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**Official Report
of Debates
(Hansard)**

Thursday 6 December 2001

**Journal
des débats
(Hansard)**

Jeudi 6 décembre 2001

**Standing committee on
finance and economic affairs**

**Ontarians with Disabilities
Act, 2001**

**Comité permanent des finances
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handicapées de l'Ontario**

Chair: Marcel Beaubien
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

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

Thursday 6 December 2001

Jeudi 6 décembre 2001

The committee met at 1140 in the Victoria Inn, Thunder Bay.

**ONTARIANS WITH DISABILITIES
ACT, 2001**

**LOI DE 2001 SUR LES PERSONNES
HANDICAPÉES DE L'ONTARIO**

Consideration of Bill 125, An Act to improve the identification, removal and prevention of barriers faced by persons with disabilities and to make related amendments to other Acts / Projet de loi 125, Loi visant à améliorer le repérage, l'élimination et la prévention des obstacles auxquels font face les personnes handicapées et apportant des modifications connexes à d'autres lois.

The Chair (Mr Marcel Beaubien): Good morning, everyone. I'd like to bring this committee to order. We're here this morning to consider Bill 125, An Act to improve the identification, removal and prevention of barriers faced by persons with disabilities and to make related amendments to other Acts.

On behalf of the committee, I would like to apologize for being late. Due to the weather conditions, there was nothing we could do about it, but I appreciate your understanding and we apologize for the delay this morning. We'll try to catch up over the lunch hour so the people making presentations this afternoon are not jeopardized with regard to their timelines.

ONTARIO BRAIN INJURY ASSOCIATION

The Chair: Our first presentation this morning is from the Ontario Brain Injury Association. I would ask the presenter to please come forward, and please state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this morning.

Ms Alice Bellavance: Good morning. My name is Alice Bellavance. It is an honour to speak before the committee today on a subject that is very important to our entire community.

I am representing 18,000 Canadians, one third of those in Ontario alone, who are living with the effects of an acquired brain injury each year, so it's cumulative over time in terms of the numbers we are adding to our ranks. I am a member of the Ontario Brain Injury Association

and represent northwestern Ontario on their board of directors. I am also a member of the local association.

I would like to provide a few facts on brain injury. Acquired brain injury is the leading cause of death and disability in Ontario for those under the age of 45. A brain injury doesn't heal quite like a broken arm or a broken leg, and the results may last a lifetime. So if you consider the thousands who are injured each year and you consider even the last 20 years, you begin to get an idea of just how many people live with these effects every day in Ontario.

Brain injury can occur as a result of a motor vehicle collision, which represents approximately half of the acquired brain injury individuals in this province according to the Ontario trauma registry; falls, particularly among the elderly and toddlers; assaults; diseases such as meningitis and encephalitis; and brain tumours. There are other sudden-onset medical diagnoses which leave individuals with similar effects.

Brain injury doesn't distinguish itself by age, gender or socio-economic status. It can happen to any of us in this room. It can happen at work, it can happen at play, or it can even happen on our way home from the meeting today.

Chances are that at least one person you work with, know or love has experienced the effects of this type of injury, and the effects are devastating. No two brain injuries are exactly alike and the range may be from mild to severe.

Brain injury cuts across all disability groups. Because the brain controls all of our functioning, people with brain injury may have visual impairments, hearing impairments, speech impairments, or mobility difficulties often requiring the use of a wheelchair or walker or other mobility device.

The most difficult impairments for family members, friends and especially employers to understand are the personality changes and cognitive changes that can occur to the ability to organize their thoughts and the ability to remember things that used to happen quite easily.

One thing I need to remind committee members of, because I know you've been hearing from members of our association at the various sites where you've been having these hearings, is that a number of the individuals we work with may visibly not appear to have any impairments at all, and their long-term memory is intact so they remember that they used to be able to accomplish

specific tasks around their jobs or in school. However, now, subsequent to their injury, they may not be able to complete those tasks.

The Ontario Brain Injury Association was formed in 1986. We currently are linked with 24 community groups across the province, with total membership in the thousands. We have a 20-member board of directors made up of survivors, family members, professionals, service providers and business people from every part of the province.

We are here today because we are deeply concerned that Ontarians have the opportunity to participate as fully as possible in all aspects of life in Ontario. Like many other individuals and advocacy groups, we would like to be very much more comfortable with an ODA that laid out explicit timelines for the removal of specific barriers. It would also be comforting to have some assurance that these timelines would be effectively enforced.

It is also imperative that the terms of reference for the advisory groups address the following: representation from a full range of disabilities, length of term of service, a requirement that all reports be made public and that advisory councils be given the authority to identify any and all barriers.

However, our principal reason for being here today is to focus the committee's attention on barriers that are faced by the thousands of Ontarians who are living with the effects of an acquired brain injury.

Brain injury is a unique disability group and is not limited to any specific kind of impairment. People with brain injury can live with a combination of physical, sensory, cognitive or emotional impairments, and sometimes they have all of the domains affected. Accordingly, we urge the committee to recommend that acquired brain injury be included in the definition of "disability" in the act.

People with physical impairments must contend with limited access to public buildings, businesses, transportation and recreational facilities on a daily basis. These barriers are readily identifiable. The proposed ODA attempts to address this issue of physical barriers. Similarly, barriers for those with sensory impairments such as vision and hearing are addressed in the act through the use of alternative formats.

However, the barriers that are faced by people living with cognitive and emotional impairments are much more difficult to identify and address. We speak of attitudinal barriers that often exclude those living with these challenges, leaving them isolated and open to ridicule and abuse. We recognize that it is impossible to legislate attitudes and values, but it is possible to have an ODA that encompasses a comprehensive program of public awareness and education that could move society toward understanding, acceptance and accommodation of people with cognitive and emotional impairments.

Let me illustrate some instances of attitudinal barriers. After a recent presentation about acquired brain injury to a Rotary Club in a small Ontario town, a man of about 50 from the audience approached the speaker and remarked

that the presentation had left him feeling very uncomfortable. He said that he was one of four brothers, one of whom had sustained a brain injury eight years earlier as the result of a motor vehicle crash. Prior to the crash, the brothers had regularly worked and played together. Following the crash, the injured brother was withdrawn, often complaining of fatigue. The others saw that claim as a lame excuse to just avoid them. In turn, they cut the injured brother out of aspects of their family life. He ended his story by saying that the speaker's statement that fatigue was a common symptom of ABI made him recognize that his brother was unfairly isolated. Even among family members and close friends, this kind of misunderstanding of the effects of an acquired brain injury results in isolation, often devastating the person with the brain injury, and this is not uncommon.

Many of the individuals I work with daily in my gainful employment with Brain Injury Services of Northern Ontario have that isolation and disconnectedness from their family, because their family does not understand the impact of the brain injury because it's quite invisible in many cases. What we find is that individuals are estranged from their families. Brain injury doesn't happen just to the person; it happens to the whole family. When we start talking about funding our acts, we need to make sure that it's inclusive, not specifically just to the individual but to all the individuals involved in that person's life.

We recognize that there are no simple and quick solutions to removing these attitudinal barriers. However, since they are barriers for thousands of Ontarians, not only those living with the effects of an acquired brain injury but also those with developmental impairments and those who experience mental illness, it is imperative that the government, through the ODA, provide the will and the resources necessary to develop effective public awareness and education.

In summary, the Ontarians with Disabilities Act attempts to address physical barriers faced by those with disabilities but falls short on its goal of supporting the right of every person with a disability to live as independently as possible, to enjoy equal opportunity and to participate fully in every aspect of life in our province through the removal of existing barriers.

We have not had enough time to fully analyze this bill and consider all of its implications, but from our preliminary consideration we recommend the following: that the definition of "disability" include brain injury in its description; that explicit timelines be prescribed for the removal of specific barriers; that the bill have an effective mechanism for enforcement; that the role and authority of the advisory council be defined, its reports be made public and that the disability community have meaningful input; and that the bill make provisions for the allocation of resources to raise public awareness and education of issues faced by those with disabilities, in order to further foster a greater understanding and influence attitudes, working toward the reduction of attitudinal barriers.

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A barrier-free community is a minimum goal to full participation of the disabled in society. Through effective regulation and mandated co-operation with the private and public sectors, the Ontarians with Disabilities Act could help deliver broad public awareness and understanding of cognitive and mental disabilities and eliminate other barriers for disabled persons in every part of Canada's richest province.

The Ontario Brain Injury Association, along with many other similar disability organizations, stands prepared to assist the government through its advisory councils outlined in the ODA to develop ways and means necessary to remove attitudinal barriers. We look forward to this challenge.

The disabled of Ontario are looking for leadership on this issue. Don't let them down.

The Chair: We have approximately two minutes per caucus, and I'll start with the official opposition.

Mrs Lyn McLeod (Thunder Bay-Atikokan): Alice, you've very quickly summarized in a few words some of the concerns we have with the bill around the lack of timelines, the lack of enforcement, the lack of resources to support it and the fact that even when it comes to the requirements for ensuring that new building is accessible, there's no clarity that those are actually going to be made regulatory requirements as opposed to guidelines. It's something you didn't mention specifically but we have a concern about. So I guess my question will be to take you back to the issue of the definition. I suspect people might feel as though someone with an acquired brain injury is caught with the definition that's in the bill. Could you tell us how somebody with an acquired brain injury could be missed?

Ms Bellavance: If they don't have any visible signs of impairment or don't have any support requirements for the sensory impairments that they may have, such as a visual impairment or hearing impairment, then you wouldn't know that they had a disability.

Mrs McLeod: So they wouldn't necessarily be caught by a medical model definition?

Ms Bellavance: That's right.

Mrs McLeod: One of the areas I don't think you touched on was the fact that the bill does not extend to private sector establishments, businesses.

Ms Bellavance: That's correct.

Mrs McLeod: I would think that would be pretty limiting for people with acquired brain injury in terms of the sites that they would particularly want to access.

Ms Bellavance: I think that would apply to all groups of disabilities when it involves the private sector, and that's why we made a comment that at some point there needs to be some collaboration between both the private and public sector in terms of how they're going to address the requirements.

Mr Michael Gravelle (Thunder Bay-Superior North): Maybe I'll use my time to say to the members of the government that I hope when we have the clause-by-clause process on Tuesday, December 11, I believe,

where amendments will be brought forward, that at the very least they would accept an amendment whereby the definition of "disability" includes acquired brain injury people as well. Obviously we want to see more amendments than that, but that's one that I think is very significant, and I would hope that the members of the government would support that.

Ms Bellavance: Thank you.

Mr Tony Martin (Sault Ste Marie): Thank you for coming this morning. It's good to be here in Thunder Bay, the great northwestern Ontario. You have raised in your submission some of the things that we've heard over and over again over the last week as we've heard from people: the fact that the definition include everybody who is disabled, the issue of timelines, the issue of enforcement, the role of the advisory committees and that they be made public, and of course the big question of resources to make all this happen.

In northern Ontario—and we flew over a big chunk of country this morning getting here.

Ms Bellavance: That's right.

Mr Martin: There are a lot of small communities, most of them under 10,000 in population. This legislation doesn't cover them. How many of the people you deal with or are connected with in any way in terms of brain injured would live in smaller communities in northern Ontario?

Ms Bellavance: Northern Ontario, and this is my little soapbox that I always get on, represents 90% of the land mass, but we only have 10% of the population and it's pretty sparsely scattered about. We also, unfortunately, in northern Ontario have the highest incidence and prevalence of acquired brain injury in the province. We have an incidence, just in the district of Thunder Bay, of 397 per 100,000; the average is about 200.

Interjection.

Ms Bellavance: It's 397 per 100,000 versus 200 per 100,000 in most other areas. That's primarily because of the geography, the climate, the distances we have to drive, the conditions of the roads that we have to drive on, the nature of the work that we do in northern Ontario—mining and forestry. There's a much higher incidence and prevalence. So there's a large number of people living in all the communities, including the small northern, remote reserves that are only accessible by air.

Mr Martin: So it's not possible for them to, on a regular basis, get into a place like Thunder Bay to get—

Ms Bellavance: If they need really specialized services, they actually have to relocate to a city like Thunder Bay to get the services, because we can't deliver it in those smaller communities.

Mr Martin: So this legislation won't in any effective way help them?

Ms Bellavance: No.

Mr John O'Toole (Durham): Thank you, Ms Bellavance, for your presentation. You're right. A number of things are having a recurring theme to them and the attitudinal barrier is probably the most obvious one. I

think all of us have to be educated. The biggest barrier is just knowledge or experience.

Ms Bellavance: That's right.

Mr O'Toole: I'd like to acknowledge there are two things you've mentioned specifically. I read the definition as far more inclusive, perhaps, than you think of it. If you look at section 2, you'll see that it says "a condition of mental impairment or a developmental disability." It also goes on to say "an injury or disability" which will benefit from other—like an accident injury that's recorded. But I do hear that. I'm not sure if you have something in specific language.

But the one I'm quite supportive of, I want to put on the record, is in the reports. The ODA's mandate: it says sort of at the will of the minister, that it would report. But I kind of support the idea that the report of the ODA annually be made public or tabled in the Legislature. Then it becomes a reference point so that issues could be brought forward, discussed, and government or whoever it is would have to respond in some way. I hope that by my saying that—I'm a member of the government. I'd like to see the report mandatorily tabled in the Legislature and, as such, to be responded to.

Do you have any remarks? Is that strong enough? Right now, it is empowered to examine accessibility issues and the elimination of barriers. There are a lot of mandates within the definition: the council shall advise the minister on a number of things and make an annual report directly to the minister. What's missing is the report being mandated into the Legislature. Any responses?

Ms Bellavance: I think it needs to be public, it needs to be tabled, but there also needs to be a mechanism to respond so that if any further amendments need to be made, there's a mechanism to do that.

The Chair: We've run out of time. On behalf of the committee, thank you very much for your presentation this morning.

I forgot, and it must be because of my age, but I want to let the audience know that the bill is available in Braille. We also have audiotapes, disks, large-print copies, and the bill is also available in French. It's on the table to my left.

CITY OF THUNDER BAY

The Chair: With that I'll ask the next presenter, from the city of Thunder Bay, to please come forward, and if you could state your name for the record. On behalf of the committee, welcome.

Mr Ken Boshcoff: My name is Ken Boshcoff. I'm the mayor of the city of Thunder Bay. Don't worry, it will not take 20 minutes.

I would like to thank you and the representatives here today, particularly the provincial government, for holding a hearing here in Thunder Bay in order that the people of northwestern Ontario could have a say before Bill 125 becomes law. The Honourable Cam Jackson, the minister responsible for the disabled, has done an admirable job in

forging this legislation and working to ensure that the people of Ontario have input prior to third reading.

In May 2000, two meetings of the mayor's round table on disabled issues arrived at a conclusion that for disabled issues to gain momentum, the most immediate need was to have a disability act in our province, one that will have political partisanship set aside in order that we may achieve the best legislation possible.

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Shortly thereafter, a resolution was passed unanimously at Thunder Bay's city council which was further endorsed by both the Northwestern Ontario Municipal Association and the Association of Municipalities of Ontario.

The minister did indeed hear the concerns of many constituencies besides those of Ontario's municipally elected representatives. Our local members, Lyn McLeod and Michael Gravelle, have assisted greatly in raising the level of awareness and helping us through the process.

Thunder Bay, as a community, is very proud of a myriad of initiatives for accessibility and inclusion. Our new community development plan, *Fast Forward >>*, is quite specific with goals that we will become known for our leadership in municipal disabled programming. Our parks and recreation divisions, our engineering, planning, building departments, and our transit and police all weigh accessibility as priorities in their budgeting and planning. All across our municipal government we strive to be understanding and helpful in designing facilities and programs.

This has shown itself in many ways over the years, and our record of co-operation with disabled organizations is lengthy, with many, many positive achievements.

I was hoping to compile a list of these accomplishments to document this so that we all may know how much as been done. There is still much to do. The act, I believe, will help. I will leave the analysis and dissection of the proposed act to those groups who more fully comprehend the implications of the various components.

At a more recently convened meeting of representatives of many local disabled advocacy groups, the overall consensus was to ensure that a hearing was held in Thunder Bay, so again I thank you for taking the time and making sure this hearing will go on. It may be somewhat compact but at least we're here and attentive, and that's important.

A second summary of issues was formed by a coalition of several advocacy organizations and has already been forwarded to you under separate cover. I believe that has been received?

The Chair: It's not here right yet.

Mr Boshcoff: OK. As a board member of the Association of Municipalities of Ontario we are also working on a common position paper for municipalities throughout the province. That should be available to you in the next few days.

My personal goal is to have our city become known as Canada's most inclusive community. However, we would be willing to share such recognition with other Ontario

municipalities, and I believe that a new disabilities act will carry this province forward.

The Chair: Thank you very much. We have three and a half minutes per caucus and I'll start with Mr Martin. Oh, I'll go to the government side and I'll come back to Mr Martin.

Mr Ernie Hardeman (Oxford): Thank you very much, Mr Mayor, for your presentation. Just quickly, it seems that with your Fast Forward >> plan here you've come a long way, or at least in the process you've come a long way. In the bill, of course, there's a reference to mandatory implementation of advisory committees. I guess the first question would be, do you feel that's already where the city of Thunder Bay is going and doing, bringing the people together and forming an advisory committee on where you need to go? Do you feel that is the way to go, and are you getting there?

Mr Boshcoff: Let me say that there is a recognition that we have many strengths and many achievements in our community and we also do recognize our shortcomings and the distance we have to go. I believe that any process of consultation that involves the consumer, or the people who are affected directly, is a good step. If that communication is open and if those people who are having input are representative and have some measure of certainty that the recommendations will be taken seriously and implemented, then I would say that's the track you want to stay on.

Mr Hardeman: Do you have the disabled community involved in that advisory process?

Mr Boshcoff: A year ago in the springtime, I convened two meetings—we called them round tables—just to essentially educate the mayor as to what the shortcomings were and what we had to do. Previous to that, though, there had been considerable input into our community development plan as several disabled organizations were party to that and representatives were working on it hand in hand with the rest of the community. The meeting that I convened recently, after the introduction of the bill, was primarily for me to pass on to the Association of Municipalities of Ontario the feelings of our group here, which I have done.

There was some discussion, of course, as to whether the bill should proceed. We understand that there's a timeline and those types of things. That wouldn't be my decision. I forward all that on to the Association of Municipalities of Ontario and I believe we'll be having a conference call in the next day or so to try and get you something conclusive from the municipal perspective.

Mr Hardeman: Lastly, I just wondered, you were here for the previous presentation on brain injuries?

Mr Boshcoff: Yes.

Mr Hardeman: Because it's an invisible barrier in a lot of cases, the number one recommendation that's coming from the association is public awareness. Obviously that needs to be done where the community is; that can't be done from somewhere in the distance. Have you got any suggestions on how we could do more of that? Obviously the problem, the disability, has been there for

some time, but as a society we haven't done a very good job of public awareness of the situation. Have you got any suggestions on that?

Mr Boshcoff: I do, actually. I think that representatives from our provincial offices were also at an event last week for a respite care facility that also houses—Alice, you can correct me if I'm wrong—a brain injury unit in Andras Court, as it's known. With that type of involvement, where you had at that time the municipal housing authority, the provincial housing authority and various organizations combine to say, "This is the kind of facility that we need; this is the kind of co-operation that we need to get there," we could actually say, "These are the kinds of things that are happening in different communities." I believe those types of projects are one of the reasons that Minister Jackson mentioned us in the House at that time.

Mrs McLeod: Ken, thank you for being here and making a presentation. We noted, of course, that Thunder Bay was cited by the minister, when he presented the bill, for its leadership in creating greater access for the disabled in our community. I'm glad that you also noted today that there is still a long way to go, because I think the people who are here in the audience would agree with that, even in a community that has shown some leadership. I guess that's what leads me to my question. I know you've said you would leave the analysis of the bill to others. Because we do want to recognize the leadership that's been provided, I want you to wear your hat as a member of the municipal association rather than as the mayor of Thunder Bay, if I can ask you to do that?

Mr Boshcoff: I hope they'll let me; I'm sure they will.

Mrs McLeod: I'm not asking you for any confidential secrets, I don't think.

The concern that we have had with the bill, as a caucus and party, is the voluntary nature of it; the fact that it requires plans to be presented but there's no enforcement. We obviously have a concern about the lack of timelines, as well as the enforcement—it's very difficult to enforce something when there's no requirement that you actually proceed with it. If there were timelines, if there were requirements to proceed, we would have some real concern about the resources that might be made available, particularly to the municipal level because there would be some significant financial implications for the municipalities. My question is, in the feedback from the municipalities to the minister, would the municipalities not in fact have been recommending what's here: "Don't put in the timelines. Don't make this mandatory. We just can't afford it and without the resources it's just going to be another download"? I guess my concern is, where's the incentive in this bill for municipalities that have not been providing leadership, have not been doing it out of their own resources, to do anything at all?

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Mr Boshcoff: Let me try and work backwards. In terms of the downloading as an issue, there's no doubt that all of the municipalities of Ontario always have kind of a cautious approach to any kind of legislation that

involves us because we are not really sure how deep the water may become as we jump in.

I would think, though, that there's a willingness to cooperate with the province to a great extent on this. AMO, I am certain, in its position will say that the concerns with timelines may not be so onerous on those that are down the path already but may be for those, as you mentioned, that have not begun in earnest or—for whatever reasons—not gone down that path. That's a concern there.

The financing is always the concern in any of our conference calls. Will the municipalities be charged with this responsibility? I don't think we would mind being part of the implementation process, be it building services or ensuring that things are corrected that haven't been. I would say that the senior government, in terms of forging this legislation, has got to understand that if we are going to be wheels to help implement it, we are going to need resources. To a large extent, it comes down to the municipalities always perhaps saying, "Make sure we are adequately funded." In this case, there seem to be some grey areas here. That's from the Association of Municipalities of Ontario. We would like that part of the legislation cleared up so we know what we'd have to commit to.

Mr Martin: Which actually is my question as well. We've heard continually over the last week or so that there are no timelines, there's no enforcement and there are no resources. Underpinning all that, it seems to me—and the government did consult with AMO and others—is this question of money. Is the money going to be available? If you set timelines and I have to hit those timelines, it is going to cost me to do that. If you don't have the money or the resources, you really can't do any of this.

Mr Boshcoff: Our own experience here in our community is that we have tried to be a little bit ahead of the game in terms of barrier-free municipal facilities. Our building department tries to be, one might say, more diligent in enforcing building codes to ensure these things. We know for certain that things happen during the course of events that might not meet the standard that we are trying to achieve here. So, in answering your question, municipalities—we'll all use our own case—want to go forward quickly with this. We believe here that it is not even just a matter of it being some kind of philosophical thing. Something we believe here intrinsically through the community is that these are the things we should be doing. You will see the reason that there's a large number of advocacy groups here is, I believe, that there is a response and that their messages are being received.

I am hoping this act, over all those things of timelines, enforcement and funding, will at least grease the wheels so that we can start going down that path. I would think that over the next two weeks really those things in terms of enforcement, timelines and resources are the kinds of things that will, once people identify them all, be part of the act. It comes up very obviously in almost every discussion paper.

The Chair: On behalf of the committee, thank you very much for your presentation this morning.

Mr Boshcoff: Thank you. Please enjoy your stay in our community. I hope it is very productive.

The Chair: Too bad this will be a short stay, though.

Mrs McLeod: You never know. The storm is coming. You may be able to enjoy the city longer than you thought.

TRACY HURLBERT

The Chair: Our next presentation is from Tracy Hurlbert. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome. You have 15 minutes for your presentation this afternoon.

Ms Tracy Hurlbert: Thank you. I am Tracy Lynn Hurlbert. I'm an ODSP recipient. For those who don't know what ODSP stands for—I don't think there's anybody in the room who doesn't—it is the Ontario disability support program. I'm also a home care recipient. What's really been affecting me lately is that I've been cut down from five hours a week to one hour a week. This also means that I've been cut back from three baths a week to one bath a week. I'm incontinent. I have colitis, so I have accidents. Plus, being a young woman, I still have periods. One bath weekly will cause me health problems as well as a bit of a social problem.

The other thing is that my grandparents are also home care recipients. They're currently allotted three hours weekly. I'm worried that they too will be cut back. My grandmother has had two strokes and, as a result, has great difficulty performing daily living tasks. She also is a very heavy woman. My 85-year-old grandfather is her primary caregiver, but he is getting frail and forgetful himself. All members of my family, except myself, work. In my grandfather's mind, asking us for help, or accepting it from us, would make them a burden on us. That's not so, but that's what he thinks. My grandparents would be more willing to accept home care rather than care from our family. They need this. My grandfather has heart problems and has had a mini-stroke himself. I'm afraid that if their home care is cut back, my grandfather will take on too much and put himself at risk.

They don't want to move into a seniors home and they shouldn't have to if they don't want to. It is cruel to make people move and to do things like that. That's just not right. I think that the ODA should help us with allowing people to stay in their home and giving a decent amount of home care. We should have the right to live in our own homes just like everybody else.

My problem is also with limited medications coverage. My antihistamines aren't covered. That's \$20 to \$30 a month. That's not a big deal. But if I don't take them, I need my puffers, which cause mouth ulcers, which cause my colitis to act up. Then I need three or four medications for that. One of these causes fibromyalgia and arthritis to act up. I then need more medications. All these medications that are covered come to over \$200 to \$300.

Why should I have to suffer and be overmedicated? The cost is a big factor. Why should the government spend \$300 on me if they could get away with spending \$20 in the first place? If this extra money was spent on prevention, like antihistamines, a lot of money would be saved.

Speaking of money, the cost of special equipment is astounding. On top of that, the manufacturers need to be made responsible for the quality of their products. My wheelchair was \$24,000, OK? It broke the first week I had it. That's right, one week. Someone bumped into me and part of my foot pedal busted right off; it shattered. When I phone the manufacturer, they said, "Of course, you can't take that out in the cold." It's white metal. That's ridiculous. I live in the north. If they sell something in the north, it should be made for the north and the manufacturer should be responsible for that. They're the ones selling it. This chair will be two years old in February and it has been in the shop 23 times for repairs. It has been in the shop almost more than I've had it.

Service and sales stores must also be made more responsible for their work. One store sold me used batteries as new. They broke parts of my chair on purpose, right with me there, and tried to convince me that they were broken before and replaced perfectly good parts with inferior ones. When I complained, I was given excuses. When I called ADP, they said that's between myself and the vendor. Hey, ADP pays for these devices; the taxpayers pay for it. They should be able to ensure that they get what they pay for. This is a lot of money. If the money was spent on actually preventing this kind of stuff from happening, we'd have more money for home care. That's a lot of cash. More and more repairs aren't covered also. My battery charger needs to be replaced. It is \$800 and not covered as it is not part of my chair. What good is a power wheelchair without power? Where am I supposed to get this \$800 from?

As with most people on ODSP, I haven't received a raise since 1987. Can anybody else here live on what they made in 1987? Oh, I've got a small raise now. Years of not having enough money to buy healthy food have helped me become a diabetic. Wouldn't it be cheaper to just prevent diabetes in the first place by giving people enough money to buy good food rather than have to try to keep us healthy once we develop diet-related illnesses?

Another problem I have is the medical clinics. When I go there for my illnesses, not all clinics and hospitals are wheelchair-accessible or have equipment that is accessible or usable by persons with disabilities. I shouldn't have to go to the hospital for a simple Pap smear but I do, because none of the doctors' offices in town have an exam table that I can get on to. I'm sure that's a problem for a lot of other people. Seniors, women who are pregnant, they need these things as well. It's not just me.

1220

Communication: when you're at the doctor's office, a lot of doctors don't take time to communicate with you if you have a communication disability, like my honorary sister does. She uses a special computer to talk. She's got cerebral palsy and it takes her forever to type anything.

So if something's not noticeable, her doctor just doesn't treat her for it, because he doesn't have time to listen to her. If I can't take time off from what I'm doing to go with her, he won't even bother. Unless it's something that's noticeable, she doesn't get treated. So something else that could have been prevented may happen to her.

I'd like to see that when hospitals, medical clinics etc are built, they have to be wheelchair-accessible. All buildings should be wheelchair-accessible, regardless of their size. That's not the way it is now, though. A new doughnut shop opened in my neighbourhood, but there's no power door there. It's just a stupid doughnut shop, I know, but maybe I'd like to go and get a doughnut and a coffee but I can't get in there.

When I complained to the Human Rights Commission, I was told that buildings under a certain size don't have to have power doors. Why is this so? I should have the same rights as other people. I think a strong ODA would help me to have those rights, if we include those things in there. I should be able to go out and do things on my own. I shouldn't have to call my mom and dad to help me.

The final thing—also speaking of calling people—my honorary sister needs an attendant on the bus. But on the city buses, she has to pay two fares if she brings an attendant with her, despite the fact that all the bus drivers want her to have someone with her because she can't hang on and she can't ring the bell when she wants to get off. Why should she have to pay twice when everybody else only pays once? I think we should have some legislation that would force organizations to allow people who actually need an attendant with them to have that attendant and not force them to pay two fares. Thank you.

The Chair: We have two minutes per caucus. I'll start with the government side.

Mr O'Toole: Thank you very much, Tracy, for being here and for a very clear presentation of things you have to live with on a regular basis, some of which are directly under the prevalence of this debate on this bill.

There has certainly been lots of debate, as I'm sure Ms McLeod will say, on the home care and home supports programs. I can't respond any more than to say that there have been increased supports, I believe, certainly in my area, which is not in Toronto; it's kind of a rural area. Are they enough? No. Will it ever be enough? No.

In fact, it is a problem for all governments. I'm not trying to make it political, I just think it's a national issue as well. It does me no good to play politics, but I believe the federal government has a role in putting more money in, because the population is aging, more diseases and ailments are being diagnosed earlier, treatment is more readily known and should be delivered, and drugs and other things are very expensive and growing more expensive, and not because of anything you've said or done. Governments at all levels have to make sure that they're working—not just on the equipment side, as you mentioned—to make sure there are standards in those areas that aren't particularly attached to this.

I think if I were to relate this to this bill, the ODA would be able to put a framework and a voice to the issues you've raised, and they could become part of the mainstream debate on people and access issues and attitude issues. If the bill does nothing more than that, I think it is definitely a step forward. I see it as a person trying to represent roughly the same number of constituents as Ms McLeod or Michael. I would just like you to respond: do you think this bill will help not just your voice today but the people with access and disability issues across Ontario?

Ms Hurlbert: As long as it's a very clear bill and certain things are stated very clearly, such as the fact that we have a right to live in our own homes and have home care and stuff like that. It can't be a very vague bill. It's got to be very clear, so that people don't have grey areas where they can say, "We can get around this and get around that." It's got to be clear and it's got to actually be enforced. That's the other thing. Having a bill that's there, if it's not going to be enforced, then it's no good.

The Chair: We'll turn to the official opposition.

Mr Gravelle: Tracy, it's great to see you. We had a public forum recently related to the Ontario disability support program and Tracy was an active participant in that. It was interesting at the time when you brought forward the issues related to the fact that the wheelchair you have is not really built for the conditions of the north and that the frequency with which it breaks down is extraordinary. Tell us a little bit more about that. I just think there needs to be full support for you to be able to have access to this, which is really such a significant part of your life, obviously. I know how frustrating it's been for you over the years. There are so many other issues you and I can get into which we've discussed, but I think it's important for members to hear more about that.

Ms Hurlbert: There have been days when I have had to stay in bed because my chair is just not working. Those days when I'm in bed may be days I have physiotherapy, they may be days that I have volunteer jobs, things that make my quality of life better and also the quality of life for other people in this community. If I'm in bed I can't do any of that stuff, but if I sit up in my chair all day I just can't breathe. If this chair breaks down too many more times, it's not going to be covered any more. Some of the repairs, I'm being told now, won't be covered any more because they have been done to the maximum. I think this is the fourth set of foot pedals I've had. They just keep breaking. And the wheelchair shops know about this. My mom has talked to another lady who has had five wheelchairs in the last 15 or 20 years and she has had a problem with every single one of them. I don't know anybody in a power chair who hasn't had a problem. I met one lady today who said she hasn't had very many, but it's across the board, it's not just me. My friend, my honorary sister, who is 105 pounds soaking wet with a weight around her neck, also has problems with her chair. So it's not my weight, it's the chairs. This lady has to spend a lot of time in bed too when her chair doesn't work.

Mr Martin: Thank you for coming today and talking with us. Certainly, in a very personal way, you've touched on a lot of the things we've heard over the last week: attitudinal challenges, the ODA covering the private sector, the coffee shop, the lack of resources.

It seems to me that the problem with this bill is underpinned by this question of resources. If the government had the resources and was willing to spend them, we wouldn't be worried about timelines and enforcement. I think it would be a question of just making sure that people hit those targets. The government has indicated it has chosen its priorities, and one of their priorities is to give tax breaks to corporations and other individuals in the province. Because of that, we don't have the money in the public kitty to spend on these other things you speak of as necessary if you're going to have a good quality of life and be able to participate in the way that you have the potential to participate.

I would be interested in any comment you might make in terms of priorities. What should the priority of government be? Should it be tax breaks for corporations or should it be taking publicly collected taxes and spending them on services such as the ones we're so directly talking about here today?

Ms Hurlbert: I think if you spent the money on the services, but on the ones that are preventive. First of all, I take \$200 to \$300 worth of medications instead of spending \$20 in antihistamines, and all the costs of the wheelchair repairs that I've had. If you would make the companies responsible for making sure they actually work, you would be spending a lot less on repairs, on wheelchairs, on things that could have been prevented. Then you could take that money and help cut back the taxes on the big businesses. So it could be both.

The Chair: On behalf of the committee, thank you very much for your presentation this morning.

1230

CANADIAN HEARING SOCIETY,
THUNDER BAY REGIONAL OFFICE

The Chair: Our next presentation is from the Canadian Hearing Society, Thunder Bay regional office. I would ask the presenter or presenters to please come forward and state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

Ms Karen Higginson: My name is Karen Higginson and I work at the Canadian Hearing Society. I am also an advocate for the deaf community and I am myself deaf. First, I would just like to express my appreciation for being invited to present to the committee today, and I will take less than 20 minutes.

To begin with, I'm sure you are already familiar with this document that I have before me from the Canadian Hearing Society. It goes into a little bit of detail about discussions that deaf, hard of hearing and deafened individuals have experienced. Have people had the opportunity to see this? OK.

I'm going to talk about some of the concerns that we as a deaf community have in regard to the ODA. The hard of hearing, deafened and deaf community in Thunder Bay is not in support of Bill 125 the way it is laid out right now, the reason being that there have already been three laws established: the Human Rights Code, the Supreme Court of Canada ruling of 1997 and also the federal rights and freedoms. None of these three bills has been successful for the deaf community. We have experienced many barriers since, and during, the times of these other laws.

People who work within the government, the medical professions in the hospitals, and the court systems, do not make services accessible. When deaf people go to see their family doctor, for example, it is said that interpreters will not be provided. In fact, the attitude is, "If you want an interpreter, bring one yourself." This is very frustrating for deaf people. It is not our responsibility to always provide our own interpreter. The law is clear that we should have accessibility in all services but it is not actually taking place.

We have to bring our own interpreter, which is very difficult, and it's very difficult to convince people. If a person were to bring their own ramp to a building, that would be ludicrous. It's just as ludicrous for deaf people to be expected to pay for their own interpreter.

As well, when deaf people go in to use hospital services and we ask for interpreter support, we are often told that we have to bring our own interpreter or arrange it ourselves. Sometimes they request or expect us to use our own children to interpret for us, which is very inappropriate. Sometimes they will bring in people who know a little bit of finger spelling or a little bit of sign language to interpret for us, and that's inadequate for the deaf community's need. We need professional, certified interpreters.

A professional interpreter means that they will have qualifications and they will have been tested and certified in both languages: ASL and English. Professional interpreters are also trained in deaf culture and are aware of the differences between deaf and hearing cultures.

The Ontario disability support program has been very frustrating for deaf people to access. Oftentimes the worker will say that we can write notes instead of getting an interpreter, which is very limiting for deaf people since English is not our first language. When we go in to sign papers for the ODSP, those are legal proceedings, those are legal documents, and if we sign them, we may be signing something we don't understand because we haven't accessed it in our first language.

We have these particular frustrations and struggles on a daily basis because of people's attitudes, thinking that we are the bad guy, and we've had enough of it. That is why we as a community would like Bill 125 to become stronger in its language: if people are not following the guidelines and the requirements set up in the ODA, that there be stronger consequences. That's all I have to say today.

The Chair: We have approximately three minutes per caucus for questions and I'll start with the official opposition.

Mrs McLeod: I'll lead off for us. Karen, thank you very much for your presentation. You have made the point so clearly about the importance of interpretation and the barrier that represents if it's not available. I guess I would like to use the opportunity of your presentation to make a plea to the people who are around the table who will be hearing, I'm sure, a similar emphasis on the importance of interpretation as you go around the province. But I think, because you'll be sensitized to this, it's important that you know the frustration of people here in northwestern Ontario and in Thunder Bay. We have only one interpreter, if you can imagine the limitations on those who are deaf and hard of hearing and deafened in our community when they're told, as Karen says, that they have to bring their own interpreter, but in fact there's only one person. The limitations on access for people in this community are almost unimaginable. In fact, you'll know that this committee almost couldn't come to Thunder Bay because we didn't have an interpreter available. Our only interpreter was busy. She's been coming in and out, doing other things.

So I would ask, if we're serious about removing barriers, that you help us take this message back that we have to move some kind of mountain. We've written letters. The deaf community has written. Somehow we have to move mountains to try to address this really serious barrier in our community.

The Chair: Ms Higginson, did you want to comment?

Ms Higginson: Just to say that what we are requesting and requiring is qualified interpreters. We need interpreters who have the qualifications in ASL and in English, including an understanding of deaf culture. The Ontario Interpreter Services require their interpreters to be tested every two years to make sure they're current. That's the type of interpreter we're asking for.

Mr Gravelle: Karen, thank you very much, and thank you also for attending the public meeting we held a couple of weeks ago related to the Ontario disability support program. It was very good to hear you.

In terms of the legislation itself, what do you think specifically needs to be in there? Does there need to be some specific reference to the need for interpreters and the funding for them in the legislation that's before us today? What else would you specifically ask for?

Ms Higginson: In Bill 125?

Mr Gravelle: Yes.

Ms Higginson: To be honest with you, I have not been able to access the bill efficiently because of English being my second language. I recognize this morning that you mentioned that it was available in Braille format and large print, but it is not yet available in ASL format. So we as a deaf community have really been struggling to understand it in its full meaning.

Mr Gravelle: That's very unfortunate.

Ms Higginson: As far as I'm concerned, it is null and void to me.

Mr Gravelle: That's very sad.

Mr Martin: I just again want to thank you for personalizing some of the issues we've seen presented over the last few days as we've travelled the province. I know in my own community we have the same problem. We have one interpreter for 80,000 people. If you consider the region—there are 125,000, and they all come to the Soo for services—there is no interpretation.

I know of deaf people who have ended up in jail because something happened downtown and somebody misinterpreted what the situation was. The police were called. The deaf person got really frustrated and became a bit aggressive and got thrown in jail and had to wait in jail for days until they could fly an interpreter in to actually hear from the person what they were trying to say and do and sort the circumstance out. Those are the kinds of things that happen on a fairly regular basis for that community of people.

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Can you imagine, as Karen has said, that you're in the hospital and you're asked to bring your own interpreter in? So the doctor comes in to tell you that you have a brain tumour or cancer and your child has to be used to pass that message on. That's the kind of thing that I hear in my office as a difficulty.

Again I go back to the issue of, if we're going to provide the kinds of services the deaf community needs, it's going to cost money; there's no doubt about it. It's expensive. But it's a question, as I said yesterday at the hearing, of how many of people's human rights can you afford not to offer, and this community in particular.

The government has chosen, obviously, priorities. They're giving tax breaks to corporations. We're spending public money to the tune of some \$2 billion to \$3 billion that we then don't have to spend on the kinds of services you need. Is that fair, in your mind?

Ms Higginson: No.

Mr Joseph Spina (Brampton Centre): Thank you, Ms Higginson. It was important for you to be here today to be able to present your personal perspective and the need for more signers and, really, assistance to people of the deaf community.

I want to draw to your attention, and also to the other members' who haven't been with us on the committee, with due respect, that in the spring budget the finance minister has committed \$55 million this year, which is \$20 million more than the normal amount, for these services. It's intended to grow to nearly \$200 million by 2006-07. It was specifically designed to enhance services for people with developmental disabilities and attract more quality caregivers. So it was important that you gave your input here today. We want to ensure that down the road, after this bill is implemented, the lobbying is important so that some of those dollars can be allocated in the way that you have described.

Ms Higginson: I hope this is not off topic, but if services are provided to the general public, we're happy about that. But when we try to access those services, we feel, when we're not provided with access, that we're like

a second-class citizen and that we're living below the standard of living of everybody else. So what we're asking for is just to be on par with the hearing community. We have felt very neglected to date.

Mr O'Toole: I would just like to thank you, Karen, for being here today and giving voice to your concerns. I should, for the record, mention that you would have been very proud yesterday of the deaf and deafened community. Three young students from the Milton Deaf Action Group made a very excellent presentation. Their names were Vance Youngs, Tanya Sturk and Jessamyn Roach. They were very animated, and not angry, but frustrated. I think they made many of the same demands of increasing the number and quality of signing interpreters. So you've certainly got this forum to get your message out, and I appreciate that.

Ms Higginson: Thank you.

Ms Nancy Frost: Hi. I'm Nancy Frost. I'm regional director of the Canadian Hearing Society. Although Karen, because of personal reasons, is really focusing on the lack of sign language interpreters, the lack of access for the deaf community, we also must not lose sight that there are issues of lack of access for the hard of hearing and deafened; for example, real-time captionists, notetakers. The entry levels into a lot of provincial and municipal services are through voice messages which are not acceptable to deaf, deafened and the hard of hearing. So I appreciate Karen's focus on the lack of sign language interpreters, but we must also not forget that there are many other access issues that are not being made available.

The Chair: On behalf of the committee, thank you very much for your presentation this afternoon.

DISABLED WORKERS' COMPLEX CASE NETWORK

The Chair: Our next presentation is from the Disabled Workers' Complex Case Network. I would ask the presenter to please come forward, and if you could state your name for the record. On behalf of the committee, welcome.

Mr Darrell Sanderson: My name is Darrell Sanderson. I would like to take this opportunity to thank the standing committee on finance and economic policy for this opportunity to speak here today on this proposed legislation, Bill 125, the Ontarians with Disabilities Act.

I am a disabled consumer with a wide range of experience and interests relating to our disabled communities. My disability is as a result of a workplace accident in October 1977. I was 21 years of age at the time. Since that time, I have acquired a vast amount of experience, history and knowledge relating to disability issues and their impact on persons with a disability.

My volunteer background and work experience in the disabled community are extensive. I have served as a volunteer in executive capacity on the board of the Handicapped Action Group, Wilderness Discovery, HAGI Transit, a parallel transit service for persons with disabil-

ities, and also Persons United for Self-Help in North-western Ontario. Both the HAGI and PUSH Northwest are consumer-controlled organizations. Their boards comprise at least 51% disabled consumers who have a direct say in the day-to-day operations of the organization.

I have also served as business manager for the local Ontario March of Dimes as well as for the aforementioned HAGI Transit. Presently, I am the president of the Disabled Workers' Complex Case Network, or DWCCN for short. Our organization is a consumer-driven organization providing peer support, information services and assistance to severely disabled workers who have suffered a serious workplace accident.

The complexity of modern society and the severely disabled workers who are dependent on workers' compensation require an increased level of education in order that severely disabled workers are able to cope and manage in today's society. The battle with acceptance and adjustment to disabling conditions can be viewed as less devastating than having to deal with getting through the bureaucratic systems in order to live as independently as possible. This concept can be extrapolated to all disabled people who experience much of the same complexity and bureaucracy in meeting their everyday needs for equal access and effect for such things as education, housing, transportation, employment and recreation.

There is a great amount of controversy about Bill 125. Some simply say that the proposed legislation is inadequate. Others say that the legislation may impair or supersede other legislation such as the Ontario Human Rights Commission. Others say there are no teeth to the bill. They say it is voluntary and that there are no enforcement mechanisms or provisions. The legislation only talks about the public sector and really does not involve the private sector. As it stands, one only has to show intent to meet the code, as outlined in the legislation. Intent to provide access does not constitute attempt and obligation under the legislation. As an example, the building codes lack uniform standards, best practices and enforcement mechanisms. Where you have no standards, how do you remediate the problems that arise?

PUSH Northwest and DWCCN were involved in a previous provincial review of building code recommendations. The government of the day introduced changes in legislation that is today less effective than it was before the review. The municipality of Thunder Bay at one time had better standards and building codes than the provincial legislation itself contained. The revisions to the building code were a step backward for our community, with most adopting undesirable legislation which the government introduced. If the government does not put proper provisions into the Bill 125 legislation, then persons with disabilities will look for other alternatives, such as filing complaints with other bodies such as the Ontario Human Rights Commission. That is not a preferred option as the Ontario Human Rights Commission process can literally take years. Moreover, what of sys-

temic issues? How will the proposed legislation deal with them?

1250

DWCCN has followed closely the activities of the ODA Committee. DWCCN supports the ODA's submission of the 11 principles outlined by the committee and accepts their submission of the blueprint and amendments for the ODA legislation. It is of concern that this government does not. The government is quick to cite that their legislation and initiatives have the support of many well-known disabled organizations. However, we point out that it is erroneous to draw on such a conclusion in that many of those organizations are service providers and have vested interests in the form of government funding and agency obligations. Some examples of organizations that are not consumer controlled are the Ontario March of Dimes, Easter Seals, Canadian National Institute for the Blind, Canadian Paraplegic Association. These organizations do good work and contribute positively to the quality of life for disabled people, but they have a conflict in making representation to this government, which funds them. In addition, these organizations representing the disabled have become out of touch with the disabled issues of those at the grassroots. It is important that this government take the time and energy to consult all constituents on Bill 125 in a qualitative and quantitative manner.

Disabled individuals in our community are asking why Bill 125 is being rushed through the process, especially given that many view this legislation in its present form as undesirable. The present bill is voluntary, not mandatory, it has no enforcement mechanisms or provisions and only talks about the public sector versus the private. Why do you want to put through something that is not good? Furthermore, there are no provisions in the legislation that will deal with the systemic issues. People are misinformed if they think the Ontario Human Rights Commission deals with systemic issues. If that agency did, then people would not have to file individual human rights complaints repeatedly on the same issues. How will Bill 125 deal with these systemic issues?

If you're following the paper, it's not in here but I have added this, given some of the presentations that have been made. It was probably a miscue on my part in not including it. This particular legislation is about rights legislation and it should ensure for people with disabilities that it is portable. It should be mandated so that people with disabilities, no matter where they go, what community they come from, whether it's 5,000, 10,000 or 100,000, should be able to travel to those communities and expect some uniform standards.

Why is this present government so set on ramming this legislation through the House? What is the rush? Is Cam Jackson being forced to keep Mike Harris's promise to bring the legislation in this year? It would be better to renege on Mr Harris's promise than to bring the legislation in at this time. The Conservative government has had approximately six years of government to act in an enlightened and proactive way. Instead, we have lack of

funding in programs designed to assist people with a disability. People cannot get service because of a lack of funding and co-opting of payments under the assistive devices program. People are going to charity for assistance in funding mobility equipment. There is a lack of income supports, transportation, sidewalks and curb cuts. Grocery stores set up pop and vending machines in access routes or fill their aisles with stock. The more severely disabled suffer more because of their needs and the higher costs associated with their disabilities. The list goes on. The government should have been leading the way. Instead, we are receiving rhetoric that is meaningless and consultation that is less than ideal.

As an example, the government recently proposed \$5,000 fines for abusing handicapped parking spots. The disabled community does not value expensive fines for disabled parking infractions. More value would be obtained if the existing and any future laws were policed or enforced.

Disabled individuals at the grassroots level have a lot of life experience and knowledge to impart. This knowledge is not always captured by the disabled organizations that represent the disabled. It is our belief that the government's consultations should be more extensive and not on short notice as presently is the case. The government should make use of that knowledge by accepting the proposed amendments that are coming forward and defer the introduction of the legislation until it can more thoroughly consult in a manner and matter that is meaningful to all.

The Chair: We have two minutes per caucus.

Mr Martin: Thank you very much for coming today. One of the points you highlight in your presentation, all of your points actually, indicates that you're paying attention to this whole process. You're obviously either watching or listening to the hearings and what's going on at Queen's Park, because what you're presenting here today is certainly relevant and on the mark.

The question of more extensive public hearings: I guess it's in northern Ontario that you notice it probably more than anywhere else. For example, today I would guess that all the people coming to present are from Thunder Bay. What about Fort Frances, Kenora, Marathon, Manitouwadge, and on and on, those communities? Mind you, most of them are under 10,000, so they won't be affected by this legislation anyway. The question then is, what do those people do in terms of access and their human rights?

I think you make an excellent point. It's unfortunate, actually, that the government isn't willing to take the time, if they're really and sincerely interested in finding a bill that will do the trick, to hear from as many people as possible in as many circumstances as possible. Do you have any idea why they might not be willing to do that or aren't willing to do that?

Mr Sanderson: I'm not really sure why that is. I would suggest the short notice for people to respond is not helpful at all. If you look at one of the communities farthest from us, Kenora, it's a considerable distance to

travel. Relative to people who have presented here today, Tracy herself had to book ahead to get a ride on the parallel transit system. Those are some of the difficulties people with disabilities have: just getting out in the community.

Like I say, the way we're starting to view this is that it's being rammed through, that it's not a direct consultation. My own personal opinion is that this government believes they are doing the right thing. However I'm trying to say I don't think you are if you're putting all your eggs in the basket of looking at the disabled organizations that have been around. There are people out there who do not have the opportunity to participate and you have to do it in a proper, well-time-framed manner in order to collect those particular inputs from those individuals.

Mr O'Toole: Thank you very much, Darrell. Clearly you've been a very hard-working advocate, since 1977 you said in your report. I see in the background here you've been involved with the WSIB in an advisory committee capacity as well. Has anything happened since 1977, or what could be, as I see, the position paper from the north in 1993 that was presented to the government of the day? I have a copy of that with me.

I'm not trying to be harsh. This is quite critical of the government, "ramming it through." When I was on council, this very issue was discussed in the early 90s in excruciating detail and there was absolutely no response by the government of the day. This, to me, is a very complex rights issue, as you said, and as such—now, I'm not lecturing you, I just want to balance the discussion of "we've done nothing," to make the point that rights legislation, you said, should be portable and as such should be national, but airline, train and other regulatory agencies are federal in nature. There is no federal or national standard. This is the first province that's done anything in a legislative framework. I'm convinced this framework allows you at this table and the ODA table to make statements on the record and require governments to respond.

To this date, not one government, including the others, have done anything. I have not been as involved as you by any stretch, but I have listened to it for over a decade, personally, at a legislative framework, at council and as a school councillor. I can say without exception—I was the chair of a special ed advisory committee from 1982 to 1987. In that time special education got zero attention. This government required integration as opposed to segregation and specifically funded special ed.

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What I'm saying is, without being argumentative with you, I must put on the record that this is, in my view, a first step. The consultation has been going on with you since 1977. I believe this is a piece of legislation that's badly needed. I would ask you a question: if I put to you that the next option is to do nothing, would you prefer to defeat this bill and have nothing or—it's a not a fair question perhaps. I hope I haven't been too animated. But do you understand? It's fine to be beat up in public, but my record is—

The Chair: Question, please.

Mr O'Toole: Is it this or nothing?

Mr Sanderson: I think I know what the question is and truthfully nothing is not acceptable to anybody. The point is, do not ram the legislation through without laying out the plans to the disabled community as to where it's going to go. It's like we're being asked to sign a contract without knowing the details. Credit to the government for taking some initiative. I sure hope they'll deal with each and every iota that is being brought forth as it relates to people with disabilities.

I'm going to give you a little tale aside. I talked about the building code here. This is very quick: it's a wash-room. Not to get hung up on just mobility barriers, but we had a bowling alley here that redid and put in a unisex washroom. It was accessible. About a year and a half after that, they turned around and did a major renovation. The stall is quite accessible. It's great and wonderful. But let me tell you, I challenge any one of you who happened to sit on that toilet and then make a reach for the toilet paper. I guarantee you will be standing. The person in the wheelchair, the paraplegic or somebody like myself would not be able to reach a darn piece of toilet paper. What is wrong with that picture? It goes back to intent, and for intent, there has to be teeth to this legislation.

Mr Gravelle: Darrell, I think the point that needs to be made, and you've made it, is that there's absolutely no reason for the government to rush this legislation through, except that they want to. They want to get it out of the way before Christmas. The truth is, and no matter what Mr O'Toole says about all the years and everything else, you bring forward legislation and you give the public a real opportunity, which we could have done over the wintertime.

I guess I'd like you to respond to this. I think the proof of the government's commitment will be whether or not they accept meaningful amendments, which are going to take place next week, again part of the rushed process. I guess we can say that if indeed they're willing to accept significant amendments that make this a piece of legislation that you would find acceptable, then we would say, "OK, thank you very much," but I'm not full of hope that's going to happen.

The truth is there's no reason to rush this through, after six and a half years to finally put something forward and then say, "We're going to make you get through this in three weeks so we can get it off our plate." I don't mean to be harsh or rude, but I think that's something that can be said. I take it you agree?

Mr Sanderson: I certainly do. The reintroduction shouldn't be a problem. Personally, I would welcome it.

Mr Gravelle: There's legislation that will be carried over regardless of being prorogued anyway, so even that isn't a good reason to say it has to be rushed through. It would have been great to get to so many more communities, and quite frankly if people from the outlying regions were invited here today, they might not have been able to get in anyway because of the weather. You need to go to the communities. We need to get to more

communities, and that's the least that I think we should be doing.

Mr Sanderson: When Tracy presented, people really need to look at the story she presented, because that's the story for many people, including seniors. I see doctors lifting senior people up on to the tables. It's true. You can't get health care, you can't get transportation, and so on and so forth. Where are we going to go with this?

The Chair: On behalf of the committee, thank you very much for your presentation this afternoon.

THUNDER BAY AND DISTRICT INJURED WORKERS' SUPPORT GROUP

The Chair: Our next presentation is from the Thunder Bay and District Injured Workers' Support Group. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome.

Mr Francis Bell: My name is Francis Bell. I am the executive director of the Thunder Bay and District Injured Workers' Support Group. Like many of the presenters before you this morning, I'm one of the disabled people in this community. I'm also probably one of the loudest ones speaking a lot of times. Some of you have seen me before and know that I have been known to give you my opinion in a quite direct manner. Today I intend to do the same thing: give you a direct opinion and offer you some alternatives to make this bill better.

We are here not to lambaste the government but to provide constructive criticism. I can tell you we started working on this thing just the other day. It was serious enough for our committee that we finished this brief this morning at 6:30. We worked through the night to make sure we had a brief we were proud to present to you. This is important to us. It's important to injured workers. It's important to people in the disability community.

Part of this brief you're going to see in other briefs, and that's the portion of it from the ODA Committee. We support those portions and we've laid them out for you. We hope you would do some very basic things, and that is, if you haven't had an opportunity to go, we've provided you with the Web page. As I understand it, all MPPs have access to the Web. You can go directly there and actually see the documents.

Remember, that's a pretty broad-ranging committee that has been working for years. We have been involved with it in Thunder Bay. Our sister organization, an umbrella organization, the Ontario Network of Injured Workers' Groups, has been involved and support the proposals from the ODA Committee. As the secretary-treasurer I can say that quite emphatically, as I have spoken this morning with the president of the network after he has had a chance to look at this brief, which is endorsed by the Ontario network.

This bill needs to address the issue of systemic problems. This bill is a beginning. It is not good enough to pass at this stage, folks. There are some things you need to look at.

What I want to say to you is that there has been talk about using the Human Rights Commission. There has been talk about enforcement mechanisms. The Human Rights Commission is not an appropriate enforcement mechanism. It will not do the job. A unilateral, independent enforcement mechanism must be set up to run parallel with the ODA. This government, the opposition parties, everybody must work in educating people about disability issues. Too often, as injured workers, we've seen that it does not work.

You may ask, who is the Thunder Bay and District Injured Workers' Support Group? We represent injured workers over a quarter million square miles. Just to give you an example, right now, recuperating at my personal home is a friend of mine from Marathon who came in for treatment, but the hospital discharged him after two hours of having cortisone shots. Those epidurals were given this morning at 6:30. He arrived by taxi at my house at 8:30 this morning. This person is going to ride a bus back to Marathon because he can't get service. If it wasn't for our providing him with a place, his alternative was to hop back on the bus and go back this morning—not something I would think would be a wise move to make, as somebody who has been down that road before, but it's what's out there.

As I've already said, we're here to provide constructive criticism. We want to help you get the legislation right. We want to give you advice on how to take the potential weaknesses in Bill 125 and make them strengths. We ask that you understand that many of the presenters who will be before this committee know the problems because they have personally encountered them. They are the experts. The experts are not those who draft the legislation, but we are. We can tell you what will work and what will not work.

1310

This bill is about concepts. The question for you is, what are the concepts that this bill should espouse versus what are the concepts that this bill espouses to the disability community, the citizens of Ontario? We've laid out for you in the brief the 11 principles. We would ask that you use them and use them wisely.

In fact, we have developed a report card for you. If you go to page 12 of the brief, the report card runs in a landscape mode. It's important you look at this report card. We would ask that as you're going through your deliberations, especially at the committee level where you're going to hopefully make some amendments, you look at the report card and say, "Is this going to fail? Does it need remedial help? Does it need improvement? Is it satisfactory, or is it excellent?" We've given you comments on each of the principles. We did that so it would give you some creative thought processes on what we're talking about.

It's important that each of the amendments be looked at very carefully, very concisely. This morning you've heard from some local people who have told you about the problems they've encountered due to disabilities. This government and this committee can roll up their

sleeves. They can work constructively together with the opposition and make the necessary amendments to improve this bill. The first step: it must sell those changes to its fellow legislators and to the minister. If this is done in a positive manner, it will ensure that the bill, as amended, will meet the needs of the Ontario disability community. It must be positive. We don't need the sniping. We've all seen it. We don't want to see it. We want you all to work constructively together.

The amendments cover a wide range of sections in the bill. The amendments proposed cover issues such as language, barrier-free, accountability, inclusiveness, enforcement, limited enforcement, reviews etc.

The government has a unique opportunity to have a second chance to develop, review, amend and proclaim an Ontarians with Disabilities Act that is really worthwhile. The Thunder Bay and District Injured Workers' Support Group asks that this opportunity not be squandered. We ask that you take a bold stance. Stick to the principles of the ODA and show leadership. In the end, we can only offer guidance. This committee can propose amendments that the Legislature will vote up or down. You can do the right thing. You can bring disabled Ontarians in from the outside. You can improve all communities in Ontario. Now the question is, are you going to do it? We've offered constructive criticism and we implore you to act now.

In appendix A, you will see the 11 principles. We've actually headlined them to make it a little bit easier for you. Those are the 11 principles. What we would propose is that in your committee room you put each one of these principles up on the wall, and as you go down through each section, you see if the amendments you're going to make will meet one of those 11 principles. It's like that reporting card. It's a way to remind you of what is needed. You can do it. You can show the initiative. We believe it is imperative that it be done.

I want to talk about just one more item and that deals with the issue of municipalities. The individual I spoke about from this morning comes from a small municipality. That small municipality would not have to meet any of the ODA requirements as suggested now because it is under 10,000. You need to fix that. You need to make this an inclusive piece of legislation. It needs to cover every community in Ontario. The time frames may be different, but if you do not do that, it will be a weasel way out of making the necessary changes.

I'm not going to go through each of the amendments, because I'm sure you've already heard them.

Again, on behalf of our group, I want to thank you for the opportunity to present to you today. I want to implore you to work co-operatively together to propose the amendments you have seen in front of you and pass them. If there is a problem and you need further consultation because you're not sure about the amendments, take the time. Don't put through something that is inappropriate, that will not meet our needs. We've waited long enough. You've waited long enough. Do the right thing.

The Chair: We have approximately three minutes per caucus.

Mr Hardeman: Thank you very much for your presentation. There are a couple of items that I just wanted to go to.

In principle 2—obviously, I've seen the principle many times before, but this is the first time I realize—it runs into a problem or a concern that's been expressed by a number of people, particularly the legal people who have spoken to the committee, about the ability of the ODA to supersede other legislation. There's some concern that—in fact, some people presented and said that in their opinion some of the benefits that the disabled have in the Human Rights Code would actually be reduced by this act. That, I can assure you, was not the intent and is not the intent. If that is what it would do, I'd want to make sure that we did put amendments in place to prevent that from happening. Yet in principle 2 we're suggesting that the act should supersede all other legislation. Is that dealing with the same problem? Is that why the community, particularly the legal community, feels that we are superseding it, in your opinion? Could you give me your opinion on that?

Mr Bell: A very quick response is that if you make the act better than the other legislation, of course it should supersede it. If you make it worse, then obviously we don't want it to supersede it. It's a matter of where you're going to put the floor. Remember, legislation is about floor levels. It's about the beginning, the basis. You can make this act better than the Ontario human rights act. If there's a provision that's better somewhere else, what we want is that provision to be enforced, obviously. What we don't want is a piece of legislation that allows people to lower the standards. We want the standards brought up. That's what we're talking about.

Mr Hardeman: We'll make sure we check this out more with the legal profession, but in my opinion the act is quite clear that this in no way infringes on any of the standards set in the Human Rights Code. So it's covered, but I just wanted to make sure we had that right.

The other issue I just wanted to quickly ask about is the uniformity across the province, and the fact that the advisory committees, in preparing the plans, are restricted to municipalities over 10,000. Your position is that we should take out the 10,000 floor, so we would have the same service across the province?

Mr Bell: Yes. The reason is very simple. Do you just say to somebody who's in a community of 9,000 that they don't have the same rights as somebody in a community of 20,000, or 100,000, or a million? The answer is no. We're all Ontarians. We should all be treated with the same, equal level of service. Does it mean that this government may have to find some dollars to assist smaller communities? Yes, it does, to be blunt. But we've waited long enough. It's time to move in a positive way.

The Chair: I have to go to the official opposition.

Mrs McLeod: In support of principle 2, I think it was never conceived that a bill that's specifically to provide

greater access for those with disabilities would ever be less than the Human Rights Code. Therefore, the principle I think should apply, and the bill that's intended for the disabled should be revisited.

My question is around the report card, Francis. I'm trying to relate the principles in the report to the grades that you've given out. I guess one of the things that I was struck by was the—I understand some of the failing grades. On principles 4 and 5, it says they need improvement. It seemed to me that principle 5, in particular, was about the extension. As I read it, it's the extension to the private sector which is noticeably missing from the bill.

Mr Bell: We've put that in the comments section: "Missed private sector." We need to get this broadened across the entire province. The government passes legislation that's about health and safety and doesn't say it's only for the public sector workers; it's for all workers. This is no different than that, folks. It's the same thing. It's for all workers, all sectors.

Mr Gravelle: Francis, it's a great job that you've done. It's terrific. You have appealed to us, all parties, to work together to try to create a piece of legislation that really makes a difference in its value, but I think you and I both know that there's a certain amount that will be accepted in terms of amendments, perhaps—we hope—and a certain amount that won't. Maybe it's not a fair question, but could you focus for a moment on, if there were some things that just have to be there that aren't there now, what would those be? What aspects would you want to see if you couldn't get it all?

Mr Bell: Michael, remember I said work co-operatively and you'll get it all. I have positive energy. I wore my Santa Claus tie.

Mr Gravelle: You're always positive, Francis.

Mr Bell: Yes, I know. Sometimes too positive.

I think you need to make sure there are some enforcement provisions. No matter what legislation you put forward, if it's not enforceable, it doesn't mean anything. We've had—and I want to say it this way—voluntary compliance since the day this province started talking about these issues. Anybody at any time under voluntary compliance can do something. The problem, and the reason we're here again, is because it hasn't been done. You need to enforce that and you need to make it mandatory. Voluntary has not worked.

Mr Martin: I heard your clarion call this morning to work co-operatively and I commit to you that we will do that. If this government is willing to work with us to make sure we get a bill here that responds to the 11 principles and that we think is going to work for people who have been waiting a long time—and I agree with Mr O'Toole when he says that previous governments haven't lived up to their responsibility. We didn't. We let you down. You've been waiting too long. Now is your moment. You have a chance here now to get a bill passed that will actually do the trick for you.

When we were government, we tried. We obviously didn't get it right with the Employment Equity Act. It was thrown out as soon as this government came into

power in 1995 because we didn't root it properly in the community such that it couldn't be thrown out. In this instance, I think we need to do that. We need to make sure we have an act that everybody agrees is going to work and is going to do the trick.

However, at the end of the day on Tuesday, if we discover there are no amendments, or the amendments we bring forward, which we will, are not being accepted to raise this floor to a point where it actually means something, what is your recommendation to us at that point?

Mr Bell: I'm not a politician; at least I'm accused of not being a politician. I would say that somebody should be moving a motion to table the action. I'm being very blunt with you.

Mr Martin: To table the what?

Mr Bell: Table any amendments. By tabling, I mean that you table to a further date, you sit down and start working co-operatively. And if you need to have a bunch of consumers sitting around the room to assist you in that process, I'm telling you, they will be there. We believe that you can do the job. We understand the government has the majority, so I'm sending this message very clearly to the government members that we're watching, we're interested. If the opposition gets out of hand, we'll know about it, and if the government gets out of hand, we'll know about it. We'll come back and we'll be at your doors. You may find us there day and night, but you will find us there, because we want something done this time.

It didn't work out last time. We said, "Let bygones be bygones." This is your chance to do something positive. If you're finding you're getting frustrated, take a break and then come back to it, but, folks, you've got to do something that's positive. Right now, the legislation as it now stands is not what the disability community is looking for. It does not meet our needs, but you have amendments before you that can meet our needs. I implore you to take that action and approve those amendments.

The Chair: With that, we've run out of time. On behalf of the committee, thank you very much for your presentation this afternoon. We'll recess until 2:40 this afternoon.

The committee recessed from 1324 to 1439.

HANDICAPPED ACTION GROUP INC

The Chair: Our first presentation this afternoon is from the Handicapped Action Group Inc. I would ask the presenters to come forward, please, and state your names for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

Mr Allan Buchan: Chairman, members of the committee, we'd like to thank you very much for this opportunity to comment on the proposed Bill 125, the Ontarians with Disabilities Act. The disabled community has been waiting for legislation like this for the past six years.

A little history before we begin: our organization was formed in 1974 as a result of a disability report which was compiled in 1972 by the Lakehead Social Planning Council. At the inception of the organization, the purpose of HAGI was "to improve the living conditions of persons with physical disabilities by fostering independence, self-determination and the acceptance of responsibility among disabled consumers."

The major areas of emphasis in those early days were transportation, housing, attendant care and recreation. The generally recognized philosophy of the founders of HAGI was that "in order to assume control over one's life, an individual needs to make their own choices regarding his or her own personal lifestyle."

As early as 1975, our organization began providing services to meet the organization's early objectives. HAGI Transit began operation through a LIP grant provided by the government of Canada. In its initial year, HAGI Transit accommodated approximately 2,500 trips with only two high-rooftop vans.

The housing project, which provided barrier-free apartments and 24-hour attendant care services, became a reality in the spring of 1979. The organization further developed their second building in the mid-1990s, opening up 1201 Jasper Drive. By 1982, the attendant care project began expanding into the Thunder Bay non-profit housing buildings, providing attendant care services to all their barrier-free apartments. We now provide service to four other buildings in the community.

In 1986, we started an outreach attendant care program in Kenora, and later to persons living in their own homes in Thunder Bay. Both services encouraged consumers to manage their own care. Our Kenora group has since broken away from us and formed Northwestern Independent Living Services, a sister organization to HAGI. In the early 1990s, we continued to develop community-based services and started our third outreach program along the north shore, with an office set up in Geraldton, or Greenstone, as it has now become. In the mid-1990s, we officially changed the name of our attendant care program to personal assistance service.

Formal and informal recreation has always been a part of the services HAGI has been offering. The most successful and recognized of these recreational projects was the wilderness discovery program, which originally began as overnight camping excursions and has grown into the construction of an accessible recreational camping facility on Lake Shebandowan. This facility is available to all persons with a disability on a pre-booked basis.

Our organization sees the presentation of this act as a much-needed first step, but only a first step. It begins to open doors and addresses the fact that people with disabilities need to be consulted on issues, services and programs that directly affect their ability to live independently in the community. Many of our members want to be, and are, taxpayers and feel proud of that fact. Given the power to choose whatever lifestyle they decide has helped develop our motto, Independence by Choice.

Our organization, in its 26-year history, has seen standards come and go in our community as they apply to consumers with disabilities. An example is the fact that we had one of the most forward-thinking municipal building codes in the late 1970s. That was eventually lost to the enactment of a provincial building code that failed to address the standards we had developed locally for our constituents. We need a code that will prevent this from happening again, and the first step is to incorporate a consultative process to all acts and regulations as they affect citizens with a disability.

Over the past few years we have participated in a number of consultations. We believe the one conducted by the ODA Committee resulted in a position paper that reflected the position of the province's consumers with a disability. This organization identified 11 principles that needed to be addressed in order to have an effective and reflective act for this province. According to these 11 principles, the ODA's purpose should be the achievement of a barrier-free Ontario for all people with disabilities. It should cover all disabilities, whether physical, mental or sensory. It should cover all barriers, not just physical barriers.

All public and private sector providers of goods, facilities and services should be required to remove and prevent barriers. Timelines and standards should be decided upon through a consultation with all stakeholders. The legislation should set out timelines for developing these standards and a process for consultation.

The same requirements should apply to all employers. There should be an effective and speedy way to enforce the law besides filing human rights complaints for each barrier in individual circumstances. People with disabilities should be able to propose regulations which the government must consider adopting in order to set the standards for barrier removal and prevention, sector by sector and industry by industry.

The bill needs amending in key areas to be strong and effective and to fulfill the goals set by the ODA Committee and the government's November 1, 2001, vision statement. Keeping in mind the very short timeline we had to review all of the recommended changes, our comments are based on input from the provincial ODA Committee, which has a good provincial representation of consumers with a disability, and our local consumers with a disability.

The following are some of the amendments that we're proposing by the disabled community.

Recommendation 1 is that the purpose clause should be amended to read as follows:

"The purpose of this act is to achieve a barrier-free Ontario for persons with disabilities through the identification and removal of existing barriers and the prevention of new barriers which prevent persons with disabilities from fully participating in all aspects of life in Ontario," not "to improve opportunities."

Under "Definitions," our second recommendation is to amend the definition of barrier to read, "'barrier' means anything that prevents a person from fully participating

in all aspects of society because of his or her disability. Without limiting the generality of the foregoing, a barrier can be a physical barrier, including architectural barriers, an information or communication barrier, such as a method of communication, an attitudinal barrier; and/or a technological barrier, and barriers can include a policy or practice."

Part of the definitions is to amend the definition of "disability" to add environmental and chemical sensitivity and brain injury.

Finally, under recommendation 2, amend the definition of "Government of Ontario" to include "the Legislature and Legislative Assembly of Ontario and its officers."

Under recommendation 3, "Duties of the government of Ontario," subsection 4(1), should be amended as follows:

"In consultation with persons with disabilities and others, the government of Ontario shall develop and adopt barrier-free design standards to promote accessibility for persons with disabilities to buildings, structures and premises, or parts of buildings, structures and premises, that the government owns, purchases, leases or constructs whether or not the building is significantly renovated after this section comes into force. These standards must address all types of barriers, not only barriers to physical access."

Our recommendation 4 is under "Government goods and services." Section 5 should be amended as follows:

"The government shall not purchase goods or services for the use of itself, its employees or the public that create or maintain barriers for persons with disabilities."

The term that's in the legislation, "have regard," doesn't mean "will accommodate."

1450

Under recommendation 5, section 7 should be amended as follows:

"Government publications must be barrier-free in terms of both format and content. Regulations must be developed and enacted, setting out the standard formats in which material must be available."

Under "Government employees," our recommendation would be to amend that section as follows:

"The government of Ontario shall create and maintain a barrier-free work environment in which persons with all disabilities can obtain employment, maintain employment, fully participate in all aspects of work life, and advance in their career goals, including the provision of necessary accommodations."

Further to that, "The obligation to create a barrier-free work environment includes all aspects of employment including applications for employment, hiring, training, and promotion."

Under "Government-funded capital programs," our seventh recommendation would be that capital funding for projects shall be made available only where there is a barrier-free plan incorporated into the project that meets the consumer-designed standards.

Under “Ministry accessibility plans,” “Each ministry has the duty to ensure that the funding, services, programs, practices, legislation and regulations it administers are free of barriers through the development and implementation of barrier-free plans.

“The barrier-free plan that each ministry shall make and implement shall include the comprehensive identification, removal and prevention of barriers to persons with disabilities in the acts and regulations that are administered by the ministry and in the ministry’s policies, programs, practices and services.” In other words, this section should look at all legislation through a disability lens.

Recommendation 8.2: section 10 should be further amended to say:

“In developing and implementing its barrier-free plan, a ministry shall consult with the barrier-free council, the disability directorate, and the persons with disabilities who may be affected by the plan.”

Under municipalities, section 11 should be amended so that “Each year, the council of every municipality shall prepare and implement a barrier-free plan.”

Section 11 should further be amended in a fashion that is fully consistent with the previous amendments we propose in section 10 to include, for example, the following:

“The barrier-free plan shall include the comprehensive identification, removal and prevention of barriers to persons with disabilities in the municipality’s bylaws and in its policies, programs, practices and services, as well as the municipal government’s workplaces.”

Again, this section should also incorporate looking at the bylaws through a disability lens concept.

Barrier-free committees: under recommendation 10, section 12 should be amended as follows:

“Each year, the council of every municipality of more than 10,000 people shall establish or continue a barrier-free advisory committee. A majority of persons appointed to this committee must be persons with a disability. The mandate of this council is to review drafts of the municipality’s barrier-free plans, advise the council about their implementation, monitor the effectiveness of the plan, and to advise the municipality on barriers facing persons with disabilities within the territory of the municipality.

“Municipalities of fewer than 10,000 people must either establish a barrier-free advisory committee, or hold public consultations which include people with disabilities on these plans.”

This recommendation will embrace over 80% of our region, as most communities in our region are below the 10,000 population base.

Further, recommendation 10 should be amended under the “Duty of council” section:

“Council will”—not “shall”—seek advice from the committee on the accessibility for persons with disabilities to a building, structure or premises, or part of a building, structure or premises,

“(a) that the council owns, purchases, constructs or leases or

“(b) that the council currently occupies as owner or lessee.”

Under “Municipal goods and services,” section 13 should be amended to parallel the amendments proposed above in section 5 with the conduct of the government of Ontario.

Number 12: under “Duties of other organizations ... ” “Public transportation organizations” should be amended to read:

“Each year, every public transportation organization shall prepare and implement a barrier-free plan.”

The provision regarding transit providers should be similarly amended to ensure it reflects community standards as established by local consumers and a provincial barrier-free council.

Under section 15, organizations:

“The barrier-free plan shall require the comprehensive identification, removal and prevention of barriers to persons with disabilities in the organization’s bylaws, if any, and in its policies, programs, practices and services as well as its workplaces.”

Under “Agencies,” section 16 should be amended to read:

“Each year, every agency shall prepare and implement a barrier-free plan.”

Section 16 should also be amended to say:

“The barrier-free plan shall require the comprehensive identification, removal and prevention of barriers with respect to the provision of services and facilities, as well as with respect to the policies, programs and practices of the agency, and the agency’s workplaces.”

For joint barrier-free plans, under section 17, we would add:

“Where one or more ministries, municipalities, public transportation organization or organizations prepare a joint barrier-free plan, each entity is required to comply with the obligations under this act and the plan as if they had individual plans.”

Did I say that right?

Section 18 should also be amended for exemptions:

“Where an organization or agency cannot comply with the regulation because of undue hardship within the meaning of the Ontario Human Rights Code, it may apply to the minister for an exemption from the regulation. The exemption cannot exceed a period of one year.”

“Barrier-free council”: this is recommended instead of “accessibility advisory council.” So it’s a name change. In this section:

“The council is authorized to undertake the following activities:

“(a) consult with persons with disabilities and others, including those with relevant expertise, on the implementation of this act;

“(b) recommend to the minister or the Ontario Human Rights Commission that where there are problems in the implementation of this act or regulations, standards or guidelines made pursuant to it, steps to enforce the

legislation be taken, and request a report on the actions taken;

“(c) undertake research about the barriers facing persons with disabilities in Ontario, and on strategies in Ontario and elsewhere to address these;

“(d) provide programs of public information related to this act;

“(e) recommend the development or enactment of new standards or regulations to improve the effectiveness of the legislation.”

I think my time's running fairly short here, so I'm going to jump—

The Chair: You can go ahead and finish. You've still got a couple of minutes.

Mr Buchan: I'll just continue. In order to ensure an inclusive council, the minister must ensure that there is representation, as much as is practicable, of the full range of disabilities and of the different regions of Ontario and—especially from this area—of gender, ethnicity and of First Nations. We have a large First Nations constituency in this area. It would be good to see their representation on the council.

There should be a public nomination process whereby any individual may apply or be nominated to become a member of the council. The names of nominees should be made public to afford an opportunity for public input, including input from persons with disabilities.

Instead of an “Accessibility Directorate of Ontario,” we would recommend a “Barrier-Free Directorate of Ontario.”

“The mandate of the ... directorate is to remove barriers and ensure that people with disabilities in Ontario are able to participate fully in all aspects of life in Ontario by:

“(a) improving people's understanding and knowledge of disability issues;

“(b) providing expert counsel and consultation to government ministries in the development of integrated, coordinated public policies, programs and services for persons with disabilities, their families/support structures;

“(c) work with government ministries and offices and the disability community to provide expertise, and identify and resolve issues of concern;

“(d) acting as a vehicle for collaboration and partnership with the disability community; and

“(e) providing leadership, coordination, research, policy development, education, communication, and consultation.”

1500

Our 19th recommendation would be under section 21: “The executive council shall undertake a public review of this legislation after three years. The government of Ontario shall consult with persons with disabilities and all other interested stakeholders.”

Section 22, under regulations, should be amended to add as follows: “In order to ensure the full participation of persons with disabilities in the development of regulations, any regulations to be created under this legis-

lation must be published in draft form. There must be an opportunity for public input and comment, in writing or in the form of public forums or hearings, before the regulation is enacted.”

Also under section 22, “No regulation may be adopted which has the effect of creating a barrier to persons with disabilities, preventing or delaying the identification and removal of a barrier in any sector or which conflicts with the purpose of the legislation.”

Under the enforcement of this act, the act should be further amended so that it includes the following: “The Ontario Human Rights Commission and the Ontario Human Rights board of inquiry have jurisdiction with respect to compliance with and enforcement under this legislation, and have with all necessary modifications all the authority and jurisdiction as is provided to them under the code.”

Under municipal and provincial election act amendments, our recommendation 22: the bill's revisions to the board of inquiry and the provincial Elections Act should be expanded to say that “no polling station shall be located in a location which is not barrier-free;... that ballots be adapted to enable voters with disabilities, wherever possible, to mark the ballots themselves in private;... the government holding the election to provide American Sign Language interpretation or other like accommodation where needed for voters who are deaf, deafened or hard of hearing, to enable them to participate fully in the voting process.”

Under section 28, the municipal act licensing authority, our 23rd recommendation would be: “section 28 of the bill now extends municipal licensing authority to impose conditions regarding the licensed business to be physically accessible. This should be amended to include a requirement of the business to become barrier-free, and not merely to address physical barriers.”

Our 24th recommendation, ODA to bind the crown and override other legislative barriers: “This bill should be amended to provide explicitly that it supersedes any legislation, regulations, bylaws or policies which provide lesser protection for persons with disabilities.”

We must again express the fact that this is a new bill. It is just a first step and will only get the support of constituents if the province amends the act to include the recommendations enclosed. The theme of the bill must reflect a “will do” attitude instead of “shall.” As we all know, “shall” may never get done.

We again thank you for the opportunity to share some of our thoughts and recommendations on a very important piece of legislation. This act will impact on many citizens with a disability now and in the future.

The Chair: Thank you very much. There won't be any time for questions because we've run over the allocated time. However, before you go, I'd like to get your colleague's name for the record.

Mr Buchan: It's Doug Meredith.

The Chair: On behalf of the committee, thank you very much for your presentation this afternoon.

OPSEU DISABILITY RIGHTS CAUCUS

The Chair: Our next presentation is from the OPSEU Disability Rights Caucus. I would ask the presenter or presenters to please come forward and state your name for the record.

Mr Greg Snider: Hello, ladies and gentlemen. I am here on behalf of the OPSEU Disability Rights Caucus. My name is Greg Snider. I'm the chair of the disability rights caucus and work as a client service representative with the Ontario disability support program. With me is Laurie Barbeau, who works at Sault College as a special-needs counsellor and is also a member of the disability rights caucus. Laurie is also responsible for drafting our written submission on the Ontarians with Disabilities Act.

Ontario Public Service Employees disability rights caucus is made up of OPSEU members with disabilities representing all regions of Ontario and have come together to impact directly on the issues of disability in our workplaces. We have an obligation to assist more than 4,500 OPSEU members in a manner that permits them to continue their employment opportunities. We need to ensure that we eliminate the barriers that limit the involvement of our members who have a disability. We also have an obligation to assist all citizens with disabilities in their efforts to gain equal opportunities in all aspects of living.

The disability rights caucus's stated roles are as follows: (1) to advocate on behalf of members who live with a variety of disabilities; (2) to critique current union policy and develop new policy initiatives with respect to disability rights and accommodation issues; (3) to evaluate collective bargaining content and develop new bargaining objectives and propose disability-friendly practices with respect to how bargaining is structured as a means to increase the participation of members with disabilities; and (4) to educate the membership on disability-related issues.

Before we begin our examination of the proposed Ontarians with Disabilities Act, I feel obliged to take a moment to review the process under which this hearing has proceeded. It was only a short few weeks ago that I found out that Bill 125 had passed second reading and only two days ago that I found out where and when I would be speaking or, for that matter, that I would be speaking at all. Understand my situation for a moment. I live at the other end of the city, I don't drive because of my eyesight, my wife is out of town and I have a young child whom I need to get to school. I have little time to spend making arrangements. After all, I still have to adjust my speech, having just found out how much time I have. Luckily for me, I have a friend with a disability who, like so many others in her situation, is still looking for employment. She was willing to give me a drive. Many others were not able to make arrangements—hardly what was promised to persons with disabilities when this act was first promised by the government. But enough on the process.

The realities of societal inequality have prompted the need for yet more legislation that is designed to eliminate the many barriers faced by persons with disabilities. Legislation that guarantees full accessibility for those with disabilities is essential. Discrimination and inequality in our society have long been apparent to those with disabilities. The Human Rights Commission has reported this year that 40% of the complaints filed have been from persons with disabilities.

Employees injured in the workplace not only face a new physical and/or mental challenge but also face further problems with both their peers and employers in their efforts to obtain accommodations and to return to work. That disabled persons have to go to extra lengths to be employed is an appalling fact in Ontario and in Canada. A strong Ontarians with Disabilities Act can change the face of Ontario by ensuring equal participation of all citizens.

The government claims that the Ontarians with Disabilities Act will achieve a barrier-free Ontario for all people with disabilities. However, many of the essential elements to achieve this are lacking or are of minimal impact. It is impossible to visualize the intent expressed as a "barrier-free Ontario" within this act. A clear definition is imperative to gain full comprehension by all people. All citizens should be able to participate fully in all of life's activities. This includes all government programs and services, all private businesses and profit or non-profit ventures. Equality for persons with disabilities must be more than a way of doing business. It must be a way of living.

1510

If done properly, an Ontarians with Disabilities Act could truly be a win-win situation. The benefits to persons with disabilities is clear. Businesses will profit from their new customers as a result of the elimination of barriers in their settings. Persons with disabilities will stay in hotels, dine in restaurants, go to theatres and sporting events, become tourists, be students and employees. Imagine for a moment the kind of leadership that exists within a person who has been able to defeat physical or mental challenges many of us cannot even fully understand, or the inspiration they could be to their fellow workers.

The Ontarians with Disabilities Act only concerns itself with future buildings and facilities of the government and ignores the barriers that already exist. This needs to be addressed, as many individuals cannot mobilize in their communities to fulfill their life activities because they cannot enter the places where the activity is to be carried out.

Although physical barriers are most obvious and understandable, the Ontarians with Disabilities Act does not address the multitude of barriers faced by those with non-evident disabilities such as learning disabilities and mental health disorders. The nature of barriers is similar in that certain things stand in the way of an individual or group of individuals to fully participate.

Where a stairway impedes access for a mobility-impaired individual, information available in print format is equally impeding for a person with low vision or a visual processing learning disability. Similarly, job workload may impede successful employment and the return-to-work goals of persons with anxiety disorders.

The government needs to make complete revisions to the Ontarians with Disabilities Act to incorporate the variety of barriers experienced by all disabilities. According to published statistics, persons with disabilities are significantly unemployed and/or underemployed. They will need assured access to education and training activities to achieve employment. Also, those employees injured in the workplace need assurance of return-to-work access by removing all barriers and making accommodations in the workplace common practice. This problem becomes even more serious when you consider the negative stigma attached to people who are without employment.

There are other aspects of employment to be further addressed in this bill: recruitment, training and work function accommodations are necessary considerations that employers and employees alike will require assistance with. Accommodations should be required with clear definition and implementation timelines. Management and employee education in all aspects of a barrier-free environment will be equally essential. Although this bill speaks to providing training for government managers, it is important to note at this point that 10 years ago, when I came to work with the Ontario disability support program, then the family benefits office, I received a great deal of assistance from EASED. I don't recall any more what the initials stood for, but staff at EASED were trained in assisting employees and managers in removing barriers faced by staff with disabilities. They and others like them in every ministry have been laid off and their unique talents lost, their departments closed.

The Ontarians with Disabilities Act's weakest element is that it permits exemptions. Further, these exemptions can occur without qualification or due process. How can Ontario be barrier-free in some areas and not in others?

There are no penalties for non-compliance. In fact, the Ontarians with Disabilities Act is non-mandatory and voluntary. This absolutely fails to create a barrier-free society, reinforcing the lack of commitment to this legislation or to the development of regulations in a timely manner.

In general, Bill 125 falls short of the mechanisms to advance Ontario to be barrier-free. Barriers need to be identified and removed within specific non-negotiable time frames. It should apply to all organizations, programs, services and private businesses. Advisory committees need to be representative of persons with disabilities in all aspects of society. This legislation needs to establish means of enforcement and requires an expenditure of financial and expert resources to be fully implemented.

We hope that the government will re-evaluate the present Ontarians with Disabilities Act and set a base of barrier-free living and enhance the lives of us all.

The Chair: We have two minutes per caucus and I'll start with the official opposition.

Mr Gravelle: Thank you, Greg and Laurie, for being here. Greg, you and I discussed the fact that this was happening so quickly. We had a discussion about trying to get more time so people obviously would have a better opportunity to be represented. What kind of factor do you think that had just in terms of giving people access to these hearings? Because it was only last Tuesday that we even knew the location. I would be interested to have your or Laurie's thoughts on that.

Mr Snider: I don't think you're going to get a lot of people, especially up in the north, where the distance is great. People in Kenora—are you going to pay for a plane flight to fly down here to make a presentation with two days' notice? You don't even know if you're going to be heard. I think there are a whole bunch of people who simply vote off even coming here, who had good things to say and probably could really add to the conversation, just because the timetable wasn't presented for it. I think, more than that, there's no enforcement in the legislation, and when you see the way they're going about doing the committees, it doesn't seem to imply that we really believe in what we're doing. Like I mentioned in my speech, it's got to be real life, you've got to think about equity for persons with disabilities, and that means that when you set up these committee meetings, you've got to allow for the fact that Handi-Transit and things like that need to be ordered in advance. So you need to give people more time to prepare and to get things ready.

Mr Gravelle: So it wasn't a particularly good sign that things were done the way they were.

Mr Martin: You asked a question here in your presentation that I think is quite telling and important, and that is, how can Ontario be barrier-free in some areas and not in others? The people before you, Handicapped Action Group, spoke of the need to include the smaller communities, for example, and I'm sure you have members who live in some of the smaller communities, even some of the communities under 10,000. There's a suggestion, and I brought it to the table yesterday, that, "We can't afford to give everybody their human rights." I was wondering if you had any comment on that. Which ones should we not be giving their human rights to? People in communities under 10,000? People who the government decides need an exemption?

Ms Laurie Barbeau: I think that's an interesting point. Even now, without this act, the Ontario Human Rights Commission faces lengthy times in responding to people with disabilities' filing complaints of discrimination etc. So, to date we have not provided enough in the way of supporting those with disabilities generally in life. The fact that we have to have legislation to enforce that shows that our society is not totally accepting. But you can't decide that some groups are accommodated and some groups are not, or that one individual's human

rights are protected and another individual's human rights are not. If you're trying to get to a society or the province of Ontario being barrier-free, with equal opportunity for all, definitely you can't do that.

Mr Martin: I just wanted to recognize the effort that Laurie has made today. She has come from Sault Ste Marie, which is about eight hours away by road.

Mr Spina: Nine.

Mr Martin: Is it nine, Joe? I got it wrong. Well, it depends if you're speeding or not, right?

Ms Barbeau: And it's about 20 by air.

1520

Mr Martin: That's right, on a good day. We know all about that.

If you come from Sault Ste Marie to here, you'll come through a whole horde of really important and viable and vital communities that won't be covered by this act. Do you have any suggestion as to how we might include those people in this piece of legislation?

Mr Snider: The only thing I could suggest is that we get rid of the limitation. All municipalities should have to carry it out. I don't see how you can put a price tag on a person's human rights. You're entitled to them or you're not entitled to them. Everybody gets them. All Ontarians get them, and I think that was said before. I don't think there's any other way of saying it than if it's a right of an Ontario citizen, a person with a disability, to have these things, then it's a right for all persons with disabilities in Ontario to have them.

Mr Spina: Thank you, Greg and Laurie. We're both from Sault Ste Marie. I was born and raised there, so I know the road, yes. Mother still lives there. They've taken the boy out of northern Ontario but not northern Ontario out of the boy.

I had two small, quick points with the time frame given. One, you talked about some timelines, Greg, and that once they're set, they should be adhered to. I wondered if you could share with us what kind of timelines you're thinking of in terms of implementing what. And the other is, you mentioned an anxious disorder?

Ms Barbeau: Anxiety disorders, yes.

Mr Spina: Yes, thank you, an anxiety disorder. If you could just maybe elaborate on that a little bit, I'd appreciate it.

Ms Barbeau: One of the things, as we said, we found with the act and the wording is that there's a focus on physical disabilities that for most people are easily understood. They're evident; you can see them. But in the area of mental health illness, there are many needs for accommodation. Anxiety disorder is only one diagnosed mental illness that we refer to here. But our point there is that those disabilities that are not evident to the visual eye, are still disabilities and they still require accommodation and they still require equal opportunity.

So an anxiety disorder would—in this context, the individual may not be able to reassume or assume a full workload, all the tasks that come within a job position, because to do that, their stress level may go beyond the point that they're able to handle. So a reasonable accom-

modation might be to share those tasks of that job position with other employees, thereby accommodating the impact of the anxiety disorder in the job position, but also availing that person the opportunity to be fully employed.

So where you can see an individual with a mobility problem in a wheelchair, it's not that much different for a person with a non-evident disability. The accommodations still need to be considered because the impacts of a disability are still there. They do exist.

The Chair: We've run out of time, but on behalf of the committee, thank you very much for your presentation this afternoon.

PERSONS UNITED FOR SELF-HELP IN NORTHWESTERN ONTARIO INC

The Chair: Our next presentation is from Persons United for Self-Help in Northwestern Ontario Inc. I would ask the presenters to please come forward, and if you could state your names for the record, please. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

Ms Marilyn Warf: Thank you for the opportunity to present the voice of persons with disabilities in northwestern Ontario on Bill 125. I'm Marilyn Warf, regional director of PUSH Northwest, and our co-presenter is Ron Ross, president of PUSH Northwest.

We will begin by providing an overview of our organization and its guiding principles.

PUSH Northwest is a consumer-driven organization of individuals with all types of disabilities—mobility, hearing, vision, developmental, psychiatric, neuromuscular and non-visible—consumer groups, agency representatives and family members. PUSH Northwest is the umbrella organization in Thunder Bay and northwestern Ontario that brings people together to co-operatively and collectively discuss disability issues.

The mandate of PUSH Northwest, its regional chapters and representatives in the communities in northwestern Ontario and First Nations communities is to promote independent living for and by individuals with disabilities; to empower people with disabilities to live productive and personally meaningful lives in a self-determined manner; to assist individuals and families to obtain and retain equipment, supports and services as required; to ensure the availability of high-quality consumer-directed services; and to work toward positive community change to enhance opportunities for people with disabilities.

The guiding values and principles of PUSH Northwest are the belief that the dignity and worth of all persons with disabilities must be respected; that all persons with disabilities have the right to life, to self-determination and to participate in a society free from barriers to their inclusion and integration; that persons with disabilities are in the best position to determine their own priorities; that all people in society share the responsibility to create communities which are accommodating.

PUSH Northwest has been a member of the provincial Ontarians with Disabilities Act Committee for six years. We had direct input into the creation of the original guidelines and principles for an Ontarians with Disabilities Act and we have been in regular communication with the consumers in northwestern Ontario throughout the various stages of planning and consultations to develop an Ontarians with Disabilities Act that would legislate full citizenship for persons with disabilities in all communities in Ontario.

Persons with disabilities had hoped for an Ontarians with Disabilities Act that would have legislated rights based on the set of principles developed by the Ontarians with Disabilities Act Committee members and which were unanimously adopted by the Ontario Legislature. We had also hoped that any bill presented would reflect the best practices of the Americans with Disabilities Act based on what has been learned after 10 years of experience with their comprehensive disabilities act. We had hoped for an act that would have reached across the private and public sector, that would have mandatory regulations, that would have been prepared and implemented with the leadership role given to grassroots persons with disabilities and that would have established direct access to the courts for any issues of non-compliance.

We had hoped for legislation that specified that society as a whole needed to be collectively responsible for creating inclusion, not piece by piece, not only from tax dollars, and specifically not to be examined as a cost to society, but a citizenship right for all Ontarians to be part of all law and to be part of everything we do as a province.

Bill 125 does not include these principles, does not create new rights for persons with disabilities, does not create new legal procedures or regulations or any enforcement mechanisms. Although there is mention of potential regulations to follow Bill 125, there is no mandate for the Ontario government to comply with creating these regulations and no stated time frame for future action in this regard.

There is no gentle way to tell the Ontario government that Bill 125 as it is presented is inadequate to achieve its stated purpose, "to improve opportunities for persons with disabilities and to provide for their involvement in the identification, removal and prevention of barriers to their full participation in the life of the province." However, with the inclusion of recommendations for expanding and strengthening Bill 125, this legislation framework could lead to achieving the stated purpose.

We understand that the Ontario government wants to keep their pre-election promise of an Ontarians with Disabilities Act, but persons with disabilities request that Bill 125 not be pushed through in its present form. The only result would be keeping a promise, but it would be an empty promise. If the Ontario government is sincere in wanting to achieve the stated purpose of Bill 125, they must take the time to review and include the recommendations presented during these consultations. Bill 125, if

passed in its present form, is a disservice to persons with disabilities.

1530

While many see Bill 125 as an important first step, critics fear that it will actually reduce current rights of persons with disabilities under Ontario human rights legislation rather than result in any removal of barriers. The Ontario human rights legislation imposes legal obligations on all private sector retailers, landlords and employers, while Bill 125 excludes the private sector from obligations. The focus of the bill is not legislating rights, but imposing obligations. The bill relies on voluntary measures which will result in little or no proactive change. If you want examples of why voluntary compliance does not work, look at the government's codes of practice, which have resulted only in maintaining the status quo.

Bill 125 fails to address barrier removal in the private sector, fails to commit the Ontario government to barrier removal in its own program and services delivery, places much of the obligation on the municipalities without any financial support to enable them to take action steps and lacks any mechanism for compliance in any area of barrier removal. There is no provision in Bill 125 that will improve access or provide steps toward equal citizenship. In its present form, the bill only makes provision for planning, not mandatory regulations nor timelines for implementation of any barrier removal.

A legal assessment of the content of Bill 125, by ARCH, the advocacy centre for legal resources for persons with disabilities, stated:

"In the absence of any enforcement or adjudication mechanism in Bill 125, there will be no independent review of actions taken pursuant to its provisions and no independent interpretations of what the various provisions of the legislation mean. This is highly unusual in a statute that establishes proactive responsibilities. In its current form, in order to have a determination about what any of the bill's provisions mean, it will be necessary to mount creative legal challenges through the courts, which is not easily done and is certainly not a fast or affordable option. The result is that those bodies charged with responsibilities under the bill are left to determine what their obligations are, which is a highly subjective and potentially arbitrary process."

Bill 125 is not a disabilities rights act, as it does not establish any mandatory regulations, implementation strategies or timelines to make rights for persons with disabilities a deliverable. Bill 125 is a planning act. We are in full support of planning for accessibility and barrier removal, but history has taught us that planning without action steps, legislation and mandatory compliance within specific time frames is not effective. Planning for barrier removal and action steps to remove those barriers should have been the ongoing work of the Ontario government over the last two terms. Barriers have been identified for years. What is lacking and will remain lacking if Bill 125 is passed in its present form is measurable and positive change, mandatory commitment to

achieve barrier removal and a will to act. Those components are not present in Bill 125.

For an Ontarians with Disabilities Act to be effective, there needs to be a specific commitment to, first and foremost, acknowledge and respect the fact that persons with disabilities face many barriers in their activities of daily living, barriers that are as varied and complex as people are themselves. The definition of “barrier” in the bill states that it is an obstacle to access for persons with disabilities that is not an obstacle to access for other persons and, in addition to a physical barrier, includes an attitudinal barrier, method of communication, policy or practice. The Ontario government is to be applauded for acknowledging and respecting the impact of all barriers for persons with disabilities beyond just physical access to buildings.

We are concerned, however, that the bill states that a barrier for persons with disabilities is not an obstacle for other persons. These words must be removed from the definition, as it will mean that the interpretation will allow for the exclusion of many significant barriers faced by persons with disabilities that others also may face. What is not considered in this reference is that the impact of any barrier on a person with a disability is greater due to their disability: for example, access to transportation, the need for accommodations in the workplace, housing requirements or adapted telephone access. A clearer and stronger definition is needed that is specific to the impact on a person with a disability. The definition of “barrier” must be disability-related, exclusive of whether or not it impacts on others in society.

The consideration of what constitutes a barrier in Bill 125 is also a concern as it looks at obstacles for persons—but in the plural word. This language may be interpreted in a way that demands that more than one person must experience this situation before it is determined to be a barrier under the bill. Current human rights allow for individuals to file a complaint and exclude systemic complaints. It was hoped that comprehensive Ontario disability legislation would ensure rights under both categories. If Bill 125 is passed as it exists and the interpretation of “barrier” is determined to be for more than one situation, will Bill 125 supersede consumer rights under the Ontario Human Rights Code? Which legislation will take precedence? Will persons with disabilities lose individual rights that currently exist?

Persons with disabilities do not want the human rights system to be a part of any proposed legislation. It is not a responsive or effective way to ensure consumer rights in the province; it is a lengthy and complex process that does not solve issues and, by its nature, discourages many from even beginning the process. As an example, in Thunder Bay, a case for access to a medical clinic has been ongoing for more than four years, and the Ontario Human Rights Code complaint is still not even to the investigation stage. What is in Bill 125 that will give persons with disabilities equal access and equal effect to health care services that are provided by the Ministry of

Health, supposed to be delivered equally to all Ontarians as a citizenship right?

Parents of children with disabilities must file human rights complaints to ensure their children can go to school. What is in Bill 125 that will ensure equal access to an education for these children? These same children have just been cut off any augmentative communication or physiotherapy services because of cutbacks by the Ministry of Health. What is there in Bill 125 that will help these children “improve their opportunities” or ensure “their full participation in the life of the province?”

The main concern for persons with disabilities is that they are being asked to agree to the content of Bill 125 and then wait to see what will happen in the future with regard to regulations. That is like asking people to sign a contract that has no details. We are very willing to work co-operatively with the Ontario government toward meaningful legislation that makes equal rights and opportunities for persons with disabilities in Ontario a deliverable. But we are reluctant to sign a contract that has no guarantee of becoming the strong, effective and mandatory Ontarians with Disabilities Act that is so desperately needed in Ontario.

Persons with disabilities are asking that Bill 125 not be pushed through as it currently exists. We are asking that the government immediately start on a plan to make proactive changes in the programs, supports and services that already exist in the province by:

—Mandating accessibility—equal access and equal effect with implementation strategies and timelines—in all health care facilities and practices as a condition for Ministry of Health funding, which includes all OHIP payments;

—Disallowing educational support persons to be assigned to other jobs in the school by teachers or principals and away from the child as a condition for schools to receive Ministry of Education funding;

—Revising the Ontario Building Code to remove the provision for only meeting the intent of the code, not really providing barrier-free access, and the provision in the code also for opting out of the code. Bill 125 will not effect positive change by stating that the Ontario Building Code must be adhered to while these provisions allow for less than barrier-free accessibility;

—Ensuring that communication services, materials in alternate format and full accommodation for persons with disabilities is provided by ministry staff of the Ontario disability support program offices. Consumers are currently being asked to sign documents they cannot see or read, without any accommodation provided by staff in these meetings;

—Making the entire system of providing income support for persons with disabilities through the Ontario disability support program more responsive and accessible. Currently, the application for income support cannot be completed by most due to the complex nature of the documents. Most applicants have to wait two years before they receive benefits because approximately 90%

are refused initially and the appeal process is so lengthy; and

—Ensuring people have Ministry of Health funding that pays for the full cost of wheelchairs and other devices before we look at anything like increasing parking fines.

1540

The Ontario government can start to “improve opportunities for persons with disabilities,” “remove and prevent barriers” to enable persons with disabilities to have “full participation in the life of the province” by addressing the barriers in existing programs and services. The Ontario government can start this process now.

The Ontario government can, at the same time, start to work with the disabled community to write the regulations and content of a new bill that can truly be called an Ontarians with Disabilities Act.

We know from past ODA consultations that the private sector are not against disability legislation, not for access or for employment. What they do want are clear guidelines and clearly stated compliance regulations. What they do not want is a paper nightmare of reports to file back to the government.

We also know from community surveys conducted in Ontario that the general population supports the creation of effective legislation for persons with disabilities.

It’s a popular misconception that creating equal citizenship for persons with disabilities will cost a lot of money. Actually, having these consultations under the standing committee on finance and economic development rather than citizenship supports this misconception. There are many ways to start to level the playing field towards equal citizenship for all Ontarians that do not have large price tags. The way to make that happen does not need immediate passage of disability legislation as a first step. The Ontario government has the ability to start that process under existing legislation and then moving that positive example of what can be done into the wider community.

In closing, we make two requests:

(1) The existing government must make an immediate commitment to revise existing legislation to improve access and opportunity for persons with disabilities; and

(2) The Ontario government must make an immediate commitment to persons with disabilities by working with them to include consumer-approved principles and guidelines in an Ontarians with Disabilities Act that would be mandatory and provide for access and opportunities that are deliverable, with implementation strategies and specific timelines.

PUSH Northwest would be pleased to work with Minister Cam Jackson toward that collective goal.

Thank you very much for your attention to our comments. Ron will be pleased to answer any questions that you may have.

The Chair: Thank you very much. We have time for one minute per caucus and I’ll start with Mr Martin.

Mr Martin: It’s an excellent presentation. I think this is the first time a group has come forward to suggest that

there may be other approaches here than simply pushing ahead with an ODA that, in fact, doesn’t do it in the end anyway. That’s important to point out, because at the end of the day some of us may not be able to support this act if it doesn’t have the amendments that have been called for consistently over the last while.

I also appreciate your reference to changes that are necessary to make life accessible for people with disabilities as not being as expensive as some would portray, and that may in fact be the case. My sense is that we don’t have an act in front of us today with any teeth in it because the government thinks it will be too expensive and they don’t want to put that kind of cost on to institutions, municipalities and the private sector. As I raised earlier, what is the price of a person’s human rights? It’s in the paper today, because we passed a bill last week, that we’ve bumped up delivering on a promise to corporations between \$2 billion and \$3 billion in tax breaks, but we can’t come up with a little bit of money that’s required to make sure that people with disabilities can participate in their communities. Perhaps some comment on that from you.

The Chair: With that, Mr Martin, I have to bring it to an end. We only have a minute so I have to go to Mr O’Toole.

Mr O’Toole: Thank you very much for your presentation. It clearly demonstrates how very, very far we have to go.

Ms Warf: You can start now with the current legislation.

Mr O’Toole: I think that’s exactly my point. We have a long, long way to go, and we can posture for the next 15 years about finding the right balance, participation etc. I’m not in disagreement with you. I want to state what you said back to you in a positive way. This is a starting point.

I want to completely refute one point. You said that assigning it to the economic and finance committee is another distortion or something. That is absolutely an incorrect assumption. Critics from each party have been there. Mr DeFaria is the critic for Jackson. The name of the committee is immaterial, and for you to put that on the record disappoints me. It’s trying to conjure up some sort of—that has to be corrected. You’re adding to the misunderstanding of this consultation.

In terms of definition—again, as strong as your argument is, I am as passionate in the same direction. In subsection 2(1)—

The Chair: You have 20 seconds.

Mr O’Toole: —just clearly, in the definition of “barrier,” I could as easily make the point that not specifically in detail regulating those things that are barriers, this says anything that is not an obstacle to other persons. It doesn’t assume things like anxiety disorders, things that haven’t yet been coined or termed. So we’re getting caught in minutiae of language, and I just really feel that the definition today is very inclusive.

Mr Ron Ross: If I can answer that quickly, the one thing on cost—and I guess the standing committee on finance indicates that there—

Mr O'Toole: The only committee that had time.

Mr Ross: Granted, and we'll take that report at your word.

We're in favour of this legislation if this committee goes back and looks at those amendments that are being recommended across the province by the people with disabilities who live with disability and those amendments are put into the legislation. But if the legislation goes forward as it is at this point in time, people with disabilities—it's like Marilyn said—are signing a contract in support of this and they don't know the goods in it. I'll leave it at that.

The Chair: The official opposition, Mrs McLeod.

Mrs McLeod: Just for a comment first and then my colleague has a question. I did want to thank Ron and Marilyn for a superb brief. I know that the committee feels that very often. We aren't sitting as regular members of the committee, but I've heard expressed here similar briefs in different parts of the province. But I think you would have to say this was a unique one that's obviously reflected a lot of work on the part of PUSH.

One of the unique things I was struck by was the fact that this bill had been referred to the finance committee, which I think does reflect a concern about the cost, and that's inherent in the nature of the bill. Anybody who thinks that the government is not going to be concerned about the cost of a disabilities act—any government has to be. But the aspect of the social justice is perhaps a little bit missing when you refer it to the finance committee, and I say that as opposition whip for the social and justice committee that is spending its days before Christmas dealing with food safety and nutrient management, which potentially could have gone to another committee while this bill came to a committee that was supposed to be dealing with items of social and justice policy.

Mr Gravelle: If I can ask a quick question, and say to Mr O'Toole that to take a shot at them for making that point—

Mr O'Toole: I didn't.

Mr Gravelle: You did. You more or less accused them of doing it deliberately. They were responding honestly to what appeared to be a sort of deliberate thing by the government to make a point. I just don't think you should get upset with them.

Just quickly about the private sector: you made the point about the fact that the private sector is not opposed. You did your own consultation, it seems to me. You had a gathering last summer. Can you tell us a bit about that in terms of bringing in some of the private sector people?

Mr Ross: There have been a number of consultations in this area and the private sector has been there.

Mr Gravelle: Exactly.

1550

Mr Ross: The private sector has supported the principles behind the ODA.

I'm a little familiar with the ADA, and we were hoping this would be modelled after the ADA. It's mandatory. It applies to the private sector, it applies to the public sector, it applies to government, and it's working.

People with disabilities don't expect all this to happen today or tomorrow or whatever. They realize it's going to take time. They're looking at legislation that is going to supersede all other pieces of legislation and there is conflict here already.

We did put right in your packages—and we wish that ARCH had presented a paper, but I think the newsletter is there, the ARCH Alert, which is a legal opinion that also looks at some conflict between this piece of legislation that's being proposed and existing legislation that could reduce some of the benefits that we do have now as people with disabilities. In fairness, we tried to present an overall picture.

Mr Gravelle: A great job.

The Chair: On behalf of the committee, thank you very much for your presentation.

Mr Hardeman: On a point of order, Mr Chairman: Not to take away from the presenters, but in the last presentation there seemed to be some concern about committees. I would just point out for all present that there is no such thing as a standing committee on citizenship, and so the recommendation is—

The Chair: I don't think we'll have the debate here today. I am sure that people can look at the background of committees and I'll leave it at that.

THUNDER BAY AND DISTRICT INJURED WORKERS' SUPPORT GROUP

The Chair: Our next presentation is from the Thunder Bay and District Injured Workers' Support Group. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome.

Mr Steve Mantis: My name is Steve Mantis. I want to thank you for coming to Thunder Bay to hear what folks here in the great northwest have to say. I want to thank you as well for bringing the bill and some of the supporting information in alternate format. I think that is a step forward, and it would be nice to see that type of behaviour in all aspects of government business, not just on the Ontarians with Disabilities Act, because, as citizens, people with disabilities are interested in all kinds of legislation, not just those that are specifically focused on us. In a way, that's reflective of some of my comments today.

I'm going to talk a little bit about injured workers. I'm an injured worker. I got hurt 23 years ago. There are over 300,000 workers with a permanent disability in Ontario today. The minister talks about 1.6 million in Ontario total, so about 20% of that total is workers who have been hurt at work. Every year there are about—it depends on the year—350,000 workers with a temporary disability, both of which are included in the definition that this legislation would apply to. So in an average year

you can be looking at half a million people, whether it's temporary or permanent disability. Here we're talking about a group of people who have established work histories. Of that group of workers with a permanent disability, in Ontario the vast majority are chronically unemployed. The stats themselves from the WCB show that since 1990, after the wage loss system was brought in, 78% were unemployed three years post-injury. Research that was done by our national organization, the Canadian Injured Workers Alliance, found similar numbers across the country—74%. Of those, two thirds are living in poverty.

Here we have workers who are out there working day in and day out. If they get hurt and they end up with a disability, what happens to them? Here are the ones among the folks with disabilities who in a way have a head start. We got to establish a bit of economic security. You get disabled and now you could live in poverty. I can see that this would create an interest from the government or any concerned citizen that this has to be addressed. So when I reflect I go, "Jeez, this purpose looks really good. You know, "We're going to work with people with disabilities. They're going to be in charge"—not in charge, but they're going to be a player in making this better. I don't think the minister talked to any injured workers, or certainly not to any of the groups that represent injured workers, when he brought this bill forward. So I start scratching my head.

Then I read through the bill and I try to understand how it's going to make life better for workers with a disability and I can't figure it out. I can't figure out how it's going to help us. It makes me kind of feel good that people are thinking that we should have more opportunities and that we should be fuller participants, but that doesn't last that long. It's the results that I think we want to see.

What we've seen among our membership is that 90% of injured workers want to go back to work. They want to be there, they want to be full participants in society. We know that if you don't have a job, and a decent job, chances are you're not really going to be a full participant in our society. We really equate work with full participation in a very big way.

When we look at this proposed legislation there's no real mention about employment. There's a little bit. Government departments are supposed to give training to their supervisors so that they know a little bit about disability. That's positive, but will it really make an impact? Hard to say. We can look at the private sector. The Royal Bank has tremendous programs, awareness programs. They have people designated around disability issues and they do education, and the percentage of workers with a disability working for the Royal Bank is falling. So I guess that's not enough. There's got to be more.

When we look at some of the research, and I talk in my paper about it—I happen to represent the Ontario Network of Injured Workers' Groups at the research advisory council at the WCB and so I've been reading

more research. You see that research that's been done right across Canada shows that if people with disabilities are to be full participants, the one factor that's critical is education. Now, I'm not sure what it's like in your communities, but in this community we're hearing stories that those special-needs teachers who work with kids with disabilities are disappearing, for whatever reason. Whether it's budget cuts, reorganization or priorities, I'm not sure.

Then we're at Confederation College and, Jeez, 10 or 15 years ago they had this great access centre where people with disabilities could go and get help. Their funding is disappearing and now people with disabilities are having a hard time accessing the accommodations they need to be successful in school. Here we know that education is a key, but what's happening? In the present environment, people with disabilities aren't getting the assistance and the accommodation they need to participate fully.

I've heard a number of speakers this morning, and I'm sure you've heard way more, saying, "Look, this legislation needs to be strengthened for it to really have an impact." I agree with that, so I won't go over all those same points. But once again I reflect back. OK, this legislation's passed and now we're dealing with WCB. That's the organization I deal with. That's who those over 300,000 workers with a permanent disability deal with. So how's this going to help? Here's the organization whose goal is, from what I understand, to help people, once they get hurt at work, to recover and lead full lives again.

1600

I mentioned that research council I sit on. I can leave a copy of this with you, if you want. This is one of the first research studies that was funded through the WSIB. It's very unusual because it actually involved workers with a disability on the research team to set what the issues are that these workers face in returning to work. Let me read you a couple of little things from this.

Here's a quote from an injured worker, talking about going to the WSIB: "They feel that you go in there to get money, free money. You don't want to work. But I can tell you one thing from my heart. Honestly, I don't want free money. Everything in my house here I worked for. My religion teaches me that."

So here's an agency of the government that's supposed to help you recover. You're hurt, you're off work, and rather than trying to help, they make you feel like you're somehow a thief, that you're somehow doing something wrong.

It's interesting. Another piece of research done in Ontario, about three or four years ago at the University of Toronto, found that by being involved in the WCB system, your chance of disability increases. You become more disabled by having to deal with the system.

This also lays this out. Some 1,500 injured workers, taken at random through the WCB and WSIB, were sent surveys in the mail and responses came back.

They were asked this question: "My benefits are adequate for me and my family to meet our needs." The people who responded positively either agreed or strongly agreed. So 32% said, "Yes, my benefits are adequate for me and my family." I guess we're looking at 68% who were saying, "Benefits aren't adequate. I'm starting to fall behind."

Some 21% said, "While I was on benefits, I was afraid to do regular daily activities in case I might lose my benefits." You want people to get better. You want them to go out and do as much as they can. People are afraid, because the system is so adversarial.

Some 34% agreed, "My health and well-being were negatively affected by the claims process." So one third felt their health was deteriorating because they had to deal with an adversarial organization.

And 45% said, "I felt stressed out by the claims process." We know that stress can have a negative impact on your health. You want to get better. Don't you want support? Don't you want an agency that's going to help you get better?

It's interesting. When they talked about dealing with WSIB staff, when they were questioned, 39% said they thought the WSIB staff understood their situation. Less than half. So 41% said they "thought WSIB staff were honest with me." Only 36% said they thought, "WSIB staff were committed to deal with my case."

Here we've got an organization that is an agency of every government in Ontario. It's supposed to help, yet people are saying, "I can't even trust them. I don't feel like they're being honest with me. I don't feel like they're there to help me." So I'm saying, "OK, we need help to deal with this issue." I look at the ODA and I'm saying, "Where is the help?" Really, I'm coming to this committee and saying, "Can't we do better? Can't we hold accountable the agencies we already have, which are supposed to actually provide this service now? Can't we do better?"

The Chair: For clarification, are the stats you just quoted in the booklet you're going to provide?

Mr Mantis: Yes, I'd be pleased to do that. I only have one copy.

The Chair: No, that's fine. We'll make sure we have reproductions from it.

We have approximately a minute and a half per caucus.

Mr Carl DeFaria (Mississauga East): Thank you, Mr Mantis. I really enjoyed your presentation, what you have reflected. I have practised law in a community where most of my clientele were workers, and a lot of them were people who had to deal with workers' compensation. I completely understand how you feel about it. But the problem we have is a systemic problem that we have had with government delivery programs. I can tell you that those people working in those ministries are members of OPSEU. They are supposed to be there delivering the programs in a most respectful way to the people who are entitled to the programs. When the Liberals and the NDP were in government, workers felt

the same frustration. It's devastating. Our government has been having the same problems and we are trying to deal with them.

With respect to this bill, what it takes is a commitment. What our government has indicated is a commitment to deal with Ontarians with disabilities and find a way to deliver the services that are required and remove the barriers that are there. From all the presentations we have had, we have gotten more than 50 or 60 revisions of this act. So most people have different interpretations of what should be in the act.

The act is a living type of document that will have different committees submitting suggestions for regulations, and what may happen is that some regulations may not cost the government any money and those will be implemented, obviously, as fast as the government can. But it's very difficult in the act to provide all the measures, because different disabled communities have different concerns and problems. We are trying to deal with it. I understand your frustration, and as a government we are committed to try to respond to it.

Mr Gravelle: Thanks, Steve, very much. It was very strong and clear, as always when you make presentations. You're so right about rehabilitation, how there needs to be a renewed focus on it. It's a question of many things, obviously, in terms of treating people properly, but it's also a benefit to society to do that as well. So I think there needs to be a refocus.

I was fascinated, as I was glancing through your presentation, about the Federal Republic of Germany and I would love you to tell the committee a little bit about that. I know it's here, but it would be great to have it on the record. Tell us how they treat people with disabilities and the history. It's pretty fascinating and pretty impressive.

Mr Mantis: I'm not an expert on this, but I was given the opportunity to spend two weeks in Germany on a study tour in 1990 to look at the system of rehabilitation and employment for people with disabilities, specifically workers with disabilities, but we covered a broad range. They have a multitude of programs and services to ensure that people with disabilities have the opportunity to work. If you want to work in Germany and you've got a disability, there are programs and services there to ensure you will get a job.

I think one of the key ones we have seen, and I have seen analysis done on that, is a system they have that would be called a grant-levy system. Very simple: employers are required to employ 6% of their workforce as people with disabilities. The government is 10%. If you don't have that number you pay a fine every month, I think it's DM200 every month, and that goes into a special fund that is allocated just to help workers with disabilities to either get rehabilitation or to modify a workplace or for special programs to help them cope and become productive in the workforce. It's very simple, simple to administer, and it seems to work very well.

1610

Mr Martin: Just to clarify something maybe for Mr DeFaria and perhaps others, I've been sitting on the committee since the beginning and I don't sense there's a myriad of suggestions coming forward for amendments to this bill. I think everybody, almost to a person, has said, "We support the amendments being put forward by the ODA Committee," because this has been a very coordinated and collaborative effort for quite some time. Are you supporting that set of amendments as well today? Are you suggesting here today, because you've obviously been in the loop, that if we move to adopt those amendments, we will have a bill here that might actually do something?

Mr Mantis: Yes. Honestly, I haven't read through all their amendments. I've got this other job and everything else to do. I can definitely say I support the 11 principles they brought forward and the initial brief they put together a week and a half ago. I've read through that and I support that. I think it would be safe to say I support their amendments as well.

Mr Martin: So there really isn't a whole lot of confusion about what it is that the people living in the community who are disabled are asking for here.

Mr Mantis: Right.

The Chair: On behalf of the committee, thank you very much for your presentation. I'll try to give you your book back if we can get it photocopied.

Mr Mantis: That's OK. I have another copy at home, but I only had one here.

The Chair: Thank you very much.

CANADIAN NATIONAL INSTITUTE FOR THE BLIND

The Chair: Our next presentation is from the Canadian National Institute for the Blind. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome.

Ms Pat Seed: My name is Pat Seed and I am a person who has been blind all my life. I am registered with the CNIB. I thank you for calling for comments about this bill and for giving us a chance to give you some input and cover the things we feel might be improved in the bill, and also to congratulate you for the things you are currently doing.

First of all, when I say "blind," I am covering people who are visually impaired or, if you will, have limited vision, people who are totally blind and also people who are deaf-blind. I don't know if you know this or not, but people who are blind can also have other disabilities. They may use wheelchairs. They may also have dyslexia and all kinds of things. So it really covers a great deal of people. There are about 30,000 people who are blind and visually impaired in Ontario. As I say, we're talking about the blind, those who are visually impaired and the deaf-blind, and the barriers people would have and face every day in their work.

One of the things they would face is access to information. What needs to happen is that items need to be presented in alternative formats, especially where the government is concerned. Not all people who are blind read Braille. There is about 5% of the population who read Braille; however, a lot of people use computers, a lot of people use audio tapes. All these things need to be taken into consideration when you're looking at alternative formats and also in the areas of how a person learns, be it education or employment. Employment is really one of the largest barriers that we see.

Another thing I can tell you is that the format that one person may need, even if they are totally blind, may be different from the format of another person. In other words, a person who has MS, for instance, or diabetes may not be able to read Braille if their fingers are not as sensitive because of the disease they now have, as a difference from people who are blind from birth and don't have any of those disabilities. What you're looking at, then, is a difference in the needs of people, and you can't blanket-statement one group needing something and another group needing that same thing.

The amount of vision that a person has varies from person to person, so when we're talking about access to information, we're talking about computer screens, we're talking about barriers even as far as buildings go, where contrast strips, for instance, are needed for people to know where the stairs begin. All this needs to be put into the building code. While I'm on the subject of wording, it really is difficult when you say "feasible amount of time" or something such as that. It needs to be more exact. It needs to be that this "must" happen, that these changes "must" happen. The bill needs to be stronger in its statement of how these requirements need to be changed.

I mentioned the contrasting strips. Also, with obstacles that are in the way, we are talking about not only people who are in wheelchairs, and you know things about ramps and things like that, but many people don't think about the fact that people who are blind or visually impaired may not see, say, the Christmas tree in the middle of the lobby or they may not see a staircase which is overhead for the trains that are travelling above. They may not see the moose in Toronto in the middle of the sidewalk. So it really, really is difficult. Those kinds of barriers can really get in the way.

As far as places you would go, restaurants and everything like that, lighting is so important. I know in so many situations, people think the lighting has to be romantic in a building or it has to be low so that people are not getting excited or it has to be a certain lighting, a certain colour of lighting for a certain aspect to happen in a room. Really, some people need light right at their position. If you have a conference where you're taking notes, tables are much preferable if you're setting up a situation where you have a conference and people have the ability to take notes. As you can see, this is a Braille light. It would be pretty difficult to write on my lap with that kind of thing. People who have some vision would have difficulty writing on their laps too because some-

times they have to get down close and really look at the item and look at what they're writing. So the lighting you provide is very, very important.

It's always important to orient a person to their surroundings. As you saw when I began to sit down, I was shown where the microphone was, I was shown where the glass of water was and so on and so forth.

1620

Computers are a real big plus for people with vision limitations. Really, with so much being produced on computers, there is absolutely no reason to consider the "feasibility" of a document being in alternative formats. It's feasible, it can happen, so therefore should happen. I have helped others become familiar with the computer and get the information that they need.

Textbooks and things for employment and so on and so forth are very important. The assistive devices program is very, very important. We would not like to see cutbacks in any of the programs that really assist people with vision limitations: the employment supports program and so on and so forth. It really means that these programs need to be highlighted. People in the community need to be made aware of them, people on the governmental level. When people call the offices of their constituency, they need to be able to find the information they need.

As far as the Internet is concerned, there is really a big problem with Internet access. If you notice, on many access sites or Web sites, you'll have buttons going down, you'll have buttons going across and so on and so forth. If a person is using a screen reader to read the screen, which basically talks the information through, then they may be able to use a certain command to put those links in order, but they may not be able to. You follow one link. You're going in a certain direction. Whoops, all of a sudden on the next page you've got the same links repeated all over again, but you have to hunt for the link that you were originally looking for. Sometimes, when you go on that link, that puts you right back where you started from. So really a lot of thought has to be given to government Web sites and such so that they really are accessible, and that can happen.

The word "handicapped" is not one that we basically use. We use the term "disability," because within the term "disability" is the word "ability." I think that's very important. The word "handicap" actually came from England, where they used to talk about "cap in hand," thus the word stuck. The whole point of this is that terms like "reasonable accommodation" and "feasibility" and so on and so forth really need to be much stronger and much more exact in what is expected. You as government officials getting all of this feedback today, it's wonderful that you're doing this. Now what we need to do is ask you to take all this feedback back to your offices and work at this bill again and change some of the wording so that the timelines aren't so long, so that it's not just a general feasibility, but we expect items in alternative formats and so on and so forth.

Training is also needed for people with disabilities to be able to use the different devices and the different things that they have to use as far as equipment goes, and some of that is very, very important. As I say, I cannot stress alternative format enough. Sometimes that may even be a phone. That even may be a hotline or a phone type of situation, where a person doesn't have a computer in their home and they need that same aspect.

Municipalities: as far as elections go, the forms—any forms that come from the government—need to be in Braille, on tape and in large print so that the person can get the item that is best for them to receive. Not only that, though; they need to be able to get possibly even two or three forms of the same thing. In other words, if they get a large-print form and if they happen to be reading it on their closed circuit television, which enlarges the letters, or if they happen to be reading it on a Kurzweil scanner, which is a reading machine, and it makes mistakes, then they need to have a taped copy so that they can go through that taped copy and figure out, "What words am I missing? Where am I going? What does the information say?" and so on and so forth.

So I think it really has to be stronger. I not only say that, but I really hope that those who are presenting today in this area—and I do think that northwestern Ontario needs to be addressed as a separate area because of the fact that we are not as close to a lot of access and a lot of places and so on. So I think that the information you gather today needs to come back to the agencies that have presented it, which can then present to consumers once more for the final time and say, "OK, we've heard what you've had to say. We have taken that into consideration." We then present it to the groups and the community groups can look at it and say, "Yes, this is what we want. This is what needs to be done, and thank you for it."

Believe me, the more you go through with that and the faster you get things going, it's going to be to everyone's benefit. I'm sure that on a government level you would like this out of your hands as quickly as possible so that it can get started. This is the first step in doing that.

Does anybody have any questions?

The Chair: We have a minute per caucus, but before that, I don't think you were here, but we do have copies of the bill available in Braille, we have an audiotape and also a disk. So if you want a copy, we can provide you with one.

Ms Seed: OK.

The Chair: I'll start with the official opposition.

Mrs McLeod: It's Lyn McLeod here, Pat. First of all, thank you very much for your presentation. I wondered whether or not you did have a copy of the bill in Braille prior to being invited to speak to the committee today.

Ms Seed: I have a copy of the ARCH Alert, but I don't think I have a copy of the bill. That's another thing, and I'm glad you brought that up, actually. Information needs to be known, not only through the organizations, but when you do your media announcements, make sure that in those media announcements the forms are there,

make sure the names of the forms are there, not only on the screen but audibly. So many times we see commercials, and the number to contact a particular office of government is on the screen and we don't know what it is.

Mr Martin: Thank you for coming today and for taking the time to prepare so well and to make such reasonable requests of the committee and of the government. I agree with you that the wording needs to be more exact and we need to take out things like "where feasible" and "reasonable accommodation" and those kinds of things. We refer to those sometimes in the business as weasel words, and we've all done it. When we were in government, we were accused of using weasel words too, and they come back to bite you eventually.

You talk about training. I guess that's where I wanted to just dig a little bit deeper.

Ms Seed: OK, sure.

Mr Martin: We used to have the VRS.

Ms Seed: Right.

1630

Mr Martin: To be honest with you, I'm not quite sure what we have any more. Could you describe or are you aware of what—

Ms Seed: There is the employment supports office right now and as far as the CNIB is concerned, there really needs to be more money put in their hands to be able to assist with training, because we actually have someone from Sudbury coming up to assess people only twice a year and that's all that can be afforded. There is no one for assessing in this whole area, for actually really knowing the equipment and really being able to travel throughout northwestern Ontario. It's only by knowing the equipment and by using the equipment, regardless of whether the equipment is used at home or for employment or for education—I know that, for instance, with one of the school boards a piece of equipment like this was gotten, a Braille light was gotten for a student and the student was not able to take it to his home, even though he was using it all year. It did him some good in the school, but then when he wanted to study and he wanted to read his notes at home, he couldn't. So I think that there really needs to be a look at giving the information to employers and being able to assist employers and have programs in place for employers to get the information. The one thing, if the person themselves has the equipment, say, through the assistive devices program or the employment supports program, that equipment should be able to travel, to go with that person so that if they do move to another job, they have it.

Mr Hardeman: Thank you very much for the presentation. I was really impressed with your description of the problems you run into on the computer. I want to tell you that I run into those problems, and I don't have the challenges that you have to face. You lost me halfway through your description. So I was really impressed, not with wanting to learn the computer but when you were explaining about the word "handicapped" and the word "disability" and describing that the word "ability" was in

"disability." You've definitely proved that in your comments about working with the computer.

I was also impressed with your comments about an ad on television and the most important part that is required, if you want to comment on it, is the number and the place where you can make a contact. You are right, and I think the majority of the time that is just printed on the screen.

Ms Seed: Yes, it is.

Mr Hardeman: These are the types of things that I feel are so important about having these type of hearings, to make sure that you hear it directly from, what we call it out in the country, the horse's mouth as to what's really going on out there. I've watched these commercials a lot of times and agreed with some and disagreed with some, but I never gave any thought that some people would not be able to read what wasn't audible. So we very much appreciate your bringing that forward and taking the time to make that presentation to us today.

Ms Seed: I would like to add only one more thing and that is in the area of computers. Sometimes it is difficult for people who can see to teach computers, because they are working with a mouse and so on and so forth. But when you are blind or have a great deal of vision loss, you have great difficulty in working with a mouse with a computer. Just any of you who have computers, go home tonight and try and work it with your eyes closed and see if you can find the keyboard combinations that will give you the results that your mouse would give you.

The Chair: On behalf of the committee, thank you very much for your presentation this afternoon.

DAVID SHANNON

The Chair: Our last presenter, and sorry that we're running a bit late, is Mr David Shannon. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

Mr David Shannon: My name is David Shannon. I'm a lawyer in the city of Thunder Bay. I'm a person with a disability. I'm also a part-time member of the Ontario Human Rights Commission board of inquiry. More than half of my practice is in the area of disability law and mental health law. Also, my graduate legal studies were a concentration in the area of the international protection of human rights.

As a result, what I'll share with you today is a personal view. I don't come here representing a client. I don't come here representing an organization. I've had the opportunity to read and review the legislation and perhaps of that I can speak. I also want to add that it's a great honour to be in the riding of Thunder Bay-Atikokan and to present before Lyn McLeod today and to all committee members.

In an article to be published soon that was written by Terry Blackwell of the Louisiana State University Health Sciences Center, which was entitled, *The Impact of the Americans With Disabilities Act on Independent Living*, he writes:

“Although the government can legislate laws, it cannot legislate peoples’ stereotypical or sometimes prejudicial attitudes. They result from misunderstanding and discrimination, and result in low expectations about ... people with disabilities as ‘patients,’ ‘wheelchair-bound,’ ‘suffering,’ and as objects of pity and charity, or conversely as individualistic ‘superheroes.’ Despite the external barriers that persist, with the growth of the independent living movement and since the passage of the” Americans with Disabilities Act “and other disability civil rights legislation, more people with disabilities have been able to fulfill a variety of roles in their communities and establish lives of independence.”

The government of Ontario should be congratulated for being the first jurisdiction in Canada to attempt to further remove the barriers faced by persons with a disability through the new ODA bill. I might be one of the few persons to make that statement in Ontario, but as Professor Blackwell noted, it is extremely difficult to legislate the removal of prejudicial attitudes, but legislation can create a context for a more socially inclusive environment. These attitudes can be reshaped through greater working relationships and the development of mutually beneficial strategic plans.

The new ODA is a key first step in achieving this goal of the social integration of persons with a disability because it brings this community, the community of persons with a disability, to the table in an equal and meaningful way. It is very important to note that ministries, government agencies and municipalities will be held accountable for perpetuating barriers and will be expected to produce plans for the removal of those barriers through an annual report. This initiative will be very important for the long-term removal of barriers that have failed to be removed, although the problems they cause to persons with a disability have been a matter of much public awareness for over 30 years.

I understand that this bill has been criticized for an apparent lack of enforcement options or enforcement mechanisms against wrongdoers. These critics should be aware that enforcement mechanisms for persons with a disability exist under the Ontario Human Rights Code, and the legal standard under that code compels the respondent to provide accommodations up to the point of undue financial hardship. I also appreciate a key point made by these very critics when they complain that the Ontario Human Rights Commission is a slow and frustrating process. I submit then that the concerns should not be with respect to the potential of the law in removing barriers, but focus should be on a review and improvement of the service delivery at the Ontario Human Rights Commission.

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It is often said that the proof is in the pudding, and the new ODA will provide a great opportunity to test this saying by considering the development of the accessibility directorate, the Accessibility Advisory Council of Ontario and the regulations that arise from the new ODA. A strong and committed directorate can provide a bril-

liant opportunity for the development of progressive policies and guidelines. A panel of experts working diligently to receive and advise upon annual reports will be a great asset to the Minister of Citizenship in creating the vision and the implementation process for a barrier-free Ontario. There will therefore be a difficult task before those who will be seeking to find persons with the knowledge, diplomacy skills and the disability perspective that will be required to bring credibility to the accessibility advisory panel and to drive the potential of this legislation. Without that key piece of recruitment, I fear that then the legislation may be left to fitter.

Finally, I note that there is not a mechanism for alternative dispute resolution and/or mediation within the ODA bill. The absence of mediation could lead to an adversarial process pitting the access advisory committee against all those who come before it or allow for a shame-based media circus where a ministry or municipality is publicly flogged in the media. This is not a positive step.

Complaints under the Americans With Disabilities Act are usually resolved through mediation without the need of a hearing. Also, in Ontario, more than 80% of the cases brought before the Ontario Human Rights board of inquiry are successfully resolved through mediation. From this process, both the complainant and the respondent leave with a deal they both can live with, their dignity intact and with greater knowledge respecting how to function in a discrimination-free Ontario. I urge the committee to consider the inclusion of mediation services either by way of amendment or regulation.

I thank you, Mr Chair and all committee members, for the opportunity to meet today and indicate my support for the legislation and my belief that with appropriate ministry commitment, the ODA will be an important tool in the eventual removal of barriers faced by Ontarians with a disability and, furthermore, my belief that the ODA can change attitudes in order to decrease the all-too-pervasive prejudice against persons with a disability now in Ontario.

The Chair: We have approximately three minutes per caucus.

Mr Martin: Thanks for coming today and for taking the time to look at this piece of work that we’re about and to make the, I think, very concise and meaningful suggestions that you’ve made this afternoon. You may be the first and the only one who came to say what you—I’m not sure now. Members of the government?

Mr Hardeman: There have been a couple.

Mr Martin: There have been a couple, yes, and I’m sure you’ll highlight those.

Interjection: Qualified.

Mr Martin: It’s qualified. But I will say this: you’re not the first to come full of hope that in fact this act is a beginning, is a first step, is a light at the end of a tunnel that some people have been in for quite some time.

I just wanted to ask you about the Human Rights Code and if you have read any of the critique, particularly by some of the legal clinics and ARCH, that in fact this bill

sets a floor that's below some of the requirements in the Ontario Human Rights Code and may in fact, by doing that, reduce the protection that some of the disability community have.

Mr Shannon: I would disagree with that because nothing in this bill takes away a person's right to bring forward a human rights complaint. So that still exists, and not to forget that then there is both the Supreme Court of Canada's recent decision in Meiorin and also the Famous Players decision of the board of inquiry where in fact Famous Players is going to have to either renovate, make their cinemas accessible, or close down within the next year or two. So those levers still exist.

There is a problem, though. There is a problem of slowness at the commission level. You can file a complaint and wait at least two years before it's going to be heard before the board of inquiry. That is not justice. That's justice denied.

I would disagree with those at ARCH, because what I see in the ODA is essentially a Canadian approach to dealing with hard issues, and that is getting to the table in an equal way and finding a conciliatory approach to resolving problems. We Canadians, you know, have committees, we have royal commissions, we have meetings and we resolve problems through a dignified process. I think that's the Canadian way rather than a hard-nosed litigation model of the United States.

Mr O'Toole: Thank you very much. I just wanted to first thank you, Mr Shannon, for bringing some academic insight into an issue that I'm sure you've had a great deal of experience with, serving with the Human Rights Commission. I respect that—

Mr Shannon: Board of inquiry.

Mr O'Toole: Board of inquiry. Pardon me. But it's important to be on the record that you are in the process, you see it as a process, that it's separate and still there.

I also respect the fact that you say that there should perhaps be a review. If that's the enforcement provisions with complement to this, it's probably an appropriate note to make.

Also, I more or less espouse—you're right—that it is a Canadian model in the respect that the mediation aspect for us would be the most appropriate model if there is a disputes mechanism at all. I prefer that to the courts—less confrontational is the point you made—I think in the areas we're dealing with.

I would just ask one question. You referred, and a few presenters have referred, to the American model. It is a national model which levels the playing field, so to speak, for all jurisdictional areas whether it's provincial, municipal or unorganized territories. Is there a role here for the federal government, besides the Supreme Court, to engage in this process? They do regulate some of the transportation areas and some of their financial institution areas, you know, because of cross-jurisdictional—could you just comment on the role of the federal government, or the lack of it, in Canada?

Mr Shannon: I would love to see a Canadians with Disabilities Act. It would create the framework perhaps

in the same way the charter has created a brilliant framework for all of us to aspire to, and of course the charter is modelled after the United Nations covenant on civil and political rights. That's where, first, the federal government could create a framework or a system for all jurisdictions to aspire toward. Indeed, funding is always important, but I'd look at the Canadian Human Rights Act and where the federal government could certainly, in the area of transportation, trains, air transportation—I understand you had some trouble with your air flights yourselves to get here. They could make such great progress and there continues to not be the kind of progress that we, as disabled persons, would hope.

While we're on the topic of the Americans with Disabilities Act and talking about that federal legislation: right now, according to Professor Blackwell, only 8% of the complainants who bring forward complaints based on discrimination in the employment sector succeed. In Ontario we want to have better than that, and I hope the ODA is better than an 8% success rate. If ARCH feels that this goes below the present Human Rights Code, I don't think you can get much worse than 8% success.

The Chair: Thank you very much. Ms McLeod.

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Mrs McLeod: Thank you very much, David. You and I have talked about this, and you know we have agreed to disagree about whether this should be supported as a first step—

Mr Shannon: Happily too, yes.

Mrs McLeod: —recognizing that it doesn't go far enough along. As you know, my position and the position of the Liberal caucus in the Ontario Legislature is in support of the position taken by disability groups that have presented today, which is to say that without amendment, the bill should not be supported. I guess, given the time frames, I'm extremely concerned that the kinds of amendments that need to be put in this bill to make it a really meaningful piece of legislation are just not going to happen. We can always be hopeful. We have exactly two legislative days to make the changes under the time allocation motion, as I understand it.

I'm concerned about a couple of things in the presentation you made. One is that an Ontario-made model, any Canadian-made model, while I too would grant government the credit for having brought forward a piece of legislation, should not be falling so far short of the Americans with Disabilities Act model. We can do better than that, as Steve Mantis just said. But specifically I'm even more concerned that the bill does fall short of the standards set in the Human Rights Code. I agree that going to the Human Rights Commission as a dispute mechanism, as a resolver of issues, is a problem because of slowness.

But I think we've got another problem when this bill becomes law, and I ask you this as a lawyer—at least two areas in which there is a conflict between this law and the Human Rights Code. One is in the fact that this does not apply to the private sector at all, and I think there will be some really legal contentions from the private sector

about whether under this bill they are exempt from any requirements that under the Human Rights Code potentially they would be held to.

The second one—it was mentioned in PUSH Northwest's brief—which I hadn't realized, came up in Pat Seed's presentation when she talked about the fact that individual needs can be very different and that a sort of one-size-fits-all even to a given disability isn't going to work, and yet in the ODA-proposed bill it appears as though it will be only if something affects a group of persons as opposed to an individual that the ODA takes effect. That's different from the Human Rights Code, as you know, where you're dealing with individual applications.

On both those fronts my concern, my question, to you as a lawyer is, are we not compromising what we already have under the Human Rights Code when it comes to giving fairness and equity to those with disabilities?

Mr Shannon: As I had already stated, I believe that this doesn't change the framework created. Whatever legislation is created is still subject to the decisions of the Supreme Court of Canada. The Supreme Court was very articulate in Meiorin in saying that there must be accommodation. It says a lot of other things, but they set the bar very high with respect to the duty to accommodate.

Mrs McLeod: Do people have to go that far, though, David, to get fairness, to the Supreme Court? Do we have to go that far? Should we not build it into our law?

Mr Shannon: Well, no, I hope that now it has trickled down to the tribunal level to create at least the legal test.

Also, I respect what the Liberal caucus's perspective is, because indeed their perspective is to try to improve this bill. One part of me was thinking as a lawyer, another part was indeed as a pragmatist, thinking, "Why don't we take this window of opportunity and get through?" As I had said, I think it will depend largely on the experts' panel, the access advisory committee, as they receive the reports, how they take those definitions and how they use the report also to apply to the private sector. Indeed, where any government funding is to be distributed, there will be accessibility requirements, which has some impact on the private sector. However, I would think with that credible experts' panel they are going to have to create the framework for the private sector, who are also still compellable under the code. But I see the ODA as a first step, and step number two will be the private sector.

In answering that, step two is still required, we still have the code, and the experts' panel is going to have to do a lot of report writing. If what I see is going to evolve into a quasi-judicial body writing lengthy reports to articulate what accessibility means, I think it's going to move quickly from just physical barriers to equating social inclusion, if I were to crystal-ball-gaze. If you have some sharp people there, hopefully there's going to be some exciting report writing from the accessibility advisory committee.

The Chair: With that, we've run out of time. On behalf of the committee, thank you very much for your presentation this afternoon.

Before we recess or adjourn, I need some clarification. There are a couple of items I would like to clarify also for the members. The taxi and the van will be leaving for the airport tonight at 6:20. I would also like to notify the members that tomorrow morning at 9:20, taxis will be leaving the hotel in Sudbury to go to Cambrian College. It's about a 20- to 25-minute ride, I think, from the hotel.

The other thing is that I need the committee's input with regard to order number 46. It reads as follows:

"That the committee meet on Tuesday, December 11, 2001, for clause-by-clause consideration of the bill.

"That, when meeting in Toronto, the standing committee on finance and economic affairs not meet during routine proceedings;

"That the committee be authorized to meet on December 11, 2001, until completion of clause-by-clause consideration....

"That at 4:00 pm on the day of clause-by-clause consideration of the bill, those amendments which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto."

What I need clarification on from the committee is, when are we going to meet on Tuesday?

Mr Martin: I'm not sure how much power we have here in that that motion was passed by the whole Legislature. Perhaps with unanimous agreement we could decide, given that we hear the government is going to table substantial amendments, perhaps to take that block from time from 1 to 4 that we normally take to be in the House, to participate in that part of our day and take whatever time we need that day, even if it goes until midnight, to consider the amendments and debate them and have them passed. Perhaps, if you wanted to put a timeline, I would say midnight, because the House will be sitting anyway.

The Chair: But this is the problem. Under the orders of the House, we cannot meet between 1 and 4.

Mr Martin: But at 4 you've got to put the questions.

The Chair: That's right, at 4 o'clock. But we can meet in the morning.

Mr Martin: Yes.

Mr O'Toole: Tuesday's caucus. It's a very important caucus because it's potentially the last week, we hope.

Mr Martin: You should have said that to your House leader when she put this forward.

Mr O'Toole: I'll find out if we can meet at 8 Tuesday morning.

Mr Martin: It could be more than an hour.

The Chair: I don't need an answer, but at least we can think about it. I'd need some clarification—

Mr Martin: What parameters do we have?

The Chair: We don't have an awful lot of parameters because under the standing orders we cannot meet between 1 and 4—until orders of the day are called.

Mr O'Toole: Chair, I would just like to advise you, the critic, and I believe Ernie is the critic on your side, that with the House leaders—I would encourage you to get together with your House leader to find out if they've worked out something that would allow us to meet.

Mr Martin: Certainly I can talk to our House leader.

The Chair: Can we leave it at that, to contact the House leaders? Is that satisfactory?

Mrs McLeod: I'm not as familiar with the details of the time allocation motion and I'm a visual learner, so when you read it as quickly as you did—do I understand that right now the committee is to meet only on Tuesday the 11th in order to do clause-by-clause, but at 4 o'clock—

The Chair: I have to put—yes.

Mrs McLeod: Which could be five minutes of consideration of amendments, as it stands?

The Chair: No, they could meet in the morning.

Mrs McLeod: But if you met after routine proceedings, which would be the normal sitting time of the committee—

The Chair: You'd have roughly half an hour.

Mrs McLeod: We have to place the questions at 4 o'clock, which means there is really no time to consider amendments.

The Chair: There would be very little time. Yes.

Mrs McLeod: I put this on the record, Mr Chair. It makes a mockery of the entire hearing procedure. We've

had presenter after presenter today make significant recommendations for amendment, and I gather you've been hearing that all across the province. There has been no time left. I think you've got to go back to the House leaders and say, "You've got to have that changed."

The Chair: I think that's the suggestion.

Mrs McLeod: "You've got to withdraw the time allocation motion."

The Chair: So we have agreement that we go back to our respective House leaders to get some direction.

Mr O'Toole: Ernie is our appointment on this.

Mr Martin: Ernie, you and I can talk a bit.

The Chair: OK. And we'll touch—

Mrs McLeod: Before you all leave—

The Chair: You're inviting us for supper, right?

Mrs McLeod: I won't invite you for supper because I was told at lunch that you had much too tight a timeline. But I did want to express thanks on Michael's and my behalf, not only to all the committee members but to all the staff members. We always appreciate the fact that the committee makes an extra effort to come to northwestern Ontario and to Thunder Bay. I know in December that it's an added challenge and sometimes even a little bit of a risk to commit the committee to coming to the northwest, and that adds to our appreciation of the effort people have made. So thank you very much. I hope you have a safe and timely trip back home or to Sudbury.

The Chair: Thank you very much. This committee is adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 1700.

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