing situations of abuse with temp-help agencies.
- We welcome this bill in terms of a step towards assuring respect for workers' rights and protections against abuse. We also would like to say that we support the presentation and the recommendations coming from the Workers' Action Centre, who have done extensive work in

this area and solid research for some years now. We believe that we're presenting from the perspective of making a success out of building a future for Ontario including everyone, whether they were born here or not. I'm going to pass it on to Tanya Chute.

- **Ms. Tanya Chute-Molina:** Good afternoon. For OCASI, Bill 139 represents a promising step forward for temp-agency workers. However, a number of issues still need to be addressed if the bill is to achieve its goal of achieving fairness and protection for temporary workers.
- Moving away from elect-to-work exemptions for public holiday pay, termination and severance is one of those promising steps forward; however, we are concerned that the limitations placed around eligibility for termination and severance by temp agency workers is something that is unfair. Temp agency workers, in order to qualify for termination and severance, have to be terminated by the agency or not given a work assignment for at least 35 weeks in a continuous period. They do not have the right to refuse work during that period, and they may run into situations where an agency will offer them one or two days of work before the end of that 35-week period simply to avoid the costs of severance. We believe that the ESA rules should be applied in the same way to temp agency workers as they are to any other worker. We also note that the exemptions for home health care agency workers should be removed.
- The second issue that I'd like to address is the elimination of fees. Again, I think that there are some very promising steps forward in this regard in terms of eliminating a series of different fees. However, we believe that there still is a barrier in terms of achieving permanent employment. In order to remove this barrier, we need to remove the possibility of charging fees for the client company to hire the worker directly within six months of starting the assignment. Again, if you refer to the submissions of the Workers' Action Centre, they note that 66% of temp agency workers are on short-term assignments of less than six months.
- **Mr. Roberto Jovel:** A couple more points about the bill, one regarding information about work assignments: OCASI had recommended that the temporary help agency should provide every worker with complete information about each work assignment before the worker starts the job. Bill 139 proposes to require the agency to provide information about the name of the client company; contact information; hourly wage; commission paid by the company to the agency; benefits, where applicable; hours of work; description of the work to be performed; and the pay period and payday. What is missing is information about the length of the assignment.
- Further, the bill proposes that the agency should provide the information listed above, although it is the client company that determines the factors affecting the assignment. The bill is not clear on what recourse a worker would have if there is a dispute between the information provided by the agency and what the client company tells the worker.
- In our recommendations during the consultation, OCASI had asked the ministry to ensure that workers are not put in a position where they would be caught between the agency and the client company in any dispute involving the assignment.
- The last point is about information about employment standards rights. It's actually something that we welcome very much, the fact that the bill proposes that temporary help agencies should provide workers with information on their employment standards rights and about enforcement procedures. Tanya?
- **Ms. Tanya Chute-Molina:** Again, what we have before us is a promising step forward, but much more remains to be done. In our view, we need to work not just for the protection of minimum employment standards but for equality and non-discrimination in the workplace. In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies.

- As noted earlier, newcomers and racialized communities are overrepresented in temp agency and precarious work. For these communities to achieve equality, we need to ensure that temp agency workers receive the same pay packages and benefits as other employees.
- **The Chair (Mr. Bas Balkissoon):** Thank you. We have about 30 seconds each. We'll start with the NDP.
- **Ms. Cheri DiNovo:** Very, very quickly: Since you work with immigrants, you probably heard about the discussions in the House and my questions of Mr. Fonseca on nannies, it being that this bill could be extended to include nanny agencies, people who are most precarious in the home and who don't have landed status. Would you be in favour of doing that?
- **Ms. Tanya Chute-Molina:** Very much so.
- **Ms. Cheri DiNovo:** Thank you.
- **The Chair (Mr. Bas Balkissoon):** The government?
- **Mr. Vic Dhillon:** Thank you very much for your presentation. The vast majority of your presentation was about immigrants and refugees and their ability to not complain. If there were random inspections or audits done by the ministry, do you feel that would help in terms of creating better conditions for their work?
- **1300**
- **Mr. Roberto Jovel:** We were happy to hear from the government that they are willing to allocate more resources to reviewing compliance. So we're waiting to hear from the budget. Of course, any sort of close monitoring is absolutely needed.
- **The Chair (Mr. Bas Balkissoon):** We'll go to the Conservatives. Mr. Bailey.
- **Mr. Robert Bailey:** No questions.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for taking the time to come and present to us.
- The next presenter is the Council of Agencies Serving South Asians. Is anybody here from the Council of Agencies Serving South Asians? I'll move to the next presenter.

SERVICE EMPLOYEES

INTERNATIONAL UNION

- **The Chair (Mr. Bas Balkissoon):** Service Employees International Union, come on up.
- State your name for Hansard, and then you'll have 10 minutes. If you have any leftover time, we'll allow the parties to ask questions.
- **Mr. Elliott Anderson:** My name is Elliott Anderson. I'm the director of government relations for the Atlantic, Central and Western Canadian Council of the Service Employees International Union, more commonly known as SEIU.
- SEIU is an organization of two million members across North America, more than 100,000 in Canada. We're a union of working people united by the belief in the dignity of workers and the worth of services they provide. Our members are dedicated to creating a more just and humane society, and to achieve this goal, our union is committed to organizing workers.
- SEIU is the fastest-growing union in North America and in Canada. Since 1996, across North America nearly 900,000 workers have united in SEIU. SEIU is the largest property services union in North America—cleaning contractors and security guards—and the largest health care union in North America.
- In an unfortunate sign of the times, I'd be remiss if I didn't mention this to the committee: Members in both of these sectors that are members of our union are currently on strike. Security guards at the Windsor Raceway have been off the job since March 5, and home care workers employed by the Red Cross across Ontario, about 3,000, are now in the second day of

ongoing strike action. I feel that's an issue that should be of particular concern to this government.

- These workers, like many of our members, have been marginalized by the changes in our economy. Like a growing number of workers in Ontario and across North America, they are falling into a new world of work. Full-time permanent jobs with pensions and benefits are being replaced with short-term, part-time temporary work arrangements where wages are lower, benefits are rare, and legal protection, much less strong union representation, is hard to find.
- The Minister of Labour, in his introduction to Bill 139, stated that the nature of work has changed. He's absolutely right. Bill 139 and the regulations that accompany it are very positive steps, and I wanted to say that very clearly. I'm going to focus the majority of my limited time on areas where we'd like to see changes, but I did want to get on the record that we're thankful for this bill. We had an opportunity to meet with the minister and particularly with the parliamentary assistant to the minister, who has been working on this issue for some time, and we thank them for attempting to tackle it.
- One regulation in particular that has already come into place, which was announced in conjunction with this bill, was the regulation extending holiday pay to all workers regardless of whether they were classified "elect to work." That is a positive step which we are very thankful for.
- Small steps but positive steps—and we welcome the bill. In the time provided, however, we want to address some key concerns which we hope the committee will take note of.
- First, the narrow definition of temporary agency in Bill 139: Part III of the bill proposes adding a new section, 74.1, to the Employment Standards Act which would define temporary help agencies as "an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer." This, again, is a good step for dealing with the world of precarious work, but we feel the definition is a little narrow. If the government's goal is to protect vulnerable workers in the world of work, then a broader definition capturing a variety of employment agencies is required. The misclassification of workers as subcontractors is a common practice in cleaning that we have encountered in our union, and it provides a good example of the sort of precarious work that we would hope to see covered by this bill. This is not necessarily an issue of temporary work, but it is an area where Bill 139 could help, we feel.
- In the course of organizing and researching our campaign Justice for Janitors, which is an effort to create bargaining rights for all cleaners in the cities of Toronto and Ottawa, SEIU Local 2 has observed situations where workers trapped in subcontracting schemes are regularly denied their employment rights. In one situation, a Toronto cleaning company contracted with another entity to perform work in two buildings in the city of Toronto. In exchange for the cleaning services provided by the purported employees of the subcontractor, the company paid \$9 per hour to the subcontractor for the hours worked by those persons. In turn, the subcontractor paid its purported employees in cash at the rate of \$8 per hour.
- Obviously this situation raises a series of red flags. First, and perhaps most obvious, the affected employees were not paid the minimum wage prescribed by the Employment Standards Act. Beyond that, it's clear that the subcontractor was not receiving adequate funds to provide for the payment of vacation pay mandated by the Employment Standards Act, as well as various premiums, taxes and levies required by different legislation; for example, WSIB premiums. These subcontracting schemes are unregulated and are too often used to exploit vulnerable workers, particularly new Canadians who are unaware of their legal rights. As one worker trapped in a subcontracting scheme noted, "That's why they're keeping us as subcontractors. I

don't have CPP, WSIB. There is no vacation pay, no bonus. There are no sick days. Nothing at all."

- The issue of subcontracting abuse requires an overall strategy, I'd argue, from the government beyond Bill 139, but I feel Bill 139 could take a step towards curbing potential abuses of this arrangement by broadening the definition of temporary agencies in section 74.1 to cover all employment agencies, anybody charging a fee for placing people in employment. I urge the committee to consider such an amendment, and I know other presenters today will be putting such a suggestion forward.
- The second issue that I want to address today concerns the one class of temporary workers that will not be receiving new protection under this act, and that's home care providers. Section 74.2 of Bill 139 sets out that the new provisions regarding temporary workers will not apply to working women and men in home care. They are specifically excluded. SEIU has also been informed that if Bill 139 is passed, the government intends to revoke the elect-to-work exemptions regarding notice of termination and severance pay within six months of passage. However, once again, home care workers would be treated differently. For these women and men, the exemptions would not be revoked until October 1, 2012. The government has argued that the provisions of Bill 139 cannot be effectively applied to home care agencies. However, the decision to make home care workers wait three years longer than any other worker in Ontario for termination and severance is a little harder to justify. We just feel that with this bill being an overall positive direction, this decision to treat home care workers separately is undermining what should be good news with some undue delay.
- Equally vitally, if the government is not prepared to address the issues facing temporary workers in home care through Bill 139, then we feel that it's incumbent on this government to find other means to address the poor working conditions that home care workers face. I want to talk a little bit about home care workers because we're particularly facing some serious issues in the sector right at this exact moment.
- The government of Ontario indirectly employs nearly 16,000 women and men to provide home care services in Ontario. These workers are mostly women, widely respected in their communities and living on wages that often leave them below the poverty line.
- In other provinces, home care workers are employed directly by government health agencies and have stable, reliable and rewarding jobs. Ontario, however, has embraced a service delivery model where all work is conducted through agencies which compete for contracts every three years. Not surprisingly, home care workers in Ontario consequently have limited job security. They also have lower wages and fewer benefits, and people abandon the sector in higher numbers. In other words, the government has consciously chosen to make home care part-time temporary work.
- Government attempts to curb the flaws in the system have had underwhelming results thus far. I'll note, for example, that in May 2006 the Ministry of Health announced increased funding to address concerns laid out by Elinor Caplan in her report on home care and to set a minimum wage of \$12.50 an hour for personal support workers in home care. Unfortunately, the minimum wage has not led to an effective living wage because these workers, due to their status as temporary workers, aren't paid for a large chunk of their working day.
- I'll explain further: A typical personal support worker is expected to visit five or six clients, patients, people in their homes, a day. Obviously this means that a lot of their working day is spent in transit. However, personal support workers are only paid for the time they're in a client's home. The several hours they spend daily driving from home to home are not properly

compensated. There's no agency that provides full and adequate compensation for those services.

- To provide one example, Pam Sulyma is an SEIU member and a Red Cross personal support worker in the Niagara region.
- **1310**
- **The Chair (Mr. Bas Balkissoon):** There are 30 seconds left.
- **Mr. Elliott Anderson:** You know, it's funny; I thought I would read too fast.
- On a typical workday, she's on the job for 11 hours. She spends approximately four hours driving, for which she's not paid, and seven hours administering care, for which she earns \$14 an hour. Her income, after an 11-hour day, is \$98, or \$8.90 an hour. Suffice it to say that people are leaving the system, and a study of the impact of managed competition on home care workers has found that more than half the workers—
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for taking the time to be here.
- **Mr. Elliott Anderson:** I apologize very much and I urge folks to read the written submission. Thanks very much.

COUNCIL OF AGENCIES
SERVING SOUTH ASIANS

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Council of Agencies Serving South Asians.
- Please state your name for Hansard. You have 10 minutes. If there's any time left in your 10 minutes, there will be questions from all parties.
- **Mr. Abimanyu Singam:** My name is Abi Singam, and I'm here to present on behalf of the Council of Agencies Serving South Asians, CASSA.
- CASSA facilitates the economic, social, political and cultural empowerment of South Asians by serving as a source of information, research, mobilization, coordination and leadership on all social justice issues affecting our communities. As a social justice umbrella organization working with Ontario's diverse South Asian communities, we would like to express our support of the government of Ontario's efforts to improve the employment standards of all workers in Ontario.
- Through this brief, CASSA would like to bring to the attention of this committee some of the challenges faced by workers of South Asian background in Ontario, while identifying some of the changes that the proposed legislation must undergo in order for it to be effective in improving the working conditions faced by all workers in Ontario, including those of South Asian origin.
- Canada is home to more than a million people of South Asian origin, and 61% have chosen Ontario as their home. It's one of the communities that's a very new immigrant community and faces many challenges in integrating in Ontario. For instance, while Canadian adults of South Asian origin are considerably more likely than the rest of the population to have a university degree—25% of Canadians of South Asian origin aged 15 and over have a degree, compared to 15% in the overall adult population—they earn significantly less than the national average. In 2000, the average income from all sources for Canadians of South Asian origin aged 15 and over was just under \$26,000, compared with almost \$30,000 for all Canadian adults. Recent reports by the Children's Aid Society of Toronto also indicate that one in four children from South Asian communities lives under the poverty line, compared to other children.
- According to the research that we have done and the information that we have collected among South Asian communities, this issue of temporary workers is of primary importance. As part of our dialogue with members of the South Asian communities, we held media talk shows, town halls and public discussions to identify some of the challenges faced by members of the South Asian community in accessing equitable employment opportunities in the GTA. During these

discussions, the issue of temporary agencies and their exploitation of a vulnerable workforce, lack of benefits, and lack of proper information about the work they're being hired for featured prominently. It is with this lens that we studied the proposed Bill 139.

- We are pleased that the government has taken leadership in addressing the challenges faced by those working through temporary agencies. It is to be noted that the people who work through temporary help agencies will work weeks, months and sometimes years alongside co-workers doing the same job but for 40% less pay and fewer or no benefits, no job or income security and little protection against employment standards violations.
- As an organization, we are deeply concerned about the racialization of poverty in Ontario. We are extending our fullest support to this bill in the hope that such measures would promote equitable access to employment and workers' rights. We commend the enactment of regulation 432/08, which eliminates the public holiday exemption for elect-to-work employees effective January 2, 2009.
- CASSA, however, invites all our legislators to endorse the bill, as CASSA understands that Bill 139 will eliminate elect-to-work exemptions for public holiday and termination and severance entitlements and reduce direct fees that can be charged to agency workers. The bill requires that the legal and operating names of the agency and contact information for the agency, client company and work assignments be provided to employees.
- We support the bill in the belief that the bill would require agencies to provide all employees with a copy of the information developed by the Ministry of Labour in an employee's language, if available, about the employment standards, rights and responsibilities of temporary help agencies, client companies and agency workers.
- We also hope that the bill would extend some responsibilities, such as anti-reprisal protection, under the Employment Standards Act to the client company and the agency, and that this bill will reduce barriers to permanent jobs by removing some of the barriers that those temporary agency workers on longer-term assignments face when trying to be hired directly by a client company by prohibiting an agency from restricting workers from being hired directly by the client company.
- Therefore, we actually acknowledge the leadership the Workers' Action Centre has provided in advocating for improved employment standards for all workers in Ontario and endorse the Workers' Action Centre's recommended amendments. We propose that the committee consider making these amendments to Bill 139.
- We hope that Bill 139 would construct the agency as the employer of the assignment worker, and that it also restrict liability of the client company for the person assigned to work on a temporary basis to issues of reprisals.
- The narrow scope of Bill 139, however, would still allow temporary staffing and employment agencies to charge workers fees for job placement. We therefore urge that the committee considers favourably the WAC's proposed amendments to change the name of new part XVIII.1 from "Temporary help agencies" to "Employment agencies" and the amendment to change 74.1(1), which is the interpretation for "temporary help agency" to read "'employment agency' means the business of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them or that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer," and that the bill would reflect this definition of employment agency interpretation through the act.
- Second, we also hope that section 74.2, which excludes a worker who is an assignment employee assigned to provide services under contract with a community care access centre,

CCAC, or who is doing work governed by a contract with a CCAC—because we strongly feel that the subcontracted home care workers should be getting the same minimum termination and severance benefits that other workers get and that they should not have to wait three years to get termination and severance entitlements, we urge you to delete section 74.2, which is covering the exemption of home care agency workers under a CCAC contract, in its entirety.

- We also recognize and support the government’s proposal to prevent agencies from restricting a client from directly hiring a worker that was on assignment at the company through this legislation, but we are concerned that Bill 139, as it stands now, would allow agencies to apply restrictions on companies directly hiring assignment workers within six months of starting an assignment.
- We also believe that the agencies should not be allowed to charge the client companies additional fees to compensate for future loss of earnings from a worker. These prohibitive charges would discourage employers from offering employment to workers and leave them in a vulnerable situation. We therefore urge that the government remove the six-month exception to prohibitions on barriers to employment. Therefore, we propose the amendment to delete subsections 74.8(2) and 74.8(3).
- Fourth, in practical terms, the elect-to-work exemption in the ESA is used to deny termination and severance to mainly low-wage workers in temporary, contract and irregular forms of work. Therefore, we believe that removing the elect-to-work exemption is the most effective way of bringing fairness and protection of termination and severance benefits for temporary agencies. We propose that the government should proceed immediately with a regulation to remove the elect-to-work exemption for termination and severance.
- **1320**
- This legislation sets up additional barriers and promotes a two-tier system of rights. The current standards that support termination and severance pay in the Employment Standards Act should apply to agency workers, rather than creating a two-tier system where agency workers would have to wait more than twice as long to be eligible for termination.
- The bill will also disentitle agency workers from termination and severance if they are sick or taking other statutory leave. Therefore, we call upon the committee to consider amending Bill 139 to include temp agency workers under the current termination and severance pay requirements in the ESA. Therefore, we call upon the committee to consider deleting “Termination and severance,” section 74.11.
- Fifth, the information—
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds.
- **Mr. Abimanyu Singam:** The information requirements in the proposed legislation, sections 74.5 and 74.6, address the reality of the changing labour market by requiring the information about the agency, client company and assignment to be provided to the temporary agency worker. However, to fully address the realities that temp agency workers face, workers need to know the expected duration of the assignment. Therefore, we propose the following amendments—
- **The Chair (Mr. Bas Balkissoon):** Thank you very much. We have to move to the next deputation.
- **Mr. Abimanyu Singam:** Thank you again for your time.
- **The Chair (Mr. Bas Balkissoon):** Thank you for taking the time.

ADECCO EMPLOYMENT SERVICES LTD.

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Adecco Employment Services Ltd.
- Please state your name for Hansard and you have 10 minutes. If there’s any time left over, there will be questions from all parties.

- **Ms. Nicolette Mueller:** Thank you. My name is Nicolette Mueller. Good afternoon, members of the standing committee, and thank you for allowing me the opportunity to address this important issue before you today.
- I understand that in some circles—namely, this one—there is a negative stereotype surrounding staffing agencies and the use of temporary workers. I'd like to start by telling you a little bit about myself and my employer, Adecco Employment Services Ltd., to hopefully address that stereotype.
- For many years, I practised employment law at a large Toronto firm. My practice mix was roughly 50-50 between employers and employees. As an advocate on behalf of employees, I assisted with bringing employment standards complaints before the Ministry of Labour, as well as human rights complaints based on discrimination and harassment before the Ontario Human Rights Commission. Less frequently, I had occasion to assist employees with matters before the Canada Employment Insurance Commission and the Workers' Compensation Board. These were in addition to the many breach of contract and wrongful dismissal lawsuits dealt with in the regular courts.
- On the other side of the table, as counsel to employers, I assisted clients with drafting and implementing legally compliant human resource policies, conducting harassment training and investigations and giving advice on human resource practices and procedures. The goal of much of my work was to support my clients in implementing sound, balanced and fair employment strategies that would be to the benefit of both the client and their employees.
- When I left private practice and joined Adecco, many aspects of my practice continued on in my current role as vice-president, human resources and legal counsel. While I now officially only represent one client, I still see my role as ensuring that we implement sound, balanced and fair employment strategies for the good of Adecco, Adecco's clients, as well as our employees.
- For those of you who may not know, Adecco is a global leader in providing HR services. On a daily basis, Adecco employs 500,000 temporary workers in over 60 countries. Adecco connects more people to more jobs at more companies than anyone else in the world. Our biggest asset is our workforce, and we take great care to treat our workforce fairly, ethically and in compliance with our legal obligations.
- Adecco's operating model is to offer flexible employment options to those who seek it and to ultimately transition temporary workers to full-time employment. Our pool of temporary workers comes from many backgrounds. Many are recent immigrants to Canada who need help with eliminating barriers to employment in order to be hired into the industries in which they've been trained in their home countries, or those who wish to work part-time while they're pursuing accreditation in their fields of work. Other workers are recently retired or seeking a second career. Adecco has recently partnered with CARP, the Canadian Association of Retired Persons, to provide employment opportunities for seniors who wish to change their career direction or earn extra income in their retirement through temporary work assignments. Other temporary workers are students who wish to work while studying or between school terms. And yes, there are also employees who are seeking full-time, permanent employment and wish to work on short-term assignments to get by until they do.
- All temporary workers, including those whom Adecco is not able to place on assignments, are offered ongoing training designed to increase their skills, job opportunities and income potential. We have thousands of free on-line courses available to anyone who wishes to take them. Our ultimate goal is to provide temporary employment to those seeking it, provide the opportunity to upgrade and learn new skills and, once those have been acquired, to assist temporary workers in finding permanent work, either with the clients to whom they were

initially assigned or with other clients who retain Adecco to recruit permanent employees on their behalf. Often we meet that goal.

- I don't have time to go through them, but behind the yellow sheet in these submissions are approximately 30 e-mails as samples that I wanted to bring to your attention from our temporary workers. The first one is from a recent immigrant, and she relates her experience and thanks Adecco for assisting her. The second is from a woman who came out of hairstyling in her 50s because of surgery on her hands; she could no longer style hair. She talks about Adecco's job training for other positions—and so on and so forth. I'll let you go through those at your leisure.
- You will see from the dates of these e-mails that none was solicited for the purpose of these proceedings today. They're just a few of the many examples of ongoing feedback that we receive from our temporary workers, and this was long before Bill 139 was introduced.
- In Canada, up until six months ago, Adecco sent 11,000 temporary workers out to work every single day. They were deployed across the country to thousands of small, medium and large enterprises in a wide variety of industries. About 60% of that workforce was based in Ontario, where, as you know, manufacturing and secondary auto supply industries are concentrated. As you well know, many of those businesses today are struggling and have significantly reduced both their permanent and temporary workforces. Some are teetering on the brink of bankruptcy. In order to become as efficient as possible, many seek the help of staffing agencies like Adecco to assist them with flexing their workforce up when there's a temporary rise in demand and down again when demand wanes. Their survival depends on this flexibility.
- At a time when the state of the economy demands removing obstacles to temporary employment, certain parts of Bill 169 do the exact opposite. In fact, it will become costlier for companies to hire agencies and thereby impair their ability to respond to these unpredictable times.
- However, before I get into the problematic aspects of Bill 139, I want to make it clear that we at Adecco applaud its overall objective, which is to protect workers. This is an objective shared by many agencies. It's only right that temporary workers are given information about their assignments, including their wage rate and benefit information, their hours of work and a description of their assignment.
- We agree that an agency should not charge temporary workers a fee for signing up with the agency, assisting with resumés or preparing for job interviews. We also agree that the time spent training a temporary employee for a specific position is compensable time and that they should be paid. Finally, although my view isn't shared by all agencies, I personally agree that when temporary workers work on the days leading up to and following a statutory holiday, they should be paid for the statutory holiday.
- There is much that is positive about Bill 139. However, there are some sections of Bill 139 which are problematic and could have a devastating impact on the industry, our clients and those whom Bill 139 was intended to protect—the workers.
- One such section is 74.4, subsection (2), which is the deemed continuance of employment between assignments. Nowhere in North America, or any of the other 60 countries in which Adecco operates, has such a legal concept been introduced. There's good reason for this. The effect of this section is to treat staffing agencies more onerously than any other employer.
- Take the example of the temporary workers we assign to one of our clients' state-of-the-art warehouse distribution centre in the GTA. The client is a large national retailer, and our temporary workers assist with shipping and receiving merchandise during this retailer's Christmas rush. Their assignments usually start early in the fall and continue through into

January, after which point the client flexes back down to its core group of permanent employees until late spring when business peaks again. At this point, some of the same temporary workers may be offered a second assignment there. Some may accept and some may not. Possible reasons for not accepting a second assignment are numerous. People move or find employment elsewhere. They may be travelling or at school or may have decided to stay home with children during summer months. Regardless, even though they're not available to work, this deems them to be continuously employed and accruing tenure. Then, 35 weeks later, that employee is entitled to one week's termination pay. Any other employer would not be liable for this amount, but Adecco would.

- The section can also lead to ridiculous scenarios. Starting with that same example and changing the facts slightly so that the same temporary worker accepts a short-term assignment with Adecco and, when completed, accepts a second assignment with a competitor and then, shortly after that, a third assignment with a third competitor: Following that, according to Bill 139, that temporary employee would be the employee of three agencies at the exact same time, accruing tenure with each of them and becoming entitled to termination pay from each of them. Again, in no other industry would this be possible.

- **1330**

- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **Ms. Nicolette Mueller:** Multiply these added termination costs by the thousands of employees Adecco has in Ontario and we no longer have a viable business model. We'd be forced to increase the cost of our services to our clients, who would, in turn, reduce the use of our services.
- Continuing with the example of our retail client, instead of opting to use temporary workers it may opt to require a smaller pool of its permanent workers to work longer days and more overtime hours to meet its cyclical demands. The effect of this would be employment of significantly fewer employees and, more generally, an economic climate that puts Ontario businesses at a competitive disadvantage.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much.
- **Ms. Nicolette Mueller:** The rest of my submissions are in the handout that you've been given.
- **The Chair (Mr. Bas Balkissoon):** Thank you for taking the time.

ASSOCIATION OF CANADIAN SEARCH, EMPLOYMENT AND STAFFING SERVICES

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Association of Canadian Search, Employment and Staffing Services.
- Please state your name for Hansard. If there's any time left over after your presentation there will be questions from the three parties.
- **Mr. Steve Jones:** My name is Steve Jones.
- **The Chair (Mr. Bas Balkissoon):** Go ahead.
- **Mr. Steve Jones:** Good afternoon, Mr. Chairman, members of the committee, ladies and gentlemen. Thank you very much for the opportunity to speak with you today and to see you here today.
- My name, again, is Steve Jones. I am president of the Association of Canadian Search, Employment and Staffing Services, known as ACSESS. We are the national association representing the staffing services industry in Canada. We represent executive search firms, employment agencies, professional and technical contractors and, of course, temporary staffing service firms.
- While our name has changed over the last 35 years, ACSESS has emerged as the single and national voice, respected as the voice for the broader staffing services industry with an

honourable purpose to foster the health of the industry by promoting dignity and respect amongst workers by promoting and protecting employee rights, and to influence and promote good public policy through the full and proper understanding of our industry and our industry's practices.

- This June 2009, I personally will have completed my 26th year in the staffing services industry here in Ontario and I will be in my fifth term as a volunteer president of our industry association, ACSESS. I personally have received a volunteer of the year award from the Solicitor General of Canada for my work through ACSESS on the integration of vulnerable workers into the workforce, and many other ACSESS members have been named for countless awards throughout the industry, showing that our people and our companies inside our association are dedicated to quality and ethics and particularly to making a meaningful difference in the lives of the people that we serve.
- We were here in 1989, when we supported the creation of the employer's health tax under the Peterson government at the time to ensure that there was an employer paid health care coverage for all temporary workers in Ontario. We were here with reforms to the Workers' Compensation Board, to the creation of the WSIB, to ensure that there was a sustainable model for guaranteed insurance for injured temporary workers. We have created an industry safety group through the WSIB, and amongst the 32 safety groups in Ontario, ours was ranked number one in all of the province in terms of reducing lost-time injuries and reducing incidents.
- I give you this background so that you have confidence that while you may hear a variety of opinions and interpretations from other groups and various presenters over the next few weeks, you can rely with confidence that the materials you've received from ACSESS—that ACSESS is a source of facts about the industry. If you understand the truthful facts, then you are in the right place when you get to make your own interpretations and develop your own personal opinions about what needs to happen for the temporary staffing services industry.
- The good news is that I come here today, representing ACSESS in the entire staffing services industry, to say that we are supportive of Bill 139. We support the overall objective, quoting Minister Fonseca, which "is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing services firms who employ them in a fair and balanced way." Fair and balanced.
- We support the recent regulatory changes that occurred in December to eliminate exemptions, to ensure that all workers in the province, including those working in temporary employment arrangements, have equal access to public holiday pay. We're doing a great job in moving forward.
- While the bill contains page after page of important and effective initiatives, let me be very clear about one point: There are two paragraphs, and only two paragraphs, that have shortcomings in this bill. These two paragraphs on first glance seem innocuous, yet these two technical errors will undermine any benefits that the overall bill could achieve. These two paragraphs that have gone astray will cause harm to the most vulnerable workers in Ontario. They will result in barriers to employment, they will create lost employment opportunities and they will hurt the exact group of people that we all set out in the beginning to assist and defend and protect. These two simple paragraphs create a complex web of administrative, technical and legal cost barriers that will destroy the industry and will cause irreparable harm to Ontario's economy and our ability to recover. So we move on to look at two—just two in the entire bill—amendments to ensure that this bill achieves its stated objectives.
- You have the notes with more detail, but the first is clause (b) of subsection 74.4(2), where it says, "An assignment employee of a temporary help agency does not cease to be the agency's

assignment employee because ... he or she is not assigned ... to perform work.” So I translate for you: What that means is that when a person finishes their contract term, when they’re done their job, even though they have been given adequate and proper notice, even though their term or their task is complete, this paragraph in the bill will mean that the employee, even though they do not want to work, may not be available, may have gone back to school, may have found work elsewhere, may be at home looking after their children, may have, in the most extreme scenario, been incarcerated, in jail and failed to inform us, they will theoretically continue to be, under this bill, our employee, accruing tenure and the rights of an employee. This, quite frankly, just doesn’t make sense. This what I refer to as a sleight of paragraph would only apply to staffing services firms; it would not apply to any other employer in Ontario; it would not apply to any other staffing services firm anywhere else in the world. This is a notion that does not exist in employment law anywhere in Europe or North America or Canada. So we simply ask you to look at subsection 74.4(2) and please remove that from the bill.

- Our second concern and second paragraph is 74.8(1), paragraph 8. It has been referred to earlier, and its exceptions. In this area, which is in the notes provided to you, there are 10 prohibitions, nine of which are excellent, and we support them—nine out of 10. One paragraph gone awry: Paragraph 8 provides that we cannot charge fees under certain conditions after six months of work. Over 200,000 workers found full-time regular employment through the temporary staffing services industry last year in Ontario. Over 50% of the people worked on temporary assignments, which resulted in full-time permanent work, but this particular provision mistakenly uses the Employment Standards Act to interfere with our negotiated agreements regarding our customers’ fees and payment terms in an inappropriate and misguided way.
- This provision disregards the well-established legal principles that have been reinforced by the highest courts of Ontario and Canada regarding fair business practices, protection of confidential information, contractual tortious interference, unfair competition, fiduciary duty—and I could go on. This clause does nothing to help the people who need it the most, and it inadvertently and accidentally will affect all other aspects of our industry, affecting workforce management, professional services, on-site services, payroll services, engineers, drivers, information technology professionals, even executives placed on contracts. It destroys our industry. It does not respect the hundreds or maybe thousands of permutations of business models and variations of services, while it ineffectively attempts to help a tiny segment of our industry. Please take a look at this subsection 74.8(1) paragraph 8 and the subsection exemptions, (1) and (2). Understand that the nine prohibitions that are there do a wonderful job of achieving our objectives. This particular one is not necessary, and quite frankly could be harmful.
- **1340**
- Our goal, as an association, is to go forward to say that we can support this bill in its entirety, to stand shoulder to shoulder with all the other groups that are appearing before you—
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **Mr. Steve Jones:** —particularly with the government, to say that we can and will support Bill 139 to help the people who need it the most. But we encourage you and urge you to deal with these two amendments so that this bill will work and we can stand with you and make it become an effective law for Ontarians.
- Thank you very much.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for taking the time to be here.

PARKDALE COMMUNITY
LEGAL SERVICES

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Parkdale Community Legal Services.
- Please state your name for Hansard. You have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.
- **Ms. Mary Gellatly:** My name is Mary Gellatly, from Parkdale Community Legal Services. We're a poverty law clinic, providing support for people in low-wage and precarious work.
- Temporary work is just one of the ways that employers are moving work beyond the protection of our labour laws; we see this every day. So we certainly applaud the government for taking a first step in updating and improving our employment standards. Hopefully, it's just the first step of many to protect people in precarious work.
- The goals of Bill 139 are to ensure fairness and protection for temporary workers, and we support these goals. When we looked at Bill 139, we looked to see how it would meet these goals of fairness and protection. Certainly, Bill 139 takes some important steps in expanding protection and employment standards for temp workers: things like improving access to public holiday pay; making it illegal to charge temp workers fees; providing workers with information about assignments and employment standards rights; making client companies legally responsible for reprisals against temp agency workers who try to enforce their rights—these are very important changes. In our submissions, you'll see further discussion about how they can improve conditions for temp workers.
- But at the hearing, we want to talk about what needs to be changed and fixed. For us, there are four things which we believe are important to address in order to meet those goals of fairness and protection. In our brief, we've got more detailed clause-by-clause changes to help with the effectiveness of the act.
- First, I want to address—and other people have addressed it before—the issue of the barriers to hire. The government set out the important goal of ensuring that workers are not unfairly prevented from assessing permanent jobs when employers want to hire them from the agencies. Getting rid of barriers that temp workers face to more stable, higher-paying jobs, potentially with benefits, is an incredibly important part of an economic recovery plan, particularly in the current context, and an important part of a job development strategy.
- But Bill 139, as we've heard, will only make barriers illegal after six months from the first day of assignment. This effectively creates a six-month barrier on hiring, and we feel that this absolutely has to be removed. The reality is, the majority of temp workers work for assignments that are six months or less. The majority of temp workers are not going to benefit, and we'll effectively have two standards, one for longer-term and one for shorter-term workers.
- The six-month barrier on hiring will create a loophole that will allow agencies to cycle temp workers through. Basically, the six-month prohibition is on an individual employee. All that agencies have to do is, at five and a half months, take out the assignment employee, put in another one, and you've got an effective loophole which allows them to avoid the prohibitions after six months as well.
- Putting in law that agencies can restrict the free movement of employees in our labour market is a dangerous precedent for employment law, and one that we should not be taking here. A six-month barrier on temp-to-permanent hiring that leaves the majority of agency workers trapped in low-wage and precarious work—these are precisely the workers that this bill is supposed to be protecting. Restricting temp agency workers from gaining permanent work is contrary to public policy, particularly in the current economy.

- The temp agency is arguing that it's going to be financially hurt if it can't recoup its costs through these fees for recruiting and retaining this pool of labour that it leases to clients. The argument is based on the assumption that agencies don't spread their overhead costs across the board through their markup fee, and they do that. Recruiting costs are the same as other costs for advertising, heating etc. Those costs are applied to the markup fee, which is charged on an hourly basis. We have to look back to what is the very purpose of our legislation. The legislation is to ensure that the costs of employer obligations for employment standards—and those are our basic, minimum standards—are borne not by workers through not being able to get a stable job, but by employers and, in this context, client companies who benefit from that labour.
- To be effective to the goals of the legislation, we need a total prohibition on barriers to permanent hire to ensure that the underlying goals of Bill 139, but also the remedial nature of employment standards legislation, are maintained.
- Second—it seems that we have agreement on the kinds of issues that need to be addressed—termination and severance is also an issue that we feel needs to be addressed. It's good that the government announced that it's going to get rid of the elect-to-work exemption for termination and severance. Quite frankly, there's no need to wait until Bill 139 is passed. The government can proceed immediately by regulation to get rid of that. People in precarious work, temp agency and all other workers, who are denied termination through the elect-to-work prohibition need that termination and severance now, particularly with the state of the economy. Let's move immediately. We don't have to wait.
- What we do need to do for termination and severance is deal with the special rules that are being considered. As we heard from the Ministry of Labour, temp agency workers right now get the same termination and severance entitlements that other workers in the province get. The bill would create special rules which say, "You don't have to be unemployed for 13 weeks out of 20. Now you've got to wait 35 consecutive weeks without any right to be sick, disabled, to get a statutory leave"—other grounds that we believe, under the Human Rights Code, could cause a serious challenge to this provision.
- Fees create lower standards for temp agency workers. They create impossible barriers which I think effectively are going to mean that people don't get termination and severance. The bill is supposed to protect temp agency workers. These special rules certainly do not provide that protection, and I think they limit workers' access. We believe that 74.11, termination and severance, the special rules, have to go. They have to be deleted.
- We've heard the temp industry arguing that they want to basically reduce their liability for termination and severance by reducing—right now, the Ministry of Labour has told us that the practice in Ontario is that temp agencies are responsible for workers from the time that they sign up until the time that that relationship is terminated. That's a practice now. Now they want to say, through the deleting of a provision of Bill 139, "We don't want to be responsible for workers for the whole time"—even though the very nature of the business is to have a pool of workers to lease. They don't want to be responsible for them except when somebody is directly on assignment, making money for them.
- Again, we have to go back to, what is the objective of Bill 139? What is the objective of employment standards? It is to ensure that minimum employment standards and the cost of those rights are not borne by workers. Right now, with the reality that most temp workers never get termination and severance, those costs are being borne by workers who systematically make 40% less than their coworkers. Let's get rid of the termination and severance thing.
- The other thing I might add is that in the story we heard about having to have staff online for 35 weeks, even though they may have just worked over the Christmas holidays, agencies have the

right to give notice. To give a week of notice, they don't have to pay a cent. I think it's a bit of smoke and mirrors to cast it as bearing liability for 35 weeks. There are mechanisms to give people notice without any cost liability.

- Our third point is around the bill and who it leaves out. We believe that the bill will leave some workers still charged fees for work. When the government introduced Bill 139, it said that it was stopping agencies from charging fees because it was unfair. The minister said that. He's absolutely right: It is unfair. But Bill 139 will still leave a third of the employment and staffing industry with the ability to charge workers fees for work. It's a step backward from Ontario's old Employment Agencies Act—the original bill that you brought forward, Mr. Dhillon.
- **1350**
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **Ms. Mary Gellatly:** Okay. Time goes quickly here. Basically, it's a step back not to include prohibition of fees for permanent work. We believe that the bill has to be changed to include all of the employment staffing industry and to clearly prohibit the charging of fees for permanent placement at work as well as for temporary placement at work. My colleague at the Workers' Action Centre will talk about changes to information required.
- **The Chair (Mr. Bas Balkissoon):** Thank you for taking the time to be here.

LANNICK GROUP OF COMPANIES

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Lannick Group.
- Please state your name for the record. You have 10 minutes, and if there's any time left after your presentation, we will allow questions from the three parties.
- **Mr. Peter Jeewan:** My name is Peter Jeewan and I am the CEO and president of the Lannick Group of Companies. I'd like to thank the committee for taking the time to listen to me this afternoon.
- First off, I'd like to say that generally we support the provisions of Bill 139. We do have an issue with section 74.8, paragraph 8, which prevents us from charging temp-to-perm fees, and we respectfully ask that you remove the section. I will attempt to support that request by telling you a little bit about our business.
- Our firm specializes in placing accounting and finance professionals on a temporary and permanent basis. In 2008, we placed close to 200 accounting professionals on a temporary basis. Their average income was approximately \$130,000 on an annualized basis, with some making in excess of \$300,000. These individuals performed services that in most cases would have otherwise been provided by public accounting firms, and they did so for about one third of the cost that our clients would have otherwise incurred had they used public accounting firms. Generally speaking, the professionals we represent earn a premium to their peers in public accounting.
- The talent pool that we represent is highly skilled and commands a significant wage in the marketplace. Recruitment agencies representing this type of professional provide Ontario's businesses access to much-needed skilled workers in a cost-effective manner while at the same time providing skilled workers with access to assignments which provide premium wages on an as-needed basis.
- Contract professionals such as the ones we represent elect to work in this manner as a matter of choice and they utilize our service to augment their own marketing activities to find work when needed. They enjoy many choices in terms of the agencies they can work with, and in order for agencies like ours to be effective, we have to provide higher wages and better assignments than our competition, which of course directly benefits these workers. This is a crucial point: We

operate in an efficient, effective marketplace that equally benefits both the employer and the worker.

- Our company has been in the placement business since 1985, and our long-standing commitment to our business and our employees has always been predicated on the expectation of a fair and predictable business climate in the province of Ontario. While we applaud the government's desire to prevent the placement industry from exploiting workers and engaging in practices like charging fees to workers, we feel that the pending legislation is over-broad in its application and will have a seriously negative impact on our sector of the placement industry, our clients and the workers we represent.
- As the committee is probably already aware, there are recruiting firms that charge fees in the manner prescribed by Bill 139. These firms tend to provide high volumes of general labour and clerical workers to their clients and they themselves typically employ individuals with clerical backgrounds to do so. The economics of a firm of this type are dramatically different than firms such as ours, and the market forces governing their relationships with the workers they represent are very different as well. Generally speaking, they operate in a buyers' market.
- Firms like ours provide highly skilled workers and tend to employ other highly skilled workers. Most of our internal employees, myself included, have professional accounting designations. Our company invests in sophisticated tracking systems and continuous training and upgrading of skills, all in an effort to provide better service and greater value to our clients and candidates. All of this goes to say that we are a much higher overhead proposition because we service a market that requires a much greater degree of intellectual capital and sophistication. Our market is a sellers' market, and the sellers are the workers we represent. They have all kinds of employment options available to them, and all that the proposed legislation will do is interfere with the fairness and cost efficiency that free-market competition generates.
- Our fee structure, including temp-to-perm fees, reflects the balance of what clients are willing to pay for our services and the revenue that we must generate in order to recover past investments, make future investments and survive the cyclical challenges of our business.
- The draft bill addresses temp-to-perm fees as a barrier to employment. I can tell you unequivocally that we have never encountered a situation where a candidate lost a permanent job opportunity because of a temp-to-perm fee. These types of fees are a long-standing and generally accepted part of an efficient fee structure in the industry across the world. They allow clients to pay for services in the manner that they intend to use them. Restricting our ability to charge temp-to-perm fees means that we will have to recover our recruitment/acquisition costs by charging higher hourly margins. This will boost the cost of knowledge workers to companies and may even result in reductions to these hourly workers as firms seek to expand margins to compensate for lost temp-to-perm fees. We maintain that these fees are the domain of the free-market system.
- We view this anticipated impact of the legislation on our segment of the recruitment industry as an unintended negative consequence and respectfully ask that the legislation be revised so that this provision is dropped altogether. Failing this, we ask for clearly defined worker classes to be identified so that it takes proper aim and will achieve the intended effect.
- Passing the legislation as it stands could put us and many other firms like us in full retreat from our expansion in Ontario. We are what I believe anyone would consider a success story, with a positive culture. We have been selected as one of Canada's top 50 employers and enjoy a reputation for excellent service. We've grown by 1,200% in the past four years, and a large part of our success resides in the very real investment we put into our internal staff and the development of innovative best practices that benefit both our clients and the workers we

represent. None of this comes free, and the proposed fee restrictions would substantially reduce our return on investment and compromise our current model. This model has been welcomed and embraced by our clients, and they willingly pay our fees because they understand the value of accessing top talent as and when needed and for as long as they need them, including on a permanent basis.

- Our segment of the marketplace is dominated by multinationals, companies like Robert Half, which is headquartered in California and operates all across North America and Europe. Multinationals like Robert Half do not have the same relative cost structure and are not making the same relative investment in Ontario. Their executive jobs are located outside of the country and the province. They will be dealt a relative advantage over Ontario-only firms like ours as their branch economics will work better in the new environment that this legislation promises to create. Our company, with its Ontario head office structure, will be at a disadvantage. Needless to say, one of the net effects of this will be to discourage investment and innovation in an industry that needs both.
- Today, our industry is at the leading edge of a massive recession, with many of our peer firms reporting a 75% decline in business activity. Many firms in our industry are fighting for their lives, and history says that more than half of them will go out of business before the economy rebounds. The proposed legislation will increase the damage that is already being wrought on our industry and will most definitely impact our company's profitability by at least 25%, putting into question the ability of many in our industry to make it through this current economic cycle without taking drastic action.
- As entrepreneurs, we do not complain about recessions and we do not ask for handouts. Recessions usually weed out the weak and reward companies that innovate and invest in themselves intelligently. As it stands right now, this legislation will exacerbate the effects of the recession on all recruitment firms and will be especially punitive to firms like ourselves with heavy investments in Ontario.
- We respectfully ask that you remove section 74.8, paragraph 8, which interferes with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.
- **The Chair (Mr. Bas Balkissoon):** Thirty seconds left.
- **Mr. Peter Jeewan:** Thank you.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for taking the time.
- **1400**

WORKERS' ACTION CENTRE

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Workers' Action Centre.
- Please state your name for Hansard. You have 10 minutes, and if there's any time left after your presentation, there will be questions.
- **Ms. Deena Ladd:** Great; thank you. My name is Deena Ladd, and I'm the coordinator at the Workers' Action Centre. I want to thank the committee for letting me make a deputation today.
- I just wanted to give a bit of context as to where the Workers' Action Centre comes from. We're a non-profit community organization that helps people with their problems at work. We operate a phone line in six languages where people can phone in for advice and get support if they're dealing with problems and if they've got violations of their rights. We do a great deal of education in the community across the GTA, and in fact across Ontario, with workers looking for work and who are in work, on employment standards and labour market issues.

- When we began nearly 10 years ago, we immediately started to deal with the practices of the temp industry, which for the most part has been quite unregulated. We've witnessed it, and on a daily basis we've had to deal with phone calls and questions and lots of people calling us from across this province who have been very concerned about the impact of an industry that has been allowed to develop a whole range of unfair business practices restricting workers from accessing full-time jobs, charging a range of fees, from transportation and equipment to finding work. We've had to, time and time again, help individuals access basic statutory rights under basic employment law such as public holiday pay, overtime pay, vacation pay and unpaid wages.
- The context: Before this economic crisis hit, we had a situation where there's been incredibly huge growth of precarious employment in this country, and we've got a labour market where close to 40% of workers are now in precarious work. It's been incredibly shocking to us to see how workers can be treated completely differently in the labour market just because they're hired through a temporary agency. We've found that workers hired through agencies can be treated so completely differently that you can be denied the same pay, benefits and access to jobs as the workers that you're working alongside with, and there's the fact that you can just be gotten rid of in a moment's notice with no notice of termination even if you've been on an assignment for years.
- These have been so many of the kinds of calls that we've gotten. We've been having lots of community meetings about this bill. We've been having lots of calls from many different workers across this province, and people are saying, "How can this be allowed to happen in the 21st century? How can I be restricted from applying to jobs at a company? How come I'm not treated basically like any other worker? How can this be allowed to happen?"
- Really, all we're saying is that we're seeking a level playing field so that all employers have to follow basic employment standards and so that workers can have the confidence and protection of basic employment standards, regardless of who hires them. All we're really asking here is that we have an established floor of standards for everyone.
- We were very pleased when Bill 139 was introduced, because we see this as a big step in that direction. We're very pleased that the government of Ontario is recognizing that our workplaces have changed, that there's a huge increase in precarious employment and that temp agency workers need protection from this whole host of unfair practices that have been allowed to flourish in our province, which workers are dealing with individually on a day-to-day basis.
- Due to the time limits—we've obviously only got a very little bit of time—I want to focus my comments on three key changes that we'd like to see and get your support for in Bill 139. It really is just trying to establish those fair standards, a fair, level playing field for workers.
- One of the biggest issues and concerns, and of course we've been hearing about it all afternoon, is the employment legislation barrier that we'll be seeing in Bill 139 in hiring workers. Rightly so, Bill 139 prohibits agencies from imposing barriers on client companies hiring assignment workers, but it only makes those barriers illegal six months after the assignment at the client company starts. We really feel that this should be removed. When you've got the majority of workers who are working six months and less, this is going to be a huge barrier for them in accessing work. We hear time and time again of workers calling, saying, "I'm working here; I'm stopped from accessing a full-time job because of these kinds of barriers." I think, especially in this economic crisis, that the whole goal of our economy should be to try and find people employment. How can we allow restrictions on people's mobility in the labour market?
- We have a whole host of government-funded services that are dealing with laid-off workers: employment search workshops, job development. These are government-run, community non-profit organizations that are doing the same work and would never be allowed to restrict

someone's movement into a full-time job and charge a fee, yet this bill is actually allowing temp agencies to continue that. I think this six-month barrier on hiring will create a huge loophole that will in fact stop workers from accessing those jobs because, frankly, if an agency's income is made from placing someone on assignment and they get their fee through the hourly markup, why would they let that person go beyond six months? Just replace that worker at five and a half months with another one so they can continue to make their profit.

- I think it's incredibly important that this be removed and that we don't put in legislation that someone's mobility in the labour market could be restricted by a fee. I think it creates a very dangerous precedent.
- The second amendment we are seeking is on the information required. I think this is very critical, especially when you're dealing with people who are moving from assignment to assignment and really rely on basic employment standards for protection. Many of the workers we work with will never have access to a trade union and really do rely on employment standards to protect them at work. We think it's incredibly important that in the information provided to someone about their assignment, they are told what the duration of that assignment is. Temp workers are just like other workers: With any one of us, if we're applying for a job, our first question, of course, is, "How much am I going to get paid?" but then, "How long is this job going to be for?" I think it's totally reasonable for a temp worker to have that same information as any other worker. Temp workers have lives; they have families; they have dependants. They need to plan their financial stability. They've got bills to pay. I think it's only reasonable that they should have that information included. So we would certainly request an amendment to ensure that the information is provided.
- Another amendment that we'd like to suggest to that information is that the client company sign on to that information piece. Again, what we see on a daily basis is temp workers being put in the middle. The temp agency gives them a little bit of information; then they're told, "You'll get that information from the client company. Just show up at the back door and talk to whoever, and they'll put you to work." We want to make sure we have transparency of information. Anyone who goes on a job should have the information and they should know that the client company has that same information, so that the client company can't turn around and say, "Oh, no. We didn't say that you didn't have to work overtime," or, "We didn't say that this was the type of work you were going to do." We think it's very important for people's basic protection that the client company signs on to the information sheet, as well as the temp agency and the worker, so that there's no misunderstanding, no confusion about what the job is, how the job is going to be done, and the conditions of that work. We would like to request that amendment.
- The third amendment that I wanted to talk about is the issue around termination and severance. I think that when the government announced it would be getting rid of the elect-to-work exemption for termination and severance—
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **1410**
- **Ms. Deena Ladd:** —sure—we were very pleased with that, because it meant that, obviously, people could get paid public holiday pay. I think what's very critical about Bill 139 and what we're quite concerned about is that it's going to create special rules on termination for temp agencies. We believe that temp agencies should have to follow basic employment standards just like every other company in Ontario. Temp agencies argue that they are the key employer; well, they should have to follow the law and ensure that their employees have equal access to termination and severance.

- Thank you very much.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much.

COMFORT KEEPERS

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Comfort Keepers.
- Please state your names for the record, and then you have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.
- **Mr. Peter Drutz:** My name is Peter Drutz. I'm the president of Comfort Keepers for Canada. I'm joined by my colleague Laurie Saunders. We appreciate the opportunity to speak in front of the committee today.
- I'd like to start by telling you a bit of background about Comfort Keepers, because we represent a different industry than those you've heard from quite a bit today, and yet are very much affected by this bill. At Comfort Keepers we provide personal support services, homemaking and companionship to the elderly and to others who are in need of assistance with their activities of daily living. We offer our services primarily in private homes. We do some in retirement homes or long-term care or hospitals, but most of our work is done in private homes. We're a franchise company that is made up of small business owners who operate offices across Ontario. We employ hundreds of workers, and these are workers who have sought to make a career out of being home care professionals.
- The services we offer are usually purchased either by a family member or by the direct recipient of the care themselves, and these services play a very important role in the well-being of our clients. The entire industry we represent, the private home care industry, complements public health care, as our services tend to improve the quality of life that our clients have and can often prevent or significantly delay the need for additional medical care.
- We're very mindful of the existence of unscrupulous employers whose hiring practices perhaps subject very vulnerable employees to unfair treatment, who perhaps pay at or below minimum wage, and whose employees are really biding time until they can find a better, more permanent or higher-paying job. Therefore, we're very in favour of the elements of this bill that offer the range of protections that are presented for these kinds of employees. However, it's not what our company is about. Our staff work for us because they themselves are very committed to their profession of being home care professionals. They need and they want the kind of flexibility we offer. Many of the personal support workers we employ, quite frankly, have the opportunity, as an alternative, to work in long-term-care facilities or other institutions, and yet they choose to work for Comfort Keepers because we offer them the work-life balance that they want. We offer them the flexibility that they want, whether that's to take a two-week break from their work or whether that's to take a 40-week break from their work. That flexibility is core to our relationship with them.
- So when you look at how we interact with our staff, we spend a considerable amount of time and money on recruitment, screening, training, and the safety of our caregivers. We treat our staff with respect and dignity in every aspect of our relationship, from how we manage them to the fact that we comply with all government regulations.
- The nature of our assignments to various private individuals can differ quite widely. They can range, for example, from the short-term-care needs of a patient who might be returning from hospital to caring for a senior with Alzheimer's who starts off needing perhaps a few hours of care a day and eventually progresses to requiring around-the-clock care.
- That's the background to what we do and the nature of our work. I'd like to address three areas of concern we have with the bill.

- The first is the differential treatment of home care service providers under the CCAC, or community care access centre, contracts and those provided by private providers.
- Comfort Keepers believes that private-pay services and those that are funded publicly should be treated equally under Bill 139. Therefore, our recommendation is that the government broaden and amend section 74.2 to remove that unfair playing field, and we put the language in there. The option of both private and public care is very important to Ontario residents and, quite frankly, nothing should systematically create an inequality between these two.
- The second area that we looked at was the proposed amendments with respect to termination and severance. As you heard earlier, the bill establishes that an assignment employee is entitled to notice of termination and severance if they haven't been assigned to work for a period of 35 weeks. But I think it's very important to put into context the number of factors that could affect the length of care or service we provide to a patient or client. There could be substantial changes in the client's medical circumstances. There could be variances in business volume of the operator. There could be a change in mix of the kinds of clients we have who require different kinds of home care services. Really, it's in the best interests of both the caregiver and a home care company like us to be able to find assignments for the staff.
- From the employee's point of view, periods of not being assigned are often at their request. Let me give you an example. During the summer, we very often will hire nursing students who want to do home care work over the summer period. Months later, or even in the following season, almost a year later, if they have an opportunity to work with us during school breaks or other times, then they want to stay on our roster and we want them to stay on our roster. They're not looking to be terminated and rehired, and that's the intent.
- As well, the proposed 35-week formula is going to impose an increased administrative burden, and that's ultimately going to add cost to an already thinly margined business. It's also invariably going to lead to increased cost for private individuals, seniors, who often will now not be able to afford the service. That's unnecessary, given the fact that this change as proposed is going to force termination paperwork and records of employment for employees who don't want to be terminated and for employers who don't wish to terminate them.
- The third area has to do with the notion of charging client fees for directly employing agency staff. Section 74.8 allows our client the right to directly hire a caregiver or employee without penalty after six months. I've previously commented on the fact that private home care companies have invested substantially in recruiting and in the ongoing training of these staff. We therefore believe that it really should be a matter of contract between the agency and the client, not a matter of employment law, as to whether those penalties are going to apply.
- You've heard in earlier submissions today the notion that companies may want to take advantage of that and, five and a half months into the process, suddenly swap out one caregiver for the other. That's very contrary to the nature of the work we do, where so much of it is based on matching a caregiver with a private individual in their home. It would be ludicrous to assume that we would want to swap that person out to avoid a clause like this. Therefore, we recommend that this be eliminated. In the alternative, we would propose that the window be extended to one year.
- In summary, we really have three areas of concern: the proposal with respect to the CCAC exception; the termination and severance clause; and last, the fees to clients for hiring staff directly.
- **The Chair (Mr. Bas Balkissoon):** Thank you. We have about 30 seconds each. The government first. Mr. Dhillon?

- **Mr. Vic Dhillon:** Thank you very much for appearing before us today. Do you do any business for the CCACs at all?
- **Mr. Peter Drutz:** No, we don't.
- **Ms. Laurie Saunders:** By choice.
- **Mr. Vic Dhillon:** And the majority of your business is to individuals?
- **Mr. Peter Drutz:** Yes.
- **Mr. Vic Dhillon:** Okay.
- **The Chair (Mr. Bas Balkissoon):** Thank you. Conservatives: Mr. Bailey?
- **Mr. Robert Bailey:** Yes. Thank you for your presentation today. If the bill as written is implemented without the changes, would it seriously harm your business and similar businesses, do you feel?
- **Mr. Peter Drutz:** Absolutely.
- **1420**
- **Ms. Laurie Saunders:** It would harm our business substantially. It would also harm the employees who work for us who want that flexibility to pick and choose assignments and who, in many cases, work for multiple agencies as well.
- **Mr. Peter Drutz:** And indirectly it would harm the relationship between seniors in need of care and their caregivers that they've come to form bonds with.
- **The Chair (Mr. Bas Balkissoon):** Thank you. Ms. DiNovo?
- **Ms. Cheri DiNovo:** Pass.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for taking the time to be here.

CANADIAN UNION OF PUBLIC EMPLOYEES

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Canadian Union of Public Employees.
- State your name for the record. You have 10 minutes, and if there is any time left within your 10 minutes, we'll allow questions.
- **Ms. Kelly O'Sullivan:** It's Kelly O'Sullivan.
- **Ms. Stella Yeadon:** Stella Yeadon.
- **Ms. Kelly O'Sullivan:** I wanted to start by thanking the committee for providing the Canadian Union of Public Employees and myself, as a representative, with the opportunity to present to the committee on Bill 139. The focus for CUPE is to talk about the issue of the home care workers' exclusion from the severance and termination pay that's being proposed in this amendment.
- CUPE represents more than 220,000 members across Ontario and over half a million in the country. We deliver services that range from child care, municipalities, emergency services—community-based—and other social services.
- In Ontario, we don't represent a large majority of home care workers. In fact, the local that I'm from, CUPE 4308, probably represents the largest chunk of workers at about 300. In total, we probably represent about 500. In fact, the majority of home care workers are not unionized in this province. Because of our collective agreements, our workers do have access to severance and termination pay. The reason we're here today speaking out around this issue is that we don't think that that small group of workers who are unionized should be the only ones who have access to severance and termination.
- Home care workers—I'm not sure how many of you on the committee are familiar with the type of work in this sector and the nature of the work—are among the nearly 40% of Ontario workers who would be considered contingent, contract and temporary workers. Oftentimes, the type of work that they do is lower-waged. The province has set a minimum of \$12.50 an hour. While that may seem reasonable compared to the minimum wage, that's not working on any

guaranteed hours of income. You can have, as we have in our workforce, workers who have worked for 20 years. You may work 15 hours one week, 20 hours the next and 10 hours the following week. You oftentimes don't have benefits, pension plans, access to other health care provisions—even though you're considered a health care worker. So there are real challenges in this sector to begin with, and now, to add insult to injury, to take a specific exemption to severance and termination pay for these workers we find particularly frustrating, and we're calling for that to be removed from Bill 139.

- In home care, the predominant workers are women. In urban centres such as in Toronto and Hamilton and other areas, they are predominantly racialized women and, as we've mentioned already, have very precarious working conditions. These precarious working conditions have been fostered through the competitive bidding process that's currently used in the province of Ontario, a process that has, as you know, been stalled and put on hold a number of times, but we still manage to think that somehow it can be fixed. I guess we'll see, in this next round coming up, how much further damage it creates for vulnerable clients and workers in the sector. I think that's very important, though. Because of the competitive bidding model, these are workers who greatly are in need of protection around severance and termination, because, for no fault of their own, the company they work for can lose a contract. So there they are, no longer employed—not because of anything they have undertaken or done on their part; simply because a contract has been lost. They're now, as this bill looks at, going to be exempt from severance and termination.
- That's a serious concern for us. I think that what we really want to see removed is section 74.2, which explicitly excludes a home care worker who is an assigned employee assigned to provide services under the contract with the community care access centre or doing work governed by a contract with a CCAC. These are entitlements that will be given to other contract workers once this legislation is passed. So it begs the question for us: Is this a purposeful withholding of termination and severance pay to CCAC-contracted home care workers directly related to a concern over liability of the government funder—as I said before today, the Ministry of Health and Long-Term Care—to pay these costs under a home care delivery model that is already exploiting workers through low pay and that fuels job loss?
- The competitive bidding system means that home care workers lose their employment more frequently as companies lose contracts, and we're looking at a bill now that would exclude them from receiving termination and severance pay. This specific denial of termination and severance for home care workers, who, because of the nature of home care and competitive bidding, are subject to precarious employment and income instability through no fault of their own, we believe flies in the face of the provincial government's commitment to reduce poverty in Ontario.
- So Bill 139 amendments are called for. It's unfortunate that the provincial government has, for the last six years, refused to stop the competitive bidding model. While it's in place, I think it's imperative that severance and termination have to be addressed.
- Bill 139 provided the government with another opportunity to improve wages and working conditions for home care workers. However, as it's currently proposed, it once again fails home care workers and doubly punishes them. There's a fundamental unfairness here. The exploitation of home care workers must stop. They must be included in the new protections of Bill 139.
- Even a Liberal government-commissioned report on home care competition written by the former Minister of Health, Elinor Caplan, recommended that home care workers receive termination and severance pay.

- Home care workers should not be exempt from the new entitlements of termination and severance pay that, when Bill 139 is law, elect-to-work workers—except home care workers—will be entitled to receive.
- CUPE Ontario asks for the following amendments to Bill 139: Delete section 74.2, which exempts home care workers under a CCAC contract in its entirety. We’re also asking that section 74.2 of Bill 139 be deleted and the elect-to-work exemption be repealed, as I already stated. The amendment to that bill would ensure that home care workers are eligible for termination and severance pay. This is the same entitlement extended to other elect-to-work-status workers once Bill 139 is passed.
- I would be remiss not to recognize the importance of our community allies who have supported the incredible work of Bill 139 coming into place. Our request for an amendment to this bill is in no way to diminish the importance of the changes that need to take place. Our concern here is specifically on the exclusion of home care workers.
- Once again, when you look at it, it’s kind of like, out of all the workers in the entire province we could choose, we found these particular workers to exclude. You have to ask yourself: Why has that been done and what are the reasons for that? From our perspective, representing home care workers—and I would think the majority of people who receive personal care from those workers would ask you the same question: Why are you excluding them from this right that’s being extended to other workers?
- **The Chair (Mr. Bas Balkissoon):** Thank you very much. We have about 30 seconds, and we’ll start with the Conservatives. Mr. Miller.
- **Mr. Norm Miller:** Thank you for your presentation. I’ll ask the question you were just asking: Why do you think the government put this exemption for CCAC home care workers into Bill 139?
- **Ms. Kelly O’Sullivan:** I think our concern, as we alluded to in the statement, is that ultimately the CCAC is funded by the Ministry of Health. The Ministry of Health would have to be responsible, we would assume, for ensuring that that money is available to both for-profit and not-for-profit companies that provide home care.
- **1430**
- **Mr. Norm Miller:** So in other words, the reason they did it is that it would cost the government more money?
- **Ms. Kelly O’Sullivan:** We haven’t been told anything different. I’m not sure. I’d love to know why.
- **Mr. Norm Miller:** That’s probably correct.
- **Ms. Kelly Sullivan:** If there’s another reason, I’d like to hear it.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much. Ms. DiNovo.
- **Ms. Cheri DiNovo:** Thanks for your presentation. There has been some news recently in the last couple of days—my questions to Mr. Fonseca about extending care and coverage to nannies, one of the most exploited groups in Ontario. This bill could do that quite easily. Would you be in favour of that?
- **Ms. Kelly O’Sullivan:** Of course we would be in support of that. I think it needs to be extended to all workers in Ontario.
- **The Chair (Mr. Bas Balkissoon):** Mr. Dhillon.
- **Mr. Vic Dhillon:** Thank you for your presentation.
- **Ms. Kelly O’Sullivan:** Thank you.

ONTARIO HOME CARE ASSOCIATION

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Ontario Home Care Association.

- Please state your name for the record. You have 10 minutes. If there's any time left, there will be questions.
- **Ms. Susan VanderBent:** My name is Sue VanderBent. Good afternoon and thank you for the opportunity to speak today. I'm representing the board of the Ontario Home Care Association, representing over 50 home care organizations in Ontario and across Canada.
- Overall, OHCA is supportive of the amendments to the Employment Standards Act, which are designed to further the government's overarching objective to promote and protect employment rights and to correct any specific situations in the temporary-help-agency sector, where workers are not treated fairly.
- However, home care providers are not temporary help agencies that supply and assign employees to a host employer. There are identifiable differences between the structure of the temporary help agency and the home care provider specifically related to its labour practices and policies. This difference is due, in part, to the type of work with which the home care worker is entrusted and the needs of the vulnerable client populations served.
- Home care providers are negatively affected by some of the proposed amendments within Bill 139, such as 74.8, where an organization is prohibited from contracting with clients for maintaining the ability to have a staff member in the home.
- In the context of health care and, in particular, home care, which is a unique and growing place of work, it is vital to address ways to support the workforce and ensure success in human resource recruitment and retention. Members of the OHCA wish to maintain current employment practices that are beneficial in order to ensure that a growing number of Ontarians are able to stay independent and functional in their own homes.
- The government of Ontario is committed to transforming the broader health care system from one that is episodic, acute and institutionally oriented to one that addresses the longer-term management of chronic conditions for people of all ages within their homes. Research shows that people of all ages want to receive care at home for as long as possible. Home and community care in all its aspects is acknowledged to be vital to the transformation of Ontario's health care system.
- Publicly funded home care is intended to supplement the care provided by family. Publicly funded home care services in Ontario are coordinated through the community care access centres, or CCACs.
- Privately funded home care is also purchased independently by families and individuals. This privately funded care assists with growing pressures to balance work, raise children and care for loved ones who might require more care than the current publicly funded home care system supports.
- More and more Ontarians are choosing to purchase home care services privately as a supplement to the publicly funded system. There has been a corresponding increase in the number of private and corporate insurance plans to respond to this trend.
- All OHCA members can provide home care services under contracts with all levels of government, community care access centres, insurance companies, institutions, corporations and private individuals. OHCA members have a range of different types of corporate tax status.
- The home care provider delivers care in the home through the work of regulated health professionals—that is, nurses or therapists—and also supports clients with personal care—which is bathing, toileting, feeding—and home supports: light housekeeping, transportation, companionship and meal preparation.
- Home care recipients, particularly the elderly, often require regular and consistent care in the morning—to rise—and in the evening—to go to bed. There is a corresponding need for home

care employers to ensure that there's a high number of staff available at both of these periods of time during the day, and that is to manage this fluctuation in the natural care needs of a client.

- All home care services enhance quality of life, are cost-effective, and prevent unnecessary hospitalization, emergency department admissions and premature institutionalizations, therefore serving the broader goals of the Ontario health care system.
- All home care providers in Ontario, regardless of funding type, bridge the gap between the various settings of health and social care, including the acute care hospital system, emergency rooms, supportive living, long-term-care facilities, hospices, and physicians' offices. These close linkages meet the client's needs in an individual and comprehensive manner and go well beyond physical and mental care to engage social supports as well.
- Human resource strategies that work well for the institutionally based acute and long-term care sectors do not readily translate to the home and community care system, which is highly mobile, decentralized, and supervised remotely. This makes sense, because we are going to someone's home. The worker is not going to an institution.
- There are unique aspects to providing care as a guest in someone's private home, which requires careful management to maintain a satisfied, safe and productive staff. This consideration is critical and fundamental to creating strategies designed to attract and retain adequate health human resources. In order to deliver the most responsive home care, flexible staffing models are required to ensure that staff are available to respond to fluctuations in volume assignment, particularly in the morning and evening hours, as required by the client population.
- Home care workers do have access to health care benefits, travel pay and public holiday pay.
- There are unique and differentiating characteristics of home care providers, including an ongoing, intensive relationship with employees over time to manage assignments in the home. Home care providers' employers have a responsibility for an ongoing process of assessing and managing the health and safety issues for staff in the home—and we run into work hazards such as ensuring adequacy of lighting, clearing ice and snow on walkways, clients who smoke, dealing with their animals, and dealing with any other persons in the home who may not be the best for our workers. We have a lot of issues that we have to do in terms of maintaining health and safety.
- We have to have specialized recruitment processes geared to suitability, aptitude and competency, specific to the needs of frail and elderly people in the home. We have to provide specialized training and educational programs geared to supporting clients. We provide detailed information to each employee prior to the delivery of home care services. We provide ongoing supervision and involvement of the employer in the work of the staff, and ongoing facilitation/collaboration with family caregivers and other formal caregivers such as family physicians—we make hospital discharge arrangements; we pick up medications for families at local pharmacies.
- The initial recognition of home care services provided through the CCACs, as separate from temporary help agencies, within the bill is welcomed from a policy perspective. OHCA believes that publicly and privately funded home care services should be treated the same under Bill 139. In order to ensure the continued flexible and responsive provision of home care in Ontario, whether publicly or privately funded, or both—and that can happen; often, people are supplementing their publicly funded care with privately funded care, and that is happening more and more in the province of Ontario—the OHCA believes that one of the two suggested changes to section 74.2 should be considered.

- Recommendation 1: The OHCA recommends that the government change section 74.2 to read: “This part does not apply in relation to an employee assigned by his/her employer to an individual person to provide professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994.”
- Alternatively, the OHCA recommends that the government change the section to add a part (c): “An employer of the assignment employee and an individual person, for the provision of professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994.”
- **1440**
- With respect to regulation change related to termination and severance, the Ministry of Labour has indicated that with the passage of Bill 139, the government intends to revoke the elect-to-work exemptions related to termination and severance. As with the revocation of public holidays, there will be significant additional costs to be borne by the ministry and private funders, i.e. Ontarians, in order to address the proposed termination and severance provisions.
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **Ms. Susan VanderBent:** The OHCA estimates the costs to be between \$30 million and \$40 million for this industry alone. The OHCA recommends, along with many other groups in the business sector, that prior to proceeding with the proposed regulation change, the government undertake a full review of the potential ramifications and the full extent of the costs. Certainly, in the event that the government determines to move ahead, OHCA recommends that all elect-to-work employees be considered as having a start date for these provisions effective upon the passage of the bill.
- **The Chair (Mr. Bas Balkissoon):** Thanks for taking the time.

STAFFWORKS INC.

- **The Chair (Mr. Bas Balkissoon):** The next presenter is Staffworks Inc.
- Please state your name for the record. You have 10 minutes. If there’s any time left after your deputation, there will be questions.
- **Ms. Sandra Sears:** My name is Sandra Sears, and I’m the president of a staffing firm here in Toronto.
- Staffworks makes its business out of placing candidates in temporary and permanent jobs across all sectors. We place clerical staff, warehouse staff, accounting staff and technology experts. One of my biggest customers is the Ontario government, actually.
- I strongly support the objectives of Bill 139 as they relate to supporting the rights of workers throughout Ontario. As a matter of fact, one of the reasons I started this business and why I’ve been in the business for 15 years is that I get to see over and over again how what we do changes the lives of the candidates we work with. Not only do we help Ontario’s businesses stay competitive, but we give thousands of Ontarians access to opportunities. There are many, many new Canadians who settle in Toronto looking for work, and many of these folks bring themselves to my office within days of arriving.
- I take issue with two segments of the bill, and I’m going to talk about that in a minute. But before I get to that, I just want to talk about the issue of our fees being a barrier to employment. We’ve heard four or five people refer to our fees as a barrier, but I haven’t yet heard a specific example of this in action. Actually, I feel that these examples are somewhat conspicuous in their absence. On the other hand, I’d like to give you a couple of examples of how we are actually not a barrier to permanent employment but a doorway to permanent employment for many, many Ontarians.

- In the years between 2000 and today, Staffworks placed hundreds of temporary staff in the provincial government. These candidates are recent university grads, new mothers returning to the workforce after maternity leave and new Canadians arriving from countries like Tanzania, Nigeria, South Africa and regions like eastern Europe, countries where human and employee rights are not as entrenched as they are here.
- At last check, 20% of the temporary candidates we placed in the government of Ontario were taken on to the payroll and are now members of OPSEU. These are talented individuals who would not have had access to the province's job opportunities without first being placed temporarily by Staffworks. I've got a few specific examples; I think that's important: Vinna Vong, a recent university grad, placed with the Ministry of Health, now permanently with Economic Development and Trade; Orit Dobsky, a recent university grad, placed with Environment, now permanently with the Ministry of Health; Nic Flores, an immigrant from the Philippines, placed on temporary assignment with the Ministry of Health, did a spectacular job, now permanently at eHealth; Felix Silva, returned to Canada from Colombia wanting to start a whole new career, placed temporarily at the LCBO, and he's been there permanently for seven years, doing an exceptional job, promoted through the ranks.
- Another striking example is the story about our candidate Zulficar. I won't talk about his surname or the country from which he came. Suffice to say that he came to Canada in 2000 and soon registered with us for temporary assignment. When he came to see us, we recommended, as we do with all of our candidates, that he register with more than one agency: "Cast your staffing agency net wide, and continue to look for work on your own." Luckily, though, we were the first service to offer this candidate a job that he felt was a good fit. It wasn't in his field of education, but he was motivated, driven and eager to prove himself. And he did, and after several assignments with us, he found a permanent job with a company that we'd placed him with months earlier. He had enhanced his resumé, improved his skills and become a well-qualified candidate for our client. He's since moved up the ranks as well, and has an excellent, stable job in a successful multinational organization. This would not have happened otherwise.
- Since that time we've placed almost 75 employees with that very company, and over and over again this company pays us a small fee—not thousands of dollars, but they pay us a small fee in recognition of our work—to take our staff on to their permanent payroll. They're happy to do so. We get letter after letter from these employees, saying, "Thank you for giving me the chance." They go in there, they bust their chops, they get hired permanently and everybody's happy, but they wouldn't even know the company existed if it wasn't for Staffworks or my competitors, who introduce them to other temporary jobs.
- Another example is Donna, a recent arrival from British Columbia due to some personal and tragic circumstances. She was looking for permanent work but she took a temporary job through us in the meantime. She's an exceptional executive assistant, and the president clearly recognized that and happily paid a significant fee to bring her on. She was going to get a job one way or the other, and this company recognized her talent. They are happy to pay some form of fee, one way or the other. So my point is that we are not a barrier; we are a doorway to employment.
- I wanted to talk to you about our bill rates. Our temp rates that we pay our employees are over \$14 an hour. We just finished a project placing cashiers and shelf stockers at \$10 an hour, also over minimum wage. We don't even pay minimum wage. We can't; we just can't get the talented folks that we need. You'd be sure that if a Staffworks client employed my staff directly they'd be paying them less and the employees would have to restart their job search from scratch when it was over. Instead, they may choose to take more jobs through Staffworks and

have a much better chance of finding work that is suitable, that develops their qualifications or leads to a meaningful career.

- My final two points deal directly with Bill 139. The first deals with subsections 74.8 (1) and (2). In subsection 78(1) there are 10 prohibitions, nine of which are great. But subsections (1) and (2) are an interference, a tool to regulate the legitimate and legal terms of business between me and my customers. We're on a slippery slope, in my opinion, once the government starts to regulate prices, time frames for payment obligations and other legitimate business arrangements between two businesses. What bank would get excited about financing a business that is at the mercy of government regulation—and, I might say, an overreaching regulation? Access to financing is a key element to the staffing business and to any business, really, and unilaterally interfering with and dictating our terms of business with our customers will make us a pariah to banks and investors. I ask that you remove 74.8(1) and (2), which interfere with business terms, and refocus attention on the employment-related issues, the employment agreements and employment terms, so that workers are never unfairly restricted from seeking employment with prospective employers.
- The second and final point deals with continuance of employment, clause 74.4 (2)(b), where it says, roughly, that an assignment employee of a temporary help agency continues to be my employee even if he's no longer assigned to perform work. When an assignment employee finishes their assignment with Staffworks, they have choices and they do what's their best interests. I hope they will work for me again, but they may find another job, work for another staffing firm or go back to school. They may wish to stay home with their family, or maybe they now have the confidence to start their own venture. Bill 139 in clause 74.4(2)(b) says that an assignment employee of a temporary help agency does not cease to be my assignment employee because he's not assigned by me. Why in the world would I continue to be responsible for employer obligations to a worker who does not work for me?
- I've done the math and my association has done the math, and there's no doubt that it will do serious harm to my competitiveness, my efficiencies and my industry. No other business, industry or international jurisdiction requires an employer to continue to take employer responsibilities for people who are no longer employed. The industry whose sole business is to put all kinds of people into all kinds of jobs will be debilitated by this clause. This will make Ontario quite anti-business and quite an anti-employment jurisdiction throughout North America and Europe.
- **1450**
- Just another point I wanted to mention: Over a year ago, China, in their movement towards a market economy, granted licences to Manpower and other staffing firms to provide temporary staffing services—China. It seems to me that Ontario is moving in the wrong direction.
- Therefore, I ask that you remove—
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.
- **Ms. Sandra Sears:** —clause (b) of subsection 74.4(2) talking about the cessation of work issue.
- China—I think we need to move in the right direction.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much for being here.

COMMUNITY SOCIAL PLANNING COUNCIL OF TORONTO

- **The Chair (Mr. Bas Balkissoon):** The next presenter is the Community Social Planning Council of Toronto.
- Please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, there will be questions from all sides.

- **Ms. Celia Denov:** Thank you very much, and good afternoon. My name is Celia Denov, and I'm the president of the board of directors of the Community Social Planning Council of Toronto.
- The Community Social Planning Council of Toronto is a non-profit agency engaged in research, policy analysis, community development and capacity-building work. As an organization committed to social and economic justice and the improvement of the quality of life for all people living in Toronto, and a member of the Good Jobs for All Coalition, we are encouraged to see the Ontario government taking action to protect the rights of temporary agency workers. The bill is both critical for temporary agency workers and a vital step in the province's movement on poverty reduction.
- A disproportionate number of temporary workers are new immigrants, women and people from racialized backgrounds. We believe this act will work to provide greater protection for Toronto's working communities. For these reasons, we fully support the implementation of Bill 139.
- The Ontario labour market has seen a rise in the amount of part-time, temporary, self-employed and contract work; nearly one in three jobs in the province are of this precarious nature. From 1997 to 2005, the number of temporary employees in Toronto increased by 68%, and in 2006, they accounted for 13.4% of all Toronto workers. According to Statistics Canada, in February 2009, Ontario led the country in the number of workers who held a temporary job, at 547,200; Quebec came in second with 362,600. It should come as no surprise that the primary channel for placing employees in such work, the temporary help industry, has grown and profited enormously over the years, providing employers with temporary workers in nearly all sectors of the economy.
- There are nearly 1,000 temporary help agencies operating in Ontario. The rapid growth of this industry has gone largely unregulated, particularly due to the previous government's repealing of the Employment Agencies Act in 2000. Ontario's outdated Employment Standards Act has not kept pace with these dramatic changes in the labour market, and as such, we are seeing increased incidences of workers who are being unfairly treated and their employment rights violated. Agencies have taken advantage of this fact and have reaped millions off the backs of hard-working Ontarians. This type of work has also proliferated employment inequities, with temporary workers earning 40% less than their permanent workplace counterparts, with little or no benefits.
- The temp industry maintains that it is simply responding to the demands of employers by providing them with a pool of flexible workers and that any government regulations and intervention would only impede job creation, hurt business and are contrary to the principles of a free-market system. However, these employment agencies have already imposed their own forms of interventionist and regulatory policies via restrictive contracts and rules about who can work where, when and for how long. There is a growing consensus emerging from workers, labour unions, communities and advocates that the industry has clearly not been able to self-regulate and that the provisions of such employment placement services have come at a great cost by completely neglecting human and labour rights and stifling labour market participation and mobility.
- Research demonstrates that workers making use of temporary help agencies are facing discrimination, having their employment and human rights violated, and are being confronted by numerous barriers to gaining stable and permanent work. Due to their temporary status, workers find themselves needing to pay fees to agencies if they wish to be hired by the client company, being denied public holiday pay and being misclassified as independent contractors. Thanks to the effort of the government, temporary workers who have been categorized as

“elect to work” are now able to collect holiday pay. The province is moving in a positive direction, yet much more needs to be done.

- Bill 139 will work to reduce barriers to permanent employment, eliminating fees that pose immense strains on vulnerable low-income workers and guaranteeing that employees are properly informed about their work assignments and their basic rights afforded to them under the Employment Standards Act. These rights to “just and favourable conditions of work” are also enshrined in the UN’s Declaration of Human Rights. Any legislated changes should not be viewed as a threat to employment agencies but, rather, necessary measures to ensure fairness and adequate protection for all workers.
- While we strongly support the substance of the bill and its objectives to expand the Employment Standards Act to protect temporary workers, some sections of the bill can be strengthened to more effectively meet these objectives. We at the Social Planning Council of Toronto therefore support the following recommendations:
- (1) Inclusion of all employment agencies: We would like to see the language of the bill expanded to include not only temporary help agencies but all employment agencies that are in the business of staffing employers or helping workers find employment, both temporary and permanent. This will ensure that no agency is imposing fees onto workers for any employment-related service, a regulation that had previously been in place under the Employment Agencies Act.
- (2) Barriers to direct employment: The bill as it currently stands does not effectively remove barriers to permanent employment and direct hiring, as agencies are allowed to charge fees to the client company during the first six months of a work assignment. This essentially creates a large loophole for the employment agencies, as they may remove a worker from a work assignment just prior to this six-month period and replace them with another worker in order to avoid direct employment by the client company.
- During this time of economic hardship and increased job loss, it is counterproductive to purposefully erect barriers for workers who seek stable and lasting employment. Access to permanent employment would benefit not only workers themselves but the province as a whole, with increased productivity and tax revenue to support much-needed social programs. We therefore urge the government to abolish the six-month period during which temp agencies may charge fees.
- (3) Information on work assignments: Workers are often left in the dark regarding the basic details of their work assignment, including the very name of the company they’ll be working for. Bill 139 will remedy this by ensuring that agencies provide in writing the name of the company, contact information, hours and description of work to be performed, and information regarding wages and pay periods. This will allow workers to have access to important information needed in order to manage personal and family time, as well as to enforce their employment standards rights in the case of any disputes that may arise.
- We also ask that this section be amended to include the start and expected end date of work assignments and any markup of fees between what a company pays an agency and what the agency pays the worker; and to require client companies to sign such a document, to ensure transparency and accountability.
- (4) Termination and severance: The misclassification of employees as “elect to work” that has been imposed by temporary agencies onto workers has been used, until most recently, to deny workers public holiday pay. It is also being used to deny workers termination and severance entitlements. We ask that the government immediately move to remove the “elect to work” exemption for termination and severance benefits.

- (5) Equal pay for equal work: The income disparity between a temporary worker and their permanent employee counterparts urgently requires the inclusion of an equity clause within the bill. It is unacceptable that a temporary worker performing the same tasks and duties as a worker who was hired directly by the company receives a substantially lower income, with no benefits and little job security.
- **1500**
- **The Chair (Mr. Bas Balkissoon):** You have 30 seconds.
- **Ms. Celia Denov:** Okay. The last thing is penalties: Stricter enforcement of the Employment Standards Act and stronger penalties for violations are needed to ensure that agencies and client companies are abiding by both current and future legislation.
- We applaud the Ontario government for its actions thus far and look forward to seeing some of these amendments and suggestions in the final bill.
- Thank you very much for the opportunity to appear before you.
- **The Chair (Mr. Bas Balkissoon):** Thank you very much. The committee will now recess and will reconvene at 4 o'clock.
- *The committee recessed from 1500 to 1600.*

METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

- **The Acting Chair (Mr. Lorenzo Berardinetti):** I'd like to call the committee back to order.
- We are now going to hear from our next deputation on the Standing Committee on the Legislative Assembly. This is the 4 o'clock deputation, the Metro Toronto Chinese and Southeast Asian Legal Clinic.
- Good afternoon, and welcome. We've been going through a very quick list here, so there's 10 minutes. If there's any time left from your presentation, we'll allocate it to the three parties. You have 10 minutes. Please go ahead.
- **Ms. Avvy Go:** Sure. My name is Avvy Go and I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.
- **Ms. Uzma Shakir:** My name is Uzma Shakir. I'm representing the Colour of Poverty Campaign, and I'm endorsing the presentation. We're making a joint presentation.
- **Ms. Avvy Go:** Actually, the clinic is also a member of the Colour of Poverty Campaign, which is to look at the issue around the racialization of poverty in Ontario. But also from a legal perspective—because we serve a lot of clients who are immigrants, workers working in low-wage jobs, and many of them will be hired through temporary agencies—we're aware of some of the issues that they face.
- For our clients, the immigrant workers, an employment standards violation is a norm rather than an exception. We also want to emphasize that, as a general rule, there's always a power imbalance between an employer and an employee, but that imbalance in the situation of immigrant workers is exacerbated by the fact that they are immigrants and they are workers of colour. We highly recommend, as a starting point for any legislative reform, that you need to understand that.
- In the context of temporary help agencies, these agencies very often are a hindrance rather than a help for our clients with respect to their rights and the protection of their rights. I'm not going to go through the examples. I've listed some of them in my presentation.
- For all these reasons, we do commend the government for taking the first step in closing the protection gaps between workers who are hired through temporary help agencies and those who are not. However, we do want to emphasize that it's a mistake to think that Bill 139 is going to end all forms of unfair and discriminatory treatment faced by these workers. The bill leaves

unresolved many of the fundamental problems faced by our clients and other workers who are vulnerable.

- To begin, we think that there is actually a false dichotomy or false distinction between employment that is found through temporary help agencies and employment that is found directly with the employer. It's a false distinction because our labour law, our employment standards law, does not, in fact, guarantee any right to a job, let alone a permanent one. The reality is that many workers in Ontario find their jobs through temporary help agencies, and employers have the incentive to allow these agencies to continue because they see it as a way of saving money. The agencies are acting in the front while they access workers who are actually doing the exact same kind of job the permanent employees do, but they can get away by paying them less.
- We think that the government has an obligation to make sure that the law, particularly the Employment Standards Act, does provide minimum protection to all workers in the province. As such, in the reform of this act, to enhance protection for all workers, we believe that one of the most fundamental principles is that any changes that are made to the act have to eliminate any and all distinctions between workers who are hired through temporary help agencies and workers who are hired directly by business clients or client businesses of these agencies.
- With that in mind, I'm going to address some of the specific provisions in the bill. The very first problem created by the bill is, because it deems the temporary help agency as the employer rather than the client businesses, for the workers, that creates a problem for all the reasons I talked about, but also because you have to get around that. You try to make distinctions and you have to get around some of the provisions that are otherwise equally applicable to workers who are hired directly by the client businesses. A lot of times, you'll see that the workers are treated differently, whether it's the issue around public vacation or whether it's severance pay or termination pay. You kind of have to artificially give them less rights in order to fit in the model of the employer.
- To make it equitable and to ensure there's equality, one of our recommendations is to eliminate the differential treatment among these various workers when it comes to termination pay, severance pay, public holiday pay and so on. We think that the ultimate solution is to make the client the employer. But even if you don't want to do that, there are still ways to eliminate differential treatment. Of course, some people suggest that you just get rid of the elect-to-work exemption. That's one way. But look at the bill itself and just remove any of the provisions that create that distinction.
- Our second concern is around the issue of barriers to permanent employment. I'm sure you've heard from others about this issue. I'm also sure you've heard that the six-month restriction is going to be a problem, because it will render the prohibition to permanent employment meaningless because you have that six-month provision in there. So we suggest that the six months should be removed so there's absolutely no restriction of any kind on businesses to hire workers directly who are on assignment from temporary help agencies.
- The third issue, and I'm sure again I'm repeating some of the things that you've heard, is around the narrow definition of temporary help agencies and the narrow scope of work arrangements that are being regulated through the bill. That creates a huge gap in terms of the type of services, and also the kinds of fees that are being charged by many of the temporary help agencies out there, as well as by agencies that are not currently covered by Bill 139, including recruitment agencies that recruit live-in caregivers from overseas. I must say that I'm very disappointed to hear reported comments made by our Minister of Labour about his reluctance to take action to regulate these unscrupulous recruitment agencies. We believe very strongly

that all employment agencies, whether it's for live-in caregivers, whether it's employment agencies or temporary help agencies, must all be regulated—if it's not in this bill, it must be in another kind of bill—so that none of them can get away with charging fees to any workers who choose to work in Ontario.

- The next issue I want to talk about is the issue of liability for violations. Again, I go back to my theme about who the employer is. Even if you don't want to treat the client businesses as employers, you should hold them liable for any violations that have been created by the temporary help agencies that they hire to help them find workers. At the very least, it has to be a joint liability. I think that's the only way to make sure that there will be no temporary agencies trying to get beyond the law and do something illegal. Employers who do not want to use these agencies can just simply not use them. If they don't want to be held liable, then they should damned well make sure that they find agencies that are not going to break the law. The only way you make sure that will happen is to hold the client businesses jointly liable.
- In the interest of time, I'm going to ask you to look at the rest of our submissions, which talk about the information. We think that there has to be a clear timeline on when the information is going to be given out. Just saying "some time afterwards" is not going to do it. You're going to have to give a timeline, like 24 hours or 72 hours, as to what kind of information needs to be given to these workers. The kind of information that is given out must include the term of the assignment that is given to the worker.
- In conclusion, I just want to congratulate the government for introducing the bill, but it's definitely not enough. A lot more needs to be done to ensure that there is equal protection for all workers, regardless of how they're hired, the nature of their job and the nature of their employment relationship with the business that hired them.
- Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. That was very well timed; it was 10 minutes exactly.

FAMILY SERVICE TORONTO AND CAMPAIGN 2000

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next deputation, Family Service Toronto and Campaign 2000. I have Jacquie Maund, campaign coordinator.
- If you could state your name for Hansard, again, the rules are basically 10 minutes to make your presentation. Any time left is split between the three parties for questions.
- **Ms. Jacquie Maund:** Good afternoon, everyone. My name is Jacquie Maund, and I'm the coordinator of Ontario Campaign 2000. I also do work at Family Service Toronto.
- Campaign 2000 is a coalition of 66 partner organizations across the province committed to working together to end child and family poverty. Our name dates from the unanimous House of Commons resolution in 1989 to end child poverty in Canada by the year 2000.
- **1610**
- Our work has shown over the years that low wages and poor working conditions in Ontario are part of the reason we continue to have a high rate of child and family poverty in this province. We commend the government for its announcement of a poverty reduction strategy last December, with an initial target to cut child and family poverty by 25% by the year 2013. We know that addressing the challenges faced by the working poor in Ontario is a key part of that strategy, and it must be a key part to achieve effectiveness. So we are very pleased that the government has introduced Bill 139, which aims to improve fairness and protection for temp agency employees.
- We know that working conditions faced by temp workers contribute to Ontario's poverty problem. Temp agency workers, on average, make 40% less than their co-workers who are hired

directly; they have few employment benefits; and they face higher health risks due to employment strain.

- Bill 139 makes some important changes to the Employment Standards Act for temp workers, but we'd like to highlight four amendments that we would like to see in this bill.
- (1) The government should pass immediately a regulation to the Employment Standards Act to ensure that temp workers—that is, those who are classified as “elect to work”—can receive termination and severance pay, as per the rules that apply to other workers right now. We appreciate the government action that was taken recently to ensure that temp workers can receive public holiday pay; that was an important step forward. We feel that, given the current economic downturn and rising unemployment, it's crucial that temp workers have access to all of the income to which they are entitled in order to feed their families, to pay the rent and to prevent them from falling onto social assistance rolls.
- (2) We call for a removal of the six-month exemption to prohibitions on barriers to employment, so that temp agencies cannot charge companies a fee if they decide to permanently hire a temp worker within six months of their temporary assignment. The current design means that there's an incentive for temp agencies to remove a temp worker from a client company just before the six-month time limit, if the worker has not been hired permanently, and replace him or her with another worker in order that the company might recoup the fee if they were hired. This design, implicitly or explicitly, serves to trap temp workers in temp work for a period of less than six months. The temp agency industry may argue that they will be hurt financially if they cannot charge companies for hiring workers, but research in other jurisdictions where this happens shows that this is not the case.
- (3) We call for a broadening of the definition of temporary help agency so that agencies providing temporary and permanent staffing placement and services cannot charge fees. This would mean that temp agencies would not be allowed to charge fees for services related to permanent job placement. For example, cleaning companies would not be allowed to misclassify workers as independent contractors and then charge fees for work assignments. Such fees clearly cut into the income and make workers even poorer.
- (4) We ask that you not exempt home care workers under contract to community care access centres from Bill 139. Home care workers are notoriously low-paid, with few benefits, little job security and little income security. They should not have to wait three years for entitlement to termination and severance pay, as is currently indicated. It's particularly hard to attract and maintain personal care workers, yet our aging population means that all of us will probably at some time need service from health care workers and personal care workers.
- If the changes proposed in Bill 139 do not extend to home care workers, we feel it will further discourage people to enter this field or to stay in this field when they can get greater labour protection in other occupations. We echo the call of the community care access centre procurement review committee in 2005 for protection and enhancement of workers' rights with part-time and casual home care workers being protected under the Employment Standards Act.
- Just to conclude, Campaign 2000 believes that Bill 139 is an important first step in updating Ontario's Employment Standards Act. We call on the government to continue to make progress on its commitment to reducing poverty in Ontario by amending the bill to strengthen it and ensure protection for people in low-paid, precarious work.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about four minutes left, so we'll just work our way around the table. I don't know where we left off last in the rotation. We'll start perhaps with the Liberals, for a minute and a half each.

- **Mr. Vic Dhillon:** Sure. Thank you very much, first of all, for your presentation and for being here this afternoon. There's been an argument made that some provisions in Bill 139 would put an undue burden on business. What do you have to say to that?
- **Ms. Jacquie Maund:** My understanding is that what we're seeking here, ideally, is a level playing field for employers and for industries, so by requiring temp agencies to live up to some of the requirements that are made of regular workers, of workers who are hired directly, that, in fact, levels the field. It ensures a level playing field for all employers.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on to the Conservatives, Mr. Bailey.
- **Mr. Robert Bailey:** Two questions, if we can cover them both: The reason why the CCACs were exempted—any idea on that, kind of quickly?
- **Ms. Jacquie Maund:** It's my understanding that the CCACs report in some fashion to the Ministry of Health, so it's my guess that it basically saves money for the Ministry of Health if health home care workers are not enabled until three years' time to have access to termination severance pay.
- **Mr. Robert Bailey:** Okay. The second question, if I could: We had previous deputations made in the first session. A number of people talked about people going from temporary to permanent. This person who made the deputation to us listed numerous people, with names and everything. Would you think that was the exception rather than the rule, in your opinion? Does that not happen from time to time, or was that just an exception?
- **Ms. Jacquie Maund:** My understanding is that the majority of temporary agency workers are actually hired for a period of less than six months so that they remain in temp work. They circulate from temporary contract to temporary contract, but I would stand to be corrected if other people in the audience have difference factual information.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** For the NDP: Ms. DiNovo.
- **Ms. Cheri DiNovo:** Thank you for the deputation. A question: In the last couple of days, there's been a lot of news about the exploitation of nannies and nanny agencies. It would be very simple for this bill to extend coverage to them by simply, as you've said, calling for "employment agencies," not "temporary agencies," so two words might extend coverage to them. Would you be in support of such a move?
- **Ms. Jacquie Maund:** Yes, we would.
- **Ms. Cheri DiNovo:** Okay. That's number one. Thank you for that.
- Also, there was something raised by another deputant about equal pay for equal work. This is part of the European Union's legislation, so that if you work two hours or you work 40 hours, you should be paid the same hourly rate if you're doing exactly the same job. Does that sound reasonable to you as well?
- **Ms. Jacquie Maund:** That sounds reasonable to us, yes.
- **Ms. Cheri DiNovo:** Thank you very much.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation.

ALLSTAFF INC.

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next presentation, AllStaff.
- I have three deputants listed here. Perhaps you could just list your name and title.
- **Ms. Lisa Hutchinson:** My name is Lisa Hutchinson and I'm the president of AllStaff.
- **Ms. Christina Drigo:** I'm Christina Drigo, the director of operations.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Good afternoon. You have 10 minutes, and if there's any time left at the end, we'll ask questions.

- **Ms. Lisa Hutchinson:** By way of introduction again, my name is Lisa Hutchinson and I am the president of AllStaff. We're in our 10th year of business and we are in the employment industry. We have offices located throughout Ontario, in London, Cambridge and Markham. I'd like to thank you for allowing me the opportunity to speak in front of you. It's a tremendous honour.
- First, I'd like to begin by acknowledging that there are many positive aspects that I think we can all agree upon in the bill, and we are in favour of the spirit of the bill. However, there are two specific areas of the proposed bill, technical shortcomings that give me grave concern. As a matter of fact, they gave me such grave concern that I got in my car, I drove 300 miles, and I overcame a fear of public speaking just to talk to you today about this.
- The first is continuance of employment, the never-ending employment obligation; and the second is conversion fees, which is interference with our business contracts.
- **1620**
- Employment agencies offer a free service to candidates and workers, and we're a quick and efficient link to employment—we're quick access to employment. We are a valued service to the thousands of companies in Ontario that rely on flexible staffing to address periodic surges in their employment requirements.
- Furthermore, if Bill 139 is successful and passes in its entirety, these two issues are inflationary to the nth degree and will virtually eliminate any flexibility every employer or business in the province of Ontario has in meeting any temporary or short-term employment needs. Further, it will destroy the entire employment staffing industry. And this is just the beginning. This will not increase employment, but will cause less, both in terms of traditional and non-traditional employment. Additionally, it will make companies less efficient and increase administrative costs, thereby decreasing their competitive edge over companies located anywhere but Ontario.
- As an example, a company has some sales reps—let's use the automotive industry that's suffering tremendously right now—and their sales reps go out and get an account that's not for permanent, full-time work. Let's say it's for a short-term period of six weeks. They don't have the manpower to have the kind of HR department that can keep a pool of people—let's say they need to bring on 50 people. So they'll come to a staffing agency, if, that is, we still exist—and I will submit respectfully that if parts of this bill do go through, specifically the two points that I mentioned, it will make us highly uncompetitive, and I fear that we will go bankrupt. We just won't be able to afford what's being proposed.
- An employment agency often employs people in various job transitions, which results in minimizing their need of social programs and the social safety nets. Some of these jobs do become permanent—and as a result, we were a quick link to full-time work.
- There seems to be a misconception that our objective in life is to start a staffing agency offering temporary staff and then pay those people as little as we possibly can, possibly even under minimum wage, which I've never heard of in my 13 years of doing this. There are unsupported statistics being floated around the room, and I want to bring that to your attention. That's very important to understand. Our mission is not to find minorities and find people and take advantage of them. Our purpose, our *raison d'être*, in this industry is to match employees with employers. That's what we do. There's nothing sinister about it. There were certain comments made earlier about unscrupulous activity. I find that a tremendously offensive and inaccurate statement.
- There are a lot of people who prefer temporary employment. To that point, there are students, there are parents—me being one of them—there are artists. I'll give you a specific example. We have a baritone performer, and in between gigs he comes to us, and we supply him around his schedule. So, for him, the temporary scenario works. Even highly skilled individuals such as IT

professionals and engineers prefer to pick up assignments due to flexibility of work. A case in point would be retired individuals, as well, who are picking up extra work in between being a snowbird. So the assumption that temporary work is a negative would be incorrect. For many, it's preferred.

- This bill, in the two parts aforementioned, could potentially just destroy our industry; and thereby our company and all others like it, in its wake, could significantly increase the costs to all the social safety nets.
- Employees working on temporary assignments will often transition into another assignment with very little disruption in employment when using a service such as ours. This is because of the nature of agencies and the ability to provide employment and a number of clients. For instance, sometimes we have a pool of millwrights coming off one assignment and they're able to go to another assignment. Instead of filing for EI and drawing upon the system, we've got them as productive, taxpaying, revenue-generating individuals. Without our industry, these people would be left to their own devices to find employment in a system already ill-equipped to assist them.
- I just don't think that it's truly in the best interests of the people of Ontario to put these two particular parts through.
- To be clear, again, in 13 years, I have never heard of someone being charged to work. I've never seen it; I've never heard it from our competitors. Maybe it did exist, but I just don't think it was to the capacity that it has to be put into the bill, truthfully.
- Our clients are our customers. Our customers are always the plants, manufacturers, insurance companies—those are the clients. They pay our bills, and they pay our bills to put them in touch with qualified, pre-screened, pre-assessed, pre-trained and pre-referenced individuals who are work-ready.
- The current financial impact of the public holiday pay—and don't get me wrong; this is something that we approve of, but we want you to be aware that there's a humongous financial cost burden to companies.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Sorry to interrupt. Could you just step a little bit back from the microphone? Just a little bit, for the purposes of recording Hansard.
- **Ms. Lisa Hutchinson:** Oh, yes, sorry. Of course.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** It's okay. Everything else is fine.
- **Ms. Lisa Hutchinson:** All right, fair enough.
- For instance, the first public holiday, the Family Day: This represents general labourer costs, because costs are different, depending on whom we place, but let's just say a general labourer. That added another 5.93% of costs, which represents almost a 27% reduction in our gross profit, right off the hop.
- This holiday pay didn't just increase the wage but the entire payroll burdens and remittances that accompany it. So I'll use \$10 an hour—not that people are getting \$10 an hour; it's just a super-simple number to use. In addition to that, we have to pay, within the rate category, the WSIB remittances, the CPP, the EHT, the EI and the federal taxes. So that's what resulted in that 5.93% increase.
- We employ over 1,000 individuals a year. We're not Adecco; they're a phenomenal organization, a decent competitor, and they employ a lot of people. But 1,000 individuals a year in this corridor—it makes a dent. Many of them we were able to match—just by their accepting a temporary assignment, they were transitioned into the temp-to-perm, just as a result of taking temporary work.

- The average paid worker was \$14.83 per hour. That's a far cry from the pittance—certain workers' action associations would have you believe that we pay less than minimum wage, which is ludicrous.
- The actual dollars paid out for Family Day—for that one day—was about \$10,000 in payroll and associated burdens. We've seen a 30% drop in our business recently. Add to this the uncertainty to future costs, given the proposed implied continuance of employment for temp workers who were not employed at the time of the holiday, and the proposed pay in lieu of notice and severance, which, by the way, would apply to no other company or industry but the employment industry which provides for temporary employment.
- If I could give you an example of—
- **The Acting Chair (Mr. Lorenzo Berardinetti):** You have about 30 seconds left.
- **Ms. Lisa Hutchinson:** Oh, you've got to be kidding me. All right. Well, I'm going to go right to the punch, then.
- What we're asking is no codification of implied continuance of employment, so that you strike 74.4(2) of Bill 139, and that regulating business contracts, you just strike 74.8, paragraph 8, sections 1 and 2.
- And I had a killer example, for the record.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much. We received your submission as well.
- **Ms. Lisa Hutchinson:** You're welcome.

TORONTO AND YORK REGION
LABOUR COUNCIL

- **The Acting Chair (Mr. Lorenzo Berardinetti):** Our next deputation is the Toronto and York Region Labour Council, Mr. John Cartwright, president.
- **Mr. John Cartwright:** Good afternoon, Chair and members of the committee.
- The Toronto and York Region Labour Council represents 195,000 women and men who work in every sector of the economy. We're pleased to be here to present on Bill 139.
- Our understanding of this issue comes from the experience of our affiliates in construction, manufacturing, hospitality, building services and contract cleaning and in home care.
- I'm a construction worker. Our industry, by its nature, is about temporary work. A foreman I used to work for had a great saying: "Come on and hurry up on that job. The sooner you finish, the sooner you get laid off." The nature of it is, when we finish a building, we move on.
- We come from temporary, but there's a unique difference between that experience in a very vibrant and important industry in Ontario's economy and the massive spread of temp agency work into every other sector of the economy.
- **1630**
- The previous deputant talked about the role they play in matching workers with job opportunities. That used to be done by a public agency called Canada Manpower efficiently and effectively. The thing is, when somebody got referred to a position by Canada Manpower, they got the full wages and benefits that were on offer by that employer.
- What we're seeing with the scourge of the spread of temporary agency work is that the consequences of the change from that being a public sector aspect of the labour market to one that is now being privatized through temp agencies are that the vast majority of workers do not get equal pay and equal conditions with those they're working beside. I think the committee should be looking at the basic principle: What is wrong with somebody going to work in a workplace and having the same wages and benefits as the person who is doing exactly the same job as them, who they're sitting beside or standing beside on an hourly basis?

- So while we say that Bill 139 is an important step in curbing some of the worst abuses that exist in the current system, it is nowhere near the answer that's needed to deal with temp agency work and its erosion of stable, secure jobs. Let's be clear. Major industry has turned to temp agencies to replace permanent, full-time decent jobs with temporary precarious jobs. The literature shows that Magna, one of Ontario's largest manufacturers, maintains at least 15% of its entire workforce through temp agencies. So they go to agencies, as the one you've just heard from, and say, "Send me a millwright," rather than putting an ad in the paper and saying, "We're paying \$32 an hour plus benefits for a millwright." The difference is that that person, when they go and work there, has no sense of security, no sense of rights as a permanent employee.
- We're going to suggest that Bill 139 has to have a number of things: One, that it includes temp agency workers under the current termination and severance pay requirements in the Employment Standards Act; secondly, that it should remove the six-month period where agencies can charge companies for hiring a worker; thirdly, that it should be amended to ensure that temp agency workers are informed of the duration of their contract. It's not right that people get told, "You're going to go and work at a plant in Scarborough. We have no idea how long you're going to be there." A worker has to choose what they're going to do with their job offers. One of my own family members relies on temp agency work in the summers and doesn't know which temp agency to respond to if there's a job offer because it might be two days' work or it might be four weeks' work.
- Bill 139 should state if there's a health and safety committee at the client company. Temp agencies and their client companies must inform temp workers if there's a health and safety committee in that workplace so that workers know how to avail themselves.
- We believe strongly that home care workers should be covered by the changes to the Employment Standards Act found in Bill 139. Elinor Caplan's report some months ago reviewed the issue of visiting home care workers and noted that now over half of the employees in that entire sector are denied vacation pay, holiday pay and sick pay because they're working as precarious employees rather than stable, long-term employees within that sector. That is an outrage, that those people, who are providing those vital services to our seniors, those who are sick and those who are disabled, don't have the same rights to the decent employment standards that the rest of us do.
- Bill 139 should officially recognize the temp agency industry operates in a tripartite manner with an agency worker having two employers—the agency and the client company.
- Then we say very clearly that where there is a collective agreement in place in the client company for workers doing similar work, temp agency workers should be covered by that collective agreement. We have more and more situations these days as people are trying to form a union in their workplace where a larger and larger number of those people work for temp agencies. Then, when they try to bargain a first collective agreement, it becomes a strike or lockout issue whether or not all "people" working in that place will belong to the union and be covered by union wages and benefits. The law should step in here and say that if people are working in a unionized workplace through temp agencies, they should have all the rights and conditions of that collective agreement.
- Where there is no collective agreement in place, the law should say that those people should receive the same wages and benefits equivalent to those of workers performing equivalent duties. That's the spirit of the legislation that is in a framework position of the European Union, endorsed by a number of countries—that if you work in that workplace, within 60 days you must be paid full wages and benefits comparable. Doesn't that make sense? If the value to the employer, to the company, is X dollars and benefits, why should somebody be paid less than

that? Why should the government of Ontario abide a situation where more and more of our working people are being denied those wages, those benefits?

- Last July, the news covered the valiant struggle of 2,400 auto parts workers in Vaughan working for Progressive Moulded Products who lost their jobs. Suddenly on July 1, the plant shut down. They were owed severance pay. They didn't have a union, but they blockaded that plant because they wanted to try to get their severance pay. They haven't gotten the severance pay yet. They certainly got the attention of governments. They got the attention of the media. They have an action centre where people are trying to upgrade their skills and write resumés.
- My friends, I would invite any one of you to go to that action centre at 2180 Steeles West. Look at the job board, and you'll see what permanent jobs are on offer. You won't find any other than "pizza delivery driver." What you will find is temp agency manufacturing, \$10.50 per hour; temp agency warehousing, \$9.50 per hour; temp agency this, temp agency that. That is what is on offer for thousands and thousands of Ontario workers who are losing their jobs today. You have an opportunity to say that when they go to that job through a temp agency, if that's the direction it has to be, they will at least get the money that that job is worth and not allow companies to take a cut, not allow a system, whether it's designed or it's simply the consequence, where those people are being paid \$3, \$4 and \$5 an hour less than what that job is worth.
- Finally, you should say that Bill 139 should be amended to state that both temp agency and client businesses should be liable for violations of the Employment Standards Act. I was outside this building not three hours ago with laid-off auto workers and manufacturing workers who are being denied their severance pay because their companies have gone bankrupt—who had to take the law into their own hands, who are being branded criminals because they occupied a plant to say, "We demand our severance pay. There's a provincial law that says we should get it, there's a federal law that says bankruptcy gives the banks first dibs, and we are the ones who are losing out." That's the growing reality of what's happening in this province.
- But I'm going to go back to where I started, on the construction industry.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** There are about 30 seconds left.
- **Mr. John Cartwright:** Some years ago, we looked at what we call the underground economy and the growth of companies that were taking people as temporaries and paying them cash on the dash. There was a study done by the Ontario Construction Secretariat that proved that the taxpayers lost hundreds of thousands of dollars of taxes, workers' compensation payments and health care payments because those companies were circumventing the standards that should be in place.
- What's in front of you with Bill 139? You can do the minimum and pass Bill 139 or you can do the right thing and amend it so that equal pay for work of equal value is a basic right of every working woman and man in Ontario. Thank you very much.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Cartwright.
- **1640**

DOUGLAS YARDLEY

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on now to our 4:40 delegation. Mr. Douglas Yardley?
- Good afternoon, and welcome. You have 10 minutes to present. If you finish early, then we'll have questions of you from the different parties here. Please state your name for the record for Hansard, and then you can commence.
- **Mr. Douglas Yardley:** My name is Douglas Yardley. I worked for many months as a temporary agency worker. I'm glad to have this opportunity to speak to you today.

- I am glad to hear that the province is taking some steps to regulate temporary employment agencies, but I still have some concerns about the legislation. It's essential that our labour laws not allow the creation of an underclass of low-paid, vulnerable workers. Temporary agency work is a major aspect of the job market, and as a society, we cannot afford to have hundreds of thousands of people working for wages below the poverty line for lengthy periods. These agencies and the poverty they cause are dragging our economy down. Workers cannot live on such low wages; neither can people looking for work afford to pay any fees to employment agencies.
- In my own case, I was able to get a better-paying permanent job in November 2007, but after more than a year, I am still paying the cost of having worked as a temporary agency worker. I will reach retirement age in eight years, and I cannot afford to work as a temp worker again.
- I urge the province to remove all barriers to obtaining permanent work. Client companies should not have to pay any fee for hiring an agency worker at any time.
- The agreements between agencies and client companies, including the hourly rate markup and expected job duration, should be disclosed to workers because they are part of our working conditions. When workers know the expected duration of their assignment, they can know when they have been let go prematurely as a reprisal for trying to exercise their rights. This will provide increased legal protection for workers and accountability for client companies.
- We deserve the same rights to public holiday pay and termination pay as regular workers. We need that money, and the employment agencies are well able to pay it. Workers are not just red ink on a ledger; we are also markets for goods and services.
- Workers also deserve to have full information about the nature of the assignment and the name of the client company. From my own experience, I suspect that in some cases, such information is withheld as a means of preventing a worker from refusing an undesirable assignment. On a few occasions, I was given incomplete information and found, after a few hours or a day or two, that the job had some serious drawbacks, such as long hours or rotating shifts.
- Stronger regulation of temporary agencies will mean that they will be forced to compete to attract workers. Agencies can bear these costs. If they cannot, they deserve to go out of business. To put it bluntly, I would really not mind if some of those temporary agencies and the people who run them were wiped off the face of the earth.
- Thank you for hearing my concerns.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you, sir. We have about six minutes, so two per party, to ask you some questions. We'll start with Mr. Bailey of the Conservative Party.
- **Mr. Robert Bailey:** Thank you for your presentation this afternoon. You mentioned the fees—and you're still paying them? You've moved on to a different job that's of a permanent nature, yet you're still paying from the agency that you were with before?
- **Mr. Douglas Yardley:** I'm still paying off the debt I accumulated when I was working for low wages.
- **Mr. Robert Bailey:** Okay. Did working in that temporary agency before help you, in some way, move to the more permanent job you're in now? Did you pick up some skills there or opportunities to advance yourself?
- **Mr. Douglas Yardley:** In the job where I'm working now, I started out as a temporary worker, and then the company hired me on permanently after 17 months.
- **Mr. Robert Bailey:** No further questions.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Then we'll move on to the NDP. Ms. DiNovo.
- **Ms. Cheri DiNovo:** Thank you for your presentation and your deputation. You heard the deputant just before you speak about equal pay for equal work. Is that something that you

would support? In other words, if you had been working as a temporary worker and you received exactly the same pay and benefits as somebody who was working as a permanent worker there, would that have alleviated your situation?

- **Mr. Douglas Yardley:** It would certainly have helped.
- **Ms. Cheri DiNovo:** The other question I have for you: There's been quite a bit of news lately about a particular class of worker that is in a particularly bad state right now, and that's home caregivers, nannies, who go through very unscrupulous agencies. Would you be in support of this bill—it could easily be extended to cover them by simply saying “employment agencies” rather than “temporary agencies.” Would you be supportive of that?
- **Mr. Douglas Yardley:** I would. I have no personal experience with nanny agencies, but I would certainly support fairness for those people.
- **Ms. Cheri DiNovo:** Also, in the European Union, which was mentioned by the previous deputant, they have a limit on the time that somebody can work on a temporary basis. The original idea of temp work, of course, was to fill in for maternity leaves, to fill in for somebody who was ill and off the job, for a limited period of time. So the European Union has taken upon itself to specify a time, that being a year. Does that make sense to you; in other words, that temp work really be temp work?
- **Mr. Douglas Yardley:** I believe so, ma'am. It's being used today as a major means for recruiting workers. It shouldn't take very long to find out whether a person is worth hiring as a permanent worker.
- **Ms. Cheri DiNovo:** Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move to the Liberal Party and Mr. Dhillon.
- **Mr. Vic Dhillon:** Thank you very much for appearing before us today. Why did it take a year for you to recover your costs?
- **Mr. Douglas Yardley:** Simply because I was going into debt. I was unable to keep up with living expenses.
- **Mr. Vic Dhillon:** And did you pay a temp-to-permanent fee? You mention that you're now working—
- **Mr. Douglas Yardley:** No, I didn't have to pay any such fee.
- **Mr. Vic Dhillon:** Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation today, sir.

ONTARIO FEDERATION OF LABOUR
AND WATERLOO REGIONAL
LABOUR COUNCIL

- **The Acting Chair (Mr. Lorenzo Berardinetti):** The next presentation is the Ontario Federation of Labour. We have Wayne Samuelson and Derek Ferguson.
- What we're doing is basically 10 minutes maximum, and if you do finish early, we allow time for questions. If you could just identify yourselves.
- **Mr. Wayne Samuelson:** It's unfortunate that there's such a short time for such an incredibly important issue.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Yes. We just have a very long list here.
- **Mr. Wayne Samuelson:** My name is Wayne Samuelson. I'm president of the Ontario Federation of Labour. I have with me Derek Ferguson from the Waterloo Regional Labour Council. Derek will be speaking to you later about the practices of temporary agencies in the Waterloo region and the things he encounters on a day-to-day basis.

- I want to talk to you about how important it is that this legislation go forward. I suspect that employers might be saying to you that in hard economic times you shouldn't pass this legislation. I want to tell you that in these times it is more important than ever to make sure we protect workers and provide a minimum standard that's enforceable.
- This bill makes changes and progress in increasing protection for some of the most vulnerable workers in Ontario: new immigrants and racialized workers. It will try to bring workers the same protection that every worker in Ontario is supposed to have from the Employment Standards Act. That's why we think this legislation needs to move forward. However, if you want to make it effective, you will need to make some amendments that ensure that the delivery of the program meets the intent.
- First, you have to ensure that a subgroup of workers, those who work in the home care sector, for example, receive the protections of this bill and that they have the same enhanced access to severance and termination as other workers. The government's proposed treatment of these workers flies in the face of the advice it received from Elinor Caplan in her review of home care, for example.
- Second, we have to ensure that this legislation truly delivers on equal treatment for all workers and doesn't set a higher threshold for severance and termination pay for workers employed in temporary agencies.
- Third, you have to ensure that this bill is effective in ensuring that temporary agencies cannot charge fees to workers.
- Finally, you have to ensure that barriers to permanent employment are eliminated by this bill and remove the provisions that allow temporary agencies to prevent their clients from hiring temporary workers.
- We know that rights that are not enforced aren't worth the paper they're written on. That's why we will be watching tomorrow's budget very closely to ensure that the government delivers on its promises of \$10 million to hire enforcement officers for employment standards.
- We have provided you with a very detailed analysis of what we think needs to happen in the bill, but because time is so short, I'll have to leave it there and I'll turn it over to Derek.
- **Mr. Derek Ferguson:** I'll state that I am Derek Ferguson, an executive member of the Waterloo Regional Labour Council and a firm believer that all workers of Ontario deserve the same protections under the Employment Standards Act. Unfortunately, many of those workers retained through temporary agencies are not receiving those same protections.
- **1650**
- In my time before the committee, I have two recent examples of vulnerable workers speaking to me in confidence for fear of reprisal from their temporary agency employer. My first example concerns a worker from a temporary agency on an assignment with a large Waterloo manufacturer. He was laid off temporarily at the end of January due to the lack of work, with a suggestion from the temporary agency that the layoff would be short-lived and he would be back to work soon. Over six weeks have passed with no job offers, and more importantly, he has not received his record of employment. He has been patiently waiting for a recall to work and feels that if he asks for his record of employment, he will be excluded from any permanent job opportunities.
- My second example is of a worker assigned by a temporary agency to a local foundry. This temporary job involved repetitive heavy lifting. After several weeks, he developed the onset of a repetitive strain to his forearm and wrist. Afraid, again, to mention the injury, he tried to work through the pain but eventually spoke to the temporary agency, which managed to find him

alternate temporary employment with a different client. No claim of injury was filed with WSIB, and his workplace injury is now approaching a chronic condition.

- There are approximately 67 temporary agencies in the Waterloo region. It is very, very hard for anyone to gain employment except to go through one of these temporary agencies. These vulnerable workers, including the new immigrants, know they're being exploited, but they feel they're in no position to speak out, and that's why Wayne and I are before you today: to speak for them.
- Respectfully yours.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** We have about five minutes left for questions. We'll go around the table and we'll start with Ms. DiNovo first for two minutes.
- **Ms. Cheri DiNovo:** Thank you for your deputation. You heard the other deputants just before you and certainly you heard the woman who owns a number of temporary agencies around the province.
- It seems to me that, in the temporary agency business—I'm going to ask you to comment on something you're not intimately involved in; you're not owners of one. But if this bill came into effect and was, in fact, strengthened with equal pay for equal work, health and safety committees, the end of the six-month situation, the other things you've asked for over and over again today in the deputations, this would apply to all temporary agencies and hence create an even playing field. Certainly, it would get rid of some of them, which would be the agencies that are operating outside of the law and should close, but every other agency would be in the same position as any other business where the laws are the same. Would that be your answer to some of the concerns of the agencies?
- **Mr. Wayne Samuelson:** I've got to tell you, if somebody comes here and tells you that because of your legislation there are going to be less jobs—give me a break. Temp agencies don't create jobs. What they do is, they find themselves in a position of basically skimming off the top, the money that should be going to people who get up in the morning and go to work and are trying to provide for their families. So I say to those temp agencies, "You've had a good run."
- I can tell you, I came from a plant where 1,000 people lost their jobs two years ago. You talk to any of those people in the Kitchener-Waterloo region. If they want a job, they have to go through a temp agency, and you know what? If there's a time for a government to stand up and represent those people, it's now. This bill moves in that direction. The question for all of us is, are we going to be able to stand up for these people when they really need our help? And sometimes, that means standing up against people who have a vested interest in making a profit. It's that simple.
- **Ms. Cheri DiNovo:** Do I have a minute more, or that's it?
- **The Acting Chair (Mr. Lorenzo Berardinetti):** That was two minutes. I'm just going to go round to Mr. Dhillon and the Liberal Party. Go ahead.
- **Mr. Vic Dhillon:** Thank you, gentlemen, for appearing before us today. That was a good presentation, and I do agree with some of the points you've made.
- Employment agencies or temp agencies claim that workers can choose when to work. What's your experience on that?
- **Mr. Wayne Samuelson:** And they say that with a straight face? I don't know if they're in the same economy that I'm in, but there are literally hundreds of thousands of people who have lost their jobs in the last couple of years. If you want to suggest to me that the solution in our economy is focused towards some people who want to work from time to time, then I've got to say to you, you're completely out of touch with what's going on across this province. I don't know how far you get to travel, but in the last week I've been to Thunder Bay, I've been to

Belleville, Kingston, London—there's a crisis out there and people want good, secure jobs. They don't want to find themselves going from temp agency to temp agency, from contract to contract. And, trust me, if we had more time, I could talk to you about how that leads to incredible exploitation of workers. The case Derek talked to about someone who gets an RSI injury, a repetitive strain injury, is a common situation. The chair of the workers' compensation board said two years ago that he was going to deal with it. Nothing has happened. This problem is not only out there today; every single day we wait, it becomes more and more of a challenge for our communities and for people who are out there.

- My suggestion to you is, frankly, take with a grain of salt those people who have a vested interest in making money off of this and just go talk to the people that you have the privilege of representing.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** We need to move on to Mr. Bailey.
- **Mr. Robert Bailey:** Thank you both, Mr. Ferguson and Mr. Samuelson, for your presentation.
- Do you feel—I'm sure you do, from your presentation—that the CCAC should have been included in this and there would be no exemption for health care workers? I guess I probably don't have to ask.
- **Mr. Wayne Samuelson:** I don't know how the government can justify this. There are lots of challenges in our health care system, certainly lots of challenges in the structure of the CCACs. But to somehow pick this group of workers and say that their rights are going to come later makes no sense to me, and I'm sure all of you—I'm sure you and Cheri DiNovo are sitting there and trying to figure out what the heck the government is thinking. There's absolutely no justification for it. And frankly, these are people who need support from the government right now, if not yesterday. They certainly can't wait for a year or two from now.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Okay. Thank you very much for your presentation. We appreciate it very much.

PETER CARAGIANAKOS

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, which is Peter Caragianakos.
- Good afternoon and welcome.
- **Mr. Peter Caragianakos:** How are you, sir?
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Because you came in late, I'll just say that we are following a protocol of 10 minutes per deputation. If you do finish early, then we ask questions to fill in those 10 minutes. If you could, when you start, just identify yourself for the Hansard record.
- **Mr. Peter Caragianakos:** Good evening, ladies, sirs. I am here on behalf of myself and other impoverished and demoralized workers who have been abused at the hands of the agencies. I have been waiting for years to tell my story, but until now I did not know who to tell it to.
- I thought my troubles were over when I got a job working at the Airport Group, \$11 an hour. I never made that much money in my life. Two weeks later, I received my paycheque. Instead of it saying "Airport Group," it said "Mavis and Miller." I asked a couple of guys, "What's up with this Mavis and Miller?" They told me that it is a temp agency, and you only work for the Airport Group after a 90-day probation period. Then you get full benefits. I was under the impression that I was working for the Airport Group. Anyway, what can I do?
- A couple of days later, I heard from my colleagues that two guys were fired. Apparently they had criminal records and they didn't pass the security check. Unusual. You had to pass security before you could work at the airport. You have to go pay \$35 up at the police station. And these

guys got in. I talked to Sammy, my supervisor, who told me they hired the guys anyway because they needed workers. These guys were working at the airport.

- **1700**
- After a couple of months, I started noticing my colleagues disappearing. What was happening? On the 89th day, everybody was getting fired, and because you were a temp, you had no recourse. My heart was broken. Before the 90th day, you're a statistic. On the 90th day, you might become a human being.
- A few years later, I read about the RCMP raiding Erie Meats on Wharton Way in Mississauga. The temp agency that Erie Meats hired had illegal workers. They thought they had tuberculosis. What happened is explained in the latter pages here. I've got all the details here.
- Just recently, I applied for a job as a security guard. The ad said, "Earn top wages. Immediate job opening." I applied and was told to take a \$309 training course first, and then I could work. I paid the money, I took the course, and then nothing happened. I got screwed. I got a hold of Donald Bowlby, recruiting officer, and was told, "We are just an agency and don't hire." I googled Donald's name. That's when I found out the truth: They are scammers. He had an agency in Ottawa called Premier Security and had to close it because of the bad exposure by CTV News. Kathy Tomlinson was the whistle-blower.
- In closing, these agencies, in my opinion, are predators. Employers just use them to circumvent labour laws. The one agency, Mavis and Miller, breached airport security by hiring criminals. The other agency, Erie Meats, almost started an epidemic with their incident. The third agency, National Security Workers—still in business—in my opinion, they're outright crooks, preying on immigrants and new Canadians, the most vulnerable people in our society.
- I also have from CTV, Google—here's a little snippet:
- "Sourav Addy was one of those clients who paid and then didn't get the well-paying job PSIA staff said they would find for him. Born in India, he'd been in Canada just six days when he saw the company's ad. He paid more than \$500 for training he says he never received. That's a lot of money where he comes from.
- "It would take me seven months to work for and get that kind of money in Indian currency," says Addy."
- Now we've got people who are offering jobs. They're masquerading as employers, but really, they're job agencies. With this employer's market, this is the trend. This isn't the only security company doing this. When you open up the Toronto Star, there are three or four of them—Iron Horse and a few other ones—doing the same thing: charging you for training and then getting you nothing. That's what's happening out there. That's where it's got to now. You've got to pay to work, and you still don't get a job.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about a minute and a half per party, and we'll start with the Liberal Party. There's a question for you from Mr. Delaney.
- **Mr. Bob Delaney:** Just out of curiosity, what type of work were you doing? You were talking about your experiences. I was just kind of interested in the kind of work that—
- **Mr. Peter Caragianakos:** What experiences?
- **Mr. Bob Delaney:** The experiences you were relating, when you were talking.
- **Mr. Peter Caragianakos:** I worked for these companies, except for Erie Meats. I worked for the Airport Group. I was working for them at \$11 an hour. My job was to sweep up the garbage and go around the parking levels. They also employ—you know the guys who write the tickets when you try to park at the airport? And they employ inside workers, too. My job was sweeping up the garbage.
- **Mr. Bob Delaney:** Thank you very much.

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move over to the Conservative Party. Mr. Bailey.
- **Mr. Robert Bailey:** Thank you very much for your presentation this afternoon. In your experience, a number of people have been affected by these so-called unscrupulous employers, like these security companies. Do you feel there needs to be more oversight of the security companies that offer these services?
- **Mr. Peter Caragianakos:** Well, all you have to do is open the Toronto Star. They're listed there every day: "Phone today; work tomorrow. Earn top wages." So you go there; they sign you up for this course—they give you a one-day course at Humber College or whatever—and then, "That's it. Sorry." They give you the impression that they are hiring. Even their employees, when you go into their offices, are all dressed like security guards. I can see a new Canadian or an immigrant going in there and thinking, "Hey, these guys are hiring, so I'll pay the \$309," like I did.
- **Mr. Robert Bailey:** Okay. Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move to the NDP. Ms. DiNovo?
- **Ms. Cheri DiNovo:** Thank you for your testimony here. It was moving and compelling. Unfortunately, Bill 139 doesn't address exactly the issue you point to, which is the definition of an employee, because these security companies clearly would still be allowed to function even with the passage of Bill 139 as it's still written. So I'm making a note about that.
- Another issue: equal pay for equal work. Would that have helped you in your situation? If you were making the same hourly rate and benefits as a permanent employee, would that have changed the situation even at Airport for you?
- **Mr. Peter Caragianakos:** Well, it's not the point of the wages. I don't think the wages have too much to do with it. It's the way they treat you. The thing that hurt me at the Airport Group was, "Yeah, we'll give you a job," and all these guys were doing—I can't understand why Toronto cannot hire their own people to do what these guys were doing. I have the profile here of what these people do, the Airport Group. Why they couldn't hire themselves and then hire people at \$15 or \$17 an hour—it's just mind-boggling. Then these people, in order to keep the wages down—after 90 days you're an employee of Airport Group. Then you get benefits and you get a little bit more pay. For all the guys I was working with, at the 89th day of employment: "See you later. We don't need you."
- **Ms. Cheri DiNovo:** And it's unfortunate that the immigrants you describe in Erie Meats would not be covered by Bill 139 either.
- **Mr. Peter Caragianakos:** They're illegal, so—
- **Ms. Cheri DiNovo:** Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation, sir.

BEI XI LIU

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next presentation, Bei Xi Liu.
- I hope I pronounced that properly.
- **Mr. Bei Xi Liu:** You're right. Perfect.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Try my last name.
- Again, the rules are, 10 minutes to present. If you finish short of that, any remaining time can be used to ask you questions.
- **Mr. Bei Xi Liu:** All right. Shall I begin?
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Yes. If you could introduce yourself for the record, and then you can start your presentation.

- **Mr. Bei Xi Liu:** Okay. My name is Bei Xi Liu. I was a temp worker for one year. I worked for a temp agency until July of last year. Through the temp agency, I had worked at a downtown company as an accounting clerk. I'm going to talk about two issues. The first one is statutory holiday pay; the second is barriers to getting a permanent job.
- When I worked for the temp agency, in my first half-year I didn't get statutory holiday pay. When I asked them why, they told me, "You are a temp worker and an elect-to-work." At first, I didn't understand elect-to-work. Then I tried to do research on the Internet and I found that "elect to work" means that you have options—it's quite complicated. It's taken me a long time to understand that. I felt that the nature of my work was not "elect to work." I worked there every week; I never said no to any assignment. Also, the client company is the only company I worked for through the temp agency. I never got any chance to give me the option to elect to work. So I didn't believe what they said.
- Then I phoned them again and told them, "It's not my case; I am not an 'elect to work.'" So I threatened the agency. I said, "If you don't pay me the statutory holiday pay, I am going to file a complaint at the Ministry of Labour." Actually, I didn't really know how to file one of those, but I just threatened them. But then it worked and they started to pay me. So that shows that the agency knew they were wrong. They just thought I was a sucker and they could fool me because I speak broken English. That's why they thought they could get away with it. I didn't let them get away with it. Actually, they still owe me some holiday pay for the first half-year, but I just forgot about it, because it's too much if I want to pursue that.
- **1710**
- I also want to say a little bit about Bill 139. It took me a long time to read it, but I found that it has lots that's very good. It should have come out sooner, actually. My experience with the temp agency shows why we need very clear rules with no loopholes, to give fairness and protection for temp agency workers, just like me and the—some statistics—700,000 I read about on the Ministry of Labour's website. For example, just removing barriers to public holiday pay will finally give us the same rights to statutory holiday pay that other workers get. So I think that Bill 139, on the whole, is very good.
- Next, I want to address one issue about the six months—the agencies still can charge the client company a fee. That could be another loophole for those agencies, and they could take advantage of that.
- Today, it seems that if you want to get a job, you cannot really get hired directly. You always have to go through some agency or some middleman. I just don't know why. It seems that the jobs are there, but you just cannot get them. The employers always use agencies.
- If you work for agencies, you put yourself in a very contradictory situation. When you go there, you need a job. At the same time, you know that if you get this job, you'll restrict yourself because you'll block your way to future employment or potential employers. When I was sent up there, I knew that it would just put one rope around my neck, because I know they have the rules. Even if you finish your assignment, you still have—some agencies have 12 months; some have six months; some have 24 months. In my case, after I finished my assignment, my agency said I still had 12 months when I couldn't work for the client company; otherwise I'd have to pay them a fee. It's on the timesheet.
- After I worked one year for that agency, the client company finally said—I always tried to get directly hired by the client company—"Okay, we're going to hire you, but there is a cost." Basically, it was a buy-you-out fee. The client said, "We have to pay the agency a fee to buy you out." The person who was in charge of hiring at the client company said, "We paid the fee to buy you out, so we can only offer you this wage rate." That rate is lower than the normal

amount I could get if I went through direct hiring. It's not fair, but my situation was really bad. I was caught up in that. What was I going to do? So I had to accept that. I knew it was not a good deal. It's a lousy deal. However, it was better than what the agency gave me. It was better than working with the agency. You get trapped there. You have no future. I'm shouldering that, and every half-month I feel that because when I get my paycheque, I see my rate and know, "Okay, that's what I paid for the agency." I know that in Bill 139 it says that rate is a prohibition. It's very clearly stated that agencies cannot charge the temp workers or transfer it to the client. But when they are allowed to charge you within six months, then that cost will shift to whoever, to somebody like me. You're hired by a client company and then you are in a disadvantaged position when you want to negotiate your salary or any of those things. So eventually it will fall on our heads.

- That's why I feel that we shouldn't give them any loopholes to take advantage. No matter how long, even just one day, if you allow them to charge, they will use that. In my case, they might say, "Let him work here five months and then move him out and get another one there."
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Mr. Liu, you have about 30 seconds to wrap up.
- **Mr. Bei Xi Liu:** Just 30 seconds?
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Yes.
- **Mr. Bei Xi Liu:** Oh, my gosh. All right. I'll just say one—what do I want to say? I wish they'd remove the six-month status. They shouldn't have that, because really it's a loophole in there. Okay, that's all I have to say. Thank you very much.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you for coming here today and for your presentation.

URBAN ALLIANCE ON RACE RELATIONS

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next deputation, the Urban Alliance on Race Relations. I have a number of individuals here: Sri-Guggan Sri-Skanda-Rajah and Michelle Cho.
- If you could, as I was mentioning this afternoon, mention your names before you speak or identify yourselves. You have 10 minutes, and any time not used up will be shared by the parties to ask you questions. Good afternoon, and welcome.
- **Ms. Michelle Cho:** Good afternoon. My name is Michelle Cho, and I'm here today with Sri-Guggan Sri-Skanda-Rajah, president of the Urban Alliance on Race Relations. The UARR has been around since 1975 promoting racial equity in Toronto through public education, research and advocacy.
- A society committed to healthy labour relations can be defined by how its public institutions remain accountable in the protection of its most marginalized workers. We come to you in solidarity with other community organizations working to highlight the many ways in which temporary employment agency workers in Ontario are paying some of the greatest financial, physical and psychological costs for the holes we have chosen to ignore in our labour standards.
- I'm sure many people here today have been talking about the significant shift towards unsecure labour in our labour market disproportionately staffed by racialized workers, newcomers and women, which has only contributed to the feminization and racialization of poverty.
- Further, the elimination of Ontario's Employment Agencies Act in 2000 made room for temporary employment agencies to begin a slew of practices to take advantage of workers without basic protections.
- Employment agencies have benefited enormously, with income generation increasing from \$1.5 billion to \$8 billion in revenues in the past eight years, with over 60% of that being generated in Ontario.

- Our labour law is outdated, and we applaud the government of Ontario in taking steps to ensure that these market changes are met with corresponding adjustments in labour law to reflect fairness and protection for workers in temp agencies.
- Bill 139 is definitely a step in the right direction, and the new Employment Standards Act will give temporary agency workers some minimum protections in the following areas: the repeal of elect-to-work regulatory exemptions; making documentation about employment standard rights and work assignment information mandatory; and making it illegal to charge direct fees to temporary agency workers.
- Unfortunately, due to the limited nature of this presentation time, we're just going to focus on a few key points regarding the ways that we think Bill 139 has to be amended.
- (1) The prohibition of elect-to-work exemptions: We're happy to see that the elect-to-work exemptions have been eliminated in this proposed legislation amendment. Most temporary agencies define all workers as "elect-to-work" because they're seen as having the ability to deny work assignments without penalty and can therefore be exempt from receiving any holiday pay or compensation for termination or severance. We know that most low-wage workers don't have this privilege, so we're glad to see that being removed. While public holiday pay exemptions have been removed, workers will have to wait until Bill 139 is passed for the repeal of elect-to-work exemptions for termination and severance. We believe this regulation should be immediately removed.
- **1720**
- (2) Making it illegal to charge temporary workers direct fees: Temp workers should not be charged any direct or indirect fees by the agency employing or obtaining employment for a person seeking work or for information about employers looking for workers. These fees are not only unjust; they financially exploit workers who are already making 40% of the income of their permanent employee counterparts. There are a lot of changes that need to be made with the elimination of the Employment Agencies Act, because it has now become common practice for the industry to charge fees for services that should either be provided by the agency or are being misrepresented as a mandatory requirement. We agree that it should be made illegal; that temporary agencies should not be able to charge workers direct fees for services.
- However, the definition of temporary work assignment under Bill 139 has been too narrowly defined and will not stop these agencies from charging workers fees for finding permanent jobs and employment services. We would suggest that the definition of employment agency needs to be broadened to include temporary and permanent staffing and placement services. If not, then the overall aim of the legislation will be undermined and fail to address the loopholes that companies will use to charge fees for anything that falls outside this narrow definition. These are ways for companies to pass on the basic costs of doing business when they already have such low overhead. Workers are being charged for services and completing training rather than being paid the hourly wage they deserve for this time. Ontario should be following the lead of other provinces that have made these fees illegal such as Alberta, BC, Manitoba, the Northwest Territories, Nova Scotia, Nunavut, Saskatchewan and the Yukon. Further, in other provinces that have banned the charging of these direct fees for services, it has not harmed this industry's revenue, and in fact these companies have seen double-digit revenue increases since 2006.
- Last, the six-month barrier to full-time employment: Bill 139 says it will prohibit temporary employment agencies from imposing barriers on client companies hiring assignment workers. This is another much-needed change, as there should be no barriers for temporary workers to find stable employment. However, the proposed bill will only make these barriers illegal six months after the assignment begins. Further, agencies will be able to charge a fee to the client if

the employee is hired during the six-month period. This section should be completely deleted, because it traps workers in low-wage, precarious work and creates financial deterrents for the client companies to hire them as permanent workers. There's no logical reasoning for temporary employment agencies to charge costs for future loss of earning—that's simply unconscionable. Further, it would only create legislated incentives for workers to be removed from work assignments prior to the six-month deadline. Failing to remove the six-month barrier will only ensure workers' immobility in the trap of insecure labour and contradict the goals of this proposed legislation.

- We see the exploitation of temporary workers as being a modern-day form of indentured labour of people whom we have determined to have dispensable rights. The Employment Standards Act is ineffective at addressing substandard working conditions, where people are struggling to meet their basic needs in a system that has failed people and punishes the worker for wanting their rights respected. Unfortunately, we didn't have time to address other issues such as the issue of termination and severance and the exclusion of home care workers, but we support other community agencies that have come forward and brought those concerns.
- In conclusion, we cannot afford to stand idly by while people are continuing to fall through the cracks because of these regulatory holes. Temporary agencies and client companies must be held jointly responsible for the violations of basic worker rights to ensure justice and fairness for all. To this end, this committee should reform the legislation without delay for the following: immediate repeal of elect-to-work legislation; broadening the definition of temporary work assignments; banning the charge of direct and indirect fees for temporary workers; and the removal of the six-month barrier to full-time employment.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much.

SKILLS FOR CHANGE

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, Skills for Change; Jane Cullingworth, executive director.
- **Ms. Jane Cullingworth:** Hello. My name is Jane Cullingworth and I'm the executive director at Skills for Change. Skills for Change is a community-based non-profit organization that has been working with immigrants and refugees for the past 26 years. We serve approximately 13,000 clients a year, providing language training, skills upgrading and employment support programs. Many of our clients are internationally educated professionals: teachers, medical doctors, engineers and architects looking to secure employment in a labour market that is often inhospitable.
- Despite the fact that Canada has actively encouraged the immigration of skilled workers, many of our clients face barriers that are often insurmountable. These include—and you have heard these all before—not having Canadian work experience, which is often a requirement in our workplaces; lack of recognition of their qualifications and experience; difficulties of securing a licence in regulated professions; difficulties in finding jobs in our hidden job markets; lack of networks; and often, underlying all of these barriers, racism.
- Many of our clients and other immigrants across the GTA access the services of Skills for Change and other organizations. They also turn to temporary help and employment agencies. We know first-hand from our clients that the experience with these agencies is varied and that there are far too many instances where individuals are exploited.
- We applaud the government for its leadership in Bill 139. You have listened to the concerns of the community and taken strong action to create a framework that provides important protections and necessary restrictions in the industry. This bill will go a long way to addressing the exploitation experienced by many newcomers to Ontario.

- There are three areas where we would recommend changes to strengthen the bill to ensure that the government’s goals of fairness and protection of temporary agency workers can be achieved. These are: removing the fees for hiring temporary-to-permanent workers, expanding the definition of temporary help agency and introducing penalties to ensure compliance.
- In the first area—this is subsection 74.8(1), the exception of paragraph 8, subsection (1), fee for hiring—the bill allows the agency to charge a client a fee for hiring an assignment employee within six months from the date of assignment. We do not agree with this. We believe it is unethical for there to be any fees related to the hiring of a temporary worker. We are concerned that this provision will result in practices that will see temporary workers assigned to contracts of less than six months, ensuring that they cannot be hired by the client without a fee. It is our understanding, and actually our experience, that the majority of assignments are already less than six months.
- This practice may have the unintended consequence of further institutionalizing insecurity for workers. It certainly creates barriers to client companies who want to hire workers directly. There can be no exceptions to this approach; all workers, regardless of their assignment, whether it is a low-skilled position or a position that requires a high level of experience and education, need to have freedom of mobility when it comes to their employment.
- Further, we are troubled by the enshrinement of this provision in legislation. To our knowledge, no such provision currently exists in the employment standards legislation. The validation of this practice sets, potentially, a dangerous precedent. Legislating restrictions on workers’ mobility opens the door to other problematic employment practices, and this is of great concern. We strongly suggest that the government remove this section from the bill to ensure that fees cannot be levied for the hiring of temporary workers at any point in their employment. At Skills for Change, we witness every day the impact of the systemic barriers that are faced by our clients. We cannot, as a society, continue to create systemic barriers.
- The second area in which we would suggest change is in subsection 74.1(1), the interpretation. Here, we suggest an expansion of the definition. The proposed legislation contains a restrictive definition of a temporary help agency. We understand that the intent of this legislation is to protect workers. In order to do this, an expanded definition is critical. We fear that the current wording will result in some creative practices that will see many fee-based services charged to workers who sign up with staffing agencies that fall outside of the definition of a temporary help agency. We recommend that a more inclusive definition be used, such as “employment agency,” to ensure that the intent of this bill is realized.
- **1730**
- Finally, penalties: In order to ensure that this proposed legislation will have teeth, penalties must be introduced for non-compliance. The best policy in the world is meaningless if there is not the ability to ensure its application.
- Many of the individuals who access temporary help and employment agencies are vulnerable workers. They are often willing to sign restrictive contracts, even if these contracts are legally unenforceable, if they believe that they will secure work as a result. Given the nature of this relationship, a system needs to be in place to ensure that temporary help agencies know that their practices are being monitored and that penalties will be levied for non-compliance. We call upon this government to introduce penalties to ensure the enforcement of Bill 139 similar to the penalties that are included in Bill 124, which is the Fair Access to Regulated Professions Act.
- These are the key areas that we wanted to highlight for the committee’s consideration. We strongly urge that the bill be strengthened to ensure that it can achieve what the government has stated it will: create fairness and protection for temporary help agency workers.

- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about a minute per party. We'll start with the Conservative Party.
- **Mr. Robert Bailey:** Thank you for your presentation. Is it your experience, Ms. Cullingworth, that temporary workers have in fact moved from temporary to permanent employment?
- **Ms. Jane Cullingworth:** It does happen, yes.
- **Mr. Robert Bailey:** That's a good thing. So that has actually happened; they're not left languishing if they have the skills.
- **Ms. Jane Cullingworth:** It's less often we see that. Generally people do tend to become trapped as temporary workers, but yes, we have had experiences where people have moved on to permanent employment.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move to the NDP.
- **Ms. Cheri DiNovo:** Thank you for your deputation. Certainly employment standards officers are in short supply, and only about 1% of employers ever get inspected. So some of the abuses could be solved by having more employment standards inspectors go out to employment companies, which we're asking for.
- **Nannies:** This has been in the news for the last couple of days. We're asking for action from the government in extending this bill to include nannies. They're some of the most exploited of internationally trained folk who come over. Would you support the extension of Bill 139 to include nannies as well?
- **Ms. Jane Cullingworth:** Yes. I think the framework is good, and it should be applied as broadly as possible.
- **Ms. Cheri DiNovo:** Absolutely—just calling it “employment agencies” rather than “temp” would do it.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. The Liberal Party.
- **Mr. Bob Delaney:** If you could encapsulate in a few seconds, what do you see, in your opinion, to be the responsible role of an employment services agency today?
- **Ms. Jane Cullingworth:** For many of our clients, what they're looking for is Canadian work experience. They just want the opportunity to be able to demonstrate their skills. So it is great for people to have the opportunity to go into a workplace, even if it's a short assignment, to demonstrate their skills. What we need to make sure of is that there aren't barriers to the employer in actually being able to hire those individuals.
- **Mr. Bob Delaney:** Thanks.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation, Ms. Cullingworth.

CANADIAN PUNJABI POST

- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move on now to the next presentation, the Canadian Punjabi Post, Karam Punian from the editorial board.
- Good afternoon, and welcome.
- **Mr. Karam Singh Punian:** Thank you, Chairman and committee members, for this opportunity. My name is Karam Punian. I am associate editor of Canadian Punjabi Post—it's a daily newspaper—and a co-host at 770 AM. It's the radio where we talk, taking views on news only.
- We've been discussing this matter with our listeners since at least December, and the following is the feedback we get from the community.
- There should be no relationship between the client and ownership of the agency. We have lots of complaints that the same people running the business are the same people running the temporary workers' agency.

- The markup gap should be limited. We have complaints like the companies are making \$5, \$5.50, \$6 per hour with the workers.
- A six-month permanent period is a very hard time. We get the feedback from the community that there should be no time period for this; or, if there is any, it should not be more than 60 days.
- Disclosure of client company's needs for work: It should be notified to the worker, like such-and-such work that he's going to do on such-and-such dates. Temporary workers get minimum wage; it doesn't matter how long they work. There should be some provision to review the minimum wages, and we suggest at least after 60 days, and there should be some night premium added to this one too.
- Temporary workers get no benefits whatsoever, including prescriptions from the family doctor. We urge that something can be done so that the temporary worker is not forced into poverty.
- We have feedback: The client is very selective for demands for the workers on the basis of age and gender. We realize that they are already allowed there, but those things are happening. It should be not be there and there should not be selection on the basis of age and gender.
- Agency rosters are too high and the worker doesn't know when his term is coming. He has the family to run, he has parents to look after and kids at home. He's looking at the phone, when the phone rings. So we have feedback. There should be at least 24 to 48 hours' notice when he's going to work. In some instances, clients call the worker for work, and he shows up at the door and then they say, "No, we don't have any work for you today." In that situation, there should be a minimum of four hours' pay for the worker for showing up at the door.
- An agency roster should be limited and it should be available to the public so they know—let's say there are 1,000 agencies—how many workers are on the list, and the worker at least knows when his turn is coming.
- If resources permit it, we request that there should be the ethnic media involved, because we are listening from the South Asian community. Mostly people are South Asians who are affected with this one, and there should be something we can communicate to the public about their rights and their responsibilities.
- When this law is done, there should be a monitoring body and enforcement otherwise it will be a piece of paper. There should be a body and there should be the system if someone wants to put a complaint forward, either in Metro or Peel. Wherever it is, there should the provision.
- Thank you very much for the opportunity, and I'm more than happy to answer any questions.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about two minutes per party. We'll start this time with the NDP and Ms. DiNovo.
- **Ms. Cheri DiNovo:** Thank you for your deputation. A question you must see also in your community: Nannies who are hired through unscrupulous agencies would not be covered by the bill as written. Would you support the extension of this bill to include those home care workers who are nannies and probably some of the most exploited workers?
- **Mr. Karam Singh Punian:** We feel it was the jurisdiction of the federal government. If you realize that Ontario can do something for this one, definitely we support that.
- **Ms. Cheri DiNovo:** Absolutely. Employment standards is an Ontario issue, and all they would need to do in part is put "employment agencies" rather than just "temporary agencies" and a couple of other little changes, but it would be very simple to do. Manitoba has done it.
- Also, equal pay for equal work: Is this something that you would support? In other words, if someone working is doing exactly the same job, should they get equal pay for it even if they're only working part-time or temporarily?

- **Mr. Karam Singh Punian:** That's what I mentioned. There should be equality not only in pay but in gender too. It should be similar for every worker who's going for this type of job. It should be similar for each individual.
- **Ms. Cheri DiNovo:** Thank you very much, sir.
- **The Chair (Mr. Lorenzo Berardinetti):** We'll go to the Liberal Party, then, and Mr. Dhillon.
- **Mr. Vic Dhillon:** Thank you, Mr. Punian, for coming before us today. You mentioned that you are a host on, I suppose, a Punjabi radio show?
- **Mr. Karam Singh Punian:** Right.
- **Mr. Vic Dhillon:** What's the volume, if you could describe, of the calls that you receive in terms of complaints about the issue we're talking about here, temp agencies?
- **Mr. Karam Singh Punian:** Continuously, we're discussing this issue for the last five days. We have a two-hour program and we get 50-plus calls every day. So we got more than 200 calls in the last four days.
- **Mr. Vic Dhillon:** One of the things that has created this bill is complaints about fly-by-night temp agencies which, for lack of a different word, abuse the workers. Can you give us an example or two of how, and what type of abuse is occurring out in the community?
- **1740**
- **Mr. Karam Singh Punian:** Very good question. Yesterday we got a call. A girl wanted to talk off the air. We spoke to her off the air. She wanted to meet us personally. We met her at 5:30 yesterday.
- She explained that she's going through an agency. She is 22 years old. There were ladies working for a client; they were about 50, 55. The supervisor working for the client requested to the agency, "Don't send 55-year-olds. Send 22-year-olds." She was almost crying. When she went over there, he made remarks like, "Your job is in my hands." You can understand this situation, what it can be.
- **Mr. Vic Dhillon:** So it leads to further exploitation.
- **Mr. Karam Singh Punian:** It is way more. That was one example. I asked, "How many girls are working there?" She said, "Twelve." I asked, "Does everybody face the same situation?" She said, "Very much so."
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Last question.
- **Mr. Vic Dhillon:** You mentioned the use of ethnic media etc. Do you feel, if the rights are communicated through different languages and awareness is heightened, that would lead to a lessening of the abuse?
- **Mr. Karam Singh Punian:** Definitely, sir. I live in Peel region, and in my area the population is more than 50% ethnic. I believe that if government resources permitted, if you went through the different channels—Chinese, Korean, Indian, Afghan or whatever it is—that would be a big help for the working-class people.
- **Mr. Vic Dhillon:** Thank you very much.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** We'll move over to the Conservative Party. Mr. Miller.
- **Mr. Norm Miller:** Thank you, Mr. Punian, for your presentation. I just had a question to do with your point A, where you say that there are innumerable instances where clients have direct ownership stakes in the management of the temporary help agencies. I was surprised by that, actually. Is that quite prevalent?
- **Mr. Karam Singh Punian:** We have two reports. Three companies get together and they form a temporary agency. Instead of hiring workers directly and paying them more, they bring in the resources through the agency. Plus, they have their own people running this agency.

- At the same time—we have three examples; it’s not on the record: The same people are the clients and, indirectly, the same people are running the temporary work agencies.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you for coming out this afternoon, Mr. Punian. That completes your deputation. We’ll move on now to our next deputation.
- **Mr. Karam Singh Punian:** Just one second. There are a couple of mistakes. My last name: One spelling is missing. In print there’s “markup”; I think I printed “makeup” there, so I request the change in that one too.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Oh, we added the “n” at the end.
- **Mr. Karam Singh Punian:** Okay. Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you very much.

DALIA GALINDO

- **The Acting Chair (Mr. Lorenzo Berardinetti):** The next deputation is Dalia Galindo.
- Good afternoon, and welcome.
- **Ms. Dalia Galindo:** Good afternoon. Hello. My name is Dalia Galindo. I have worked with five different temp agencies in a period of two years and five months. I have seen so many different issues in each one of the agencies that it’s difficult for me to reduce my story to just 10 minutes, but I’ll try.
- I wanted to talk here today not only for myself but also for my mom, who used to work with me, for my friends and other workers who face the same problems.
- I am here today because we need changes, and Bill 139 is a baby step toward what we need. Maybe one day we will have a bigger change. Meanwhile, one of the important points in the bill is the fact that if the bill is approved, it will require the agency to provide us with information about the assignments we are required to do.
- The day I came into the first agency to sign an application, they provided me with only a little bit of information about the task. They just said I would work in a plastics factory and I would be required to use an X-acto knife. They said they would show me a video about safety in the workplace, but just after saying this, the agency received a call from the factory saying they needed more people, so they told us we could start right away. They asked us just to be careful and not to cut ourselves with the knife because otherwise the agency would get into trouble. They also asked me to tell the manager I had seen the video, even though they never showed it to me.
- After working there for around two months, 12 hours per day, four days a week, I came up with another issue. While I was working, a man on the same assembly line asked me how much money I was making per hour. So I answered that I made \$8.25. The man’s mouth dropped wide open. He told me, “You are young. You shouldn’t work here anymore. The agency is paying me \$14 an hour.” I couldn’t believe it. I couldn’t even understand why a place could pay different rates to people doing the same assignment. I even thought, “I’m smarter than this guy, and here I am doing the same job. I should get paid more.” Later on, I thought that maybe the guy was just lying. Maybe I just needed to pay more attention and then see if I could find someone else who was getting a different salary. So one day when I went to pick up my money, a woman came in asking for information. When she asked how much the agency paid per hour, my own manager told her it was \$7 an hour—right there in front of me. After that, I stopped working through that agency.
- It didn’t take long before I learned about another agency. I went there and filled out an application full of illegal questions. Of course, at that time, I didn’t know it was illegal for them to ask my actual age or my first language. Anyway, I finished the application. They tried to get me into working without my insurance permit. I refused. Then, again, I was provided later with

information about the workplace. They pretty much just said that I would work as a waitress, making \$9 per hour. I agreed. After one month of working with them, I received my first pay, and to my surprise they refused to give me the cheque. They said that they had to cash it themselves, and I would have to pay \$5 each 15 days for that service. I also had to pay another \$5 for transportation to the workplace. As far as I know, Bill 139 will also get rid of some of these fees, and that will mean more money in my pocket every payday.

- Most of the time, I will never know how long my shift will be. I was told to ask the banquet hall I was working for and then inform the agency one hour before the shift was over. That way they would have time to get ready to pick us up. Even though we are required to pay for the pick-up service, if two groups of people working in different banquet halls finish shifts at the same time, you have to wait one hour, sometimes more, sometimes less. I am talking about a job where most of the time you finish at 12 or 1 a.m., which means that you cannot catch the subway anymore because of the time, and they don't even pay you for that time.
- I seriously think Bill 139 should be approved and improved. We need to know where we're going to work, for how long and what is expected of us. We have lives too. We need to pay our bills and run our lives and we need security. We really need a law to make the agency provide this information. Especially myself, I have suffered because of the lying in this field. The agency would lie to me about the place where I was going to work. They would call me, tell me I was going to work in one place and then simply drive me to another one—the one none of my co-workers liked because of the bad conditions. That is not the only trick they have. They also called my mom and told her she was going to work as a waitress, and then, in the end, they just took her to a pasta factory. How was she supposed to know what to do there when nobody told her where she was going?
- I really want this bill approved. I want information about the work. I don't want to have to go to places that I don't like just because of the lack of information. Moreover, why should I have to pay fees to work in a deceiving place? Bill 139 will force the agency and the company to take responsibility for the workers. What if I get hurt? How do I prove I was on assignment that day? If the three parties—the agency, the company and the workers—sign off a paper sheet, I wouldn't have to fight for respect all the time. Someone would have to take responsibility for me.
- I'm so lucky. My English is pretty good and my personality allows me to speak about my rights—not to mention that I don't have children. Even though I fear not being able to pay my rent, I don't have as much responsibility as parents do. I have less to fear. That's why I am here today, trying to speak out for what we need. We need to make Bill 139 stronger. We should have laws to protect us, laws that will force the temp agency to respect us. That's it. Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about a minute per party to ask you questions, starting with the Liberal Party.
- **Ms. Laurel C. Broten:** Dalia, thank you so much for coming today. We're coming to the end of our day today, and I think it's so important that individuals come forward and tell their stories. We've had a lot of individuals come forward today and throughout the time that we've been talking about making improvements to this system. It's only by having the insight that all of you give us that we are able to determine what the issues are and how we can move forward. Simply, on behalf of all of us here today, I really want to thank you and the others who came today for being brave enough to come and tell your stories and to let you know that it is absolutely critical that we get that information to be able to move forward to create the type of society that we all want. Thanks very much.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** The Conservative Party.

- **Mr. Robert Bailey:** Yes. Thank you, Ms. Galindo, for your presentation today. It was very insightful and very helpful to understand what new Canadians and new immigrants face in the employment sector. Hopefully, your case is not an example of all but maybe an exception. I wish you well, and thank you very much for your presentation here today.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo?
- **Ms. Cheri DiNovo:** Yes. Thank you, Ms. Galindo. I'm so sorry for what you've had to live through. Certainly as the employment standards critic for the New Democratic Party, I pledge to try to make this bill as strong as we possibly can so that it prevents other people from having to live through the same experiences you've had to live through.
- Thank you so much. You're a brave woman: Know that.
- **Ms. Dalia Galindo:** Thank you.
- **The Acting Chair (Mr. Lorenzo Berardinetti):** Thank you, and thank you for your presentation as well.
- Ladies and gentlemen, members of committee, we are adjourned. Our next meeting is Wednesday, April 1, starting at 12:30 p.m

April 1, 2009

The committee met at 1231 in room 228.

EMPLOYMENT STANDARDS

AMENDMENT ACT

(TEMPORARY HELP AGENCIES), 2009

LOI DE 2009 MODIFIANT LA LOI

SUR LES NORMES D'EMPLOI

(AGENCES DE PLACEMENT TEMPORAIRE)

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

TEMP WORKERS RIGHTS ACTION GROUP

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order. We're here to continue public delegations on Bill 139.

The first presenter is the Temp Workers Rights Action Group. Please come forward. Could you state your name for the record? You have 10 minutes. If there is any time left after your deputation, we will entertain questions from the three parties. Go ahead.

Ms. Michelle Hruschka: Good afternoon, ladies and gentlemen. My name is Michelle Hruschka and I am the chair of the Temp Workers Rights Action Group from Hamilton, Ontario. We are a grassroots group that is dedicated to advocating for changes to the Employment Standards Act to improve the lives of those workers who are trapped in a never-ending cycle of poverty and despair.

They say that one must walk a mile in another's shoes to truly understand their path, so we are here today to try to bring a human face to the policy of "elect to work" and how that policy has affected a worker's human and labour rights. It is an effective part of a poverty reduction strategy and this committee must give equal weight to the voices of the workers in this policy change initiative.

Where is the justice? Where is the protection? A worker accepted an assignment at a local temp company that was to cover a maternity leave with a subcontractor for the city of Hamilton. The city of Hamilton has a zero-tolerance-for-violence policy which one would think would cover workplace bullying, but for the temp worker, there was no protection. It was the second call made to the temp company where the supervisor had ordered the worker to do a pay check, in violation of the collective bargaining contract. Not only was the worker terminated, but the temp company refused to send the worker out on any more job assignments. After six months and repeated requests, the worker was still fighting for the record of employment in order to access EI benefits.

It was at this point that the worker had to apply for Ontario Works. It is unacceptable policy that the onus is put on the worker to produce the record of employment, and not the temp company itself, which has violated federal statutes on the issuance of a record of employment. One can go to the HRDC website and find very clear language on this issue.

Another worker found themselves unemployed from a temp assignment. This time, the issue was training, which clearly wasn't the fault of the worker but of both the temp agency and the client company. But it was the worker who paid the consequences.

But what if the training issue was a health and safety issue? Under clause 9(2)(a) of the Occupational Health and Safety Act, workers are required to have a joint health and safety committee where the workplace has 20 or more full-time workers in the workplace. I think it is essential that there is clear language as to what the definition of a "full-time employee" is. Who has the responsibility? Is it the temp company or the client company, on issues of occupational health and safety?

Temp companies could have 20 or more people working in very long-term assignments and they could be deemed as full-time employees, thus being entitled to a joint health and safety committee. After

researching public holiday policy under the act, I knew that a probation period was non-existent and that the type of work that I would be accessing would not be considered exempt from statutory holiday pay. I applied for a job posting at a temp company. I did not sign the line on the application where it stated that I would be denied statutory holiday pay, as they deemed it as a probation period. The temp company representative had questioned me about the fact that I had not signed that, and I replied that I wished to get a ruling from the Ministry of Labour on this issue. The temp company rep again stated that this was company policy and I replied back, "It may be company policy, but under the act, there is no probation period and I am entitled to a ruling from the ministry." Needless to say, I was not given any opportunity for this job posting, and given my experience, I have to wonder, how many other workers out there who try to stand up for their rights are essentially blacklisted from any job opportunities? The need for reform: I think it is important to remember the many workers who have fought and died for fairness and justice in the workplace. They fought for health and safety, benefits, the number of hours worked, overtime, severance and termination pay, vacation days and sick days. It is very unfair that 37% of all workers today are denied access to many of the rights that workers fought and died for. I have to ask myself, where is the fairness and justice when a temp company can charge a minimum-wage earner a \$20-a-day fee for transportation costs? A temp worker earning minimum wage at 40 hours a week would have take-home pay of approximately \$1,200 every four weeks. This \$400 transportation fee is very excessive and would bring the temp worker's earnings down to \$800 for a four-week period, and that isn't very much to live on when one has to consider looking for shelter, food and any other personal items.

I will leave you with this last story, and I hope that it does touch your hearts. A young worker in my community had worked at the same temp assignment for over a year. The worker went to work faithfully and diligently. One day, the worker had a family emergency. He called in to the temp agency and explained the situation. This worker was terminated, fired—no notice, no termination pay. The worker had to fight for EI benefits and was denied because the worker had no representation, no union or worker representative to appear with him at the board of referees' hearings. The worker had to apply for Ontario Works, which, for a single person, is less than \$600 a month. Under Ontario Works, the worker now falls under workfare policies, which also deny workers their rights to employment standards. I'm asking, can somebody please explain what this worker did that was so wrong? Why was he thrown into abject poverty? Who is really standing up for their rights?

1240

I think it's important that temp workers, under Bill 139, have the same rights to family emergency leave that other workers get. Temp workers need to be able to take family emergency leave without losing their income, their job or their dignity. Bill 139 needs improvements to ensure that all workers have the same protection and rights to termination pay and any other employment rights standards.

I look around me in Hamilton and people are losing their jobs. What do they have to look forward to? Temp work—low pay, no stability, no security. Bill 139 should make sure that we do not get stuck in temp work. We need to be able to access permanent jobs with protection. Agencies should not be allowed to put up barriers to permanent work.

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Michelle Hruschka: I urge that you think of all the workers who struggle as you deliberate this bill. Workers need protection and they need to be treated fairly. The government needs to be committed to ensuring that there are laws to protect those workers and that those laws will be enforced. Please take a bold step forward. Change the law to ensure that those workers who are the most marginalized have a voice in their battle to be treated fairly and with dignity. These workers deserve to have their voice heard. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be with us.

THE EMPLOYMENT SOLUTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Employment Solution. Can you please state your name for the record, and you have 10 minutes. If you don't use your 10 minutes, then there will be an opportunity for questions from all three sides.

Mr. Frank Wilson: I'm Frank Wilson. I'm the president of TES, The Employment Solution. The lady to my right is Chris Lusignan, who is the VP of finance and administration. She's been working with us for 25 years. I've been in this industry for over 40 years.

What we're going to say is very important, so we really hope that you will give us your undivided attention with regards to this important matter, Bill 139. My company, our staff, truly believe that this government does not want to cause irreparable damage to our industry or to the Ontario economy. TES is a privately owned Canadian company in the staff augmentation business. What we do is find engineering, technical and information technology personnel to fill specific needs for our clients. We have been doing this for over 33 years.

In a year, TES makes over 3,500 contract placements and over 250 permanent placements. What we don't do is abuse our candidates and contract personnel, whether they are new arrivals to Canada, new grads or people with a long-term work history here. We don't charge candidates fees for being placed or for any other aspect of our services. We don't prevent them from being hired full-time by any employer. We don't send our candidates to unsafe work environments. We don't exploit them financially. And depending upon the sector, our contractors' average wages are in the area of \$35 to \$60 per hour. But what we do do is care about our contractors and temporary workers. We care about their safety. We inspect worksites. We participate in our clients' health and safety committees. We provide WHMIS and health and safety training to our contractors. We have developed our own comprehensive health and safety training programs for a variety of environments.

We also do care about their careers. We offer free career counselling, resumé writing, consulting and interview coaching. We offer subsidized skills upgrade training in a wide variety of technologies. We advocate for them with the employer, and we offer assistance in negotiating if they are indeed interested in being hired on for full-time staff.

We also do care about another issue, and that is trust. We practise full disclosure at TES. Both the client and the contractor can see our complete cost and profit breakdown. They know they're getting a fair deal because they see where every dollar goes. There are no secrets.

Why are we here today? Because this bill will kill research and development and project-based industries in the province of Ontario.

Why do our clients hire contract personnel? Because many of Canada's important industries work on a project-based model. It's their nature—not anything controlled or created by ourselves. Aircraft companies work on designing and building new aircraft. High-tech companies work on developing a new piece of software or hardware. Major service corporations plan and carry out a major overhaul of their delivery infrastructure. Energy and natural resource companies build new pipelines or new extraction operations. The list goes on and on.

During these times, they need specialized skills that they wouldn't need the rest of the time. That's where we come in. We recruit designers, planners, engineers, software designers, and many others too numerous to mention.

And why are these people willing to work on contract? Because they make better wages on their contract than they would as full-time employees, usually 30% to 35% better. As our profit numbers show, that money goes to them, not to us. Because they want exposure to as wide a variety of projects and technologies as they can get—the kind of exposure they cannot get as full-time employees of a single company. And because this kind of exposure makes them subject matter experts. They are one of Ontario's skill resources, and part of what draws these corporations to base their operations and their major projects right here in the province of Ontario.

If you use this bill to make our services unprofitable and unviable, you do not magically create full-time jobs. You create a situation where the decision for many of these companies is easy: Take the projects and the work elsewhere, to other provinces, other countries, anywhere else but Ontario, because nowhere else in the world is there a law like this one that's being proposed here in the province of Ontario.

We believe that our industry is being portrayed unfairly. We're being portrayed as uncaring parasites that exploit people and add no value to the relationship. But on the contrary, we do add tremendous value to the people that we engage and to the province of Ontario. We grow the same way any other business does. We invest in our sales and marketing teams and we secure and create jobs, which are not advertised and would never be advertised. This is a huge value-add to Ontario's economy and a great way to put people to work.

Ms. Chris Lusignan: We put a lot of effort to find the right people for each placement. Recruitment is not a simple task. We have to meet with the clients, analyze the requirements of each assignment, locate and contact the candidates and interview them. Depending on the requirements of the role, we need to conduct background checks, security checks, education checks, drug checks, credit checks. All of these require time and money. We need to arrange interviews, take references, negotiate offer and start of work, provide WHMIS and health and safety training, orient the new hire, and so on. For the clients who hire us, we are a portable HR department. Without us, they would need to do all these things, and those things require time and money, no matter who does them. And we do them well.

We also believe that our contractors are being portrayed in a way that's disrespectful and unfair. They aren't disadvantaged, they aren't ill-educated, and they are not unable to complain if they feel they are improperly treated. Any dissatisfied contractor can launch a complaint, which goes to our executive committee.

They are not trapped by contract work. On the contrary, they are, for the most part, using contract work to obtain something else they want, and to learn and to earn.

Some of our contractors use it as a route to acquiring their first Canadian work experience—and there are many; as a way to try out a potential employer or industry before signing on; to expand their resumé with new projects, industries and technologies; as a way to finance other pursuits; as a way to fill in gaps between other obligations or projects; as a way to make more money than they would as a full-time employee.

1250

I have here a collection of letters from TES contractors. There isn't time to read all of them, but here's a sample one:

"My name is Kate O'Donnell. I got my first full-time job when I graduated in 1989, and promptly lost it one year later when the early-nineties recession hit, and my company dumped all its junior staff.

"Staffing agencies picked me up and kept my career going along with contract work for the next 10 years. My agent helped me build my skills, and even used the flexibility of contract work to let me achieve my dream; for five years, I worked summers as a forest fire lookout; my agent filled the rest of the year with contract assignments....

"In 2001, when I had my daughter, I started my freelance writing business, using the experience I'd piled up working through staffing agencies, for high-profile clients including Bank of Montreal, IBM, Nortel and Bell Canada—places that never would have looked at me, as a layoff victim with only one year of experience. Now, thanks to my contract work experience, I run my own thriving business, and TES is one of my clients. I love the flexibility it gives me to work at home and be a stay-at-home mother to my two kids, one of whom has special needs."

That's one story, but there are many, many other ones that speak to very positive situations. There's copy in the brief as well.

I want to conclude by saying that TES supports the intent of Bill 139 to protect the interest of workers. All ACSESS members are committed to this goal, and we can't stress that enough. TES supports most of the clauses included in it. We already adhere to those professional practices requirements. But I urgently request that the committee revise the following two recommendations.

Under the recommendations for the continuance of employment while not working—

The Chair (Mr. Bas Balkissoon): You have 30 seconds.

Ms. Chris Lusignan: —delete clause (b) of subsection 74.4(2). The notion of implied continuance of employment is contrary to the well-established principles of employment law and existing provisions contained in regulation 288/01.

Secondly, remove 74.8, paragraph 8 of subsection (1), and exception (2).

These recommendations, as they currently stand, spell disaster for us, for our contractors and for the clients and industries we serve, and through them, for the province of Ontario. We have existing laws and employment standards to prevent mistreatment and exploitation of contract workers. We don't need more laws. We need better enforcement of the laws and standards we already have.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for taking the time to be here.

GOOD JOBS FOR ALL COALITION

The Chair (Mr. Bas Balkissoon): The next presenter is the Good Jobs for All Coalition. Please state your name for the record, and then you will have 10 minutes. If there is any time left, we will have questions.

Ms. Tam Goossen: Good afternoon, Mr. Chair and members of the committee. My name is Tam Goossen. I'm one of the two co-chairs of the Good Jobs for All Coalition. The other co-chair, Miss Winnie Ng, could not be here today, so I am speaking alone.

The Good Jobs for All Coalition is a coalition of more than 35 community, environmental, labour, social justice and youth groups in the Toronto region. The coalition came together last summer to begin a focused dialogue on how to improve living and working conditions in Canada's largest urban centre. We hosted a Good Jobs for All Summit on November 22, 2008, at the Metro Toronto Convention Centre. We expected 500 people, but much to our delight and surprise, 1,000 people showed up to participate enthusiastically in our discussions.

At the summit, we all signed on to a declaration with a shared vision: Decent work is central to our fulfilment and well-being. Decent work provides people with a livelihood, an identity and a sense of belonging to the community. We must ensure there are good jobs for everyone, today and for the next generation. We reject policies which undermine and erode decent work.

One of the key workshops at the summit was on precarious work. A common sentiment among participants, many of whom were temp agency workers, was the shock that an underclass of temp agency workers stripped of their basic labour rights has been allowed to exist for so long in a democratic society like Canada's.

Major issues faced by these temp agency workers include workers having to pay hundreds of dollars to temp agencies in order to get any work, as many companies are only hiring workers through those agencies; frequent disputes regarding fees, deposits, vacation pay, and other issues between workers and temp agencies who act as if the Employment Standards Act does not exist, allowing them to make their own rules to maximize their profits at the expense of the workers; and workers who are confused by the definition of terms like "temporary" and "self-employed" when they work side by side with "regular permanent" workers on company payroll with full benefits, an experience which leaves them feeling vulnerable, disposable and exploited.

In this context, we applaud the government for taking the first steps towards rectifying the miserable situation faced by many temp agency workers. Bill 139 is an important signal that the government wants to protect its workers and bring fairness to the workplace. However, there are serious loopholes in the current version of Bill 139 which, if uncorrected, would undermine the very intention of the bill:

(1) What is the definition, and who is left out? When the government first introduced Bill 139, it said it wanted to stop agencies from charging fees for work, because that was unfair. Unfortunately, however, Bill 139 as drafted will allow about one third of the employment and staffing industry the leeway to charge workers fees for work. That is because the government has chosen to narrow the scope of Bill 139 so that only temporary assignment arrangements will be regulated, not permanent work placements.

There are documented cases where workers are charged fees to register for job placement services for permanent or temporary work that may or may not materialize. These include security guard agencies, cleaning services and live-in caregiver agencies. This is akin to moving one step forward and two steps back, and is not at all in keeping with similar legislation in jurisdictions like BC, Alberta, Manitoba, Nova Scotia, Nunavut, Yukon and the Northwest Territories.

We highly recommend that the proposed definition of “temporary help agency” and the scope of section 74.1 be broadened to address these concerns.

(2) No six-month exception to the rule: Currently, temp agencies restrict client companies from directly hiring agency workers by imposing conditions through fees and contracts. Bill 139 explicitly prohibits this practice, yet there is a six-month exception to the rule. This means that temp agencies can come up with ways to trap the workers through a series of contracts lasting no longer than six months. Because of this exception to the rule, many temp agency workers will continue in a precarious work situation which gives them 40% less pay, little work stability and almost no benefits. The very purpose of the bill—to better protect temp agency workers and place more responsibility on agencies and client companies—will thus be rendered almost meaningless.

We strongly recommend that this six-month exception to prohibitions on barriers to employment be removed.

(3) Termination and severance: In theory, temp agency workers are currently entitled to termination and severance payments like other workers, unless they’re considered “elect to work.” However, it has been a practice in the industry to misclassify all agency workers as “elect to work” to avoid paying termination and severance.

Under Bill 139, temp agency workers would get termination and severance pay only if they are terminated by the agency or have spent 35 weeks in a row without any work assignments. Essentially, this would require temp agency workers to be on call for assignments every day for 35 consecutive weeks without any right to be sick or have family emergencies. All the agency has to do, to avoid paying termination and severance, is offer a worker one day of work before the 35th week. Under Bill 139, nothing can be done to stop this unending and very vicious cycle.

We highly recommend that this “elect to work” exemption be removed by regulation, and no special rules set for termination and severance. Section 74.11 should be deleted.

Finally, I’d like to conclude by referring to the declaration mentioned earlier. With that declaration, we call on people from all walks of life:

- to demand an economy with good jobs for all;
- to build social solidarity in our communities, our workplaces, our organizations and public institutions;
- to insist on public policies from all orders of government that support the goals of a just, equitable and inclusive society;
- to require all with power in our society to exercise that power for the common good;
- to ensure that economic activities are sustainable, enabling future generations to meet their needs while living in harmony with our planet and with each other.

Thank you for the opportunity to share our views with you, and thank you for exercising your power for the common good.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, one minute each, and we’ll start with Mr. Bailey.

Mr. Robert Bailey: Thank you, Chair. Under the part about the six-month exemption, by that, would you expect the employment agencies to offer their services for free? What incentive would there be for a temporary agency to place workers if they wouldn't be able to recover those?

Ms. Tam Goossen: I don't think we expect temp agencies to offer all their services for free. I think we expect the temp agencies to play by the rules. What we are worried about is that because of the practice currently in place, there could be a number of temp agencies that haven't been playing by the rules. They can use this as another way of trapping the workers in another vicious cycle.

The Chair (Mr. Bas Balkissoon): Thank you. Mr. Rosario?

Mr. Rosario Marchese: Mr. Marchese, maybe.

The Chair (Mr. Bas Balkissoon): Oh, jeez, sorry.

Mr. Rosario Marchese: But it's all the same.

The Chair (Mr. Bas Balkissoon): My apologies.

1300

Mr. Rosario Marchese: Tam, a quick question: In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies. If they can do it, why do you think we can't? Why can't we do the same?

Ms. Tam Goossen: If I may bring a little bit of personal information to this, when I first came to Canada in 1970, I had to go to an agency as well. But in those days, there were also government employment services that people could go to. I think a lot of people would be in a better position to look for work with full confidence in the delivery of the service if it was a fully regulated service either run by the government or, really, if the government did its job to make sure its own legislation on the books is fully enforced. Times have evolved since I came, but it's unfortunate that since the repeal of the Employment Agencies Act in 2000, I guess, the field became—dare I say—a no-man's land. At least that's our impression from talking to workers and personal experiences. I think this bill is meant to rectify the situation. That's why we're worried. We want to make sure you do the right thing.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before us. Can you explain to us what your view is in terms of how enforcement should be done by the Ministry of Labour? What's your view on how we can enforce the rules and laws that we make?

Ms. Tam Goossen: This is just from my own very limited experience. I would think that you have inspectors. From some of the discussions that we've had with workers, they were amazed that all these infractions could happen at the workplace, yet they've never seen anybody from the government to find out what's happening. That's why there's a strong sense of cynicism, as if they were working without any employment standards. Most of the workers we talked to were amazed that there was such a thing as the Employment Standards Act. Obviously, somebody has to enforce that legislation, and I would think that your front-line enforcement officers would—

The Chair (Mr. Bas Balkissoon): Sorry, we've got to move on. Thank you very much for taking the time to be here.

Ms. Tam Goossen: Thank you.

LORRAINE FERNS

The Chair (Mr. Bas Balkissoon): Our next presenter is Lorraine Ferns. Please state your name for the record, and you have 10 minutes. If there's any time left after your dissertation, we will have questions from the others.

Ms. Lorraine Ferns: Okay. Hi. My name is Lorraine Ferns. I'm here because my experience working with temp agencies in Ontario has been so disheartening and hard. I'm here to speak on the importance of improving protection for temp workers so that other temp workers will not have to go through what I have.

I am now at a point in my life where I have become depressed and hopeless about the whole job situation. I believe that if Bill 139 had been in place way before this, my experience might have been quite different, and I would be employed to this day. I have worked for about two years as a temp in Ontario. I worked as a temp worker in Alberta and Montreal, and I have to say that Ontario has been the worst experience. The attitude I find here is almost flippant towards temps, and it was very discouraging at times.

Bill 139 would be good because I think an employee should know more about the assignment they are going to. Let me give you an example. On one assignment, I was told that I would pack boxes at a food packaging place. They said it was an easy enough job, but when I got there, I found that the boxes weighed at least 30 pounds and had to be packed and stacked onto pallets up to five feet high. We had to do it fast, as the boxes were coming down a conveyor belt.

I was working with another woman from an agency who was struggling like me. She told me that she had just had surgery. She still had the stitches. She had told the agency she could not lift but they sent her to this job. I was horrified. One of the men at the food company also got really angry and quite arrogant towards us because we could not keep up. I just felt like crying that day. The other lady and I considered walking out because it was so hard, but we could not walk out because we knew we wouldn't be given another placement. I spent \$40 for work boots for that particular job, but couldn't go back there as the work was just way too heavy, and I wasted the money.

We need information about assignments, to protect our health. On another assignment I was sent to a huge dry cleaning place that stunk of dry cleaning fluids. They said it was clean, but I had a huge allergic reaction to the dust and fibres from the frame dusters that I had to fold.

Temp workers bear huge costs when work suddenly ends without notice. We need to know how long assignments are and get notice when the job is going to end before the contract is up. Otherwise it is the worker who is left in the lurch. I was assigned to work in a clothing store, along with five other temps. The store was busy and we were told there was plenty of work. They gave us the impression that we would work there for quite some time. But after only three weeks, I was told by another temp that we had no more work as of the next day: They were cutting our hours to nothing. I phoned the agency to find out what was going on. My supervisor at the agency got annoyed and said, "Somebody over there has a big mouth. And yes, your hours are cut." Her attitude was, "So deal with it."

I was so angry and disgusted at how we were treated. I had bills to pay, I lived on a budget, I had to buy food etc. The agency acted like, "Whatever." Temp workers need notice if we are going to be laid off, or pay in lieu of notice. We found out why we lost our work: The company wanted to hire younger people and students who were coming out of school. The company just used us to fill in. They no longer needed us. I believe our supervisor knew the work would be less than promised and kept it quiet so we wouldn't find other jobs and leave the agency in the lurch. If I had known we were to be dumped so easily, I would have spent more time looking for longer contracts somewhere else.

When you are on an assignment, you do not have time to look for another job. You also become comfortable and you start to get to know the people you work with. The clothing company often told me that I was an excellent worker. I enjoyed the job. I wanted to apply for a job there because they were hiring, but I couldn't, because the agency wouldn't let the company hire us. Bill 139 should not let agencies stop us from being hired by the company.

I finally found another placement in an office through a different agency. The placement was supposed to only last six weeks. I ended up there for 15 months as the assigned company felt I was a good worker. I stayed in the company that long because they said they would hire me on contract. I worked for \$11.76 an hour. I worked as hard as the other workers, yet they were getting way more than me. I found it very difficult at times and felt exploited, as I had no rights there. I was there for so long I could not join a union, so the union could not help me. I started there as a scanner and ended up working at reception, data entry on the in-house data system, and I started to upload documents onto their intranet website. I

was given an assignment to do on my own, but that was quite a big project of weeding, filing and checking for missing documents. Over those 15 months, with increased job duties, I was never offered extra money. I had to ask for more money with the added job responsibility, and only then did the agency pay me 90 cents more per hour. There were also other temps who were waiting and hoping to be hired and who would sometimes, like myself, get discouraged.

Another aspect of just working in general, especially in an office, is you have to worry about your appearance. You must look neat and have certain office attire, which costs money. After I paid my bills, there was not much of my pay left over, so I found it very difficult to keep up. I had to struggle to buy new shoes etc. The people in the office in general got quite high pay and dressed quite well. In this kind of setting, how you look is an important part of ever trying to move forward. Appearance matters. Like I said, clothes cost money, so I was expected to wear and buy some clothing. Being paid less than your coworkers creates many barriers as a temp worker.

One thing, however, that I found confusing was how they went about my holiday pay. Sometimes they gave it to me and other times they didn't. Finally, I asked my supervisor what was going on and she told me the agent didn't have to pay me holiday pay because I was an "elect to work" employee. I thought this strange, as they paid sometimes and not others, so I challenged them on this at the end of my employment. I ended up receiving \$600 in back pay. That's how much they owed me. That is a lot of money. I had to struggle with my money during my employment without that \$600. It was very hard to survive. I could not believe that after 15 months, they would not even have the decency to pay me the holiday pay. Well, I did get my \$600, but they never gave me another assignment: They got rid of me. So I guess I learned that if you stick up for yourself, you get punished. That is why this bill is so important.

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Another example: I had another position for three months and did not get any holiday pay, which came to a couple of hundred dollars due to about three different holidays during the three months I worked there, and because of this I could not get ahead and fell behind in my bills. I ended up having my electricity cut off about two weeks before Christmas. I think the guy who came to cut it off felt a bit disheartened for me also because it was just before Christmas.

Temp workers are quite often seen as second-class workers. For instance, I had a friend from Ireland who needed a job. She worked as a temp and told me her boss was so awful to her that he refused to use her name and right there in front of her referred to her quite gruffly as "the temp" and would not acknowledge she was in the room. I also went without pay one week because one of my companies took their time signing my pay stub. This happened just about every other week. I was sweating I would not pay my rent on time. I was freaking out.

I can tell you many stories of how temps are looked down on. As well as worrying about all the other obstacles, there is a huge emotional factor. Many temps would like to continue to work at their assigned place and really want to just have a steady job and a little bit of security. You also get to know the people you work with and hope you can stay on. That is why it is a shame there's such a barrier for people in not being able to apply for a job with a company within the first six months.

Bill 139 is very important. Right now it is disheartening, especially with a recession. I myself am now confused about how to get employment, depressed, and I'm very disheartened. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. We probably have time for one question each. We'll go to the member from the NDP, Mr. Marchese.

Mr. Rosario Marchese: Lorraine, you did have a chance to look at the bill, correct?

Ms. Lorraine Ferns: I know what the bill is.

Mr. Rosario Marchese: Are there any things in the bill that you would like to improve or are you just happy with what there is?

Ms. Lorraine Ferns: I think that everything's important. I think there are certain things—there is something I didn't mention in here about paying for finding a job. I don't agree with that because I did

pay for one job, which was doing background work. You pay your money and then I had one time when nobody called me. I paid out this money and didn't get a call back, so I just didn't think that was right. I think that is definitely important.

I don't understand why people should ever have to pay to look for work, especially with the recession right now. I'm actually amazed that people have to—people want jobs. People want to work. There should not be any barriers for anybody for employment.

Mr. Rosario Marchese: I just want to thank you for bringing your story to us.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Ms. Ferns, I want to thank you for your courage and your time here. I can certainly tell you that what you've said is dead on in terms of what happens out there to people such as you who find work through temp agencies. Again, I really, really want to thank you for your story and for your presentation.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Ms. Ferns, for coming in today. Do you feel that with the economy we're in right now, it will be important that we have temporary agencies to provide employment as the economy recovers? With improvements like this bill, we'll still need temporary agencies—sorry.

Ms. Lorraine Ferns: I think there definitely should be an improvement for temp agencies. The bill is very important because I've noticed that it's almost like temp agencies are popping up just so they can make a buck. It's almost like, "Let's start a business. Let's slap 'temp agencies' on there." I feel like temp agencies are good in one way, but there definitely needs to be something in place to make sure they don't get out of hand. I mean, they're great in one way, but in another way it's kind of like—if I go to Monster.com for my kind of work, for data entry and filing, everything is a temp agency. There's that barrier. I have to go to a temp agency, and I feel like that's not fair.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here with us.

RANDSTAD CANADA

The Chair (Mr. Bas Balkissoon): The next presenter is Randstad Canada. Can you please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, we'll allow questions of all three parties. Please go ahead.

Mr. Christopher Drummond: My name is Christopher Drummond. I'm the vice-president of marketing and corporate development of the Randstad Group in Canada. I'm here with Daniel Plante and Sébastien Girard, who have accompanied me today. I want to thank you very much for the opportunity that we have to make this presentation, to make our case and our point of view known as far as this bill is concerned.

Randstad Canada is one of the largest staffing and placement agencies in the country. Since 1981, Randstad and its divisions have helped Canadians find work in areas as diverse as general and skilled labour, technology, finance, engineering and HR. Temporary workers play a big part in the success of our company.

In 2008, we engaged 35,000 temporary workers; over 16,000 of these were in Ontario alone. Our customers include Canada's top employers in both the public and private sector. In fact, we're proud to say that we count the province of Ontario among our many customers.

We have earned a number of awards for our business practices, and in the past we have been named one of Canada's 50 best-managed companies. We've received two CIPA awards for the innovative use of technology, and we consistently make the lists of Canada's top employers.

We are proud of the work that we do in this province. We're proud of the contribution that we make, and nowhere is this more important than in the tradition that we have which is, we think, particular to our organization of giving back to the community. Each year we raise hundreds of thousands of dollars through employee donations. To give just one example, we host a charity auction once a year in one of

our branches. It's open only to employees, and each year we use this auction to raise over a quarter of a million dollars, which we then donate to charities. Among the charities that we support are Sky's the Limit and Pathways to Education. Through these organizations, we've put almost 1,000 computers in the hands of underprivileged youth who want to pursue careers and change the things they're doing. We also support local charities across the country. One such charity is the Jennifer Ashleigh Foundation. Through our work with this organization, we've helped over 600 families with disabled children gain access to additional health care and support services. We do all of these things because we care about our status in the community. We care about giving back to the community. We care about the people with whom we work.

It's interesting, because as I've sat here, I've listened to a lot of the harrowing experiences of the people who preceded me, and I would share their concerns about the things that have happened to them. I would also say that these are not practices that are practised by companies such as Randstad. We take great pride in treating people with respect and treating people as they need to be treated, and in giving them opportunities to further their careers, whichever way they would like to do that, whether it's in full-time, permanent positions or temporary positions or contract positions.

Temporary work is a flexible alternative to permanent, full-time employment and it helps people, as we see it, gain experience as well as new skills. It's also a way for many people to support other pursuits, particularly in education and the arts. I remember Mary, a new Canadian who came to our office last year. She was looking for administrative experience. We helped her with a number of temporary assignments. After a few months, she was offered a full-time position. She sent us flowers that day. The next time we saw her, tears were welled up in her eyes and she couldn't thank us enough. Mary still keeps in contact with us and she regularly sends us candidate referrals.

There's another story of Patricia, who graduated with a medical diploma but couldn't find work. She came to us discouraged. We placed her in a temporary assignment and within eight weeks she was given the opportunity to take on a full-time position because she had impressed her employer so much. Like Mary, she was pleased. It's hard to describe the look on her face. In fact, it's hard to describe the look on anyone's face when they get an opportunity to pursue a career in the way that they'd like to.

These experiences are played out time and time again in our offices across the country. It's one of the things that makes our business so rewarding, and I would venture to say that most of the people in our business are attracted to work in it—certainly in Randstad—because of the joy and satisfaction they get through helping people pursue their careers.

This is why we applaud the efforts of the government to strengthen the protections offered to temporary workers. Bill 139 is a step in the right direction. However, we are concerned about two provisions of the bill, which we feel will be counter-productive and actually end up hurting the very temporary workers the bill hopes to protect. These are outlined in detail in our submission, and I won't go into all the technical details here. I will only say that they involve (1) the requirement of staffing firms to maintain the employment status of temporary workers even though they are not working, and (2) the banning of client fees after six months when a temporary worker is transferred to full-time employment. We're concerned about these two provisions, which we feel, though they're well intentioned, are most surely going to increase employer costs and make temporary workers less attractive in the province today. In the end, these provisions will reduce employment opportunities available at a time when we can least afford it.

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The requirement for staffing firms to maintain the employment status of temporary workers, even when they are not working, will create increased costs and liabilities for temporary staffing firms and our clients. This requirement also imposes a standard on temporary staffing firms that no other industry has been asked to assume. If it prevails, we expect to see a decline in employment opportunities for temporary workers.

As for the banning of client fees when a temporary worker is transferred after six months to full-time employment, again we understand the intent is to encourage the conversion of temporary workers to full-time status. This already happens, however. In our experience, conversion fees of the kind that we charge at Randstad are not a sufficient reason for most employers to not offer temporary workers full-time employment.

At the same time, these fees defray the costs associated with our services, which include significant advertising, networking and recruitment, background screening, administrative work and so on. Therefore, we respectfully ask that the members of the committee review these sections. Specifically, we ask that you remove the section dealing with the continuance of employment to temporary workers when they are not working and that the section banning client fees when a temporary worker is transferred to full-time employment also be removed. The details of our requests are outlined in full in our formal submission.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, and it would be Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much. You mentioned that you do charge a temp-to-permanent fee.

Mr. Christopher Drummond: Yes, we do.

Mr. Vic Dhillon: On average, what percentage would that be?

Mr. Christopher Drummond: It changes; it's different. I can't give you one particular percentage. It changes according to the contract that we establish with the customers we're dealing with.

Mr. Sébastien Girard: Therefore, it's different.

Mr. Christopher Drummond: It's also different depending on the kinds of roles that we're talking about. There are temporary roles. There are also contract roles with independent contractors, and they're all different.

Interjection.

Mr. Christopher Drummond: Yes, it's also on a descending scale, so that the longer a temp worker works with a client, the less money is paid as a fee at the end.

Mr. Vic Dhillon: For example, say, an admin assistant, would you be able to provide some sort of data on approximately how much you would charge?

Mr. Christopher Drummond: An admin assistant who has been on-site for four months or so—

Mr. Sébastien Girard: Three months and a half.

Mr. Christopher Drummond: Three months and a half, then, does not require—there is no charge at that point.

Mr. Sébastien Girard: Yes.

Mr. Christopher Drummond: There are other instances, particularly with our IT contractors, for example, where it goes beyond six months. That's the area we're particularly concerned with. So no, temporary workers, after they've been on for a few months, do not have to worry about the fee.

The Chair (Mr. Bas Balkissoon): Thank you very much. Mr. Bailey?

Mr. Robert Bailey: Mr. Drummond, can you give me an example—we understand about the two amendments that you're concerned with. What opportunity would new Canadians, immigrants to Canada and Ontario, have to work through agencies like yours?

Mr. Christopher Drummond: One of the things we have some difficulty with in the country, as you know, is integrating new workers into the economy. Very often their qualifications are not as well recognized. Again, we support the recognition of these qualifications and work hard with many groups to make this happen. What we believe temporary work does is give new Canadians an opportunity to gain the experience that they need to be able to move into the kind of roles that they want to. We see that happen time and time again.

Mr. Robert Bailey: Do I have time for one more?

The Chair (Mr. Bas Balkissoon): Yes. Go ahead.

Mr. Robert Bailey: If the bill's implemented as written—hopefully we'll make some changes, if we see improvements, all along the way—what impact at the end of the day do you feel there would be to your agency and to other agencies that are trying to provide employment and doing a good job? We know there are some that need improvement out there, but what would be the outcome at the end of the day if it's implemented as written?

Mr. Christopher Drummond: If it's implemented as written, we believe it will discourage employers from using temporary work as often as they do. It will also discourage temporary work agencies from engaging people who cannot be placed for long periods of time and therefore can contribute to the organization. People who can only work on a very part-time basis, a few days a week or so on, will not be as attractive to employment agencies. So we truly feel that it will harm those who are least advantaged and most in need of protection by this bill.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: I'm sorry, I missed the beginning of your deputation.

My first question is about the province of Ontario and its use of temporary workers. Do you have any idea what percentage of workers in the province of Ontario are temporary or hired through a temporary agency?

Mr. Sébastien Girard: That's a good question. I know the spending in the federal government, but I don't know the province of Ontario alone.

Mr. Christopher Drummond: I'm afraid we don't have that. We know how much, of course, is spent with us, but we don't know how much is spent altogether.

Ms. Cheri DiNovo: We've submitted a freedom of information request. That's the only way to find that out.

In terms of the temp-to-perm fee, have you ever had a client company refuse to pay that fee or give you a hard time about it?

Mr. Christopher Drummond: Refuse to pay that fee? No.

Ms. Cheri DiNovo: The reason I ask that is, I know that agencies in the past have engaged in practices—I was in the business myself—of some signing, for example, of non-competition clauses when you hire on a new staff in your own agency, that would not stand up against a charter challenge. My concern with the temp-to-perm is that it wouldn't stand up against a charter challenge either, being seen as a possible barrier for employment, even though it's routinely used. I'm just wondering if a client company has ever said, "Sue me."

Mr. Christopher Drummond: No. Again, this is worked into the contracts that we sign with our clients. They see this as a cost of doing business. They do not see this as an impediment to hiring people full-time. In fact, we have many, many examples of people who work part-time who impress their employers very much and are then asked to come on. I think it's—

The Chair (Mr. Bas Balkissoon): I have to ask you to cut it short.

Mr. Christopher Drummond: Oh, my goodness. Okay.

The Chair (Mr. Bas Balkissoon): Sorry to be that way. The answers are too long.

Mr. Christopher Drummond: All right.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here.

KELLY SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Services.

Please state your name for the record. You have 10 minutes.

Ms. Karin French: My name is Karin French. I represent Kelly Services (Canada) Ltd. Thank you for the opportunity to share my thoughts on Bill 139, An Act to amend the Employment Standards Act. Thirty years ago, I started my career as a temporary worker. As a student, I wanted flexibility and variety because I was unsure about what career path I wanted to follow. In my various jobs, I learned how to fold engineering maps, I made ID cards, I assembled Easter baskets, I packaged test tubes, I helped a

hospital process patients on the midnight shift, I made telemarketing calls for a charity, I did filing for a government office, and I answered phones for an oil company. Today, I'm the vice-president and general manager of Kelly Services (Canada).

Many of you have heard of Kelly Services, but for those of you who have not, Kelly Services is a pioneer in the staffing business and has been operating in Canada since 1968. Kelly works with temporary employees, client firms and our own recruiters to put thousands of Canadians to work each year. In 2008, Kelly employed over 25,000 Canadians.

Last week, when I was listening to these proceedings, I heard many people imply that temporary employment is not a real job. I can assure you it is a real job. We provide real jobs to Canadians in many different fields, from accountants to clerical workers to scientists and light industrial. The particular assignments may be temporary, but the employment relationship is not. We are the employer of record. We offer salaries above minimum wage, we pay vacation pay, and we pay statutory holidays, according to our legal obligations. When required, we also issue a record of employment.

We offer skills training, free of charge. We offer employment variety and flexibility, free of charge. We act as career counsellors, free of charge. We provide access to direct employment at many respected companies, again, free of charge to our employees.

Our temporary employees are an integral component of business in Ontario. Our clients represent manufacturing, financial institutions, technology, logistics, energy and, yes, government. We compete fairly in the marketplace every day for the best employees and the best client companies.

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Our temporary employees have many reasons for choosing to work for Kelly. In some cases, a temporary employee wants a flexible schedule or employment variety, and the only way to get that flexibility is through temporary employment.

Other temporary employees are new Canadians. These people are recent arrivals to Canada and, by working with Kelly, they have the opportunity to gain necessary experience and skills. I've overheard individuals on the subway recommending Kelly Services to their friends and family. In fact, over 70% of Kelly temporary employees are referred by other satisfied employees.

Still other temporary employees are those between jobs. This employee may have been let go from another job and is working as a temporary employee as a bridge to a new career. And, of course, many of our temporary employees are returning to the workforce. Some parents choose to stay home to raise a family; some individuals choose to stay home to care for an elderly loved one. These people often turn to Kelly to re-enter the workplace to gain the necessary confidence and skills before turning to a new career.

In each of these cases, Kelly is a valuable partner for the temporary employee. Employment with Kelly Services isn't for everyone, but neither is banking, manufacturing or, in my experience, I learned working in engineering was not for me. However, our industry should not be subject to laws that are different than for any other employer. In the current economic environment, Ontario should not do anything that lessens flexibility for its employees and tilts the balance against Ontario.

I'd like to share some quotes from some of our employees:

Brenda in southwest Ontario says: "I just want to express my sincere gratitude to you throughout my tenure with Kelly. You guys were really awesome... This is what I was looking for and even more. I am truly happy. Without you guys this wouldn't be possible. Once again a big thank you to you and the rest of the staff at Kelly Services. You guys are absolutely the best. Thanks a million. I really do appreciate it."

This example is from a new Canadian who was placed on an assignment in Mississauga: "Thank you for your help and encouragement. Now I am working with RBC as a fund accountant since August 2008. I am grateful to you for your help, guidance and support to reach here. I was taking stock of my past few days and sharing the talk with my family. We are thankful to you and Kelly Services for the entry into RBC itself as nobody was known to us in those days of 2005-06 ... Again, thank you so much."

While these words from our temporary employees speak volumes, our recruiters also have a special voice. With over 300 full-time employees working in 40 locations throughout Canada, these are the people working closest with our temporary employees, working to find them employment, helping them to gain new skills and open the door to regular employment for many of them, if they choose.

I could tell you many stories from our recruiters, but this one stands out from our Brampton office. We had an employee named Ophelia. She was in an abusive relationship and one morning came running into the office and tried to hide from her boyfriend who was right behind her. He burst in and began kicking her. I removed him from the office, locked the doors and called security. I talked to Ophelia and told her Kelly Services would help her get work regardless of what province she was in. Ophelia pressed charges and her boyfriend went to jail.

Ophelia was sent to a western province where I helped her get in touch with the local Kelly office there. They found her work right away. I heard from Ophelia about a year later. She was going perm at one of her Kelly assignments. Ophelia was a different person. She was happy, whole and safe. And Kelly Services helped her with gainful employment so that was one thing she didn't have to worry about. So, as you can see, Kelly Services places a high value on the partnership we have with our temporary employees.

In closing, I'd like to request that you support the changes to Bill 139 requested by ACSESS. These changes can be found in my written testimony and you have heard what those changes are. However, in the interest of time, I'll forgo reading those changes and, instead, answer any questions that you may have. Thank you.

The Chair (Mr. Bas Balkissoon): We have time for one each. Mr. Bailey.

Mr. Robert Bailey: Thank you for coming and making your presentation today, Ms. French.

I know I've asked this question before, but I'd like to get it on the record again. We understand what your suggestions are for changes. What would be the impact on your business and businesses like yours if this bill was put into effect the way it's written?

Ms. Karin French: I think there would be an impact on our business, because we would be unable to put more Canadians to work. I think that it would impact the flexibility that Ontario employers look to organizations like Kelly Services for. If we do not have the opportunities from our client companies, we're going to be unable to put more Canadians to work every single day.

So the impact would be large, not only to employers, who I think would lose their flexibility, but also to workers, because there would not be the availability of jobs for them.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you for your deputation. The government and those who are supporting Bill 139 in its present format would say that this is simply putting upon you the onus that is put on every other employer as well. What would you say to that?

Ms. Karin French: I believe that it does. I think there should be a level playing field. I think that all employers should be subject to the same types of regulations.

The two that have been listed in here that we are asking for changes to are not those that are put onto other employers. So, whether it is the continuation of employment while they are not working—that would not happen whether you were working for the government or whether you were working for Kelly Services.

Ms. Cheri DiNovo: And have you found, since you've been in business with Kelly Services—and you've obviously had a long record with them—that more and more companies are using temporary, and that temporary positions comprise more and more of their workforce?

Ms. Karin French: I think it goes in cycles, like anything in the economy. I think you'll find that there are some industries that go up and down, and there are some cycles in employment. I certainly think that it is a very viable resource for talent management that people use. The business is changing, so it varies every day.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Can you tell us what your markup is? I know it might not be one number across the board, but maybe you could give an example of different jobs and what the markups are at Kelly Services.

Ms. Karin French: It's hard to say that. The reason I say that is that the definition of "markup" is very, very different, and a lot of people use words differently in what it comes to mean. Is it a markup over a pay rate or a burden, or what comprises that?

As well, we enter into contractual agreements with customers that dictate what our rates are, and those are varying, depending on the size of the organization, how much they use, the types of skills, the types of jobs.

There really isn't a way to give a specific markup, because it is certainly varying across many, many different lines.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

Ms. Karin French: Thank you.

CHINESE INTERAGENCY NETWORK

OF GREATER TORONTO

The Chair (Mr. Bas Balkissoon): The next presenter is the Chinese Interagency Network. For the record, would you state your names, please. You have 10 minutes. If there's any time left after your presentation, we will allow questions from the various parties.

Ms. Karen Sun: Hi. My name is Karen Sun. I am the executive director of the Chinese Canadian National Council. This is Yiman Ng. She is a health promoter with Queen West Community Health Centre. We're both here today representing the Chinese Interagency Network labour committee.

The CIN labour committee is comprised of eight agencies, including the two I've just mentioned, as well as the Centre for Information and Community Services, the Metro Toronto Chinese and Southeast Asian Legal Clinic, Injured Workers' Consultants, St. Stephen's Community House, Toronto Chinese Community Services Association, Woodgreen Community Services, and the Working Women Community Centre.

Our committee deals with a number of different labour-related issues, including providing submissions to different levels of government, providing public education around labour-related issues, and sharing resources, information and strategies around labour issues for the Chinese community in Toronto.

Ms. Yiman Ng: First of all, the CIN labour committee would like to commend the government of Ontario for putting forward Bill 139 to review and update policies to better protect workers as temp work becomes an increasingly common way for people to find employment.

Our economy is changing, and the types of jobs that are available to people are also changing. It is increasingly difficult for anyone to find full-time permanent employment, but even more so for those from racialized or marginalized communities. For many people, working for a temp work agency is the easiest way for them to enter the job market. Unfortunately, many of them find it difficult to exit temp work for the stable, full-time employment they really want.

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We believe that a healthy society has citizens who are able to plan for their families and their future. For this reason, we feel it is not in the best interests of Ontario to support a system that encourages employers to hire people on a temp basis. That said, we are pleased that the government has moved forward with this bill. However, we feel that changes are required to ensure that the bill truly protects the workers who are the most vulnerable in this situation.

Since the start of the economic meltdown in late 2008, it has become even more challenging for Chinese immigrant and refugee workers to find jobs. These workers are not only subjected to fierce competition in getting jobs, they are vulnerable to exploitation by their employers. Many employers are hiring workers increasingly through temp work agencies in order to cut costs. Even though temp workers may do the same tasks under the same instruction as permanent workers, they do not receive the same

benefits or pay and are marginalized simply due to their temp status. Temp workers feel that they have no rights in the workplace or with temp work agencies and face multiple barriers in voicing their struggles.

The proposed Bill 139 addresses some of the issues faced by temp workers, such as mandatory provision of assignment information to workers and the prohibition in charging fees from the workers. However, the issues faced by temp workers are complex. The proposed Bill 139 still needs to be broadened in order to provide more comprehensive protection for these workers, especially those in racialized and marginalized groups, such as women and newcomers.

Based on our experiences in working with temp workers, we recommend that Bill 139 address these issues; however, we would like to make some amendments to provide further protection to the workers.

On equal pay: Some temp workers continue to work full-time in the same workplace for six months to a year or more. When a job lasts that long, it is no longer temporary. In addition, they often work side by side with workers who are hired directly by the workplace employer. They do the same job and receive instructions from the same supervisor, but their status and pay are very different. Workers from temp work agencies are usually the underclass in the workplace. Their pay is below the pay range for the same work. This is because temp agencies continue to get their cut as long as these workers are still on the agency's payroll. These workers do not receive any benefits. They are the most vulnerable, exploitable and disposable employees because they only have temp status in the workplace.

Bill 139 prohibits temp agencies from charging fees from workers and requires them to provide assignment information, which includes the rate of pay. However, the temp agencies and client employers can still take advantage of temp workers by paying them less to do the same work as permanent workers. The workers may not know that their wages were being cut because the pay rate on the paper does not reflect the pay rate that permanent workers receive. Temp work agencies should be required to pay their workers within the same pay range as the permanent workers and this pay range should be clearly stated in the assignment information in order to ensure transparency and fairness.

On termination: Bill 139 states that workers require 35 weeks of non-assignment in order to get termination entitlement. This is very harsh on these workers, considering the sporadic nature of the jobs that they get, and the "excluded week" is not being counted as time laid off. In essence, these workers have to wait for a much longer time to get their entitlement in comparison to non-temp workers under the Employment Standards Act. In addition, discrimination in job assignments will further jeopardize racialized and marginalized groups in getting entitlement.

All workers under the ESA should be treated with fairness and equity. Therefore, temp workers with 13 weeks' layoff within a period of 20 consecutive weeks should be entitled to termination or severance pay. As well, "excluded week" should be included because of unforeseeable circumstances, such as sickness or family emergencies. We recommend that the "elect to work" exemption be removed for termination and severance pay, as it has been for public holiday pay. In addition, home care workers should be included under this provision immediately and not be treated as second-class workers until 2012.

On issues of record of employment, most workers get deductions for EI premiums in their paycheque from temp work agencies. There have been complaints from temp workers about getting their ROEs. Some temp work agencies tell workers that it is not their responsibility to issue ROEs. Workers are being shuttled between the temp agencies and the workplace employers trying to get their ROEs. In another scenario, workers finish their assignments and want their ROE, but the temp agency, which is their payroll employer, will tell them that they have not been laid off. The workers are still on the agency's payroll and may still be referred to new assignments. In reality, it is a layoff. It can be a long time before

the workers get their next assignment. They may miss their opportunity to apply for EI even when they are eligible for the benefits.

It is strongly recommended that Bill 139 specify that it is the responsibility of the temp work agency to issue ROEs. Not having a job puts tremendous stress and financial burden on temp workers, who mostly come from low-income, marginalized groups. Having access to the EI benefits that they have paid into will certainly help to ease their financial burden.

Ms. Karen Sun: The six-month restriction in hiring temporary workers by workplace employers is also a problem. We strongly object to any barriers to permanent employment, such as fees charged to client businesses or employees of agencies. We know that some agencies currently have provisions in their contracts with workers stating they were required to pay agencies \$500 if they successfully seek employment with the referred client employer by themselves. These workers are not the property of the agency. Workers in Ontario are free to terminate their jobs with any employer, even if this is a long-term employer, and find jobs with other employers.

Bill 139 allows temp work agencies to charge workplace employers a fee if they hire the workers within six months from the start of the assignment. But the temp work agencies have already charged a fee from the workplace employers at the outset for each assignment. This is double dipping. This extra fee will deter workplace employers from hiring temp workers on a permanent basis, even though it may be to their benefit, as these workers are already trained to do the work.

We strongly object to this clause, because it is a violation of workers' rights to gain permanent employment. This will only set up a structural trap for our most vulnerable workers by further victimizing them from getting decent employment opportunities. Workers are not the property of temp work agencies. Any worker should be able to terminate their job with any employer and find jobs with others.

Enforcement is another issue. There's currently a triangular relationship between the workers—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Karen Sun: —the temp work agency and the workplace employer. When a dispute occurs, the two employers will usually place the responsibility on the other party, so we highly support joint liability for the temp work agency and the workplace employer for any violations under the ESA.

In summary, we at the Chinese Interagency Network labour committee would like to recommend that Bill 139 be passed, but ensure that changes are made to address the following: Temp work agencies should be required to pay their workers within the same pay range as permanent workers, and this pay range should be clearly stated in the assignment information in order to ensure—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Ms. Karen Sun: Thank you.

The Chair (Mr. Bas Balkissoon): I realize your recommendations are in a written submission, so the members have it. Thank you for taking the time to be here.

KELLY TOM

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Tom. Please state your name for the record, and you have 10 minutes.

Mr. Kelly Tom: My name is Kelly Tom. Thank you for taking the time to listen to me.

I have been employed as a temporary worker for several years. These are some challenges that I faced as a temporary worker that were a detriment to my physical health and financial well-being. Some financial challenges I faced as a temporary worker were that I was paid at a lower rate than a non-temp worker doing the same work—also, arbitrary fees charged by the temp agency, and lack of access to termination or severance pay. These three issues have affected my quality of life and my ability to be self-sufficient. These three issues combined have caused my quality of life to deteriorate, as opposed to when I was a permanent employee with benefits.

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When I talk about fees, one agency asked me to pay \$250 to update my cover letter and resumé. I refused, and they actually refused me work because I said no to the \$250 that they would make off me. They said, “Go elsewhere.”

Another challenge I faced as a temporary worker was a lack of access to permanent employment with benefits. As a condition of employment, the temporary agency would require that I sign a contract stipulating that I would not work for any of their client companies or subsidiaries. As well, the temp agency would have the client company sign a contract saying they would not hire a former client of theirs at their company or any of their subsidiaries. I faced these issues several times and therefore had to depend on the agencies for employment. This unscrupulous practice by the temporary industry has prevented me from obtaining stable employment with benefits, as most of the jobs available are through temporary agencies, many of which use the calculated practice of requiring both client companies and clients to sign contracts which prevent clients from obtaining full-time employment and companies from hiring qualified workers. An example of this is, I was looking for permanent work and had three phone calls in one week: one from a bank, one from an insurance company, and one from a market research company. They all said that they were required to sign a contract by the temp agency that if they hired me—I don’t want to give the name, but they said, “Well, your name is on this list. You work for this agency, and we do business with this agency, so we cannot hire you.” This is very unfair. I was looking for permanent work. Considering that eight out of 10 jobs advertised are through temporary agencies, you don’t know where you’re going to be able to work or not work.

The financial aspects of fees, a lower rate of pay for temporary workers than permanent workers, and lack of access to termination or severance pay by the temporary industry overall have to stop, as they are creating more social costs and problems for the provincial government, in the form of higher social assistance costs and health care costs, while the temporary industry is making billions of dollars at the cost of the provincial government and taxpayers of Ontario.

The practice of preventing clients from applying directly to client companies or preventing client companies from hiring clients of agencies has to stop. It has a very negative impact and a profound effect on Ontario’s economy overall, as it keeps people in a perpetual cycle of dependency and poverty. This is forced slavery in the 21st century and has to stop if Ontario is to have a viable, healthy economy to compete in the global marketplace, survive this recession and be the economic engine of Canada it once was.

The Chair (Mr. Bas Balkissoon): We have time for questions. Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today. Would you suggest that staffing firms that offer these services—if this bill was implemented as it’s written—offer those services for free? How would they be reimbursed for the training and the work that they do in preparing people for the workplace?

Mr. Kelly Tom: Actually, there are several non-profit organizations that help people write resumé and cover letters. So that’s redundant. That should be taken away. That’s just another added cost that’s unnecessary. You have, like I said, non-profit agencies doing this. Why would the temp industry try to make money on something that’s already being offered for free by the non-profit industry?

Mr. Robert Bailey: Another question: Are you familiar with the CCACs?

Mr. Kelly Tom: Yes.

Mr. Robert Bailey: Do you ever wonder why the government exempted them? In your opinion, should they be exempted or should they also be included?

Mr. Kelly Tom: Sorry. What does that stand for again?

Mr. Robert Bailey: Community care access centres. They provide health care in the homes. I just wondered if you had an opinion on why they were exempted from the bill. If you don’t, that’s fine.

Mr. Kelly Tom: I’ve read about it in the papers. I don’t think they should be—they should be included in the bill, because you have all these people coming over from different countries and looking for work.

It's stressful enough. They're coming to a different country; it's a culture shock. And then to have all these fees charged to them to get a job—did you have to pay a fee to get your job? No, I don't think so. So why should these people have to pay a fee to get their jobs? They were trained in their countries to be a nanny or what have you. This is totally arbitrary and unfair, and this should be included. Nobody should have to pay a fee for a job, to work.

The Chair (Mr. Bas Balkissoon): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: I totally agree with you, Mr. Tom. Also, just for your information, if the agency did not introduce you to the client company, the client company is absolutely incorrect in saying that they can't hire you on and that they'd have to pay a fee to the agency, even under the situation we find today in Ontario, just so you know. I'm sorry that you went through that. I think a lot of the misinformation that goes out is what we're hoping to correct both in this bill and the amendments to it.

The other question I had for you, and I think you kind of answered it, is around nannies. There's been a lot of talk about nannies in the news lately, the fact that this bill could, but doesn't, include agencies that deal with overseas workers in homes, and really should. That's where a lot of the abuses happen in terms of the charging of fees etc.

Would you be in favour of extending this bill to include foreign-trained workers, nannies, as well?

Mr. Kelly Tom: Oh, definitely. It's a human rights violation as well, what they're doing. This has to be brought in, because it's going to put a black eye on Ontario in regard to human rights. If this is allowed to continue, we're not going to be a place to do business. With our economy the way it is, we need all the help we can get. We don't need these agencies to be putting a black eye on us as someplace that's going to abuse its workers once they get here. They have enough challenges being a new citizen, the culture shock. So I totally support this.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: In Bill 139, the barriers to permanent employment will be removed; that's one of the purposes of the bill. How do you think that will help temp workers in their pursuit of getting full-time employment?

Mr. Kelly Tom: It will allow them to be more self-sufficient, with benefits. As it stands now, when you're a temp, if you apply for a job, you're more or less at the mercy of the temp industry and you're in a cycle of poverty and dependency on these agencies, which is putting a huge strain on the provincial government in social costs, i.e. health care and social assistance. Why should the provincial government pay those costs? The temp industry makes billions of dollars a year because they don't want to take away this clause. Everybody should play by the same rules.

Mr. Vic Dhillon: How much were you paid on a typical assignment, and what type of assignment would that be?

Mr. Kelly Tom: I worked in banks, insurance companies, call centres. I was paid anywhere from \$9 to \$12 an hour. This is below the industry standard in regard to pay, which would be anywhere from \$15 to \$16 an hour. I was paid at a lower rate.

On top of that as well, it's putting a huge financial strain on temporary workers.

The Chair (Mr. Bas Balkissoon): Thank you very much for being here and for taking the time.

Mr. Kelly Tom: Thank you.

THE STAFFING CONNECTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Staffing Connection. Please state your name for the record, and you have 10 minutes.

Ms. Rebecca Artymko: Thank you. Good afternoon. My name is Rebecca Artymko. I'm here representing The Staffing Connection, which has locations in Peterborough, Cobourg, and Barrie, Ontario. Mr. Daynes, who was scheduled to speak before you today, was hospitalized, unfortunately.

Mr. Vic Dhillon: Sorry. How many locations did you say?

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Ms. Rebecca Artymko: Three.

Mr. Vic Dhillon: Three. Okay.

Ms. Rebecca Artymko: Yes. Unfortunately, Steve Daynes, who was originally on your sheet, was hospitalized and not able to make it. That's why I'm here before you now.

An area that the Staffing Connection focuses on is in the area of developing skills in the mindset of people who are, specifically, on Ontario Works and the Ontario disability support program, ODSP. In this regard, we're able to give these individuals various work experiences while on different short-term assignments. Some of the benefits of this are, as you're aware, that some individuals have personal issues or life challenges they're currently working on, but that are preventing them from being able to work at a permanent job. Where these individuals may need coaching, we're able to provide them with this assistance while accommodating their needs to build their long-term goal of sustainable, full-time employment so that they become a contributing, productive member of the community.

The Staffing Connection is a very community-minded company with emphasis on adding value to our employees and our clients. In 2008, we donated over \$50,000 to the Peterborough area. Our community mission is to build into the lives of those communities that we serve: the employees, the clients and just the community at large. Aspects of this bill will restrict our ability to accomplish these things.

I understand the intent of the government, but losses of employment and job opportunities, particularly for persons on Ontario Works and ODSP, will be one of the results of the government's actions if amendments are not made, along with the strong possibility of many reputable agencies, including the Staffing Connection, going out of business.

The staffing services industry in Ontario has recently incurred some significant financial hardship as a result of general decline in the economy, combined with the adoption of the new statutory holiday, Family Day, in 2008, and the recent removal of "elect to work" provisions in the regulations.

Nevertheless, the Staffing Connection, as a member of ACSESS, supports the initiatives to create a fair and balanced environment for all employees and employers in all industries in Ontario.

The Staffing Connection is supportive of Bill 139 in its objectives. Major concerns are limited to three areas: the continuance of employment while not working; termination of severance rights; and regulating business terms and client fees within service agreements. I will be speaking of two.

The continuance of employment while not working is the first one. The Staffing Connection is very concerned with subsection 74.4(2), because it creates an implied continuance of employment while not on assignment, which, in turn, constructs an inconsistency between the employer's obligation and the reality of the employment context. This is inconsistent with not only other jurisdictions within Canada but within North America. The legislation fails to appreciate the nature of temporary employment and the staffing services industry. It creates a different and higher standard for staffing company employers, and creates a higher cost burden and liabilities for temporary staffing companies compared to all other agencies in every other industry. The Staffing Connection is very concerned that this proposed amendment will result in a significant reduction in the number of short-term employees being hired and will result in higher unemployment in the province of Ontario.

This provision will cause the greatest harm to thousands of employees who choose temporary employment and benefit significantly from the flexibility and the training provided. Many times our employees utilize our services as a means to fill their employment gaps between seeking permanent positions. In many cases, our employees are hired on by our clients after a specific period of time working on our payroll. Some of these employees may never have had the opportunity at full-time permanent employment, except for the fact that we, as a staffing agency, were able to give them that opportunity to show our clients, and in some cases coach them through developing their work ethic and their skill set.

The employees who face various personal barriers or life challenges will have less of an opportunity to become integrated back into the workforce.

In the interest of time, our recommendations for amendments are very much in line with those that you've already been provided with through our association, ACSESS.

The second point that I'll be talking about is regulating business terms and client fees within service agreements. Paragraph 74.8(1)8 and subsection 74.8(2) limit a temporary help agency from charging a fee to a client in connection with the services provided. The client is always the company or the organization and is never the worker or the candidate. Controlling financial business terms between staffing services and clients represents a misapplication of employment standards legislation in the area of consumer and commercial transactions.

The Employment Standards Act governs the relationship between employees and employers in Ontario, and the act should not be misused to interfere with established contractual business agreements between staffing firms and their clients. Temporary help services incur significant advertising, recruitment, background screening, risk and other overhead costs and should be permitted to offer their services to clients without government's arbitrary interventions, limitations and restrictions upon legitimate business terms.

This provision fails to provide any meaningful benefit to low-wage workers. It will significantly damage the largest percentage of the industry providing important services in areas of information technology, accounting, engineering, manufacturing, medical services and other professional services.

These amendments will cause significant hardship and irreparable harm to the Staffing Connection and, by extension, its clients and its candidates. The client loses the opportunity to evaluate the progress of a potential employee who may never have had the opportunity to be employed at that employer because of various issues with the employee's history. We've had many cases where a client has had the same employee's resumé but they would not interview them because of past history, but because they were placed on an assignment at that client through The Staffing Connection, they were retained by the client in a full-time permanent capacity after the specified contractual period of time.

We provide opportunities, not barriers to employment. The recommendations are definitely in line with the association ACSESS for regulating business terms and client fees within service agreements.

In conclusion, through Bill 139, the Ontario government specifically recognizes the importance of the staffing industry and the significance of the industry to job seekers, employees, employers and industry. Bill 139 will establish a new part in the Employment Standards Act defining the relationships between parties and special rules for the staffing service industry. The objective is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing firms that employ them in a fair, balanced way.

In these uncertain economic times, many of our clients will utilize the services of the Staffing Connection to meet the demands of peak orders. If they did not utilize our services, they still would not hire on their own because they don't know what tomorrow holds for them. In this scenario, no one benefits. Even if it was a temporary assignment, the low-income person will get no hours and therefore no money.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here with us.

Ms. Rebecca Artymko: Thank you.

The Chair (Mr. Bas Balkissoon): The next presenter is Nadira Gopalani.

Interjection.

The Chair (Mr. Bas Balkissoon): Did I miss one? My apologies; I've missed one. We'll get back to you next.

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LABOUR READY

The Chair (Mr. Bas Balkissoon): Labour Ready.

Can I get you to state your name for the record? You have 10 minutes.

Mr. Kevin Suter: Thank you, Mr. Chairman and members of the committee, for the opportunity to speak regarding Bill 139. My name is Kevin Suter; I'm the regional safety manager for Labour Ready, a temporary staffing company that specializes in blue-collar casual labour. With me in the gallery is Mark Tower, the area vice-president for Labour Ready.

Last year in Canada, Labour Ready put more than 24,000 people to work, more than half of those in Ontario. We served more than 6,000 companies, many of them small and family-owned businesses. We support much of this bill, but I am here today because I think the authors misunderstand the staffing industry and don't know how this legislation will hurt the very people they intended to help. In particular, we are concerned with these provisions: It overrides the "elect to work" standards and does not recognize active versus inactive employment; it requires termination notice and severance for temporary and casual employees; and it requires written job descriptions before assignment.

When most people think of casual labour, they think of the cash corner, the illegal practice of hiring people off the street and paying them unfair wages under the table. Companies like Labour Ready are the legal and ethical answer to the cash corner.

Labour Ready is an on-demand labour provider. We fill job orders as we receive them. If one of our customers gets an urgent order, they can call us to fill 20 positions that morning. Businesses use our services when someone is absent, to meet seasonal demands, to fill high turnover positions, to complete special projects or to hire people through working interviews.

People work at Labour Ready when they're in between jobs, to learn new skills, or to make ends meet with a second job. On average, a temporary worker works for us for only 20 days—and that may be intermittently. Many use temporary work as a bridge to full-time employment. Labour Ready has never charged a placement fee or required a certain length of service before a customer can hire one of our employees. We also employ a lot of individuals whom traditional employers call unemployable. Some are homeless or incapable of holding a regular 9-to-5 job due to physical, mental or personal challenges. The changes to the "elect to work" section would impose a standard upon the staffing industry that no other industry is required to meet. Labour Ready truly is an "elect to work" employer.

When this bill was introduced, the Minister of Labour said, "A few decades ago, temporary help agencies provided workers for short-term clerical jobs." We still do that, but for blue-collar jobs. Most of our jobs only last a day or two. Our employees choose whether to work on a daily basis. We do not penalize employees who work sporadically. At the end of each assignment, we assume that an employee has terminated his or her employment relationship with us, and many of our employees work at several agencies at one time. We have no way of knowing they're available to work unless they sign in at the branch. This bill deems temporary employees to be current employees even if they do not make their availability known or choose not to work.

Say a Tim Hortons employee was able to work but decided not to show up to work for three months. If Tim Hortons gave them their job back, nobody in their right mind would say that that person was an employee of the company during the three months they did not work, and yet that is what this bill would mean for temporary staffing agencies.

Section 74.11 requires notice of termination if an assignment employee has not worked for 35 consecutive weeks. It is impractical to expect us to issue a notice of termination, particularly if we have no way of knowing whether someone is willing to work for us on any given day. Requiring us to give termination notices and severance will add an administrative burden that would be impossible to meet. We have no way of tracking the availability of thousands of employees who do not contact us. Likewise, it is impractical to expect us to pay severance and give a temporary employee 21 weeks of pay when they only worked 20, and to do so 35 weeks after they last chose to work. The cost would be passed on to our customers, and that will cost jobs. We recommend that you delete clause 74.4(2)(b). Staffing firms should not be held to a standard that no other company in all of Canada would be expected to meet.

Providing written job descriptions before an assignment will unnecessarily add to dispatch time, increase costs and ultimately cost jobs. We tell employees in writing what a job pays before they accept it, and they know we pay daily for short-term assignments and weekly for longer assignments. We print the client's contact information on the work ticket that we give employees upon assignment. We give verbal job descriptions and direct our employees to call us if they're asked to do something else. However, providing written job descriptions before assignment is impractical for on-demand agencies. When customers call with a job order, they may need temporary employees within 30 minutes. Customers give a verbal job description, which we share with the employees, but writing the description on a dispatch form takes more time than most people would think. If we had to give each of 20 workers written notification of 20 different jobs, we'd need at least one and a half more hours to assign the workers. Considering that on a summer day we may dispatch more than 70 people, we would have to hire additional staff to complete the written job descriptions, and that additional cost would have to be passed on to our customers, again costing jobs.

Labour Ready recommends that job descriptions be shared verbally upon assignment and be made available in writing to employees upon request and in a reasonable amount of time.

Although Labour Ready does not charge a fee when a customer permanently hires one of our employees, we understand the practice and do support ACSESS's position on this point.

Again, thank you for your time. We support many of the initiatives in this bill, and we do believe it's well-intended. However, the requirements I discussed will cost jobs. We have submitted a brief to provide more information, and I welcome the opportunity to answer any questions you might have.

The Chair (Mr. Bas Balkissoon): Thank you. We will start the questions with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you for your deputation. Do you issue records of employment for your employees?

Mr. Kevin Suter: We issue records of employment electronically, right directly to Revenue Canada, after seven days of absence.

Ms. Cheri DiNovo: And to the employees too, for EI?

Mr. Kevin Suter: Revenue Canada, as of March 26, has said that employers do not have that obligation if they do submit them electronically. Any of our employees can go to the local HRDC office and get a copy of their record of employment.

Ms. Cheri DiNovo: In the European Union—this is true of European Union countries—they've brought in a mandate for equal pay for equal work. We've heard some deputants who talked about that. Would you support equal pay for equal work? In other words, if one of your temporary employees is doing exactly the same job as a permanent employee, exactly the same job, should they be paid the same wages?

Mr. Kevin Suter: That's a very difficult question to answer because we have such a wide variety of jobs and a wide variety of experiences. A lot of our workers, because it is very short-term, are new workers to almost every job they go to. I would say that in many cases our employees are already being paid what a new worker would have been paid by one of our clients. I'm not saying that's in all the cases. I think it would be very difficult for me to answer at this point.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Does your firm charge a temporary-to-permanent fee?

Mr. Kevin Suter: No, sir.

Mr. Vic Dhillon: What's your practice on recruiting? How do you recruit employees?

Mr. Kevin Suter: Oh, jeez, a variety of ways. We certainly contact social service agencies. In some communities we're in, we deal with Ontario Works. We do advertise. We are storefront agencies. We're not in upstairs offices, so we have signage right on the street when people walk by. It's a variety of ways.

Mr. Vic Dhillon: What type of assignments are given?

Mr. Kevin Suter: The type of jobs, you mean?

Mr. Vic Dhillon: Jobs, yes.

Mr. Kevin Suter: It's such a wide variety with us. We do everything from hospitality to construction to factory to warehouse to unloading trucks at stores. There's such a wide variety. If our clients request a skill, we'll look for it, and if we can find it, we service them.

Mr. Vic Dhillon: Would you be able to give an example of the amount of mark-up you charge?

Mr. Kevin Suter: Every client is completely different, so I couldn't give that amount. I can tell you—

Mr. Vic Dhillon: The numbers might be different but the percentage—

Mr. Kevin Suter: Again, the percentage is different from client to client. What I can tell you is that, after all of our costs are factored in, we typically work on a 2% to 3% profit.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Mr. Chair, and thank you for coming in today, Mr. Suter. The way you described it, especially, your firm is probably a little more unique. It's just-in-time staffing instead of just-in-time delivery. Would a lot of the staffing people, the resources, be new Canadians and—I noticed you mentioned Ontario Works—people who maybe wouldn't have an opportunity to take part in the labour force if they didn't have an opportunity to work through your firm?

Mr. Kevin Suter: Depending on the community we're in, we have a large number of new Canadians, yes. I wouldn't say that they're the greatest percentage of our employees but, for example, our downtown Toronto office would have a larger percentage than our Peterborough office. But yes, we do have a fair number.

Mr. Robert Bailey: Do I have time for one more? Is that it?

The Chair (Mr. Bas Balkissoon): One quick one.

Mr. Robert Bailey: What would be the impact, if the bill is implemented as written, on your firm?

Mr. Kevin Suter: Similar to what some of the preceding agencies have talked about, certainly it would increase our costs, which I think would certainly decrease our customer base, which would decrease the number of jobs we could offer. I think that our clients would be more leery of dealing with agencies, but I don't think that they would necessarily be hiring people temporarily themselves. I don't think it would create more jobs. I think that many of the factors in there would cause us, as some of the other agencies have said, to be looking at more long-term placements.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

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NADIRA GOPALANI

The Chair (Mr. Bas Balkissoon): Now I will go to Nadira Gopalani, and my apologies for having you stand up before. You have 10 minutes. Please state your name for the record.

Ms. Nadira Gopalani: Good afternoon, everyone on the committee. My name is Nadira Gopalani. I would like to thank the committee for giving me the time to be here today to talk about why it is important to make sure that Bill 139 is strong enough to address the issues faced by the disposable workforce: workers who are facing the consequences of temp businesses being allowed to collect as much as they can from workers without being regulated or facing any consequences.

The lessons that we are learning from the current economic crisis are that businesses need effective regulation for a sound economy to exist.

My daughter is currently looking for a job in companies that we are hearing about this afternoon. Let me tell you a bit about what is actually happening on the ground.

When we came to Canada, one of my kids, who is a trained IT professional, tried to get work in her profession. When there seemed to be no breakthroughs available, the logical step was to go the route which was the norm in Toronto, and that was, to be able to get a position in one of the IT firms, to register with a temp agency, get a contract and work for it. She did just that. She got a job at an IT company.

Now, that IT company is a world-famous, well-known one. It has a very well defined, tiered workforce who are known as regulars, supplemental, and temps and contractors. The temp tier is the disposable workforce, usually hired through high-ranking temp agencies.

The temp agency in question defines itself—let me quote from their website. It's "a world leader in the employment services industry, creating and delivering services that enable its clients to win in the changing world of work." This agency did a great job. It did deliver a world-class worker to the IT company.

My family member worked for over two years for this IT company through the agency, earning less than 50% of what her co-workers did, with no benefits, working harder than the co-workers just to be able to hold on to that job, with the hope of being hired as a regular worker.

At the beginning of the assignment, my kid's job duties were to deal with 15 businesses across Canada. But after some time, things changed. When she started working, her work ethic and hard work were recognized, and the quality was appreciated, so a lot of new responsibilities were added. From 15 businesses, she was asked to deal with 250 businesses across Canada. What did that mean to her as a worker? From 80 to 90 calls in a week, it went to 90 calls a day and 350 e-mails to be answered every single day. This company where she was working has a reputation for answering each and every call and e-mail within a turnaround time of two hours.

All the temps working there worked faster and harder than all regular co-workers, just at the thought of being hired permanently by that company. But my kid learned the hard way a very big lesson: It takes much more than that to be hired permanently.

This afternoon, I'm hearing a lot of questions being put to agencies that are sending workers on temp assignments, and we are hearing very twisted and very vague answers that companies are finding it very hard to just pin down one single client agency that they are working with to be able to give an answer about the markups they're giving.

Let me explain what was happening. The regulars who were working in the company were paid \$25 hourly, with benefits. The supplemental staff was paid \$16 an hour, and temps were paid \$13 an hour. So when the duties changed, the thing that happened is very strange. At no time in the whole time after the duties changed was there any difference of a single penny in the wages that were being paid to my kid.

There were at least three managers who met with her on separate occasions and discussed the possibility of being hired as a permanent person, but as soon as they realized that it was a temp worker, their immediate advice would be, "You're an excellent person, an asset to our company, but our advice would be to go out of the company for one year, and only then will it be possible for us to hire you back as a permanent employee of this company."

So, just coming to the second year of employment, there came a situation, and like it happens a lot of times, there were some errors on my kid's paycheque. There were some wages owed, backlogged. The manager had to be called upon to make another copy of the hours worked, and as they were going through the process, he questioned her and asked, "So what is the agency paying you now?" When he heard that she was being paid \$13 an hour, his eyebrows just shot through the sky. It was very obvious that there was a different set of wages being paid to the permanent workers and there was a huge markup on what was being paid to the temp workers.

Besides my family member, there were 13 other temps who worked in that agency, and when things came to the position where a lot of work needed to be done, the pressure was all on the temp workers. Around that time, this well-known company sold a part of its business to another business in China.

What that meant was that a lot of jobs in the company needed to be restructured. So the regular employees, each and every person, were met by the manager and had an interview. They had a session where they went through what it meant to them. Everyone had a discussion. The managers had a discussion with the employees to soften the blow and also to discuss further strategies—how they could

connect themselves, how they could position themselves better in the future in their working life. But the temp workers were all huddled together and had a five-minute meeting where they were just told, “We are going to sell the business and that’s it. There’s nothing else.” The perma temps, who were working for more than two years, were never considered important enough to discuss their future with the company.

Now, coming to the differential treatment that was put out to my child, being a temporary agency worker rather than a regular worker had a huge impact on us as a family. Let’s do the math. What happened? Let’s do the math, because that does constitute—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Nadira Gopalani: —an important part. So, \$28,000 for every year worked: That meant my daughter received \$62,000 less for two and a half years that she worked in that company, with no public pay—that means 20 days of public holiday pay—and no benefits, while regular workers collected benefits and accrued pensions also. There was no—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move to the next presenter. Thank you very much for taking the time to be here with us.

1430

CANADIAN AUTO WORKERS

The Chair (Mr. Bas Balkissoon): The next presenter is the Canadian Auto Workers.

Mr. Ken Lewenza: It might be the most relaxing five minutes I’ve had this year.

The Chair (Mr. Bas Balkissoon): I’d ask you to state your name for the record. You have 10 minutes. If there’s any time left after your presentation, I will allow questions of all three parties.

Mr. Ken Lewenza: Thank you very much. Let me thank the committee for taking the time on this very, very important bill. To my left is Laurell Ritchie. She is a CAW staff representative who works with workers who lose their jobs. To my right is Cammie Peirce, who works in the adjustment centre, representing CAW members who have lost their jobs. I’m Ken Lewenza, president of the Canadian Auto Workers union.

Again, we gave each of you a brief. Obviously, the brief is much longer than 10 minutes, so I’m just going to kind of skip through the important sections of the brief if you don’t mind, for the purpose of time, to try to ensure that you have some questions and the opportunity.

On the introductory page: Obviously, employment standards are important to all workers, those covered by collective agreements as well as those most vulnerable to labour market forces. Every day we see fresh evidence that all workers are vulnerable at least some of the time.

At the bottom: A good first step—holiday pay extended to temporary agency workers. Effective January 2, 2009, the provincial government enacted regulation 432/08, which extends public holiday pay to those not previously eligible as “elect to work” employees. This greatly benefits temporary help agency, casual, on-call, and contract workers.

Many more steps are needed for a greater measure of fairness and equality for temporary help agencies. The CAW welcomes this. At the same time, we strongly urge the government to make improvements that would ensure that the bill is more effective in achieving the overall stated goal. Like many other workers, laid-off CAW members find themselves confronted by a disturbing new reality, one they were not prepared for and one that many Ontarians are not yet aware of. Many of these laid-off members simply cannot find a new job now except by applying to temporary agencies. Our action centres’ report—and we have multiple action centres: Action centres for laid-off CAW members are reporting as follows:

- (1) Between 70% and 90% of the advertised job postings are now through temporary help agencies.
- (2) Workers see jobs that they used to do for \$20 an hour now advertised at \$15 an hour, with the difference presumably going to the temp agencies.

(3) Workers can't apply directly to firms with job openings; they are directed instead to apply to temp agencies.

(4) There's no end in sight to the worker's association with the agency because of the barriers erected by temporary agencies to permanent employment.

(5) Once locked into this relationship with temporary agencies, some workers report that they are not able to accumulate the required hours to qualify for a future EI benefit.

The emergence of a new labour market that offers increasingly unstable employment and that encourages jobs that are low-wage, with few health benefits, is a problem not only for the workers involved and their families, but the province as a whole.

Those working for employment agencies earn 40% less than their permanent counterparts. The gaps persist even when hours of work are taken into account—and again, that's right from Statistics Canada. There is a common perception that the only problem with temp agencies is that a few "bad apples" have spoiled it for the rest—the disreputable fly-by-night operations that take a worker's money one day, close up, and reopen under a new name. But there is another, bigger problem. As reported to the CAW 2008 collective bargaining and political action convention, "Employers are developing a disturbing 'relationship of convenience' with the temp job agencies that have popped up everywhere. These are not the temp agencies of old. It's not about casual labour for limited time projects. It's about converting stable employment into agency work.

"And it's big business. Manpower Inc. ... is now ranked among Fortune 500's....

"Hiring through private temp agencies happens in many sectors across the economy. It is even transforming the auto industry. This is especially true of lower-tier auto parts firms. Researchers estimate 10% to 20% of auto parts workers are now classed as 'temporary.'"

A peer helper at a CAW worker action centre in Oshawa writes:

"First of all, various agencies, and employers make it near impossible to become privately employed within companies with which they have contracted....

"Agencies will commonly secure a contract with a (client) company, locking out all outside hiring capabilities, ensuring contingency fees, and effectively forcing employees to work for deflated wages while charging a company a contracted or full rate."

Temp agencies are not creating jobs. They are not a new pathway to employment. Rather, they are developing relationships with employers on a for-profit basis and then acting as the gatekeepers. This has very serious implications for the next generation of jobs—jobs offered by Honda.

Bill 139 would still allow agencies to apply restrictions on companies hiring workers directly during the first six months of an assignment. A six-month exemption—a very large loophole—will undermine the stated objectives of Bill 139. A six-month loophole could have the unintended consequence of a revolving door of six-month assignments—and I think the sister prior to my presentation identified that fairly clearly.

In conclusion, the CAW has chosen to focus on the three issues which speak most directly to our members' lived experiences: the barriers that stop temporary workers from getting permanent employment; the need for equal treatment on severance and termination pay; the need for joint and several liability protection.

We commend the government for taking the initiative on holiday pay for temp agency workers, for committing to stronger enforcement, and for tabling Bill 139.

We also strongly urge the government to remedy the serious flaws in Bill 139 which will undermine, if not defeat, its worthy objectives.

Again, you've got the full address in front of you. Obviously, it's more detailed than my explanation here today, in the interests of time. I hope that you will take the time to consider our brief and enact the ideas and suggestions within the legislation.

Once again, I thank the government and the opposition parties for their work and for introducing Bill 139 to the Legislature.

The Chair (Mr. Bas Balkissoon): We have one minute for each member. I believe it's the government's turn. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for taking the time to appear before the committee.

Do you feel that temp agencies are taking away full-time work in general, all over the province?

Mr. Ken Lewenza: There's absolutely no question about it. Employers are looking at temp agencies as a supplementary workforce that is actually now encroaching into full-time jobs for the purpose of cost-saving, yes.

The Chair (Mr. Bas Balkissoon): Mr. Bailey.

Mr. Robert Bailey: It's good to see you, Ken.

What percentage of your laid-off members would you think are being placed now, re-placed, in employment with temporary agencies?

Mr. Ken Lewenza: Some 80% to 90% of them have to go through a temp agency to get a job. Cammie Peirce deals with this first-hand. Are those numbers accurate?

Ms. Cammie Peirce: That's probably very close to accurate. In spite of the fact that we try very hard not to be going through a temp agency, even if you go onto the Service Canada website, you will find that it is absolutely flooded with agencies. That's the way people are getting their work.

Mr. Robert Bailey: They'd still be union members, and if there was a recall they would be able to be re-placed, if the jobs come back again, even though they've left with a temporary agency? That doesn't jeopardize their membership?

Mr. Ken Lewenza: That's a collective bargaining issue. There are some bargaining workplaces, actually, where temp workers are excluded from the bargaining agreement. Again, it depends on the strength and power of the union to be able to change. Obviously, I would like to believe that every worker who walks into a unionized work environment gets the benefits of a unionized worker, but it depends on your ability to bargain with the employer and to strengthen your ability to do that.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: Certainly, in the European Union, equal pay for equal work is the law of the land, and that's what we're after in the New Democratic Party, across the board.

The six-month barrier to employment—I think the six-month charge is actually open to a charter challenge, so it's something you might want to look at in the CAW, because it is a barrier to employment.

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My one question is about home care workers and nannies. Mr. Lewenza, would you be in favour of extending the coverage of this bill to include those who are most exploited—foreign-trained workers?

Mr. Ken Lewenza: Absolutely. In fact, the media attention on that particular abuse has been significant and I hope all Ontarians have been following the media reports on that exploitation.

The Chair (Mr. Bas Balkissoon): Thank you very much and thank you for taking the time to be with us.

Ms. Laurell Ritchie: Sorry, I have just one other item. We have a lot of action centres with the CAW, and so do a lot of other unions and organizations right now, given the extent of job loss. Yesterday, there was a big forum for action centres, union and non-union, in London—

The Chair (Mr. Bas Balkissoon): I have to actually be very quick because I have a full list of deputants.

Ms. Laurell Ritchie: I'll leave this document with you from that group.

The Chair (Mr. Bas Balkissoon): Okay, thank you.

Mr. Ken Lewenza: I'm going to walk around until the next presentation starts to thank you guys.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for coming in.

STEVENS RESOURCE GROUP INC.

The Chair (Mr. Bas Balkissoon): The next presenter is Stevens Resource Group, if you could come forward. Can you please state your name for the record? You have 10 minutes.

Ms. Sherri Stevens: Good afternoon. I would like to thank you for giving me the opportunity to speak to you today.

My name is Sherri Stevens and I am the president and owner of Stevens Resource Group. We have eight locations in southwestern Ontario, mostly in the smaller, rural communities. Next year, we'll be celebrating 20 years in business.

Our story began in 1990. After working for eight years as a flight attendant, I decided to change careers. During this transition, I turned to a staffing firm that placed me in temporary administrative positions with government agencies. This gave me time to think about my future while still being able to take care of life's necessities. Working with a staffing firm made it so much easier and gave me the opportunity to build my skills while gaining confidence in myself and my abilities. I was introduced to jobs that I know I would never have been able to secure on my own. I also learned from my experience that I still wanted a career involved in helping people. I decided to return to my hometown. This was at the beginning of the 1990 recession and jobs were difficult to find.

Having had such a positive experience, I opened my own staffing company. I secured a \$1,000 line of credit and worked at night in a printing shop so I could pay my employees. As the recession waned, businesses started calling for flexible employees to support their sporadic growth. Many of our first team members were stay-at-home moms who were looking to re-enter the workforce.

I recall my very first team member. Her name was Jeanne Turner and she had just graduated from a job re-entry program. Jeanne was very quiet-spoken, introverted and would blush when spoken to, but she had a kind heart and determination. At a chamber board meeting, I was approached by the general manager, who required a part-time receptionist. At this point, Jeanne only wanted part-time work, as her children were still in school. This position was perfect for her. Eventually, the role turned into a full-time position with the chamber.

As consumer confidence grew, so did the demand for our services. In 1992, we were approached by a local automotive company to provide 20 production associates for their just-in-time production line. I remember one team member in particular, Amer Cengic. Amer, his wife and three-year-old daughter came to Canada from Bosnia looking for a better life. Amer came into our office looking for work as a production associate in July 1992. Even though Amer had a B.A. in business and a master's in marketing from Bosnia, he was desperate for a job and would do anything to support his young family.

In September 1992, we placed him with our new client, who was so happy with Amer's performance that in January they offered him a full-time position. After only four months of employment, Amer was invited by the company president to visit their head office in Japan. Seventeen years later, Amer is still employed with this client and is now their general manager. I am so proud to have witnessed his career progression. Amer is not only a client, but a trusted colleague. Today, this client has almost 560 employees; 510 found full-time employment through our company.

This is only one example of many where we were able to place a substantial amount of people into full-time positions. This clearly demonstrates how the staffing industry removes barriers and builds bridges to opportunity in living the Canadian dream. Also, as our client base grew, so did the need to add more internal, full-time staff members.

Another story that comes to mind is Nelson Martinez. Nelson was a new Canadian who emigrated from the Philippines. He had eight children and he couldn't afford to bring them all to Canada; he had to leave one behind. He was in Canada for one year. He was working for other employers—not temporary staffing agencies, but other employers—at minimum wage, and still could not afford to bring his child to Canada. He came to us and we were able to place him in a full-time position for substantially more than minimum wage. As a result, they were able to bring their four-year-old-daughter to Canada. His wife had

tears in her eyes while thanking us for getting her husband such a great job. Nelson kept saying, "Because of you and Stevens—thank you."

As you can see from the preceding real-life stories, many benefits are realized by our team members. Jeanne was able to gain valuable skills and self-confidence while at the same time allowing flexibility in her schedule for her family, Amer gained experience that was instrumental in advancing his career, and Nelson was able to reunite his family and provide a good life for them.

Our guiding principle at Stevens is to focus on promoting a culture of initiative, integrity, creativity and trust. This is posted in our head office and at all our branches. We believe that productive relationships are the result of mutual respect and commitment. Our people are our strength; their success is our success. This is why we thoroughly prepare all team members prior to their work assignments.

Initially, we spend two and a half hours with each team member and our ISO certification standardizes our process to ensure consistency in that delivery. We conduct a detailed client workplace inspection and we have declined business if we believed the worksite to be unsafe for our team members. In addition to our employee handbook that outlines our policies and procedures, all team members are given specific instructions regarding their assignment prior to placement.

In your packages are invitations. I would personally like to invite you to visit any of our branch locations to meet our team members and review our business practices.

I agree with the intent of Bill 139. However, to make this a fair and balanced bill, our recommendation is to remove only two clauses.

(1) Recommendations for continuance of employment while not working: Do not codify a continuance of employment, and recognize/respect periods of active versus inactive employment. There is no employment when the assignment employee is inactive—not on assignment. Delete clause (b) of subsection 74.4(2). Do not impose a different and more onerous legislative standard on staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 of the Employment Standards Act.

(2) Recommendation for regulating business terms and client fees within service agreements: Remove 74.8, paragraph 8 of subsection (1), and subsection (2), which interfere with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers. Should this bill pass in its entirety, I fear for the continued existence of our industry in Ontario. But most of all, I fear for the people who depend on us to be their human link to better opportunities. Who will be left to support our employees? Will we be looking at increased social assistance or employment insurance? With an \$18-billion deficit over the next two years, can our government support the impact this bill will create?

The businesses that do survive this recession will be left without the flexibility that our industry affords them, potentially having their existing employees work more overtime while ignoring the excess hours legislation, adding more job responsibilities per employee or paying people under the table. Efficiencies will be lost. Costs such as labour, WSIB and health care will increase. Businesses will close completely or relocate to other provinces or countries where the business environment offers more freedom for all.

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I am very passionate about this industry and the benefits and opportunities we provide people. I also feel very fortunate to be an entrepreneur and to own a small to medium enterprise in the province of Ontario, as do, I'm sure, many of my colleagues in the staffing industry, many of whom are also SMEs.

I would like to commend the McGuinty government for saluting small business last October by dedicating the month to entrepreneurs and small firms. To quote Harinder Takhar, Minister of Small Business and Consumer Services, "Small business owners and entrepreneurs are truly exemplary Ontarians. After all, they are key contributors to innovation, investment and job creation in every part of

our province. They are the drivers of our economy, and while we pay special tribute to them this month, their efforts are felt year round.”

Ninety-nine percent of Ontario firms are SMEs and account for over 360,000 businesses—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Sherri Stevens: —and over half of the private sector jobs. SMEs contribute more than \$250 billion in economic activity annually. I fear Canada, and in particular Ontario, is in for the fight of its life. We should not let the sins of a few condemn the whole. If SMEs are such a key part of Ontario’s economic growth and potential recovery, why are we putting up more barriers for conducting business in Ontario?

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to join us.

HCR PERSONNEL SOLUTIONS INC.

The Chair (Mr. Bas Balkissoon): The next presenter is HCR Personnel Solutions Inc. Please state your name for the record, and you have 10 minutes.

Mr. Peter Raback: Good afternoon. My name is Peter Raback. I’m the president of HCR Personnel Solutions. We’re a staffing company in the GTA with four locations. We’ve been in business for 13 years. Today I would like to pass the floor to one of my customers, Kelly Harbridge from Magna International.

Mr. Kelly Harbridge: Good afternoon, honourable members and members of the committee. My name is Kelly Harbridge. I’m labour and employment counsel from Magna International. Magna is the third-largest automotive parts supplier in the world and one of Ontario’s largest private sector employers. We have 53 manufacturing facilities and eight engineering product development centres in Ontario, and we employ approximately 15,000 employees in the province of Ontario.

In terms of the current challenges that the manufacturing sector is facing, Ontario’s manufacturing base, and the automotive industry in particular, have been extremely hard-hit by the current economic crisis. Many manufacturers, like Magna, are currently struggling to maintain their existing business footprint in Ontario. In our view, any new legislation that further increases financial or administrative cost of doing business in Ontario is poorly timed and may jeopardize further jobs in the province.

The Ontario Employment Standards Act is already one of the most restrictive and costly pieces of employment legislation in North America. It’s not to say that these protections aren’t essential to protect Ontario workers. Having said that, they need to be balanced in terms of other jurisdictions in North America with whom we’re competing for business and jobs. Undue legislative restrictions would result in Ontario employers being less flexible and competitive than other nearby jurisdictions, including other Canadian provinces, as well as US states, particularly northern states that have a manufacturing base.

Intense global competition from low-cost countries is creating unprecedented challenges for Ontario manufacturers. In order to compete and survive, Ontario employers need greater flexibility. Our current manufacturing volumes, in particular, are increasingly volatile and unpredictable in nature. Like never before, we are seeing wild fluctuations in customer demand that often make long-term manpower planning difficult. In years past, it would not be uncommon for us to have an idea weeks, and sometimes months, in advance of what our customer demands were in terms of schedule and production. Some of the more recent examples: We’re being advised as to parts orders only 24 to 48 hours in advance for many of our larger customers. You’re seeing short bursts of manufacturing production. A customer may want parts produced on a particular program for two or three weeks at a time, followed by months of downtime and layoffs. So long-term manpower planning is becoming increasingly difficult.

Over the years, we’ve partnered with various staffing agencies, including HCR. Those partnerships have been incredibly successful in terms of helping to supplement our regular full-time workforce in order to address many legitimate business issues in terms of unpredictable and unstable customer volumes, which I have addressed, programs and facility launch situations—often when you’re opening a new plant or launching a new technology, your business and manpower may be in flux for sometimes weeks and months after launching a new facility—short-term quality control issues, absenteeism and lost time,

as well as dealing with excessive overtime costs. This relationship with our staffing agencies has helped Ontario manufacturers and Magna remain competitive by managing short-term and fluctuating manpower needs in an efficient and cost-effective manner.

We've had many success stories over the years in terms of our partnership with the staffing agencies we do business with and we've helped many unskilled and vulnerable individuals access the job market and transition to full-time employment. The average length of a temporary assignment at Magna has generally been in the four- to six-month range and during the past several years over 3,500 Ontarians have started their careers at Magna as temporary workers before moving to full-time, regular employment—approximately 24% of Magna's Ontario workforce. This has been an efficient and cost-effective way for Magna to recruit new employees, allowing many individuals to gain essential skills and experience in the job market while permitting the customer firm company such as Magna to audition candidates for upcoming and future opportunities as they may arise.

There are a couple of success stories in particular. Our Ontegra facility located in Etobicoke, Ontario, originally launched in 2001. At that time, we partnered with Mr. Raback's firm, HCR, to recruit and staff the entire workforce through his temporary agency. There was a rapid launch and recruitment drive and eventually all 500 employees at Ontegra, who started as temporary staff, transitioned to full-time regular employment with that facility.

A similar success story is our Deco Automotive facility in Rexdale, Ontario, with approximately 600 regular full-time employees. Between 2003 and 2007, about 177 temporary staff transitioned to full-time regular jobs at Deco. We're very proud of Deco's workforce. It's a very rich cultural mosaic. There are over 40 different languages and cultures present on that production floor. It really is a miniature United Nations with people from around the world, many new Canadians who've been given their first opportunity for a stable job with good pay and good benefits, many of whom wouldn't have had that opportunity if they hadn't had their foot in the door through Mr. Raback's firm, HCR.

We're very proud of those two plants in particular, and that's just a glimpse of many employment success stories at Magna in terms of individuals who wouldn't have otherwise had access to a full-time career at Magna without coming through a temporary agency first and gaining those essential skills and experience.

In terms of our concerns with Bill 139, Magna generally supports the government's intentions with respect to Bill 139; in particular, those aspects of the bill that promote full disclosure and education for the workers being employed through temporary staffing agencies and the removal of any illegitimate barriers to full-time employment.

However, certain provisions within Bill 139 need to be refined, in our view, so as not to impede a legitimate agency-customer relationship or impose excessive administrative and financial costs that will impact the ability of Ontario manufacturers to compete. In particular, section 74.8, the ban on client fees, in our view, is both unnecessary and counterproductive. In our experience, those client fees are not a barrier to full-time employment. They cover several value-added services that many of these staffing agencies provide to companies like Magna and other manufacturers. In a sense, we've contracted out a lot of our front-line HR and recruiting services to third-party agencies such as Mr. Raback's HCR. They handle our recruitment and interview process, the screening and selection of candidates, pre-placement skill and ability testing, pre-placement medical testing in those situations where it may be required, as well as training—health, safety and otherwise—and orientation services. So many of the front-line services provided as part of the recruiting process by firms like HCR and others are very value-added and cost-effective for manufacturers like Magna, as opposed to having to handle those services in-house.

One of the other concerns with respect to Bill 139 is subsection 74.4(2), the deemed continuity of employment provision. I think that fails to recognize the short-term and often sporadic nature of temporary assignments, very different from the regular employment relationship where there is a

contractual understanding between the parties that it's a relationship of indefinite duration. In these situations, they're often short-term and sporadic, often with individuals working for various temporary agencies all at the same time. It becomes very difficult to administratively track the continuity of employment.

In our view, this particular provision will significantly increase cost determination, and that cost is unlikely to be absorbed by the agencies themselves. One would think that those costs will be worked into the overhead—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Mr. Kelly Harbridge: —and eventually downloaded to the client company, making Ontario less competitive with other North American jurisdictions.

To the extent the ESA imposes new costs on the cancellation of short-term temporary assignments, one would think that industry, in many cases, will think twice about retaining such individuals in the first place, reducing opportunities for vulnerable groups to access the job market. It creates financial disincentive for companies to retain temporary workers for any periods of longer than three months. Prior to three months, under the legislation employees are not eligible for termination pay—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Mr. Kelly Harbridge: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to join us and give us your input.

The committee is now recessed and will reconvene at 4 o'clock.

The committee recessed from 1500 to 1601.

LAURA ST. PIERRE

SIOBHAN ST. PIERRE

The Acting Chair (Mr. Joe Dickson): I call this meeting to order. Our first delegation is Laura St. Pierre and Siobhan St. Pierre. Welcome. Make yourself at home, ladies. You have exactly 10 minutes. I wonder if you'd be good enough to introduce yourself for the Chair, and if there's any time left over from the 10 minutes, we'll proportion that equally amongst the three parties to ask you questions. Please proceed.

Ms. Laura St. Pierre: My name is Laura St. Pierre.

Ms. Siobhan St. Pierre: I'm Siobhan St. Pierre.

Ms. Laura St. Pierre: I'm here today in support of the temporary help agencies, against Bill 139, as a temporary worker. Currently, I'm working at 3M Canada and, quite simply, I wouldn't have this job without the help of a temporary agency. I have used the services of agencies for five-plus years now and have gained a wealth of knowledge and experience that I genuinely believe I would not have had the opportunity to in any other fashion.

I was recommended to a temporary help agency by my mother, an Irish immigrant, who has had first-hand experience with the many benefits these businesses perform. When I finished high school, and all throughout university, I quickly learned the same lesson my mother learned when she immigrated to Canada, which was that experience is one of the keys to finding a full-time job. But I struggled to understand how a person can gain experience when no one will give them a chance, and I believe this is where a temporary help agency has stepped in to help.

After hopelessly searching for a job, my mother applied at a temporary help agency called Quantum, where she was instantly given a chance and ended up with a full-time job at Grafton Fraser, and today lives a very successful life.

Personally, as a temporary worker, all of my experiences have been excellent. I have always been given all required information about my assignment, my location, the rate of pay and the scheduled amount of time my assignment should take. The training and the availability of the agency staff, as well as the support that I have always been provided, have always been outstanding.

This really showed through during an assignment I was given in an HR department at a company in London, whose offices were located in an old Victorian-style home. The assignment I was given was

clerical and filing within the office. When I arrived, I was brought through the house and out the back door to another door. When the woman opened the door, I was led down a set of stone stairs; the walls were also made of stone and were covered in cobwebs and spiderwebs in every corner. At the end of the staircase was a little room that can best be described as a dungeon. It was lit by a single light bulb hanging from the ceiling that you pull a chain to turn on. The ground was covered in a puddle and the filing cabinets were placed on wooden skids. The woman told me what she wanted me to do and went back up the stairs. She then yelled back down to me to make sure I left the door open because there was no light for the stairs, and with the single bulb turned off it was virtually impossible to see anything. I was completely appalled, especially since this was the company's HR department. I contacted the agency and was pulled from the assignment immediately.

The agency then followed up with the client by performing yet another site visit and saw the environment I was working in, which they were never shown initially on their first visit. They then told the client they would not be a part of sending anyone else into that environment. Had I been an employee of that company, would I have had a choice to work down there or not? I'm inclined to believe that the answer to that is no.

In addition to working various assignments, I have also had the opportunity to work within an agency for three years. This provided me with the opportunity to see the other side of the industry. I learned quite a bit during my time, and I will continue to carry the skills forward with me. One thing that I will hold with me is the reality, the compassion and the understanding that was demonstrated toward the huge spectrum of people who walked through those doors, from the man I met who had lost his job of 28 years at Accuride and was his family's sole provider, to the UN worker from the Sudan, to the doctor from the Middle East—all in search of not just a job, but a chance. We live in a country that too frequently neglects the skills obtained in other countries and considers them inferior to ours. These temporary help agencies make such an impact and really help these people get the experience they deserve to be successful.

Ms. Siobhan St. Pierre: My name is Siobhan St. Pierre. I'm also here today in support of the temporary help agencies against Bill 139.

My experience with the agency has always been of a positive nature, with a lot of understanding and support.

Approximately two years ago, I was diagnosed with a medical condition that caused me to resign from a job I held for four years while I was in high school, because my employer failed to understand my situation and provide any support to me. Some days I would wake up and I'd feel great, while other days I had absolutely no chance of getting out of bed and facing work. What kind of an employer would accept an employee saying, "Today I can work, but tomorrow and the rest of the days, I don't know"? It was recommended that I register at a temporary agency. From the beginning, I let them know what was going on in my life. That was the beginning of an excellent relationship with the temporary agency. I have never felt that I was being judged. Whenever an assignment became available that suited my qualifications, the recruiters would call and ask if I would consider the assignment. I never once felt pressure that I had to say yes or they wouldn't call me again.

One assignment that I accepted brought me to the University of Western Ontario, where I was doing high-level administrative work. Throughout the day, I began to feel more and more overwhelmed, so I called the agency that afternoon and explained how I was feeling. They completely understood, and without judgment they told me that they would find a replacement for me.

The medical condition I suffer from is clinical depression and anxiety. Unfortunately, in the society that we live in, there's a stigma attached to these illnesses, but I never once felt that from the staff at the agency. During my treatments, I had to attend a daily program for six weeks from 9 to 2 at the hospital. As soon as I completed my program, they sent me out to work again. The point I'm trying to make is that

not once did I feel judged during my employment with the agency for something so many others would have judged me for. They were always understanding and supportive.

Today, I am working at the children's aid society. In the future, I wish to work with disturbed and troubled teens, so what better way to network? I would like to add that it was a temporary agency that helped me get this job.

Ms. Laura St. Pierre: In conclusion, Siobhan and I both feel very strongly that this bill will result in hurting the very people it was created to protect. We are in a scary economic time where people are struggling to find work and keep their jobs. The passing of this bill will not only create less options for the current struggling, vulnerable workers, but could potentially add more workers to a seemingly increasing number, because these agencies will no longer be able to afford to stay open and continue to help those who walk through their doors.

Like everything in life, there is the good and the bad: the ones who play fair and by the rules, and the ones who take advantage of the worker and are concerned with nothing more than profit. It makes absolutely no sense and seems extremely unfair to punish all the respectable rule-abiding agencies because of the fly-by-night and money-driven ones. If these agencies are not here to do what they do, they can't help those who really need it.

Please do not pass Bill 139.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. We have just under two minutes, so I'll allocate 30 seconds per party. I'm not sure of the sequence, so we'll start with the official opposition, either Mr. Bailey or Mr. Miller.

Mr. Robert Bailey: Thank you, Ms. St. Pierre and Ms. St. Pierre, for your presentation this afternoon. So it would be fair to say that without the opportunity of temporary agencies, as you have outlined, you probably wouldn't have had the opportunity to get into the workforce, be able to network and improve your job skills. Would that be fair to say?

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Ms. Laura St. Pierre: I would think so. Working where I am right now at 3M and talking to a lot of the people on the floor that I'm with, a good portion of them have all gotten in through an agency. Coming out of university, one of the struggles that I had was to get somewhere where I could actually grow with the company, but every company seems to want some kind of experience, and how do you get it if no one is going to let you have a chance?

The Acting Chair (Mr. Joe Dickson): Ms. DiNovo from the third party?

Ms. Cheri DiNovo: No questions, but thank you. I know it must have been difficult to talk about an illness like depression, so I commend your courage.

The Acting Chair (Mr. Joe Dickson): From the government, member Dhillon.

Mr. Vic Dhillon: Thank you, ladies, very much for making your presentation. I just want to make a comment. I don't really have a question. I appreciate your views. We're of the view that temp agencies are a vital part of our economy; they help the workforce. We're all in favour of the good ones that bring about good outcomes for employers.

I don't know if you were here before or throughout the hearings. There have been independent presenters who have presented their story, and their storyline is the same in terms of the views that they suffer, and it's to correct those wrongs that, for the most part, we're going through with this bill. Again, I just want to reiterate that we're not against the good temp agencies that bring about good results, not only for themselves but also for the workers. We appreciate your being here, and once again, thank you very much for your presentation.

The Acting Chair (Mr. Joe Dickson): Thank you, member Dhillon. Thank you very much, ladies. Well done.

BRAMPTON BOARD OF TRADE

The Acting Chair (Mr. Joe Dickson): I would then call on Mr. Gary Collins, the Brampton Board of Trade. Welcome. Please introduce yourself.

Mr. Gary Collins: Good afternoon. My name is Gary Collins. I'm the chief executive officer of the Brampton Board of Trade. I'd like to thank the committee for hearing us with respect to Bill 139. Our presentation will be done by Carman McClelland, the president of the board of trade and a former member of the Ontario Legislature, and the conclusion will be done by Linda Ford, our immediate past president.

Mr. Carman McClelland: Thank you, Mr. Chair, members of the committee, staff, I appreciate the opportunity to be here today to present our views for your consideration with respect to this particular legislation.

I want to indicate that as president of the Brampton Board of Trade, I'm here speaking on behalf of our membership of some 1,200 businesses representing literally tens of thousands of employees in the area of Brampton, Ontario. Many of the employment services agencies from Brampton are in fact part of our membership, as well as other members in every sector of the economy that benefit from these temporary employment services that are provided to them close to home and in the community itself. That happens to fall into two major categories, principally manufacturing and in the area of warehousing, logistics and transportation.

We in the Brampton business community are supportive of enhancements and regulations that protect temporary workers and ensure employment standards that are representative and respectful of the temporary relationships among the players. Our staffing agency members are legitimate businesses; they work with professional clientele at a high level of integrity. They're building their businesses and their communities by creating opportunities for local talent. They contribute on a variety of fronts in terms of the cultural and social and the voluntary sector as well. They are an integral part of our business community and the community at large.

The recent budget of the government envisions a global, competitive Ontario creating jobs, driving economic recovery and speaking of prosperity for the future. Changes made to the sales tax and corporate tax indicate the need for businesses to make investments on their own for growth.

We would submit that temporary employment allows businesses of all sizes and sectors to flex their market, conduct short-term special projects, contracts, research, development, plan, measure, assess, access experts, and build at a substantial pace and at a pace that is sustainable and measurable. Temporary employment is vital. It's important to the smallest and newest businesses, those with the greatest potential for growth.

Temporary employment opportunities are good for the community. They work to integrate underemployed persons, get them into the workforce, and those who cannot or who have chosen not to work on a full-time, permanent basis.

We would respectfully submit that if passed as written, Bill 139 would have administrative, legal and financial costs that will be measurably increased for temporary staffing organizations. These costs will be passed on to the client, the general business community, which can ill afford it, particularly at this point in time—increased statutory holidays, minimum wages, high energy costs, profit-insensitive taxes, like property taxes etc.

The competitive gains that we expect from recent budget proposals, which we hope will come into play, we submit, would be threatened in part by the legislation as crafted.

Ontario will have the most regulated temporary employment regime in North America, which will diminish the attractiveness of this region as a place for investment.

If passed as written, the negative impacts will be felt by the legitimate businesses. I thank our local MPP, Mr. Dhillon, for saying that he supports them, but our submission would be—and we'll hear some specifics momentarily—that you don't deal with the mischief by punishing and adversely affecting those who are conducting their business in an appropriate fashion with integrity and professionalism.

The fly-by-night operations are going to be a mischief that has to be dealt with, but we would submit that Bill 139 will punish the good players, if you will, in the regime. The only way to ensure that individuals have access to legitimate opportunities with the protection of employment standards is to ensure a viable and thriving temporary staffing industry. Market forces will quickly and effectively eliminate any rogue operators, and those who continue to operate ought to be dealt with specifically for the mischief and the harm that they bring to bear, without punishing the legitimate operators, which we submit Bill 139 very clearly and predictably will do.

I'd ask now my colleague, past president of the board of trade and a person who is actually involved first-hand in the industry, Ms. Linda Ford, if she would conclude our submission. Thank you, Linda, and thank you, members.

Ms. Linda Ford: As part of the introduction, I'd just like to say that the employment and staffing industry is amongst the largest employers in the world, and it is important to recognize that there is a need worldwide for the integration of people through the use of temporary help into businesses and especially to ensure our competitiveness.

There are some areas in which we have some great concerns, and we have specific recommendations for reconsideration. Subsection 74.4(2) reads:

"As an assignment employee of a temporary help agency does not cease to be the agency's assignment employee because....

"(b) he or she is not assigned by the agency to perform work for a client on a temporary basis."

The impact is that regardless of the reason for the lack of assignment of any employee by an agency, the employee-employer relationship continues. Reasons for non-assignment include choice of the employee not to work, the end of a task or a contract, unavailability due to other employment, education or family obligations, and reasons like failure to contact their agency. This provision disregards the short-term, temporary or trial relationship inherent in temporary staffing arrangements.

In no other jurisdiction are people who are not actively employed considered to be employees.

Our recommendation is to remove clause (b) under subsection 74.4(2).

Subsection 74.8(1), exception number 8, reads, "A temporary help agency is prohibited from charging a fee to a client in connection with the client entering into an employment relationship with an assignment employee, except as permitted by subsection (2)."

This provision disregards the legal foundations of business practice, confidentiality, contract negotiation, competition and fiduciary duty.

This provision does not respect the variations of services and development of relationships between the client, the employer and the employee.

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The prohibitions propose to prevent barriers to permanent employment. Temporary staffing agencies have successfully transferred a majority of their assignment employees to their clients for permanent full-time employment. Rather than create barriers to full-time employment, the relationship between the agency and the client creates opportunities that would not happen if it were not for the employment agency and had that relationship not previously existed.

Prohibition 8 limits free enterprise between two commercial entities. It is not the place of government to decide contracts and fees for the entrepreneurial businesses in this world. We recommend removing prohibition number 8 under subsection 74.8(1).

Subsection 74.11(1) reads as though temporary staffing agencies would be responsible for tracking and administering termination and severance obligations without the benefit of information regarding the temporary assignment employee's activities during the 35-week period. Agencies would have to front-load costs of engaging in assessment, evaluation, calculation and collection of severance monies and activities onto their clients' bills and apply it across the board, despite the fact that the individual employer of record has fulfilled all the employment standards obligations regarding termination and

severance. Agencies would have no recourse should an assignment employee quit/leave their assignment of their own accord. Normal employment standards do not impose any severance or termination obligations upon the employer in these situations.

Our recommendation is the rework of termination and severance section 74.11 to ensure it is reflective of the employment standards that obligate all business and does not create a special set of standards for temporarily assigned employees, their agencies and their client businesses.

Mr. Carman McClelland: Members of the committee and Mr. Chair, I'd certainly be pleased to entertain and respond to any questions, as we're able.

The Acting Chair (Mr. Joe Dickson): Thank you, past member McClelland. We have 22 seconds, which will give you about seven each.

Mr. Carman McClelland: Time to clear our throats.

The Acting Chair (Mr. Joe Dickson): If anyone has a statement to make, the next speaker would be the third party, Ms. DiNovo, if you wish.

Ms. Cheri DiNovo: Just a general question. Do you think that two people doing exactly the same job should be paid different rates?

Ms. Linda Ford: I think that if two people enter the workforce at the same point, they should be paid the same.

Ms. Cheri DiNovo: Taking into account seniority and time at the job.

Ms. Linda Ford: Like I said, from an entry-level perspective, if they're both starting the job today, they should both be making the same rate doing the same job. I think that does vary with level of experience, certifications, education and length of service—

Mr. Carman McClelland: The *[inaudible]* the company, the employer.

Ms. Linda Ford: Yes, all those things.

The Acting Chair (Mr. Joe Dickson): Thank you. I appreciate your presentation. I cut off the other two speakers. I'll give you time on the next speaker.

KIM FLINN

The Acting Chair (Mr. Joe Dickson): The next speaker is Kim Flinn. Please come forward and introduce yourself.

Ms. Kim Flinn: Good afternoon. My name is Kim Flinn.

The Acting Chair (Mr. Joe Dickson): Welcome.

Ms. Kim Flinn: I'm here today to tell you how the staffing industry has had a huge impact on my life and that of my family. For 20 years, I was very busy at home raising two children, one of whom is severely disabled. When I was finally able to consider re-entering the workforce, the only people who were interested in assisting me were the recruiters in the staffing industry. My skills were pretty rusty, and I was pretty nervous. But they were very supportive and helped me to find resources within my community where I could update my computer skills etc. In addition, they provided me with online tutorials I could do at home in Word, Excel etc. They helped me continue to learn and improve my skills. I was given the opportunity to work within this agency office as an internal temporary employee. I started as a part-time receptionist and, as my skills improved and I gained experience, my role was expanded to include various administrative duties to the point where I was working full-time and was responsible for completing their temp payroll, as well as becoming the primary contact with the HR department for their largest client. I was also given the opportunity to assist in the process of recruiting, pre-screening and conducting skills evaluations for candidates applying for jobs.

After one year, they offered me a permanent position, which I declined because the opportunity for a job with another staffing agency became available. I was hired by this second agency and worked again for one year as an internal temp. Then I was given a permanent, full-time position, which is where I am still employed today.

Presently, I am responsible for processing the weekly payroll for two divisions of our company, approximately 250 people, including completion of all records of employment, payroll/invoice adjustments, providing client and employee customer service, completing applicant references, managing and maintaining employee and client electronic records, preparing financial reports for clients etc.

If it were not for the support and opportunities presented to me within the staffing industry, I would not be where I am today. It has been a steep learning curve—one on which I have thrived—and I continue to enjoy working within this industry. I really enjoy working with our employees and seeing them experience the same type of success that I have. It is satisfying to see people come into our office unemployed and leave with the opportunity for employment, often the very next day.

I continue to recommend to my friends, family and acquaintances that they seek opportunities for work from agencies. My oldest daughter started as a temp employee with a financial institution that was a client of ours and, after a time, she was hired on a permanent basis, received benefits and eventually received a promotion. My daughter's boyfriend enjoyed the flexibility of working with our agency as a student and was also offered a permanent position, but declined as he was returning to school in September. My husband's friend lost his job due to a plant closure, and he too gained permanent employment through our agency.

There are numerous success stories as the result of opportunities for employment gained with staffing agencies, and I am just one of the many. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Is there anything further to add?

Ms. Kim Flinn: No. That's what I wanted to share with you today: Had it not been for the opportunities I've been given, I certainly wouldn't be where I am today.

The Acting Chair (Mr. Joe Dickson): Okay. Thank you. I will now give one minute each, starting with Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. When you became a permanent employee, are you aware of any fees that might have been paid for you to become a temporary to permanent employee, and if so, what the fees were?

Ms. Kim Flinn: No.

Mr. Vic Dhillon: So you don't know if there were any fees paid?

Ms. Kim Flinn: I was working with an agency. I was hired as a permanent position within the agency itself, so I doubt there would have been any type of fees.

The Acting Chair (Mr. Joe Dickson): Mr. Bailey or Mr. Miller?

Mr. Norm Miller: Thank you very much for your presentation. You've certainly outlined many positive benefits of your experience in terms of building skills and being able to get back into the workforce, and I think you also talked about flexibility. You've had lots of experience working in temporary help agencies, and obviously the government sees problems. So I would ask, do you see any problems in the experience you've had working with temporary help agencies that are unique to that industry or are different from any other workplace?

Ms. Kim Flinn: No, I don't. As a matter of fact, I think what it does is remove a lot of barriers for employment for people, particularly right now in the economic situation we're in, where a lot of people, like my husband's friend, have been in a particular place of employment for 25 years, the plant closes and they're really at a loss. When they come and see us, they find that we're very empathetic and supportive. We can help them find employment.

We don't always just want to find them employment with us. We're very supportive. We'll say to people, "Go to other agencies. Find work for yourself." We've often said to people, "If you find an assignment with another agency, good for you." We want to see them working. I find they're very, very nervous, and it feels really good to be able to help those sorts of people when they come in, or

oftentimes young people who don't have any experience. I find they're treated very fairly, and as I do the payroll, I can see that they are treated fairly.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I'm going to go to Ms. DiNovo for about 15 seconds.

Ms. Cheri DiNovo: Just quickly, this bill does not include nannies or home care workers—clearly, some of the most exploited workers. Our suspicion is that it's because the government pays for home care workers themselves, so they haven't covered their own temporary employees. Any comment?

Ms. Kim Flinn: No, I don't have any comment on that.

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much for a wonderful presentation. Thank you for your time.

Ms. Kim Flinn: Thank you.

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CHRISTINA GORDON

The Acting Chair (Mr. Joe Dickson): The next presentation is Stephanie Beres. Good afternoon. We have your—

Ms. Christina Gordon: Yes, good afternoon. My name is Christina Gordon. I have worked as a temporary employee for 17 years. I was hoping to appear here together with my colleague and friend Stephanie Beres, but unfortunately, I am here on my own. I have submitted Stephanie's report to the clerk, and it is available. My report is also available. Stephanie and I are both temporary workers. This is Stephanie's; mine is a little bit longer.

Have you ever wondered what a performer does when they aren't under contract or in a production house? They have rent and mortgage payments, and they also have basic expenses of living. So what are they going to do? Some of them waiter, some of them do retail, some teach and some, like myself, temp.

I have used a temp agency for almost 18 years now to fill in the gaps between my professional engagements. As a performer, I am a contractor, so I cannot go on EI, even though I pay it when I do a desk job. That's a federal matter, and we won't get into that.

I think I should work, because I can work.

Other than basic typing, all of my training as an admin assistant, specializing in payroll and accounting, has been gained through my various positions through the temp agency. I get paid when I work and for the work that I do.

Every Wednesday at noon, I pick up my paycheque. This has been the norm for the last 17 years. While at the office last week picking up my paycheque, I decided to check into the application process currently being used. I hadn't applied for this company for 16 years, so I was sure that it had changed a bit.

I was shown a standard application form: release forms for credit checks, that kind of thing. There was also a take-away page that clearly outlined the ESA, the Employment Standards Act, and my rights to work as an employee in Ontario. There was also a form for vacation pay entitlement. I was given a lovely payroll package that had timesheets in it so that I knew I had to send in my timesheet on time to get paid. There was also an option to have direct deposit, which is great if you're working outside the scope of the agency.

Furthermore, I saw an incredible collection of people applying that day. There were new Canadians, mothers returning to the workforce, labourers and even a guy in a Hugo Boss suit—obviously a senior executive-type person who had been recently laid off. I can only assume that, because he was at a temp agency.

I also was asking about the difference between “basic labourer” and “office worker,” and I was given a safety program handbook, which was compiled by the agency. Also, a new and young workers awareness policy was posted.

If I ever need to update my skills for a particular assignment, I can go in and use their computers and their programs. I can also have the program e-mailed to me, and I can update my skills at home. My 17 years have contained some interesting gigs. At every assignment, the agency had my back. Within four hours of arriving at the client’s, I get a phone call from my consultant, asking me how it’s going. I have run reception at ad agencies, financial companies and government ministries. I have done payroll, accounting and collection calls. I have filed medical charts at a doctor’s office, and was asked by my consultant if the filing cabinet was sturdy and bolted and if the stool was up to code. I have tracked down new addresses for RRSP statements. I have conducted satisfaction surveys at the Ontario courts, which actually served as an incredible character study for me, because there are some really interesting people in the Ontario court system.

In all these years, I have only had two scary moments. I was once sent to the wrong hotel to do convention. I was sent to the Delta Chelsea, and the people in Michigan, the company that sent me there—not the temp agency, but the company, the client—it was actually happening at a totally different hotel. I was in a quandary as to what to do. I went to the agency and waited until the doors opened. The then branch manager escorted me to the proper hotel, once we figured out the problem, and she took the yelling, rather than me.

Another posting was a nightmare from the minute I got it. A receptionist for a paint company’s head office called in sick the day of a hostile merger, so there was no one on the phone.

I got there, and the phone system was something like a cross between Uhura’s station in Star Trek and the “one ringy-dingy,” pushing-the-buttons kind of thing. I was freaking out. I had people screaming at me for an hour and 15 minutes until there was a very friendly voice, finally, on the other end of the line. It was my consultant. She had been instructed by the company to send me home. I had no problem with that whatsoever. But on discussion with my consultant, she said that I would be paid for four hours of work minimum, regardless, because the expectations were unrealistic.

I fully understand that my pay is lower than what the client is billed. The markup, however, is not that substantial, and it reflects the fact that staffing services are businesses, not government services. So we must keep a competitive margin, okay? I am willing to pay that extra bit of money to have access to a pool of jobs when I’m unemployed. The client also does not have to pay for an HR division, because they would normally have to set aside an office and a person to interview new staff, to make sure that all of their signatures are correct, that they’re actually even legally allowed to work in Ontario.

Even though almost all of my postings have produced an offer of permanent employment, I choose to leave my desk job to be a performer. I have performed in seven of the provinces across Canada and have been a card-carrying ACTRA and CAEA member for over 22 years. I myself have personally suggested my company to over 20 performers who have either worked temp, continue to work temp or have gone permanent as their acting careers have slowed down.

It is my understanding that there are two sections of Bill 139 that are being questioned. The bill on the whole looks lovely as far as I could read through it with my limited legal knowledge. But I read the Hansards—I had to google that word because I didn’t know what it was—and I was horrified by the accounts of some of the speakers myself. That is why I’m here today: to show the reality of my 17 years with an established staffing service. I think some of the infringements could be stopped by a closer adherence to the Employment Standards Act.

In closing, most temps work temp by choice, either to try out a new profession or location, to pay for upgrading their education or to facilitate a change in the family dynamic. I have been able to balance my chosen profession on the stage because I can always call up my agency and tell them when I’m available for office work.

If the two points, continuance of employment and six-month limitation of client fees, are left to stand as they are, I fear they will effectively cut off thousands of temps and temp-to-perm employees—

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Ms. Christina Gordon: —from the jobs they need. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. Well done.

THE PEOPLE BANK

The Acting Chair (Mr. Joe Dickson): The next presenter is the People Bank, Londa Burke, vice-president of operations.

Ms. Londa Burke: Hello.

The Acting Chair (Mr. Joe Dickson): Welcome. You have 10 minutes.

Ms. Londa Burke: I'm Londa Burke, vice-president, operations of the People Bank.

In 1986, I came to Canada as a landed immigrant. I sent my resumé to over 50 companies and only received one call back. It was from a temporary help company. My consultant wanted to place me at the ministry, but my paperwork was not complete. The following week, when I was eligible to work, my consultant said she had a one-day temp assignment in their office.

This one-day assignment lasted me a lifetime. I was quickly promoted to a consultant myself. Over the past 22 years, I have placed thousands of people on temporary assignments that went permanent. Many are now in senior positions due to their work ethics. Many of the employees were too shy to do a good interview or their resumé did not express the full reflection of their experience. After coaching and working on the job as a temp, these employees received great jobs. It was an added service that I did at no cost.

Our service is also great for the return-to-work moms who need recent experience so they are eligible to get full-time jobs, or someone who wants to do a career change. We help them with getting the opportunities they deserve. I enjoyed watching them go from little confidence to feeling great about their skills. I could go home at the end of the day feeling proud that I had made a difference in the lives of these people. I have received many thank you cards, letters and flowers, thanking me for helping them achieve their potential. Many were landed immigrants just like me.

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I am proud of what I do. I'm a certified joint health and safety officer and I go to most sites myself to review the safety. I have declined business if I feel the temporary employees are in jeopardy. I have always treated everyone how I want to be treated and I have always been honest with our temporary staff. I know that being placed by a temporary help company myself made a difference in my life and made moving to another country that much easier to absorb.

At our temporary help company, we partner with government agencies such as HRDC, YMCA and COSTI. We help these agencies get these staff back to work. We hold job fairs, we assist them in their resumé-writing and we coach them on interview techniques. We also allow, at no cost, for the temporary staff to take advantage of upgrading their software skills.

I have seen the bad publicity; that the temporary help agencies make oodles of money. I can tell you honestly that's not even close to being true. We make 50 cents to a dollar per hour, and that has to pay for our advertising, our testing, recruitment staff, our guarantees to our clients if the temporary doesn't work out and all other ESA obligations. We have all been hearing in the media all the bad things that the agencies are doing. This is just a handful of bad companies, as in any industry. Please do not penalize the great temporary help companies that do great things for people and get them jobs. We are their lifeline, and Bill 139 will take this away from them. These are the people who need and trust us the most. So I am requesting changes to Bill 139.

Recommendations of continuous employment while not working: Do not codify a continuance of employment; and recognize or respect periods of active versus inactive employment. There is no employment when the assignment employee's inactive or not on the assignment. Delete clause 74.4

(2)(b), “An assignment employee of a temporary help agency does not cease to be the agency’s assignment employee because ... (b) he or she is not assigned by the agency to perform work for a client on a temporary basis.”

Do not impose a different and more onerous legislative standard on staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 to the Employment Standards Act. Regulation 288/01 respects the nature of fixed-term temporary employment.

Recommendations for regulating business terms and client fees within service agreements: Remove paragraph 8 of section 74.8(1), and exception (2), which interfere with business terms, and refocus attention on the employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

Thank you for your time. Any questions?

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation. We’ll commence now with questions from the official opposition. Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. So basically, in summing up, you’ve had a very positive experience. In your opinion, would you say the great majority of temporary help agencies are doing a good job and both employees and the companies are good businesses? I guess I can put it that way.

Ms. Londa Burke: Absolutely.

Mr. Norm Miller: So it’s the minority, and as I think a previous presenter said, this bill is going to negatively affect all the businesses instead of going after the few bad apples.

Ms. Londa Burke: Absolutely. It will really hurt our temporary help company, along with thousands of others in Ontario.

The Acting Chair (Mr. Joe Dickson): Thank you very much. The third party, Ms. DiNovo?

Ms. Cheri DiNovo: There are no questions. Thank you for your deputation.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I will go to the government.

Mr. Vic Dhillon: Thank you for your presentation. Does your firm charge temporary-to-permanent fees?

Ms. Londa Burke: Actually, rarely. I won’t say no. Most of them, it’s anywhere from six weeks to 20 weeks, depending on their skill level, and we do not charge a perm fee for those positions. The only ones where we would charge a fee, and it’s pre-negotiated in advance, would be for higher-level positions. But for entry level work, absolutely not.

Mr. Vic Dhillon: What type of testing do you do to recruit?

Ms. Londa Burke: What type of testing? It depends on the skill level and the position. If it’s labour positions, for instance, we have some labour types of testing. If it’s for clerical and that sort, we might put them on Word, Excel, a clerical test and so forth.

Mr. Vic Dhillon: You mentioned your mark-up is 50 cents to \$1 per hour, but in the deputations we’ve heard today and the previous day, we’ve heard examples where permanent employees are earning \$26 an hour and a temp employee is earning \$13 an hour; a permanent employee is earning \$16 an hour and a temp employee is earning \$9 an hour. Why such a large spread? What’s your gross margin? Fifty cents to a dollar: Is that a gross amount?

The Acting Chair (Mr. Joe Dickson): I’ll give you 30 seconds to answer that.

Ms. Londa Burke: That’s after we take out all the burdens that we have; we’re left with 50 cents to \$1 per hour.

Mr. Vic Dhillon: That’s your profit?

Ms. Londa Burke: Yes.

Mr. Vic Dhillon: What would be the gross?

Ms. Londa Burke: A good question. Maybe about—

Mr. Vic Dhillon: On average.

Ms. Londa Burke: On average, it's maybe half of that—I mean, double that, probably. It depends.

Mr. Vic Dhillon: So \$2?

Ms. Londa Burke: Maybe. Well, I don't know that answer, I hate to tell you. I don't want to say something and just come up with it, but I can tell you that we make very little every month; in fact, in some months, negative numbers. So we don't make money.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your question and answer. Thank you for your presentation. Excellent.

HOMEWATCH CAREGIVERS

The Acting Chair (Mr. Joe Dickson): Our next presenter is Homewatch CareGivers, serving—it sounds like a commercial—Burlington, Oakville and Mississauga west. Scott McNabb, president and owner. Welcome, sir.

Mr. Scott McNabb: Good afternoon. I'm Scott McNabb, president of Homewatch CareGivers in Burlington, Oakville and Mississauga. Thank you for providing me this opportunity to address you today on this important issue.

Homewatch is very supportive of the Ontario government's initiative to promote and protect employment rights and to correct specific situations in sectors where workers are not being fairly treated.

I'd first like to mention that I have read the Ontario Home Care Association's submission and I fully support their comments and recommendations, and I'll limit my comments to four key issues.

First of all, I wish to emphasize that home care service providers provide valuable and specialized services, and we're not just employment placement agencies. We provide a wide range of services to clients, many of whom are in the vulnerable sector of our communities. These services can include regulated health care professional services, such as nursing; personal care services, such as bathing, dressing, toileting; and home support services, such as healthy meal preparation, companionship, transportation and light housekeeping.

Our caregivers are specifically trained for specialized services such as Alzheimer's care and palliative care. Our clients engage us because they require our specialized care-related services. The services that we provide are based upon personalized home assessments, a consultative process with the prospective client and their family members. The care plans are designed to specifically meet the needs of the client and be flexible—to provide services when and where they are required. The flexibility in the range of our services and the flexibility as to when the services are provided enable our service to be cost-effective and affordable for those we serve, and to provide the best value to our clients.

Our mission is to preserve dignity, provide independence and provide peace of mind for our clients and their loved ones by providing exceptional home care service. In order to do so, we hire the very best caregivers to provide these services. The caregivers are our employees. We take our responsibilities to our clients very seriously, as they are part of the vulnerable sector of our community—seniors, disabled individuals and young children.

Homewatch CareGivers is accountable to our clients for the performance of our caregivers, and the caregivers are accountable to us for their performance. Homewatch CareGivers is also responsible for protecting both clients and caregivers. Our caregivers are well trained in the safe delivery of our services and they are bonded. With respect to our caregivers, we provide extensive training to help them work safely, we provide WSIB insurance coverage and also we pay our share of CPP and EI obligations.

"Home care providers are not 'temporary help agencies' that supply and assign employees to a 'host' employer. There are identifiable differences between the structure of the temporary help agency and the home care provider."

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As I mentioned, our caregivers are our employees. They are our most valuable resource and the core competitive strength of our company. We seek caring and capable caregivers who possess the highest

level of integrity. We diligently train and motivate our caregivers, to ensure they have the skills to work safely and productively.

Each caregiver undertakes a thorough orientation program where their rights and their responsibilities are clearly and plainly provided. We also provide extensive training in specialized care, such as Alzheimer's and palliative care, as I mentioned.

Each caregiver is given a comprehensive care book for each and every assignment. This care book is complete with the client's living co-ordinates, the care plan, which outlines the services that they are to provide, a log for when they arrive and depart, emergency policies and procedures and the client bill of rights.

In order to meet the needs of the client, our care plans need to be flexible and designed to provide services when and where required. We provide services 24 hours a day in discrete segments. We could be contracted to provide services for eight hours from 10 p.m. to 6 a.m. to provide palliative care for a client in their home or three hours one Monday morning to permit a caregiver some respite, and then again Thursday evening. Flexibility is the key in our industry. We provide our services in private residences, retirement homes, long-term-care facilities and hospitals—wherever our client resides. In order to provide this flexibility, we look to employees who are mobile and flexible in their preferred work schedules. Many of our employees work part-time and stipulate the hours during which they would be available. It's a symbiotic relationship that works well for our caregivers and our clients. For example, a young mother may choose to work only evening hours when her husband is home and available to care for their children, or alternatively, a student who is looking to earn wages to support their education may only be available to work during the weekends.

We seek to hire, train and retain capable career employees. In the vast majority of cases, where a caregiving assignment is disrupted, it is due to the change in client circumstances, such as death or transfer to a long-term-care facility; or by a change in the caregiver's circumstances, such as moving to a new city or returning to school for further education. In both scenarios, the change is beyond our control. We do, however, adjust and adapt quickly to provide continued employment for all of our caregivers through obtaining clients in a competitive market.

I also wish to note that the private home care services sector is helping the Ontario government achieve its goals in transforming Ontario's health care system and, in particular, implementing the aging at home strategy.

I will quote the OHCA's submission. I think it is very well stated:

"All home care services enhance quality of life, are cost-effective and prevent unnecessary hospitalization, emergency department admissions and premature institutionalization, thereby serving the broader goals of the Ontario health care system.

"All home care providers in Ontario, regardless of the type of funding source, bridge the gap between the various settings of health and social care, including acute care hospitals, emergency rooms, supportive living, long-term-care facilities, hospices and the physician's office. These close linkages meet the client's needs in an individual and comprehensive manner and go well beyond physical and mental health care to engage social supports as well."

I would also like to acknowledge that we're fully supportive of the exemptions that are afforded to individuals providing professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994, if they—or their employer—have contracted with the community care access centre under the Community Care Access Corporations Act, 2001.

We wish to highlight, however, that the private home care services sector provides identical services to those providers, to the same vulnerable sector throughout Ontario.

The exemption to these individuals who have contracts with the CCAC creates a significant competitive disadvantage to the private home care providers, not only to us but to other reputable providers

throughout Ontario that are not contracted with the CCAC. This disconnect provides yet another impediment to the health and vitality of the private home care services sector.

Homewatch CareGivers is also very concerned that the provisions in Bill 139 could significantly increase the cost of providing caregiving services, the implication of which would be to either adversely impact the financial well-being of the home care service providers or increase the cost to our clients, namely seniors, the disabled and children—all of whom are members of the vulnerable sector.

As a footnote, I'd like to mention that the recent regulatory change in the holiday pay had the impact of increasing our payroll costs by 4% and will likely increase the cost of our payroll throughout 2009 by 3.3%. Further to this, the recent harmonization sales tax proposed by the Ontario government could increase costs to our clients by another 8%. Homewatch CareGivers strongly recommends to the standing committee that private home care service providers be provided the same exemption as that afforded to individuals providing professional service under the Long-Term Care Act and who are contracted by the CCAC.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today here, sir. We appreciate it.

ALTISHR

The Acting Chair (Mr. Joe Dickson): The next presenter is altisHR, Kathryn Tremblay. Welcome.

Ms. Kathryn Tremblay: Hi. I'm Kathryn Tremblay. I'm with altisHR, and I started my business in 1989 in Ottawa with \$750 at 21 years of age. I've invested my life building this business. It's been an incredibly wonderful experience. Our company turned 20 years old this month—and yes, I just gave you my age—but we were named among Canada's 50 best-managed companies in 2006 and have requalified every year since then.

We have 2,000 temporary employees on assignment every day in Ontario and 100 permanent employees. We are the largest supplier of staffing to the federal government in Ottawa and also among the leading suppliers to the provincial government.

Before this committee decides on the fate of our industry and on the fate of my business, I am asking you to seriously look at this bill. What concerns me gravely are some of the comments I've heard today. Contrary to what the president of the auto workers' union said—that temporary workers are paid 40% less—this is absolutely inadequate for our 2,000 workers. Our employees who are temporary earn between \$15 and \$75 an hour. Our highest-paid makes \$100 an hour or \$1,200 a day normally. Our workers are professionals. They're administrative candidates, from secretarial to accountants. These are not all these low-wage workers under these circumstances; they are highly remunerated, and they have very specialized skills.

In the private sector, about 38% of our candidates become permanent as a result of our temporary introduction. We get them their foot in the door. In the federal government, about half of our temporary workers are offered terms and casual employment after we've introduced them to these experiences. We process 6,000 security clearances every year in order to help our candidates get their foot in the door to the federal government. We offer this service for free, and we try to support their ability to get that foot in the door.

What has horrified me in this process, listening to all of this, is that our sector is being made out to be some kind of villain. We are absolutely the contrary to that. We are not fraudulent; we are certainly not fly-by-night. We have 20 years' experience, and we have wonderful employees who care every day about what they do.

With the continuance element, which has concerned me gravely, the responsibility has now shifted to us to be responsible for a temporary worker for 35 weeks after they finish. This will be so onerous to our company that we will have to shut down. I am hoping not to have to go out of business.

Specifically, our average assignments last 18.81 weeks. Based on applying the rules, it would take us 22.8 weeks to actually break even on our assignments. That means that we would lose 0.7% on every

candidate that we place on an 18-week assignment. We would not be able to stay in business under those circumstances. Or we could pass on the cost to our client, the client being the employer. As Kelly Harbridge from Magna said, I don't believe any company in Ontario right now can absorb an extra 5% or 6% cost for a temporary worker. This is not the time for us, in this economy, to go to our client and say, "Oh, by the way, can you pay another 5% or 6%?"

1700

Our company is down about 21% in sales as a result of the economy and we've had about four or five clients close their doors since January. We are certainly not hoping, under these conditions and with this bill, to now go back to our client and say, "Can you handle an increase?"

There is no other business with this legislation; there is no other jurisdiction with this legislation. Quebec and Alberta have looked at similar legislation and have struck it down. We would certainly like you to re-look at this element because it's not even clear to many people how it will be applied. We have spoken with our legal team and the legal team of ACSESS, our national association, and no one seems to have the exact same interpretation of the bill. We believe that each person at this table needs to seriously look at the effect on business before making this decision.

Every economy relies on temporary workers. In our experience, within our clients, 95% of their workforce is permanent, and 5% of their workforce or less is temporary. That temporary workforce shrinks and grows and increases or decreases as it needs to, based on their own requirements. By introducing this bill, it will make the Ontario economy less competitive and it will slow the recovery. I don't understand why this government would want to slow the recovery of this province.

The temporary employees that come to us now—we help them every day. We provide them training, we provide them jobs, we provide them advice, and we put food on their table. We pay them every week, with no holdback. We are an excellent employer, and those people who are out of work that are permanent and now need work come to us and we place them in jobs and introduce them to new opportunities.

When we go away and when our industry's been annihilated by this bill, I'm wondering who's going to help these temporary workers find work. Who is going to do that? Are they, these new Canadians, now going to send their resumé to 100 companies, 500 companies or 5,000 companies? This is not feasible for the average person. Instead, the employer comes to us, we do the selection, the testing, the reference checks, the training, and we introduce them to that opportunity. This bill will hurt those vulnerable workers. How is it that that new Canadian is going to know what 1,000 companies to apply to for that one-month assignment to get their skills kick-started in this economy? What we're suggesting is that you deal with the fly-by-night companies. I don't know who they are, but if you do, please send your labour police in there and shut them down. Don't shut down the 99.99% of the wonderful companies that are providing jobs in this economy.

What I have been deeply upset with is that for 20 years I'm paying taxes, I'm employing people, and you're going to shut me down. I absolutely would like to know from each person here if you would be willing—this is a personal invitation to you—to come to my company, come and meet my employees, meet my temporary workers, meet my clients. Once you've done that, you will realize that the effect of this bill is too negative to continue with. Now, if there are elements of it—and I understand there are some that are good; fine. But please, at least look at continuance of employment as a major area that needs to be edited.

The Acting Chair (Mr. Joe Dickson): We have exactly two and a half minutes, so I will give you 40 seconds each, commencing with the third party.

Ms. Cheri DiNovo: Thank you for your presentation. You said that a number of your employees, your temporary contract employees, are placed with governments, federal and provincial. I've asked others this: How many temporary employees do you think the province, in terms of the percentage of their workforce, has at any one time? We're having a difficult time—

Ms. Kathryn Tremblay: It's quite low. The Ontario government used to spend \$100 million on temp help; it now spends \$25 million. It has actually reduced its requirement quite a lot. It is, I think, streaming its own cost, which is probably a good thing, and also hiring permanent workers. So we've found that it's reduced quite a bit. If you look at your entire payroll, I think you could easily come up with that number—your entire payroll and then looked at \$25 million. It's probably 1%, maybe 2% of your workforce, but certainly not more than 2%.

Ms. Cheri DiNovo: No more than 2%. Okay. Thank you very much.

The Acting Chair (Mr. Joe Dickson): The next speaker is Member Delaney.

Mr. Bob Delaney: Thank you for an excellent deputation. Congratulations on 20 years in business. I was very impressed with the grasp that you had on the detail of your market and your business.

A couple of quick questions: What's your gross margin today?

Ms. Kathryn Tremblay: You'd have to look at every single temporary worker and break it down by sector—

Mr. Bob Delaney: As a company.

Ms. Kathryn Tremblay: —whether it's professional or administrative. I don't think, as a private firm and an independent, that I would want to talk about that at this hearing, not because it would be—you'd have your pay rate, plus your direct costs, plus your operating costs, and then profit. Most of our sector earns between 2.5% and 3.5% profit.

Mr. Bob Delaney: Do you charge temp-to-perm fees?

Ms. Kathryn Tremblay: Yes, we do, and our clients find that less expensive than going about it on their own. They find it more effective to pay us to put a temporary person in to convert them to perm than to go out and put an ad in the paper.

Mr. Bob Delaney: A last quick question: Do you provide—

The Acting Chair (Mr. Joe Dickson): Thank you very much. The next question will be by Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you very much for your presentation. I certainly agree with your philosophy in general, about dealing with the bad apples versus the 99% of the businesses that are not trying to break the rules and are responsible companies. I guess a couple of things: Why do you think your particular industry, temporary help agencies, is being vilified—I think that's what you said—and should there be different rules for your company versus everybody else out there? Or does the Employment Standards Act cover you well enough?

Ms. Kathryn Tremblay: I don't think our sector should be addressed separately, no. I think all businesses should have the same general practice rules. In general, these rules just don't make sense for our sector. It hasn't been looked at from a business standpoint, and so, no, it doesn't make sense. It will shut us down, and shutting down the temporary help sector in Ontario certainly doesn't make any sense at this point in time in the economy.

Mr. Norm Miller: So why are you being vilified—

The Acting Chair (Mr. Joe Dickson): Thank you very much, Ms. Tremblay and Mr. Miller.

Ms. Kathryn Tremblay: I don't know.

The Acting Chair (Mr. Joe Dickson): We appreciate your presentation.

Ms. Kathryn Tremblay: Thank you.

The Acting Chair (Mr. Joe Dickson): It's good to have you here.

FERNANDO DE PASQUALI

The Acting Chair (Mr. Joe Dickson): Our next presenter is Fernando De Pasquali. Welcome. Please introduce yourself and your guests. You have 10 minutes, sir.

Mr. Fernando De Pasquali: Hello, committee members. My name is Fernando De Pasquali. I'm here with Mike Rafuse and Danny Lynch, who are here to support me on my opinions.

I'm a laid-off worker, and so are my friends here from Oshawa. I'll tell you why there's no way I would ever go to a temp agency to find work: I have a problem with the six-month exception. Why is it that an agency is allowed to just toy around with a hard worker and charge whatever fee they please, terminate as they please, pay or not pay severance as they please, so that every time a worker has a chance, and knows that he has a chance, as he gets closer to the end of the six-month period, to earn a better wage, the agency is then allowed to just pull the plug or relocate, or title you "elect to work" and leave you jobless?

Why is it that a worker must pay a fee to get a permanent job? If you ask me, that's not a very good labour law exception. If it is prohibited or illegal beyond the six months, then that's not prohibited or illegal, now, is it? If it is illegal, it should remain illegal from the start of the contract to the end of the contract. Why should I pay a company for me to get paid? Not only is a worker making 40% less than their co-workers, but he also has fewer benefits.

The agency exceptions, I think, undermine the labour laws. They create insecurity, income instability, precarious work, human rights violations and poor work standards, whereas a worker who never gets a chance to earn a decent wage will be exempted from poor work standards, and this exemption allows the agencies to pretty much use and abuse you within that six-month period.

I have an example I'd like to talk about. I have a friend whose wife is a part owner of one of these companies, and this is what she did: When she started the agency, she had contracts with the client company where the wage of a full-time worker was \$14 an hour. She would, at the time, charge a fee of \$4 an hour for every hour worked for her company's services, leaving the temp worker at a \$10-an-hour wage. But then, when the agency became bigger and she had more temp workers on contract, she decided to raise the fee to \$6 an hour for every hour worked, leaving the temp worker at a minimum wage of \$8 an hour. That was three years ago; who knows what the fee is up to now?

How is it that an agency is allowed to take a good- or a decent-paying job and make it into a minimum-paying job? How would you feel, committee members, if your boss decided that he needed to make more of a profit, so he splits the committee in half? Both sides still have to do the exact same amount of labour, but one side's wages will be charged a fee of almost half your wage? Let's say you go from \$80,000 a year to \$40,000 a year because your boss has been given the power to extract \$40,000 per year from your wage. Would you consider that fair or unfair? If it happened to you, wouldn't you agree that this exception to the rules should be illegal? After all, you're doing the same job as your co-worker, so therefore you deserve fair and equal pay, but you can't do anything about it because the labour law has accepted this provision and made it an exception to the rule. Is that not undermining labour laws and human rights?

1710

Temp agencies believe that Bill 139 will reduce jobs, but I believe that these agencies are not creating jobs in the first place. They're supplying temporary labour. If you ask me, a worker is simply being hustled out of their income potential.

Not only that; just imagine again, committee members, if your boss decided to place you somewhere and did not give you any information on where you're going to work, how long, with whom you're going to work and how much you're going to be making, while at the same time making you sign a contract without any clarification on holiday pay, benefits, wage or termination pay. Would you then accept the job? I know I wouldn't. Therefore, it would leave the door open for a hard worker without the knowledge or awareness of how temp agencies work. That person will sign a contract and be hustled out of their hard-earned cash. The whole purpose of employment standards is to recognize the power imbalance between employers and workers. Bill 139 should ensure that it brings temp workers the same equal rights as any other worker.

Another topic I'd like to talk about is the responsibilities that a client company should take on. The way it stands now, if there is a health and safety concern, there's nothing a temp worker can say or do

because the client company will not take responsibility for a temp worker. If there's sexual harassment, again, the worker is left in the dark. Or simply being mistreated or overworked, there's nothing a temp worker can do because of the title of the work—temporary work. Is that not a human rights violation? How would you feel if you were being harassed or discriminated against, and you contact the supervisor of the client company, and he tells you, "Sorry, bud, there's nothing I can do for you. We're not responsible for you"? Is that not demoralising? It would be to me, and it would lead me to want to quit the job. If you're working in a company, that company should be responsible for any worker who is under their roof, whether temp or full-time. What would happen, then, if there's a fatal accident on the job site? Is the compensation to the family simply brushed off because the worker is a contracted temp worker?

Giving the client company the right to refuse any type of severance pay: How in the world is that legal? You know, a lot of people wouldn't quit like I would under these standards. Some people won't, like the ones who went to these agencies for a first job, who have no idea about labour laws or rights. These are some of the people that these agencies will take advantage of, the ones who are unaware and don't know any better. I believe this is how they have tripled in the last 15 years, making billions off workers' hard labour.

I think we should follow in the steps of provinces like BC, Alberta, Manitoba and Nova Scotia. I recommend that you make fees illegal, for fairness and protection for the worker. I also recommend that agencies should be required to provide workers with the proper and clear information on job description, job site and how long it will be for.

I recommend that you remove the six-month exception to prohibitions on barriers to employment. If you were to ask me what I would do to rectify this problem, I would either charge a one-time fee or no fee at all because it would be better than taking away part of their wages.

We had a gentleman here earlier who said they had 35,000 temp workers under contract, and 16,000 of them were in Ontario. That should tell you right there that the exceptions are too lenient in Ontario. These companies are able to give donations and do charity because they have taken part of a worker's hard-earned wage to make this possible. Without these changes, Bill 139 is not a step in the right direction, except in the eyes of an agency because all they care about is their profit.

If anything, it's a step backward. So these companies, again, use the wages of a worker to pay for their own advertising and business costs, as was said earlier.

The charge should not be variable, either. It should be a flat fee or no fee at all. Just the fact that none of these companies can tell you specifically what percentage a fee is—I see that as a problem.

You also asked a lady earlier how it would affect the agency. What she came up with is that it would affect the flexibility. I don't think it's the flexibility that would be affected; it would be their profit, and that's what they care about. Also, another person said earlier that sometimes they don't pay severance because a temp worker would not contact them. He also said there's no way a company can keep track or contact their employees. How's that possible? Do they not sign the contract with the name and address of their employee? That's just a poor excuse, if you ask me. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you, Mr. De Pasquali. We have exactly 22 seconds left, so I won't entertain any questions. But thank you for your presentation and for the guests who are here with you.

OAKVILLE AND DISTRICT
LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): The next presenter is Oakville and District Labour Council. Welcome.

Ms. Norma Pennington-Drabble: Good evening. Thank you for allowing this presentation this evening. My name is Norma Pennington-Drabble, and I'm the second vice-president of Oakville and District Labour Council and the political education chair.

Bill 139, Employment Standards Amendment Act (Temporary Help Agencies), aims to remove barriers to permanent employment and protect the rights of vulnerable workers. The province wants to ensure legislation reflects the realities of today's workplace and labour market in a balanced way.

In terms of background, what is a temporary help agency? The Ministry of Labour employment standards fact sheet defines a temporary agency as a company that sends its employees on temporary work assignments to its client businesses. The temporary help agency is the employer for the purposes of the Employment Standards Act.

Over 700,000 people in Ontario have temporary jobs, employed through over 1,000 temporary help agencies. This is worth \$8 billion a year to Canada, with 57% of that in Ontario. The sheer number of those involved in temporary work and the probable increase in these numbers in our uncertain times demands protection of these workers.

The province of Ontario has protected all persons in the Human Rights Code, stating:

"And whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the province...."

In terms of the background, I'd like to skip now to what the amendment act, as it was tabled in December, actually says. It establishes that the temporary employees are covered by the Employment Standards Act. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. When a temporary employee is assigned to work by a temporary help agency, that agency is the person's employer, and this person is an employee of that agency. The act, as it stands, ensures that temporary workers are aware of their rights under the Employment Standards Act. It prevents temporary help agencies from charging workers for resumé writing and interview preparation. It ensures temporary workers have some information they need about assignments, especially pay schedules and job descriptions. It enables temporary employees to have termination and severance pay rights that align with the rights of permanent employees.

1720

When offering a work assignment with a client, temporary work agencies will have to provide the legal operating or business name of the client; client contact information, including address, telephone number and at least one contact name; the hourly or other wages or commission and benefits associated with each assignment; the hours of work for the assignment; a description of the work to be performed; the pay period and/or pay date established by the temporary help agency.

That's as it stands. You'll notice it doesn't say that the temporary help agency has to say where the work is located.

The temporary agency workers and their employers are covered by the following legislation: the Employment Standards Act, Ontario Human Rights Code, Occupational Health and Safety Act, Workplace Safety and Insurance Act, Employment Insurance Act, and Labour Relations Act. You'd think that would be enough.

Our position is that although we support Bill 139, the Employment Standards Amendment Act (Temporary Help Agencies), we feel that the following amendments would strengthen the rights of these most vulnerable workers, and prevent the perception that the Ontario government allows and condones discriminatory practices against workers.

The Ontario Human Rights Code states:

"Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences...."

The key here is that “Every person has a right to equal treatment with respect to employment.” It doesn’t say in the Human Rights Code that if you work for a temporary help agency, you’re excluded from these rights. It includes everyone.

What needs to be improved in Bill 139:

Home health care agency workers: Due to the Ontario government’s removal of the “elect to work” exemption for public holiday pay, which occurred on January 2, 2009, health care workers employed by agencies under contract with the community care access centres are now paid for public holidays, either in lieu time or pay at time and a half.

For some reason, community care access centres have been given an exemption on providing rights on termination and severance, allowing discrimination against professionals, personal care and homemakers who work for them by denying access to termination and severance benefits for three years, to 2012. This exemption should be removed.

As it stands, Bill 139 gives the temporary help agency industry six months to comply with termination and severance requirements once the bill is passed. The home health care industry should have the same six-month implementation date as temporary help agencies.

Regarding information provided to workers: As I mentioned earlier, there are a couple of things missing there. The information provided to a worker about an assignment originates from the temporary help agency, which obtains this information from the client company, and is the only information a worker receives. The information required under Bill 139 is an improvement but does not go far enough.

In order for agency workers to clearly understand the nature of the assignment offered and organize their working lives, they need to be given the following information: the company name; company contact information; the location of work, so that they can plan how to get there and how long it will take; the rate of pay; the pay period; overtime hours and the rate of pay for overtime; hours of work; start and end date of an assignment, so they can plan where they want to go next; and a general description of work.

This information should also be dated and signed by both the temporary help agency and client company representatives.

A worker should also receive a pay slip showing the name of the worker, the pay period, hours worked and rate of pay, overtime hours worked and rate of pay, gross pay, net pay, vacation pay, employment insurance deductions, Canada pension plan deductions and tax deductions.

There should also be a transparent process for revising the terms and conditions of employment with worker and agency involvement.

You may think it’s surprising to hear that a pay slip such as the one I’ve described is not issued.

Regarding barriers to permanent jobs, a company should not be charged for hiring a worker from a temporary help agency during the first six months of an assignment. Surely, the purpose of taking temporary work is in the hope of being hired permanently. Charging a fee for hiring such a worker would only serve as a deterrent to the client company. Agencies are paid for the services of providing labour to client companies in the fees charged for each hour worked. We should not be erecting any barriers to permanent jobs for temporary help workers.

Bill 139 will prevent temporary help agencies from charging fees for registering with the agency, getting work assignments or any other services for temporary assignments, and will allow temporary help workers to file claims at the Ministry of Labour to gain redress for illegal fees that have been charged by the agency.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, Ms. Pennington-Drabble. Thank you.

Ms. Norma Pennington-Drabble: Interestingly enough, the Association of Canadian Search, Employment and Staffing Services’ code of ethics states, regarding charging workers for services, “We will derive income only from clients and make no direct or indirect charges to candidates or employees unless

specified by a licence.” And pertaining to barriers to employment, “We will not restrict the right of a candidate or employee to accept employment of their choice.”

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today.

ASSOCIATION OF PROFESSIONAL COMPUTER CONSULTANTS

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Association of Professional Computer Consultants. Welcome, sir. You have 10 minutes.

Mr. Frank McCrea: Thank you. Good afternoon, ladies and gentlemen. I’m speaking today on behalf of the Association of Professional Computer Consultants. We are an association of approximately 1,000 computer consultants who make our living by working on contract, and this legislation directly applies to our livelihood. I want to thank the committee for the opportunity to make our thoughts known. I believe it’s important to note that this is our first opportunity to do so.

In brief, I’m engaged in the staffing industry; I’ve been engaged for quite a long time and give freely of my time in support of that industry. A recurring theme in my presentation today will be that the staffing industry is the oil of the Canadian economy, and I have outlined some of the reasons why that is so: just-in-time labour, optimum allocation of scarce resources, points of entry for new Canadians and new workers, and other points, as noted on page 3 of my submission.

Labour is fast emerging as Canada’s most valuable renewable resource, and I’ve noted some of the reasons, beginning on page 4. I cannot overstate the importance of that role. As the US raises its barriers and Canada welcomes the global community, high-tech labour has somewhere to go now, and the emerging trend is that it’s coming here from India. One factor is our dynamic staffing model.

A common goal of the private and public sector is to facilitate the growth of the economy. We should be working together toward that goal to create jobs and economic prosperity, not to frustrate it and not to reduce job opportunities. It is predicted that the IT sector in Ontario will need between 59,000 and 84,000 new positions over the next five years, and I’m here today because I fear that the elements of the proposed legislation will function as grit to the oil which the staffing industry provides.

While I have sympathy for the individuals who are victimized, I should point out that there’s a low barrier of entry to this industry. Virtually anyone could enter it, and in this day of online communities and websites, anyone with creativity could make themselves look larger than they really are.

My comments are in three parts: conversion, continuance of employment and applicant profiling.

On the topic of conversion, it is my understanding that the provision is being proposed with the goal of removing an obstacle based on the assumption that it will make it easier for a person to switch from working under contract to secure full-time employment. This assumption is false. Has it been considered that the fee might just be a convenient excuse for the company not to hire the person? Remove this excuse and they’ll just find another, such as, “I don’t want to hire your person because the agency won’t supply my people.” The excuse works both ways, with our members commonly hiding behind the fee when they don’t want to work for the client.

Contract staffing is simply the application of the lease vs. buy decision to labour. The analogy is consistent and the same issues apply. There are a lot of factors which contribute to a reason why a person chooses one option over the other, just as there are a lot of reasons why some people lease their car as opposed to buying their car.

Figure 1 of our submission presents the parties to a contract engagement. It shows the contractor, the agency and the client. The Employment Standards Act applies to the relationship between the employee and the individual. Using the ESA to micromanage contract revisions that would apply to an agreement between two corporations is improper. It would make Ontario the only jurisdiction in the world to do so, and this is not a good point of differentiation. There’s always the element of risk in these relationships. If an agency was the supplier to Nortel: the employees were paid; the agency lost money.

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There's a fundamental need for anti-conversion clauses in contracts. No one can predict all the scenarios, so I'll just give one. The contractor is an employee of the staffing firm. After six months, in the absence of such a clause restricting conversion, the client sees the financial benefit in hiring the contractor directly as an employee and paying some form of bonus to the employee. The systems integrator or staffing agency is left out in the cold with no opportunity to recoup all their investment in standby charges and training. How many times might this happen before the SI stops investing in training people?

Costs: Figure 2 differentiates the activities associated with contract versus full-time placement, and it highlights a number of aspects of that differentiation. Contracts are capital-intensive and have a lot of burdens and risks, which consumes the margin, so the profits are low, as other people have said earlier. Our contracts are not short-term, typically. The potential negative financial impact is large. We're dealing with large corporations, and protection of our contracts is needed. Agencies, we have to say, need profits so they can get the jobs for us and our members. The profits from contracting are presented in Figure 3. Once you allow for the cost to service the contract, the margins, even before commissions, have a level of 10%. It goes down from there.

One of our concerns is that agencies might find different ways to restructure their services. Perhaps they will bid projects. Once they have done the hard work of defining their project and completing it, they can then shop them offshore. So jobs that used to be here will go away. It's very common. In the United States, \$790 billion of business is outsourced annually. An escapable result will be the exact experience of the US loss of jobs.

When I read the legislation, I saw no reference to rate thresholds or terms which excluded my sector in the market, and until I see otherwise, I will share the concern that the concerns of the temps will apply to our sector as well. You will be removing an obstacle to employment, yes, but you will be removing an opportunity to be employed and jobs will be lost.

Continuance of employment: It was explained to me that the goal to make matters clearer removes some of the complexities. Having read the legislation, I doubt that's the case. Currently, a part-time worker needs to work both the day before and the day after a stat holiday in order to qualify for pay. The proposed condition will put part-time workers on one model and agencies on another, the difference being an additional cost to the agency. The incentive is, therefore, to have the client hire individuals directly and not use an agency. Clearly, someone at the CCAC became aware of this provision and told the government that if it was implemented for health care workers and their agencies, the entire business model for care in the home that the Ministry of Health is implementing would crash. I've been told that, in addition to health care workers, government bodies will be exempted from the legislation as well. Government jobs are quite attractive, so I have to ask why the government would retain these alleged barriers. Can someone perhaps explain why temporary government workers will not have the same rights and opportunities as temporary workers outside? Surely the Ministry of Labour would not want these workers to be disadvantaged, if such is the case.

The bill is silent on an emerging and troubling practice. US firms commonly request details which enable a reviewer to identify an individual's nationality or country of birth. Our association suggests that the legislation be adjusted to prevent client companies or their agents from requesting these data elements, which can be used to identify an individual by nationality or gender. The individual and/or his representative must be able to satisfy the fact that they are able to work in Canada, which is to say that they have the proper documentation and approvals. It's proposed that the items listed in our submission be made prohibited from being used.

Labour is a major cost component of any corporation, and any increase to cost translates directly to reductions in volume that will hurt the contractor community. Just as investors flee risk, I fear that employers and agencies will flee risk. If they do so, my membership will suffer, job opportunities will be lost and rates will increase. I can simply caution everyone to be aware of unintended consequences. I

suggest that once you think of the staffing industry in the view of oil for Canadian business, optimizing access is the view to have.

I ask this committee to hearken back to the Harris government's extension of the retail sales tax to contract services in 1997, and the lessons learned by that misstep. One simple phrase, that a computer program was tangible personal property, raised costs and applied the retail sales tax and resulted in thousands of jobs leaving the province. It was a good intention with unintended consequences, which linger to this day.

The recommendations are included in the written form of my submission.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. McCrea. We have exactly 52 seconds. Is there anyone here who can ask a question and get an answer within 52 seconds? Mr. Delaney.

Mr. Bob Delaney: Having done some IT work myself in my time, the benchmark that we always look at is about 10 days of professional development a year. How do you handle professional development in the business that you serve and who pays for it?

Mr. Frank McCrea: Individuals are responsible for their own professional development. They're paid a reasonably significant premium over salaried employees, and that funds that cost.

Mr. Bob Delaney: There's a shortage of about 50,000 such people in Canada right now. This should be a seller's market. Are you worried about the ongoing viability of your business?

Mr. Frank McCrea: No; we're importing people from Brazil.

Mr. Bob Delaney: Okay. Thanks very much.

The Acting Chair (Mr. Joe Dickson): I actually have 10 seconds. I would then go to—
Interjection.

The Acting Chair (Mr. Joe Dickson): Are you sure? I thought I had the Tories—if Mr. Miller passes, we'll go to Ms. DiNovo.

Mr. Norm Miller: If I can sum up, then, to do with the conversion—you're in favour of having fees. You don't see a problem with the fees that are going to be, I guess, outlawed in this bill; you have a problem with the continuance-of-employment provisions and you're asking questions about the CCAC exemption, saying, "Well, the government figured out it was bad for them, so that's why they put that exemption in." Is that correct?

Mr. Frank McCrea: There's a correlation between margin and conversion. Some companies prefer to have a low margin, i.e., have the agency reduce their fees as low as possible, and then they don't care about the conversion—with the conversion fee high at the end; other companies are prepared to pay a higher margin and have no conversion fee. It's all part of a give-and-take process between corporations.

Mr. Norm Miller: So it should be left to—you don't have a problem with that variability?

Mr. Frank McCrea: I see no benefit—

The Acting Chair (Mr. Joe Dickson): Thank you. I'm going to have to call the presentation time. I appreciate that very much. I'll start with you in the next round, Ms. DiNovo.

BRIAN VAN TILBORG

The Acting Chair (Mr. Joe Dickson): The next presenter is Brian Van Tilborg. Welcome, sir.

Mr. Brian Van Tilborg: My name is Brian Van Tilborg. I come from Brantford. I appreciate you putting on this committee so that I can get my say. The people of Brantford, many of them, want me to send a message to you, and that is, not to let what happened in my community spread to all the other communities in this province. Brantford's been inundated with temporary employment agencies to a level that you probably cannot imagine. I could only wish that the stories of help that these agencies have been portraying here were true.

The people who can help those workers are you, right here, and this bill is just one small step in doing that. This is not going to put one single agency out of business, no matter how much they say that. The reason is, they can tell you what their margins are here, but these presidents, vice-presidents, some of their financial people who have come in here and presented, their employees who speak as if they were

general workers who have been out in the workforce but actually work for their agency—that's how they found their employment, and they do payroll—they seem to lose track of what their gross is.

I know what's happening in my community. During a period of expansive growth before this downturn, we saw agencies popping up. You know what? We had agencies for a long time, but there were two, three, four. We're not a very big place; we're very small. A plant of mine closed down in 2007 and at that time, there were 10 agencies. A month later, there were 11; two months later, there were 13.

Before the year was done, there were 20, and the year after that, we were up to 26.

I have an adjustment centre. I do try to help people. It's hard work to get that work done effectively, and it's near impossible sometimes, because what those people have told you, when they say 99%—because it's not even 70% in our area; it's like, 90%. You can check that out. That's on government websites every day, if you want to go on Service Canada.

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The gatekeepers to those jobs are the employment agencies. When I heard those figures of 15% and 20% as the floating workforce—maybe at one time, but the companies that hire today, in a place that has 1,000, when you have 700 full-time permanent and definite temporary employees working for many different agencies under one roof, that's what you guys are looking at for the future of your labour market.

I want you to seriously consider that, because I'll talk about this company without naming it, but I will give you this little tidbit. In my industry, a forklift driver probably either went out to pasture or was a hustler, because we were in just-in-time production, but it was the lowest-paying job in the place. In other words, if you had seniority, it's what you wanted to get on the forklift job, and if you wanted to move and move the goods, you got on the forklift job. That was the lowest-paying job and that was probably about \$19 an hour.

A new company came into town and it was, "This is going to be great. They're providing lots of jobs and that job is going to pay \$17 an hour." Well, I'll tell you what: If you were at the bottom, and your job was forklift driver and you were making \$18 or \$19 an hour, and you lost your job and within weeks you could go to another place for \$17, you would have done well. Our just-in-time forklift drivers worked very well with this new established company, and that's a good wage.

So we had this dialogue for about three months, and we knew—they put out an ad and it made big news—they were hiring 100 more people. But when you advertise like that, because you're making headlines in the paper, agencies from across the province scan what's going on in the newsreels, and of course, we had one come all the way from Toronto to visit us. This company came down, met with the company that was hiring the forklift drivers, and they cut a deal. When they were talking with the company, they asked them, "Where have you been getting your forklift drivers?" They didn't know that they were coming from my old company. What they knew was that they had the retraining certificate. See, at an adjustment centre we try to get people's most current forklift licence updated, so it's good for three years. So they said this place here—being the smart people that they are, because they knew that that company liked the forklift drivers that came from this training centre—contacted the training centre. The training centre said, "Oh, we know these guys. They're from this plant and they've got an adjustment centre." So they come up—and remember, this is all in one day, those 100 jobs that I'm looking forward to to put more people to work—and when I've got a relationship with that company, they show up: "Hi, we are XYZ employment agency from Toronto and we've got 100 jobs for you." I said, "Great." "They're \$11 an hour and it's for forklift driving. Have you ever heard of this company?" Of course they knew that I knew the company. And so there's the cut. That's not bad.

I don't need that kind of help. The government doesn't need that kind of help. We're paying for that training in one way or another. Now, they had done their dog-and-pony show, and we just saw a bunch of those today, and you probably saw some last week, about all the good things. That dog-and-pony show involved them showing pictures of a computer and a forklift and a warehouse and saying they do

all this training, but at the end of the day, all this agency did was read a headline, run down, cut a deal, get a contract, find out where we were—who are already supplying the labour, because that’s our job; we want people to work—and they took their cut. That’s one example.

With the number of companies doing this—and we are seeing 70% full-time temp—it’s not good. It’s putting people in vulnerable positions—very vulnerable. In my city it has not been unusual for somebody to work for an agency—many of the good ones that have presented here—for 11 years; 11 years, full-time, waiting to get the carrot. Unfortunately, sometimes those very same agencies hire. When a position comes up, you don’t get rid of the person who’s working 11 years and get them on with a company so that they can make \$17 an hour. They’re making you good money; they show up to work every day. You make sure that person doesn’t get hired and the next day somebody starts on that same job right beside you again. They’re making \$17 on day number one and the agency gets a cut for that. Good, eh? Just do some of the math at 700 people: There’s a production line that pays \$14.40. So you have two different jobs: one at \$17, the other at \$14.40. At the end of the day, the pay rate is \$10.40. With 700 people, 40 hours a week, 52 weeks a year, that’s one company. I’m dealing with 180 agencies in Brantford. Just because 20 of them have offices doesn’t mean that I have to just deal with those. They’re from all over.

We have skilled trades that will no longer come to Brantford, look at Brantford or check the job postings in Brantford because it says “Agency, agency, agency.” Brantford has become a wasteland. We can’t let that happen elsewhere.

This is minor stuff. That somebody’s been working five years in an agency, certainly they can get severance if they’re let go, if the company closes its doors—and that is happening. No agency that I know, none of them, can save a company from its demise or foreign, offshore decision-making. They have no say in that. They’re only providing labour.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, sir.

Mr. Brian Van Tilborg: I’ll cut it there. I’d like any questions.

The Acting Chair (Mr. Joe Dickson): I’ll go to Ms. DiNovo first. I think we’ll just have time for one question. Go ahead, please.

Ms. Cheri DiNovo: Thank you very much for that moving testimony. As we know, about 40% of Ontario’s workforce is now in precarious contract, part-time or temporary employment, so it’s a huge number. You’re absolutely right about that. Certainly, in some manufacturing plants, they’re working cheek-by-jowl with people who are making considerably more than them. So I just want to thank you for your deputation, and better luck in the future.

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation, sir, and thank you for coming.
DURHAM REGION LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Durham Region Labour Council. Welcome, Jim. It is Jim?

Mr. Jim Freeman: Yes, it is.

The Acting Chair (Mr. Joe Dickson): How are you, sir?

Mr. Jim Freeman: I’m good, thank you very much.

I’m Jim Freeman. I’m the president of the Durham Region Labour Council. We represent about 40,000 workers who are affiliated with about 52 different local unions in Durham region. Our workers work in many different occupations, from daycare workers to autoworkers, from nurses to power workers. On behalf of our members, the Durham Region Labour Council is pleased for this opportunity to share some of our thoughts and ideas with the standing committee here today.

We feel that for far too long, temp agency workers in Ontario have been treated like second-class citizens when it comes to the Employment Standards Act. The Durham Region Labour Council believes Bill 139 is an important first step in bringing some fairness and equity to temp agency workers, but we

think amendments are needed to better protect people who are temporarily employed through these agencies.

We believe the Ontario government has a duty to strengthen and pass this legislation to help workers who are amongst the most vulnerable in the province. The government should not enable employers to impose inferior conditions on workers simply because of the form of employment or employment status. The Durham Region Labour Council believes it is more important now than ever to update the Employment Standards Act to address unfair conditions for temporary workers.

The DRLC believes that the economic crisis, coupled with the growth of staffing and employment agencies, has worsened the situation for people doing precarious work—work that is low-paid, insecure and not well protected by minimum standards. Low-wage workers, especially women, immigrant and racialized workers, are increasingly working in temporary, contract and part-time work and juggling two and three jobs without employment benefits or workplace protections. We think that as the recession continues and more people fall off the EI rolls and are forced to turn to these agencies for work, that the time is now for changes that will go a long way toward bringing some fairness to these workers. So we're just going to touch on a few quick ones here.

Improving employment standards: Agencies will be required to provide information on employment standards rights and enforcement procedures to all current and future employees. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. We believe this will help empower these workers as to their rights and procedures and we are pleased the government has included this.

The Durham Region Labour Council believes that protecting temp agency workers through improving employment standards and knowledge of those standards is very important, but that it is just one part of it. Enforcement is the other very important part of it. Workers need to be able to enforce their rights while they are on the job. With no protection in the workplace, workers could be denied minimum standards such as overtime pay. When violations of minimum standards occur, workers must absorb the lost earnings until they can find a new job, or be fired. That is why any change must include improving employment standards enforcement.

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We think this bill goes a long way toward protecting workers against reprisals by extending responsibilities. Both the client company and temp agency will be responsible for any reprisals against workers who try to enforce their employment standards rights. Temp workers are often left struggling to assert their rights in the three-sided employment relationship that is temporary work. This change will allow workers who are penalized for trying to enforce their rights to go after the company when it is responsible for reprisals in employment standards violations. The Ministry of Labour will also be able to go after the client company with third party orders when the temp agency refuses to pay wages. We fully support these much-needed changes.

Termination and severance: For far too long agencies and other employers used to deny termination pay or notice and severance pay to workers by calling workers "elect to work." The government plans to remove the "elect to work" loophole on termination and severance for most workers. Although this may be good news for temp agency workers, unfortunately Bill 139 would only allow temp agency workers to get termination and severance if they are terminated by the agency or go 35 weeks in a row without any work assignment. This means temp workers would have to wait longer than other workers who get termination and severance if they have been without work for 13 out of 20 weeks. Unlike other workers, temp agency workers would have no right to refuse an assignment during those 35 weeks except in the case where the assignment offered is much different than the work they usually do. The Durham Region Labour Council thinks the best way to fix these problems is to have temp agency work follow the same rules as other employers and employees for termination and severance rights. There should be no more treating these workers as second-class citizens.

No barriers to permanent jobs: The bill will stop any fees or penalty for workers who are hired by the company where they are assigned. Workers can't be required to sign a contract to stop them from seeking a permanent job with the company. We feel this is a step forward for workers.

Unfortunately, the Durham Region Labour Council believes that allowing an agency to charge a company for hiring an individual is wrong, even if it is limited to six months. We think this not only erects a barrier to permanent employment but also sets a bad precedent for restraining workers' freedom to move from one job to another. Agencies already get paid for the service of providing labour to client companies in the fee they charge for each hour worked. We think it would be extremely unfair to employers to allow agencies to charge a fee in the first six months to compensate for future loss of earnings because a worker has been hired by another company. Other countries in Europe and the European Union that regulate temp agency work do not allow agencies to erect any barriers to permanent jobs.

Fairness for home health care agency workers: At long last health care workers employed by agencies under contract with the community care access centres, the CCACs—

The Acting Chair (Mr. Joe Dickson): Excuse me, Mr Freeman. I'm sorry to be doing this to you, but because the bell is being called for a vote, you have less than two minutes. You're going to miss one minute off the end. Keep going, sir; we're going to go as long as we can.

Mr. Jim Freeman: Okay—can now get public holiday pay like other workers. This is because of the Ontario government's removal of the "elect to work" exemption for public holiday pay that took effect January 2, 2009. We believe that getting access to public holiday pay is a step forward in bringing fairness to these workers, and we thank the government for that change.

Unfortunately, these same workers will be denied access to termination and severance benefits for three years. The government is considering a regulation that would keep the "elect to work" exemption for termination and severance for professionals, personal care and home care workers working for companies under contract with CCACs until 2012. After this, these workers would be entitled. The Durham Region Labour Council is opposed to any such a regulation.

I'll just skip right to the last page for you then.

Client companies must sign on: The bill only requires the agency to provide information about the assignment. We think this leaves workers stuck between the client company and the agency when there is a disagreement about the terms of assignment. It's the client company that determines the hours of work, the work duties and the term of assignment, and so it is our position it should sign and date the information form provided to workers. We think this will—

The Acting Chair (Mr. Joe Dickson): Thirty seconds, sir.

Mr. Jim Freeman: All right.

In conclusion, the Durham Region Labour Council is pleased that the government is acting to bring in long-overdue changes to how temp agency workers are treated. There are many parts of this bill that we fully support, but like any piece of legislation, we think there are some parts of the bill that should and need to be improved to truly help temp agency workers. After many years of temp agency workers fighting for fairness, these are important changes that could make a big difference in the lives of temp agency workers.

Again we thank the government for bringing this bill forward.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Freeman. Thank you for your understanding, sir. We didn't call the bell, and all parties are represented here.

The committee is adjourned until Wednesday, April 8, 2009, at 1 p.m. for clause-by-clause consideration of Bill 139 in this location. Thank you.

April 8, 2009

The committee met at 1303 in room 151.

EMPLOYMENT STANDARDS

AMENDMENT ACT

(TEMPORARY HELP AGENCIES), 2009

LOI DE 2009 MODIFIANT LA LOI

SUR LES NORMES D'EMPLOI

(AGENCES DE PLACEMENT TEMPORAIRE)

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Chair (Mr. Bas Balkissoon): I call the meeting to order of the Standing Committee on the Legislative Assembly. We're here to deal with clause-by-clause of Bill 139, the Employment Standards Amendment Act.

The first motion I have—

Interjection.

The Chair (Mr. Bas Balkissoon): I've got it; sorry. Are there any opening remarks? Mr. Miller.

Mr. Norm Miller: Yes, I just had a question. We just received four of the amendments this morning, about 10 o'clock. It's my understanding that the deadline for submission of amendments was 4 o'clock on Monday. So I'm wondering why—and some are quite lengthy government amendments—we received them just at 10 o'clock this morning, when obviously having them further in advance to be able to analyze them would be much more beneficial.

The Chair (Mr. Bas Balkissoon): Thank you, Mr. Miller. My understanding is that the deadlines are set by the committee and it's an administrative deadline; it's not a hard deadline. The information was provided to all parties as soon as it was available. I understand your concern, that you'd like to analyze it. We'll do our best.

Mr. Norm Miller: Well, then, we'll hope that the government will be able to explain these amendments in detail as we go through this process.

The Chair (Mr. Bas Balkissoon): I'm sure they will. Ms. DiNovo?

Ms. Cheri DiNovo: Yes. I was going to make that point as well. Thanks to Mr. Miller for making it. If it's an administrative deadline and not a firm deadline, then you could expect that the Progressive Conservatives and the New Democratic Party will probably abide by the firm deadline and not the administrative deadline too. That's all—equal playing field.

But what I want to do first of all, before we even begin the proceedings, is to thank the staff from the Ministry of Labour. I want to thank in particular Workers' Action, who are here today, for all their incredible work on this bill, and my executive assistant, Charles Smith, for his work.

I want to say that we're undoing now—about 15 years later, we're going back to what we had in 1995 and we're undoing some of the more egregious aspects of the Harris legacy in terms of labour, work, in this province. So I want to say that, and I want to thank the people who are primarily responsible for doing the work. Thank you.

The Chair (Mr. Bas Balkissoon): Any members of the government with any comments? Can I move on?

Mr. Vic Dhillon: No comment.

The Chair (Mr. Bas Balkissoon): Okay. The first motion is an NDP motion.

Interjection.

The Chair (Mr. Bas Balkissoon): My apologies.

Section 1 of the bill: I have no amendments in front of me. Shall section 1 carry? Carried.

Section 2 of the bill: There are no submitted amendments. Shall section 2 carry? Carried.

Section 3: I have NDP motion number 1. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.2 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Any comments?

Ms. Cheri DiNovo: Just by way of explanation, Mr. Chair, this is the part that deals with home care workers. We think that home care workers should be included in this bill.

The Chair (Mr. Bas Balkissoon): Any comments? The government?

Mr. Vic Dhillon: CCACs are public sector service providers and not temporary help agency clients, as is understood in the bill, so we'll be opposing this motion.

The Chair (Mr. Bas Balkissoon): Okay. Mr. Miller?

Mr. Norm Miller: It's interesting that the government is making an exclusion for services that are funded and provided for by the government, that it's good enough for the private sector but not good enough for the government. But I think it will be our position that we'll be voting against this, and we'll ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Mr. Miller has requested a recorded vote.

Ayes

DiNovo.

Nays

Bailey, Delaney, Dhillon, Dickson, Flynn, Miller, Sergio.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

I have motion number 2 from the PC Party, and—yes?

Mr. Norm Miller: Actually, Mr Chair, we'd like to withdraw that. It was our intention to extend the exemption that applies to CCAC workers to all companies that deal with home care, whether it be in your home or not. Our amendment didn't come out quite the way we wanted it to, so we'd like to withdraw that amendment, please.

The Chair (Mr. Bas Balkissoon): Okay. Thank you very much.

On section 3, I have another motion, motion number 3, NDP. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.3 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding "For the purposes of this act," at the beginning.

The Chair (Mr. Bas Balkissoon): Any comments? Government?

Mr. Vic Dhillon: Chair, we'll be voting against this one as well, because this change would serve no purpose. As for the Employment Standards Act, 2000, it already applies to temp help agency workers.

1310

The Chair (Mr. Bas Balkissoon): The Conservative Party, any comments?

NDP motion number 3: All in favour? Against? The motion is defeated.

The next motion I have is government motion 3.1. Mr. Dhillon.

Mr. Vic Dhillon: I move that section 74.4 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Same

"(1.1) Where an assignment employee is assigned by a temporary help agency to perform work for a client of the agency, the assignment begins on the first day on which the assignment employee performs work under the assignment and ends at the end of the term of the assignment or when the assignment is ended by the agency, the employee or the client."

This amendment would serve to clarify when a work assignment begins and ends.

The Chair (Mr. Bas Balkissoon): Comments from the official opposition?

Mr. Robert Bailey: Could the parliamentary assistant explain a little bit more what the impact would be on the temporary agencies?

Mr. Vic Dhillon: It's very simple. This amendment makes it clear as to when a work assignment would begin and when it would end.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo, any comments?

Ms. Cheri DiNovo: I'm a little concerned that the language has softened from the original. Again, we just had a chance to look at this amendment; we have not had a chance to speak to a lawyer about it. We prefer the original, so I'll be voting against it.

The Chair (Mr. Bas Balkissoon): Okay. Government motion 3.1: All in favour? Against? The motion carries.

The next one is a PC motion, page 4. Mr. Bailey.

Mr. Robert Bailey: I move that clause 74.4(2)(b) of the act, as set out in section 3 of the bill, be struck out.

The purpose of this amendment would be to eliminate the continuance-of-employment clause. This was recommended by ACSESS. As it currently is written, the bill will hamper a temporary staffing agency's ability to do business in Ontario and will dramatically increase their fees. Temporary staffing will be important when this economy turns around. If we are putting barriers in place that prevent temporary agencies and their employees from functioning well, we will be in effect slowing down this economic recovery.

This amendment is necessary, in our opinion, for the smooth functioning of temporary agencies and the improvement of the Ontario economy.

The Chair (Mr. Bas Balkissoon): Questions or comments? Ms. DiNovo.

Ms. Cheri DiNovo: Absolutely not. This is one of the hubs of this bill, and we will be voting against this Tory motion.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon.

Mr. Vic Dhillon: This section just sets out the existing law. Unless an agency employee has been terminated or quits, he or she is an employee of an agency. We'll be voting against this motion.

The Chair (Mr. Bas Balkissoon): I'll put the vote to PC motion number 4.

Mr. Norm Miller: Recorded vote.

Ayes

Bailey, Miller.

Nays

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

The next one is the PC motion on page 5. Mr. Bailey.

Mr. Robert Bailey: I move that part XVIII.1 of the act, as set out in section 3 of the bill, be amended by adding the following section:

"Termination and severance of employment relationship

"74.4.1 Nothing in section 74.3 or 74.4 prevents a temporary help agency from terminating or severing the employment of an assignment employee."

The effect of our amendment would be to offer assurances that temporary staffing agencies can terminate or sever an employee. This offers some protection in the case of firms concerned about the notice of a continuance of employment.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Ms. Cheri DiNovo: I don't think it's necessary. I think we already have that covered in the Employment Standards Act.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon.

Mr. Vic Dhillon: There's nothing in Bill 139 that would prevent a temp agency from terminating or severing the employment of an assignment employee. I will be voting against this.

The Chair (Mr. Bas Balkissoon): Okay. I'll take the vote on the PC motion on page 5. All in favour? Against? The motion is defeated.

The next motion is a government motion on page 5.1.

Mr. Vic Dhillon: I move that subsection 74.6(1) of the act, as set out in section 3 of the bill, be amended by striking out "in writing" in the portion before paragraph 1.

Assignments can sometimes become available so quickly that there's no time to provide written information before they start. It's reasonable for an agency to provide such information orally at the time that an assignment is offered. That's our explanation for that amendment.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Ms. Cheri DiNovo: We couldn't disagree more. The temporary agency employee writes down the assignment by hearing it over the phone—usually they're writing—from the employer. They can certainly take the few seconds required to write it for the employee as well. We'll definitely vote against it.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: It's certainly a concern that I heard from employment agencies that jobs come up at the last moment. Having to have written information would be an impediment to them being able to carry out their business in an efficient way, so we'll certainly support this amendment.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the government motion on page 5.1. All in favour? Against? The motion carries.

Mr. Vic Dhillon: Chair, if I can just have consent for 30 seconds to consult with my assistant?

The Chair (Mr. Bas Balkissoon): I have a request for a short break of 30 seconds. All in favour? We'll give him 30 seconds.

Interjection.

The Chair (Mr. Bas Balkissoon): We'll recess for two minutes.

The committee recessed from 1317 to 1318.

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order again. We'll move to the NDP motion on page 6.

Ms. Cheri DiNovo: I'd like to make a friendly amendment to my own motion, if I might. I move that subsection 74.6(1) of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following:

"The estimated term of the assignment, if the information is available at the time of the offer."

Mr. Vic Dhillon: Because of the amendment, Chair, we will be in support of this NDP motion.

Mr. Norm Miller: Did you say you were in support of it?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Bas Balkissoon): Does everyone want a copy of the amendment?

Mr. Norm Miller: Yes, please.

The Chair (Mr. Bas Balkissoon): Okay. Just give us a couple of seconds.

Ms. DiNovo, can I get you to read the motion as you want to move it, completely, for the record?

Ms. Cheri DiNovo: You certainly can, Mr. Chair.

I move that subsection 74.6(1) of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following:

"The estimated term of the assignment, if the information is available at the time of the offer."

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Miller?

Mr. Norm Miller: This sounds like a reasonable proposition, so I think we might have unanimous—we might all be agreeable.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 6. All in favour? Carried. The next motion is government motion 6—

Mr. Vic Dhillon: We'll be withdrawing that.

The Chair (Mr. Bas Balkissoon): You're going to withdraw that one? Okay.

The next motion I have is the NDP motion on page 7. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.6 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following subsection:

"Certification

"(1.1) The temporary help agency shall provide the information required by subsection (1) using a form that contains a certification, signed and dated by the client or an authorized employee of the client, confirming the accuracy of the information."

Again, this is just for the further safety of the employee, to leave a written record.

The Chair (Mr. Bas Balkissoon): Questions and comments? The government: Mr. Dhillon.

Mr. Vic Dhillon: Chair, we'll be voting against this, because we feel that this would create unnecessary red tape.

The Chair (Mr. Bas Balkissoon): The opposition: Mr. Miller.

Mr. Norm Miller: This province has way too much red tape at this point, and the government seems to do a good job on its own of creating more, so we'll be voting against this.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 7. All in favour? Against? The motion is defeated.

The next motion is a government motion on page 7.1.

Mr. Vic Dhillon: I move that section 74.6 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Same

"(1.1) If information required by subsection (1) is provided orally to the assignment employee, the temporary help agency shall also provide the information to the assignment employee in writing, as soon as possible after offering the work assignment."

Our explanation is that this ensures that verbal information when the assignment was offered is followed up in writing as soon as possible afterwards.

The Chair (Mr. Bas Balkissoon): Questions and comments?

Ms. Cheri DiNovo: If we can't get the best of all possible worlds, we'll settle for one slightly better. Yes, I'm going to support it.

The Chair (Mr. Bas Balkissoon): Comments from the PCs?

Mr. Norm Miller: We will support it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the government motion on page 7.1. All in favour? Carried.

The next motion I have is an NDP motion on page 8.

Ms. Cheri DiNovo: I move that section 74.8 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by,

(a) striking out "except as permitted by subsection (2)" at the end of paragraph 8 of subsection (1); and
(b) striking out subsections (2) and (3).

For a couple of reasons here: First of all, I think this is open for a charter challenge. I don't think the province has a legal leg to stand on to put up any barrier for employment, and certainly I think this is beyond provincial jurisdiction.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: We'll be opposing this motion. The six-month time period is a reasonable compromise. It balances the need of the temporary help agencies to be fairly compensated, the desire of the employees to find stable employment, and the client needs with respect to being able to hire experienced staff. So we'll be voting against it.

The Chair (Mr. Bas Balkissoon): Mr Bailey.

Mr. Robert Bailey: We'll also be voting against it. We believe that the temporary agencies need some form of remuneration for the work they do in helping to train, advertise, retain the paperwork etc. So we'll be opposing it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 8. All in favour? Against? The motion is defeated.

The next motion is a PC motion on page 9.

Mr. Robert Bailey: I move that paragraph 8 of subsection 74.8(1) of the act, as set out in section 3 of the bill, be struck out.

The purpose of our amendment, if it's passed, would be to allow agencies to continue to charge conversion fees to clients after the first six months. We heard from a number of agencies that if conversion fees are eliminated entirely, they would not be able to conduct business in an orderly manner. There's also concern that the Employment Standards Act is the wrong legislative vehicle to dictate business-to-business relationships.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: This amendment would mean that temporary help agency assignment employees would face unfair barriers to obtaining stable employment. For that reason, we'll be voting against this amendment.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Again, what I said for our motion holds here. I'll be voting against it because we feel that we already have a barrier to employment built into this act that shouldn't be there and that would be subject to a charter challenge. I certainly suggest that employers and employees that deal with temporary agencies take up that challenge and refuse to pay the fee and refuse to have the fee charged.

The Chair (Mr. Bas Balkissoon): I call the vote on the PC motion on page 9. All in favour? Against? That motion is defeated.

The next motion is a PC motion on page 10.

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Mr. Norm Miller: Seeing as our previous motion was defeated, this one is redundant, so we'll withdraw.

The Chair (Mr. Bas Balkissoon): You'll withdraw? Okay, withdrawn.

The next motion is government motion 10.1. Mr. Delaney.

Mr. Bob Delaney: I move that section 74.10 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Public holiday pay

"74.10(1) For the purposes of determining entitlement to public holiday pay under subsection 29(2.1), an assignment employee of a temporary help agency is on a layoff on a public holiday if the public holiday falls on a day on which the employee is not assigned by the agency to perform work for a client of the agency.

"Same

"(2) For the purposes of subsection 29(2.2), the period of a temporary layoff of an assignment employee by a temporary help agency shall be determined in accordance with section 56 as modified by section 74.11 for the purposes of part XV."

The Chair (Mr. Bas Balkissoon): Questions and comments?

Ms. Cheri DiNovo: Yes, I wonder if we could have some explanation from perhaps legal staff on this. It was a late amendment and I think that would be in order.

The Chair (Mr. Bas Balkissoon): Legislative counsel, can we get—oh, you mean ministry staff? Do we have anybody who can come forward and provide some explanation?

Ms. Janice Chung: This motion is going to clarify that the applications of subsection—

The Chair (Mr. Bas Balkissoon): Can you introduce yourself for the record, please?

Ms. Janice Chung: It's Janice Chung, counsel at the Ministry of Labour, legal services branch.

This motion would clarify the application of subsections 29(2.1) and (2.2), the public holiday pay entitlements for an assignment employee, and would ensure that an assignment employee that is not assigned to perform work on the day the public holiday falls is treated the same as any employee on a maternity or paternity leave of absence or on a layoff; that is, they will receive public holiday pay for the day.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Bailey, you have a question?

Mr. Robert Bailey: Can you explain that again? If they are—

Ms. Janice Chung: On a paternity or maternity leave of absence or on a layoff, an employee generally receives public holiday pay for a day in which a public holiday falls, if they are on a pat leave, a mat leave or on layoff. This amendment would ensure that an assignment employee who is not assigned to perform work on a day a public holiday falls would receive public holiday pay.

The Chair (Mr. Bas Balkissoon): Questions or comments? Anyone else? Shall I take the vote? I'll take the vote on page 10.1.

Mr. Norm Miller: Recorded vote.

Ayes

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

Nays

Bailey, Miller.

The Chair (Mr. Bas Balkissoon): The motion carries.

Next is NDP motion 11.

Ms. Cheri DiNovo: I move that section 74.11 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: The government has an upcoming motion that responds to this issue raised by this motion. However, the government motion recognizes that certain rules are needed to recognize that temporary help agency employees may have periods of non-assignment, so we'll be voting against this motion.

The Chair (Mr. Bas Balkissoon): Questions or comments? Anyone else? I'll take the vote on NDP motion 11. All in favour? Against? The motion is defeated.

The next motion is government motion 11.1.

Mr. Bob Delaney: I move that section 74.11 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Termination and severance

"74.11 For the purposes of the application of part XV to temporary help agencies and their assignment employees, the following modifications apply:

"1. A temporary help agency lays off an assignment employee for a week if the employee is not assigned by the agency to perform work for a client of the agency during the week.

"2. For the purposes of paragraphs 3 and 10, 'excluded week' means a week during which, for one or more days, the assignment employee is not able to work, is not available for work, refuses an offer by the agency that would not constitute constructive dismissal of the employee by the agency, is subject to a disciplinary suspension or is not assigned to perform work for a client of the agency because of a strike or lockout occurring at the agency.

"3. An excluded week shall not be counted as part of the 13 or 35 weeks referred to in subsection 56(2) but shall be counted as part of the 20 or 52 consecutive week periods referred to in subsection 56(2).

"4. Subsections 56(3) to (3.6) do not apply to temporary help agencies and their assignment employees.

"5. A temporary help agency shall, in addition to meeting the posting requirements set out in clause 58(2)(b) and subsection 58(5), provide the information required to be provided to the director under

clause 58(2)(a) to each of its assignment employees on the first day of the notice period or as soon after that as is reasonably possible.

“6. Clauses 60(1)(a) and (b) and subsection 60(2) do not apply to temporary help agencies and their assignment employees.

“7. A temporary help agency that gives notice of termination to an assignment employee in accordance with section 57 or 58 shall, during each week of the notice period, pay the assignment employee the wages he or she is entitled to receive, which in no case shall be less than,

“i. in the case of any termination other than under clause 56(1)(c), the total amount of the wages earned by the assignment employee for work performed for clients of the agency during the 12-week period ending on the last day on which the employee performed work for a client of the agency, divided by 12, or

“ii. in the case of a termination under clause 56(1)(c), the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period immediately preceding the deemed termination date, divided by 12.

“8. The lump sum that an assignment employee is entitled to be paid under clause 61(1)(a) is a lump sum equal to the amount the employee would have been entitled to receive under paragraph 7 had notice been given in accordance with section 57 or 58.

“9. Subsection 61(1.1) does not apply to temporary help agencies and their assignment employees.

“10. An excluded week shall not be counted as part of the 35 weeks referred to in clause 63(1)(c) but shall be counted as part of the 52 consecutive week period referred to in clause 63(1)(c).

“11. Subsections 63(2) to (2.4) do not apply to temporary help agencies and their assignment employees.

“12. Subsections 65(1), (5) and (6) do not apply to temporary help agencies and their assignment employees.

“13. If a temporary help agency severs the employment of an assignment employee under clause 63(1)(a), (b), (d) or (e), severance pay shall be calculated by,

“i. dividing the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period ending on the last day on which the employee performed work for a client of the agency by 12, and

“ii. multiplying the result obtained under subparagraph i by the lesser of 26 and the sum of,

“A. the number of years of employment the employee has completed, and

“B. the number of months of employment not included in sub-subparagraph A that the employee has completed, divided by 12.

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“14. If a temporary help agency severs the employment of an assignment employee under clause 63(1)(c), severance pay shall be calculated by,

“i. dividing the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period immediately preceding the first day of the layoff by 12, and

“ii. multiplying the result obtained under subparagraph i by the lesser of 26 and the sum of,

“A. the number of years of employment the employee has completed, and

“B. the number of months of employment not included in sub-subparagraph A that the employee has completed, divided by 12.”

The Chair (Mr. Bas Balkissoon): Questions or comments? Ms. DiNovo?

Ms. Cheri DiNovo: Again, this is an instance where I think we would benefit from the advice of counsel in terms of the meaning of this.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: I believe this is one of the amendments we received at 10 this morning, just a short, little amendment. At first glance, it looks like every temporary help agency in the province is going to be stimulating employment because they're all going to have to hire a lawyer to have permanently on staff and an accountant so that when the labour police—the provincial government—show up, they aren't charged, because they're bound to be in violation of something with the nice, complicated new rules that you're putting in place with this legislation.

Certainly it would be good to get some explanation as to exactly what this is going to do.

Mr. Robert Bailey: I'd like to comment. I think it's patently unfair to get something like this at the last minute without having an opportunity to go through it and understand what it really means. I challenge anyone here, even probably the legal people, that they actually understand what the heck this means. Back home we'd have a word for this, but I wouldn't use it here. But anyway.

The Chair (Mr. Bas Balkissoon): Ms. Chung?

Ms. Janice Chung: The amendment ensures that the same triggers and windows for calculating a termination and severance apply to an assignment employee; that is, 13 weeks in 20 and 35 weeks in 52. It also clarifies for the purposes of temp help agencies and their assignment employees when a layoff occurs in that sector and it recognizes the differences in that sector. It modifies the formula also to be used to calculate the termination and severance pay for those assignment employees but otherwise maintains the same general legislative provisions of part XV to an assignment employee.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Yes, if I might ask you a couple of questions. Bottom line, we're concerned that assignment employees to temporary agencies have the same termination and severance rights as other employees. Will this guarantee that that happens?

Ms. Janice Chung: It will ensure that the same triggers and windows will apply to assignment employees.

Ms. Cheri DiNovo: So in other words, my motion being shot down to eliminate this section—this will accomplish the same move but with tighter legal constraints? What was the meaning for all of—

Ms. Janice Chung: It will clarify when a layoff actually occurs in the temp help agency sector—the language in paragraph 1, particularly.

Ms. Cheri DiNovo: So this is not going to cost temporary agency employees anything in terms of rights?

Ms. Janice Chung: It will ensure that they have the same triggers and windows as—

Ms. Cheri DiNovo: Right. Okay, thank you.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: On point 6, it says, "Clauses 60(1)(a) and (b) and subsection 60(2) do not apply to temporary help agencies." Can you explain what clauses 60(1)(a) and (b) and 60(2) are, please?

Ms. Janice Chung: Clauses 60(1)(a) and (b) of the act provide that, "During a notice period under section 57 or 58, the employer,

"(a) shall not reduce the employee's wage rate or alter any other term or condition of employment;

"(b) shall in each week pay the employee the wages the employee is entitled to receive, which in no case shall be less than his or her regular wages for a regular work week...."

Subsection 60(2) provides that where there is no regular work week, "For the purposes of clause (1)(b)," that being during the notice period under subsection 57 or 58, the employer shall in each week pay the employee the wages the employee is entitled to receive, which in no case shall be less than his or her regular wages for a regular work week. "If the employee does not have a regular work week or if the employee is paid on a basis other than time, the employer shall pay the employee an amount equal to the average amount of regular wages earned by the employee per week for the weeks in which the employee worked in the period of 12 weeks immediately preceding the day on which notice was given." Those clauses would not apply to temporary help agencies or their assignment employees.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Did you review these with any of the temporary agencies to see if these could actually be applied, having input from the temporary agencies?

Ms. Janice Chung: That is not the role of legal counsel.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: I second the concern that we just received this very recently and didn't have time. We're trusting the government in this—that this will protect the employees. We should move on.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: As you can appreciate, the legal staff is here to answer any questions that the opposition parties need clarification on. I know it's quite lengthy, but I'm sure Ms. Chung will be more than willing to answer any further questions that we may have.

The Chair (Mr. Bas Balkissoon): I don't think Mr. Bailey had another. Did you have another question?

Mr. Robert Bailey: Yes. I'd like to know what's behind the 12-week number, the calculation that they use in paragraphs 13 and 14. Can you explain a little more about that? They keep talking about 12 weeks. Math was never my strong suit. Subparagraphs 13(i) and (ii) and 14(i) and (ii) talk about the 12.

Ms. Janice Chung: Paragraphs 13 and 14 just provide an alternate calculation for the purposes of temp help agencies in calculating their severance pay.

Mr. Robert Bailey: An alternate calculation as opposed to—you said an "alternate" calculation. Did I hear you right?

Ms. Janice Chung: Currently in part XV, there is a way of calculating it set out in section 65.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: One of the concerns we had about the excluded week provision was that temporary employees who are sick or disabled still qualify. Is that what this is intended to provide?

Ms. Janice Chung: The concept of an excluded week is currently in part XV. You will see it in—it's very small print—subsection 56(3).

Ms. Cheri DiNovo: Okay. Thank you.

The Chair (Mr. Bas Balkissoon): Shall I take the vote? Mr. Dhillon?

Mr. Vic Dhillon: A couple of points on the record with respect to our support of this motion: This amendment is being proposed so that a layoff for an assignment employee would resemble that of other employees, and the amended section does set out some differences in order to reflect the fact that employees in this sector may have periods of non-assignment. I just wanted to get that on the record.

The Chair (Mr. Bas Balkissoon): Comments? Mr. Bailey.

Mr. Robert Bailey: Yes, I'd like to ask a question. I understand why legal counsel can't answer—because of being non-partisan and all that—but to the government: Did the government, in your opinion, Mr. Dhillon, consult with any of the temporary agencies with this new amendment to see if it was even practical or able to be implemented by them?

Mr. Vic Dhillon: First of all, I think we had detailed deputations from the temp agency sector. The consensus was drawn based on what was presented to us. I think we all heard what they had to say and I'm sure we can all agree that there's never, ever a perfect solution. We felt that this was the best outcome that we could come to.

Mr. Robert Bailey: Just to clarify, are you inferring that they would be in support of this? If we polled the temporary agencies today, they would be in support of this?

Interjection.

Mr. Robert Bailey: That's just fine. I'm just trying to understand. It's quite complicated and quite legalese. I'm just trying to understand—

Interjection.

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The Chair (Mr. Bas Balkissoon): I think he said that you can't please everybody, but they tried their best.

I call the vote on the government motion on page 11.1.

Interjection: A recorded vote, please.

Ayes

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

Nays

Bailey, Miller.

The Chair (Mr. Bas Balkissoon): The motion carries.

That's the end of section 3. Shall section 3, as amended, carry? Carried.

We'll move to section 3.1. I have an NDP motion on page 12.

Ms. Cheri DiNovo: Yes, this is a bit of a lengthy one, the preamble to which would be simply that we recognize that there's a loophole here because we called it "temporary employment agencies." We're a little concerned that agencies would simply change their name to get around the provisions of this new bill. That's the motivation behind this amendment.

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

"3.1 The act is amended by adding the following part:

"Part XVIII.2

"Employment agencies

"Employment agencies

"74.18(1) In this section,

" "employment agency" means a person who, for a fee, recruits or offers to recruit employees for employers.

"No charge for hiring or providing information

"(2) An employment agency shall not request, charge or receive, directly or indirectly, from a person seeking employment, a payment for,

"(a) employing or obtaining employment for the person seeking employment; or

"(b) providing information about employers seeking employees.

"Exception

"(3) A person does not contravene subsection (2) by requesting, charging or receiving payment for any form of advertisement from the person who placed the advertisement.

"Recovery of payment

"(4) A payment received by a person in contravention of subsection (2) is deemed to be wages owing and this act applies to the recovery of the payment.

"No fees to other persons

"(5) An employment agency shall not make a payment, directly or indirectly, to a person for obtaining or assisting in obtaining employment for someone else.

"Exception

"(6) A person does not contravene subsection (5) by paying for any form of advertisement placed by that person.

"Employment agencies to be licensed

"(7) A person shall not operate an employment agency unless the person is licensed under this act.

"Exception

"(8) Subsection (7) does not apply to a person operating an employment agency for the sole purpose of hiring employees exclusively for one employer.

"Regulations

"(9) The Lieutenant Governor in Council may make regulations governing the licensing of employment agencies."

You can see that the reason for this is simply to extend the meaning of this bill to agencies that may not call themselves part of a temporary help agency. It is in line with some BC regulations on this topic as well.

The Chair (Mr. Bas Balkissoon): I will have to rule this motion out of order because it's beyond the scope of the bill that is in front of us. Bill 139 deals with temporary employment agencies, so I will rule that that is out of order.

Ms. Cheri DiNovo: Just stay tuned for the employment standards amendments, as tabled by my office, that will include this. Thank you.

The Chair (Mr. Bas Balkissoon): Okay. We'll move to section 4. Are there any comments? Shall section 4 carry? Carried.

We'll move to section 5. Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall section 14 carry? Carried.

Shall section 15 carry? Carried.

Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Shall section 18 carry? Carried.

Shall section 19 carry? Carried.

Shall section 20 carry? Carried.

Shall section 21 carry? Carried.

Shall section 22 carry? Carried.

Shall section 23 carry? Carried.

Shall section 24 carry? Carried.

Shall section 25 carry? Carried.

Shall section 26 carry? Carried.

Shall section 27 carry? Carried.

Shall section 28 carry? Carried.

Shall section 29 carry? Carried.

Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 139, as amended, carry? Carried.

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

Anything else? Mr. Miller.

Mr. Norm Miller: I would just like to once again protest the fact that we received the significant amendments so late, just before the start of this committee meeting. In fact, for the last government amendment, which was several pages long, even the key stakeholders like ACSESS, when shown it, could not figure out whether they were in favour of or against the amendment. So I would just simply say that in the interest of better legislation, obviously, having more time to look at the amendments is preferred. Unless you're a labour legal expert, to be asked to know exactly what's going to happen with some of

these long, complicated amendments is virtually impossible. I just want to record that protest from the official opposition.

The Chair (Mr. Bas Balkissoon): Thank you very much. Duly noted. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Chair. I just want to get on the record again that we do have ministry staff here, and the legal staff as well, to explain, as they have explained some of the questions that were brought forward by the opposition parties. It doesn't appear to me that there were any questions that were unresolved or unanswered, so I just wanted to get that on the record and thank everybody, and thank you, Chair.

The Chair (Mr. Bas Balkissoon): Thank you all very much. The committee is adjourned.

The committee adjourned at 1358

April 9, 2009

REPORTS BY COMMITTEES

STANDING COMMITTEE

ON THE LEGISLATIVE ASSEMBLY

Mr. Bas Balkissoon: I beg leave to present a report from the Standing Committee on the Legislative Assembly and move its adoption.

The Deputy Clerk (Mr. Todd Decker): Your committee begs to report the following bill as amended: Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Speaker (Hon. Steve Peters): Shall the report be received and adopted? Agreed? Agreed.
Report adopted.

April 23, 2009

ORDERS OF THE DAY

EMPLOYMENT STANDARDS

AMENDMENT ACT

(TEMPORARY HELP AGENCIES), 2009 /

LOI DE 2009 MODIFIANT LA LOI

SUR LES NORMES D'EMPLOI

(AGENCES DE PLACEMENT TEMPORAIRE)

Mr. Fonseca moved third reading of the following bill:

Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Speaker (Hon. Steve Peters): Debate?

Hon. Peter Fonseca: Mr. Speaker, I will be sharing some of my time with my parliamentary assistant, the member from Brampton West.

I'm very proud to be able to participate here and to discuss some of the measures that we're bringing forward with Bill 139. This bill would amend the Employment Standards Act to enhance protections for employees working through temporary help agencies. Our intention is to strengthen the Employment Standards Act and to ensure that assignment employees working through temporary help agencies are treated fairly.

I want to commend the standing committee for the work that they did in completing public hearings and clause-by-clause review of the bill. The committee heard from 62 presenters, who provided insightful comments on our legislation. As well, last May we consulted with 19 stakeholder organizations representing employees and employers, and we received another 120 written submissions.

Our consultation dealt with issues that had been brought to our attention by individuals and groups, as well as through employment standards inspections and investigations. We covered five main topics: (1) the elect-to-work exemption in the Employment Standards Act; (2) barriers to permanent employment faced by temporary help agency employees; (3) fees charged to workers by temporary help agencies; (4) the liability for Employment Standards Act violations; and (5) information given to temporary agency employees about their assignments.

I know that all of us here in this chamber have a long work history, and I look to retrace my work history, and I date it back about 25 years ago. As a teenager, I was looking for a job in the summer. As you know, teenagers want jobs so they can purchase some of the things that they would like to have in their lives. It could have been—I think at the end of the day it was a Sony Walkman; today it may be an iPod. Well, I saw an ad for jobs where you could make as much as \$20 an hour. I called up this organization, and they said, "Come on in." I went down for a meeting at their office, and when I came into the office they said, "Oh, sure, we're going to be putting you with a company where you're going to be able to make up to \$20 an hour." I thought, "Wow!" Back in the 1980s, this was big dollars, \$20 an hour. I thought, "Okay, this is great." So the next day I was off to this company. They gave me a little slip of paper: "Here's where you have to go." They didn't tell me much about what I'd be doing. They said, "You'll be making some calls."

I showed up at this company and I guess that was my first experience working through a temp help agency. I didn't even think of it as a temp help agency, but that's how it worked: I saw the ad, made the call and went to that organization, which would be considered a temp help agency. They sent me to what is called a client-employer, where I was going to do that work. I arrived at that job and went down a number of stairs into a basement where they had set up a call centre. It was a telemarketing job. I got in there and there was little orientation, little training, little supervision. They put me down at a desk and linked me up with a buddy. This young woman sat with me for about 30 minutes: "Here's how

you've got to make the calls." I'm not going to tell you what I was selling out there, because I don't want to hurt the reputation of a large company that had employed this call centre to make calls for them to sell their product, but what I can tell you is that it was a horrific experience.

Nobody in that room made more than minimum wage—nobody. I am sure of this. When they talk about making \$20 or \$30 or \$50 an hour and you see some of these ads, they are—well, I'm not going to use the word, but I can tell you that those ads are somewhat misleading to potential employees.

So I got in there and started making these calls, and I'm being hollered at by this individual who was, I guess, if you want to call him that, a manager of this call centre: "You got to make more calls; you never can take no for an answer. You've got to sell, sell, sell." Anyway, I put up with this. And about that individual, I felt that there was a case to be made there around violence and harassment. I'm delighted also that in this chamber, just the other day, we proposed legislation to deal with violence and harassment in the workplace. That is very important, because I'm sure that this individual—today there would be a lot of calls coming in to my office at the Ministry of Labour about the types of practices that he was using to, as he would call it, motivate employees to do this work.

I lasted almost three days. Every day I said, "You know what? I can't do this. This is crazy, the type of environment that people are working under in this call centre." But as a young worker—I wouldn't call myself a vulnerable worker but a young worker—who was looking to make some money to be able to buy some of those things like the Sony Walkman or a pair of sneakers, or whatever it might be, I put up with it. By the third day, I said, "This is just unacceptable," and I walked away. I called up the office that had sent me to this client business and said, "Will I get paid?" They said, "That's your problem, and you shouldn't have walked away. You should have finished the job. And no, you're probably not going to get paid."

I didn't do anything about it. I didn't know what my employment standards rights were. I just chalked it up to an experience that I did not want to go through again. And I am delighted that I am in this position today and have the privilege to be able to stamp out these types of practices and help those vulnerable workers, those employees who are out there looking to find a job—sometimes their first job. Many of these employees are new Canadians just arrived here in Canada who don't know their rights, don't know that these types of practices are completely unacceptable and don't know where or who to call—where to get help. Bill 139, if passed, will change that for the better; it will bring accountability and transparency to the sector.

0910

I also want to say that I have met with many, many great temporary help agencies that are doing all the right things. They are addressing employees' rights. They are ensuring that the workplaces that they are sent to are healthy, safe, clean, are holding to high standards. For all of them, this legislation would help in terms of levelling the playing field and weeding out those unscrupulous organizations out there that are deceiving employees, that are not treating Ontario workers the way that we would like them to be treated.

As I said, the five main points that this legislation, if passed, would address—let's go back into what happened with my work experience through a temporary help agency 25 years ago. It will be completely different if Bill 139 is passed, because here's what would have happened. Let's rewind again.

I would have called this organization and would have gone in. They would have told me about the type of employment that I would be going to and the type of job that I would be going to. With this legislation, they would be mandated now to provide me information. I would have to know everything about the organization that I called—the temp help agency. They would have to provide me with the information of the client employer, where I was going to be going to work. When I say "the information," that's the address, the corporate name, the phone number, the person who is in charge there, all the information that any employee should have.

They would also provide me with hours of work, description of work and ,if possible, the length of my employment, the length of the contract—would I be working there for a week or would I be working there for three months? In some instances, it's not always possible, because it depends really on that business, and, depending on how busy they are, they may need you for a few days or they may need you for a few months. Sometimes they are unsure. But all that other information would have been provided. Along with that information that would be provided to the worker that's working through a temporary help agency would be their rights in this province of Ontario, their employment standards rights. So I would have had that card. I would have gone to this employer. I would have seen right away that maybe the health and safety standards were not really up to scratch here. I would also have been able to address what was in my contract. If my contract said I'd be making so much per hour, I'd want to make sure that I was making that amount per hour.

There are things like the training that I would be receiving around health and safety, and information—when I left that job and walked away from three days of work, probably the hardest work I've ever had to do because of the circumstances—that company got my services for three days for free—for free. Today, on that information card, I would have the number of the employment standards claims office. I would have picked up the phone and made a call, and I would have said, "I've done this job. Here's who sent me over there. I've not been paid for those three days of work." That claim would go in, and officers from employment standards would start to investigate and be able to try to recoup those funds. I can tell you that millions and millions of hard-earned dollars by Ontario workers have been left behind this way, because employees don't know their rights and feel they don't have any other recourse. They don't want to stay in that employment, they walk and they leave that money to that employer, and that is absolutely wrong.

I want to thank my predecessor, Brad Duguid, from the riding of Scarborough Centre. When he was Minister of Labour, he helped modernize our employment standards in this province. One of the reasons that people were also walking away was that they had to fill out all these applications and forms to be able to make a claim, and sometimes people thought, "Well, for \$50 or \$100 or even a few hundred dollars, I'm not going to do it," or "I don't know how to do it," or "English is not my first language; it's too difficult, too cumbersome." Through my predecessor's work, there has been a modernization of the employment standards claim office and the way we address those claims in the province of Ontario. Today, you can go onto a website, 24/7, and make that claim very easily in the comfort of your home or at a library or wherever you have access to a computer. That will help, and we know it has helped, because the number of claims we got, once that online service was available, just jumped by thousands. It's actually something we are addressing, because we didn't know how popular or how much the service would be accessed. But I can tell you that it has been a tremendous success. Because of that, we have hired more employment standards officers to deal with those claims.

What we, in this chamber, can all be proud of is that those employees who would have walked away—because we know we weren't getting those many thousands of claims—are now able to recoup those hard-earned dollars. I think that's very important. It will make a big difference in their lives. So these are some of the changes.

Another one that, in my experience, was not really impacted—I wasn't looking for permanent employment; I was looking for a summer job—is around barriers to permanent employment. One thing, in the extensive consultations we had, speaking with employees and advocacy groups that are working on behalf of employees who work through temporary help agencies—is that they were feeling, and rightfully so, that they could never, ever secure permanent employment because they were being bound by contracts between the temporary help agency and the client's employer.

How these contracts work is that the temporary help agency makes a contract with ABC corporation, and within that contract they say, "Whatever employees we're sending you, if you one day decide to hire that employee, you're going to have to pay us so many hundreds or thousands of dollars to retain

that employee as one of your permanent employees.” Many organizations saw this as a barrier, and they weren’t employing these terrific employees, even if they wanted to; they thought it was somewhat cost-prohibitive. And the employees also saw that as a barrier for them to make that jump to where there may be a perfect fit between that individual and that company.

Once an employee who is working through a temporary help agency starts with a company, from day one they may do a couple of days of work or they may do many, many months or years of work with that organization. They are now able, after six months, to become a permanent employee, and that corporation, that company—small, medium or large—has no contractual obligation to pay the temporary help agency any more dollars. That is one of the barriers that will be taken away if this legislation passes here in this chamber—getting rid of that barrier. We want to see people in meaningful employment. We want to see workers across Ontario in permanent employment. We know it’s good for helping strengthen and build our communities. It’s good for family. When it’s a permanent job, it’s the type of job that gives people that security to be able to invest in the community, buy a residence, a house, and have some roots. We saw that as very important.

0920

There was another issue that I found very, very alarming that came up, and I’m so delighted that this did not happen to me. Looking back 25 years ago, I could have been vulnerable to this. It is where a temporary help agency puts up an ad, calls you in—lures you in—saying, “You’re going to be able to make \$20 an hour,” or “You’re going to make \$1,000 a week.” Well, for somebody who’s a vulnerable employee or someone who’s a vulnerable citizen, someone who is looking for any kind of work, or a student or a young worker who is thinking, “Wow, that much money, and I really need the job”—but then they bring you in and say, “Yeah, we are going to get you that job, but what you’re going to have to do is, there is an upfront fee” of \$500 or \$100, or whatever the fee is, for that temporary help agency to go find you a job, to get you that job. You have to pay to work. I think this is unacceptable. That practice would also be prohibited if Bill 139 were to pass in this chamber—another good thing that would help those workers that are working through temporary help agencies.

We’ve really brought a balanced approach to this, because we have worked closely with employees that have shared their stories and advocacy groups but we’ve also worked closely with ACSESS, which is an organization that represents many of the temporary help agencies. I think I’ve said in the chamber that I’ve spent more time with ACSESS than with pretty much all of the stakeholders that I have in labour. We spent many hours at the boardroom table at the Ministry of Labour discussing many of these issues so that we could bring forward that right, balanced approach, so we could get this right. As I said, there are many, many temporary help agencies that are doing the right thing. They are upholding high standards. They are providing information today to their employees. When they’re working with a company, they go in and check that company out and make sure that their standards—where that employee is being sent—are also of a high level. With them we can level this playing field in Ontario. We can weed out the types of companies that are now using these poor practices that are preying on vulnerable workers. We heard much of this through our committee hearings.

There were a number of amendments made. One was purely technical in nature, and was to clarify our intent that temporary help agency employees are afforded the same rights as other, regular employees. We put forward an amendment that would allow a temp agency to provide information on assignment orally.

I talked about what information they would get and I held my hands out like it would be a card or a paper information. Well, it will be. But what happens is, if you’re working through one of these agencies, I understand the temporary help agency would make a call to your home and say, “You’re going to a particular company.” They may not be able to get you all that information on a card in a timely fashion because you may be off right the next morning. They can provide that information orally first over the phone or through an e-mail or whatever, and then they can get you the information in short order so

that you do have that card and you have all of the information that you need about that employer, the description of your work, the hours of work, etc., as I'd mentioned.

Another amendment came up, and this one deals with termination and severance. When we first introduced Bill 139, it contained a section which stated that if a temp agency employee did not receive an assignment in a 35-week period, that the employee would be considered terminated. Well, during public hearings we heard that the 35-week period would have a negative effect on temporary help agency employees, and our intent has always been to treat temporary help agency employees exactly the same way that all other employees are treated in the province of Ontario. So as a result, we've amended Bill 139 to reflect the deemed termination periods in the Employment Standards Act. If Bill 139 should pass, temp agency employees who have not had an assignment in 13 weeks out of 20 would be considered to be terminated. They would then be entitled to either notice of termination or termination pay and severance pay, if it is applicable. This is the same rule as for all other employees. These are the main amendments that were put forward during committee, and those amendments really touch on the value and the principle of fairness.

When we look at legislation at the Ministry of Labour, we always look at it through a number of lenses. One is fairness, and the others are health and safety for our workers, so this is the right approach. It is a fair approach and it treats those workers who are working through temporary help agencies the same as all other workers in Ontario.

One thing I failed to mention also is, in a regulation that we changed back on January 2 of this year—and prior to changing this regulation, there was something called “elect to work.” What happens with “elect to work”—and we heard from many, many employees who worked with the temp help agencies and we asked, “How long have you been working with them?” “Well, you know, I have been working with them for five years. I have been with them for one year. I've been with them in all my employment here in this country. For the last seven years I've been working through temporary help agencies.” Well, for those seven years, or five or one or a number of months, that individual was not entitled to public holiday pay because of something called “elect to work.”

We asked, “Do you really have the right to say, ‘No, I don't want to take that assignment. I don't want to take that job’ when your temporary help agency calls?” And I guess they do have the right to say no. But guess what? If you say no—I don't know if it's once or twice, but if you say no, because maybe you're sick, or because they call you at the last minute and you can't find child care, or you can't work things out with the family and other commitments that you have, you try to keep saying no, and what they say is, “That's it. You're not getting any more calls,” and that job is pretty much terminated. That's happening quite a bit out there. So you keep saying yes. Really, you're working consistently for these temporary help agencies. You're working for many—they've told us, “I've been working with them for one year, five years, seven years, and never received holiday pay—ever,” whereas their co-workers and others in society are receiving holiday pay. Well, that changed on January 2, 2009. These workers now will receive their due holiday pay, and that is something we should also be proud of, if this legislation passes.

0930

We don't want second-class citizens in Ontario. They work hard. They work consistently. They were being deemed “elect to work.” We know, that in the vast majority of cases, that was not what was really happening because they felt compelled to go to work or not get any future work. That has been changed in terms of the elect-to-work provision.

Let's look at this piece of legislation not in isolation but as part of our poverty reduction strategy. I want to thank my colleagues, and in particular the Minister of Children and Youth Services for her support, her advocacy, her hard work and for the messages she has brought to me with her consultations on poverty reduction in the province of Ontario. She heard from many of those who are in poverty and

working through temporary help agencies how Bill 139 would help them and their families a great deal in addressing their situation.

As part of the poverty reduction strategy, these changes through Bill 139 would provide enhanced opportunities for these workers. They would be able to give many of these workers hope. That is the type of Ontario I think all of us want to see, one where we work together, where there is a level playing field, where there is fairness. We're helping employees who have low incomes find security.

Can you imagine how stressful it must be for somebody who has worked for seven years jumping from job to job to job through a temporary help agency, never being able to find that permanent employment? When I say "difficult," not just difficult physically and financially, but difficult emotionally; the stress on an individual who doesn't know where they may be after three weeks of employment, who doesn't know if they will have a job after that. Even if they've had such a wonderful work experience with an employer, that employer, having a contract with an agency that maybe prohibits them, because of the financial constraints, hiring that person permanently—these changes will make a world of difference to an individual like that, a vulnerable worker. That individual will also make a difference to our communities and the type of communities that we're trying to build in this province.

I want to say that since 2003 at the Ministry of Labour, I, with my predecessors, under the leadership of the Premier, our government and our caucus all working hand in hand—we've done a lot to modernize labour standards in the province of Ontario. We have done that always looking out for the welfare of our workers because they build this province. They are the ones we work for. They are the ones who pay taxes. They are the ones we have the honour and privilege of being here for, to be able to provide those health care services, educational opportunities and quality of life in all parts of this magnificent province that we live in.

That modernization has been one where we have, today, the best labour relations that we've had in 30 years, where we have made numerous amendments to the Occupational Health and Safety Act to address health and safety in the workplace—there is legislation that is going through the House right now that, as I mentioned, was just introduced this week to address violence and harassment in the workplace, another initiative that will help in terms of creating the environment, the climate that we want to see in our workplaces.

The employment standards I mentioned in terms of the modernization of the employment standards: We always try first to work through awareness, education, information, working in partnership with employers, employees, trade unions and labour, all working together because we understand that we are all in this together in what we're trying to build here in Ontario, which is a place where people can have opportunity, be able to hope and dream and see a better life for themselves and their children, and strengthen their community. That's why, with that work, because we've worked in partnership—we've worked together; we've worked as a team—we have those types of labour relations here in this province that we haven't seen in 30 long years. Because of that hard work, we've been able to modernize labour standards when it comes to occupational health and safety, when it comes to employment standards to safeguard our employees, and ensure that they understand what their rights are as employees—and employers also, so that they know what their responsibilities are.

But we do that always through consultation, through listening to all stakeholders, making sure that we have the right approach and that we get it right, because what we are safeguarding is our most precious resource in this province, and that's our people. We want to ensure that when millions of Ontarians leave their homes every day, shut their doors and go to work, whatever work that may be—it may be in health care, manufacturing, education or construction—they come home safe and sound. That is something that sits with me every minute of every hour of every day. The privilege that we have to be able to protect millions of people is second to none, and they deserve that. They deserve that because they work very hard, they pay their taxes, and we want to have them continue to work and be productive. But the best way that we can be productive in this province is to stay healthy and to be safe.

I can tell you, the hardest thing about being in this job as Minister of Labour—the hardest thing that I've had to experience has been with my BlackBerry. Predecessors of mine would know this and others may know this, but as Minister of Labour, whenever there is a fatality in this province, when a worker is killed, automatically I get a BlackBerry message. Those are the most difficult messages to read. They are messages of tragedy, messages that you know will impact the family and friends of the individual and the community forever. They will be impacted forever. Last year, there were 100 of those messages that came in to Ministry of Labour BlackBerries. This past year, that number has dropped. It has come down to 78, which is good. That's a positive trend. But in my opinion—and, I'm sure, in the opinion of everybody in this House—not one message should come in. Not one is acceptable. What is the number? Is it 50, is it 30, is it 20, is it 100? It shouldn't be one; it should be zero. The number should be zero.

0940

That's why we take this very seriously. We want to make sure that our young workers, inexperienced workers and veterans are safe and healthy in their workplaces—and there are some very dangerous workplaces out there. We understand that. We have people who work in construction, mining, health care or education. It really doesn't matter where you work. Every place has risks, and what we say is that those risks have to be assessed and best practices put into place so that we don't continually hear about individuals who have been killed or injured in the workplace.

We have much more work to do, and we will continue to do that work. We'll roll up our sleeves. There are some out there that do not want to implement those best practices, and that's why we've increased the number of inspectors at the Ministry of Labour. Those inspectors go out, first, always to work with employers, with education, with best practices, working through our health and safety associations that have a sectoral approach and can help that employer in whatever sector it may be. That's what we're there to do—to help. But when that work is not done and we find that there is equipment that is unsafe, when we find that there are business practices that are putting workers at risk, that's when our inspectors have to do a job of issuing orders, making sure that change is going to take place in that workplace, so that individuals are safeguarded. That is the right thing to do if we want to build a province that is one of fairness, one that has the values of compassion, one that understands that our people are the number one reason we are here in this chamber and why we work as hard as we can to ensure their health and safety.

I want to commend the 430 inspectors who are out there working on behalf of the Ministry of Labour across this province for the work they do with employers and on behalf of all Ontario workers to make sure that there are safeguards in place so that the millions of hard-working Ontarians go home to their families safe and sound each and every day.

By having all the members in this chamber support Bill 139, we will be helping the many thousands—actually, millions—of workers who do temporary employment; I understand it's 11% of our workforce. We will be helping those millions of employees in order to give them hope, to safeguard them, to ensure that they are not treated as second-class workers, to make sure that barriers that are before them today are taken away, to let them know that they are part of a province that believes in fairness and that they are being treated with dignity and respect.

On that note, I want to thank all the members in this chamber, those who were at committee and all those who may be watching today—the advocacy groups, the employers we met with and the associations—for their hard work on this piece of legislation. If it passes, we can all be very proud that we're building the type of province that we want. Thank you.

The Acting Speaker (Mr. Jim Wilson): Before I go on to the next speaker, I will stop the clock and take a moment to welcome to Queen's Park Mr. Larry O'Connor, who served as the MPP from Durham–York in the 35th Parliament and is now the mayor of Brock.

Mr. Vic Dhillon: I'm proud to speak on Bill 139, a bill that would enhance Employment Standards Act protections for temporary help agencies. I hope our government can count on all members' support, as it affects some of the most vulnerable in our society: women, new immigrants and visible minorities. The standing committee has now completed its public hearings and clause-by-clause review of the bill. I had the privilege of participating in this committee. We heard from a number of delegations. I'm now satisfied that our bill provides a balanced and fair approach to the needs of employees in the temporary help agency sector.

Two years ago, I introduced a private member's bill on this issue. I am very proud to have led the consultations on this issue as the parliamentary assistant to the Minister of Labour, and I'm proud that our government has taken up the cause of these vulnerable workers. They are excessively represented in the lowest-paying and most insecure forms of work. I believe that Bill 139 would help provide much-needed oversight in this industry.

Bill 139 would remove some barriers to permanent employment that are impossible for employees of temporary agencies to overcome. Agencies would not be able to prevent a temporary employee from taking a permanent job with a client. Agencies would not be able to charge temporary-to-permanent fees to a client after six months or more have passed since the employee was first assigned to the client. They would never be able to charge the employee a temporary-to-permanent fee.

Bill 139 would also put an end to the unscrupulous practice of charging people a fee just to be considered for an assignment. It would prohibit charging fees for such items as resumé preparation and job interview preparation. People being charged these fees are frequently at the end of their tether and desperate for work. They should not be forced to decide between feeding their kids and getting a job—not in Ontario.

The bill would also strengthen employment standards protections for temp agency employees.

Sometimes, vulnerable workers won't make complaints because they're afraid of repercussions if they do so. Bill 139 would prohibit client agencies from engaging in reprisals against assignment employees for asserting their rights. The agency, as the employer, would continue to be prohibited from reprisals against employees.

I have heard many stories of people not being able to get wages owed to them after they have worked for a temp agency. Under Bill 139, the Ministry of Labour could require the client of an agency to give monies it owes the agency to the ministry if an employee has not been paid. The ministry would, in turn, give the employee the wages he or she is owed. This may make it easier for them to get the money owed if the agency fails to pay.

I have been involved with this issue for a number of years. I have received many complaints of fraudulent, fly-by-night employment agencies and I've heard endless horror stories as a result of the questionable practices of fly-by-night, fraudulent employment agencies.

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This bill would level the playing field for agencies that obey the law and have practices that are fair to employees. We have to protect people who face tremendous barriers to exercising their rights. Bill 139 would go a long way to help ensure that temp agency workers enjoy the same protections as other regular workers. These are important changes to the Employment Standards Act. These changes are one of the first steps our government is taking in its poverty reduction strategy. These are changes that would help some of the most vulnerable workers in our province, workers with little employment security and low incomes. They, like everyone else in our province, deserve dignity and respect. I fully support Bill 139 and I urge all members to support this legislation so that it can become law and those who have turned to us for help will receive it.

The Acting Speaker (Mr. Jim Wilson): Questions and comments?

Mr. Peter Shurman: It's interesting listening. I want to pick out one line from what the minister had to say, and that is something that we can all agree on, which is that the most important asset that we have

in Ontario is our people. That's absolutely true; I don't think anybody from any side of this House would have any disagreement with that. So I don't understand why it is that we keep debating legislation that, given the framework of the times, stands to hurt so many people.

I have spoken to stakeholders, particularly in my own riding of Thornhill, who are involved in the temporary agency business, and what I'm hearing is that temporary agencies, at this point, are doing land office business for one primary reason and that is that the disappearance of so many permanent jobs in Ontario has put people in a position where they have no alternative but to go to temporary agencies to find ways to feed their families. The concern that I have about Bill 139 and that I'm hearing from the temporary agency community is that in implementing the kinds of standards that are being discussed, forcing accounting and accrual mechanisms to be put into the temporary agency framework that are not there now, will result in temporary agency work—three-month contracts, that kind of thing—out of the province. These contracts will go to other provinces or they will go to the United States. Given the time, I could provide individual examples, and probably will in debate, the point being that in trying to address that issue of the most important asset in our province being its people, you have to take into account what you're trying to do and when you're trying to do it. I think that Bill 139 needs a very good look at the committee level and a real review before it's enacted, because it may actually hurt the people it sets out to help.

The Acting Speaker (Mr. Jim Wilson): Further questions and comments?

M^{me} France G  linas: I too listened with interest to what the Minister of Labour had to say, as well as the member from Brampton West. Bill 139 talks about temporary agencies. Some of the comments made by the minister really apply to temporary workers. Only some temporary workers are really placed by an agency. A lot of organizations, agencies and employers out there have and continue to have temporary workers. This bill will do nothing to prevent them from being treated, using the words of the minister, as "second-class citizens."

The bill has made some steps forward to prevent all sorts of exploitation of people by temporary agencies—we talked about the fees, the back pay, the severance—but it also leaves huge gaps that would allow temporary agencies who place full-time workers to basically shift what they're doing to avoid being covered by this law. At the core of it is that when we talk about the millions of people in precarious employment, the people placed by temporary agencies are only a small part of the millions of people in Ontario who work in precarious employment and for which this bill will do nothing. So we will continue to have what the minister is trying to avoid: millions of people who will be treated as second-class citizens because they will continue to be temporary workers.

The Acting Speaker (Mr. Jim Wilson): Further questions and comments?

Mr. Rick Johnson: I would like to thank the Minister of Labour, the member from Brampton West, the member from Thornhill and the member from Nickel Belt for their comments on the bill, in particular the Minister of Labour for his compassionate comments and the history that he provided of his own experiences going through this.

I was fortunate to be able to sit in on one of the public hearing sessions two weeks ago. We heard from many people involved in the temporary employment side of things and some of the issues that they have had to deal with.

I think we all have to agree that the temporary agencies provide a valuable service, especially in these times of economic challenge when so many people are searching for employment. Many of our young people rely on temporary agencies right now to get their foot in the door, and it provides them with job experiences.

But we have to protect our most vulnerable workers to make sure they've got the protection in place so that they can get the experience and not be mistreated in the workplace. With this bill we are making sure that they are not unfairly prevented from accessing permanent jobs, by removing a lot of the barriers that they face at this point in time: prohibiting temporary agencies from charging fees to

workers for such things as resumé writing and interview preparation. My own daughter has experienced this herself, and it's not right that you should have to pay for any kind of service like this when you're getting a job. If temporary workers have done a good job in their temporary placement and they've now come to the end of the term, if there are fees charged that would prevent them from gaining permanent work at this point, it's unfair.

I believe that this act, although any piece of legislation may not be perfect, definitely makes steps in the right direction, and I support this bill.

The Acting Speaker (Mr. Jim Wilson): Further questions and comments?

Mr. John O'Toole: I'd first like to recognize the Minister of Labour's remarks on this temporary employment agency bill. More importantly, because the Minister of Labour is here, I'd like to recognize all of the retirees from General Motors who are here to watch the Minister of Labour really also explain to them how come there are no jobs.

We are talking about temporary jobs; we're lucky to have a job in this province today, and this bill does not do exactly what it says. If you look at section 74.2, if I read it, I think the member from Nickel Belt had it right. This part of the bill "does not apply in relation to an individual who is an assignment employee assigned to provide professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994 if the assignment is made under a contract." So there are exemptions in the bill. Let's be honest with the people of Ontario: The exemptions are government employees, basically. You are the one that actually is the employer in long-term care and CCACs. Yes, you are. If you don't know, you should know, and if you don't know, you shouldn't be the Minister of Labour.

That being said, I am for fairness with employees including, on this side, fairness in contract relationships with employees. Those contracts were made in good faith. Some do want temporary work and some are facilitated by a contract agency—often, indeed, nurses who don't want to work certain periods of the year or certain times of the day, or they want certain types of work. Maybe these agencies can do a decent job. But I think people should be covered by the Employment Standards Act. I don't think there should be any exemption for that.

This afternoon we are going to be having questions directed at the Premier or the Minister of Finance to treat the conditions of employees fairly. That's really what's required in Ontario, to treat people fairly, and this bill does part of that but it doesn't complete the job.

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The Acting Speaker (Mr. Jim Wilson): Minister of Labour, you have up to two minutes for your response.

Hon. Peter Fonseca: I want to thank the member for Thornhill, the member for Nickel Belt, the member for Haliburton–Kawartha Lakes–Brock and the member for Durham for their comments. I'll just speak to how the member for Thornhill and the member for Durham from the Conservative Party here feel that there should be two classes of citizens in this province. Those who work through temporary help agencies—this is what they were saying here: They feel that they should not be treated fairly and they should not have dignity and respect within the workplace. We feel that that's not right, and we want to level the playing field for those workers working through temporary help agencies.

I'm speaking to the gallery that is here today, and I welcome you. Thank you very much.

I want to thank the member for Nickel Belt for her comments, but she may not understand the legislation as well. The legislation has put in place the elimination of barriers to those workers; has taken away the elect-to-work that was before them also so they would not get holiday pay; has ensured that they can now move from temporary employment to permanent employment without barriers or restrictions; and has made sure that termination and severance pay are the same as for all other workers in Ontario. They will be treated exactly the same now as all workers in Ontario, and we feel that is fair and the right thing to do.

I want to thank the member for Haliburton—Kawartha Lakes—Brock for his hard work on committee, for understanding the issues very well and for understanding that we're working with both employers and employees to make it right for all workers in Ontario.

The Acting Speaker (Mr. Jim Wilson): Thank you. I just remind honourable members to speak through the Chair, not directly to the gallery, especially today, as the galleries are likely to be full.

Further debate?

Mr. John O'Toole: Mr. Speaker, I would seek unanimous consent to stand down our lead speaker.

The Acting Speaker (Mr. Jim Wilson): Is it agreed? Do we have consent to stand down the PCs' lead speaker? Agreed.

Further debate?

Mr. Ted Chudleigh: I'm pleased to stand and give some comments on this piece of legislation. It was interesting listening to the Minister of Labour speak to this bill and speak about the experiences that he had as a student working for a temp agency. There was a certain amount of—he wasn't treated very well in that experience, and I can well understand that. I would agree with the minister that temp agencies—in fact, every agency, every employer in Ontario—should live up to the Employment Standards Act in this province. Unfortunately, this bill that is being brought in isn't necessarily going to do that, first of all, and secondly, he's using a sledgehammer to kill a fly. The effect of this bill is going to be that it is going to drive employment out of this province at a time when we desperately need employment of all sorts.

We would love to have employment at the higher salaried levels, at the higher payment levels. There's an interesting statistic that I would hope isn't lost on the government. We were living in a different world then, but in 2007 there was a statistic that the average wage in Ontario was \$6,500 less than it was in the United States. How that \$6,500 related to the revenue stream that the government has was that if Ontario's average salary was \$6,500 more, the government would reap \$29 billion in tax revenue—\$29 billion more. So higher wages are a good thing; they're a good thing for government. Imagine what we could do with an additional \$29 billion that is there with very little effort and no expenses, other than the creation of higher-paying jobs. This bill is not going to accomplish that.

If you can imagine a company that imports products from the Far East: They come in and they need repackaging. They come in on a sporadic basis. If it's a clothing item, for instance, it might come in at this time of year. It might be, let's say, golf shirts. They come in and they need to be repackaged, put in different sizes. That's something that takes perhaps two or three weeks, to handle a number of containers. Temporary workers might be hired to do that kind of work.

If we put barriers in front of those people to hire those temporary workers, if we make those temporary workers more expensive to hire, it is easy for those companies to move their location, to move their place of operations to the port of arrival of that container. That container may arrive in Port Elizabeth, New Jersey; it may arrive in Halifax; it may arrive in St. John's; it may arrive in Vancouver; it may arrive in various places across this country. Once it's in a container, it can move to various places across this country. It's very easy for that to happen.

The distribution from those major cities where containers arrive to the rest of Canada can also be done very, very easily. The truck communications and the rail transportation that we have across this country are highly sophisticated and can handle a lot of those situations, so it's very easy for those companies to move. Capital has wings and it travels easily. It travels no more easily than in industries that hire at the lower end of the wage spectrum because in the lower end of the wage spectrum, there is a dearth of capital involved. The capital that is involved is tied up in the goods that are coming into the country. Those situations will be leaving Ontario under this bill.

Couple that with this government's action on the Workplace Safety and Insurance Board regulations that were brought in last year, where the cost to an independent builder or construction company is

probably \$11,000 a year, minimum, and that's an additional cost to those companies. That's something that is going to make their life more difficult to exist in Ontario in a very, very difficult economic time. Add to that the continuing increase in minimum wage. Let me be clear. I would love everyone to make \$50 an hour. It's just not possible in a real world for those kinds of things to happen. You have to be competitive with other jurisdictions. I've prefaced my opening remarks to say what a great thing it would be for this province and for this country to have our average wage much higher than it is. But in order to do that we have to increase our productivity, we have to increase our competitiveness, and we have to maintain that competitiveness with other jurisdictions that right now, quite frankly, are eating our lunch because we are so uncompetitive in so many areas, which is why Ontario has the slowest rate of job growth or the highest rate of job losses in the country as we speak. That's a sad thing for Ontario, which has always led the way as far as job growth, economic investment and growth. It is a difficult thing when those situations face the once-great Ontario.

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Of course, Ontario also became a have-not province on the first of April. The federal government gave Ontario \$14 million in subsidies as a have-not province for the first time in Ontario's history. On April 1, they gave us \$14 million. It's the only time that the provincial government has ever received that kind of money, and this government didn't take advantage of it with a photo op. There was no photo op for the \$14 million that was handed over by Ottawa to Ontario on April 1. It's amazing that that photo op was missed by this government. Apparently they were hoping that no one would notice. But the \$14 million is the first time in Canada's history, in Ontario's history, that that kind of money has flowed from Ottawa to Ontario. That indeed is a very sad, sad thing for Ontario to be experiencing.

The industry is extremely concerned about the temp agencies. Yes, the minister had an experience with a temp agency that perhaps wasn't the best experience in the world. I wouldn't hesitate for a moment to recognize that there are some agencies out there that take advantage of the regulations and the rules, and they run as close up to the line as they possibly can. But the vast majority of temp agencies are good, solid companies which treat their employees fairly. After all, their future depends on people who come and supply their labour and services. They treat that raw resource, if you will, fairly and equitably in every way. That, of course, represents the vast majority of those agencies. I don't think anyone here would argue with the fact that there are companies on the other side of that equation as well.

However, they are concerned about the direction that this is going in, and one of the key issues is the timing of this legislation. We find ourselves in Ontario, and in fact in Canada and the world, in an economic slump, in a recession that is said to be the worst that we're going to experience in our lifetime. It's the worst recession that we've seen since the 1930s.

Earlier this week, the Bank of Canada announced that its overnight rate will be reduced to a quarter of 1%, a record low. It said it will maintain that record low interest rate until the middle of 2010. That is a year and a bit out; it's a year and a quarter away. We're going to be looking at that one quarter of 1% interest rate—I think that's probably the longest period of time that the Bank of Canada has guaranteed interest rates in Ontario's and Canada's history. It bespeaks the significance of the economic situation that we find ourselves in at this point in time—and this government is bringing in legislation to make it more difficult for people at the lower end of the economic scale to find work and to remain employed. So I have a great deal of difficulty with the timing of this particular legislation.

There are, I think, three major concerns that the employers and businesses have relating to this legislation. One is the continuance of employment while not working. This is a situation where a student is employed during the summer, finishes his employment and goes back to school but is deemed to continue to be employed, and there is some flow of money at some level to that employee even though he is no longer working. That's a cost to the companies which has never been part of the temporary workers' service, and that is of very real concern to their continued profitability.

The termination and severance situation is another one that gives them real pause. If you go back to the example of the breaking up of containers that I used earlier, and the distribution of golf shirts or any other widget that might come into this country, a worker who works there for two weeks in that distribution would be subject to termination and severance allowances. Even though he came to work knowing that it was a two-week job and the salary would be less than this, knowing everything about the situation that he faced, this bill would insist that he get more than he had agreed to. That is a real concern, because that would make that industry just that much less competitive. So, off those jobs go to New Brunswick and Nova Scotia, and perhaps some of them would even end up in British Columbia. The third real concern that the businesses have in this area is the regulating of business terms and client fees within the service agreements. This is where the government is involving itself in the agreements that people have in a contract and does nothing but add to the costs. The government is adding 100 inspectors in this area. Again, I have no concern with the adding of 100 inspectors to ensure that people are treated fairly and—I think I'm being cut off. I have no problems with people being treated fairly. I do have a problem when that fairness adds to the cost of doing business in this province at a time when we should be encouraging employment, and encouraging employers, not discouraging them.

Third reading debate deemed adjourned.

April 28, 2009

ORDERS OF THE DAY

EMPLOYMENT STANDARDS

AMENDMENT ACT

(TEMPORARY HELP AGENCIES), 2009 /

LOI DE 2009 MODIFIANT LA LOI

SUR LES NORMES D'EMPLOI

(AGENCES DE PLACEMENT TEMPORAIRE)

Resuming the debate adjourned on April 23, 2009, on the motion for third reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Acting Speaker (Mr. Ted Arnott): Further debate?

M. Gilles Bisson: Merci beaucoup, monsieur le Président, de l'occasion dans ce discours de discuter un peu de ce que le gouvernement propose dans ce projet de loi faisant affaire avec les changements à la loi de travail qui va donner certains droits aux travailleurs qui travaillent pour les agences temporaires. Je veux dire, premièrement, qu'on trouve de plus en plus que les projets de loi dans cette place sont un peu, comment dire, moitié-moitié, comme on dit en français—c'est un beau mot qu'on peut utiliser—dans le sens que le gouvernement dit qu'il veut faire une belle affaire pour être capable de protéger les travailleurs, et il y a certaines provisions dans le projet de loi, oui, pour donner certaines protections aux travailleurs de la province qui travaillent dans des agences temporaires. Mais si on regarde les détails dans ce projet de loi, il n'est pas nécessairement que les travailleurs dans cette province vont être capables de courir dans la rue la journée que le projet de loi est passé pour dire, « Regardez la grosse victoire ».

I want to say that I'm not taking the lead, by the way. I notice you've got me taking the lead.

The Acting Speaker (Mr. Ted Arnott): You're the leadoff speaker, so what you would have to do is seek unanimous consent of the House to have the lead stood down, if you wish to do that.

Mr. Gilles Bisson: After one minute and 10 seconds, I would like to stand down the lead, with unanimous consent.

The Acting Speaker (Mr. Ted Arnott): The member is seeking unanimous consent to stand down the lead for his party. Agreed? Agreed.

I'll return to the member for Timmins–James Bay.

Mr. Gilles Bisson: But, Mr. Speaker, if you had been listening to me, that's what I did say when I was speaking in French.

Just joking. I stole that line.

The Acting Speaker (Mr. Ted Arnott): No, you did not, but thanks anyway.

Mr. Gilles Bisson: It was only in jest. I thought that every now and then you can plagiarize a good line if you hear it, as long as you give credit to who gave it to you. Anyway, sorry. That really threw me off. Comme je disais, les travailleurs de la province de l'Ontario ne vont pas exactement courir dans la rue la journée que ce projet de loi est passé en vigueur dans cette Assemblée. Les travailleurs vont apprendre que, sérieusement, il y a certaines déficiences dans ce projet de loi qui ne donnent pas nécessairement les protections aux travailleurs dans ces agences qu'on penserait qu'ils auraient voulu donner dans la première place.

Je veux donner une expérience que moi, j'ai passé à travers, parce qu'on a vu ce qui s'est passé avec les agences temporaires sur une période d'une vingtaine ou d'une trentaine d'années. On sait que ça ne fait pas longtemps que dans la province de l'Ontario les agences temporaires n'étaient pas des institutions telles qu'on voit aujourd'hui. C'était quelque chose un peu particulier. S'il y avait un travail très spécial, s'il y avait une situation un peu différente, il y avait une certaine agence qui donnerait au secteur privé

ou au secteur public des travailleurs à la pige quand nécessaire pour des durées de temps très courtes. Mais on voit à cette heure, comparé à 30 ans passés, que c'est devenu plus la norme dans notre économie. Au lieu de voir les agences temporaires donner l'ouvrage à la pige aux individus pour venir travailler dans nos industries et au gouvernement, on voit que c'est plus la norme. En d'autres mots, cela a beaucoup accéléré, et je pense que le long et le court de l'histoire, c'est que pour beaucoup de travailleurs qui pourraient travailler à la permanence pour un employeur, avoir des bénéfices, être membre d'un syndicat, etc., ça a beaucoup diminué et leurs droits sont beaucoup diminués. On a vraiment vu une accélération à cette pratique d'utiliser les agences temporaires dans la province de l'Ontario.

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On va voir, par exemple—moi, je viens de l'industrie minière. J'en ai justement parlé hier, ici à l'Assemblée. J'ai fait beaucoup de mon temps à travailler comme électricien sous-terrain puis dans des moulins comme électricien dans les mines dans le nord de l'Ontario. Dans les années 1970 et 1980 même, on ne voyait pas bien souvent, il n'y avait pas beaucoup d'occasions, où les employeurs de ces mines, soit Noranda, Kidd Creek, Inco et ces compagnies-là, utilisaient des travailleurs à la pige. D'habitude, si on avait besoin de travailleurs, on en engageait pour venir travailler. Même dans notre instance d'un employeur où je travaillais, on va l'appeler Moore, on avait dans notre convention collective quelque chose qui s'appelait un employé temporaire qui était défini, qui disait que, si l'employeur a besoin que quelqu'un vienne travailler sur un projet spécial, il y avait du langage dans la convention collective qui disait : « Tu peux seulement le faire pour une période de 90 jours ». Si c'était plus de 90 jours, là tu avais besoin d'engager quelqu'un à la permanence, et ça faisait partie d'une convention collective qui donnait aux travailleurs une certaine protection.

Mais les employeurs de la journée ont dit : « Écoute. » Ils pensaient un peu à voir comment pouvoir contourner les conventions collectives, comment être capable de contourner le droit des travailleurs. On commençait à penser : « Peut-être ce qu'on peut faire, où possible, pas nécessairement là où il y a de bonnes conventions collectives mais spécialement dans les nouvelles mines qui ont été développées dans le temps : on veut utiliser des contracteurs qui eux autres vont rentrer puis faire l'ouvrage qui est normalement fait par les employés à la permanence dans ces industries. »

Donc on a vu, depuis les années 1970 et 1980, qu'une grosse majorité à cette heure des travaux dans les nouvelles mines qui se développent aujourd'hui sont faits avec des contracteurs. En d'autres mots, c'est beaucoup plus difficile pour un employé de négocier une entente, une convention collective, ou même de former un syndicat, parce que les employeurs ont finalement décidé qu'à la place d'engager le monde à la permanence pour la compagnie elle-même, ils vont engager les travailleurs, eux autres même, à travers des agences temporaires qui vont faire beaucoup d'ouvrage.

Si on regarde, par exemple, il y a beaucoup d'instances à cette heure dans l'industrie minière à travers le nord de l'Ontario où les nouvelles mines qui ont été ouvertes n'utilisent plus les travailleurs à la permanence dans leur compagnie. Je regarde, par exemple, le projet Montcalm. Le projet Montcalm, au sud de la ville de Timmins, a une centaine de personnes qui travaillent là. Pour la plupart, ce ne sont plus des employés à la compagnie. La plupart d'entre eux sont des travailleurs qui travaillent pour des contracteurs. Cela veut dire que si les travailleurs commencent à s'organiser et disent : « Nous autres, on va avoir les meilleurs bénéfices », soit par gages ou bénéfices pour avoir travaillé dans cette place, cela veut dire que c'est plus difficile à faire parce qu'il faut négocier ça avec le contracteur. L'employeur, la personne à qui la mine appartient, dit : « Écoute, s'il y a trop de problèmes syndicaux dans notre coin, on va aller chercher un autre contracteur ». Donc, cela a vraiment détourné le droit des travailleurs de s'organiser avec un syndicat pour l'employeur. Puis je pense qu'à long terme pour l'économie ce n'est pas une bonne affaire.

Par exemple, si on a 100 travailleurs qui travaillent dans un plant quelque part en Ontario et eux autres travaillent pour la compagnie à la permanence, cela veut dire qu'il y a la chance de négocier une

convention collective. Cette convention collective va dire que beaucoup plus de l'argent qui est payé pour l'ouvrage fait pour cet employeur va aller directement dans la poche du travailleur ou de la travailleuse. Dans ce point-là, cela veut dire que cet argent-là va être recyclé dans l'économie, et cela veut dire plus d'argent pour acheter les produits qu'on vend dans les municipalités pour acheter des maisons, etc. Si on a des contracteurs, cela veut dire que plus d'argent à la pige va aller à la compagnie au lieu d'aller directement au travailleur, ce qui veut dire que le travailleur, à la fin de la journée, va travailler pour moins, et ne va certainement pas avoir autant de bénéfices qu'il aurait eus s'il travaillait pour la compagnie.

Donc, le point que je fais : je regarde ce qui est arrivé dans l'industrie minière pour toutes ces années-là, et cela a beaucoup changé la manière dont le travail est fait dans cette industrie. À la fin de la journée, est-ce qu'on est bien servi ? Moi je dis, pas nécessairement. Je pense qu'il y a un point où, s'il y a une permanence à l'ouvrage, tu as besoin d'avoir une permanence à l'emploi. En d'autres mots, si l'employeur est en train de bâtir, on va dire, quelque chose en construction mais tu sais que c'est un point défini—c'est six mois, c'est huit mois, c'est un an, c'est 14 mois—là ça fait du bon sens qu'un contracteur rentre et qu'il fasse beaucoup d'ouvrage.

Mais quand c'est un job permanent, un job à la production qui va être là pour cinq, 10, 15, 20, 25 ou 30 ans, pourquoi donner cet ouvrage-là à quelqu'un à travers une agence temporaire ? Donc, moi, je le regarde et je dis à moi-même : « Est-ce cette pratique, avec cette loi, va être changée ? » La réponse est non. Tout ce qu'on fait dans ce projet de loi, c'est donner certains droits aux travailleurs qui travaillent pour ces agences temporaires, et on ne fait franchement rien pour protéger le concept de l'ouvrage. Cette province était bâtie sur une certaine morale où le monde qui est venu ici en Ontario et au Canada des différents pays du monde a dit : « Je viens de l'Italie », « Je viens de la Pologne », « Je viens de l'Allemagne », « Je viens des Indes », de différentes parties du monde, « et si je travaille fort, je vais être capable de me joindre au succès qui est l'Ontario et le Canada. »

Je pense que, quand on a beaucoup plus d'agences temporaires, ça veut dire à ces travailleurs-là : « Vous pouvez continuer à travailler très fort », mais c'est quoi le retour qu'ils vont avoir dans notre société ?

Donc, il faut se demander, c'est pour qui, l'économie ? Est-ce que l'économie est là pour nous, ou l'économie est-elle seulement là pour les entrepreneurs ? Oui, on a besoin des entrepreneurs. Oui, on a besoin du monde qui va gérer et penser à comment développer de nouveaux produits pour bâtir une économie et donner des opportunités économiques non seulement à l'entrepreneur mais, je dirais, à tous ceux qui sont affectés par la décision de cet entrepreneur. Si on a des lois dans la province de l'Ontario, comme au Canada et ailleurs, qui disent que l'entrepreneur peut détourner les droits des travailleurs et dire que les travailleurs peuvent être payés moins pour leurs travaux, est-ce que c'est vraiment une situation qu'on doit, nous dans la province, accepter ? Mois, je dis non. Je pense qu'à la fin de la journée, il faut reconnaître que les travailleurs, eux autres aussi, ont une partie dans cette économie. Un bon entrepreneur, une bonne entreprise, ne peut pas faire le succès sans avoir des employés qui sont dédiés à l'ouvrage que fait cette compagnie-là, et dédiés à l'ouvrage qu'ils ont besoin de faire, comme leur part, pour mener cette entreprise, soit à travers des travaux des journaliers ou des entrepreneurs eux autres mêmes qui ont la gérance de la compagnie.

Pourquoi seulement un secteur de la population peut-il partager les retombées économiques de cette entreprise ? Donc, je dis encore que ce projet de loi ne va pas arrêter ces pratiques-là, et à la fin de la journée, est-ce le monde est bien servi dans cette province avec cette situation-là ?

Est-ce que les travailleurs dans ces entreprises, à la fin de la journée, vont être protégés quand ils perdent leur emploi ? Présentement, si je travaille pour une entreprise et que je suis là pour plus de trois mois et finalement l'employeur, après un an ou deux ans, dit : « Je n'ai plus besoin de vos services », il y a certains droits que tu dois m'accorder comme employé. Tu as besoin de faire ça, de payer mes vacances et aussi de payer mes severances en partant de la compagnie. Mais présentement,

si tu travailles pour une agence temporaire, ce n'est pas le cas. L'employeur, parce que tu es défini comme temporaire sous la loi, a le droit de dire : « Bye-bye. Prends ton kit. Vas t'en. À la fin de la journée, je n'ai pas besoin de payer tes vacances ou de payer tes severances » parce que les vacances, d'habitude, sont payées chaque semaine, un surplus qu'on donne sur le salaire lui-même.

Donc, est-ce que ces travailleurs-là vont avoir ces protections sous cette nouvelle loi ? Pas nécessairement. Oui, il y a certains travailleurs qui vont être protégés, mais ce n'est pas une protection qui est aussi claire que nécessaire pour tous les travailleurs dans un tel projet de loi.

L'autre grosse question qu'il faut se demander, c'est quels droits les travailleurs vont avoir sous ce projet de loi, comparés aux lois existantes de la province de l'Ontario pour tout autre travailleur.

Présentement, si je travaille en Ontario, j'ai le droit à certaines protections sous les lois minimales du ministère du Travail. Si je suis un employé temporaire, ce n'est pas nécessairement le cas que je vais avoir exactement les mêmes protections sous les différentes lois du ministère du Travail, « Employment Standards Act » et d'autres projets de loi. Donc, est-ce que ces travailleurs, une fois que ce projet de loi est passé, vont avoir, eux autres, les mêmes protections que les travailleurs permanents présentement ?

La réponse est non. Les travailleurs ne vont pas avoir les mêmes protections que les travailleurs à la permanence qui travaillent pour d'autres compagnies en Ontario. Donc, il faut se poser la question : est-ce que les travailleurs sont égaux ? Pour une personne qui travaille dans la province de l'Ontario, doit-on avoir deux standards : un standard pour une classe de travailleurs ou ouvriers qui travaillent avec une agence temporaire et une classe pour les travailleurs qui travaillent pour un employeur permanent ?

Moi, je dis non. On doit tous avoir les mêmes droits. On est travailleurs, c'est ça la clé. Les entrepreneurs, eux autres, ont tous les mêmes droits. Oui, il y a un risque à être entrepreneur, ça, je le comprends très bien, mais on a besoin des entrepreneurs pour faire ce qu'ils ont à faire dans l'économie. Ce n'est pas pour dire que c'est du monde méchant. Mais les entrepreneurs, sont gérés par toutes les mêmes lois, et tous les entrepreneurs au-dessous des lois provinciales ont les mêmes protections et ont les mêmes droits à la cour et à d'autres protections qu'on trouve dans la loi existante de la province de l'Ontario et du Canada.

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Mais ce n'est pas le cas pour les travailleurs. Dépendamment de la classe de travailleur, des protections ne sont pas les mêmes. Je demande aux députés ici aujourd'hui, une fois que ce projet de loi est tout fini et passé, est-ce qu'on va encore avoir des travailleurs à deux vitesses ou des travailleurs de deuxième classe ici dans la province de l'Ontario ? Et la réponse est oui parce que, autour de ce projet de loi, on verra encore continuer la discrimination des travailleurs et des employés temporaires, les employés d'agences temporaires avec des lois qui sont plus minimales que les lois qui sont acceptées pour les travailleurs à la permanence ?

Donc c'est clair que oui, ce projet de loi va une certaine distance pour donner des protections aux travailleurs, mais ce n'est pas pour dire qu'ils vont avoir plus de protections sous ce projet de loi. Ils vont avoir plus de protections, il n'y a aucune question là-dedans, mais ils ne vont pas être égaux à tous les autres travailleurs dans la province de l'Ontario. Je penserais que, comme Assemblée législative— aucune différence, à n'importe quel parti on appartient—on voudrait voir les travailleurs traités de la même manière sous la loi provinciale. N'importe quelle sorte de travailleur que tu es, si tu es un travailleur à la permanence ou un travailleur temporaire, tu dois avoir les mêmes droits en-dessous de la loi provinciale, et c'est clair qu'en-dessous de cette loi on ne va pas l'avoir.

L'autre question devient, avec les vacances qu'on a telles que Noël, le Jour de l'An, la Fête du Canada etc : présentement, si je suis employé à permanence et que je suis avec cet employeur plus de, je pense, 30 jours sous la loi présente, j'ai droit à toutes mes vacances statutaires. Il y a 10 ou 11—c'est 12, hein ? C'est 12 jours de vacances obligatoires auxquels tu as droit présentement sous la loi ontarienne. Si je suis un employé avec une agence temporaire, il y a des situations où je ne vais pas avoir accès à ces mêmes vacances. Je demande encore la question : comme législature, est-ce qu'on veut s'assurer que

tous les travailleurs ont les mêmes protections et les mêmes bénéfices que les autres travailleurs, ce qui sont les standards minimales qu'on donne dans les lois du ministère du Travail dans la province de l'Ontario?

Monsieur le Président, j'imagine que vous, comme moi et les autres députés de cette assemblée, allez dire : « Mais oui, les travailleurs sont égaux. Si les entrepreneurs ont tous les mêmes droits, on doit accorder les mêmes droits aux travailleurs ». C'est seulement quelque chose qui fait du bon sens. Ce n'est pas quelque chose de vraiment radical. Mais quand on regarde présentement la pratique, on sait que les travailleurs qui travaillent non à la permanence mais pour les agences temporaires n'ont pas les mêmes protections sous la loi présente. Quand je regarde le projet de loi, ça va être encore la même situation.

Je vous demande, c'est quoi qu'on essaie de faire ici? C'est quoi que le gouvernement essaie de faire? Je vais vous dire mon impression, puis c'est mon opinion : le gouvernement a toujours l'occasion et veut toujours être vu comme : « Ah, monsieur McGuinty, le gouvernement libéral : on est donc beau. Regardez les belles affaires qu'on fait pour le monde de la province de l'Ontario ». Les députés libéraux provinciaux puis le premier ministre puis le cabinet peuvent se promener autour de la province en disant : « Regardez. On traite les travailleurs si bien. On a un projet de loi qui est là pour protéger les travailleurs qui travaillent pour les agences temporaires ». Et les travailleurs, eux autres, parce qu'ils n'ont pas tous les détails puis ils n'ont pas le temps non plus pour être capables de lire tous ces projets de loi, disent : « Ah, mais c'est beau. Mon Dieu. Wow. C'est tout quelque chose. Quelqu'un veut me protéger. Peut-être que c'est un bon gars, ce gars-là, après tout. Peut-être qu'il augmente mes taxes, mais il me donne des protections sur l'autre bord ». Mais je vous demande, si vous êtes travailleur dans une agence temporaire, de prendre l'occasion de lire le projet de loi, et vous allez voir que M. McGuinty a de belles paroles, mais quand ça vient aux protections que tu dois avoir sous la loi, tu n'as pas les mêmes protections que tu aurais si tu étais un travailleur à la permanence pour une entreprise. Donc, cela devient un choix : cette Assemblée peut décider dans ce débat, et une fois qu'on a fini au comité et finalement la troisième lecture, soit de protéger les travailleurs temporaires soit de ne pas les protéger. Moi, je dis que ce projet de loi ne protège pas les travailleurs d'une manière où on pourrait être satisfaits comme néo-démocrates. Moi, ce que je veux voir c'est que si on passe un tel projet de loi, qu'on donne à tous les travailleurs dans cette province les mêmes droits. Je répète encore : les entrepreneurs de la province de l'Ontario sont gérés par toutes les mêmes lois. Il n'y a pas un entrepreneur qui a comme différence ce à quoi il a accès quand ça vient aux lois pour les protéger ou ne pas les protéger, dépendant de quelle manière tu le regardes. Mais la question devient qu'ils sont tous les mêmes : les entrepreneurs sont tous traités de la même manière sous la loi; ils sont tous traités de la même manière, avec les lois.

Mais quand ça vient aux travailleurs, eux autres ne sont pas protégés de la même manière. On a deux classes de citoyens : on a les travailleurs à la permanence et on a les travailleurs qui sont dans les agences temporaires. C'est le cas avant ce projet de loi; je dis que ça va être le même cas après ce projet de loi. Je demande au gouvernement, quand ils écoutent ce débat et veulent regarder quoi faire à la deuxième lecture, de faire les amendements qui vont être nécessaires pour assurer que tous les travailleurs de la province de l'Ontario soient traités d'une manière égale et traités avec du respect et de la dignité dans cette province, et non pas comme deux classes de citoyens.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Khalil Ramal: I was listening to the member from Timmins–James Bay speak about third reading of Bill 139. I know he spoke about many different elements of protection for workers in the province of Ontario, and I know he is not satisfied in the end, after the third reading, with what we introduced in this House. But I want to tell the member that it's important to address all these issues and talk about them in detail. We have to create a balanced approach.

As you know, in this bill—I guess I'm going to, in 10 minutes, speak for a long time to explain my position, how I understand the bill and how we can strengthen the Employment Standards Act in Ontario in order to protect workers in this province. I know the member spoke about how we can protect the workers who go to work on the assumption they're going to have a job and a vacation, and all of a sudden they lose all this stuff without any protections. But as a matter of fact, this bill will protect those workers who want to work through a temporary agency. That's why the Minister of Labour introduced this bill and that's why our government introduced this bill: to create some kind of protection for people who go through temporary agencies in this province.

I think it's important to create a balance. It's important for the government to interfere and create that protection for people who we believe are vulnerable, especially for newcomers and new immigrants who don't understand the laws. There are many different good elements of protection in this bill for people who want to work in this province through employment agencies.

So hopefully I'll get 10 minutes, in a few minutes, to speak in detail about my position and explain our thoughts as a government on this piece of legislation.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Robert Bailey: It's a pleasure to be able to comment on the remarks for the member for Timmins-Thunder Bay, and—

Mr. Michael Prue: That's a big riding.

Mr. Robert Bailey: That's a big riding, is it? Did I get the right—

Mr. Gilles Bisson: James Bay.

Mr. Robert Bailey: James Bay. Sorry.

Mr. Michael Prue: Thunder Bay is on the other side.

Mr. Robert Bailey: I don't know my geography that well, I guess. I'll admit to that.

Anyway, I found the comments very interesting, and I'm going to speak a little later about our side of the House's take on the bill.

I sat through the committee hearings and was interested to hear the submissions from employer groups, employees who came in and spoke, and many employee groups. People came in and spoke about the need for temporary agencies and how a number of them went from temporary placements to permanent employment. A number of agencies came in and spoke about the need that their agencies will fill when the economy does recover, down the road: A number of employers will look to temporary agencies for employees to fill that gap as they move forward. We had a number of larger companies and a number of smaller businesses. One thing that did come through was that a number of the temporary employee agencies felt that they were being portrayed in the worst light and said they were horrified at the process. They were being made out to be some type of villain. Acknowledging that there may be a number of bad apples in the industry, no one wanted to see those people dealt with any more than them, because it gave the whole business a bad feeling.

I look forward to speaking as well in further remarks as my time comes up.

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The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Michael Prue: It was a pleasure to listen to my colleague from Timmins-James Bay and the way he spoke so eloquently. I had not heard a debate on this topic ever in French, and to listen to how he brought it forward, how he talked about his own experience, how he talked about the mines, how he talked about Kidd Creek and all of those things, brought it all together, but the nub of what he had to say was that this legislation will continue to allow for a second-class status to people who work through temporary agencies, and I think that is the failure of the legislation. It acknowledges and continues second-class status for a group of people, a great number of people, including those who work in temporary care, and that will continue to exist.

What my colleague from Timmins–James Bay had to say that was he was not satisfied, and he is correct. We should not be satisfied that in this great province of Ontario there are two levels of citizens: those who have permanent jobs that pay decent wages and benefits, and those who work through a temporary agency—usually through no fault of their own—who have somewhat less protection. He said it very well, and I commend him for what he had to say in terms of the legislation itself. As a New Democrat, of course, he is probably a little worried about this, too. What do we say? Do we think this is a good bill? Obviously not. Is it a step forward in a few small regards to some people? Yes, it is. There are aspects of the bill that are correct. There are aspects of the bill we must support, but in the end it is a lot about nothing to people who are looking to us for some real huge support and unfortunately will not find it within the body of this bill.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Vic Dhillon: I want to thank everyone who spoke on this issue. All we're trying to do is make the lives of people who work under temporary agencies better, and I think this bill has done precisely that. I just want to outline some of the aspects that are enshrined in this bill.

Temporary agencies—we need the good ones. We've had presentations from many great temp agencies who do just wonderful work in terms of placing people in permanent jobs in a well-coordinated and respectful way. What we're not in favour of is these fly-by-night temp agencies who abuse the sometimes new immigrants and visible minorities.

One of the aspects of this bill is that temp agencies will no longer be allowed to charge temporary-to-permanent fees. I've already been hearing from many of my constituents and from people all over Ontario that there's a huge markup between what client companies pay temp agencies and what workers receive. So this is one very good step in terms of putting more money into the pockets of temporary workers.

Also, there will not be fees for services such as resumé writing or interview preparation. Often these are just frivolous, made-up fees that again drastically reduce the amount of money that people earn sometimes in very onerous, labour-intensive positions.

Also, one other element is the anti-reprisal side of this bill. If someone complains, they will not be punished, and they can bring their complaints forward without any reprisal being taken.

The Acting Speaker (Mr. Ted Arnott): The member for Timmins–James Bay has two minutes to respond.

Mr. Gilles Bisson: I've got to make the point that this is all about incrementalism. If you believe in incrementalism, you have a party, and it's called the Liberal Party. They will give you what you want to hear when it comes to the great words, but when it comes to moving the agenda forward, it really is about incrementalism, and the sense is that you're not going to get to where you want to go in the timely fashion that you wish.

This bill—let's be clear: Once it's passed, there will still be two classes of workers, period. You will still have workers in this province who work for a permanent employer who will have greater protection under the law than a worker who works and does the same job for less money in a temporary agency. That's the test.

What I'm saying is this: Is this bill totally bad? Obviously not. It does move the yardstick forward. It is a step forward. I'm not going to say everything in this bill is a step back and is terrible. It tries to deal with an issue, but it doesn't bring us to where we need to be.

The argument that I put forward is this: When it comes to entrepreneurs in this province, they all play by the same rules. They're covered by the same laws of Ontario and the same laws of Canada. They may like those laws or they may dislike those laws—in many cases they don't like them at all—but they're all subject to the same laws. No matter what happens with the entrepreneur, he or she, who goes and invests to start up a business—they play by the same rules.

Workers in this province, under this bill, will not have the same protections. You will have two classes of workers: those who work for a permanent employer, who have the full weight of the Employment

Standards Act and the Employment Relations Act to give them the protection that they need at a time when an employer decides to do something that is not exactly the right thing to do towards the employee; and you will have those employees who work for temporary agencies, who, yes, will have better protection than they had before—but they will still be treated as two classes of citizens. Why should we stand for that in this Legislature?

The Acting Speaker (Mr. Ted Arnott): Further debate.

Mr. Khalil Ramal: I'm privileged and honoured to stand up and speak in support of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters.

This is an important step towards a brighter future for the workers of this province. I still remember when my colleague from Brampton West brought this issue forward to this House as a private member's bill a few years ago. He spoke about temporary agencies. He spoke about the bad ones, he spoke about the good ones, he spoke about the need for temporary agencies, and he spoke about the importance of regulation in this industry, because this industry wasn't regulated.

As you know, temporary agencies in this province were created as a result of a need for temporary workers, whether a company needed people for five days, 10 days, a week or a month. Those temporary agencies came to supply the demand being created by many successful companies across the province of Ontario. As you know, sometimes a company or an agency needs people because they're short of workers—somebody is sick, somebody is on maternity leave, somebody is on sick leave—for whatever reason. Those temporary agencies were created to fill those demands and supply those companies to continue work on a regular basis.

As we grow, as our economy grows on a daily basis, those temporary agencies also grow alongside those companies and those factories that are spread out throughout this beautiful province. Those agencies work very hard to supply those companies, to supply the demand which is being created on a daily basis in this province.

But some of those temporary agencies abused the system and took advantage of the vulnerable people who were looking for jobs badly.

I'll give you an example. I remember listening to the Minister of Labour speaking a couple of days ago about his experience. When he was a young guy, he read an article in a paper, an advertisement for a person who can make up to \$20. When you talk about 20 years ago, \$20 per hour was a lot of money back then. But when he went, he discovered a lot of different things. False advertisement—they told him he can get this and this and this if he does one, two, three, four. He went and did whatever they asked him to do, but in fact it wasn't correct information. That's why he left or was forced to leave without any payment.

Also, many people want to find a job to feed their families—many newcomers who come from different parts of the globe. They don't understand the regulations and the rules in this land. They want to just focus on finding money to feed their families. They go wherever, they do whatever, in order to create some kind of protection and to feed their families.

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So what happened? Those temporary agencies used to take advantage of them because there were no rules, no protections. According to the laws and rules in this province, there was no reason for them to provide new workers with any information concerning the job or how much they would get, about the vacations. As the member for Timmins—James Bay mentioned, there are two classes. People who do the same job, get vacation pay, they get a certain amount of money, but the other person, who works through the temporary agency, gets less money, no vacation and no protection. Also, as a matter of fact, many of those temporary agencies used to ask for fees: "If you're going to work for us, we'll allow you to work, but you have to pay \$500 as a tipping fee to allow you to enter the job. Then, if you perform well, we might give you back that money." So many companies created wealth through their careers by

asking new workers, through the temporary agency, to pay a certain fee. All these accumulated fees created some kind of wealth for those companies. There was no protection for that reason.

But what happened, through this bill—if this bill is passed—we heard from many different people who came before the committee and spoke clearly and loudly about the importance of creating a law in this province to protect the workers. We listened to the Conservative Party many different times. They don't agree with that. They want no regulations, no rules. They want to apply the open market; the market would dictate the rules and regulations. But our duty and our responsibility as people elected in this province is to protect the workers, to protect vulnerable people. We believe strongly as a government, as a Ministry of Labour, in protecting workers in this province, in creating fair grounds for everyone, an even, level field for everyone, in creating an opportunity for the people who want to work, who want to pay back this province, who want to work and to provide support for their families and not to be used and abused through a system in this province. That's why the Minister of Labour came with an aggressive bill to create that balance.

So many different temporary agencies do an excellent job in the province of Ontario. They provide a service and they deserve respect and protection. They do it because they believe strongly they have a role to play in this economy. But on the other side, there are so many different people who come to the marketplace to take advantage of vulnerable people. That's why this bill creates that balance, creates the protections. I think it's important for all the people who want to work to know the rules and regulations before they go to work, before they start working, because they might have understood it differently; they might not know exactly what that job required. We don't want to get anyone in trouble. Therefore, if this bill passes, it will require the temporary agency to provide all the workers with all the information needed about the nature of the job, and also prohibit any temporary agency from applying any fee to anyone, and also make sure all the people working through that temporary agency get their vacation pay, get a similar salary with no discrimination against anyone. Despite the member for Timmins–James Bay, this bill will create a balance. It doesn't create two classes of workers. As a matter of fact, it creates a level field for all the people who want to work in the province of Ontario.

Do we need those temporary agencies? As I mentioned at the beginning, yes, we need them. As I mentioned at the beginning, those temporary agencies play a pivotal role in our economy, in our communities, in our cities and towns. Sometimes people don't need full-time jobs. They want to fill some kind of job for a couple of days, a couple of hours, whatever. So that's why they're needed. But our duty and obligation as a government is to create that balanced approach, to protect the people who want to work in this province. I believe that by creating that balance, this bill will achieve the goal and achieve a level of understanding between the temporary agencies and the new workers, and it will create some kind of protection mechanism for the people who want to work through those temporary agencies to get their holiday pay, to get the same salary as other people, to know exactly what the job is all about. All this adds support that wasn't there before.

I think it's important, every once in a while—it depends on how the economy grows; it depends on the nature of the jobs; it depends on the structure of our community—to come up with some kind of rules and mechanisms to create some kind of protections for the people who work in the province of Ontario. Many people spoke before me, and I know some people are happy with certain elements and some people are not happy at all with this bill because they think it's not needed, especially the Conservative Party. Some of my colleagues spoke in support because they know it's the only way we can approach this issue: by creating a balance, by inviting and rewarding those companies who follow the rules and regulations of this province, that are created just to create jobs and help other companies to grow, and also to find an opportunity for many workers in this province to work.

As you know, not everyone has the ability to find a job. Not every one of us in this province has the techniques or the credentials or the connections to find a job, so that's why some of these temporary agencies, when you go through them, find you a job that suits you. They find you a job that matches

your education and your qualifications. Some of them do an excellent job in order to match the jobs with the workers and with the factories and companies. Some of them, as I mentioned, take advantage. That's why this bill, if passed, will create the balance and create protections for the people who are looking for jobs and who don't want to be taken advantage of.

Also, if this bill is passed, the government will, to a certain degree, fulfill its obligations toward the workers in this province and toward the companies and temporary agencies that want to do a good job, that want to follow the rules and regulations of this province. Also, I think this bill, if passed, will weed out all the fly-by-night agencies and temporary agencies that want to come to the market just to gather the money without any respect for the rules and regulations, without any respect for the workers who pay their time and effort.

Today is an important day. All of us are wearing the ribbon to remember the people who died while they were working.

Again, Mr. Speaker, thank you for allowing me to speak. Hopefully this bill will be supported by all the members of this House.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Norm Miller: Thank you for the comments from the member from London–Fanshawe.

I just thought I'd get on the record parts of an e-mail I received from the past president of ACSESS, Gary French, who happens to be a councillor in my riding, in Archipelago township, and he's an expert on this area. He points out:

"The general trend for the past two decades has been to deregulate the industry globally, recognizing the importance of labour market flexibility as a vital component to competitiveness in the global marketplace. As such, the legislation as it now stands would increase costs through the continuing work provisions, to which ACSESS objects, both to staffing companies trying to administer the provision and to end users of the services provided who have choices where their work is carried out. New costs would have to be passed on and would form a part of the business case as to where work is carried out. For example, IBM operates many contact centres across Canada and has announced plans to consolidate these to less cities in Canada as well as transfer some of what is currently being done in Canada to Colorado. It would also introduce employment legislation to the staffing industry, whose bedrock, in all North American industries, is to abide by the same laws that apply to all employers. Why would Ontario want a new cost and, more importantly, a new and negative cost consideration that defines Ontario in a negative competitive light, to become part of the business case analysis for all companies seeking to improve their competitive position? Why would Ontario seek to highlight that it leads the way in employment legislation designed specifically to reduce flexibility and increase the cost of doing business? This is an example of legislation that, while perhaps well intended, will hurt the very people it purports to help at a time when, I would suggest, Ontario needs to build every competitive advantage that it can instead of putting up new roadblocks for business."

He goes on: "Let me just say that the employment relationship between a worker"—and I can see that I'm running out of time, so I can't summarize further. He's pointing out that this may have good intentions, but it's going to increase costs, making Ontario less competitive, as so many of these Liberal bills have, and Ontario becomes less and less competitive in this worldwide, global economy.

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The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Michael Prue: I listened intently, as I always do, to the member from London–Fanshawe and what he had to say. As a matter of fact, I thought he was in full flight after about 10 minutes in explaining what he wanted to do, when mysteriously there came a hook from the other side and he seemed to be cut off in what he wanted to say. I was a little disappointed, because I was hoping that he would have explained to the Legislature here why he thought it was such a good bill, and about all of the good intentions.

I know that he has a two-minute response. I would really like him to explain to me, and perhaps to all of the people who wonder, why the Liberal Party took the extraordinary step during the preparation of this bill—at second reading, and in committee—of excluding home care agency workers.

Home care agency workers are not being given the same rights as everyone else. Home care agency workers, in my opinion, should not have to wait three more years before they get termination and severance rights. If you're going to say that this is a step forward for all workers, why are these workers being forced two steps back? Why are they not being given the same legislative rights that you're so proud of, the member from London—Fanshawe?

I know that you were cut off before you had a chance to explore this very weighty issue, but I'm hoping, in the last two minutes, that you can go on to that. You did start off in a very correct mode by saying that the majority of people who work for temporary agencies and who have been exploited in the past are new immigrants, people of colour, and women, and surely they deserve that kind of protection. The ones who deserve it most, I would suggest to you, are the home care agency workers, who are not being protected at all.

I'm waiting for your two minutes, and I know that you will make every single effort to finish what the whip would not allow you to do in your 20-minute speech.

The Acting Speaker (Mr. Ted Arnott): Questions and comments.

Mr. Gilles Bisson: I too watched in amazement as my good friend the member from London—Fanshawe was in full flight. I thought he was making some pretty good points. I don't necessarily agree with him in the sense that the bill goes as far as he was making it out to be, but I thought he was making good points. And I saw for myself, with my own eyes, the whip reach across the aisle and just cut him off at the knees and bring him down. I want to say, as a fellow whip: That's disgusting. You would never see me do something like that to one of my members. In fact, they'd cut my knees off if I tried to do it. So on behalf of all the members of the House, I say: Free Khalil. Allow him to give his entire speech. We should be asking for unanimous consent to give him another 10 minutes. I'm just hoping that one of the government members will get up and do that, because I'm sure that it will be supported from this side of House.

I say to my good friend the member from London—Fanshawe that it's always a pleasure to listen to him. But be freed—let the whip go down.

The Acting Speaker (Mr. Ted Arnott): Questions and comments.

Mr. Vic Dhillon: Leading up to this bill, as the parliamentary assistant to the Minister of Labour, I had the opportunity to hold several consultations over the summer with many employee, employer, and union groups. We heard what they had to say.

After the bill was introduced and went into committee, we heard from many people from across Ontario. Listening to the stories, it felt like some of the horror stories that were presented in committee were plagiarized, in a way, for lack of a better word. But they weren't; they were real stories, and they were similar, and they stressed the same points that were heard when my bill about temp agencies was introduced in the previous term. I believe that bill was intended to license temp agencies, and we got a considerable amount of interest in that from people all over Ontario, which led to this bill.

Before, when I was speaking, I was speaking about reprisal, an important element of this bill. A lot of the people who are preyed upon by temp agencies are new immigrants, visible minorities, people who are very afraid to pick up the phone and call, because they're fearful of the fact that they will not be called back to work, they won't be paid—and many other reasons, including not knowing about the law. So this is a very, very important aspect of this bill. People should not be fearful, and people watching today, after this bill is passed, should go to work, if they're working through a temp agency, with full confidence, knowing that they're protected.

The Acting Speaker (Mr. Ted Arnott): The member for London—Fanshawe has two minutes to respond.

Mr. Khalil Ramal: Before I start, I want to say that we are lucky in the government caucus to have a good whip like Mr. Colle.

I listened to the members from Parry Sound–Muskoka, Beaches–East York, Timmins–James Bay and Brampton West. To the member from Beaches–East York, this bill is very clear: to protect the workers, to create some kind of protection for people who once worked through a temporary agency, because they need protection. Before this bill, or if the bill does not pass, people would be in two different classes; they would have a different payment. This bill will allow the workers who work through a temporary agency to get the same amount of money and the same vacation time. They'll be paid and protected, and also they will learn about their job before they start work. It's important.

The member from Parry Sound–Muskoka does not believe in this bill. He believes that by passing this bill we'll create some kinds of barriers. I don't understand it. I think it is our obligation to protect the vulnerable people in this province, not to create obstacles. I think this bill will protect the people and also protect the good temporary agencies who want to work and follow the rules and laws.

Look at what happened in the United States and many different parts of the globe because there is a lack of regulations in the whole world. What happened? We fell into a chaotic situation and a mess economically around the globe. That's why I think, as a responsible government, we should take whatever we have in our power to protect the people and create some kind of protection. Also, I think it's our obligation and duty as a government, as the Ministry of Labour, to protect the vulnerable workers who want to work to feed their families.

I believe that if this bill is passed, it will create those protections. It will make sure that everyone who works in this province will be protected and will get paid. Also, they'll know exactly what they're going to work at and what kind of conditions they are going to.

The Acting Speaker (Mr. Ted Arnott): Further debate?

Mr. Robert Bailey: It's a pleasure to rise and give the official opposition's leadoff debate. This time it was deferred.

It's a pleasure for me to rise and take part in today's third reading debate of Bill 139, An Act to amend the Employment Standards Act—for temporary staffing agencies.

On this side of House, we had high hopes for this bill. We thought that the government might have been serious about wanting to protect workers who were being taken advantage of by unscrupulous temporary agencies. Instead, we got a bill that seems, at its heart, to want to drive the temporary staffing agencies out of business.

Right now, there are in Ontario over 700,000 Ontarians who work through temporary staffing agencies; that is the number, according to ACSESS, which is the Association of Canadian Search, Employment and Staffing Services. People work through temporary agencies for a variety of reasons, and it's not up to us to decide what a good reason is to go the temporary route. People choose temporary routes for various reasons.

At committee, we heard from Frank Wilson of The Employment Solution, who spelled out very clearly why the industry exists. He said: "Why do our clients hire contract personnel? Because many of Canada's important industries work on a project-based model. It's their nature—not anything controlled or created by ourselves. Aircraft companies work on designing and building new aircraft. High-tech companies work on developing a new piece of software or hardware. Major service corporations plan and carry out a major overhaul of their delivery infrastructure. Energy and natural resource companies build new pipelines or new extraction operations. The list goes on and on.

"During these times, they need specialized skills that they wouldn't need the rest of the time. That's where we come in. We recruit designers, planners, engineers, software designers, and many others too numerous to mention."

The point is that temporary staffing agencies are an important contributor to our economy. Many of Ontario's largest employers rely on temporary workers to make sure they are fully staffed to meet their business plan commitments.

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On this side of the House, we agree that there are some in the industry that were not adhering to the best practices, and they need to be straightened out, but this bill goes too far. As a matter of fact, through this entire process the government has done its best to paint the temporary staffing industry as a menace. One of the presenters at committee said, "What has horrified me in this process, listening to all of this, is that our sector is being made out to be some kind of villain. We are absolutely the contrary to that. We are not fraudulent; we are certainly not fly-by-night. We have 20 years' experience, and we have wonderful employees who care every day about what they do."

This is a view shared by many in the industry. I recently received a letter from a company called The Staffing Edge in Brampton, Ontario, where the chief financial officer writes, "We support and have asked government for years to address rogue operators in the staffing business but this bill affects both the staffing industry and business at large. It will both force business to leave the province, stop them from coming here and will greatly reduce the opportunities for young people and new immigrants to enter the workforce."

After sitting through all the committee hearings and the clause-by-clause, I was struck by how consistent the message was from the staffing industry and from individuals who have been helped by the staffing industry as well. Everyone who presented said exactly the same thing: that staffing agencies could, indeed, support this bill if the government agreed to lift the limitation on temp-to-perm conversion fees and eliminated the notion of continuance of employment. We agree on this side of the House, as does the staffing industry, that such things as charging for interview preparation and resumé writing should not be allowed. This bill does address those items, but in the meantime it completely throws the baby out with the bath water. This bill has many flaws that we had hoped would be corrected through committee. Unfortunately, the government was not interested in any amendments we offered at committee that would have made this bill better and more acceptable to the vast majority of the industry.

The one thing that shone through at the committee hearings was that the majority of staffing agencies were not opposed to this bill in general. In fact, they had hoped that there were ways they could make this bill better and stronger. As I mentioned, my party offered many amendments to Bill 139 that the government would have been wise to adopt. There are also some fatal flaws that we would like to point out again to the government.

The first thing that surprised us was the blanket exemption given to community care access centres. Under Bill 139, the CCACs do not need to follow the same rules that everyone else does if they use temporary workers. This is a case of this government exempting itself from the very same rules of the game, and for no good reason. If the exemption is good enough for firms that have contracts with the CCACs, it should be good enough for all firms that provide personal health service. We heard from a number of these personal health services that have seen their competition be allowed to function under a different set of rules just because they have a contract with the government. We on this side of the House don't think that is fair. If the exemption was granted at all, then it should have been granted to all temporary staffing firms that do business in Ontario, not just those that deal with CCACs.

Comfort Keepers, a temporary staffing firm that provides personal health services, presented to the committee and said, "Comfort Keepers believes that private-pay services and those that are funded publicly should be treated equally under Bill 139. Therefore, our recommendation is that the government broaden and amend section 74.2 to remove that unfair playing field, and we put the language in there. The option of both private and public care is very important to Ontario residents and, quite frankly, nothing should systemically create an inequality between these two."

In true McGuinty government fashion, they chose to ignore this advice and create an unlevel playing field in the personal health services sector.

Through the course of the debate on Bill 139 and through the committee stage, it became clear to me just how important temporary agencies are to the economic well-being of Ontario. One firm pointed out that if temporary agencies are not in a position to help Ontario's employers meet their temporary staffing requirements when the economy picks up, firms will therefore not be able to respond as quickly as they should.

In committee, we heard from Nicolette Mueller, representing Adecco, who said, "At a time when the state of the economy demands removing us to temporary employment, certain parts of Bill 139 do the exact opposite. In fact, it will become costlier for companies to hire agencies and thereby impair their ability to respond to those unpredictable times." In effect, this bill could actually slow down any economic recovery.

Of course, nothing will slow down the recovery quite like the new Dalton sales tax, which will put an 8% tax on almost everything we use in our day-to-day lives, including, I would like to point out, temporary staffing agencies, which the DST will apply to—yet another cost on those businesses.

I was very impressed with a presentation from Kathryn Tremblay, who runs a staffing firm in the Ottawa Valley. As she said, "Specifically, our average assignments last 18.81 weeks. Based on applying the rules, it would take us 22.8 weeks to actually break even on our assignments. That means that we would lose 0.7% on every candidate that we place on an 18-week assignment. We would not be able to stay in business under those circumstances. Or we could pass on the cost to our client, the client being the employer. As Kelly Harbridge from Magna said—one of the employers that uses temporary agencies to a great extent—I don't believe any company in Ontario right now can absorb an extra 5% or 6% cost for a temporary worker. This is not the time for us, in this economy, to go to our client and say, 'Oh, by the way, can you pay another 5% or 6%?'"

Throughout this debate, I have met with people on both sides of this debate about this bill. Many people saw common ground on this bill, yet the government refused to budge or accept any amendment.

One of the most important issues raised by the staffing industry had to do with the notion of continuance of employment.

In committee, the official opposition moved to delete subsection 74.4(2) from the bill. We believe that this section created and implied "continuance of employment" while not on assignment, which, in turn, constructs an inconsistency between the employer's obligation and the reality of the employment context. Ontario is the only jurisdiction in Canada that will have this rule if this bill is passed.

This is the clause that fundamentally proves the government does not understand the temporary staffing industry. According to ACSESS, "It creates a different and higher standard for staffing company employers, and creates a higher cost burden and liabilities for temporary staffing companies compared to all other agencies in every other industry."

What this does is deem an employee terminated if they have not been on assignment for 37 consecutive weeks. Essentially, if that happens, the temporary staffing agency will be on the hook for severance or separation pay. This could happen regardless of whether the person who was on assignment—whether they knew they were going to be going back or on another assignment at all.

I was told that if at the end of the assignment an agency doesn't sever a summer student, for example, that agency, in 37 weeks, could be liable for a severance payment to that student, whether or not the student had any intention of wanting another temporary assignment. It would be a good summer job. It would be a great way to go back to school, I guess.

Here's an example provided by Adecco staffing services to the committee:

"Take the example of the temporary workers we assign to one of our clients' state-of-the-art warehouse distribution centres in the GTA. The client is a large national retailer, and our temporary workers assist with shipping and receiving merchandise during this retailer's Christmas rush. Their assignments usually

start early in the fall and continue through into January, after which point the client flexes back down to its core group of permanent employees until late spring when business peaks again”—if it does this year; it might be doubtful, as this could be a different year for a lot of employers in this province. “At this point, some of the same temporary workers may be offered a second assignment there. Some may accept and some may not. Possible reasons for not accepting a second assignment are numerous. People move or find employment elsewhere. They may be travelling or at school or may have decided to stay home with children during summer months”—all personal choices by individuals. Every individual will make a different choice. “Regardless, even though they’re not available to work, this deems them to be continuously employed and accruing tenure. Then, 35 weeks later”—after the clock’s been ticking all that time—“that employee is entitled to one week’s termination pay. Any other employer would not be liable for this amount, but Adecco would.”

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We wanted to put in the legislation a clause that would make it very clear to temporary staffing agencies that nothing in the bill took away their rights to sever or terminate an employee at the end of an assignment. According to one of the agencies that presented at the committee, this issue alone could put up the cost of using temporary agencies by over 8%.

Again, I would say to the government that you are making it more expensive to do business in the province of Ontario, and you will be making it harder and harder for us to recover from this recession if and when it ever comes to an end.

Of course, what this government did—

Interjection.

Mr. Robert Bailey: And I hear my good friend from Peterborough—

Mr. Jeff Leal: Be optimistic.

Mr. Robert Bailey: “Be optimistic,” he says. Be optimistic. It’s very hard, at this time, with all the gloom and doom that’s in the papers. I would say that a lot of it is brought forth by policies, not necessarily just from this government but the world recession as well, but it’s hard for someone to be optimistic. I always like to see the glass as half full as opposed to half empty.

Mr. Jeff Leal: There you go. You’re an optimist.

Mr. Robert Bailey: There you go. I’m an optimist. As they said, I’m an optimist. The member from Peterborough reminded me that I’m an optimist.

That leads me to my next remark. Of course, what this government did with the recent budget will also make it harder to recover. We shouldn’t be surprised, when they tried to drive the stake through the heart of a legitimate industry just to placate some of their friends in this province.

This is a government that recently announced a record deficit, with no concern for the long-term effect on our economy—\$18 billion over two years, and that’s just a start. They could have encouraged Ontarians to buy new vehicles just by offering a PST holiday on new vehicle purchases. We suggested that. This would have encouraged car sales. It probably would have led to new salesmen coming from a temporary agency. Those temporary agencies could have provided sales agents to go and work in these car dealers. The car dealers would have been swamped with new car sales. They wouldn’t have been able to keep up with the orders. I understand that the last time something like this was done, it was in place for approximately three months and it led to a 17% increase in sales on those car lots. Just imagine: Now these temporary agencies could provide salespeople to those agencies and they could take advantage of that.

This is a government that recently announced a record deficit, with no concern for the long-term effect on our economy. They could have encouraged Ontarians to buy new vehicles just by offering that PST holiday on new vehicle purchases. This was a concrete suggestion that our caucus made to them, but they didn’t listen, again. We told them again and again. It sounds like an old nursery rhyme.

The best way to bail out the auto industry is to get people to buy cars. That is what they should be focused on. We need to get industry working again. We need to get people spending money. When they spend money, they'll go to these temporary agencies. They would employ people that might lead from temporary to permanent jobs. That is what they should be focused on. Instead, they spend their time on these feel-good bills that try to solve problems that don't exist.

Since I have been elected, I have not had one person call my office about their treatment by a temporary agency. As a matter of fact, since being a member of provincial Parliament, I have in fact relied on temporary agencies to find temporary staff for my constituency office. Not only was my experience a good one, I actually hired the person who was on assignment full-time, so they were an example of going from temporary to permanent. I was a shining example, something that the government side of the House could have taken some vision from. I know that the member from Peterborough would agree with me on that. I think he's nodding yes. Anyway, he could agree with me on that.

Not only was my experience a good one, I also hired that person who was on assignment full-time. The agency that I used was Express Employment Professionals. They were easy to deal with, they were fair, and I was very happy with the person that they sent to me. At that time, I asked the owner of Express, Mr. Bruce Hein, what his comments were on the bill. He spoke quite passionately about one section that he felt certain was going to have a very negative impact on his business. That is the section dealing with the prohibition of fees that agencies are able to charge.

In a letter to Minister Fonseca, Mr. Hein wrote: "Section 74.8, paragraph 8 of subsection (1) and exception (2) limit a temporary help agency from charging a fee to a client in connection with the services provided. The client is always a company or an organization and is never the worker or candidate.

"Controlling financial business terms between a staffing service and client represents a misapplication of employment standards legislation in the area of consumer and commercial transactions.

"The Employment Standards Act governs the relationship between employers and employees in Ontario. The act should not be misused to interfere with established contractual business agreements between staffing firms and their clients.

"Temporary help services incur significant advertising, recruitment, background/screening, risk and other overhead costs and should be permitted to offer their services to clients without the government's arbitrary interventions, limitations and restrictions upon legitimate business terms."

But it would be totally foreign to this government to not intrude and insert themselves in traditional business transactions normally contracted every day throughout this fine province and this country.

"This provision fails to provide"—these are Mr. Hein's words, actually, not mine. I kind of interjected mine there. Anyway, I don't want to attribute remarks to him that I made. Those remarks were mine.

Mr. Hein went on to say: "This provision fails to provide any meaningful benefit to low-wage workers and will significantly damage the largest percentage of the industry providing important service in the areas of information technology, accounting, engineering, medical services and other professional services. These amendments will cause significant hardship and irreparable harm to staffing service companies and, by extension, clients and candidates."

The official opposition and I completely agree with Mr. Hein on this. We moved in committee to strike out the section of the bill that prohibits companies from charging fees.

Also during committee, we heard from Mr. Peter Jewan of the Lannick Group, a staffing agency that specializes in placing accounting professionals. Here's what he had to say about temp-to-perm fees:

"The draft bill addresses temp-to-perm fees as a barrier to employment. I can tell you unequivocally that we have never encountered a situation where a candidate lost a permanent job opportunity because of a temp-to-perm fee. These types of fees are a long-standing and generally accepted part of an efficient

fee structure in the industry across the world. They allow clients to pay for services in the manner that they intend to use them.”

He says, going further: “Restricting our ability to charge temp-to-perm fees means that we will have to recover our recruitment/acquisition costs by charging higher hourly margins. This will boost the cost of knowledge workers to companies and may even result in reductions to these hourly workers as firms seek to expand margins to compensate for lost temp-to-perm fees. We maintain that these fees are the domain of the free market system.” And they should be left that way.

It was interesting to me that this is the only section of the Employment Standards Act that sets out how businesses deal with each other. The Employment Standards Act is a bill that regulates how employers deal with employees, not how one business deals with another, but now, if this bill is passed as written, it will.

I would also question the constitutionality of governments regulating what type of agreement two businesses may enter into when it comes to temporary staffing. I’m sure that this issue is one that will find its way before the courts sooner or later.

This government should have listened to professionals in the industry and strengthened the bill. Instead, they ignored the advice they were given and are now about to drive a stake through the heart of the staffing industry, just when we could use those types of industries as we try to recover from this recession, which is going to be with us for at least the next year or so. When Ontario industry and small and large businesses could use these temporary staffing agencies to recover from this recession, we’re going to be placed at a disadvantage.

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Those are my comments as the leadoff speaker for the official opposition on this. We look forward to hearing further debate on this. Thank you for the opportunity to respond to this bill.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Michael Prue: I listened intently to the member from Sarnia over those 22½ minutes that he spent describing the bill, and I kept waiting to hear him talk about workers, because I thought that’s what this bill was about. In 22½ minutes, I have to tell him that I never heard him once mention workers, save and except—save and except—when he talked about using a temporary agency to hire a worker in his office, whom he subsequently hired.

Now, I thought that the bill was an important bill. I thought that the bill was to help solve the problems of the many people in this province who are being ripped off by temporary agencies. I will acknowledge that the member from Sarnia has good things to say about some of the temporary agencies and the work they do in order to match employees with employers, but he spent his entire time talking about those employers and how they were going to not benefit from this particular bill, how it was going to make it more difficult for them to make a bigger profit. He never once spoke on the other side, which I think is an important thing.

I hope he will, in the two minutes that he is granted at the end, talk about the effects that the bill will have on employees: on those people who have been subjected, in some cases, to abuse; in the cases of some people where they have not been paid; in the cases of some people where they have not been allowed to take full-time jobs; in the cases of some people where they have literally seen their careers and their futures be absorbed by the employer and not allowed to go forward. I think that that is what the real intent of the bill is.

I listened to him as well when he talked about the home care agency workers and how somehow it was a good thing that the home care agency workers will not be given that same sort of advantage that workers in other fields will be given. That’s his two minutes. I hope he will answer those questions or make comment on what I’ve asked.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Toby Barrett: I learned a bit, listening to this presentation by the member from Sarnia–Lambton, our critic for this portfolio. One thing he reminded us of is a number of flaws within this legislation, Bill 139. When we’re discussing the whole issue of temporary health agencies, especially in this present changing climate, it’s important that we get this right.

I do know that the member from Sarnia–Lambton put forward a number of recommendations, put forward amendments during committee hearings, to improve this piece of legislation. None of those amendments were accepted by the government—rejected out of hand. It raises the issue for us: Why would we consider voting in favour of this piece of legislation when any ideas that have been put forward to improve it didn’t make the grade?

One concern that I have: There’s a double standard. We know that small organizations, for example, that are struggling with human resource issues, given the economic climate they’re in right now, need that kind of flexibility to access people to come in and help. They have to follow the rules. They’re going to be following a lot more rules with respect to this legislation and any regulations that come along with it. As we realize, CCACs don’t have to follow those rules; they’re exempt. CCACs, as you would know, Speaker, are the community care access centres. Our question is, why would community care access centres be exempt and a small company have follow these kinds of guidelines?

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Gilles Bisson: There’s an old song in the labour movement. It goes something like this: “Which side are you on?” I’ve got to say, you’ve clearly decided which side you’re on, but I guess that’s fair. There are different sides to every story, people need representation on both sides of issues, and clearly you’re saying that temporary agencies are a great thing and should continue in the province of Ontario. I disagree, but clearly you know the song well, “Which side are you on?” I just want to let you know that I sing a very different verse than you when it comes to this particular issue, as I do with most labour issues.

I will agree with the member that you have to have bills in the Legislature that are bills that, yes, protect workers but at the same time try to provide an atmosphere so that people are prepared to invest in the province of Ontario. But here’s the issue: If entrepreneurs in this province are able to start businesses and have to follow the same laws as every other entrepreneur in the province of Ontario, why should the workers be any different? In this province today, as it will be once we finish this bill at third reading, a worker who works as a permanent employee of an employer, who is hired as a permanent employee, has a different level of protection under the law than a worker who works for a temporary agency—and is that right? That, to me, says that there are two different classes of workers, and that is clearly wrong. For this member to argue that we should continue that practice—I want to say I totally disagree. If entrepreneurs in this province have to follow the same laws as every other entrepreneur in the province of Ontario and they’re subject to exactly the same laws, why shouldn’t workers get the same protection? If we have an Employment Standards Act and we think it’s good for permanent employees in this province, why should employees who work for temporary agencies not have the same protection as other workers? That’s the question. To me, it’s a question of fundamental rights, and I think all workers should be treated the same.

The Acting Speaker (Mr. Ted Arnott): We have time for one last question or comment.

Mr. Vic Dhillon: Again, the intention of this bill is to make the employment situations, the environment for temporary agency workers better. In doing that, one aspect of this bill that goes a long way is that temp agency employees will have to be advised by their temp agency in writing about the where, what and when and how much they’ll be paid. One of the repetitive complaints that I got was that people answered advertisements where they were offered \$500 to \$1,000 per week, not knowing the job and where they would have to go for this or how much they would be paid. It wasn’t nearly the \$500 or the \$1,000. These were, at times, very labour-intensive jobs, and the aspect of not knowing made it even more difficult. So this is one element which will go a long way in addressing this issue.

Again, it's the vulnerable people, new immigrants and visible minorities who are preyed upon by these temp agencies, and those are the types of situations we're after. We're not after the good employment agencies that follow the rules and all the laws of the Employment Standards Act, which we feel should be enforced and which this bill tries to do.

I want to thank everyone who has spoken on this. Again, it's about fairness, which is precisely what this bill intends to do.

The Acting Speaker (Mr. Ted Arnott): That concludes the time for questions and comments, and I return to the member for Sarnia–Lambton.

Mr. Robert Bailey: I'd like to thank the member for Timmins–James Bay—I got that right this time; I apologize for my missing on the geography there, before—also Beaches–East York, Haldimand–Norfolk and Brampton West. Thank you for all of your comments. It's nice to know where you stand and who you're with and who you're not with. What I was trying to do was explain the other side of the equation, because we did hear from a number of the temporary staffing agencies that felt they were being unfairly maligned, and, like I said, they admitted themselves that there were some rogue organizations out there. There's no one who wants to see those rogue organizations out of business any more than they do, because they feel it takes away from the job they're trying to do.

1710

They did try and talk about the costs that it was going to load onto their businesses, the difficulty it would make for them carrying on business during this recession, trying to bring Ontario out of the recession, because they will be used. The temporary agencies will hopefully be something that industry will look to, and the opportunities to go from temporary to permanent. I did hear a lot of people come in and make some very great presentations, the employees as well. My thoughts are also with them. They need an opportunity to work with these temporary agencies. If they're not full-time jobs, then we need temporary agencies that can give them the opportunities to get the experience. It should be a good experience. They should be well paid. There should be decent working conditions. One day, hopefully, either in that industry or in another industry, they'll have received the experience and the proper training, and they will have the opportunity to go from temporary to permanent.

I look forward to the rest of the debate.

The Acting Speaker (Mr. Ted Arnott): Further debate? The member for Beaches–East York.

Mr. Michael Prue: I rise to speak to Bill 139. Just by way of a little bit of background, long before there were temporary agencies or long before there was such a prolific number of them, governments and other businesses used other measures in order to try to control workers, to try to pay less wages, to try to produce less-than-ideal working conditions. I even remember myself, going back into the early 1970s, getting a job with the federal government of Canada. Now, you would think that the federal government of Canada would be one of these ideal and idyllic employers which would have a wonderful workplace and would treat its workers with respect. In fact, to a large matter that was not true, because when I joined the federal civil service back in 1973—I believe the date was February 26, if my memory is correct—having graduated from university, I was hired on, like every other civil servant, in a casual employee status. The government used this casual status to great benefit, because when they hired you as a casual, they only had to keep you on for up to six months, and at the end of six months you could be laid off for a single day, and then they would hire you back. Then you would have casual status again for another six months, and this might go on ad infinitum.

Once in a while, the federal government would hold competitions amongst the casual employees to determine which ones merited to become permanent employees, and those lucky few—the 3%, 4%, 5% or 10%, whatever it was at the time—who were deemed to be, by the management, the cream of the crop could sit the competition, could answer the questions and could hope to be made permanent. Over the years, a lot of people came into the federal civil service that way, and it was in the early 1980s—by this time I was a permanent employee—that the unions started to fight against what we

considered to be an unfair practice, because you had half of the employees who had permanent status, who had stability within their workplace, who weren't laid off every six months for one day only to be hired back, who had all the benefits of a full employee, and then you had the rest of them, many of whom they had worked side by side with for years and years, who had nothing of the sort. They took the matter to court and they won, because the court said that, for all intents and purposes, these were permanent employees. These were people who were working in the same workplace, doing the same jobs, getting paid roughly the same amount of money, and they deserved the same protections of having permanent employment and the opportunity to join the union.

I'm digressing a bit from the bill because I think this is pretty much the same thing that's happening today. You don't have governments anymore that can afford to do things that the courts in the past have said are illegal, but you have governments and employers in general that are trying to find ways around the legality of the law, and they have found one in the temporary employment agencies. The same way that governments, both federally and, I believe, provincially as well, used to use casual employment, you now have companies in the government and the private sector using the same thing with casual employees. The loophole needs to be closed because the loophole is fundamentally unfair to a whole broad class of people. Back in my day, in the 1970s, it was unfair to women, it was unfair to visible minorities and it was unfair to young people. Those were the people who were hired on as casuals, and those were the people who most often kept that status over a long period of time. Those of us who were lucky enough to get permanent employ were mostly older adult white males. Today the same thing is true. I commend the government for bringing forward this bill—because there are some good parts in the bill—because we have to close that loophole. It is no longer fair in this society to ask people of colour, to ask new immigrants, to ask women, to ask young people to accept any less than what the rest of us accept as normal daily work practice.

We in the NDP can support this bill because it does a number of good things. It ends the fees that are charged to workers by temporary assignment agencies. Not only do some of these agencies go out and recruit and try to find people to fill vacancies in slots in companies, but they charge most of these would-be workers a fee to do so. They charge them an exorbitant amount. I remember quite clearly a few years ago that my colleague who works in my office—her son went to a temporary agency because he was looking for a summer job, and he found what he thought was a summer job through the agency. But when he went into the agency to try to get located, they asked him for hundreds of dollars in order to be placed in a job. And then there was an ongoing fee, and there were training fees and there were uniform fees; and to the everlasting credit of this young man, he stood up in the middle of all of this, in a room full of largely immigrant people, and he announced to all of them that this was a rip-off and that they should all flee that place in a great hurry because the company was trying, in effect, to extort the desperation of new workers, people who were anxious to get a job. He convinced some of them to leave along with him. He said that he needed to explain to them that the process that they were following in their hope to get a job was not a good one and that they should in fact leave, and some of them did leave with him. And he was absolutely correct.

So when the government seeks to end the fees, that is a good thing. I don't think anyone should for a moment think that people who are desperate to get a job and who go to these agencies should have to pay a fee, especially when the job is often not delivered.

The second thing that the bill purports to end is the reducing of barriers to permanent work for temporary agency workers. This is a huge thing that has to be done. People go into a workplace. They have training. They have abilities. The workplace did not find them themselves. They go to work, and a boss or bosses or management or supervisors look at them and say, "This is a good employee. This is an employee that, if we had had gone out and hired ourselves, we would have been anxious to have. They have proven, in the period of time"—over six or eight or 10 or 12 weeks, or whatever the matter is—"that they are capable of doing the job, and we want to hire them permanently." And, you know, you

have to pay a fee. You have to pay a fee to the company. These people are practically indentured. They cannot get out of the contract. I think that by trying to reduce the barrier to permanent work for temporary agency workers, this is a good thing, because it gives people the permanence and stability of a real job. It allows them to work alongside their fellow employees and get paid the same amount of money, to have the same benefits and, if possible and if unionized, to join the union as well. So this part of the bill is a good thing.

The next part of the bill that I think is worthy of support is that it ensures that everybody gets holiday pay. We have all read in newspapers of people who are hired on temporary contracts who go in and work the day before and the day after a holiday, and all of a sudden, when they're about to leave or when they're told they can't be working there anymore or when their time is up, they're told they're not getting paid for that holiday. What a disgraceful thing that is. In this province, we have 10 or 11 holiday days that are paid to literally everyone who works, and there should be no difference between people who are temporarily employed and those who are employed full-time. Holiday pay is statutory. That's what it says: It's statutory. It must be paid, and it must be observed by all people in the province of Ontario. So I think that all temporary agencies should be paying workers, and all workers should be getting that, whether on assignment or laid off from the assignment. The holiday pay is an essential thing that they have for statutory holidays, but it's also an essential thing that they have in terms of the Labour Relations Act, that they get 2% at the closure of their term or contract.

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Another thing in the bill that I think we should be supporting is that we require agencies to give workers information about the assignments and their basic rights. Oftentimes, as I started out to say, the agency people hire new immigrants, people who are looking for a first job, looking for a first opportunity in Ontario, a first opportunity in Canada to get Canadian experience. They go to the agency because it's very difficult—and I know this from my time in immigration—for a new immigrant whose first language is not necessarily English or French but who is somewhat fluent in the language, to go out there and to try to get a job in the field for which they have been trained or to which they aspire. It's a very difficult thing, and they often don't understand about the assignment or about the basic rights that they have. It is important, and this bill will require agencies to give people those first rights.

I do know, to digress just a little, when I worked at Canada immigration at Pearson airport back in the 1970s, part of my job at that time, every single day when the planes came in, was to land new immigrants. They would come, they would proffer their documents; it was immigration form 1,000. They would sit before the immigration officer, me, and oftentimes be very nervous because they were coming to a new place. They got asked a lot of questions, they had to answer them, they had to sign the document, and I had to stamp their passport. But in the end, we always welcomed them to Canada; we tried to assuage their fears. I oftentimes took a minute or so to give them some advice. That advice was how to go out there and find a job, and not to take the first the one offered to them but one that truly reflected their abilities. I would ask them what kind of work they did in the countries from whence they came—be it Jamaica, Portugal, Great Britain or Germany or from the far-flung corners of the earth—what kind of job they did there, how much it paid there, and how much they could probably expect to earn here.

I remember on one particular occasion having a young woman who said that she did legal secretarial work and that she worked in Britain. She was very concerned about whether she could get that kind of work, and she told me what her salary was. I know that with her qualifications, her salary in Britain at that time was much less than she would be making in Canada. I remember talking to her for a few minutes and convincing her how much salary she should be going out to look for, and not to be conned into taking the first job or the first agency that came along but to actually look for a job that would pay her the going rate in Canada. I did this many times, but with this particular young woman, about six or eight months later I met her again because she came to work for the immigration department itself as a

court reporter. That's the kind of skills she had in being able to transcribe materials. She came to work as a court reporter and she asked, "Do you remember me?" Of course I did, and she thanked me for the advice because she did get a job with a legal firm, but she almost immediately got a job with the immigration department to make even more.

My reason for telling this story is that it behooves all of us to tell new immigrants about their skills, to recognize those skills and to encourage them to seek the kind of payments that should be paid, rather than sending people off to temporary agencies where they will work for far less under much more trying conditions than they might ordinarily if they can obtain a full-time job.

I also agree that temporary workers should be given termination and severance protections, and that is contained within the body of this bill, and that the bill will require that both agency and client companies are legally responsible when a worker is penalized for trying to enforce their rights. All of these aspects of the bill are good aspects. Under those aspects, I think the bill should be supported.

I do know that there are agencies—and I will speak to the agencies for a minute—that are not pleased.

My friend the member from Sarnia did quote one agency. He quoted it by name, and I actually have the same letter; they sent it to me, too. The Staffing Edge is very unhappy with the bill. The bill, in the first paragraph, makes a statement, and I agree with this statement—well, I don't agree with the statement, but I do agree with the facts contained within this statement. It says, "It will both force businesses to leave the province, stop them from coming here and will greatly reduce the opportunities for young people and new immigrants to enter the workforce." The part I agree with is that they recognize full well that it is young people and new immigrants who are their chief clients. The body of the statement I made before was to recognize that those are the people who are being most greatly affected.

The author of this Staffing Edge letter, Mr. Victor Winney, CMA, chief financial officer, goes on to criticize the bill and says—and again I don't agree with what he says—"This bill is so irrational and convoluted that we are not sure if any staffing service can comply. The staffing industry has offered very constructive suggestions but has been totally rebuffed."

I have to say that the agencies and the industry will have to learn to work around this rule, just as agencies and industries have learned to work around other rules. We are now in the process of seeing what is going to happen to all of those overnight lending industries, and they're all saying that they're all going to go bankrupt. I'm not sure that they are all going to go bankrupt, but we cannot allow usury to happen, and we cannot allow exploitation to happen. Those companies that are good companies will be able to learn from this bill, will be able to comply with this bill and will be able to continue business. Those that are fly-by-night operations will be driven from business, and I for one will not shed a single tear for those businesses that are removed from business that are in an exploitive situation, that are exploiting the needs and the fears of new immigrants, young people, women and those looking for their first job.

I have four minutes left. I have spoken about the benefits of the bill for 16 minutes. I wish to tell the government a few things that I think they could have done better and should have done better in this bill, because part of the critique, even when you're supporting a bill, is to tell them how they could have done it better. There are four things that I think could have been done to make a good bill a great bill. Of those four things, the first one is that the bill does not protect workers who use agencies for permanent job placements; temporary placements, yes, but not permanent job placements. Bill 139 should have been expanded to protect these workers from scams and unfair fees. It is important to protect all workers, whether they are out there trying to get a job, as my friend from Sarnia said, for an average of 18.1 weeks, or whether they are trying to get a permanent job. It should have encompassed all of them; it did not. Perhaps in a little while this government or a future government may look upon this and expand the nature of the bill. It's one of the things that I think should have been included.

The second thing that should have been done is that home care agency workers should not have to wait three more years before they get termination and severance rights. I do not understand the rationale

behind this government. I do not understand, upon listening to the CCACs and others who said that home care workers who come from temporary agencies should be treated differently, why this is the case. In almost literally every single case—and certainly I know from my own experience in Beaches–East York and in Toronto—these home care workers, temporary ones, are women and people of visible minorities. You know it. That’s who they are. They are not going to be given the same rights and the same privileges. I don’t understand why. I thought that was who we were trying to protect. Why do they have to wait three years? Why is it not possible? Because contracts were signed? No contracts have been signed. But why is it not possible for this government to enforce the legislation so that on the day this bill is proclaimed into law they have the same rights as every other individual?

The third thing I think should have been contained within the body of the bill and was not was that temporary agencies should tell workers in writing what the expected length of the assignment will be and also make the markup fee transparent, so that when workers go in they know that it’s only a two-week assignment. The markup fee, whatever is being charged, should be put in front so that the worker knows how much the temporary agency is charging the company, usually because that corresponds to how much less the company pays them. They’re not going to pay them the markup fee plus the same salary as their own employees. So I think that’s only fair that that be known. I don’t know why that has been hidden. I don’t know why the government did not include that. They should have and could have, but they did not; had they done so, a good bill would have been a better bill.

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Last but not least, Bill 139 would let agencies charge a fee to companies if workers are hired directly by companies in the first six months of an assignment. I don’t know why this continues to be there. If a worker is a good worker, if the company recognizes how good they are, if they want to make them permanent on their staff, it is a barrier to the permanent employee when the government allows for a fee to be charged directly when they are there for less than six months. In most cases, companies will know within three or four weeks, a month, two months at the outside, whether or not the employee fits into their company and whether or not they should be hired. To pay a fee after six months is tantamount to not having that person who is a good employee hired.

Those would be my comments, Mr. Speaker.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Bob Delaney: It’s a pleasure to follow the comments of my colleague from Beaches–East York. I’d just like to add a personal observation here.

I’ve been privileged to have as my seatmate, for the five years in which I’ve been elected, the member for Brampton West. In the course of one’s parliamentary career, there are probably a handful of things that you can say that, by and large, as a member you did that and it was enacted by the government and it’s going to make a big difference to a lot of people. So for the people in Brampton and especially for the member for Brampton West, he can look just about anybody in the eye and say, “When it came to cleaning up some of the abuses of temporary workers, that was something I had the privilege of contributing to.” Good on the member from Brampton West, and people should say, “Thank you, Vic Dhillon.”

There’s one point I’d just like to dwell on, and that’s one of the things that Bill 139 does uniquely well. If you’re taking an assignment from a temporary agency, Bill 139 says that the agency has to give you reasonable details about the work: for example, to provide employees, in writing, with the name and address of who they’re going to go and work for; some description of the client’s contact information when they’re offered a work assignment; the wages, the benefits, the hours of work, the pay schedule, some things which had not been regulated and are now regulated, some things where people had deliberately or accidentally played fast and loose, where the new regulations say, “No, you’ve got to provide a temporary worker these things,” and, finally, a general description of what kind of work

they're going to be doing, because people should know, to the limit of the agency's ability, what kind of work they're going to do when they're sent out on a temporary assignment.

That's just one facet of the benefits of Bill 139 and why it deserves passage.

The Acting Speaker (Mr. Ted Arnott): Questions and comments.

Ms. Lisa MacLeod: I'm incredibly pleased to be part of this debate today. When I first got out of university and was looking for work on Parliament Hill, I tried my hand at temporary work for a couple of months until I landed that big job, making next to nothing on Parliament Hill. When I did that, I found it was great. It was flexible. It provided great opportunity. It allowed me to find new skills.

Years later, of course—10 years, to be precise—I had the opportunity to go back just this year to see Isabelle Copeland of Harrington Staffing in Ottawa. What a tremendous honour it was for me to go there, look at her and say, "Thank you. I've now become your MPP."

It's that type of opportunity in Ontario that we must foster. By adding more burdens on small and medium-sized staffing companies, we may put them out of business. I don't mean "we" as in the official opposition; I mean "we" in this Legislature, which is dominated and controlled by the Liberal Party.

We heard several concerns from Isabelle and her colleagues about what this bill, if not modified and amended properly, would do to her agency and other agencies like hers. My colleague Bob Bailey and the official opposition moved to delete section 74.4 from the bill because we believe that this section creates an implied so-called continuance of employment while not on assignment, which in turn constructs an inconsistency between employers' obligations and the reality of the employment context. Ontario is the only jurisdiction in Canada that has this rule. At a time when we need able-bodied young men and women in the workforce, we cannot close these temporary agencies down.

The Acting Speaker (Mr. Ted Arnott): The member for Timmins—James Bay.

Mr. Gilles Bisson: I want to congratulate my friend and colleague the member from Beaches—East York. He raised, I thought, a good personal perspective in regard to what this type of legislation, if properly done, could lead to, and that is making sure that workers are not treated as two different classes of workers; I think that's the point he was trying to make. He spoke of the example of the young woman who was immigrating back to Canada and about how he had advised her of what her rights—not so much rights but what she should be looking for when it comes to employment, and eventually she took that advice, moved forward and got herself a very good job in the end, which says that we as a society have a responsibility. So if individuals in this society can take responsibility towards assisting people in making the proper decisions when it comes to employment, certainly to God this Legislature can help by having a template which is legislation that treats workers not as two different classes of workers. I guess that's the problem that I have with where the government is going in the end with this legislation. Again, is what they're trying to do bad? Obviously not. I congratulate the member across the way from Brampton for the work that he has done. There have been a lot of members, such as Cheri DiNovo from Parkdale—High Park, who had been working on this issue along with you and others, and you've been trying to raise what is a real issue. There is a preponderance of new Canadians who are being preyed upon by temporary work agencies to do work that would normally be done by full-time employees, and we need to protect those people who are not as informed on the laws of Canada and not as likely to ask for their legal rights to be maintained because, as new immigrants, they may be worried about repercussions because of the experiences they have had in their previous countries. Does this legislation go as far as it needs to? No. Is it a step in the right direction? Yes. I only hope that one day all workers will be treated with the same courtesy and respect by the law of Ontario.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Norm Miller: I'm pleased to have the opportunity once again to comment on Bill 139. I have certainly heard from some people who are in business who are concerned that this bill, if passed, will negatively affect the workers that it's intended to protect. That's true in the home care sector. As was pointed out by our critic, the CCACs, the community care access centres, are going to be exempted from

this bill, and yet those small private businesses that are in the business of providing personal health services are not exempt. I received a letter from Home Instead Senior Care, where they point out that: “One serious impact this legislation could have on the home care industry is that our trained caregivers could be hired away by clients to work on an independent basis after six months without penalty. This would drastically change if the oversight by our providers was easily eliminated. Providers invest a significant amount of resources to make sure seniors are provided with quality care. Without this quality assurance, seniors’ safety and security are at risk.

“It is my understanding that this bill applies to private home care providers, but it exempts CCAC-funded home health care providers. Both providers are employers; the only difference is that one is publicly funded and the other is solely private-pay. Neither fall in the category of temporary care agencies.”

So this is pointing out how this legislation will negatively affect services for our seniors who are trying to stay at home and be provided for. I’m glad that I have received this letter. I didn’t get a chance to read the whole thing so that I could get it on the record. That was from Sharon Galway, who is the managing director of Home Instead Senior Care, and she does have many other points that hopefully I can get in next time around.

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The Acting Speaker (Mr. Ted Arnott): That concludes the time for questions and comments. I return to the member from Beaches–East York to respond.

Mr. Michael Prue: Thank you very much, Mr. Speaker. There was a time when I sat in that chair, as you are sitting there tonight, and there was a time when I lamented that the members, in the two minutes’ opportunity to question and comment on the debater, would not do so, and I must say again tonight that I don’t know whether any of them were listening to me.

I thank them for their comments, the members from Mississauga–Streetsville, Nepean–Carleton, Parry Sound–Muskoka—and I’ll get to the member from Timmins–James Bay last—but all three of them stood up and spoke not one word about what I had to say.

The member for Mississauga–Streetsville quite rightly pointed out that the member from Brampton West had had a hand the initial stage, and that’s correct, but it was nothing that I spoke about. The member from Nepean–Carleton talked about 74.4 and her colleague from Sarnia and how he tried to delete that section of the bill, but I did not say anything about that at all. And the member from Parry Sound–Muskoka talk about home care, CCACs and Mr. Bailey’s role in the committee, again to which did I not speak.

So I guess I’m bound to talk to the member from Timmins–James Bay. I thank him for at least listening to my small story of the new immigrant who was coming to Canada from Britain and the role that I tried to play in educating her, her husband and her family in terms of what to expect in Ontario and the kind of job that she could do and what to expect in terms of remuneration. That’s what I’m hoping this bill will do. That’s what I’m hoping the temporary agencies will do. I would like to thank all of my colleagues for their comments, but I am hoping that in the future, against all hope, the comments will be made reflecting on the debate that preceded them.

The Acting Speaker (Mr. Ted Arnott): I want to thank the member for Beaches–East York for reminding all members of this House that questions and comments are supposed to relate back to the original member’s presentation and not just be on any subject. If I was remiss in not enforcing that standing order rule, to the member for Beaches–East York I apologize, but I would take this opportunity again to remind all members that that’s the way it’s supposed to work.

Further debate?

Ms. Lisa MacLeod: According to my chief opposition whip, I am the temporary stand-in for Joyce Savoline, the member from Burlington, who unfortunately cannot be here at the present moment. She’s at a Big Brothers charity event. As we all know, Ms. Savoline is a wonderful member here and has lots of experience.

As I mentioned previously, and just to note the previous speaker—
Interjections.

Ms. Lisa MacLeod: Big Sisters as well.

In any event, I must admit it's very difficult to concentrate on my remarks that Ms. Savoline has so kindly prepared for me with so much exchange going on to my left. Of course, those of us on the right of the political spectrum will not be supporting Bill 139. We will not be supporting Bill 139 as a result of the government not listening to the people who requested amendments, those stakeholders that the minister is so fond of speaking with that he apparently doesn't listen to.

Ms. Savoline, of course, is absolutely flabbergasted, as am I, that every other province in the nation at this very tough economic time is turning their attention to helping businesses, yet consistently with the Minister of Labour we see job-killing policies, whether it's rushing through that minimum wage three times in a very short period of time or Bill 139.

Mr. Gilles Bisson: You're starting to sound like Mike Harris.

Ms. Lisa MacLeod: Well, I can honestly say to my colleague from Timmins–James Bay that I am a big fan of his.

Mr. Gilles Bisson: I kind of figured.

Ms. Lisa MacLeod: You know I am on a personal level, but we must remember that while Mike Harris was the Premier of this great province, over one million jobs were created because of his business-friendly, family-friendly and middle-class-friendly policies. Yet what we've got on the other side is a government who chooses consistently to put pieces of legislation like this at our feet so that we see those 200,000, 300,000, 400,000 jobs leave this province. In the months of January and February alone in this great province, once the economic engine of Canada, over 100,000 jobs were lost. How does this government respond? With job-killing policies.

Let me give you a few examples. The HST that we're about to face or, as some of my colleagues call it, the Dalton sales tax, is going hurt consumer confidence. It's not good for small business.

We've got a Green Energy Act before us, which is essentially a tax and power grab, which is going to outline—

Mr. Mike Colle: On a point of order, Mr. Speaker: I just want to make sure the member from Nepean knows that she's supposed to be speaking to Bill 139 before us, and she should stay on that bill.

The Acting Speaker (Mr. Ted Arnott): All members have to speak to the bill that's being debated in the House.

I return to the member for Nepean–Carleton.

Ms. Lisa MacLeod: Thank you very much, Mr. Speaker. Let me just go on a little bit longer because it does show a picture, because what it is—we've got the very forceful increase in the minimum wage in a short period of time. That's job-killing. We've got the Green Energy Act or, as we like to call it, the tax and power grab, which could, if implemented the way Mr. Smitherman, the Minister of Energy, wants it to, increase energy bills by as much as 30% to 50%. How's that good for a small business man or a medium-sized business man?

Then you've got Bill 139 here, which is essentially going to administratively kill those people who are trying and attempting to give people the skills to find full-time employment, the connections to find full-time employment and the flexibility for those in the province who would choose to work in a different set of circumstances than most of us.

As I said to the previous speaker who talked about a new Canadian, there was once upon a time when I was a new Ontarian, when I first came to this province with \$200 in my pocket and was sleeping on my friend's sofa, because I knew you could get a better life in Ontario. Now, kids like me are moving to Saskatchewan. But there was once a time when that was the first place I could look to find employment in this province before I worked on Parliament Hill. It was a great head start.

I had the tremendous opportunity to go see Isabelle Copeland a few weeks back to thank her for that, to do a tour of Harrington Staffing and see what kind of obstacles are faced by her and her company. I was pleasantly surprised to see the great strides they're taking not only in trying to find and match people who need a job and who want a job to a potential employer, but also what they're doing with workplace safety. These are tremendous employers. It's always when Mr. McGuinty finds somebody else he wants to tax or fill out an extra form for that we see these pieces of legislation.

I want to talk a little bit about Mr. Lane. Mr. Lane was a stakeholder who's been in the industry for over 11 years. He sent an e-mail to the minister that clearly was ignored. Mr. Lane gave Ms. Savoline the permission to read his e-mail in the Legislature, which I will in turn do for her. I hope, and it's probably hope against hope, that this Liberal government will listen to Mr. Lane, but I'm going to quote him: "The implementation of the statutory holiday provision which came into effect in January 2009 and promptly added approximately 6% to the cost of every temp agency in the province of Ontario"—that's a 6% tax hike.

We recently saw the \$11,000 tax hike on WSIB for small contractors. That sure as heck hurt the folks in Nepean–Carleton. This is going to hurt the folks in Nepean–Carleton. Their massive increase in the minimum wage in a very short period of time is going to hurt the folks in Nepean–Carleton. Their HST, I already know, is going to hurt the people in Nepean–Carleton. And the tax and power grab—30% to 50% more in power and energy rates. I don't know how much more they think they can soak the people of Ontario and the people of Nepean–Carleton, but this Liberal government has found yet another way, with a new 6% tax hike on every temporary agency in the province of Ontario. Perhaps now the chief government whip would like me to stop talking about the bill instead of staying on message as we run through a litany of tax hikes brought on this year by this Liberal government. This is just one more example.

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According to ACSESS, another temporary agency, most agencies that did post earnings earned less than 5% before taxes, which basically means you've already put almost every agency into a loss position from the provisions already implemented. By moving forward with the requirement to meet standards for termination and notice provisions of Bill 139, you will effectively destroy the entire temporary help industry in Ontario.

It's a sad, sad state of affairs. Who will benefit when temporary agencies cease to exist, somewhat like our manufacturing sector in some communities? Where are the jobs? If Mr. McGuinty and Mr. Fonseca and the other job-killing creators of legislation in the Liberal Party have their way, there won't be any jobs at all for these temporary agencies to fill. I am very disappointed in this legislation. I think we can all do better in business practices. But at a time when small and medium-sized businesses are suffering, regardless of what they are, why bother bringing in more job-killing legislation like Bill 139?

On that note, I've asked my question; I've made my case. I will oppose this bill, and I want to congratulate the people like Isabelle Copeland, Mr. Lane and so many others who I know not only sent members of the official opposition correspondence on this contentious piece of legislation, but also sent it to you—and shame on you for not listening to them. Shame on you for not listening to them on imposing the GST, and shame on you for not listening to them in their opposition of Bill 150, because what's going to happen, of course—we all know this. It's happened too many times since this second mandate, and at some point the people will not forget. The people will not forget the constant taxing, the constant regulations. They will not forget the constant burdens placed on them by this Liberal government, whether it's at their work or at their home or even at the hockey rink, where they're going to start raising taxes on ice times at our local rinks.

So, Mr. Speaker, I want to thank you very much for the opportunity, my colleague Bob Bailey from Sarnia for doing one great job on this piece of legislation, and Joyce Savoline, the MPP for Burlington, who allowed me to fill her slot with some of her words. Thank you very much. I appreciate it.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Mike Colle: It's sad but not unexpected. The member from Nepean–Carleton gets and up talks about Bill 139, which is about giving some of the most vulnerable people in Ontario a little bit of protection, so that they will be paid a decent minimum wage, so they won't be made to work in unsafe conditions, so they'll be treated in a humane way, so they won't be abused by some employers, yet she in her dissertation never for once mentioned these vulnerable workers—not one word about these young mothers, these young newcomers, these people who are working for these temporary agencies who have come to governments for many years asking for a little bit of protection. They want to work, but they don't want to be forced to work in unsafe conditions, working 14 hours a day and then not being paid.

That's what this bill tries to address, and the member from Nepean–Carleton wouldn't even mention them in this legislation. All she talked about is the Mike Harris legacy of destroying this province, and yet she doesn't even care about these people who came to committee, who have written letters. Many of them cannot speak English that well, yet they came because conditions were so deplorable as a result of some of these temporary agencies.

We have a duty to protect those who can't protect themselves, and that's what this bill tries to do. The temporary agencies and the people who own them also have rights, but I think they have a stronger voice in the member from Nepean–Carleton than the poor, underserved temp help workers do.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Norm Miller: I'm pleased to have an opportunity to comment on the speech from the member from Nepean–Carleton to do with Bill 139, the temp help agencies bill. It was interesting to hear the member from Nepean–Carleton talk from personal experience about when she had a positive experience at a temp help agency working in Ottawa, and from her temporary work ended up getting permanent work. We certainly heard from a lot of people who came to the committee that that was their experience as well, that it was a way to build skills, to develop skills, to find employment, to have flexible employment. We heard from a lot of people who appreciate the flexibility that they have, and we certainly know from a business perspective that that flexibility is very much needed, particularly where the economy is in a state of flux, where things are uncertain, where factories don't know how many orders they're going to have and they need to bring more people in. It helps our economy, but it also provides opportunity for people.

It's interesting that we heard from the critic, Bob Bailey, the member from Sarnia–Lambton, about his positive experience where he actually used a temporary help agency to help staff his constituency, and also got a full-time employee out of it. So I say to the member from Eglinton–Lawrence—I would like to quote Gary French, the past president of ACSESS, where he says, in an e-mail to me, "The brush is being liberally (no pun intended) applied to the detriment of Ontario business and workers in these proposals to which ACSESS objects. Other parts of the legislation are supported and maintain a level playing field." I think that's good representation. You're taking a broad brush and affecting all those good operators out there, the 99% of them, to deal with the 1% of bad operators.

The Acting Speaker (Mr. Ted Arnott): Questions and comments?

Mr. Bob Delaney: I think that when we discuss this bill we have to keep coming back to what it's there to do. What it's there to do is to set out a clear, defined, level playing field for both the firms whose business it is to find clients who need temporary help, to find people who like to do temporary work—and match the two. What the bill set out to do—successfully, if one heard the many deputations in the hearings overwhelmingly in favour of what the bill was trying to do—what the bill does is to make clear what the expectations are of those agencies that recruit temporary help and match that temporary help with opportunities among the firm's clients.

I want to come back to a couple of points. When it comes to making the transition from working temporarily for a firm to being employed full-time by a firm, the bill prevents the agencies from doing

what amounts to double-dipping. It can't take a candidate and say, "We'd like to charge you a bunch of money for writing your resumé and doing some job training" and whatnot, with the implication being that if you don't take this money and you don't take this training and you don't buy this service, maybe the agency won't find you a job. The bill says, "We're going to make the playing field level. You're not allowed to charge this money, which, by the way, you don't need to charge anyway."

The bill also says that if you've been placed with a client company for a period longer than six months—and six months is plenty of time for everybody—if the company says, "Look, we like you. We'd like to have you on staff," there is no penalty payment to the agency. The agency cannot charge a temp-to-permanent fee. That's a progressive step. Those are just two small items that make Bill 139 a piece of law whose time has come.

1800

The Acting Speaker (Mr. Ted Arnott): Questions or comments? I'll return to the member for Nepean–Carleton then, who has two minutes to respond.

Ms. Lisa MacLeod: I'd like to thank my colleagues from Eglinton–Lawrence and Mississauga–Streetsville, and of course my good friend from Parry Sound–Muskoka.

I don't know what to say in response to the comments made by the member from Eglinton–Lawrence. I thought from his criticism of me—that I didn't speak from experience or from the knowledge of temporary agencies—that he must not have been listening. I'm not sure if he has any direct experience himself of having worked for a reputable firm who gave you a hand up. I'm not sure if he ever did, but I certainly did, and I'm certainly grateful for that experience. I think it's made me a better person who understands the value of a hard-earned dollar, because not all of us live in downtown Toronto and have the world at our feet.

In fact, some of us struggle to create a better life for ourselves and our family. And thankfully Ontario, under Mike Harris—as much as they want to heckle and jeer—made that possible, because he created an environment which we should never forget was the fastest-growing economy in the country. It made the economic engine of this country strong, robust and viable.

When they took the keys to Queen's Park and the Premier's office, all we saw was a business-killing, job-killing environment which put more people on the rolls of social assistance when we had worked so hard to get them off. All this bill will do is be another slap in the face to those people who are out there trying to create the opportunities that I had and probably others here have had as well.

So again, I am adamantly opposed to this bill, adamantly opposed to the way they've been carrying on and conducting themselves since they were re-elected, and of course since they were elected in the first place, and I look forward to 2011, when the voters remember all of the things that they have done.

Third reading debate deemed adjourned.

April 30, 2009
EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009 /
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT TEMPORAIRE)

Resuming the debate adjourned on April 28, 2009, on the motion for third reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Acting Speaker (Mr. Jim Wilson): Further debate? The honourable member for Parkdale—High Park. *Applause.*

Ms. Cheri DiNovo: Thank you. It's nice to get the occasional little bit of applause in here; let's face it. It's a pleasure to speak to Bill 139. It has been a pleasure to be part of the process of Bill 139, particularly with groups like Workers' Action Centre and Parkdale legal—Parkdale legal being in my riding; a phenomenal group of people, so I want to first of all give out kudos to them—also the Ontario Federation of Labour, which deputed; Canadian Auto Workers deputed. We had a number of folk come and depute and talk to this bill. Basically, for those who are watching from home and wondering what I'm talking about, they were speaking to the need for a revamping of the Employment Standards Act. The Employment Standards Act really hasn't been revamped in any major way for a long, long time. What this bill does—it's a kind of back-to-the-future bill, in a sense—is it undoes some of what I would consider the grievous injustices perpetrated by the Harris government. It takes those away. It doesn't move forward in any significant way, and I'm going to talk to you about that as well, but what it does is undo some of the wrongs that we've been living with—some of the wrongs being that temporary agencies have been allowed to charge fees to those who are applying to them. This was never okay. It was never legal when I was in the business, and I'm going to talk about that too, because I have the interesting perspective of having been in the business of owning an agency and also being very concerned about social justice and now being the employment standards critic for the New Democratic Party.

1650

In my day, it was illegal to charge a fee to any applicant at any time. That was undone in 2000 and now is done again, to take us back to a place I think we want to be, where one does not charge fees to those looking for work.

What else does it do? There are a number of other things as well. It requires of agencies that they be licensed and that they put out information about the temporary assignments to those who are going to be doing them. Quite frankly, most temp agencies—not all, but most—already do some version of that. We pushed, in our amendments, to have written—didn't get that—and certainly that the details of the assignment and the estimated length of time should be given to applicants. Other realities as well, including a barrier of six months: A temporary agency is allowed to charge six months' salary to the employer if they want to take them on permanently. I'm going to talk about that too, because we feel that that's a barrier to employment.

Anybody who's very interested in employment standards: If you're that kind of geek at home who likes to read bills from cover to cover and get excited about the differences in provincial legislation, I would suggest that you look at Bill 22, which was brought in in Manitoba, as being a much stronger and better version of Bill 139. Look at the Manitoba bill.

But more to the point, the broader picture of employment standards is that this really just tinkers around the edges of what's necessary, and what's necessary requires looking at the entire field of

precarious employment. About a third of our employees are hired and work precariously. What do I mean by that? I mean that they're not sure if they're going to have a job next month or next year. They're on a contract basis; they're on a temporary basis; they're on a part-time basis, so they can't really guarantee to their families—and remember, many of them are in families—that they'll be earning in the future the same thing they earn today. One could say, "And I suppose, in this economic environment, who can?" We've lost about 300,000 good-paying jobs—

Interruption.

The Acting Speaker (Mr. Jim Wilson): Sorry to interrupt. Just stop the clock for a minute.

Perhaps you could move your BlackBerry if it's buried under there. Maybe it's not yours? The problem is, we're hearing it through the speakers and it's blasting the ears out of our translators. If it's not yours, I apologize.

Ms. Cheri DiNovo: Just in case, Mr. Speaker, I've moved it.

The Acting Speaker (Mr. Jim Wilson): Start the clock. Thank you to the honourable member.

Ms. Cheri DiNovo: To get back to field of precarious employment, certainly it's a major problem. The days of working for one company for 30 or 35 years and retiring are over. Right now, one out of every three Ontarians really does work from job to job, from career to career, and there really isn't a great deal of job security. The rate of unionization is going down, and if there ever is job security, it's in collective agreements, argued for and defended by unions.

That's one of the problems. One of the backgrounds of this bill is the fact that in Ontario it's very difficult to unionize. Where it's difficult to unionize, it's difficult to have a dignified labour force, because only with collective agreements, only with collective power, the ability to strike, to withdraw one's labour, does one get real bargaining clout. So without that, you're always in a precarious situation.

Ramping back from that, if you're working part-time through a temp agency or on a contract basis, you're also in a precarious situation. I want to make very clear to those watching that this is not just the area that is inhabited by secretaries, by clerks and by data entry operators; no, this is the area in our new workforce inhabited by those with Ph.D.s who work in our universities and colleges. In fact, the bulk of teachers in our post-secondary institutions are contract, precarious workers who aren't sure if they're going to get a job next year like they have this year—that's pretty horrendous—and also make, by the way, far less than their full-time, tenured counterparts. I remember a member from CUPE 3903, someone with a Ph.D. and years of experience, when we were dealing with the York strike here in this Legislature, saying to me that she had been teaching for 16 years at York University—16 years on a contract basis.

Every year she had to reapply for a job, every year she wasn't sure she would get it and she was still making about 50% of what somebody would be making if they were full-time. This is unconscionable; this is unethical.

The backdrop of what we're talking about here is ethics. It's the ethical reality we all need: stable employment, that job that gives us our dignity as human beings. And if there's something attacking that job's dignity, it attacks our dignity. So this is a serious problem.

Precarious employment has now taken over whole industries that previously supplied dignified, full-time, stable employment. What do I mean by that? Well, increasingly corporations are hollowing out their full-time staff. Why? Because it's simply cheaper to hire somebody through a temporary agency, to not have to pay their benefits, to not have to invest in a pension program, if you're lucky enough to have one—to not have to look after all that other expense of having an employee. It's also cheaper because temporary employees are not paid as well as full-time employees. This is a basic inequity that, unfortunately, Bill 139 does not address, but is addressed, I might add, in other jurisdictions.

It's certainly addressed in many European jurisdictions, particularly and notably France, where they actually have laws that say, "Equal pay for equal work." What a revolutionary concept that is: If you're doing the same job, you should get the same pay, whether you're working 40 hours or whether you're

working four hours. We have nothing like that in Ontario, and we certainly aren't going to get it with the advent of Bill 139. That, in fact, would be a much more elegant and much more direct solution to the problem of precarious work than this bill, because the person working on a temporary or a contract basis would not represent a cheaper alternative to a full-time worker, but would actually be paid what they're worth: the same amount for the same work, for the same job.

I want to give kudos to OPSEU, who have been frontrunners on this very issue and, through the LCBO, are working on this as we speak. They're fighting for equal pay for equal work, again something that's pretty commonplace in European jurisdictions but is unknown in Ontario and still unknown after the advent of Bill 139. That would truly give more dignity to the workplace.

We had a phenomenal range of groups that deputed before the committee on Bill 139. It was interesting, because I asked the same question of every single group that came through. The question I asked was, would you support some kind of legislation that would protect nannies—at-home caregivers?

Very shortly before, the Star did a series of articles on the exploitation of at-home caregivers. These are foreign-trained workers who come over here and don't have their landed status. They're almost indentured servants, because they have to work for one employer for two years. They can't leave or shift employers without jeopardizing their immigration status. So they really are in a precarious situation in terms of their rights and even in terms of their safety, because they're in a private household. They don't get overtime and they don't get nights off. There are all sorts of horror stories that we've heard from both sides of this House about these nannies. Every single group I asked the question of said this bill should absolutely extend to nannies.

I have to give kudos to them for that, because out of that conversation did come two pieces of legislation: one, a private member's bill by the member from Eglinton–Lawrence, and ultimately another, from the Minister of Labour himself, which attempted to deal with the situation. So all the committee work was, in fact, extremely valuable in expanding the role of employment standards in this province.

1700

What else do we want to say about the broader picture of employment standards? We want to say something about enforcement. I said I was standing out in the rain with SEIU the other day, in front of the Ministry of Labour, speaking about the horrible plight of janitors—a question I asked this morning—the plight of those who are seen as contractors, again something this bill unfortunately doesn't address. They're called contractors because that way the company doesn't have to pay them benefits. They have to supply their own cleaning utilities, in some instances; they're sent out and they're given a lump sum—sometimes they're even charged for the “privilege” of working as a janitor and being a contractor; some of them are forced to incorporate. It's outrageous. By the time all the dust is settled, metaphorically, and by the time the end of the week comes many of these janitors are making less than minimum wage, yet they're considered independent contractors, therefore outside the scope of this bill. I said to the janitors assembled, “Imagine the province of Ontario if we had criminal laws but no police to enforce them. Imagine what life would look like here.” In a very real way that's what life looks like in the labour force of Ontario, because in a very real way we have employment standards that are not enforced. The minister himself knows this. There are millions of dollars of unpaid wages in the province of Ontario.

A student of my husband's at Humber College asked him about the minimum wage, since he knew it was a topic near and dear to me with the advent of Bill 150 and the campaign we ran around the \$10 minimum wage. The student asked, “What should I be getting?” because he was working at a minimum-wage job, and Gil said, “Well, now, \$9.50.” So he said, “Really? I'm not being paid that.” Gil said, “Go back and talk to your employer and tell him that you should be being paid \$9.50, that that is now the law of the land.” So he went back to his employer. You know what the employer said? The employer

said nothing. He laughed at him. He said, "If you don't want the job, just quit." So then this young person said, "What do I do now?" I know the Minister of Labour will say, "Why didn't he phone our ministry?" Well, he did, and he got put on hold and he got put through—it became such a bureaucratic nightmare that he just dropped it, and that young person is still making less than minimum wage. That's one of many, and I know that members here are seeing these cases in their casework in their constituency offices: people who come in who are fired with no cause, people who are let go when they demand overtime, pregnant women—again a story that the Star broke—who are being fired or not being rehired because they are pregnant. These are absolutely outrageous abuses of existing employment standards legislation. But if you're not enforcing it, it might as well not be on the books. This government has promised to hire another, I think, 100 employment enforcement officers. I'm not sure whether that's happened or not, but I can tell you that on the ground it doesn't feel like it's happened. Hence, I put forward a motion in the motion papers demanding that 25% of all places of employment be inspected in a one-time sweep, and that thereafter 10% of them be inspected on a rotating basis. If this can be done, in some instances, in the health and safety inspection model, why can't it be done with labour standards, why can't it be done with employment standards? Until we enforce these laws, until we check it out, it's not going to happen.

In conversations with the Minister of Labour, for example, around the janitors, who are trying to organize with SEIU, who are being ruthlessly exploited—again, kudos to the Star for doing a piece on that as well—these ruthlessly exploited janitors are being told to just phone the Ministry of Labour if they have a complaint. Now, maybe we live in a rarefied place here at Queen's Park, but anybody who has ever worked in a precarious job environment knows that if there are a handful of employees there, which is usually the case, and all of a sudden a complaint-inspired Ministry of Labour enforcement officer comes onto your floor and—remember we're dealing with people who are often immigrants, who are racialized, who don't know their rights, who have English as a second language—and this person comes on the floor and asks you, as has happened—I have cases to prove it—in front of your boss, "So what is the problem?" or says to the boss, "This person has a problem with you" or "Your staff has a problem with you not paying overtime," guess what's going to happen to that employee after that inspector leaves? Well, we know what's going to happen: They're going to be let go. They're going to be disciplined. It happens all the time. There was a case that SEIU was telling me about where an entire staff was let go because they suspected one person of complaining to the Ministry of Labour. This can't be allowed to go on, and it is. That is the backdrop to Bill 139.

So even if we pass this bill, incremental though it is, a step in the right direction, the real question is, will it be enforced? Because if it's not enforced, what are we wasting our time and taxpayers' time doing? That's a huge concern. It's a concern that can only be addressed by hiring more employment standards officers and by having them go out into the field, independent of complaints, to check out anonymous complaints when they're made, and just generally to check out whether industry is—because I know this can be an industry-specific issue—complying with employment standards legislation.

I've had other instances where people come into our constit offices, again, most often from racialized communities where they don't know their rights, where they're not paid at all, where they're hired and they're told that this is going to be volunteer work, where they're threatened if they decide they want to complain or even ask about it—again, abuses that are ongoing.

Many years ago in the 1980s, I did what many women do, because it's mainly a woman-dominated industry: I left my employer at that time, Drake, and started my own agency. I did it, I remember, with a loan of \$5,000, and remember billing, in the mid-1980s, about half a million dollars in my first year, so it was a very great success, and very quickly. We were an all-woman firm, which is not unusual in the employment industry and not unusual in the temporary agency industry, to have all women working in that industry. Interestingly enough, it's one of the few industries where women can actually make a substantial amount of money. That's rare, as we all know these days; we were talking about that earlier.

I continued in that industry for quite a while. It wasn't a temporary agency; it was a permanent placement agency. The women who worked with me were paid on a commission basis; sometimes they did better than I did as the owner of the agency. We placed women mainly in public relations, mainly in advertising, a little bit of everything, and rode the wave of women's equity, in the sense that at that point, in a buoyant economy, companies, institutions—notably government institutions—were trying to hire on women. So we rode that wave and did extremely well.

I've often reported on that period of time life because it's an interesting contrast to what's happening in agencies these days. First of all, as I said earlier, it was illegal to charge anyone a fee for applying in those days. We needed a licence—not that it meant much, but you needed a licence—and to get a licence, you had to show some kind of capitalization; you couldn't just be a fly-by-night organization. So you needed a licence. Again, these are things that this bill brings back in that haven't been enforced but need to be enforced.

We never paid anybody less than \$10 an hour, even for the occasional time that we placed somebody in temporary work doing filing or something at the lower echelon of office work. Quite frankly, back then, nobody would work for less than \$10 an hour. It was a buoyant economy. It's sad—it's pathetic, in fact—to be fighting for a \$10-an-hour minimum wage now when it was the de facto minimum wage 20 years ago.

Certainly we charged fees to clients for screening, for sourcing out applicants. It was a reasonable fee. It was based on what they made every year. And the agency, the industry, was governed by its own body—not the most ideal situation, I'll warrant, but certainly there was some sense.

So it was with interest that I was lobbied by and listened to ACSESS, who came and lobbied on behalf of temporary agencies, and agencies generally. One of the first things I said to ACSESS when they came and lobbied me about Bill 139 was about the six-month provision, that they could charge six months of salary for somebody going from what we used to call temp to perm. Sadly enough, what I discovered in this conversation, and what I immediately reacted to, was, why would anybody go through a permanent agency or an executive recruiter if they could hire on somebody temporarily and only pay them a six-month fee? So there was that aspect, from the agency and from the applicant's point of view. In a kind of weird, backroom way, it actually encourages companies to hire temporary people rather than permanent people off the bat, because it will save them money.

1710

The second objection I made to that, which was something, of course, that they didn't want to hear, was that this could be challenged in a charter challenge. I saw the six-month fee as a barrier to employment, that you cannot put a barrier to employment in place to prevent a company from hiring on someone they want to hire, and charging them a fee is a barrier. I suggested to them that this was open to a charter challenge, that any good lawyer could go after this, and that it's been sort of a gentleman's and gentlewoman's agreement in the industry, a kind of industry standard that had never been tested in terms of a charter challenge.

What was sad is that in putting this into law, which Bill 39 does, it in a sense makes it more difficult to challenge that very aspect of this with a charter challenge, because this will be used as some kind of legal precedent for charging a fee that, before now, has been a kind of, as I said, gentleman's and gentlewoman's agreement.

That was one of the first discussions that we had with ACSESS. I don't agree with ACSESS. I don't agree with most of what they wanted and most of the changes they made. But it is interesting that the deputants from the OFL, from unions of all sorts, from Workers' Action and ACSESS agreed that they wanted to see that gone—for very different reasons, mind you, but they wanted to see that gone.

The other problem that immediately came to the fore was why home care workers are left out of this bill. They're not covered for another three years. Why single them out? I suggested, facetiously, that perhaps it's because many of them are on the government payroll, and it would cost the government

more money. That's cynical, but it's hard not to say it or see it that way, because there's no other good justification for them being excluded. They're on the government payroll; they're not on the company payroll. Certainly they need to be covered and protected, just like every other labourer.

What do we need to have happen here with this bill and employment standards? I want to let the House know—it's no surprise—that we in the New Democratic Party are coming forward with our own rewrite of the Employment Standards Amendment Act. It's going to be a pretty weighty tome, because this is a piece of legislation that screams out for amendment.

What are we going to do? First of all, we are going to call—no doubt—for equal pay for equal work. A simple ethical, moral imperative, it seems to me, is that if you're doing the same job, you should get the same pay, whether you're doing it for 10 hours or 40 hours. It's the same work. Why should a temporary or precarious worker be paid that much less than a permanent worker? That's very clear.

Second of all: a minimum wage that is always pegged just above the poverty line—this would make the minimum wage right now about \$10.25—and indexed to inflation so that we don't have to go through the battles around minimum wage over and over again, depending on the government in power, but that it will automatically rise due to inflation. If the government is serious about eradicating or getting rid of 25% of the impoverished ranks of our province, then they would do this simple thing, because de facto, by definition, if they raise the minimum wage above the poverty line, they would take about a million workers out of poverty, two thirds of whom are women and most of whom are racialized women. So that's a very simple, no-cost option for this government that should be embedded in employment standards.

The other huge issue is, what is an employee? What constitutes an employee? Is a janitor an employee or a subcontractor? If they're working for one company or one employer, we want to say, we need to say and we should say that they're an employee and therefore guaranteed the rights of an employee: benefits, overtime, holiday pay etc. We think that should be embedded in the Employment Standards Act, because right now it's not, so right now the way that these companies are getting around the letter and the spirit of the law is by calling their employees subcontractors.

By the way, in not dealing with that, Bill 139 is going to open a whole Pandora's box of new ways of skirting employment standards. Instead of temporary agencies placing somebody, now we're going to have subcontractors; we're going to have secretaries working as contractors. You can see how this might move out into the commercial community because of some of the provisions of Bill 139. We want to prevent that. Again, when you look at European Union statutes, when you look at other jurisdictions where the rights of the worker are more paramount than they are here, you look at provisions like that in their employment standards.

Other things that are outside the bounds of the Employment Standards Act but are still absolutely essential to dignified labour in this province are things like the right to card check certification. We need to make it easier for people to unionize when they want to, and for sector-by-sector unionization, which is something, again, that we see in European jurisdictions. I've told this story before, but it's a great story, about how my husband and I went to Sweden, a jurisdiction smaller than Ontario. We went into the McDonald's and we discovered that the McDonald's in Sweden is unionized—a unionized McDonald's; who knew? Who would ever have thought that? I asked the member of Parliament who was showing us around how that happened. He said, "Well, 85% of the Swedish labour force is unionized, and none of them would have eaten in McDonald's had it not been unionized." We want to create that kind of work atmosphere, an environment where unions are the norm, where collective bargaining is the norm—and, by the way, something that even their chamber of commerce supported: sector-by-sector unionizing.

This is a country that has Volvo, H&M, Ikea, Sony Ericsson and other huge corporations—all unionized, all working well with the employers to come up with collective agreements that are reasonable, that are human, that produce benefits and produce a dignified labour relationship. That's something outside the

bounds of the Employment Standards Act but something that's absolutely necessary, really, as the precondition for an Employment Standards Act that would absolutely protect people.

Other aspects of it are aspects like pensions. We heard a discussion about that earlier, with the private member's motion today about pensions. It's absolutely unjustified and it's wrong, it's ethically wrong, that 70% of Ontarians don't have pensions. Everybody deserves a pension—and not a pension, again, that's going to put them under the poverty line, but a pension that will allow them to live with some sort of dignity. Many of them have worked all their lives but simply didn't have the good fortune to work in a unionized environment or to work for a company or a place that has a pension. So we need to look at pension reform, and that needs to be in employment standards as well.

My friend from Hamilton East—Stoney Creek has talked about the necessity to pay workers first when layoffs occur. We need legislation within employment standards that does that: that forces companies, when they're downsizing, when they're laying off workers, when they're closing, to pay their workers owed monies before the banks, before the other creditors, because workers have worked for that money. Again, we're talking about something that rests on a solid ethical basis, and that solid ethical basis is the dignity of the worker and the dignity of the workplace. That's something that we need employment standards for as well.

Of course, when we're talking about the range of equity, we need some money going into our equity legislation and some enforcement, coming back to the issue of enforcement. When we live in a province where women make 71 cents to every dollar earned by men, there's something wrong, and the something wrong is with employment standards. So we need to do something. We need to beef up our equity commission. We need to put more money behind it so that it can be enforced better, so that that doesn't happen. By the way, one of the worst offenders on that is the Ontario government itself. So we need to look at that employment equity. That's a kind of ethical ground, that women and men should make the same amount for the same work, that part-time and full-time employees should make the same hourly wage for the same work. This is common sense. This is simply ethics 101. The fact that we don't get to that place with Bill 139 is discouraging, because at least Bill 139 gave us the opportunity to even talk about these issues.

1720

Getting back to Bill 139, amendments that would make it stronger, even as it stands—and remember, our problem with it, as the New Democratic Party, is that it's really the icing, as I've said before, where we need a cake. One of the things it does—and this is another loophole that I'm sure, as soon as the ink has dried on the royal assent and as soon as the proclamation is read, will immediately be taken advantage of by unscrupulous employers—is the fact that this is for temporary agencies, not for employment agencies. Every group that deputed before us, who were deputing on behalf of the employees of temporary agencies, called for this change. They wanted to see the terminology changed from “temporary agencies” to “employment agencies.” Why? Well, for obvious reasons. All of a sudden, all you need to do is change your name. You're no longer a temporary agency; you're now an employment agency. You might place one permanent employee once a year. You might do 90% of your placements as temporary placements, but you're not a temporary agency; you're an employment agency, because that's what you call yourself.

We have to tighten these loopholes because they will be used. We've seen that they have been used in past. They've been used successfully, hence our sorry situation in the province of Ontario with a precarious word. So we wanted this extended to employment agencies. What would it lose? I really didn't understand the objection to that amendment, because it really doesn't detract from this bill. It doesn't cost anything, if you will, in a legislative sense. It simply changes one terminology to prevent that one loophole from happening. All employment agencies, whether they're 90% permanent, 10% temporary or 90% temporary and 10% permanent, should subscribe to this. No agency should be allowed to charge an applicant a fee.

This bill in a sense sets up the possibility that if you walk into a permanent employment agency or an executive recruiter's, you could still be charged a fee because it's not a temporary agency. This is just silly, and that needs to be changed because, again, where people can save a buck in this economy, they will save a buck, and if this saving of the buck is an attack on the dignity of the worker, they will do it; they have done it and they are doing it. That's our historical experience. So, again, we want to make sure that they can't do it. That's so important.

I've talked about that six-month problem. We don't think it should be there. We don't think that any fee, really, once an employer wants to hire an employee that's in their employ, should be levied. This is a barrier to employment. I can't see that it isn't open to a charter challenge, so really what I challenge employers out there to do is to challenge it. In a sense what I'm suggesting to you is, now that the gentleman's and gentlewoman's agreement is over with Bill 139, or before this bill is passed—even better—simply refuse to pay. Force the agency to then prove that this isn't against the Charter of Rights and Freedoms in this country. Get them to prove it, because I don't think they could, and quite frankly, I don't think there's a legal leg to stand on there. It's simply been the practice of an industry that until now has not been scrutinized. So that's something to look at as well.

Again, in looking at other jurisdictional examples, this is where the dramatic difference between where we are and where we should be is played out fully. Certainly we see where the loopholes are and we've had very graphic examples of that, two in the recent past that I can think of—well, three. Nannies are being exploited still, pregnant women are being fired—all of these have been covered by the Toronto Star—and janitors are subcontracting out, calling somebody a contractor when they're really an employee. All of these things really put the lie to some of the accomplishments that could have been made in Bill 139 but were not.

Having said that, what's good about it? I will say that even though it's the icing and not the cake, it's a step forward. We in the New Democratic Party are going to support Bill 139; we're going to vote for it. We would have liked to see the amendments put forward. We know how hard the stakeholder groups have worked; we know what they think. They think exactly what I've just said. They want it stronger too. But anything is better than nothing. Really, anything is better than nothing, although it makes my skin crawl to see a Legislature that is full of incrementalists rather than those who really want to take leadership and do something dramatic and something real. This is an incrementalist piece of legislation that takes an inch forward when we need a mile. Even so, an inch is better than not moving at all. Currently, the situation is so bad that Bill 139 looks good in comparison to it. That's the best one can say about it: Currently, the situation is so bad for employees through temporary agencies that this actually starts to look good. Remember, this is really nothing that they haven't had before, 20 years before—just brought back.

I'm going to conclude my statements with that and with thanks to all of those groups. I want to mention a few in particular that deputed, CAW among them, all saying really the same thing—OFL, Make Poverty History, Workers' Action Centre, OCASI, the Chinese Interagency Network of Greater Toronto and others. I've left out many, I'm sure, all saying the same things, all hoping this would be stronger, all wishing it would be stronger, all working to make it stronger, but all at least somewhat gratified that something finally has been done to make the employment standards better in this province. To give it its due, it does make things—reluctantly, I say—somewhat better than they have been.

Stay tuned. In the upcoming months we are working on what we'd like to see happen in the province of Ontario: a revised Employment Standards Act that really does all of those necessary actions that would make our labour force retain its dignity, regain its dignity.

Just to go over them again so that there is no misunderstanding, we need card check certification. We need to make organizing in a collective bargaining way easier, because that's where the strength of the worker really lies.

We need equal pay for equal work, for all workers, whether they're working four hours or 40 hours, whether they are university professors or janitors.

We need a redefinition of an employee so that we really know that the janitor is an employee and not a subcontractor. They are not contractors; they are employees. Let's call them that and give them the benefits according to that.

No fee ever, whether you're an employment agency or a temporary agency, should be levied for someone looking for a job; no question about that. The six-month fee is silly. It's a barrier to employment. It's subject to a charter challenge, I warrant, again, mainly because it's a barrier to hiring somebody who should be hired at a reasonable pay rate. Equal pay for equal work, by the way, in and of itself would have made Bill 139 redundant.

Of course, we need health care workers included in Bill 139. They should not be excluded. That's silly. Why should they have to wait three years when everybody else gets rights now? We know the answer. The cynical answer is that it's the government that pays them. That needs to come out and that should come out.

Again, we need pay equity with teeth.

Finally and most importantly, none of this is worth the paper it's printed on if there isn't enforcement. Not enforcing employment standards the way they were written to be enforced, the way we enforce any other laws, independent of the complaint of the victim—if you break into a store, it doesn't take the storekeeper to call the police. The police will be there. If you're breaking an employment standards law, employment standards officers should be there, and they should be there pre-emptively, because we know that abuses are so widespread. If we don't have enforcement, we don't have real laws.

1730

I would ask the Minister of Labour to work on all of those, to bring back to the House, to make sure that we finally have something like that, not just the icing but finally get to sink our teeth into the real cake of employment standards reform.

The Acting Speaker (Mr. Jim Wilson): Questions and comments?

Hon. Peter Fonseca: I listened to the member for Parkdale–High Park. I'd say to the member that the member knows full well that this government, under the leadership of Premier McGuinty, has been championing a modernization of our employment standards here in the province of Ontario.

I want to thank all of the stakeholders who made presentations at committee, in my office, who sent in letters and e-mails about this very important piece of legislation. Many advocacy groups understand the importance that this has on our poverty reduction agenda.

I want to read a couple of comments that came to us from Deena Ladd from the Workers' Action Centre. I know that the member spoke about Deena and about Mary Gellatly from Parkdale Community Legal Services. Here's what Deena Ladd had to say about Bill 139: "These are all the things that many of our members have been speaking up with for years, so this is a good day for our members." She is right.

Just talking about the progress that we've made—back in 2004-05, we established a dedicated employment standards inspection team in this province. They have gone out and made 8,700 inspections. They have collected \$5.5 million in lost wages for workers across Ontario—great progress. If you look back between 1989 and 2003, there were only 97 employment standards prosecutions initiated—97; since 2004, 1,700 prosecutions completed here in this province. That is progress. That is impressive. That is what we're doing, as the McGuinty government is here working with all stakeholders: employees, employers, labour working together—

The Acting Speaker (Mr. Jim Wilson): Thank you. Further questions and comments?

Mr. Ted Chudleigh: The member from the third party is an eloquent speaker and organizes her remarks extremely well. She made some excellent points, not all of which I agree with.

This government seems to have a full press on discouraging people from working in Ontario. To bring in this type of legislation at this particular time, when temp agencies have longer lineups for people

seeking employment than they've had in years and years—it goes back into the 1990s since they've had situations like they're in now—and to put further red tape on them, to increase the costs to temp agencies in such a way that is going to drive much of the work that they currently contract for out of the province—this work can be put in almost any province or indeed in any state. Given the distribution and transportation facilities that we have in North America, these types of jobs can find their way into the southern United States, western Canada, eastern Canada. They can find themselves in jurisdictions where it's just simply cheaper to do business. This kind of legislation is going to continue to give advantages to other jurisdictions while it makes Ontario a much less competitive place to do business, and I think that's a sad thing for Ontario.

The Acting Speaker (Mr. Jim Wilson): Further questions and comments? Seeing none, the honourable member for Parkdale–High Park has up to two minutes for her reply.

Ms. Cheri DiNovo: I know what Deena Ladd and Mary Gollatly say in their comments on the bill. They say this too:

“The bill fails to meet the government's goal of ‘removing barriers to permanent employment’....

“The narrow scope of Bill 139 would still allow temporary staffing and employment agencies to charge workers fees for job placement.

“Special rules proposed for termination and severance of Bill 139 would substantially reduce temporary agency workers' current entitlements.”

That's what they also say.

To the Minister of Labour's statistics, which I challenge—I'd love to see those statistics—I simply counter that only 1% of our workplaces ever see an employment standards officer—1%. That's the reality; that's a fact. You can throw out numbers all you want, but if that's the reality, then 99% of workplaces never see an employment standards officer.

Quite frankly, all I would suggest to the minister is to talk, as he did after question period today, to those janitors who are being exploited, to those people out there who are working in precarious employment, to those who are still going to be exploited after the passage of Bill 139 and who do not get redress through the Ministry of Labour. Speak to them. That's all I ask. What you will hear from them is that the system isn't working for them. It's not working for those who are most egregiously hurt by precarious employment. Speak to them.

We certainly heard from them in deputations, and all I suggest again is, take their recommendations and either put them in the bill or put forward another bill that really makes the strategic amendments to the Employment Standards Act that are actually required.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Seeing none, it's time to put the question: Mr. Fonseca has moved third reading of Bill 139. Is it the pleasure of the House that the motion carry? I heard a no.

All those in favour of the motion will please say “aye.”

All those opposed will please say “nay.”

In my opinion, the ayes have it.

Call in the members. This will be a 30-minute bell.

I have received a deferral slip, pursuant to standing order 28(h), requesting that the vote on Bill 139 be deferred until deferred votes on Monday, May 4, 2009.

Third reading vote deferred.

May 4, 2009
 EMPLOYMENT STANDARDS
 AMENDMENT ACT
 (TEMPORARY HELP AGENCIES), 2009 /
 LOI DE 2009 MODIFIANT LA LOI
 SUR LES NORMES D'EMPLOI
 (AGENCES DE PLACEMENT TEMPORAIRE)

- Deferred vote on the motion for third reading of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.
- **The Speaker (Hon. Steve Peters):** Call in the members. This will be a five-minute bell.
- *The division bells rang from 1134 to 1139.*
- **The Speaker (Hon. Steve Peters):** All those in favour will rise one at a time to be recognized by the Clerk.

- **Ayes**

- | | | |
|------------------------|----------------------|-----------------------|
| • Aggelonitis, Sophia | • Dombrowsky, Leona | • McMeekin, Ted |
| • Albanese, Laura | • Duguid, Brad | • Meilleur, Madeleine |
| • Arthurs, Wayne | • Duncan, Dwight | • Miller, Paul |
| • Balkissoon, Bas | • Gerretsen, John | • Mitchell, Carol |
| • Bentley, Christopher | • Gélinas, France | • Moridi, Reza |
| • Best, Margaret | • Gravelle, Michael | • Naqvi, Yasir |
| • Brown, Michael A. | • Horwath, Andrea | • Phillips, Gerry |
| • Brownell, Jim | • Hoy, Pat | • Prue, Michael |
| • Cansfield, Donna H. | • Jeffrey, Linda | • Rinaldi, Lou |
| • Caplan, David | • Johnson, Rick | • Ruprecht, Tony |
| • Carroll, Aileen | • Kormos, Peter | • Sandals, Liz |
| • Chan, Michael | • Kwinter, Monte | • Smith, Monique |
| • Colle, Mike | • Lalonde, Jean-Marc | • Sousa, Charles |
| • Crozier, Bruce | • Levac, Dave | • Takhar, Harinder S. |
| • Delaney, Bob | • Marchese, Rosario | • Van Bommel, Maria |
| • Dhillon, Vic | • Matthews, Deborah | |
| | • Mauro, Bill | |
| | • McGuinty, Dalton | |

- Dickson,
Joe
- DiNovo,
Cheri
- Watson,
Jim
- Wilkinson,
John
- Zimmer,
David
- **The Speaker (Hon. Steve Peters):** All those opposed will please rise.

- **Nays**

- | | | |
|-----------------------|--------------------------|------------------------|
| • Arnott,
Ted | • Jones,
Sylvia | • Shurman,
Peter |
| • Bailey,
Robert | • Munro,
Julia | • Witmer,
Elizabeth |
| • Chudleigh,
Ted | • O'Toole,
John | • Yakabuski,
John |
| • Dunlop,
Garfield | • Runciman,
Robert W. | |
| • Hardeman,
Ernie | • Savoline,
Joyce | |
- **The Clerk of the Assembly (Ms. Deborah Deller):** The ayes are 54; the nays are 13.
 - **The Speaker (Hon. Steve Peters):** I declare the motion carried.
 - Be it resolved that the bill do now pass and be entitled as in the motion.
 - *Third reading agreed to.*

May 6, 2009

ROYAL ASSENT /
SANCTION ROYALE

The Speaker (Hon. Steve Peters): I beg to inform the House that in the name of Her Majesty the Queen, His Honour has been pleased to assent to certain bills in his office.

The Deputy Clerk (Mr. Todd Decker): The following are the titles of the bills to which His Honour did assent:

An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

An Act respecting a long-term strategy to reduce poverty in Ontario / Loi concernant une stratégie à long terme de réduction de la pauvreté en Ontario.

BILL 139 THA ORAL QUESTIONS

March 3, 2009

SMALL BUSINESS

Mr. Norm Miller: I have a question for the Minister of Small Business and Consumer Services. Minister, small businesses are struggling in this province. They are suffocating under the burden of your new rules and regulations in these challenging economic times. It's like death by a thousand cuts. Your government seems to be picking off one sector at a time. Construction businesses will hurt with an \$11,000 WSIB tax. Lawn care companies will suffer with your politically motivated, not science-based, ban list. Also, Minister, I'm hearing from many small businesses unable to cope with your rapid minimum wage increase.

•1120

•What is more troubling to me is this is all being done at a time when our small businesses simply cannot afford it. Will the minister agree with the people on the ground and finally admit that small business is suffering in this province?

Hon. Harinder S. Takhar: I want to thank the member for asking this question.

•There's no doubt that the small businesses are having challenges, not just in Ontario or Canada but throughout the world. It is a global phenomenon because of our reliance on the US economy, and the US economy is having challenges in their construction sector, they are having challenges in their banking sector, and they're also having challenges in their manufacturing sector. So the small businesses that provide services to the US, and also to a broader sector, are having some challenges.

•I will be more than pleased to elaborate in the supplementary about what our government has actually done to support those small businesses. We are actually on the job, and we're doing a great job to support the small businesses.

The Speaker (Hon. Steve Peters): Supplementary?

Mr. Norm Miller: Well, I think the minister is really out of touch. The US economy has nothing to do with all the new rules that you're bringing in.

- Minister, small business is vital to Ontario's economy. Small business comprises 96% of all the businesses in the province of Ontario-96%. Small business is the job creator in this province.
- The Canadian Federation of Independent Business says that two out of three businesses surveyed find the overall burden of provincial regulations has increased in the past three years under your government. What's next on your hit list? I know you have the temp help agencies-Bill 139. Where's the minister on this issue? Why won't he defend and protect the interests of small business?
- When will you, as the Minister of Small Business and Consumer Services, start to stand up for small business in this province?

Hon. Harinder S. Takhar: It's one thing to ask questions in the House; the other thing is to actually do something about it.

- Let me tell you, our government actually has worked very closely with the small business community. We have, in the manufacturing sector, a Smart program, which is being run by the CME, the Canadian Manufacturers and Exporters association. It's a program to increase the productivity of the manufacturers.
- We also have a program with the Yves Landry Foundation. Again, this is to look at their processes and provide the money for the training funds. We also assist them with their export access program, through the Ontario Chamber of Commerce, so that they can actually not look at the market just in the US but actually look at the markets across the globe so that they can be more successful in penetrating new markets.
- In addition to that, we have the AMIS program, under which they can apply for money so that we can assist them with regards to their capital needs.
- We have a lot of these programs, and we are working very closely with the small business community to address some of their needs.

March 5, 2009

SMALL BUSINESS

Mr. Norm Miller: I have a question for the Minister of Small Business and Consumer Services. Minister, small businesses in Ontario are being hit by the double whammy of a global economic meltdown and the McGuinty government that burdens them with an unforgiving load of regulations. Every bill you introduce makes it harder to stay in business in this province.

- Your new temporary help agencies bill, Bill 139, is a good example. It's going to create higher costs for business, and it's going to create more red tape for workers. Just at the time when our economy is struggling, we need those businesses; we need those workers.

- I ask the minister, haven't you throttled small business enough with your red tape? How can you support this bill when you know it will only hurt small business, not help it?

Hon. Harinder S. Takhar: I want to thank the member for asking the question. I'm very much aware of the contribution that the small businesses make to our province. They are about 360,000 in total. They contribute about \$250 billion, and our government has been working very, very closely with them to make sure that some of the challenges they are facing in the global economy right now get addressed.

- I want to talk about one special program that we have introduced so that we can help the small businesses more. These are peer-to-peer round tables that are conducted by Direct Engagement. I participate on a monthly basis in this program in the very first week of the month. What this does is—basically this is a webcast program where people can actually sign up on the webcast, and the people can actually participate—

The Speaker (Hon. Steve Peters): Thank you, Minister.

March 9, 2009

The Speaker (Hon. Steve Peters): Final supplementary.

Mr. Tim Hudak: I think the minister knows that those are the quotes from the Ontario Real Estate Association. So we're jamming up, under Dalton McGuinty, the real estate market. Your pesticides bill coming down this summer is going to chase out 20,000 lawn care jobs and impact on small businesses and agriculture. The Association of Canadian Search, Employment and Staffing Services, ACSESS, said about your temp agency bill, Bill 139, "Some of the new rules ... will significantly damage an industry employing 300,000 people a year in the province of Ontario." They add, "The new legislation will create unfair and more onerous employer obligations for staffing services industry employers in Ontario compared to any other industry or geographic sector in North America." You're attacking small business with higher energy rates, you're attacking small business with new pesticide regulations. Isn't it time to give small businesses a break in Ontario so they can create some private sector jobs again?

Hon. George Smitherman: To the Minister of Labour.

Hon. Peter Fonseca: What I say to the member opposite is that this government wants to ensure that we protect our most vulnerable workers. I say to that member, you should speak to the member from Sarnia from your party, because here's what he had to say. He said, "In general, we are" very "supportive of the government's efforts to offer protection to workers in temporary agencies.... I would have to wonder why the government would announce changes to the regulations today, December 9, that don't come into effect until January 2," 2009. Actually, that member wanted us to move even quicker, I say to the member. But here's what we are doing: We're making sure that these vulnerable workers are not treated unfairly, that they're not prevented from accessing permanent jobs. We think this is good for our economy. Eleven per cent of the workforce today works in temp work; we want to-

The Speaker (Hon. Steve Peters): Thank you. New question. The leader of the third party.

March 12, 2009

TEMPORARY EMPLOYMENT AGENCIES

Mr. Robert Bailey: My question is for the Minister of Labour. Minister, in 2008, Premier McGuinty sent greetings to an organization, Staffing for Canada Week, where he said, "I applaud the staffing industry and temporary and contractual employees for their invaluable contribution to the continuing prosperity of our province and country as a whole."

- We on this side of the House have some concerns with parts of Bill 139, which, if passed, will kill the temporary staffing industry, which employs, as you well know, over 200,000 people and is a very vital part of Ontario's economic recovery.

- Minister, given your Premier's warm sentiments toward this industry and the importance that this industry plays in our economy, why are you and your party trying to kill this industry with Bill 139?

Hon. Peter Fonseca: I want to thank the member for the question. I also want to thank the member for the supportive comments he has made on this legislation, where he said, "In general, we are supportive of the government's efforts to offer protection to workers in temporary agencies." We agree with the member.

- The member wasn't here at the time that his party was governing this province, but I can tell him that the approach they took was one of weakening labour legislation, weakening employment standards legislation. We don't agree with that. What we have brought is a fair and balanced approach to address vulnerable workers in this province, some of our lowest-income workers. We want to ensure that they have the same rights as other employees in Ontario. I think this is something the member knows in his heart of hearts he should agree with. We want to ensure that those employees have opportunity.

The Speaker (Hon. Steve Peters): Supplementary?

Mr. Robert Bailey: I'd like to thank the minister for the history lesson, but we're talking about the here and now. Yesterday I met with ACSESS, the Association of Canadian Search, Employment and Staffing Services, who told me quite clearly that they would support this bill if you would agree to make two amendments that would not change the intent of your bill but would allow this industry that employs 200,000 Ontarians to continue to prosper. I know your own members are going to hear from these industries as well. If you don't support these technical amendments, the industry will die and will not be in a position to help meet Ontario companies' staffing needs when this economy does pick up. In effect, you will hamstring the economic potential.

- Minister, will you commit to amending Bill 139 and listen to the stakeholders that you failed to consult with when you brought this bill forward?

Hon. Peter Fonseca: What I say to the member is that we highly respect the legislative process. I've had the opportunity-actually, I think the member is speaking to a number of stakeholders in particular, but ACSESS would be one of them. I would say that in my time as Minister of Labour, in the five months, I have spent more time with that stakeholder, ACSESS, and we're happy to do so and listen to their concerns that they bring to the table. Also, this is going to committee. There will be more opportunity to bring forward deputations, but what we are doing is changing some unfair practices that we feel are out there right now in the temporary help agencies sector: charging upfront fees to these workers and charging a temp-to-perm fee, where a lot of them feel that they can't find that permanent employment.

- Also, what this legislation will do is give those workers the information-

The Speaker (Hon. Steve Peters): Thank you. New question.

March 23, 2009

PROTECTION FOR WORKERS

Ms. Cheri DiNovo: My question is to the Minister of Labour. More evidence emerged last week of exploitive recruitment practices of foreign workers, specifically of vulnerable foreign women workers, under the live-in caregiver program. This has highlighted a desperate need for action. Will the Minister of Labour take immediate steps to protect these workers?

•1120

Hon. Peter Fonseca: I'll let the member know that on this file, I've met with the Undersecretary of Labour of the Philippines, and I've met with Alejandro Mosquera, the Consul General of the Philippines, here in Ontario.

•This is a very complex issue. It is the responsibility of the federal government with the live-in caregiver program. I've imparted to Minister Kenney that they should look at making amendments to this program to safeguard those workers. I will continue to do that. I know that Minister Chan has done the same. We want to ensure that those workers are protected. But this is the responsibility of the federal government. We do not want a patchwork across the country. We want the federal government to take an umbrella approach to-

The Speaker (Hon. Steve Peters): Thank you. Supplementary?

Ms. Cheri DiNovo: The Minister of Labour should know that employment standards is a provincial matter. It's his responsibility to act. In fact, Manitoba has acted. On April 1, Manitoba's Worker Recruitment and Protection Act will come into full effect. Among its provisions, the act will improve protection for foreign workers by prohibiting recruiters and employers from collecting fees from workers, require employers involved in international recruitment to register with the province, and require new provincial licences for agencies and individuals, because licensing is also a provincial responsibility.

•Ontario can do this too. It is within the reach of Bill 139. You could do this, Minister, simply by making amendments to Bill 139. Will the minister make the necessary amendments?

Hon. Peter Fonseca: I can say to the member that she's right on one thing. Yes, the Employment Standards Act and the Occupational Health and Safety Act do cover all those workers in Ontario. They are covered. This Friday, I met with the reporters at the Toronto Star who have done those pieces. I talked to Rob Cribb. I spoke to Dale Brazao. I explained to them that those workers are covered. We asked those workers, if they are in precarious situations, to call our employment standards, to call our inspectors. We want to ensure that they are protected.

•But to the member, again, this is a federal program. The live-in caregiver program is a federal program. Minister Kenney, I understand, is bringing forward some amendments in the next two weeks. We hope those amendments will help ensure the protection of those workers.

March 24, 2009

PROTECTION FOR WORKERS

Ms. Cheri DiNovo: My question is to the Minister of Labour. Tomorrow, hearings begin for Bill 139, the minister's own bill looking to amend the Employment Standards Act. Will the minister make the viable and necessary amendments that are possible within the parameters of this bill to protect vulnerable foreign caregivers and workers who are so poorly protected?

Hon. Peter Fonseca: Something has to be done when it comes to our live-in caregiver program. Now, through Bill 139, through temp help agencies—I have consulted with ministry officials and they have told me that it is outside the scope of that legislation.

- But what I am continuing to do, when it comes to the live-in caregiver program, is advocate with the federal government. I know that they are bringing forward some proposed amendments to the temporary foreign worker program. I hope that they address the poor practices that we are seeing.
- I also have a call scheduled today to speak with Minister Allan, the Minister of Labour for Manitoba, and see some of the steps they have taken to address some of the precarious practices that we have seen out there.

The Speaker (Hon. Steve Peters): Supplementary?

•1100

Ms. Cheri DiNovo: It's astounding that the minister would ask a federal Conservative government to make the reforms that the minister could make immediately.

- The Manitoba government has not shirked responsibility on this matter. Manitoba has taken action on licensing and regulating nanny recruitment agencies. In fact, the Manitoba Minister of Labour, Nancy Allan, is asking Ontario to borrow from that legislation. To quote her, "I wish that Fonseca would look at Manitoba's legislation. We can't be finger-pointing here and off-loading responsibility for this.... It's modern-day slavery, and we're going to put an end to it." That's what she said.
- Will the minister follow the lead of the Manitoba legislation and make the necessary amendments to Bill 139 to put an end to the exploitation of foreign caregivers?

Hon. Peter Fonseca: I say to the member that, first off, she should understand, and she should be calling her federal counterpart, that it is the federal government's responsibility to administer and monitor the live-in caregiver program. I don't know if the member heard me, but I will be speaking to the Minister of Labour for Manitoba, Nancy Allan, later today. I have a call scheduled in to her, and I will be speaking about some of the steps that they are taking. But this is the responsibility of the federal government, and we implore them to do their job.

The Speaker (Hon. Steve Peters): New question.

March 26, 2009

PROTECTION FOR WORKERS

Ms. Cheri DiNovo: My question is to the Minister of Labour. At the hearings for Bill 139, there was clear support—Skills for Change, OCASI, Campaign 2000, CUPE, the Metro Toronto Chinese and Southeast Asian Legal Clinic, among many others—for Ontario to make the necessary and possible amendments to the bill following Manitoba's lead in licensing and regulating nanny recruitment agencies, including a ban on the charging of placement fees. This is a change that the Minister of Labour himself can make to his own bill immediately. If the minister is so committed to putting an end to the exploitation of nannies in this province, why won't he stop the stalling and make the necessary amendments to Bill 139?

Hon. Peter Fonseca: First, I'd like to say to the member opposite, we are very proud of Bill 139 and what we are doing for workers that work through temporary help agencies. We're getting rid of many of the barriers that are in front of those workers, like some of the upfront fees. We are addressing many of the concerns when it comes to employment standards and providing them with that information.

- When it comes to the live-in caregiver program, this is something that we are working on actively. It's very unfortunate that there are some unscrupulous individuals out there, but what we are doing is working with our federal government to close those loopholes.

- I have been in conversations with Minister of Labour Nancy Allan to see what is happening in Manitoba. Their legislation has actually not yet come into force. We will be seeing how it rolls out. But what I can say—

The Speaker (Hon. Steve Peters): Thank you. Supplementary?

Ms. Cheri DiNovo: Nancy Allan says you could make this change immediately. When it comes to protecting vulnerable foreign caregivers and workers, we need it now.

- The minister's actions, not his words, show an appalling lack of concern. First, the minister drags his feet trying to pin the responsibility solely on his good friends the federal Tories. Now the minister is leaving it to his colleague Mike Colle to propose required changes through the long and uncertain process of a private member's bill. These are changes that the minister can make immediately to Bill 139. All the stakeholders say so. Why won't you act?

Hon. Peter Fonseca: We all join together here in stopping exploitation of workers. That's what we brought forward with Bill 139, to help workers who work through temporary help agencies.

- Now, I have asked officials within the ministry. They say it is outside the scope of that legislation. We are working actively to close the loopholes in this federal program, the live-in caregiver program.

- The member may not be aware that we do have differences between ourselves and Manitoba. Our program here is 20 times larger in terms of the number of caregivers who come through Ontario, but we are doing all we can to get it right. This will be a made-in-Ontario program to address the concerns that are out there and stop these unscrupulous agents and agencies—

The Speaker (Hon. Steve Peters): Thank you.

September 30, 2013

TEMPORARY EMPLOYMENT AGENCIES

Ms. Dipika Damerla: If you've been out of a job and you're worried about where your next rent is going to come from, often a temp agency can be a lifesaver. They allow you to pay the rent and put food on the table while you wait for that permanent job.

- Another thing I've learned is that these temp agencies often provide something very valuable, that much-sought-after thing: Canadian work experience for new immigrants. So they really do provide a very important service.
- However, at the same time, I do hear concerns from my constituents about employment standards and health and safety issues that are facing them in the workplace.

Miss Monique Taylor: I can't believe you're supporting temp agencies.

The Speaker (Hon. Dave Levac): Member from Hamilton Mountain, come to order.

Ms. Dipika Damerla: The fact is that the most vulnerable of our workers are the least likely to complain about these abuses, so it's important for somebody like me to stand up on their behalf and ask these questions.

- My question to the minister is, what are you doing to ensure the rights of my constituents?

Hon. Yasir Naqvi: I really do want to thank the member for asking a very important question on an issue that I hear quite often about. I want the member to know that her constituents can rest assured that we are out there, as the Ministry of Labour, in workplaces across the province, ensuring that workers know their rights and that employers are living up to their responsibilities.

- On the issue of temporary work agencies, I want to give special credit to the member from Brampton-Springdale and the member from Brampton West for being tremendous advocates on this issue. In fact, it was the member from Brampton West who brought in a private member's bill in terms of regulating temporary work agencies back in 2006.

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- I'm very proud to say that our government, in 2009-the first provincial government in Canada-brought a specific law regulating temporary work agencies. Under the law, we've made sure that employees are not unfairly prevented from being hired directly by employers; agencies are prohibited from charging fees to workers for such things as resumé writing and interview preparation; and agencies are required to provide information to workers about their rights under the Employment Standards Act.

The Speaker (Hon. Dave Levac): Supplementary?

Ms. Dipika Damerla: Thank you to the minister for that great answer. It's really good to know that our government has put in place all of these rules and regulations to protect our workers.

- However, I do have to say that a rule is only as good as its enforcement, so if the minister can tell me what his ministry is doing to make sure that these rules are being enforced.

Hon. Yasir Naqvi: Thank you very much. Enforcement is a very important question. I want to give credit to my predecessor, the former Minister of Labour, the member from Brampton-Springdale, for actually initiating the first-ever blitz for proactive enforcement in the temporary work agencies. As a result, our

inspectors visited about 100 temporary work agencies and laid over 200 work orders to ensure that the law that we brought in in 2009 is fully complied with.

- Similarly, a few weeks ago I did a round table in Brampton, talking to constituents, along with the members from Brampton-Springdale and Brampton West, and assured them that we're doing everything in our power to inform constituents. In fact, we have information about temporary work agencies available in 23 different languages. I encourage all to go to ontario.ca/labour to get that information.

October 28, 2013

TEMPORARY EMPLOYMENT AGENCIES

Ms. Soo Wong: My question is for the Minister of Labour. In my riding of Scarborough-Agincourt, there is a large population of newcomers. Many of them find work through a temporary help agency. For the most part, these agencies are very helpful in helping my constituents find gainful employment. But at the same time, I hear concerns about their employment standards and the health and safety issues they're facing in the workplace. I hear concerns about hours of work, vacation pay and worries about hazards in the workplace.

- We all know that vulnerable workers are the least likely to speak out about violations in fear of losing their jobs. Our workers must be confident that their workplace must be held accountable for obeying the rules and that our government is protecting them at work.

- Mr. Speaker, through you to the minister, what are you doing to ensure the rights of all Ontario workers are being upheld?

Hon. Yasir Naqvi: I thank the member for a very important question. Absolutely, all our constituents can rest assured that the Ministry of Labour is out there in workplaces across the province, ensuring that workers know their rights and that employers are living up to their responsibilities.

- Speaker, I want to give special recognition to the member from Brampton-Springdale and the member from Brampton West. Both of them have worked very hard on the issues of regulation of temp agencies. In fact, it was the member from Brampton West who brought in a private member's bill in 2006 that resulted in a law that was passed through this Legislature in 2009, the first province in Canada to regulate temporary agencies across the province. It made sure that employees were not unfairly prevented from being hired directly by employers, prohibited agencies from charging fees to workers for such things as resumé writing and interview preparation, and made sure that workers know their rights under the Employment Standards Act.