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**Official Report
of Debates
(Hansard)**

SP-10

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des débats
(Hansard)**

SP-10

**Standing Committee on
Social Policy**

Working for Workers Act, 2022

2nd Session
42nd Parliament

Monday 28 March 2022

**Comité permanent de
la politique sociale**

Loi de 2022 visant à oeuvrer
pour les travailleurs

2^e session
42^e législature

Lundi 28 mars 2022

Chair: Natalia Kusendova
Clerk: Vanessa Kattar

Présidente : Natalia Kusendova
Greffière : Vanessa Kattar

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 28 March 2022

Lundi 28 mars 2022

The committee met at 0900 in room 151.

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

Consideration of the following bill:

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

The Chair (Ms. Natalia Kusendova): Good morning, everyone. Happy Monday. The Standing Committee on Social Policy will now come to order. We are here for public hearings on Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts.

As a reminder, the deadline for written submissions is 7 p.m. on Tuesday, March 29, 2022. Legislative research have been requested to provide committee members with a summary of oral presentations and written submissions as soon as possible following the written submission deadline. The deadline for filing amendments to the bill is 10 a.m. on Wednesday, March 30, 2022. The Clerk of the Committee has distributed committee documents virtually via SharePoint.

Please wait until I recognize you before starting to speak.

Are there any questions before we begin this morning?

MINISTRY OF LABOUR, TRAINING AND SKILLS DEVELOPMENT

The Chair (Ms. Natalia Kusendova): It is my pleasure to welcome the Honourable Monte McNaughton, Minister of Labour, Training and Skills Development.

Minister, you will have 20 minutes to make an opening statement, followed by 40 minutes of questions from the members of the committees. The questions will be divided into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition members, and two rounds of five minutes for the independent member. I will give reminders of the time remaining during the presentation and the questions. As always, please state your name for Hansard before you begin, and please make sure you make all comments through the Chair.

Are there any questions at this time? Seeing none, I now invite the Honourable Minister McNaughton.

Hon. Monte McNaughton: Good morning, everyone. It's great to start the week off with all of you this morning. I want to thank the committee, through the Chair, for the opportunity to speak to our government's proposed legislation, the Working for Workers Act, 2022.

This second Working for Workers bill will ensure that Ontario's workers are in the driver's seat as we work together to build our province stronger than ever, coming out of COVID-19. Through our bill, including many first-in-Canada measures, we're continuing to lead the future of work.

The landscape of work has been changing for decades, but the pandemic dramatically accelerated the rate of change here in Ontario and around the world. Some of these changes are temporary, but, as we are already starting to see, many of these changes will continue to transform how we work long after the pandemic has ended.

That is why, last year, I appointed a group of experts to provide recommendations on ways to ensure that Ontario leads the post-COVID economic recovery and that Ontario's employment laws continue to protect our workers. Following extensive consultations, the committee submitted their final report to me this past fall, which we published online for everyone to see. They met with over 150 workers, stakeholders, employers and union leaders, reviewed and analyzed an additional 550 written submissions, and surveyed over 2,000 people from every community across the province. Their research and consultations confirmed many of our assumptions about the future of work, such as an increase in remote work, the rise in the gig economy, and the need to address looming labour shortages in the skilled trades, health care and other sectors. Their recommendations have been integral to guiding our government's pro-worker actions over the last several months, including our first Working for Workers Act and the fall economic statement. These actions include first-of-their-kind changes that are already helping people earn bigger paycheques and unlock even greater opportunities, while also attracting the best workers to our great province.

Ontario has taken historic steps with our distinctly pro-worker agenda. This includes giving workers the right to disconnect at the end of the day, because we're all more than just our jobs. We're fathers and mothers, volunteers in our communities, members of faith communities,

hobbyists. Our jobs should leave time for all aspects of life.

It also includes raising the general minimum wage to \$15 an hour and removing the lower rate for hard-working liquor servers. We all know how hard these people work. They make our favourite restaurants what they are. They should never be making less than minimum wage.

We also banned non-compete agreements that hold back workers and prevent small businesses and start-ups from finding workers with the skills they need to grow and prosper.

We guaranteed delivery workers the basic human dignity of access to washrooms at businesses along their routes.

And we're making it easier for internationally trained workers to practise in their professions by removing the unfair requirement for Canadian work experience.

But we're not stopping there. With our second Working for Workers Act, we are building on the successful changes we implemented by going further to support, protect and attract workers and ensure that Ontario is the best place to live, work and raise a family.

The first of these changes that I want to highlight is to support a growing group of vulnerable workers in our province: digital platform workers who offer rides or deliver food and other items for companies such as Uber, DoorDash and Instacart. Data shows that as many as one in five Canadians work in the gig economy—a number that is predicted to only increase. At the same time, these workers often face uncertain working conditions, including finding it difficult to predict paycheques or resolve workplace complaints. These workers get their work assigned by an algorithm, which has a major impact on how much work they receive and how much they are paid.

I recently heard from a digital platform worker who had their pay decrease even though they were pulling the same hours. They simply didn't know why, because there was no human they could speak to. Simply put, they lack control over their own work and don't have sufficient protections, and that's just not right.

These workers remained on the front lines over the past two years as our province collectively relied on them to see us through the height of the pandemic. They delivered our food to us when we couldn't go to our favourite restaurants, and they drove us to our destinations. We relied on them when we needed them the most, and they always had our backs. Now it's our turn to show up and demonstrate that we have their backs too. That is why our proposed legislation would give these workers rights and protections, including:

- the general minimum wage for each work assignment;
- the right to keep their tips;
- the right to certain information about their work assignments, including how their pay is calculated;
- the right to resolve their work-related disputes here in Ontario; and
- protection from reprisal, should they seek to assert their worker rights.

By proposing these changes, we would help level the field by requiring platform operators to give their workers the rights that every worker should have.

In addition to the boom in the gig economy, another change accelerated by the pandemic is the increase in remote work. With this, we've also seen a rise in technologies that could be used to electronically monitor employees. Delivery persons are being followed by GPS, construction workers are using phones and tablets on the job site, and office workers are logging on from home. That is why we are proposing to protect workers' privacy by requiring large employers to share how they are monitoring their workers and how they are using the data that they collect. If passed, this requirement would be the first of its kind in Canada, demonstrating that Ontario is once again breaking new ground and taking historic steps to address workplace privacy and transparency.

Our next two proposed amendments would help attract more talent to Ontario, help skilled workers find good jobs, and ensure employers can find the qualified workers they need to prosper and grow.

Between July and September 2021, there were over 300,000 vacant jobs across Ontario, including many in the skilled trades. In December, that number approached 339,000, the population of Markham. Unfilled jobs cost the province billions in lost productivity, and worker shortages impact our economy and disrupt our supply chains and the services all of us rely on. Worse, they can force companies to close or relocate, affecting local jobs.

That's why we are proposing to make it easier for workers from other provinces and territories to come to Ontario. The first of these changes would ensure people and their families get settled and into their regulated occupations in a predictable and timely manner. Under our proposed legislation, workers from other provinces and territories would get their credentials processed within 30 business days, making it easier to fill vacant in-demand jobs and drive economic growth.

We're also taking action to address the looming labour shortage in the skilled trades. By 2025, it's estimated that as many as one in five jobs in Ontario will be in the skilled trades. At the same time, a third of tradespeople are nearing retirement, meaning the province is projected to face a shortfall of 100,000 construction workers over the next decade. That is why we are proposing to recognize three additional Red Seal trades under Ontario's skilled trades legislation. The Red Seal program sets common standards for the skills of tradespeople across Canada, and its endorsement would make it easier for out-of-province skilled workers to come to Ontario.

0910

I'd also like to acknowledge that while it has been a challenging two years during the COVID-19 pandemic for everyone, some have been hit especially hard, as we've seen with the ongoing public health crisis of opioid overdoses. During the first 10 months of the pandemic, there were 2,500 opioid-related deaths in Ontario. We must act now to prevent similar deaths and to address the growing risk of opioid overdose in some workplaces.

That's why we're proposing amendments to our workplace health and safety laws to ensure naloxone kits are available in workplaces where there is a risk of an opioid overdose by a worker. Naloxone is an effective first aid intervention and can prevent death to those who are overdosing, if administered quickly. This can save lives. Staff training would also be required to ensure they are familiar with how to use the kits. Legislation would not limit or prohibit the use of naloxone to save clients, customers or anyone else in an emergency.

We're also proposing an additional amendment to provincial laws to further promote safety in the workplace. Through our Working for Workers Act 2, we intend to increase the maximum fines for officers and directors of businesses that fail to provide a safe work environment, which could lead to a worker being severely injured or dying on the job. Severe injuries or death should never be a cost of doing business. Unfortunately, some businesses pay fines and are not deterred even after repeat violations, continuing to put their workers at risk. Every worker in Ontario needs to feel safe on the job, and businesses need to be held responsible when they violate health and safety laws. If convicted, businesses and their officers and directors could face fines of up to \$1.5 million. Other individuals with the business could be fined up to \$500,000. This is a significant increase from the current maximum fine of \$100,000 and would make Ontario's penalties among the highest in the country. This will send a clear signal to rule breakers that endangering workers is never just a cost of doing business. Health and safety compliance is a legal and moral duty.

Finally, I'd like to talk about the proposed amendments to improve job protection for military reservists. Canada has a proud military tradition, and our reservists are an integral part of that. Reservists bravely serve on the front lines during times of crisis. From search-and-rescue operations, to ice storms and flood relief, to defending our country in times of war, we rely on them to provide support and protection without a second thought. There are approximately 11,000 reservists living in Ontario, and these dedicated men and women selflessly put their lives on hold to protect our freedom. Whether they are training or deployed in an operation, their day jobs should be waiting for them when they return home. It's shameful that many reservists have to use their vacation time to train and serve our country. Military service is anything but a vacation—giving them the job protection that they deserve. That is why we are proposing to expand our job-protected reservist leave, which already covers deployments, to cover time away for military skills training and cut in half the time they must be employed in their day job to qualify for the leave, from six months down to three months. These changes, if passed, would make it easier for reservists to serve their country and would help address the current shortage of reservists and troops that the Canadian Armed Forces is experiencing.

In closing, I urge the committee to support our Working for Workers Act, 2022. The landscape of work is shifting quickly, and our laws and protections not only need to

keep up, but they need to set the pace for the rest of the world. Workplaces are drastically different than they were just two years ago, but some things have not changed. We know people need to feel confident that they can support their families and provide for their future. We also know they want well-paying jobs, where they have their employment rights protected and have an opportunity for growth and advancement. We cannot leave our workers in uncharted territory, and we cannot wait for others to find the path forward for us. Ontario must continue to be a leader in protecting workers.

If passed, this legislation would ensure that workers' needs are supported, their health and safety is prioritized, and their rights are protected. In turn, these changes would help keep and attract the best talent to our province, to ensure our economy remains strong in the years to come. This will help ensure our workers are better protected, will have bigger paycheques, and can find more opportunities.

The way we work has changed, but I'm confident that the measures outlined today would ensure our province continues to lead the future of work so that we can be the best place to live, work and raise a family. We can build a stronger Ontario for all of us. Thank you.

The Chair (Ms. Natalia Kusendova): Thank you very much, Minister, for your remarks this morning.

We will begin our rounds of questions with the opposition. You have seven and a half minutes. MPP Sattler.

Ms. Peggy Sattler: Thank you, Minister, for appearing before this committee.

I want to draw the minister's attention to the gig workers' bill of rights. I expect he is familiar with that document. It was created in the fall by Gig Workers United, which is organized under the Canadian Union of Postal Workers; Uber Drivers United, which is organized under the UFCW, which now represents 100,000 gig workers through its agreement with Uber; and also the Ontario Federation of Labour, which represents one million workers in this province.

The gig workers' bill of rights has 10 key principles that they believe are necessary to ensure fairness for gig workers in Ontario.

The first is, "A worker is a worker; full employment rights with no carve-outs from minimum wage, sick leave, vacation pay and other minimum employment standards."

The second is, "Payment for all hours of work: paid time from when workers sign in until they sign out of the app with a clear and concise breakdown of how pay is calculated."

The third is, "Compensation for necessary work-related expenses to ensure gig workers' real wages are not reduced below the minimum wage."

The seventh is, "Put onus on employers to prove that workers are not employees, instead of workers proving that they are not independent contractors. Enshrine" a clear "test for employment status."

Those are just some of the principles that have been endorsed by hundreds of thousands of gig workers and workers in Ontario.

I want to ask the minister: Why did he decide to go forward with a Digital Platform Workers' Rights Act that basically violates all of those principles? It does not provide full employment rights. It does not provide access to sick leave, termination pay, vacation pay, or all of the other rights and benefits of the ESA. It does not provide payment for all hours of work; it only guarantees a minimum wage for gig workers when they are in engaged in work, not from the time that they log into an app. It does not provide any compensation for necessary work-related expenses. It does nothing to clarify and simplify the process for gig workers to prove that they are employees and not independent contractors. Why did he decide to ignore the provisions of the gig workers' bill of rights and instead create this separate legislation that somehow implies that gig workers are lesser workers than every other worker in this province?

Hon. Monte McNaughton: Thank you so much to the member from London West for that question.

I am proud of this legislation, the Working for Workers Act 2. Everything we are doing in the first Working for Workers Act legislation, which we passed in the fall, and this one is to ensure that workers have more take-home pay, that they have more workplace protections, and that they have more opportunities for better jobs for them and their families.

We are the first in Canada to bring forward a foundational set of rights for gig workers. As I've said many times, this is a beginning; it is not an end point. We are moving to ensure that gig workers have minimum wage during active hours, that there is transparency around their pay, and that when they have a workplace dispute, they're resolved here in Ontario.

0920

I can tell you that we are really leading the future of work here in Ontario. We're the first jurisdiction to move on this.

It's very unfortunate that your party, the official opposition, voted against this legislation. We need to improve labour mobility and to ensure that there are more workplace protections and higher fines for those companies that are breaking the laws. You're opposing our plan to have workplace disputes resolved here in Ontario.

I'm proud of this. We will continue to bring forward legislation.

I've said quite publicly that governments have—

Ms. Peggy Sattler: I did want to move on to—

Hon. Monte McNaughton: Sorry; I'm not finished yet.

Governments in the past have not kept up with the laws here in Ontario with technological changes. We're doing that with this legislation.

Ms. Peggy Sattler: Minister, I noticed that in your remarks you did not make any reference to the first two sections of schedule 2. Those sections, of course, as you will be aware, exclude business and IT consultants from any of the protections of the Employment Standards Act.

I am sure that the minister is also aware of the \$800-million class action lawsuit that was filed against Procom,

which is one of the largest temporary placement agencies in the province. The representative case in that class action lawsuit is Anna Brown, who was a Ministry of Transportation IT consultant. The class action case alleges that the Employment Standards Act was violated because Anna Brown did not receive the benefits of the ESA that she is entitled to as an employee of a temporary placement agency. So I find it curious that there's an \$800-million class action lawsuit being filed against the government, including an employee of the Ministry of Transportation, because she did not get the benefits of the Employment Standards Act as an IT consultant. Suddenly, we have legislation that is going to exempt all IT consultants as well as business consultants from the Employment Standards Act.

The Chair (Ms. Natalia Kusendova): One minute remaining.

Ms. Peggy Sattler: Can the minister explain why the government is taking this action?

Hon. Monte McNaughton: Certainly, we want to make Ontario the best place to live, work and raise a family, and we know the way people are working is changing. We talk about people in the IT industry and those in the gig economy. There are thousands of more people joining these sectors of the economy every single year.

I would point back to the Working for Workers Act 1, where we became the toughest jurisdiction—to crack down on temporary help agencies and recruiters by ensuring that we have the highest fines in the country.

The Ministry of Labour will continue to, obviously, ensure that the laws are protected and workers are protected here in Ontario. Everything we're doing is to ensure that workers have more take-home pay, more workplace protections and better opportunities for better jobs in Ontario.

The Chair (Ms. Natalia Kusendova): We will now move on to MPP Fraser for five minutes.

Mr. John Fraser: I didn't plan to start this way, but—you can have the biggest fines in the world, but if you don't levy them, they aren't any good. Just take a look at long-term care. It's that simple. I would argue that you're not protecting those workers, because the reality is, those fines don't get levied.

Hon. Monte McNaughton: I can answer that question. To the member opposite—

Mr. John Fraser: Minister, it's not a question.

I'd like to ask a question.

The Chair (Ms. Natalia Kusendova): I'd like to remind everyone to please place your comments through the Chair.

Mr. John Fraser: I'd like to ask a question.

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

Hon. Monte McNaughton: May I respond to that question?

The Chair (Ms. Natalia Kusendova): Phrase your question.

Mr. John Fraser: I would like to phrase my question.

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

Mr. John Fraser: Thank you very much.

The Working for Workers Act doesn't actually work for workers in the—

Interjections.

Mr. Jim McDonell: Chair?

The Chair (Ms. Natalia Kusendova): Do you have a point of order?

Mr. Jim McDonell: Yes, I do. If a comment is made, does the minister not have the right to answer the comment? Is that not within the—

Mr. John Fraser: He's running the clock right now.

The Chair (Ms. Natalia Kusendova): We will pause the clock.

Mr. John Fraser: I have four and a half minutes.

Interjections.

The Chair (Ms. Natalia Kusendova): Okay. Everyone, it's Monday.

Interjections.

Mr. Jim McDonell: Chair?

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

Mr. Jim McDonell: The member opposite had time to make a comment, and I think he's making it to the minister. Should the minister not have time to address those comments? We are here to hear both sides of the story, and I think that hearing one comment and not allowing the other side is kind of—it's not getting to the answers that we want at this committee.

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

We will continue the questions by the independent member. MPP Fraser.

Mr. John Fraser: Thank you. I'll phrase the question, but I'll say this: The Working for Workers Act doesn't actually work for workers in the gig economy. You said we were to show up because they showed up for us. So what I need to understand is why you are creating a second class of workers that isn't given the same provisions in the ESA that other employees are, like a minimum wage, not just for engaged time, but a decent minimum living wage; vacation pay—I know we measure it in weeks, but it's also a measurable percentage benefit; paid sick days; stat holidays, another measurable benefit that you can apply a percentage to; workplace health and safety protections; portable benefits—what they've all been asking for, what they need; termination pay.

Why would you not give the workers in this new economy the same rights and protections that we've been giving workers in this province for decades?

Hon. Monte McNaughton: I would say to the member opposite that he had 5,110 days to do something on this, and the former government did nothing.

Mr. John Fraser: That's your answer?

Hon. Monte McNaughton: We're the first government in the country to bring forward—

Mr. John Fraser: That's your answer?

Hon. Monte McNaughton: —foundational rights. We're ensuring that they have a minimum wage during

active hours. We're going to ensure that they have transparency around how they're paid, how the algorithm works. We're ensuring that workplace disputes are resolved here in Ontario. We're ensuring that workers who work for app-based companies have washroom access along the route to improve health and safety.

We're going further. We're going to be the first jurisdiction in North America to bring forward portable benefits so that millions of workers have health and dental and mental health benefits. We were the first government to take action on all of these.

As I've said, this isn't an end point, but it's a strong beginning.

Mr. John Fraser: You're the first government since Mike Harris to cut the minimum wage, which you did in 2018. You were the first government to end equal pay for equal work. You were the first government to take away paid sick days, which you eventually had to give back but you didn't really give back, because they're still temporary.

I'm not going to be lectured by you on 5,100 days after your government did those things—maybe you're not, personally, Minister. Don't lecture me.

There's a reason we have the Employment Standards Act. There's a reason that we brought this into place in Ontario. It's so that people could raise a family, so that they could thrive, so that they were protected at work.

You're actually creating a second class of workers.

We have an agreement that exists between UFCW and Uber—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. John Fraser: —and you haven't even come close to some of the things that are in there.

I know you like to say that you're working for workers, and I'm not going to say there aren't some things in this bill that aren't good, but this piece to do with gig workers—you just slapped a coat of paint on it. Can you explain that?

Hon. Monte McNaughton: To the member opposite: You had 15 years, and you did nothing on this.

Mr. John Fraser: That's your answer.

Hon. Monte McNaughton: We talk about different employees. I think about restaurant workers who serve liquor.

Mr. John Fraser: That's the problem.

Hon. Monte McNaughton: You could have eliminated the minimum wage and made it a general minimum wage. You didn't do that. It was Premier Ford and our government that increased the minimum wage for—

Mr. John Fraser: You cut the minimum wage.

Interjection.

Mr. John Fraser: That's it? 10 seconds.

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

I would like to take a moment to remind all honourable members on both sides of the table to please address their questions through the Chair. I respectfully ask for the co-operation of all honourable members in this manner. Let's

bring the temperature down, let's be respectful, and let's continue our hearings this morning.

We will now move on to the government for seven—

Mr. Wayne Gates: Excuse me.

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

0930

Mr. Wayne Gates: I believe I do. I think what the issue is going to be here this morning is that I do not want the minister to be eating up all the time with his rambling. If I ask a question, I would like the question answered in a timely manner. I think that's what happened—

The Chair (Ms. Natalia Kusendova): MPP Gates, I would like to ask you—

Mr. Wayne Gates: I've had the minister here before, and that's what he has done over and over.

The Chair (Ms. Natalia Kusendova): The minister is here to answer all of the questions from all the members of the committee. So if you ask a question, the minister has an opportunity to answer the question. I don't think it's appropriate to say that the minister is rambling. Please refrain from making such remarks.

We will now go back to our questions. We have seven and a half minutes for government members. MPP Martin.

Mrs. Robin Martin: Thank you, Minister, for being here and for your comments.

I'm concerned about gig workers and the digital platform that they use. In fact, my daughter recently graduated from computer sciences at Seneca and will probably take on this kind of work because it's more suited to the kind of hours she'll be able to work. As someone who's on the autism spectrum, I think it might be more suitable for her to work in this kind of a gig economy thing. So I'm delighted that there will be some protection for gig workers for the first time ever in Ontario. I know they haven't been treated the same way and there have been, sort of, two classes of workers, historically. Now we're doing something to at least provide foundational rights for gig workers on the digital platform.

I was wondering if you could explain in detail what is included in the government's proposed Digital Platform Workers' Rights Act.

Hon. Monte McNaughton: Great question.

I met with dozens and dozens of gig workers. This is a growing part of Ontario's economy. Overwhelmingly, they all say that they like the flexibility and we have to ensure we're not stifling innovation. That's why it's important that we get all of our steps right.

We brought forward a foundational set of rights for gig workers to ensure that they have a minimum wage during active hours, that they know how the algorithm works, that there is transparency, that they get a pay stub for the first time ever, and to ensure that when there's a workplace dispute, it's resolved here in Ontario.

Two examples stand out to me. I met with an app-based food delivery driver who told me that one week he worked X amount of hours and got paid \$1,500. The very next week, he worked the same amount of hours and got \$700, because the algorithm changed on him, and he wasn't

given any notice on that. This will stop and prevent those issues from happening.

Secondly, I think we're all aware of the stories of workers who have been told to travel to Europe to resolve a workplace dispute. The one that stands out to me is a person who had a workplace dispute with one of these companies of about \$1,100, but the cost of going to Europe was \$5,000, so the person couldn't contest the workplace dispute. With this legislation, that will end, and those disputes will be resolved here in Ontario.

As I said, technology is changing, and the way we work is evolving. We've brought forward two comprehensive pieces of legislation in a matter of months. Governments of all stripes, in the past, have struggled to keep up with the changes in the economy. This isn't an end point. I would suggest that governments, going forward, on a regular basis, would continue to update labour laws and the future of work to ensure that workers have more access to bigger paycheques, more workplace protections and more opportunities.

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

Mr. Deepak Anand: Minister, first of all, I want to say thank you for giving me the opportunity to work with you on this very monumental bill.

I know that the opposition does criticize sometimes—but I did speak to many, many gig workers. Some of them are working downtown. They were saying, "We get paid more not by waiting, but by delivering, by being on the road."

Amit said, "Once I deliver the food, rather than going back to the restaurant where I started, by this time I get another order"—picking up MPP Babikian, for example. So rather than going back to the restaurant and waiting, he'll pick him up. Again, by this time, if he does get another order, he does not have to go back to the place where he picked him up—but pick another order, maybe close to Queen's Park.

The one thing that we are providing through this bill is the flexibility, but making sure, as you rightly said—you're not reducing their wage. They're actually saying we are making sure they don't get less than minimum wage. It's not that if they're making \$25, \$30 an hour—he talked about \$22 to \$25 an hour. So is this bill reducing—saying that they will get paid only minimum wage, number one? Number two, how will the changes be reinforced? That's something they wanted to hear. Can you please address that?

Hon. Monte McNaughton: Certainly, the gig workers are going to be much better off under these changes than they are currently.

Again, our changes that we're bringing forward are to make Ontario the best place to live, work and raise a family. That's why we're moving forward with portable benefits—to be the first jurisdiction in North America to do that.

We're also ensuring that we have a foundational set of rights for gig workers. In fact, one of the changes that I didn't mention is, we're going to ensure they can keep their tips on top of what they're earning, which to me is

common sense. I don't know why, for 15 years, under the former government, they didn't move on this. We're going to continue to make changes to ensure that workers have more take-home pay, not only for themselves, but to support their families.

Lastly, I want to say to PA Deepak Anand, you've done great work on this. Thank you for your leadership.

We've done a lot of consultation on this, and we're going to continue to improve the lives of workers in Ontario.

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

Mr. Aris Babikian: Thank you, Minister, for coming and sharing the insight on the bill with us. I know that there is a cumulative effect—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. Aris Babikian: Okay.

Why is the government proposing to require naloxone kits, and what types of workplace will be required?

Hon. Monte McNaughton: Great question.

We talk about the other pandemic: the opioid crisis that we have in Ontario. When you think of 2,500 people passing away from an opioid overdose in the first 10 months of the pandemic, obviously, action is required.

My feeling on this is, the more naloxone kits that are in the hands of people, the more lives are going to be saved.

We know that naloxone kits will be required in bars and nightclubs, construction sites—anywhere there is an at-risk worker who could be impacted.

We're going to move quickly to ensure that these naloxone kits are in workplaces and the workplaces have people trained to use these kits.

The Chair (Ms. Natalia Kusendova): We will now go back to the official opposition. MPP Gates.

Mr. Wayne Gates: Thanks for being here, Minister. I'm going to start off by asking you a couple of things.

Do you know a worker is a worker in the province of Ontario? Is that a yes or no?

Hon. Monte McNaughton: I know lots of workers in Ontario.

Mr. Wayne Gates: I can't hear you if you're nodding your head. Sorry.

You're aware of the bill of rights for gig workers endorsed by Gig Workers United, CUPW, Uber drivers, UFCW, the Ontario Federation of Labour?

Hon. Monte McNaughton: Your colleague just mentioned that.

Mr. Wayne Gates: Are you aware of it?

Hon. Monte McNaughton: I met with many gig workers, including—

Mr. Wayne Gates: “Are you aware of it?” was my question.

Hon. Monte McNaughton: I met with many of those workers and those organizations.

Mr. Wayne Gates: Do you know that part of their demand is that workers are paid for all hours of work?

Hon. Monte McNaughton: We've seen that, for sure, from a number of workers, yes.

Mr. Wayne Gates: And do you know that your particular bill, if passed, will allow some time while they're working when they can get paid as low as \$7.50 an hour in the province of Ontario?

Hon. Monte McNaughton: Well, I can tell you that workers in the gig economy will be better off with the passage of this legislation.

I would say to the member opposite, why would you vote against getting naloxone kits in workplaces? Why would you vote against more labour mobility within Canada to fill the skilled trades shortage?

Mr. Wayne Gates: Minister, can you just answer the question? I don't want to go into that.

Hon. Monte McNaughton: Why would you vote against—

Mr. Wayne Gates: It's not part of my question.

Hon. Monte McNaughton: —ensuring that there's pay transparency for gig workers?

Mr. Wayne Gates: It's not part of my question.

Mr. Deepak Anand: Madam Chair.

Mr. Wayne Gates: I appreciate your response—

The Chair (Ms. Natalia Kusendova): MPP Anand.
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Mr. Deepak Anand: Thank you, Madam Chair. My understanding is—stop the clock, I guess. Thank you.

I think as long as the minister is talking about the bill and is not going off the bill, it is appropriate to talk about. I think it's important to talk about what this bill is doing.

The Chair (Ms. Natalia Kusendova): I'm not here to adjudicate what constitutes a question and what constitutes an answer. I think we are all intellectually aware enough to be able to determine that.

I will go back to the official opposition to continue asking—yes, MPP Babikian?

Mr. Aris Babikian: Madam Chair, we are here to ask questions and to get answers and comments. We do it in a civilized manner, and we need to keep the decorum of this meeting. When the opposition ask questions, they should give the liberty to the minister to answer their question—not interrupting rudely and in an uncivilized manner and cutting him off from answering these questions. They are more experienced than me, as a new MPP, and they should respect those—

The Chair (Ms. Natalia Kusendova): Thank you, MPP Babikian.

I will ask all members of this committee to please bring the temperature down. Let's get through this morning. It is only Monday. We are all here because we are interested in hearing about Bill 88. If a question is asked, please allow some time for the answer to occur. As I said, I think we all know what constitutes a question and what constitutes an answer. I would respectfully ask all members to keep the decorum professional and to be respectful towards one another.

I will now return the floor to MPP Gates to continue the questions.

Mr. Wayne Gates: I appreciate that, Chair. Thank you very much.

My question is back to the minister: Do you believe that all workers in the province of Ontario should be covered by the ESA?

Hon. Monte McNaughton: We're bringing forward legislation that's going to ensure that workers in Ontario get bigger paycheques, more workplace protections, and more opportunities for better jobs.

As I've said a number of times to the member opposite, we are the first jurisdiction to move forward with foundational rights for gig workers, but we are going further than that. We're ensuring that they have access to washrooms along their routes, that there are going to be portable benefits for millions of workers in the province who don't have benefits today—something that I would think the official opposition would support.

Mr. Wayne Gates: I'll be very clear: There are parts of the bill that we could probably support, but like most bills that come before us, we have some stuff that we disagree on. I certainly disagree that workers in this province should be treated like a second-tier class of workers—and that's what this bill really does.

Why would you create a bill that would make a second tier of workers not covered by the Employment Standards Act?

Hon. Monte McNaughton: I would say again that this isn't an end point; this is a very strong beginning.

People working in the gig economy will clearly be better off with these changes to ensure that they have at least a minimum wage during active hours; to ensure that their tips are on top of the wages they earn; to ensure there is pay transparency—a pay stub for the first time; to ensure that workplace disputes can be settled here in Ontario.

But we're going further than that. We're ensuring that, because of our successful Working for Workers Act 1, we have washroom access for these workers, and that we move forward with portable benefits, which will be game-changing and life-changing for many people in Ontario.

Mr. Wayne Gates: I certainly believe that workers should have the right to a washroom—including ATU, which doesn't have it under your bill. They were very clear when they came here that they weren't covered under the bill, and they were upset that they weren't.

I really find it interesting; the gig workers' bill of rights is supported by CUPW, Uber drivers, UFCW and the Ontario Federation of Labour, which represents 1.2 million. They gave you a template that you chose to ignore, which makes no sense to me; I'm sorry.

I'm going to ask you a question, and I think this is fair and reasonable—as my colleagues are saying I'm unprofessional: Do you believe that firefighters should only be paid when they're fighting fires?

Hon. Monte McNaughton: Firefighters are heroes. All of our first responders continue to do amazing work to support our families in all of our communities—including police, firefighters and paramedics. We'll continue to support them every day.

Mr. Wayne Gates: I appreciate that. I believe that firefighters are heroes. But my question was, do you think they should only be paid when they're fighting fires? That's what's happening here.

If I'm not delivering something, I'm not being paid, which means my wage could go to as low as—in the province of Ontario, one of the richest provinces in the country, and quite frankly, in one of the richest countries in the world. They could be paid \$7.50 under this bill, when they're not delivering and doing their job. It's absolutely amazing to me. It doesn't make sense.

This is a fair question, because you didn't mention the unions at all during your presentation: Why do you think that we have seen a decrease in unionization in the last few decades in this province, including during the time that the Conservatives were here under Mike Harris?

Hon. Monte McNaughton: Certainly, I can tell you we have a strong relationship with labour. I believe strongly that labour, government and business have to work together.

I reference the labour shortages: We're working every single day with the unions in construction, for example, to ensure that we get more people signed up to be apprentices, to have more and better training.

If you want to build infrastructure on time and on budget, you need to have the skilled workforce to do that.

I think of yesterday's announcement by Premier Ford: the largest subway expansion in Canadian history, over \$28 billion. It's going to take thousands of skilled trade workers. We're partnering with our labour partners, with industry, with our government to ensure that we build this infrastructure on time and on budget and to make people move from point A to point B more quickly.

Mr. Wayne Gates: What I will say is, I'm sure you didn't spend hours meeting with the OFL, which represents 1.2 million workers, in putting this bill together.

I've only got a minute left. One of the problems, quite frankly, with this particular system is that we don't have enough time to ask questions.

Why did your government think it was necessary to cut the minimum wage when you were first elected? We know you claim that it was an increase to cost of living—however, look at where we are as a province right now. Because of delay and the minimum wage cut, workers are worse off now. I believe that's correct. All you have to do is take a look at gas prices, the increases in rent, increases in housing, increases in food costs, increases in hydro rates. During that period of time when you cut the minimum wage—which cost workers. Although you brought it up to \$15 after almost four years, it cost workers in the province of Ontario \$5,300 off their paycheque, which would have helped them pay their rent. It would have helped them pay their mortgages. It would have helped them put food on their table. It would have helped them pay for the hydro rates which have gone up 5%, as businesses have gone down to substantially less.

So my question to you is clear: Why did you cut the minimum wage when you were first elected?

The Chair (Ms. Natalia Kusendova): We are out of time. We will now move on to MPP Fraser.

Mr. John Fraser: I want to say to the minister—I didn't get a chance—I very much appreciate you being here today to answer questions.

I do want to say that, actually, you voted against people keeping their tips when you voted against Bill 141 in 2018, just in case you forgot.

Chair, I will be asking a long question that's preceded by a number of comments—just so my colleagues will be aware of that.

I know you've talked about some of these things in the bill that are good. The naloxone is good. The stuff around the trades is good. But it's kind of like you made a soup, and then you threw in traditional Chinese medicine, which is like throwing rotten potatoes into the soup, and then you've thrown this in, which is like some more veggies, but they've been in the drawer a little too long. Just because there are a couple of good pieces of meat in the soup doesn't mean that it's edible. So you can't expect workers to eat it, or any of us on this side. Sorry for the food analogy, but I come from the grocery business. I know you come from the hardware store business. So we know a bit about retail, and we know that we have to take care of our people. At the end of the day, whether it's in a grocery store or whether it's in a hardware store or whether it's driving people or delivering food, we have to take care of our people, as managers, as business owners.

The reason that we have the Employment Standards Act is, it's this thing that we all agreed on, that was a standard that we used so it would work for our businesses and it would work for people, so we wouldn't have businesses really taking advantage of people. It still happens. That's why we did it.

I know what we're doing here is, we're giving some people way less than other people get in terms of work health and safety protections. They're not there.

The minimum wage—you and I both worked with cashiers. For engaged time—it would be like saying to the cashier, “Yes, when you're punching somebody through, I'll pay you, but the rest of the time I'm not going to pay you.”

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There's a reasonable way to figure that out. That doesn't mean—I think the Uber agreement is 120% of engaged time. Vacation pay is 4%, and 6% if you've been there longer. Why is that not in there? Why are we not talking about some sort of form of that representation of paid sick days to protect people—some way to protect them? It's just like figuring out a way so that we can actually make sure we have a healthy, safe workforce that can raise a family—just like you said, and I believe that you want that to happen. I don't for a minute believe that you don't want it to happen. You're not going to achieve it by not doing these things here.

Work is changing; it's complex. People are working for four or five different companies. How do we actually make it so they can have a family—like the taxi driver I met last night, Petar, who has been driving a taxi since 1965. He said, “I've worked for a good company. They took care of me. I got a house. I did these things.” He's still driving. He's 81 years old. I'm not expecting us to create Petars, but how do we actually create the circumstances that Petar found himself in for these workers in the

new economy? That's what the challenge is here, and you're not going far enough. You're not doing the things that need to be done.

Will you do those things? Will you give vacation pay? Will you do paid sick days? Will you give termination pay? They're not in here, and that's why there's a source of frustration. Will you do it or not?

Hon. Monte McNaughton: Fair enough. The member and I get along quite well, but I would remind him that he had about 5,100 days to do some of these while he was in government.

I can tell you that's why we're moving forward with portable benefits. We will be the first in North America to expand benefits to millions of workers who don't have benefits today.

I think of our first Working for Workers Act—to recognize international credentials, so that when engineers and architects are here in Ontario, they should be recognized and working in a career that they've studied for, something that should have been done decades ago, but no former government did that. We're the first in Canada to move forward. On that point specifically, we talk about lifting people up—

The Chair (Ms. Natalia Kusendova): Thirty seconds.

Hon. Monte McNaughton: Only 25% of immigrants in Ontario today are working in professions they've studied for. That means 75% of them are driving taxis or driving Uber and—

Mr. John Fraser: I have a short, really important question for you before you go.

Hon. Monte McNaughton: —we need to get this done.

Mr. John Fraser: Is 5,100 days a long time to be in the penalty box?

Hon. Monte McNaughton: This should have been done long ago, and it's on all former governments, for not getting this done.

Mr. John Fraser: I'm just messing with you.

The Chair (Ms. Natalia Kusendova): We are out of time.

We are now moving on to the last round of questions by the government. MPP McDonell.

Mr. Jim McDonell: It was interesting, when you talked about the workplace landscape change, and you look over the last—and I won't say the last 20 years, but certainly in the last 10 years, we've seen Uber, we've seen all of these companies come up.

In my former life in the township, we would often hire consultants to come in. I guess with what we were paying, I never would have considered—it was the township's responsibility to look after a lot of these benefits; in some cases, they were. We're talking about highly skilled engineering architects, different people and companies coming in.

Anyway, with the skills development, you've stated that the rebalance of scales and support workers in Ontario—could you explain why is now the time to introduce legislation around electronic monitoring of employees? That is something that I think scares most people—the fact that there are cameras everywhere. People want to know what they're there for and what they're being used for.

Hon. Monte McNaughton: To your first point: We have a responsibility not to stifle innovation in the economy. The future of work is here today, and we have to make changes to ensure that workers are better protected, have more take-home pay, but also to ensure that innovation can occur. Many people in the gig economy, for example, love what they do. They love the flexibility. We need to ensure that that continues.

When it comes to rebalancing the scales, I've said clearly that we're not going back to where we were before the pandemic hit the province. The world of work has changed. Back in 2016, 5% of people worked from home. At the height of the pandemic, it was around 35% of people working from home. I think of the moms and dads working in their living room or working in their bedroom; they may have been recorded, whether it's through audio and video, and they didn't know. So, again, bringing forward a law to ensure that employers tell their employees or workers how they're being monitored electronically makes sense.

It also builds upon the right-to-disconnect policy that we brought forward in the fall—the very first place in Canada to ensure that when people go home at the end of the day, they can be off the clock, they can spend time with their kids, spend time with their spouse, be off the clock and done from work.

We're moving forward. Again, none of these things are an end point. I think we can build upon these as we go forward.

Mr. Jim McDonell: Just to your point, we don't know what the workplace of tomorrow is going to look like. We would not have looked back five years ago and thought this is what it would be today. So it's an interesting point.

Hon. Monte McNaughton: Yes, absolutely.

We talk about attracting labour to Ontario. One of the major steps that we took—again, the first place in Canada—was to ban non-compete clauses, supported by 27,000 tech companies in Ontario. Of course, we now know through a recent study done over the last few days that Ontario and Toronto is the third-largest tech hub in all of North America, and they specifically said that banning the non-compete clause is really going to help grow that part of the economy.

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

Ms. Effie J. Triantafilopoulos: In your remarks, you mentioned that one of the major changes over the last two years with the pandemic has in fact been this increasing work remotely. With that, we have also seen the rise in technologies that can be used to electronically monitor employees. Ontario workers are counting on our government to show leadership and protect the privacy of workers.

Why does this electronic monitoring only apply to those businesses and companies with 25 or more workers?

Hon. Monte McNaughton: I think it's important to lead on a number of these changes. I can tell you my provincial and federal counterparts are calling me on a weekly basis because they're going to follow Ontario with a number of these changes.

The right-to-disconnect policy that we passed last fall and the electronic monitoring will require employers with 25 or more employees to have a policy in place, again, to be very transparent.

The other advantage of this is, it really does put the power to the employees or the workers. I envision that when they go for an interview, they'll say to the potential employer, "What's your right-to-disconnect policy? What is your policy on electronic monitoring?" That's part of rebalancing the scales and putting workers in the driver's seat, because they can decide what company they want to work for. It will also help attract talent to Ontario, retain talent, and really build that new workforce we desperately need.

Again, it's a starting point; it's not an end point. I foresee in the future that we will build upon some of these pieces in the legislation.

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

Ms. Amy Fee: Good morning, Minister. You know that I have many family members and friends who have served or are serving in the Canadian Armed Forces, and definitely a few have been in the reserves. Knowing the commitment that it takes—it's not just about, they go in for a shift week; it's also about that training piece, and that training piece can be months on end sometimes. I have talked to members of the reserves who have lost their regular jobs because they've had to go to training or they've been called in to deal with flooding. For instance, when we called in the reserves when there was flooding in Quebec a few years ago—talking to reservists who lost their jobs because of that.

I'm wondering if you could elaborate on the protections that you're putting in place.

Hon. Monte McNaughton: Reservists are our heroes. They've been called upon—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Hon. Monte McNaughton: —to support communities right across Canada, let alone serving overseas in the military and on operations.

Again, for me, this was an injustice. We heard this a lot from reservists—that they'd be using vacation time to do training or to answer the call of duty. So we want to make sure that these jobs are protected—whether it's for training or to deal with an emergency. That's why we moved on this—to really thank them, and to encourage people to sign up, because we know there is a shortage. We had a lot of support on this from people who have served in the Canadian Armed Forces and, of course, reservists as well. We're very excited about this.

Again, it's a long-overdue, common-sense change that will certainly support our reservists and thank them for answering the call of duty.

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

This concludes our business for this morning. The committee will now recess until 1 p.m. this afternoon, and we will resume public hearings on Bill 88 at that point.

The committee recessed from 1000 to 1300.

The Chair (Ms. Natalia Kusendova): The Standing Committee on Social Policy will now come to order. Good afternoon, and welcome back. We are here to continue our public hearings on Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts. As a reminder, each presenter this afternoon will have seven minutes for their presentations. Following all three presentations, there will be 39 minutes of questioning for all three witnesses divided into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition members, and two rounds of four and a half minutes for the independent member.

Are there any questions before we begin?

UNIFOR
UFCW CANADA
MS. JENNIFER SCOTT

The Chair (Ms. Natalia Kusendova): It's my pleasure to welcome our first set of presenters. We will start with Unifor and Emil Mesic, the health and safety training fund coordinator, who is with us via teleconference.

You have seven minutes for your presentation, and you may begin by stating your name for Hansard.

Mr. Emil Mesic: Good afternoon. My name is Emil Mesic.

The Chair (Ms. Natalia Kusendova): You may begin your presentation.

Mr. Emil Mesic: Thank you. I speak here today representing Unifor, the union. Currently, I am working for our union's health and safety and environmental department as a coordinator under the health and safety training fund.

Prior to working in the current role in Unifor, I spent 28 years working at the Ford Motor Co. Oakville assembly complex, 22 of them as a union health and safety representative and member of the plant's joint health and safety committee.

At Unifor, we as a union believe that workers play a vital role in the shaping of a just, equitable and safe society. We appreciate the opportunity to offer today's comments in response to the Standing Committee on Social Policy regarding Bill 88. Unifor represents over 160,000 workers across Ontario in 247 local unions and 1,425 bargaining units in many sectors.

Again, today, I'm only going to be speaking on a small portion of Bill 88, which, of course, everyone knows is a very large bill. I'll be discussing the sections related to the changes under the Occupational Health and Safety Act. As we know, the act is going to be changed to require employers to provide a naloxone kit and maintain it in good condition and to ensure that a worker is trained in the use of the kit and is able to administer it after recognizing an opioid overdose or opioid poisoning. This is going to require that employers do a risk assessment so that they'll be aware of the risk of a worker having an opioid overdose or poisoning in a workplace, and it will also require some training to administer naloxone.

One of the important points is the risk assessment. The risk assessment is going to be the key to opening the door to naloxone in the workplace. If the employers don't take this risk assessment seriously or do the risk assessment properly, the program will falter. The steps of a risk assessment must be made clear in the government's explanatory efforts. In other words, it shouldn't be a mystery as to how to do a risk assessment in the various workplaces across the province.

When the consultations first came out, at Unifor we went on a short fact-finding mission, looking for feedback from some of our larger Unifor workplaces, and we got some interesting information back from a lot of our locals. Just some of the generalized findings were that we found that most workplaces are very well aware of the potential for opioid overdoses or poisoning, but there was a patchwork of emergency responses. We found that some employers had naloxone kits already in their first aid departments, but they were only allowed to be administered by nursing staff, while others may have had naloxone kits with their emergency response teams, and a few even had them with their health and safety reps. It seems that there was no concerted response or methodology, even amongst employers with multiple locations. There weren't any overdose policies or a lot of training available. We even found that in some cases, joint health and safety committees had made requests and recommendations to have emergency response teams carry naloxone that were rejected by management; and there were some locals that tried to bring the issue to bargaining without success.

I'm just going to give a quick quote from some of the operations.

From Windsor, here's a quote: "Opioid overdoses have steadily increased in our community and COVID has exacerbated the problem, according to data available. We have not, as of yet, had any overdoses in our facilities. However, we have had members who have had overdoses outside of the workplace, and chances are that it will happen here eventually."

A quote from Oshawa: "We do have drug use in our facility. However, in speaking with the plant nurse, I personally remember one specific drug overdose in our plant, prior to the plant closure, where naloxone was administered." The member goes on to talk about what actually happened during the incident. The member, quoting a member, says, "In speaking to our head of security in the complex, he still believes that naloxone is something that would be beneficial for trauma kits. Until it is mandated at a government level, it will tie his hands at this time." So the rep from Oshawa was also saying that the naloxone kits will have a great benefit, and they are equal to AEDs, in their opinion.

The Toronto office—I'm just going to paraphrase here—said that having naloxone on site with an overdose policy and a program should be as accepted by employers as having people trained in CPR and having an AED available on-site. Again, the Toronto office said that things like our precautionary principle support being prepared for

all emergencies and not waiting to see if a procedure needs to be put in place.

We had more comments from Toronto.

I'll just give one from St. Catharines: "We had an issue in St. Catharines on March 4, 2020, where someone was found unresponsive less than half an hour from the plant. It was brought up at bargaining, but it was not allowed to continue. So we are very much in favour of naloxone."

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. Emil Mesic: I'm going to jump ahead and go to the changes in the fines structure. Unifor also agrees that there needs to be a shakeup in terms of how executives look at their OHS responsibilities. We hope that greater fines will create a larger imperative for leadership to make health and safety a priority. We also need to put together some basic mandatory awareness for 2022.

These changes that are coming will affect everyone, and we are hoping that the government embarks on a program of education and a mandatory awareness training 2.0, let's call it, so that the changes are given to workers, employers and supervisors across the full gamut. We hope that there are funds available for that to be done, and there is always an opportunity for Unifor to be part of those discussions.

On behalf of Unifor, I'd like to thank you for this opportunity.

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

Next, I would like to welcome Debora De Angelis, the regional director for Ontario, presenting for UFCW Canada, via teleconference. Welcome. You may begin by stating your name for the record.

Ms. Debora De Angelis: Thanks for this opportunity. I'm Debora De Angelis, director for Ontario, UFCW Canada. UFCW Canada is Canada's leading private sector union, with 120,000 members in Ontario and over 250,000 members in Canada.

In 2018, I received the first call from an Uber driver who had been deactivated—in other words, terminated—and his livelihood erased. He had no ability to appeal this decision. That call and the desperation in his voice were the reason why we started signing up Uber drivers and made an application to represent these drivers in 2020.

Since that first call, UFCW Canada has been engaged and advocating on behalf of app-based workers across this country. You are the first government in Canada to attempt to address legislation relevant to digital platform workers. You have an opportunity to make a real difference in the lives of these workers.

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Before I get to Bill 88, I would like to provide some context of the UFCW Canada and Uber Canada national agreement. On January 27, 2022, UFCW and Uber reached a national agreement. Being part of the negotiations, I can tell you that this agreement was a result of many conversations with app-based drivers and delivery people and months of discussions between UFCW and Uber, driven by a shared interest in improving labour standards for app-based workers.

UFCW has been the labour leader in Canada in new and emerging industries like app-based work, and we have worked directly with drivers to organize and advocate for improvements, including drivers from DoorDash, Lyft, Uber and other app-based companies.

Once we sat down and started these discussions more formally, both sides brought to the table what they had heard from workers across this country. The agreement that UFCW and Uber signed has two components that combine to create a significant advancement in app-based workers' rights in Canada. The first component is representation, which is a bilateral agreement between UFCW and Uber. The second component is standards for app-based workers, which is a set of legislative standards that Uber and UFCW will jointly advocate for with provincial governments across this country. These standards are designed to raise the quality of app-based work irrespective of which platform a worker uses.

Let's talk a little bit about representation. As part of the bilateral agreement between UFCW and Uber drivers and delivery people on the Uber platform, these workers will have a greater voice. This agreement includes the following elements:

(1) UFCW can provide representation if requested by drivers and delivery people facing an account deactivation or other account dispute issues, including representation in their province through a third-party dispute resolution process;

(2) UFCW will engage with drivers and delivery people and meet with Uber on a regular basis to discuss health, safety and other related issues;

(3) UFCW will have access to Uber's Greenlight Hubs across Canada to provide representation services.

Let me tell you how the representation model is helping drivers today. Gabriele is an Uber driver. After driving for Uber for over a year, passing rigorous background checks and submitting all the required documentation, Gabriele found himself locked out of his app, in his opinion at no fault of his own. After repeated failed attempts to raise his concerns with Uber, he felt hopeless. He reached out to UFCW and discussed his deactivation. The UFCW Canada representative filed a case on his behalf. Uber Canada assessed the merits of the case and made a determination and reactivated Gabriele's app. Here is what Gabriele shared about his experience: "The representatives at UFCW Canada ... asked for all my information and documents; they sent everything over to Uber and I was reactivated, back earning money again. As a driver, I am so used to the rating system, and if I had to rate UFCW Canada's service from one to 10, it would be a 10 without question."

Moving on to standards: UFCW and Uber have jointly committed to advocate provincial governments on a set of standards to raise the quality of app-based work in Canada.

Let's start with the earning standard. We believe that all app-based workers should be entitled to 120% of minimum wage for engaged time spent working. Why? This includes all the time from accepting a trip or delivery to the drop-off and only begins to address some of the idle time while they wait for the next job.

A pooled benefit fund requiring all app-based companies to contribute on behalf of the workers would allow workers in the sector to aggregate their hours worked. This way workers who spend more than 20 hours a week on app-based platforms should be entitled to a benefit fund that gives them additional money to spend on benefits they need most. Those who spend more time on the platform should be entitled to more benefits. So a benefits fund scales with the time spent on the platform.

Flexibility: We believe that all the app-based workers should retain their ability to work when and where they want and work on multiple platforms at the same time.

Representation rights: We believe that all app-based workers should be afforded the right to join a union and engage in collective bargaining. All app-based workers should have the ability to unionize.

Health and safety: We believe that app-based workers should be entitled to occupational accident insurance for injuries sustained during engaged time.

Notice of termination: In instances of non-safety related deactivations, we believe that app-based workers should be entitled to notice of termination or pay in lieu of notice.

Taken together, these standards reflect a major advancement in the benefits and protections for all app-based workers in Canada, which brings us to UFCW's recommendation to Bill 88: We don't think that it goes far enough. We need to increase the benefits and protections for app-based workers, in line with the UFCW and Uber joint standards.

The Chair (Ms. Natalia Kusendova): One minute remaining.

Ms. Debora De Angelis: The Legislature should increase the minimum wage earning standards to 120% and add a flexible benefits fund, insurance protections, termination pay and the right to form a union. This would immediately raise the standard of app-based work in Ontario and create a level playing field among all companies. The Ontario Workforce Recovery Advisory Committee, in recommendation number 15, acknowledge the importance of classification certainty to all workers in Ontario, and propose to enhance existing classifications. By doing this, the bill would clearly protect the flexibility of app-based work, while mandating a set of benefits and protections outlined in the UFCW-Uber joint standards.

Finally, let me close by saying that we have signed thousands and thousands of union cards with app-based workers across Canada and, as a result of our agreement, have already had over 3,500 conversations—

The Chair (Ms. Natalia Kusendova): Thank you very much. I am so sorry; we are out of time.

Ms. Debora De Angelis: It's okay.

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

Now I'd like to invite Ms. Jennifer Scott, who is here with us. Good afternoon. You may begin by stating your name for the record.

Ms. Jennifer Scott: My name is Jennifer Scott. I'm a gig worker. I'm here because this bill offends me. It's disgusting. I am not an independent contractor; I am a misclassified employee. This bill is a carve-out of the

Employment Standards Act, a carve-out of all the things that I am entitled to as an employee, and it also acts as a clawback for my wages.

The thing that I want to talk about the most today is the engaged time. I know that in the bill you have defined that as "on assignment." I'm going to call it "engaged time," because that's the definition that app employers use, and this bill is very clearly written or influenced by app employers.

Payment only for engaged time is not minimum wage; it just flat out isn't. You can't say this is a bill to give gig workers access to minimum wage, and then we don't get it for most of the time when we're at work. Uber and Lyft paid for a study in the US to identify how much time gig workers spend unengaged. The city of Toronto recently put out their own statistics. The two match up—40% of the time that me and my coworkers are at work is unengaged time. This bill says the only time we should be paid at least minimum wage doesn't include 40% of the time that we're at work.

The idea that, like I heard Minister McNaughton say, no gig worker should make less than minimum wage, which I so very find offensive—under the Employment Standards Act, there are provisions that define that minimum wage has to be calculated outside of the costs to work. As gig workers, we pay 100% of the cost to do this job. If you work in a car, you pay for the purchase of the car, the maintenance, the insurance, the gas, your phone plan. Every time that you are in a collision as a cyclist and you break your phone, you have to buy a new phone; the bag, your safety equipment, health and safety protections—we pay for all of that. This bill offers us minimum wage for 60% of the time that we're at work, before the calculation of the costs to do this job. That is not enough.

The is a stand-alone bill that says we are not real workers, that we are not entitled to benefit from the basic protections outlined in the Employment Standards Act that everybody else gets. This bill reinforces the narrative that app employers have been exploiting since 2009, saying that gig workers are not real workers. That is not what I expect from my government. I think it is fair for me and everybody else who does this job to expect our government to say no to multinational corporations that come in and attempt to roll back labour rights and protections, and to not instead turn around and enshrine misclassification in a labour law, in a bill. That does not work for me. I'm a worker. This bill does not work for workers. It is disgusting.

1320

When I hear folks talk about this, I hear folks talk about flexibility—how this bill is the only way to give gig workers rights and protections and flexibility, and I want to talk about that a little bit. What does flexibility look like for me? Uber would tell you that I have flexibility because when I work, especially in the summertime, I double-app. That means that I work on more than one app at once. Uber would tell you that that's flexibility, that I want that. I need that; it's true. I need to do that because it is the only way that I can attempt to ensure that I am paid for as much of

an hour as I am at work. Because I am not paid for all of the time that I am at work, I log in to two or three apps at once to try to back-to-back orders in a row to ensure that I get paid for more than 60% of my time. Double-apping and the flexibility that comes with that is a technique that gig workers around the world have created because we work in a situation of duress, because there is a structural problem in our workplace, and that structural problem is not being paid for the entire time we are at work. Today, I am here talking to you, and you are talking about bringing in a bill that says that's okay. That's not okay.

It's not okay for our government to say to employers that minimum basic rights and protections at work are like a buffet: "Come. Make your plate. Tell us what you want to put on your plate, and it's fine. We're good with that." That's not what I expect from my government. I don't think that's your job. I think your job is to stand up to massive corporations that want to figure out how to make profit from and benefit from egregiously underpaying workers.

I have one more thing I want to say: I started organizing with Gig Workers United in—well, before it was Gig Workers United, a long time ago, it was CUPW—

The Chair (Ms. Natalia Kusendova): One minute.

Ms. Jennifer Scott: —to have rights and protections to try to have a union. I started doing that because of how deeply unfair and dangerous my job is. I continue to do that. I continue to organize with my co-workers because we recognize so clearly that we are misclassified workers and that everything under the Employment Standards Act can be applied to us. We can have correct classification as employees. We can have EI and CPP and WSIB. We need and deserve those things. And despite working in a sector where we are deeply underpaid, where our work is dangerous, where it's precarious, we find time and we sacrifice to organize. You must know that that is happening, that this bill is because that is happening.

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

Now we will move on to our questioning. We will begin with our independent member for four and a half minutes of questions. MPP Fraser, you have the floor.

Mr. John Fraser: Thank you very much, Ms. Scott. It's nice to see you again. I think we talked a couple of months ago with regard to this. Your presentation was very compelling and very personal. I know that you're doing this on behalf of other people as well.

When you look at engaged time, which is not being dealt with in this bill, and the fact that there are no real rights being given in terms of being able to represent themselves for workers to unite, what do you see as a solution for that in the bill? I know there is an agreement between UFCW and Uber that was mentioned, you may have heard, in this meeting. What do you think the solution is?

Ms. Jennifer Scott: The solution is to recognize us as employees under the Employment Standards Act. It's really just that simple.

Mr. John Fraser: I just mean, in particular, engaged time.

Ms. Jennifer Scott: There is no version of our government endorsing engaged time that is acceptable. We go to work. We clock in. We take shifts. Do you know that on some of the apps I have to take a shift? I have to log in at 4 p.m. and I have to work until 10 p.m., and I don't get paid for all that time. What you are talking about is bringing into a bill the ability to tell my employer that it's okay for them to not pay me for all that time.

Mr. John Fraser: I agree with what you are saying. I think one of the challenges is, when we look at it in terms of people being on multiple apps just simply because of—if you're on engaged time, you're engaged on three apps. It's how do you actually do that in a way—you should get vacation pay, and that should be 4% of whatever you bring in. Uber and UFCW have suggested 120% of engaged time as a way to quantify that, because people are on multiple apps. Do you see where I'm going?

Ms. Jennifer Scott: What I want to offer to you is that we work multiple apps because we are not paid for all time at work. The idea that we would be paid for all time at work and people would continue to double-app is a false narrative. We get fired for double-apping. Every time I do that, I put both of my jobs at risk. I'm not trying to live my life—the other thing that I would bring up about that is, remember Foodora workers unionized Foodora. This was, in a way, a big part of that case. Foodora said, "We are an employer of independent contractors, and we prohibit them from double-apping. We prohibit them from working on more than one app."

There is nothing in this bill that will allow me to continue to double-app if my employer—Uber, DoorDash, SkipTheDishes, Cornershop—turns around and says, "As an employer of independent contractors, we prohibit double-apping." There's no solution here either for employers or for workers except to enshrine and legitimize the employer's point of view that they should be able to pay people not for the entire time they're at work.

Mr. John Fraser: I agree with you that there are no protections in this bill. It creates a second class of workers here in Ontario, ones who aren't subject to the ESA in any meaningful way—which is there because we want to create a situation where people are fairly compensated and they can sustain themselves and sustain their families.

I want to thank you again for your presentation.

I want to get one more question in here—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. John Fraser: Well, actually, we'll keep talking. I'll get it in the next round.

How many apps can you work at once?

Ms. Jennifer Scott: I can generally do okay if I'm doing two at once. I know folks who do three.

Mr. John Fraser: Is it expressly written in your contract that you can only work one app at one time?

Ms. Jennifer Scott: Contracts are vague and written to be interpreted in whichever way is beneficial to the app, so it both is and isn't—it's not written in there.

Mr. John Fraser: Okay. It has just been a practice where people have been terminated and finished because they were—

Ms. Jennifer Scott: Disciplined and terminated.

Mr. John Fraser: —which is the reason that people need the right to be represented.

Ms. Jennifer Scott: Yes.

The Chair (Ms. Natalia Kusendova): We are out of time.

We will now move on to the government. MPP Martin.

Mrs. Robin Martin: I want to ask Emil some questions.

Thank you, Emil, for your presentation and for lending your expertise on occupational health and safety to the committee. Obviously, you've got lots of experience in that.

We are in a new era, with naloxone and opioid overdoses. They're certainly out there; they're happening. We do think that health and safety compliance is a legal and a moral duty, and we want to make sure that employees are safe at work.

I think you said that you think the naloxone kits and their availability should be kind of like CPR or AEDs, for example, on a site. I actually passed, earlier in the term of this government, a defibrillator registry act to try to make sure defibrillators are available for people.

I was interested in what you were saying about how to make the naloxone kits more available for employees and how to have a best practice standard for employers, to make sure that naloxone kits are readily accessible when people need them. My understanding with those is that time is of the essence, and that they're very easy to administer. I have one in my office, as well. I know our Chair, actually, had a bill about naloxone kits being available as well. I think you can pick them up from a pharmacy. They're meant to just be there when people need them.

How can we, in workplaces, make sure that they're there for people who need them?

1330

Mr. Emil Mesic: Thank you for the question.

I do believe that employers have a moral, legal duty—same as you—to protect workers.

When it comes to naloxone, this legislation won't work if the risk assessments aren't done properly, so it's important. The first thing that the employers are going to have to do is do a risk assessment to see whether or not there is a risk of having an opioid overdose or opioid poisoning in the workplace. That's really important. If this doesn't work, it's going to fall on this issue. Some may claim that they don't know how to do a risk assessment. I think it's important that the government help develop the questions that need to be asked in the workplace so that they're succinct, so that employers can't say, "We don't know what to do," or, "We're not sure which way to go." Employers, we find, tend to work better when they don't have to be as creative, when things are spelled out in front of them. We'd be more than happy to help that out.

And you're right; time is of the essence. In order for naloxone to work, it requires some fast action. Training is going to be really important. Again, I'm going to fall back on the same idea, that we need to make sure the training is very clear as well. We don't want to reinvent the wheel

here. We want to make sure that the training is there, is available; it's just a question of passing the training on. There are unions, and we have lots of experts in Ontario who can help with whatever information needs to be put in this training. It should be made available, and it should be simple so that people can't say that they're not sure what they're expected to do.

I like to use the mandatory awareness training that went on a number of years ago for the workplaces—the government came out and made three pamphlets that were quite clear. There were workplaces that chose to go over and above, but at least there was a minimum standard that was there. Everyone could sing from the same song sheet, let's say.

Mrs. Robin Martin: I'm not sure how much training is going to be required for these things, because the kits are designed so that they're pretty self-explanatory and easy for anyone to use. That's why they're made available at pharmacies so people can take them to their homes. You mentioned that emergency response teams could carry them. They could have trauma kits; they could have this with them.

You were also mentioning, of course, the need for risk assessment in the workplace. I would expect that almost any workplace would have some risk of having someone who could have an opioid overdose.

As I said, I have a kit in my office, just because you don't know when someone could be there who could have gotten contact with opioids or fentanyl and, unfortunately, is not able to breathe. The naloxone kit is there to help them get their breathing back.

I'm just wondering if, with your experience and everything, you think that it should just be something that should be in most workplaces, available to workers, and how broadly you think we should cast that.

Mr. Emil Mesic: I think it should be a mandatory part of a first aid kit. It's the government that came up with the need for the risk assessment. I just hope that the risk assessment isn't a cop-out for organizations not to use it. Personally, I think it should be part of every first aid kit. That's what our members told us as well. They have been having issues getting their employers to use the kits—not that they're saying it's a bad idea, but just because it's not mandated, and that's why they're not putting them in. So I think the quicker it's mandated and the easier it's mandated—it will be more effective.

Mrs. Robin Martin: That's all the questions I had.

The Chair (Ms. Natalia Kusendova): A minute and a half. MPP Anand.

Mr. Deepak Anand: Jennifer, I just wanted to comment. Thank you for coming. I actually have spoken to some of the DoorDash and Uber drivers as well. If you can help me out, one of the challenges which I heard when I was talking to them was how to calculate the wage in terms of dollars per hour. Do you think it is fairly simple as it stands right now? Is it easy to calculate?

Ms. Jennifer Scott: Do you mean, for our workers, is it easy or difficult for them to calculate their wages?

Mr. Deepak Anand: Yes.

Ms. Jennifer Scott: No, it's extremely difficult.

Mr. Deepak Anand: And why do you think it is difficult?

Ms. Jennifer Scott: Because apps make it difficult.

Mr. Deepak Anand: Because of the algorithms and stuff? Okay.

The second thing which I wanted to ask was, in case there is any dispute that happens between the app and the worker, what usually happens? Where do you go and fight for your rights and talk about the dispute?

Ms. Jennifer Scott: If you've spoken with workers, then you know that we don't have concrete pathways to dispute things. We don't have access to recourse to do that, because we are misclassified as independent contractors.

The Chair (Ms. Natalia Kusendova): I will now move on to the official opposition. MPP Sattler.

Ms. Peggy Sattler: Thank you to all the presenters.

I'm going to begin my questions with Jennifer Scott from Gig Workers United. I want to start by saying a huge thank you to you for your advocacy and your organizing, all while you are holding down a very demanding and physically tiring job.

I appreciate that you began your presentation today by identifying yourself as a misclassified worker. I am aware, as you are, that on February 22, there was a report issued by a Ministry of Labour investigator confirming that an Uber Eats driver had been improperly misclassified by Uber Eats and was actually an employee under the Employment Standards Act.

I wonder if you have any thoughts about the fact that that Ministry of Labour decision came down on February 22 and less than a week later this bill lands on our desks in the Legislative Assembly.

Ms. Jennifer Scott: Yes. I can't help but wonder what game the Minister of Labour is playing when his own ministry finds gig workers are employees and then, four days later, brings through this legislation, which is a stand-alone carve-out from that. I don't understand what's going on, except that as a gig worker, it appears extremely clear to me that this legislation is written prioritizing the influence of app employers. This bill is meant to make it easier for app employers to enshrine and continue to misclassify gig workers.

Ms. Peggy Sattler: And courts around the world—maybe you'd want to comment on that. Ontario is not the only jurisdiction to have a ruling that an app-based-platform worker is actually an employee of the app company. There have been court decisions in many other jurisdictions that are finding that these workers are actually employees. I think that gets back to the issue where you started from: misclassification. That's a big part of the gig workers' bill of rights—that demand for no carve-outs of the Employment Standards Act, and the demand for a clear test for employment status.

I know that you are familiar with my bill, the Preventing Employee Misclassification Act.

I wondered if you wanted to comment on how the government should be going about recognizing gig workers as the employees that they are, rather than creating this stand-

alone bill that enshrines their status as less than every other worker in the province.

Ms. Jennifer Scott: I would offer that there is a reason that Uber has been lobbying for Flexible Work+ since January 2021, and that's because there's a clock that's ticking on the gig economy on app employers. Workers have been organizing all over the world, and they have been winning. There are recognitions in high courts, in low courts, in Germany, in Amsterdam, in France, in Spain, in Australia, and the list goes on. It's huge. That clock ticking is people and gig workers around the world saying, "We are not willing to watch multinational corporations roll back labour rights and protections in every jurisdiction in the world." And then when we come back and we look at Ontario, the Ontario Superior Court has certified the class action against Uber. There's a class action in every province in this country—the employment standards officer finding my co-worker Saurabh an employee of an employer, and that being Uber.

1340

When the Ministry of Labour did the OWRAC committee and the report came out, in the report they cited a statistic that 69% of people in Ontario think that gig workers should have rights and protections. It's on the wall. That clock, honestly, has stopped ticking. We all know that gig workers are going to get full rights and full protections under the Employment Standards Act.

The question that everybody on this committee has—and I hope you are all thinking about and taking seriously—is, how difficult are you going to make it for us to get those rights and protections? How much more do we have to organize? How much harder do we have to fight? How much do we have to sacrifice before you will see and acknowledge what is going on and stop caving in to big businesses and powerful corporations?

Ms. Peggy Sattler: One of the things that we heard from the minister this morning when he appeared before this committee—he talked a lot about the benefits of this bill in resolving issues around tips. Is that a huge problem for gig workers? What are the issues around tips that this bill apparently solves?

Ms. Jennifer Scott: I don't have any issue with my tips. I get them. They come in. I get paid them. I don't know what issues the minister thinks he's resolving.

I think what is clear is that the minister thinks he has found problems and he thinks he has found a solution, but that solution is nowhere near where it should be, and it just makes it all the more clear that if he had interacted with, spoken to and taken insight from gig workers, the bill would be better. But he didn't do that.

Ms. Peggy Sattler: Was Gig Workers United consulted at all in the development of this I bill?

Ms. Jennifer Scott: No.

Ms. Peggy Sattler: There was no consultation with any of the gig workers who are involved with Gig Workers United?

Ms. Jennifer Scott: None that I know of.

Ms. Peggy Sattler: And your experience with tips—would you say that that is similar to other gig workers you know, that this is not their number one issue?

Ms. Jennifer Scott: Tips are by far not the number one issue.

Ms. Peggy Sattler: What is the number one issue?

Ms. Jennifer Scott: Not being paid for the entire time that we are at work.

Ms. Peggy Sattler: And being misclassified as independent contractors?

The Chair (Ms. Natalia Kusendova): One minute remaining.

Ms. Jennifer Scott: Yes. Through this misclassification, we lack the ability to do anything about any of the problems that we have. We lack the ability to represent ourselves, to seek representation through a union that we choose that is democratically chosen by the workers, as is our charter right, without the influence of an employer. Through being misclassified and without correct classification, we lack the ability to hold our employer accountable.

Ms. Peggy Sattler: My bill, the Preventing Worker Misclassification Act, proposed a clearer, simpler process to identify a worker. It also assumed the default is that the worker is an employee and not an independent contractor. Would you say that is the approach that you would have liked to see in this legislation?

Ms. Jennifer Scott: Absolutely. The worker who filed the ESA—I helped him with it. He filed it last year, in 2021—

The Chair (Ms. Natalia Kusendova): Thank you very much. Sorry; we are out of time.

Now we will move on to the second round of questions. Back to MPP Fraser.

Mr. John Fraser: I'd like to direct my question to Mr. Mesic.

I want to thank you for your presentation on naloxone. I think it's a really important part of the bill, and your comments around making it operational are important.

I'm glad that you mentioned defibrillators. My colleague MPP Martin would know it—because she has a bill about defibrillators and how important those regulations are. We're still waiting for those regulations. It has been a few years, so I would encourage the government, if this bill should pass, that we work on how we're going to make it operational, just with all the things that you said in your presentation.

My question for you is in relation to the increase in fines for bad employers. What has been your experience, as a representative, with the actual application of fines and levies against bad employers? Do they happen when they should?

Mr. Emil Mesic: There's always room for improvement, but certainly it is an argument that is used by joint safety committees to get their point across. So many times, a worker representative of a committee has not a lot to fall back on. A lot of times the law isn't protective enough, and, as a member of a committee, you're left to reminding the employer, and potentially the person sitting across the table from you, that there is a financial penalty to not proceeding forward with this good idea, let's say, to protect workers.

Every idea that comes across a table in the province has some cost. There is some initial cost that certainly will pay itself out later down the line, and all those numbers are so hard to read. Being able to say to a director or a controller that you are potentially liable for a fine—back in my day, it was \$50,000; now it's \$100,000, up to \$500,000, and \$500,000 is a very high number. It will get people's attention. I think it is a really good tool to open the eyes of senior managers, supervisors and up—\$1.5 million is even more—to get their attention. I really think that is a good aspect of this law, to open eyes of everyone.

To that point, no one is immune in the workplace. We understand that workers and supervisors and everyone has a role to play, but by far the perpetrators who would be looked at this—it would be senior management and supervisors who don't take their role seriously enough. So I think it's a really important aspect of the law.

Mr. John Fraser: Do you think gig workers should have the health and safety protections like every other worker in Ontario?

Mr. Emil Mesic: Absolutely. Gig workers are workers. The second part of that is the most important word. They are workers, and they should be included in all the protections that are afforded to workers across the province. So many of our young people and new Canadians are joining the ranks of gig workers that it's really important to make sure that that is formulated across the whole sphere of workers.

Mr. John Fraser: Thank you very much, and I'll just say thank you to Ms. De Angelis for being here and presenting.

We only have about 30 seconds left. What I would like to say is that it's unfortunate that the things you did negotiate and bargain weren't in any way reflected in this government's bill in any meaningful way. I think things like right to representation, health and safety protections—it makes it hard to understand why, when employers and workers agree on something, the government doesn't pay attention.

The Chair (Ms. Natalia Kusendova): We will now go back to the government. MPP Babikian.

Mr. Aris Babikian: Thank you to the presenters for sharing their expert opinions with us.

My question is to Mr. Mesic. We are in an historic labour shortage, and unfulfilled jobs are costing Ontario billions in loss of productivity. Do you agree that we should make it easier for skilled workers from other provinces to continue their careers in Ontario?

Mr. Emil Mesic: Thank you for the question.

I think that's a very important aspect. Unifor supports just transitions, and we want to make sure that there is labour mobility between provinces—not that workers should have to leave their home to do that, but there are opportunities across the province, and as long as the qualifications line up across the provinces, then we're not against that kind of mobility.

However, it is important to understand that unions have a role to play to ensure that the qualifications do line up across the provinces. It is not just the simple movement of

people—there needs to be the background in health and safety, in training, in education that happens.

Our skilled trades in Ontario, for example, are very well respected across the country, as are many trades across the country.

If that's what you're referring to, certainly we're not against labour mobility, but at the same time, there is a role to play for all the parties to make sure that we are talking apples to apples when workers are coming into this country and across provinces.

1350

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

Mr. Jim McDonell: I have a question for Emil.

You talked about assessments when it comes to naloxone kits. I'm not that familiar with naloxone kits and how they work—I guess I know how they work, but if you have somebody, of course, who's involved in it, I'm sure in many cases they're not willing participants, and it's hard because you're working with a co-worker. There's a lot of issues with it, and not everybody is prepared to get engaged with something like that, even though the results of not getting engaged can be very serious. So with the reassessment—are you familiar with it or what it involves?

Mr. Emil Mesic: Well, just to my point, there is always going to be reluctance by someone to jump in there and be, let's say, a good Samaritan. That's why the Good Samaritan Act exists, so that those who are properly trained do try to help. Again, we're not expecting everyone to have to jump in there. It's not expected anywhere in society that someone has to jump in, but if you are trained and you have the ability to do it, then you should be able to go in there—just like in our own workplaces, we have people who are trained in CPR and first aid. These are people who have put their hand up and said, "I want to get some additional training. I accept the responsibility, and I want to help my co-workers and, of course, even my own family members or members of the public." That training is good, and it's not expected that each person would have to administer the naloxone. Again, like many things in the workplace, you can't make anyone do anything. It's more a question of will, and in workplaces, workers are really interested in helping one another.

I'm not sure that it's a very difficult thing, and we're not expecting that everyone would have to be involved. For those who want to get involved, it's important.

Mr. Jim McDonell: I guess for mandating and for anybody with more than 25 employees—it gets rid of the stigma of liability and a few other things that are there when there's no clear law around it. It's something that's geared to make employers more—some of them—you always take away from actions like this, but now it's mandated, so you're comfortable having people do it because it gives you a lot more security under the law if something happens to go wrong.

You also talked about increasing the fines for employers. You're right; lots of times if you're not hitting somebody's pocketbook, they don't always stand up and listen. So just talk about that a little bit more. To people I

know, anyway, a \$10,000 fine is a lot. So when you start hitting people with \$500,000 or more, people certainly do more than listen.

Mr. Emil Mesic: It's really important that the message gets out there.

I'm going to give you a parallel. I live in Mississauga, and these radar cameras, if you want to call them that—I can see that people are afraid to get hit in the pocket, and they are really slowing people down. The parallel here, jumping to the workplace, is that knowing that your potential fine is that high will get your attention. It's amazing how much of a role comptrollers and the finance people have in workplaces. Their power to make changes and effect change is really great. Even though their role isn't a health and safety role, they really can affect a lot of things that happen in workplaces—

Interjections.

Mr. Emil Mesic: The numbers there are important.

The Chair (Ms. Natalia Kusendova): Thank you so much. MPP Anand, you have one minute.

Mr. Deepak Anand: I know the time is running out, so I just want to go back to thank Jennifer for being here.

Was there a time when there was any problem that any of the gig co-workers wanted to stand up—and there was no reprisal opportunity for them to stand up against these platform companies. Was there any situation like that?

Ms. Jennifer Scott: So many. Take a look at the number of gig workers who filed Employment Standards Act claims or OSHA complaints that have gone unanswered by the government.

Mr. Deepak Anand: But was there any situation when you could not fight for your rights against these companies because they said you can't do it in Ontario, because the agreement that you have does not allow you to fight in Ontario?

Ms. Jennifer Scott: Not one that mattered, because in 2013, David Heller, bringing forth a class action against Uber, was found by the Supreme Court to have the charter right to arbitrate in Ontario, nulling and voiding any demand from an app employer that they couldn't arbitrate in Ontario. So it has never stood up before.

The Chair (Ms. Natalia Kusendova): For the last round of questions, back to the official opposition: MPP Gates.

Mr. Wayne Gates: Thanks to the presenters.

I'm going to be very clear on this. We don't have to ask her a question on what the problem is. The problem is, they're not covered by the Employment Standards Act. They don't have health and safety standards. There shouldn't be a union in the world that would support a bill that is not going to give workers the Employment Standards Act. There shouldn't be a union in the world that's going to say that workers should be paid only 40% of the time and lose that type of—that's what this is about.

There are things in this bill that we like, quite frankly. The naloxone kits are great. How you institute it, how you make sure you can do it in bargaining—and the reason why you can do it in bargaining, you actually join a union. There's nothing mentioned in here about unions, quite frankly.

I want to appreciate you for standing up and saying, “We just want to be workers.” I’m a worker. I was president of my local union—I would go with Unifor, for years; CAW.

They won’t pass our deeming bill. Yet at Ford, Chrysler and GM today, workers are getting injured on the job and living in poverty. That’s not in the bill. Nobody talks about that in this bill.

So I want to say thank you. Gig workers are important, and they should be treated with respect and dignity, like every other worker in the province of Ontario. A worker is a worker. Why can’t we get that through our heads here? That’s so important. Everybody goes to work for one reason. You guys come here for other reasons. We come here because we’re making laws. Sometimes they’re bad laws, but we make them—because you’ve got a majority government. At the end of the day, we’re all workers. Treat every worker the same. Treat them with respect and dignity. That’s all they’re asking for here; that’s all UFCW is asking.

The deeming bill is absolutely disgraceful. You’re four years into your mandate, and you haven’t protected workers who are getting injured on the job. The reason why they’re working and they’re going on opioids is because they can’t get WSIB. They don’t want to be deemed and live in poverty, so they take opioids and stay at work. Construction has talked about it. The Big Three have talked about that.

This question is for all three presenters. There are roughly 800,000 gig workers in Ontario. Why would this government decide to create a second-class tier for them? What do you believe their motivation is? I will ask UFCW, Unifor and Jennifer Scott that question.

Mr. Aris Babikian: Madam Chair, point of order.

Ms. Jennifer Scott: Thank you for that question and—

The Chair (Ms. Natalia Kusendova): Just a moment; I’m so sorry. We have a point of order.

MPP Babikian—

Mr. Aris Babikian: My apologies for interrupting the procedure of this committee, but it is unwarranted for the member from the opposite side to question the motives and the integrity of our members here who are sitting and why they are coming to this place. This is unacceptable. At least we should have respect toward each other. To question our motives is uncivilized and unwarranted.

The Chair (Ms. Natalia Kusendova): As all members know, imputing motive is not appropriate in the House, and it certainly is not appropriate here in committee hearings.

Now I’d like to return to MPP Gates for his question. He already posed it, so—

Mr. Wayne Gates: I just read the question out. Thank you.

The Chair (Ms. Natalia Kusendova): We will go to our presenters to answer the question. Thank you.

Mr. Wayne Gates: Did you guys get the question, or do you want me to reread it because of the interference? Is somebody going to answer the question? UFCW, do you want to go first, then Unifor, and then Jennifer?

Ms. Debora De Angelis: Can you please reread the question?

1400

Mr. Wayne Gates: Sure. The question is to all three presenters.

There are roughly 800,000 gig workers in Ontario. Why would this government decide to create a second-class tier for them? What do you believe is their motivation?

Ms. Debora De Angelis: Thank you so much for the question.

We’ve heard from thousands and thousands—

Mrs. Robin Martin: Point of order.

The Chair (Ms. Natalia Kusendova): I’m so sorry; we have another point of order.

MPP Martin.

Mr. Wayne Gates: Can we stop the clock too, please?

The Chair (Ms. Natalia Kusendova): Yes.

Mrs. Robin Martin: Under the rules of procedure, we’re not to impute motive. The question directly asked our motive. I think that’s inappropriate.

The Chair (Ms. Natalia Kusendova): MPP Gates, can you rephrase your question without imputing motive?

Mr. Wayne Gates: I think it’s very clear that I can just say—the last part of that, I’ll just withdraw it. It’s fine. I’ll withdraw that part of the question. Just answer the rest.

The Chair (Ms. Natalia Kusendova): Can you repeat the question one more time?

Mr. Wayne Gates: Again? Oh, my God.

The Chair (Ms. Natalia Kusendova): Sorry. The clock is stopped.

Mr. Wayne Gates: Can I just send it over to you guys? Would that be easier?

This question is for all three presenters. There are roughly 800,000 gig workers in Ontario. Why would this government decide to create a second-class tier for them?

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

Ms. Debora De Angelis: Thank you. As I started in my discussion—2018 was the very first time I received a call from an Uber driver. On January 27, I called that Uber driver again and said, “If you were deactivated today, if you were essentially terminated today, what do you think about the representation model?” And what the driver said was, “This is exactly what I was asking for.” These workers have been ignored for too long.

This is an opportunity for the government to make real, incredible improvements for app-based workers. So I’m really asking the government to look at their Bill 88. It doesn’t go far enough. Listen to all of the comments that have been made today, take a stand, and make an incredible demonstration that you care about workers in Ontario, including app-based workers.

Mr. Wayne Gates: Unifor, go ahead.

Mr. Emil Mesic: Thanks for the question. I think it’s simple. I believe the government put forward this flawed section of the bill because they didn’t engage with the right people to discuss it. It sounds like—I’m agreeing with Ms. Scott—they did not engage with the working side; rather, they engaged with the employing side. I’ll leave it at that.

Mr. Wayne Gates: Go ahead, Jennifer.

Ms. Jennifer Scott: As a gig worker who has read my contracts in extreme detail, who has been up against Uber's lobbying for the past year and a half, when I read Bill 88, I see what Uber wants. I see what apps have been lobbying for and fighting for, for the past three years.

To speak to what MPP Martin said—"They don't have any rights. We're giving them some rights"—something is not better than nothing. We are real people who work real jobs. There is nothing complicated about that. This has nothing to do with tech. There are no real rights and protections in this bill.

We are workers. We are misclassified people. We are employees. We are entitled to the full scope of rights and protections under the Employment Standards Act. I reiterate what I said earlier: that this committee has to make a choice on how much more difficult you are going to make it for gig workers to get those rights and protections, how much harder you are going to make us struggle, how much more you are going to force us to organize. That is what is up for debate here today.

You have the opportunity to put an end on that clock, to say, "It stops."

The Chair (Ms. Natalia Kusendova): One minute.

Ms. Jennifer Scott: Work can be better for those people. And you are choosing, if you vote for this bill, not to do that.

Mr. Wayne Gates: There are things in this bill that we could certainly have debate about and talk about, whether it be on the skilled trades or with the kits, but this is a poison pill.

Like I said, I was a worker my whole life. I spent 40 years at General Motors. I've been president of a local union. I've bargained collective agreements. If I had ever brought this to a member and said that workers are going to get paid 60% of their wages, particularly in a skilled trade, because sometimes they're waiting for calls to fix machines, they probably would have attacked me. I wouldn't even get out of it.

So why are we saying to gig workers, "You should be making \$7.50 an hour for part of your"—

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

Mr. Wayne Gates: That's it? Did you stop the clock?

The Chair (Ms. Natalia Kusendova): We did.

This concludes our time for this group of presenters. Thank you so much for being here.

MR. BRICE SOPHER

MR. SAURABH SHARMA

MR. IVÁN OSTOS

The Chair (Ms. Natalia Kusendova): Now I would like to invite the next group of presenters. We will begin with Brice Sopher.

Welcome. You may have a seat. You have seven minutes for your presentation, and you may begin by stating your name for the record.

Mr. Brice Sopher: Thank you very much. My name is Brice Sopher. I am a gig worker. I've been doing this since 2015.

Before I came here, I looked at the legislative schedule. When I look at it, I would see that MPPs in this province only sit for 78 days of the year. That seems like it's not very much. Four days a week, then you get out on Fridays, maybe you hit the cottage early, beat the traffic—

Interjections.

Mr. Brice Sopher: But I know that it's more complicated than that. You do a lot of work outside of that time that people just look at you as sitting in the Legislature. You do things like this. This is a lot of time. I sympathize, and so I would ask at the same time that you sympathize with me.

When I'm out there working, I'm not having a good time. I'm not with my loved ones. I like to work on music. I'm not doing music. I'm not enjoying my life. When I'm working for Uber, I am working for Uber. When I'm waiting in the cold—I worked yesterday. It snowed. It was really cold. When I worked there, I was working. Uber had me 100%. So the fact that you would say that that time doesn't count, that that time is worthless is, frankly, very, very insulting. That's frustrating. That's what you're saying to the workers of this province. You should know better.

I have no control over how many orders I get. I have no control over anything. The app has been down sometimes. I'm out there and I can't even get an order. It's not even something I can deal with. Who's to stop these companies from manipulating that? Who is to stop them from abusing that?

This minimum wage section doesn't even really solve the problem of minimum wage. If I'm working, I'm either making more than minimum wage or, the way that this is laid out, I will never get to minimum wage anyway. Who does this help? What does this solve? I think all it really does is claw back my time. It claws back people's paid time. It undervalues them. Do you want that to be your legacy—that you took away people's time, time I will never get back, time I'll never spend with my family?

This is the inevitable result when you work for workers but you're not working with workers. We were never involved in the OWRAC panel. We have not been involved in this bill, and this is the type of legislation that comes out. This is a very anti-worker bill.

I've had, at moments, the Minister of Labour actually tell me to my face that I'm a hero, and then when I see a bill like this, it makes me very sick. I'm disgusted. This isn't how you treat essential workers. This isn't how you treat people you call heroes.

These apps have come to Ontario. They've come to feast on workers, they've come to feast on capital, and what you're doing with this bill is you're setting the table for them. You're tucking their napkin into their collar and you're saying, "Bon appétit. Come, eat as much as you want."

1410

The solution has always been there. As many people have said, we have the Employment Standards Act. We

have employee status. People are Conservatives—“We want to cut red tape. We want to make it easier.” There was a solution right under your nose the whole time. Preventing employee misclassification. It was always there the whole time. So I wonder why we are doing this. Why we are spending our time jumping through hoops? I think it’s because this is what Uber wants. And I’m seeing that, unfortunately, this government, instead of standing with workers, is standing with employers and standing with big corporations.

That’s all I have to say.

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

Our next presenter in this round is Saurabh Sharma. Welcome. You have seven minutes. You may begin by stating your name for the record.

Mr. Saurabh Sharma: Thank you, Madam Chair and members of this committee. I appreciate the opportunity to present my views in this important review of Bill 88. My name is Saurabh Sharma, and I’m a digital platform worker. For over one year, I have been delivering food and groceries in downtown Toronto for Uber Eats. I’m here today to express my deep concerns about the extent to which Bill 88 fails to protect digital platform workers, especially food couriers working in this industry, from exploitation by delivery app giants.

My comments today result from my direct experience working in this industry as a gig worker, but also as someone who has had to avail myself of a legal process under the Employment Standards Act to challenge the contractual misclassification by my employer, Uber, who fails to see me as an employee, who fails to see that I’m entitled to all the benefits under the Employment Standards Act. I have circulated a copy of this decision as well. If you review this decision, you will find that, following a detailed investigation of various factors of my employment, the Ministry of Labour found that I was in an employee-employer relationship with Uber.

If Bill 88 is passed, it would reverse all of the protections conferred on me through this decision. This bill introduces a special relationship between delivery app giants and their workers. This robs food delivery couriers, like me, of our designation as employees. Quite simply put, Bill 88 does not work for workers.

More specifically, there are four main problems with this bill, all of which function to legitimize the exploitative business model of delivery app giants.

The first one: If you look at the definition of “operator” under section 1 of this act, my employer, Uber, is considered an operator because it is said to be facilitating my work through the use of a digital platform. Respectfully, I find this definition to mischaracterize the true nature of my relationship with Uber, and these reasons, which I’m going to state, can all be found in the ruling by the Ministry of Labour.

First of all, I don’t have any negotiation or bargaining power over my wages. My wages are fixed by Uber, my employer. I do not get directly paid by the customer. I am paid by the company. The single most important tool to

perform this job, the Uber app, is provided by my employer, Uber. They have direct control over it. I cannot customize this app for my convenience. Uber has disciplining authority over me. It has the authority to hire me, fire me, and probably suspend me at its own volition. And lastly, Uber’s workplace policies have direct impact on my health and safety.

Last year, a small policy change by Uber reduced the pinging time on the phone back to 10 seconds, so workers got only 10 seconds to accept or reject an order. Just think: I’m on a bike on College Street, and I have 10 seconds to stop my bike, take out my phone, read the order and where it’s going to, and then accept or reject. How can you do this in 10 seconds on College Street in downtown Toronto? These are the safety and health risks we are dealing with.

While the designation of “operator” under section 1 of this act is appropriate for digital marketplaces like Kijiji, Fiverr, Upwork, on these digital platforms, their model is different. These are also digital platforms. Their model is of gig workers who provide freelance services. On these platforms, workers have the choice of putting their costs up front. On these digital platforms, workers directly negotiate with the customer how much they’re going to be charged, what time, what location. So workers have bargaining powers in that model. That model is completely different from the digital platforms which are operating for food couriers and rideshares. This bill is catering to that part.

And this is a fact: 90% of the gig economy consists of digital food couriers and rideshare drivers, not the 10% for which you have brought this bill. I am saying all this because there are specific references in the definitions made to rideshare drivers and food couriers. This specific reference will make it very hard for me to prove my standing before the ESA and OHSA. The first question they’re going to ask is, “What is your standing? Why are you here? You are covered under Bill 88, the Digital Platform Workers’ Rights Act, not the ESA.” I think the bill should make it very clear that digital workers’ standing under the ESA and OHSA should not be impacted by Bill 88, if, according to the Minister of Labour, this bill is to be the floor and not the ceiling.

The second reason this bill fails to protect is because of the application of minimum wages. I think a lot has been said about this. I’m just going to say that we are not going to be compensated for our downtime waiting around between deliveries or for our restroom breaks if this bill is passed. Under this model, a \$1.05-an-hour wage would be legally justified.

The third problem associated with this bill that I found is actions which can lead to the removal of a worker. This bill, in section 11, says that I can be removed at any time for wilful misconduct. It does not go on to explain what wilful misconduct is. To give you a real-world example, when I’m hired by a delivery app employer, I’m made to sign a contract. This contract—I have no negotiation power, no bargaining power. This contract has its own definition of workplace misconduct. In this, lower ratings

on the app are also considered misconduct worthy of termination. I did not discuss this policy with my employer; this policy is put by my employer. And we know this performance rating system is kind of prejudiced towards people of colour. For that reason, if I'm getting deactivated, that's not fair. So I think the bill should introduce strict guidelines for limiting the causes of wilful misconduct. The bill should call for severance pay for no-cause termination. Only this will restrict these app-based giants from using such drastic measures for minor violations.

I would say that these predictions—

The Chair (Ms. Natalia Kusendova): Thirty seconds.

Mr. Saurabh Sharma: I will just go on to my last point.

In conclusion, I will reiterate my remarks that Bill 88 does not work for workers. There's a common saying that justice hurried is justice buried. Bill 88 is being hurried through the legislative process without any thorough investigation to look at what workplaces in the gig economy exist, and without any consultation with gig workers. Every person living and working in Ontario should have the right to dignity and respect at work. Bill 88, in its current form, is a threat to our dignity.

Thank you for allowing me to speak.

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

Our third presenter in this round is Mr. Iván Ostos. Welcome. You have seven minutes, and you may begin by stating your name for the record.

Mr. Iván Ostos: Thank you for letting me speak at this committee. My name is Iván Ostos. I've been a worker in the gig economy for over six years at this point, working for various delivery companies, starting with Foodora back in May 2016, then Uber Eats and DoorDash. The reason why I'm here is I do feel that there are a number of issues with this bill and a number of issues that are unaddressed by this bill, and I feel very strongly that this bill does not address the direct needs and desires of the workforce.

To begin with, I did work for DoorDash. I don't work for DoorDash anymore. The reason why I don't work for DoorDash is because they deactivated me. I do not know why they deactivated me. They didn't give me a notice prior to the fact. They didn't give me a warning saying, "You have done such and such a thing, and you will be deactivated if you continue to do so." I only found out by trying to sign on and it saying, "You have been deactivated." I had to file an appeal, which, obviously, they are the only ones who have a say over. I got no response. So there is no way for me to get my job back, I don't have a reason for why that happened. I'm then left to focus on the other apps that I have to chip around—apps like Uber Eats.

I did see that in Bill 88, there's a little piece, like Saurabh just mentioned, about dismissal, but I have very strong concerns about how that can be enforced when these apps already have so much power. They already aren't open about their own reasoning for getting rid of workers. I don't have faith in that happening unless there

is democratically elected worker representation that can enforce the will of that workforce.

1420

Another thing I want to talk about is workplace injuries. I think people are well aware that cycling or, really, doing any sort of labour in the streets is somewhat dangerous for a number of reasons. And that risk falls on whom? All of the risk falls on the worker. There is no risk for any of the platform companies. What I mean when I say that is that if somebody were to be injured on the job, the employer is not in any way responsible to pay them for their time off, and they're not even responsible to pay them for the ambulance that they have to take to go to the hospital, and there's no guarantee even that that worker would have their job if they were to recover.

I suffered a workplace injury a few years ago. It was through no fault of my own; it was just an accident, and I don't blame anyone. It's normal, and it's a part of life in this industry. It's to be expected, sadly. Because of that injury, I did not work. I broke my arm. I was unable to work for four months. During that time, I went through the entirety of my savings—I was paying for rent, I was paying for food etc. I did not get any sort of support from the company. After the fact, I realized that this is what it means to be an independent contractor. You're independent to face the consequences of the danger of the job yourself, and nobody else has any responsibility, as Saurabh mentioned, when you have to work harder and faster constantly to make good income.

When you only make a certain amount of money per delivery—that is regularly going down, I would add—the incentive upon the worker is to do more and to do it more quickly and to do it more dangerously. It's not because cyclists love running red lights or love evading traffic that they do it; it's because they have to do it. It's because there's an incentive. The way the business model of the apps works is—it's integral to the business model, because if I wasn't doing that, people wouldn't be getting their food so fast, and the customer would be upset, and I would get a bad rating, and then I'd get deactivated.

When I think about that and what I went through and I think about how common it is—I called a co-worker of mine this week. He told me that the same thing happened to him. And I know there are other people that it happens to so often that they don't even mention it. It's just another part of life. Small things, like falling off your bike, your arm hurts, maybe you take a day off—or big things, like you have a concussion, you have brain damage, your life is changed forever, and then what?

When I think about who supported me when I went through that, the people who supported me were not from the company. They were my co-workers. There are other people who came to the hospital, visited, made sure I was okay, got me involved in organizing for a better workplace. Those people supported me, and I know they had my back.

The Chair (Ms. Natalia Kusendova): Thirty seconds.

Mr. Iván Ostos: I think what this bill should address is simply the Employment Standards Act. If I were an

employee, WSIB is a given; it's there, and I don't have to think about it. And the right to form a union is there. Collective bargaining is there.

I know that real changes actually happen when workers are organized and they make demands of the employer and they can enforce those demands upon the employer. Thank you.

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

We will begin our rounds of questioning with the government. MPP Anand.

Mr. Deepak Anand: Brice, Saurabh, Iván, thank you so much for coming and talking about the issues in the province.

If it hadn't been for Iván's story, I would have started with Brice, to say that it's 89 days—is it only 78 days? No, it's 89 days, but that's okay; 89 or 78 doesn't matter. I do tell my family, as well, that I'm having fun for the rest of the 300 or 200 days, because they don't believe that.

I think we all have a responsibility God has given us. I call it a blessing whenever can serve the community as much as we can serve the community while taking care of our lives, while taking care of our families. That, to me, is the way I look at life.

Thank you for reminding us of the amount of work we do.

Saurabh, why did you join to go into this platform work and do this platform work?

Mr. Saurabh Sharma: I am a new immigrant to Canada, and because of the systemic things which exist, without Canadian work experience it's very hard to get a job. I landed here in the middle of the pandemic, so I found that the threshold for entering the gig economy was much lower than other jobs, and I started doing this.

Mr. Deepak Anand: What have you done back home?

Mr. Saurabh Sharma: I'm a law student—paralegal.

Mr. Deepak Anand: And you're aware of Bill 27, where we are trying to help and make sure that those who are new immigrants, those who want to get into the profession of their own choice—now there are many things coming up to help them. Are you aware of them?

Mr. Saurabh Sharma: I'm aware of it. Unfortunately, as a lawyer, those practices would remain the same even after Bill 27 is passed.

Mr. Deepak Anand: The English requirement and the Canadian experience requirement?

Mr. Saurabh Sharma: The NCAs and the other requirements, yes. They would remain the same, whatever it was before.

Mrs. Robin Martin: NCAs?

Mr. Saurabh Sharma: National Committee on Accreditation.

The Chair (Ms. Natalia Kusendova): We have to keep the comments focused on the current bill, Bill 88. Thank you so much.

Mr. Deepak Anand: Thank you for reminding me of that. I just wanted to take an opportunity that way.

When you took this job, did you have multiple platforms, or do you only use one platform?

Mr. Saurabh Sharma: I only use one platform. I used to work for a company called DoorDash before. They unilaterally deactivated me from the app, and they deactivated me apparently because I did not accept as many orders. So I was kind of exercising my flexibility for them, and they deactivated me. There was an internal appeal mechanism; I appealed and nothing happened. The decision was final. To date, I am deactivated on DoorDash.

After I was deactivated, I could not work for a week, because of the time it takes to join another platform. It takes one or two weeks, because these companies conduct a background check on you. So I joined Uber after one or two weeks, and since then I've been working for Uber.

Mr. Deepak Anand: Something I heard again and again—maybe you can help me out. Are you able to measure how much money you make per hour, as it stands right now? Are you able to calculate it easily?

Mr. Saurabh Sharma: Yes. I am able to calculate it easily, as it stands right now. The money which I receive is divided into different components. The components are base fare, surge income, supplement income—this is all told to us by the app. This is the existing practice. So what this bill is giving to us in the “right to information” section—what is being promised is already there. It's the standard practice.

What gig workers were demanding is transparency in the algorithm. How does the algorithm decide what the promotional income is going to be today? What happens is that I start working from my home and I see, “Oh, the promotion is \$5—a good time to go to work.” I step outside, I complete my first delivery, and the promotion is down to \$1, so that's like a 40% reduction in my wage within 10 or 20 minutes. And you know that when you're delivering on a bike, you wear your full-on gear. You're on your bike, and now that you've done the one delivery, you're already very far away from home, so you're stuck out there and now you have to work with that reduced promotional rate. What workers were asking was, “Give us the transparency on how this promotion is being calculated. Fix this promotion for a particular period of time.” The pay should not fluctuate so much. The pay should not be \$800 this week and \$200 next week.

1430

Unfortunately, when this bill is passed, that practice would still stay, because the base fare, which this bill is focusing on, stays constant, and that's only 20% to 30% of our income.

Mr. Deepak Anand: So what you're saying is—if any of my colleagues want to jump in, you're more than welcome. As it stands right now, for example, it says the promotion is \$5, and as soon as you click “Yes, I will take this order,” it still comes down to \$1?

Mr. Saurabh Sharma: No. Let's say I got an order from Little Italy to Lakeshore, a six-kilometre distance. I accepted that order with a \$5 promotion. I completed the delivery. Now I am at Lakeshore, far away from my house, and I open the app and now the promotion has dropped to \$1. Now any next order which I get—I have to do that order for that much lesser wage. That is the problem. That

is why we needed clearer transparency in the algorithm—that it will not change it that fast; at least for these three hours, I'm going to work on \$5 promotion. That's why I went out to work—I'm going to make good money today—and I return like the slave of this app, because it played with me. That's how the algorithm plays.

That's why we need full information about and control over this algorithm, because this algorithm is deciding how work is being done on the ground. This algorithm is deciding my health and safety. This algorithm can be—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. Saurabh Sharma: It can be risky to my health and safety. I explained with the example how the algorithm reduced the pinging time, and that was a very dangerous situation. I'm glad Uber took it back after a few days, but that's the level it can go to. Why is that happening? Because workers don't have a say under OHSA to be in a workplace health and safety committee. Every other workplace in Ontario has a workplace health and safety committee; this workplace does not. We have no say, to say, "Oh, you're changing the policy? Please take our views on it. Please listen to us. This policy is bad. This will impact my health and safety." They don't listen. We have no say at the table. If we are employees, we would have a say at the table.

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

Mr. Jim McDonell: One thing that this regulation or legislation does is, it sets a floor. Going forward, these algorithms will be explained, and they will not be able to change them like they have in the past—

The Chair (Ms. Natalia Kusendova): Thank you so much. Sorry; we're out of time.

The official opposition: MPP Sattler.

Ms. Peggy Sattler: Thank you so much, Brice, Saurabh and Iván, for coming here today. I really wish the government had consulted with people like you who are actually doing these jobs before they brought forward this legislation, but at least you have an opportunity now to have your voices heard—although I appreciated Saurabh's footnote on his presentation that gig workers only found out on March 25 that they had until March 28 to present to this committee. We're very grateful that you managed to do that, but it does reinforce this pattern of not wanting to hear from gig workers in Ontario, who this bill is supposed to be helping.

Saurabh, I want to say congratulations on the process that you went through to get that ruling from the Ministry of Labour investigator. It is a very cumbersome, difficult and intimidating process for any gig worker to try to challenge their wrongful misclassification as independent contractors when they are actually employees, and you did it, and that is historic. The government should have reflected that ruling in their legislation.

One of the things I have been working on is changes to the Employment Standards Act to clarify and simplify the test for who is an employee and who is an independent contractor. My bill would also shift the onus so that the

default is that a worker is an employee and that it's up to the employer to prove that they are an independent contractor, rather than the other way around.

I would invite all three of you to comment on that approach. Do you think that is what this government should have done—taken steps within the Employment Standards Act to try to end this wrongful and unfair misclassification of gig workers that ends up denying gig workers any access to health and safety protections? No paid sick days—not even those temporary paid sick days that the government was shamed into providing during a pandemic. You were excluded from that because gig workers had no access to any of the provisions of the Employment Standards Act. So I'm interested in your views on my bill in terms of preventing the misclassification of gig workers.

Mr. Brice Sopher: It would have gone a long way to helping us. Like Saurabh, I submitted a complaint to the Ontario health and safety act and still haven't heard from them yet. That was in August. That shows where gig workers are right now as far as protections. We've suffered a lot in this pandemic, and if we had more rights, then we would have suffered a lot less.

I had to deliver to people who were not wearing a mask. There was no obligation from the company—in my case, Uber Eats—for their customers to wear a mask, and I got COVID. I had to take time from work without any of the protections an employee has. I'm just sitting there not making any money. If this bill that had been presented before I contracted COVID—if that had come into law, then that would have protected me. I would have actually been in a much better place. Instead, I just spent my time playing catch-up.

With this type of job, you don't go—most people know, "If I work a certain amount of time, then I can make a certain amount of money and I'm going to be fine." We have a goal of how much money we need to make, and if we don't make that money, then we just work more. We work harder and harder and harder, and these apps have consistently cut our pay over time. Imagine that. We all know the problems with inflation, we all know the problems with the price of gas, and our pay is cut constantly.

If we were considered employees and we had more rights, then we would have been in a much better place. We'd probably have the ability to collectively bargain and get better pay. That's the problem that we're all asking for—we want to be paid fairly and properly. The little bit more that this bill proposes is still a lowering of the standards for everyone. The important thing is maintaining that standard. We can't move backwards. That bill would have definitely prevented that movement backwards. This bill does actually accelerates that movement backwards in people's rights. Just because of a tech advancement, it doesn't mean that we deserve less rights. There's no reason for us to have less rights just because we do a certain job. We deserve all the rights of everyone else. It's pretty simple.

The Chair (Ms. Natalia Kusendova): Saurabh?

Mr. Saurabh Sharma: All that I want to say on that is, you're right. It took a lot of hard work to get that ESA

ruling. There was evidence—more than 600 pages submitted to the officer in that ruling. It took three months of investigation—and it was not me alone; because my co-workers supported me, I could do that. I would never have been able to do that alone.

I think you're right; the obligation should be on the employer—because the employer has those resources to go.

Let's say a gig worker is suspended today—you're out of work, and there is no pay. How do you pay your rent? How do you put food on the table? This economy is like—the inflation is rising. I make a hundred dollars a day. Do you think that's enough to pay rent in Toronto? If I'm not able to work even one day, that impacts my rent. So if I'm suspended, do I have these three months to follow this whole ESA process to claim that I was wrongfully suspended?

The Chair (Ms. Natalia Kusendova): One minute.

Iván?

Mr. Iván Ostos: It's very, very, very apparent that gig workers are not entrepreneurs. We are workers, so it makes zero sense to not consider us workers for any reason. The fact that there is a platform, that there's an algorithm, that there's an app doesn't matter. Anyone who looks at what we do can see somebody delivering in a car, on a bike, picking up groceries, pharmaceuticals, whatever—that's just a job. It's not entrepreneurship. So then why is it that when I had COVID and I took time off, that was a financial burden for me? That was me taking a business loss; that's how it is if you're an entrepreneur. It's not a business loss. That's sickness, and you should get sick leave. That would be covered if we were employees.

1440

The Chair (Ms. Natalia Kusendova): We will now go to MPP Fraser.

Mr. John Fraser: Thank you very much, Brice, Saurabh and Iván, for your presentations and taking the time to be here.

Saurabh, would this ruling, if it happened after this bill, which will likely pass because the government has a majority—do you have an opinion on that? Would this ruling actually happen? Because the government is establishing and codifying a second class of workers here in Ontario.

Mr. Saurabh Sharma: It will not happen, because this bill will set a very high threshold.

Mr. John Fraser: That's right. That's the point about creating a second class of workers here in Ontario—workers who don't get health and safety protection; workers who don't get vacation pay; workers who don't get the right to progressive discipline and severance pay for being fired without cause, or let go. I could make that list go on very long, but I'm not going to. I think we all know what's at stake.

The reason we have the Employment Standards Act is so people can have the ability to sustain themselves and sustain their families.

One of the things that the hat or the coat gets hooked on is the nature of the relationship between the employee and

the employer. In this case, it's a platform. So the two things that it affects—all the other stuff, that's an easy fix. The two things that it affects are the rate of pay and the worker-employer—the hours of work, that contractual obligation that we have. I think that's something that has to get figured out. I would like to understand, from the point of view of people who work in that industry—what are the things that you think would help establish that? Some people work because they want some flexibility. Sometimes people work two apps because it's necessary. So when those rules get established around hours of work and the responsibility of both sides, what do you think governments should do? I know that's a big question; I'm sorry.

Mr. Saurabh Sharma: It is a big question, but I've tried to address that question during my submissions—that what the government has to do is to include us as employees under the ESA. When there is a guarantee of minimum wage, even though I'm waiting on the street, I will not double-app.

That's why I think the whole model of this flexibility—that flexibility is false. There is no flexibility. When I say I make \$100 a day, I am saying—working lunch hour and dinner hour, five, six days a week. Those are the busiest hours. I have not missed that.

Mr. John Fraser: So one of the challenges becomes—and I'm not pushing back at you. Because of the nature of the relationship, you get to choose when you work and who you work for. That's the challenge.

I come from the grocery business, so I would have to schedule 200 people, and it was for the good of everybody in the business that I had the right people in the right places at the right time.

What I'm trying to get at is—

The Vice-Chair (Ms. Bhutla Karpoche): One minute remaining.

Mr. John Fraser: Thank you. That's probably not enough time to answer the question. But I think it's something that—go ahead. Did you have something you wanted to say, sir?

Mr. Iván Ostos: Yes, I can answer this.

That's the employer's problem. Uber over-hires people. We know this. All these companies over-hire people so that there's a huge labour pool that can always take up any surplus orders, so they don't have to deal with scheduling, and then the workers can make very little money, because it's dispersed between so many people. That's not my problem. If Uber doesn't know how to hire a good amount of people to conduct their business, that's on them. I still have the right to make a fair wage whether they over-hire or not.

Mr. John Fraser: I don't disagree with that.

Mr. Brice Sopher: They incentivize us with these promotions to get as many people working as possible, and then when we go out, there are no orders. They're the ones manipulating us.

Mr. John Fraser: So from a perspective of, say, if Uber says you're working from 7 to 11 tonight, that's okay inside the industry in terms of the—

The Vice-Chair (Ms. Bhutila Karpoche): Thank you, Mr. Fraser.

We're going to have to go back to the government side. You have seven and a half minutes. Mr. McDonell.

Mr. Jim McDonell: There are issues. We've also announced that we're moving ahead with general benefits. That's something we're working on, and this legislation is a floor. It's something that has never been there before. The workers have the right to organize in unions. There's nothing that stops you from doing that, but it takes the majority of workers who want to do that, as it is—or should be, with any employment, but it's not always the case. If the workers want to organize, they can do that. This doesn't change that, or at least it gives the right to do that—it's involved in it.

You talked about the safety issue and—I'll go back to my upbringing. I grew up on a farm, and I look back and we kind of joke about some of the safety concerns that weren't there. There were a lot of farmers injured. I think it was considered, for a time, the most dangerous employment there was—most of that self-inflicted. But as a group now—I look at my brothers who run the farm today. They are a lot more careful. There is such a thing as hearing protection; we used to laugh at somebody who was wearing it, when I was young. Now everybody is deaf. But that was just the way it was.

Eventually, we're responsible for our own safety, so that's very hard to deal with, other than that we have the police forces out there that try to stop people from—how much would you want the company to actually—what's the practicality of somebody being able to enforce behaviour, other than a police record? There's a minimum for it, but you are responsible for your own safety when it comes to driving—

Mr. Iván Ostos: I can answer that.

Accidents happen through no fault of people's own all the time; I think people know that. In my case, it was no fault of my own that I broke my arm. I think people understand that accidents happen on the road. That's why we call them "accidents," right? We don't call them "intentional collisions." So I guess I'm a little confused by the question. We understand, as a society, that they're accidents, but then when that happens to somebody, the onus and the repercussions of that accident fall exclusively on them. All I'm saying is that for any other—

Mr. Jim McDonell: The reason for my question was, you talked about the need to go through red lights. I'm just saying it's similar to where we were, dealing with equipment without—

Mr. Iván Ostos: But I don't have the choice, because the economic impetus on the worker is to take further and further risks to put yourself in danger in order to make a living wage. What I am saying is, if I had workers' compensation and I had a living wage, I would not take those risks, because I'm making a good wage, so I don't want to take those risks, and when an accident happens to me, I know I'm covered. That's all I'm saying. I think every worker in Ontario should have that, and that would be covered by the ESA.

Mr. Jim McDonell: We've already announced we're moving ahead on health benefits, going forward.

I guess my point is that they are no longer accidents if you're taking—if you were working in a workplace and that happened, that is not considered an accident at no fault. There are always people who are—

Mr. Brice Sopher: I want to say, these apps—like Saurabh mentioned, when I get an order from one of these apps, I'm riding my bike, and it's pinging in my phone. I'm holding my phone and riding my bike at the same time.

Mrs. Robin Martin: You shouldn't be doing that.

Mr. Brice Sopher: I try to pull over, but I don't even have enough time or I'll miss out on the order. These apps incentivize dangerous behaviour. Drivers are driving their cars right now, at this very second, getting an order, looking at it while they're driving in traffic, and they're deciding, "Okay, where's this going? How is it going to work?" That's what's happening right now. These apps are doing this. I have complained about it to OSHA or whatever, and we got no response. As Saurabh, who whispered in my ear, reminded me, I've been waiting since August.

So we don't have any protections and—we are in control, yes, of a lot of aspects of our health and safety, but also, we're not in control.

1450

Mr. Jim McDonell: We've taken steps. We've made it against the law for people to do that.

Mr. Brice Sopher: Well, you'd better tell these companies that it is, because they don't give us enough time to do that properly.

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

Mrs. Robin Martin: Thank you all for your presentations—very interesting.

This gig economy is a new thing. A lot of people have been getting involved in it, and we're learning about it as we go.

My understanding is that the bill that we're bringing is really the first of its kind in Canada to protect certain rights. It is kind of a foundation—that's the way we're looking at it—for workers in this economy. But you have explained some experiences about how difficult and challenging it is.

What I'm wondering is, when we have a number of jobs that are looking for people at this point in our history, why you continue to work in this gig economy or with these employers. If it just doesn't work out for you and causes you, as Iván was suggesting, to take risks with your health and safety, why would you continue with this kind of a job?

Mr. Iván Ostos: I don't think it's wrong to say I enjoy my job. I do enjoy my job for a lot of good reasons. In fact, I think it's a great job for a lot of reasons.

Mrs. Robin Martin: Can you share some of those reasons, Iván?

Mr. Iván Ostos: I enjoy riding my bike—simple. I think it's great. I enjoy picking up food and delivering it to people, and they appreciate that. I think it's a job that

should exist, so I want it to be as good, as safe and as secure as it possibly could be.

I have a reason to care about this job—because I also know that even if I wasn't doing this job, somebody has to do this job. There are people who come to this country—like Saurabh mentioned, they cannot find other jobs. This is the best way to make income they can, and they will do this job. So I want them to be as secure and economically successful as they possibly could be.

The Chair (Ms. Natalia Kusendova): One minute.

Mr. Iván Ostos: To me, it is a moral duty, as somebody who has done this job and experienced hardship, to improve it for the people around me.

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

Mr. Deepak Anand: Brice, how long have you been doing this?

Mr. Brice Sopher: I've been doing this since 2015. If I work 40 hours a week, or if I work whatever amount of time, I should be making a living wage. That's it, bam. There should be no question. People should be able to make enough to work in their province.

The Chair (Ms. Natalia Kusendova): We will now go back to the opposition. MPP Karpoche.

Ms. Bhutla Karpoche: Thank you so much, Brice, Saurabh and Iván, for your presentations.

Based on what we've heard today from you and other workers, it's pretty clear that we didn't need to be here discussing technical definitions of “operator” or what the calculation of the algorithm needs to be, because there is a very simple, straightforward solution to the issue, which is to recognize that workers are workers and that they should be covered under the Employment Standards Act, which the workers have been asking for for years.

We just heard the government side and, actually, many other government members try to spin it as a step in the right direction: “Nothing exists right now. We've got to do something for the gig workers.”

Would you agree with me in saying that the actions they have taken with this bill are actually harmful—because they are legislating a second category of workers, that denies them essential workplace rights. Would you agree with that?

Mr. Brice Sopher: Yes, I would agree with that. This is a step backwards, as I said. This is eroding the gains that workers have made throughout the 20th century—all the gains that people worked on in union organizing and outside.

What we're seeing is that people are going to have to work longer and harder. If you make engaged time, however that's defined, as the basis, then you're eliminating, like people have said before, about 40% of the time that they're out there. That means that we're just going to have to work more and more, take more and more risks, as people have explained that they are forced to do. So yes, it is really harmful. We should be covered under the ESA. It's pretty simple.

I don't know if my colleagues have some things to say as well.

Mr. Iván Ostos: Also, to add to what Brice said: That then opens the door for other employers to use that same

qualification for “work” that was part of the ESA, because then they'll say, “Wait. Why would I pay my worker minimum wage when I could only pay them for engaged time?” This is what we mean when we've talked about how the gig economy is extending. It's trying to extend to other parts of the economy, unless we put a stop to it.

So I don't see this carve-out as being a step in the right direction. I see it, actually, as enshrining what the gig companies want and laying the groundwork to damage the rest of the economy.

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

Mr. Wayne Gates: I don't know if you've been listening all morning with other presentations. I'm a firm believer that a worker is a worker.

To the young gentleman there at the end: There's nothing wrong with liking your job. That's why you do these jobs. But what you're saying to the government, which they don't understand, is that you want to be compensated fairly for it by an employer who can compensate you fairly, and if they want to come into our country, they should live by the rules of this country, which means that they live by the Employment Standards Act around all the things that are important to us. If you're getting hurt on the job, you should have been covered by WSIB, but you weren't covered. So what happens? You end up working, in some cases, hurt, or you take opioids so you can go to work and provide for your family.

I want to be very clear on that: They are treating you like a second-class worker. I'm not going to speak for them, but in my eyes it's absolutely disgusting that workers are being treated this way—and putting it into legislation.

All these companies you're working for are making billions. They're not just scraping by, with COVID and stuff; they are making so much money, they don't know what to do with it. They're buying their trips to go up to the moon, or whatever they're doing with those—so it's not like they can't afford it.

What we're looking at in the province of Ontario is that 20% of all workers are doing what you're doing, so that means 20%—one in five workers—won't be covered by the Employment Standards Act, and 20% of those workers are going to be making \$100 a day and working through lunch.

You said this, and it's very interesting to me—we take it for granted, quite frankly, working in this place. I go for lunch, and they don't cut my pay. I still get paid to go have lunch here. I pay for my lunch, but I'm getting paid; they don't cut my salary. But if you guys take a stop at lunch-time, you don't get paid for your lunch.

In the Employment Standards Act, it talks about how after four hours you've got to get a paid break. Do you guys get paid for any of your breaks?

Mr. Brice Sopher: Hell, no.

Mr. Wayne Gates: You talked about how you're hustling. You've got to hustle to make \$100 a day. Minimum wage is \$120 a day, and in today's economy—I'll get to a question, but I want you to understand that there are MPPs on this side of the House who understand what you're going through every day.

You work hard to provide for your families, and it's tough when you know that you're not getting support from the government and when you see that the government is actually putting legislation in place that's attacking you, attacking your family and, quite frankly, attacking our communities so a corporation can make more billions. They're making enough money that they should maybe share the pie. Let's be honest. That's really how this country and the States were made up. We had companies that were making lots of money, they joined a union, and unions were able to bargain fair collective agreements. We were able to put employment standards in place, the minimum standards, in the province of Ontario.

All the companies you guys are doing the apps for can afford to pay you guys fairly, with some benefits, and treat you with respect and dignity.

What we don't need is any government—I don't care whether you're a Liberal, an NDP, a Conservative or a Green Party—who means to attack workers like yourselves by putting legislation in place that's only going to help the corporations to make more money—

The Chair (Ms. Natalia Kusendova): I'm so sorry, but you continue to impute motive, so please—

Mr. Wayne Gates: Okay. I'll ask a question, then, before somebody yells at me.

The Chair (Ms. Natalia Kusendova): One minute remaining.

Mr. Wayne Gates: This question is for all of you: Could you discuss some of the challenges you're facing while working for a delivery-based app in the province? And the other one is, why do you think the government refuses to ensure that gig workers are protected under the ESA? I don't get it, so maybe you guys can help me understand why they're not doing it.

1500

Mr. Saurabh Sharma: We don't understand it either, why they are not doing it, but the writing is on the wall.

Mr. Wayne Gates: So I'm not special on that one?

Mr. Saurabh Sharma: Maybe Ontario is the first province in Canada, but this has been done in the world. European countries are doing it. That is the progressive way to go forward. California did something like what the Ontario government is doing, but I think that it was withdrawn, or something like that. This is not the way to go. The way to go is, give us employee rights and then, once you put us under the ESA, let the businesses figure out, "How do we work with this model?" Put a board out there, "No Smoking Here," so no one will smoke there, but if you allow—

The Chair (Ms. Natalia Kusendova): Thank you very much. We are out of time.

I will now move on to MPP Fraser.

Mr. John Fraser: Do you want to finish that answer?

Mr. Saurabh Sharma: I just want to publicly put it—this is Ontario. This is how it works. If you want to do business here, this is what you have to do. Don't let them come here with their model and figure out—"How do we figure this out?" First, say that all the workers in Ontario

deserve all the rights in the ESA—and no negotiations or no carve-outs there. That should be the law.

Mr. John Fraser: I want to go on to one of your comments that you made in your last deposition to my colleague Mr. Gates in terms of how other jurisdictions, whether it be in Europe or California or New York, have handled the question of employment standards—and I still am, in particular, on the question of hours of work, because in my head it's easy to figure out the rest of the stuff. I want to know what they've done elsewhere in regard to making people apply the standards in recognizing the nature of the relationship between the employer and employee.

Mr. Saurabh Sharma: In other places, they have given workers rights as employees. They get minimum wage, vacation pay, severance pay—all these rights which every other worker here gets, they are being given in those other countries. That is what is being done. An hour of work is an hour of work. If I'm out on the road, I'm not doing anything else. Why I am not engaged for that hour is because my employer did not give me a task to do for that hour, but I was ready to do work. I was on the street with my bike, wearing the full gear, in minus 10, outside. That is work in itself—being there on the road, next to the restaurant, waiting for the order.

Mr. John Fraser: I agree. Thank you.

The Chair (Ms. Natalia Kusendova): You have two minutes.

Mr. John Fraser: I'm good.

The Chair (Ms. Natalia Kusendova): That's it?

Mr. Saurabh Sharma: I just—

Mr. John Fraser: Well, if you have any more, you can use my two minutes.

Mr. Saurabh Sharma: Something I'll say there is, you have to study this economy properly. I think more time has to be spent in understanding all the businesses. Not everyone is operating the same way. There is an app called SkipTheDishes that puts workers on shifts. You have to do five-, six-, seven-hour shifts for them, so the hours-of-work question—their hours of work are already fixed. You have to be on the road for those five hours. Otherwise, you can be deactivated if you don't show up. So there is one gig app which is operating like that, like any other employer. I think you have to study.

This bill is targeted to the freelancers' gig economy, which is Fiverr, Upwork—I don't know how many of you know about those apps. Business consultants give freelance services there for \$100, \$200 an hour. But those workers have negotiation power. They negotiate: "I will only provide my service for \$100. These are my credentials. Do you want it or not?" That's another side of the gig economy. That's for freelancers.

I think there's a misunderstanding and more study needs to be done before we come up with a law which will jeopardize our situation for our future.

The Chair (Ms. Natalia Kusendova): Thank you to all of our presenters for being with us.

MR. RENAUD BERGERON-TOUCHETTE

MR. ARASH MANOUCHEHRIAN

ONTARIO FEDERATION OF LABOUR

The Chair (Ms. Natalia Kusendova): We will now move on to the next group. Do we have Renaud Bergeron-Touchette with us? Please come on up.

Welcome. You have seven minutes, and you may begin by stating your name for the record.

Mr. Renaud Bergeron-Touchette: My name is Renaud. Thanks for taking the time to listen to workers today.

I've been delivering food and stuff in Toronto on my bicycle since 2014. I started working part-time with a local company called JoeyCo when I was a student at the time. Not many people have heard of them, as their market share has long since been eclipsed by the giant foreign corporations that we all know and are discussing here today: Uber, DoorDash and SkipTheDishes.

I first joined Uber Eats in September 2018. I had recently quit my job, and my younger brother referred me, telling me that he was making very good money part-time. I signed up, thinking that it could be a temporary bridge until I found a new job. I was really amazed at how quick and frictionless the process was. My account was activated within a couple of days. Instantly, I was hooked. All I had to do was press the big blue "Go" button at the bottom of my screen and I could start earning money whenever I wanted, doing something that I actually liked doing: biking. I quickly realized that the most lucrative times to work were the peak times, since that is when Uber set the highest incentives and bonuses: lunch, from 11 a.m. to 2 p.m., and dinner, from 5 p.m. to 9 p.m. Since biking is quite tiring, I could only realistically work three to four hours at a time, but if I worked hard during those times, I knew that I could earn enough to support myself. I made it a goal to get out there every day that I could, and sometimes twice a day.

In the spring of 2019, the Uber Eats app started being less busy, as fewer people ordered delivery and more people were willing to work as the weather got nicer. The incentives that Uber was offering were dropped, so the value of orders started going down. Suddenly, there were some shifts where I was just waiting for good orders to be sent to me. So I thought, "Well, why not work on multiple apps?" I joined DoorDash and SkipTheDishes shortly after. Suddenly, I was on three apps and I could look for the best orders on any given day.

With DoorDash and SkipTheDishes, I had to submit my availability and schedule three- to four-hour shifts with them. I didn't like it as I couldn't just instantly get online at peak times like I could on Uber. DoorDash and SkipTheDishes completely control the schedule. You can only take the shifts that they give you—or if you manage to grab a shift that somebody drops before anyone else does. You can declare yourself as available, but if you don't have a shift, you will most likely not be able to earn.

By now, I hope you've realized the point that I'm trying to make, and that is that I had already built my life around

what the apps told me were the best times to work. I had a bit of free time in the morning prior to the lunch shift, then I could come home and rest up for a few hours before getting back on my bike for the dinner shift. Does that sound flexible to you? The apps control the schedule, either through manipulation, like Uber does with their financial rewards and incentives for working at certain times, or explicitly, like Skip and DoorDash do, where they actually schedule shifts where you're expected to be at work for a set amount of time. The app's narrative of flexibility is the flexibility to not make money, which, for anyone who has rent and bills to pay, is obviously not flexibility at all. Being flexible to be online when it's best for the app but not being paid for the entire time that I'm on shift is not flexibility.

We are not independent contractors. This is a narrative that the apps have been pushing since the beginning, and as someone who has been doing this work for a few years, I can tell you that it's a fiction. We are misclassified employees. There are many expenses that we are responsible for that are necessary to do this job, such as a smart phone, a cellphone plan, maintenance, technical clothing etc. This all comes out of our wages and reduces our real income. We are forced to work on two or even three apps because we are not getting paid to wait for orders. We have to find ways to be engaged and delivering if we want to earn. Apps can control our time and manipulate us by keeping us waiting, forcing us to accept bad orders.

This work is dangerous. For anyone here who has biked in Toronto, you know what I'm talking about; if you haven't, maybe you should try. If we do get hurt, we have no support from our employers or the government—just the flexibility to not work and not make money. We deserve EI, CPP and WSIB.

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The apps have all of the control. We are at the mercy of their algorithms and their schedules. We can only say yes or no to the orders they decide to send us, without any idea if our choice will be held against us in the future. They can fire us or drop our pay at any time, without warning or notice; they already have, and they will continue to do so. Bill 88 doesn't protect us from any of these things.

It's time to hold these companies accountable. You have the power to end this charade and truly support workers. The Ministry of Labour's own investigation has already found that our relationship to Uber is that of an employer-employee. The provincial Liberals and the NDP have already announced that they support full employment rights for gig workers. In multiple countries around the world, courts have ruled that gig workers are employees. There is a class action lawsuit currently going on in Ontario.

The writing is on the wall. This bill doesn't work for workers. You have a chance to be on the right side of history. Choose wisely.

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

I now invite Arash Manouchehrian, who is joining us via video conference. You may begin. You have seven minutes. Please state your name for the record.

Mr. Arash Manouchehrian: Thank you very much. My name, as stated, is Arash Manouchehrian. I am a gig worker who works on multiple platform apps. I work via car delivering food and goods, and I've been doing this for a few years now. I'm here to speak in regard to Bill 88 and the government's position, in general, on the platform economy and gig workers; in particular, OWRAC and its recommendations and processes as a whole. Thank you for finally hearing from me. I've been trying to be heard on these platform economy issues for some time and have always been met with resistance.

The Ford government and Minister McNaughton seem to be dead set on appeasing the platform companies—with Uber in particular—and they're doing this at the expense of the workers. Uber officially began its Flexible Work+ campaign in January 2021, just after releasing the results of a highly biased survey. The OWRAC committee was then created overnight, with no publicity and no meaningful attempt to actually engage with the public. It was only after an outpouring of outrage that a deadline for submissions and participation in the round-table conversations was extended by a few weeks. I tried to participate in this process. I signed up to join the OWRAC round tables as a worker stakeholder. The day before the meetings, I was uninvited by an email. I then learned that the PR company that was managing this process—the submissions and the round tables—was the same PR company that Uber is using to lobby the government for its Flexible Work+ program. I find that disturbing. This entire process has been extremely exclusionary to workers.

Finally, after much delay, when the OWRAC report finally did come out, one aspect of it that really jumped out at me was where it specified that 69% of Ontarians are in favour of full employee rights for gig workers, with no carve-outs. The very next line in the report then states that the government agrees, and proudly announces limited rights and carve-outs that are straight from Uber's play-book—things like pay based on engaged time, which is one of the things we're talking about with Bill 88.

The OWRAC recommendations and the general position of the Ford government with this bill, and their intent in other legislation, mirrors Uber's own lobbying. Bill 88 is a clear first step to establishing legislative intent along the lines of the Flexible Work+ campaign as lobbied for by Uber: a minimum wage for engaged time; a company-managed, self-directed portable benefits package; and other aspects of Uber's lobbying.

Paying for engaged time is ridiculous. We don't only pay a barista for the amount of time they spend actually pouring you your coffee. We all know that much more goes into the work than just that. It's the same for any platform employee.

This is particularly galling in regard to the engaged time as it's only possible to earn any wage, let alone a decent wage, if and when a decent wage is possible, in two two-hour windows throughout the day. If you sign up for some of these apps that let you sign on whenever you want, there is no work throughout the day; it is only during specific rushes, it's only during specific times that they know about.

Minister McNaughton has said he wants to bring workers into the Employment Standards Act and that this bill is a first step to that. But we don't need a law for that. We simply need to be recognized as the employees we are. An employment standards officer ruled just in February that we are employees. Why is the minister ignoring his own ministry statement that Uber is an employer? What game is he playing by bringing forward this legislation, four days after this ruling?

As I said, we don't need new legislation. We need to end misclassification and be recognized as employees. There is nothing preventing these companies from offering us equality. No legislation needs to change. This is another talking point where McNaughton and Ford are parroting Uber. The government is jumping through hoops for Uber and the other app companies. The sham that was OWRAC and this bill give employers what they want and is gas-lighting the public by saying that they're doing this on behalf of the workforce and that the companies don't like what they're doing. This is a mockery of the ESA and the rulings of the Ministry of Labour. Minimum wage for engaged time will result in less wages for us. As I've said before, the only way to ensure that we move forward is to end the misclassification.

As an aside, I find, as a worker, that this bill is extremely convoluted. I cannot see how a typical worker stakeholder can navigate this.

If this bill is intended to help workers, end it now and just end misclassification.

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

I would now like to invite Patty Coates, the president, as well as James Clark, the interim director for research and education, representing the Ontario Federation of Labour. I believe we have them joining us via teleconference. Welcome. You may begin. You have seven minutes, and please begin by stating your name for the record.

Ms. Patty Coates: My name is Patty Coates. I'm the president of the Ontario Federation of Labour, representing 54 unions and one million unionized workers across the province. As you said, I'm joined by James Clark, OFL interim director of research and education.

Bill 88 is called the Working for Workers Act. Unfortunately, it doesn't work for workers at all. Indeed, a more fitting name for this bill would be "working for Uber" or any other gig economy giant. Instead of addressing and ending the problem of misclassification of gig workers in Ontario, this bill entrenches it and opens the door to a more formal carve-out of gig workers' rights. It threatens not only gig workers themselves, but all workers in the province whose rights, as enshrined in the Employment Standards Act, will be undermined by the creation of a new category of employee in Ontario.

As we assert in the gig workers' bill of rights, a platform-based gig worker is a worker, like any other employee, and therefore deserves all of the same rights and protections. By creating a separate, stand-alone piece of legislation to address gig workers' rights, this government is fuelling the false narrative pedalled by gig economy giants that gig workers aren't real employees.

In fact, in a recent ruling by the Ministry of Labour, an employment standards officer found that Uber Eats workers are employees and ordered that Uber Canada cease its contravention of the Employment Standards Act. In other words, the ministry ruled that Uber Eats employees have the same rights and protections as all other employees in the province. Shamefully, this bill is a gift to Uber and other gig economy giants, because it allows them to avoid complying with the orders like this one.

Adding insult to injury, this government has the audacity to claim that this brazen attack on labour standards in Ontario is somehow “working for workers.” It couldn’t be further from the truth.

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Let’s start with the minimum wage. This bill creates a special rule for determining how wages will be calculated for gig workers. Instead of counting every hour and minute that gig workers are at work, employers will only count the time spent on each work assignment or delivery—so-called “engaged time.” For example, a gig worker might perform an eight-hour shift of work but the company will only pay them for the time it took to complete deliveries within those hours. Imagine a grocery store telling its cashiers they will only be paid for the time spent processing customers at the checkout but not for any of the time waiting for them to line up. Creating an inferior labour standard for gig workers will allow employers to pay their employees less than the minimum wage. And depending on how busy a shift is, gig workers could be getting as low as \$9 to \$12 an hour, or even less. Far from ensuring the rights of gig workers, this bill makes it legal to pay them less than the full amount that they are owed under the law: \$15 an hour.

Uber and other gig economy giants want it both ways. They want their employees to be available for work during specific hours, but they only want to pay them for individual tasks completed during that time. If this bill passes, it will mark the return of piecework to Ontario workplaces, a monumental step backwards for workers everywhere.

It doesn’t just stop at the minimum wage. This bill fails to provide gig workers with the basic entitlements that other workers are guaranteed: overtime pay, vacation pay, public holiday pay, and any other monetary benefits that are required under the Employment Standards Act. The bill also fails to guarantee gig workers the right to a reimbursement of expenses such as maintenance, fuel costs, wireless fees and more, the regular payment of which would cause gig workers to fall below the minimum standards of the Employment Standards Act.

Likewise, we are alarmed by yet another carve-out in this bill: the new designation of a business consultant and information technology consultant that would threaten the labour rights and protections of employees who perform this type of work for their employer. Instead of carving out employment standards and creating new and *[inaudible]* categories of employment, the government *[inaudible]* ensure that employees *[inaudible]* paid for the time you spend at work, but only for particular tasks that you complete in that time. Imagine how much—

The Chair (Ms. Natalia Kusendova): Ms. Coates, I’m sorry, but we have trouble hearing you. Would you mind turning your video off, just so we can hear you? I think your WiFi may be having some issues.

Ms. Patty Coates: Hello? Can you hear me now?

The Chair (Ms. Natalia Kusendova): Can you turn off your video?

Ms. Patty Coates: My video is off. Can you hear me?

The Chair (Ms. Natalia Kusendova): We can hear you. You may resume.

Ms. Patty Coates: Okay. Where did I leave off? I’m not sure where you—

The Chair (Ms. Natalia Kusendova): About 20 seconds ago.

Ms. Patty Coates: Okay. Imagine if every employer treated its employees the same way that Uber does. Imagine no longer being paid for the time you spent at work, but only for particular tasks you complete in that time. Imagine how much time that worker would suddenly be giving to the employer for free while receiving significantly less pay for the same amount of time at work. This is what the future of work looks like under this government: carve-outs, exemptions and erosions of the hard-fought-for minimum employment standards in this province.

It’s not just gig workers who are facing this threat. Every single employee, no matter the sector or type of employment, will be at risk of misclassification by their employers, who would suddenly have the financial incentive to provide less than the minimum standards.

We will settle for nothing less than full and equal rights for gig workers and other platform-based workers that all other employees are guaranteed. The government must implement all of the demands of the gig workers’ bill of rights and cease any further attempts at appeasing gig economy giants that are more concerned about profits and their bottom line than they are about the well-being of their employees.

I thank you for your time.

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

We will now begin our rounds of questions, and we will start with the opposition. MPP Sattler.

Ms. Peggy Sattler: Thank you, Renaud and Arash and Patty Coates from the Ontario Federation of Labour, for coming here today. There was certainly a common theme across the three presentations that we heard. It is a theme that has been reflected throughout the earlier panels that have presented to this committee, and that is the focus on misclassification as the real issue that faces gig workers.

I want to give a shout-out, in particular, to the OFL for the work that has been done alongside gig workers—alongside Gig Workers United and CUPW and UFCW—to develop the gig workers’ bill of rights.

This morning, when the minister was here in committee, I highlighted some of the calls from the gig workers’ bill of rights to show how they have been completely ignored in the bill that we have before us and, in particular, the issues that all of you have talked about: no carve-outs

from the minimum wage and other protections of the Employment Standards Act; payment for all hours of work, from when workers log in until they sign out of the app; compensation for work-related expenses; access to benefit programs like EI, CPP, WSIB; and a clear test for employment status.

I'm interested in hearing from all three presenters if you have any comments on legislation that I introduced, the Preventing Worker Misclassification Act, that would simplify and clarify the test for who is an employee and who is an independent contractor under the Employment Standards Act. It would also put the onus on the employer to prove that a worker is not an employee, instead of workers having to prove that they are not independent contractors. What we have heard here today is that this would go a long way to ending the wrongful misclassification of gig workers as independent contractors when they are employees, as the Ministry of Labour's own investigator recently found.

I'll begin with you, Patty, if you have some comments on that approach to ending employee misclassification and gig worker misclassification in particular.

Ms. Patty Coates: I want to thank you and the NDP for all the work you've done on your bill and for the fact that you consulted with the workers, as we did with the gig workers' bill of rights. We didn't consult with them; we actually sat back and listened to them and supported what they needed as workers. I think that is something that is incredibly important—to hear the voices of those workers, and we know that the OWRAC committee did not do that. We were able to present to that committee, and we knew that there were only two, maybe three, gig workers who were invited to speak, and I think that is a shame. This is legislation that's going to affect gig workers. They should be there, they should have those conversations, and their rights should be taken seriously.

I will turn it over to James to add anything further to that.

Mr. James Clark: Thanks, Patty, and thanks, MPP Sattler, for your work on this issue and for your support of gig workers and Gig Workers United and all the unions that have been supporting their organizing efforts.

I'll just add to the comments that have been already made that I think the reason there's so much commonality in the points of view that the committee has been hearing today, and I suspect that it will hear tomorrow, is that the issue is very, very clear for people who pay even the smallest amount of attention to this bill and this process that it is not at all about working for workers; it's not at all about engaging gig workers. It's actually trying to dress up something that is about appeasing the gig economy giants and suggesting that somehow it is good for workers, and it's not at all. When you think about how this would apply in any other work situation, I think most people are appalled that this will be a new labour standard in Ontario.

1530

Patty talked about what the circumstance would be if you were in a grocery store. Imagine if they told you, "You're going to be in from 8 till 4 today, but you're only

going to get paid for the time that you're stocking shelves, and you might get paid for the time you're at the cash, but all those other times, we're not going to pay you because you're not completing a particular deliverable."

One of the speakers already spoke about what a barista might encounter. I used to wait tables before I worked in the labour movement, and I can imagine situations in between waiting on particular tables that I wasn't actually at the table. I might be doing other things or I might be waiting for other customers. You can imagine a scenario where an employer at a restaurant might say, "These aren't employees. These are all independent contractors who are moving from table to table and who are doing deliverables." They would suddenly no longer be obliged to pay those workers for the hours they are in the workplace, on the job.

The reason the labour movement is so concerned about this legislation is that not only is it an offence to the experience of gig workers, and not only does it do nothing to improve their conditions of work, but it represents a threat to all other workers in the province of Ontario. It represents a bottoming out of the minimum standards of the Employment Standards Act. When gig workers and other actors in the labour movement organize meetings to say the gig economy is coming for your job, they're not kidding. We can already see what the trends are in Ontario and in other jurisdictions where gig economy lobbyists and employers are saying, "We only want to pay for engaged time. We need a new category of worker. This is the future of work." It is having a profound impact on the labour standards that we have fought for for many, many years. Far from doing anything to support gig workers—it's pretending to support gig workers, but it's actually bottoming out the minimum standards for all workers in the province of Ontario.

The last thing I'll say—because I'd like to cede the time back to the gig workers present—is that Gig Workers United has done an amazing job of organizing gig workers who don't occupy the same workplace, who aren't able to come together in large numbers in the same geographical space. One thing that I and others have been doing is that any time we meet gig workers who are on the job, we hand out a leaflet to them about the experience of gig workers, and sometimes on my front step, when I get a delivery on the weekend or whatever, we'll have a conversation and we'll talk about what the experience is. Universally, gig workers say the same thing over and over again about what their experience is at work—

The Chair (Ms. Natalia Kusendova): Thank you. We are out of time.

I will now move on to MPP Fraser.

Mr. John Fraser: Mr. Clark, do you want to finish what you were saying?

Mr. James Clark: Just that what gig workers are saying is universal across the board, and what their demands are—and we're here to echo those and amplify them.

Mr. John Fraser: I've been asking myself why the Working for Workers Act doesn't actually work for workers. The answer they came up with is that the government

likes to say they're working for workers. It sounds good, unless you're a worker that it's not working for. This legislation is actually working against workers. It's creating a second class of workers in Ontario who are not entitled to those same rights and benefits that we all expect, that are reasonable, that have been worked out over time by successive governments of different partisan nature, different colours.

The thing that struck me today is that this ruling that we have from the Ministry of Labour, that says that essentially gig workers are employees, would actually not have been ruled that way if this legislation had been passed in advance of it being examined.

The gig economy is a complex thing. It's changing the nature of work. I can't understand why the government is in such a hurry and leaving things out like vacation pay; workplace health and safety protections; the right to organize; statutory holidays; sick leave; a right to know why you lost your job; or severance. It's kind of incredible when you think all those things are missing. And there's, what, was it 800,000—I'm sure that 800,000 is part of the government's claim of creating hundreds of thousands of jobs, and they're now saying there's going to be a lower standard for those workers.

I have a lot of concerns with this bill, but one of the questions I asked the previous presenters was—one of the things is the relationship between the employer and the employee, and how we figure out hours of work.

Renaud, you very clearly stated, "I'm working on three different platforms. Two of them treat it this way, and another one treats it another way."

As a gig worker, what do you expect? What works for you? What would be the best thing?

Mr. Renaud Bergeron-Touchette: Well, with SkipTheDishes and DoorDash, they fully control the schedule. They give you the shift—you can submit your availability. My availability is the same every single day: 11 a.m. to 2 p.m. and 5 p.m. to 9 p.m. Sometimes SkipTheDishes or DoorDash—actually, I don't work for DoorDash anymore because I was deactivated without notice or anything like that, but that's another story. With SkipTheDishes, they give you the shifts that they give you, and there's no flexibility with that. When you have a shift, you're expected to be there waiting for orders for a set amount of time, just like any other employer. It's clear from my experience that I am an employee, even though I'm not classified that way.

The Chair (Ms. Natalia Kusendova): Any more questions?

Mr. John Fraser: No, I haven't got that much time.

The Chair (Ms. Natalia Kusendova): Okay. We will now move on to the government. MPP Babikian.

Mr. Aris Babikian: Regrettably, for over 15 years the labour employment laws have been [*inaudible*]. No one moved on it; no one tried to modify and improve those rules. Now there is a government that is willing to work and bring changes, and this bill is the first step in that regard.

The government recently announced that it's moving forward with health, vision and dental benefits for workers

in the gig economy. Would having access to these benefits be helpful to gig workers? Whoever wants to take a shot at an answer, I will appreciate it.

Mr. Renaud Bergeron-Touchette: My question to you is, who will be administering this portable benefit? Will it be the government or will it be Uber and DoorDash and SkipTheDishes? I don't trust those companies to have my best interest.

Mr. Aris Babikian: Anyone else?

Mr. Arash Manouchehrian: I'd like to add that any time, in other jurisdictions, a portable benefits package has been put forth and managed by the employer it has resulted in terrible circumstances, pushing the bar further and further out of reach of the worker to get those benefits. From what I can tell, such a program would pretty much be a slush fund for Uber to earn interest off of while exploiting us in yet another way.

The way we were classified was switched around a few years ago, wasn't it? The onus used to be on the employer to prove that we're independent contractors, not just to state that. So to say that the laws have been stagnant is a little bit misleading. If anything, they've been going the way of the corporation for quite some time now.

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

Mr. Deepak Anand: First of all, I want to say thank you for coming and presenting.

Arash, I want to ask you—or maybe I can ask the Ontario Federation of Labour. When you compare us, with this bill for the gig workers, how do you compare us with BC? Where do they stand? In BC, what is the current state for the gig workers?

1540

Ms. Patty Coates: I don't know if you can hear me. My Internet is unstable. If you could unmute James, then I'll pass it over to James to answer.

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

Mr. James Clark: I believe in that jurisdiction, conversations are under way about what portable benefits would look like, but they're not at the same point that discussions are at in this province.

What's facing us here today and the decision that's facing this government is whether you're going to take the advice from gig workers themselves or whether you're going to take the advice from gig economy giants. That is a very, very simple choice. There are two sides in this equation, and you can't have it both ways. You can't say that you're working for workers and then provide minimal crumbs on the table—something that's less than what all other workers enjoy and have a legal right to—and then also say that you're helping to modernize the economy.

What is happening here is that you are implementing the requests of Uber and other gig economy giants that have set out these kinds of standards, saying, "We don't want to pay the minimum standards." This is a very profitable model for the gig economy giants, and what's about to happen, if this passes, is that you're going to entrench that in law and hollow out existing labour standards.

So the choice is whether you're going to be on the side of gig workers or the gig economy giants.

Mr. Deepak Anand: Mr. Clark, my question, just so that we learn from each other—with respect to the other provinces, there were many times, when I was looking at my gas-and-dash, I looked up what BC has done, what Alberta has done. My question was very simple. The reason I'm asking is that I want to learn and understand as well. BC, Alberta, Saskatchewan, any of those provinces—where do they stand on the rights of the gig workers? That's what my question is. It's not to have a debate or counter this way—I'm just trying to understand.

Over to you, sir. And then I'll have a question for Arash.

The Chair (Ms. Natalia Kusendova): Two minutes remaining.

Mr. James Clark: I speak from the perspective of the labour movement, and I'm confident to say that the labour movement in all other jurisdictions across the country has the same perspective as we're presenting here: that we need labour legislation that is expansive, that entrenches the rights of gig workers, and that does not provide less than the minimum standard.

We have existing legislation called the Employment Standards Act. A much simpler approach would be to say, "We're going to end misclassification," which is a long-standing problem in all sectors, and not just for gig economy workers. In the trades, misclassification is a problem that goes back many, many years.

So if you're asking me what the perspective is in other jurisdictions, I'll let you know that the labour movement is unanimous on the perspective that we need to expand existing rights to all gig workers who are employees.

I would make one suggestion. The ABC test is something that is used in other jurisdictions, where the onus is on the employer to identify that their employees are not employees rather than the other way around. If you had consulted gig workers, that's something that they would have told you.

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

Mr. Deepak Anand: My question is to Arash.

Many, many times I spoke to the gig workers, and every time I talked to them, they said, "We don't know how our pay is calculated, especially when we are working on multiple platforms."

A very simple question again: How simple is it to calculate the income and then compare it to be income per hour? Is there an issue or not an issue?

Mr. Arash Manouchehrian: It's quite impossible. There are some days when I have made as little as \$4 an hour, working eight hours. There are some days when I have made minimum wage. There are some days when I have made \$20, \$25 in a two-hour period.

The ad that you see where they advertise income potentials for these apps, \$25 an hour—that's really only feasible for maybe half an hour, an hour throughout the day—

The Chair (Ms. Natalia Kusendova): Thank you. I'm so sorry; we are out of time.

We will go back to the official opposition. MPP Gates.

Mr. Wayne Gates: Thank you to the presenters.

I want to say this again; I've said it to everybody: A worker is a worker.

To my colleague right across from me who said that we're making changes: I don't think any worker in the province of Ontario should be working for \$7.50 for 40% of their shift. It is a race to the bottom. Let's call it what this is. I want to get that out.

Remember, we're dealing with billion-dollar corporations here. I'm not sure which one, from the top of my head—but one of them made \$84 billion. These are corporations that can afford to pay workers. If they want to come from other countries and make money here in this province and this country, they should be paying workers and they should be following the Employment Standards Act, period. I think it's disgraceful that we're actually even talking about this in the year 2022.

I'll ask a question to the OFL. Could you discuss the consultation process you had with this government on this piece of legislation, seeing that you represent 53 unions and 1.2 million workers in the province of Ontario? Could somebody from the OFL answer that for me, please?

Ms. Patty Coates: We weren't initially invited to present to the committee, and we actually had to push and continue to push and push to get invited, and it was a very short window—I believe it was less than an hour that we had. And I used the word incorrectly—it really wasn't a consultation at all. Unfortunately, there wasn't even a lot of time for the gig workers who were in that Zoom meeting to even talk about their experiences and what they're dealing with.

The two gig workers here today have made incredible points, and these are the same things as James has said that we're hearing again and again. When the gig workers' bill of rights was developed, it was with the worker in mind and what they have to deal with on a daily basis. I think it's incredibly important to remember and to look at that bill of rights, because that is what the gig workers need.

As we've said again and again, a worker is a worker is a worker. There should not be carve-outs of any kind for any worker. No worker is less than another, and no worker deserves less protection than another worker.

Mr. Wayne Gates: I'm going to keep my time with the OFL.

Why has the government refused to use the ABC model to determine the status of a worker? Why do you think they'd do that?

Ms. Patty Coates: I'm going to turn that one over to James.

Mr. James Clark: Yes, I'll jump in on that one.

I'll just add to the previous question about the so-called consultation process with the Ontario's Workforce Recovery Advisory Committee. There was no formal representation of any labour bodies on the committee itself—it was a hand-picked committee—although the Ontario Federation of Labour is the largest provincial labour federation in Canada, representing 54 affiliates and one million

workers. Misclassification is a long-standing problem in the labour movement. It goes back many, many years, and we would have brought a particular expertise that our affiliates and members in other sectors could have contributed to this discussion. But we had to fight to find a way to participate.

On the question of the ABC test, I'll just say that the ABC test is a measure that is used in other jurisdictions to determine whether employees are independent contractors, and it's a test where the onus is on the employer to identify whether or not they are independent contractors. The first part is to say whether or not the workers have control over their workplace—things like hours and scheduling. The second is whether they engage as a matter of course in this work outside of the business or the work that is related to the business they work for. The third is whether they have ongoing work in a particular trade, profession or occupation. I think the reason the ABC test is not being applied in this situation is that it would reveal what we already know and what the ministry has already said: that gig workers are employees.

As you heard from the presenters today, they do not have control over these aspects of their work. The kind of flexibility that Uber means when they talk about it is actually precarity. "Flexibility" is a code word for precarity. The flexibility is only on the side of the employer. People can barely make ends meet and, as you heard, have to work on multiple platforms and be available for long hours at a time, but barely make minimum wage, in most circumstances. So when we hear the minister say, "We're hearing from gig workers who say they love the flexibility," that's not what we're talking about here. The word "flexibility" means precarity. It's flexibility for the employer to maximize how they make profit.

That's why this bill is a disgrace. It has nothing to do with working for workers. It's about making it legal for these business practices to be the norm so that they can be even more exploitative than they are now and so that it's legal. It's a total bottoming out of the labour standards in this province.

1550

Mr. Wayne Gates: I agree with you that calling it a working for workers bill is absolutely, in my eyes, disgusting and certainly an attack against workers.

To the OFL: Do you feel that the current government has regularly consulted with the largest provincial labour group in Ontario, representing 1.2 million workers?

Ms. Patty Coates: Thank you for that question.

I would have to say that on multiple occasions, again and again over the past four years, the OFL has reached out to attempt conversations and have meetings with the Premier and the Minister of Labour, and we have not received any confirmation back. We would get, on the odd occasion, a letter saying they received our letter, but there have been no conversations, no meeting, no meaningful consultation with this government. That, in itself, is a shame. We may not agree on everything, but we—

The Chair (Ms. Natalia Kusendova): One minute remaining.

Interjection.

The Chair (Ms. Natalia Kusendova): I'm so sorry to cut you off.

I believe MPP Karpoche would like to ask a question.

Ms. Bhutila Karpoche: I want to thank Renaud, Arash, Patty and James for your presentations.

I asked this question to the other presenters and I want to put it forward to you as well.

We know that this legislation is not working for workers. The government is trying to spin it as a step in the right direction, bringing in something for gig workers, when we know that they could simply very easily be added to the Employment Standards Act.

My question is, would you agree that this is a harmful piece of legislation for gig workers?

Mr. Renaud Bergeron-Touchette: Yes, I would agree.

I think the answer is very simple. Let's cut the red tape. Let's use the simplest possible solution to this problem and make us employees under the Employment Standards Act. That's what we deserve. We deserve all of those rights, which are the bare minimum for any worker in this province.

The Chair (Ms. Natalia Kusendova): That concludes the time we have.

We will now move on to Mr. Fraser.

Mr. John Fraser: I'd like to thank everyone who presented today.

I just want to apologize—bear with me—because there's something that I have to say here.

To my colleagues across the way, in particular Mr. Babikian, who I actually do respect a great deal: I've sat on the other side. I know that they give you notes. When you say something like, "nothing happened for 15 years," but your party votes against minimum wage almost from the beginning, in 2003, 2004; you vote against raises for PSWs; you vote against raises for ECEs; you vote against Bill 148 and raising the minimum wage, paid sick days and equal pay for equal work; and then when you get here and you tear it down—I don't think you can say that. I wouldn't say that. I think the people who are writing you that note aren't expecting you to answer that.

Mrs. Robin Martin: On a point of order.

The Chair (Ms. Natalia Kusendova): I'm so sorry—*Interjections.*

The Chair (Ms. Natalia Kusendova): I can only do one at a time, please.

Interjections.

The Chair (Ms. Natalia Kusendova): Order, please. Committee members will come to order, please. Thank you.

Ms. Martin, go ahead.

Mrs. Robin Martin: I have a point of order, Chair. The member opposite from Ottawa South is addressing a person directly, as opposed to addressing the Chair, which I think is the appropriate way to address his comments.

The Chair (Ms. Natalia Kusendova): Thank you, MPP Martin. I will ask MPP Fraser to make his comments through the Chair.

Interjection.

The Chair (Ms. Natalia Kusendova): Do you have a point of order?

Mr. Deepak Anand: Madam Chair, I just want, with respect, to say to MPP Fraser that when he's talking, he can comment about the party, he can talk about the government, but saying that—

The Chair (Ms. Natalia Kusendova): This is not a point of order. I'm sorry.

MPP Babikian, did you have a point of order?

Mr. Aris Babikian: Yes. To imply that someone wrote notes for me is disrespectful. Here are my notes that I'm working on at the same time. No one wrote to me. It is disrespectful, Madam Chair, to accuse your colleague, regardless of what party he or she belongs to, with these kinds of comments.

The Chair (Ms. Natalia Kusendova): I'm so sorry, but that is also not a point of order.

Interjections.

The Chair (Ms. Natalia Kusendova): Stop the clock. Thank you.

I would like to ask the committee to please come to order.

The honourable member does not have a point of order. This is a dispute over the facts.

I would like to remind the committee that a point of order should be used to draw the Chair's attention to any departure from the rules or practices of the House or to raise concerns about unparliamentary language.

Thank you for your attention. I will now return to MPP Fraser, and I will ask that we are respectful in our remarks.

Mr. John Fraser: Thank you, Chair. I think that I was, but I should have spoken through you, and I'm sorry that my colleague took any offence.

It is amazing, though, that you all write the same notes. I don't know what it is, but I hear the same thing from you again and again. I just wanted to call that out, because I don't think you can say those things without actually knowing what your record is. And if you know what your record is, then I would suggest that we stick to the things that we need to be talking about—and right now, it's that we're creating another class of worker in Ontario, full stop. That's what's happening—workers who don't get vacation pay; workers who don't get a right to know why they were terminated, or severance pay; workers who don't get health and safety protections; workers who don't get things like statutory holidays; workers who don't get the same kind of protections as our family, as our sons or daughters do. So I don't understand why there's such a rush. This is not even a half measure. It's going in the other direction.

To the presenters, I'm sorry for having to put you through what we've just gone through, because you spent the time to be here, but I just wanted to say to my colleagues that I really, really think that this bill should be taken back—

Mr. Jim McDonell: Chair?

The Chair (Ms. Natalia Kusendova): A point of order? MPP McDonell.

Mr. Jim McDonell: Yes, a point of order. Is this not a chance to question the people who made the time to come here today instead of questioning other people on the panel?

Mr. John Fraser: I think that the people who are here—

The Chair (Ms. Natalia Kusendova): Respectfully, I will answer. Thank you very much.

To the point of order: As members know, we've been at this for the last four years. The member who has the floor can use their time as they please. We are trying to ask questions of our presenters, but if the member wants to make a statement—we have all done it.

Let's keep the decorum respectful, as I said, and let's get through. We have two more hours.

I paused your clock, so we have 1.5 minutes for you—

Mr. John Fraser: That's a lot of time.

The Chair (Ms. Natalia Kusendova): We have two more hours to get through, so please, let's be collegial and respectful.

Back to MPP Fraser.

Mr. John Fraser: It's too bad that I can't filibuster, because I could probably read some Shakespeare or something like that. I'm sure it would get under everybody's skin—at least on that side; not over here.

Interjection.

Mr. John Fraser: They are, quite.

I don't really have any other questions for you because I think it's very clear what you came here to say as presenters. It's very clear what's happening with this bill.

What I was trying to say is, what I really think should happen with this bill is that the government should just take it back and get it right. We shouldn't be rushing this thing through because somebody wants to put on a brochure, "I'm working for workers." The people who it's not working for will know that it's not working for them, but the rest of the people—the moms and dads, the grandparents, the brothers and sisters—might think that they're actually doing something for gig workers when they're not. They're going in the opposite direction.

That's all I have to say. Thank you.

The Chair (Ms. Natalia Kusendova): Now on to the government: MPP McDonell.

Mr. Jim McDonell: I was just listening to you talk about what you like about the job and the flexibility, and the fact that the app tells you when there are jobs. The app is telling you that there's a customer who wants to order food or whatever it is, and typically, it's going to be busy around lunch and supper. That's what you're seeing.

If you're running a business and you are giving people the flexibility to sign up—you also have to run the business, which means you have to provide 24-hour coverage; that's what you're trying to do. You can, I guess, get away from what we call the gig economy or jobs—it really is a job that gives you the power to choose, "Yes, I want to work now." It's great for students or somebody who has limited time, but it's not suited as much for the person who wants eight hours, unless they're going to work when it's not busy—because, unfortunately, there's no time where

you have eight straight hours when people are ordering food.

Would you take away the flexibility and make it a job like we've seen in the past, where we have delivery drivers? Or would you leave the flexibility there? It's either one or the other. If you take away the flexibility and you say, "Who's going to work?"—I don't think you'll like that. Then the option is to say, "These are the people who are working at this time," and there's no flexibility. It's kind of the nature of the gig economy and what we've gone to.

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Mr. Renaud Bergeron-Touchette: I don't believe that I have any flexibility, because it is more lucrative for me to work at certain times. I could potentially work any time that I wanted, but then I'd have to accept less pay for the same work.

The answer here is that we need to be paid for all of the time that we are online. When we are on shift, we should be getting paid. We should be getting paid when we're waiting and ready to deliver orders. That's it.

Mr. Jim McDonell: That's fine, but if you do that, then you basically eliminate the job, because they can only give you work if there's a customer calling in. They don't control that.

Mr. Renaud Bergeron-Touchette: There are always customers, sir.

Mr. Jim McDonell: But you're finding that between 11 in the morning till 2, it's not busy, and then it is for a couple of hours, and then, of course, after 2, till 5, it's not busy again. That's not a factor, that they choose not to give a job; the factor is, they have nobody to deliver the product to. They put time out, but of course, everybody wants to work when it's busy. You can't force people to order in the off-hours. They can be really prescriptive.

I look at a small restaurant owner where I live. He has basically one person working all day, but then, for a couple of hours, there's a whole bunch more work. He has to schedule those to make it fair. That's a traditional job, and I guess that's something that falls under the ESA.

If you're going to have a time frame when people can just log on and want to work, well, then, that gets rid of their ability to guarantee some of these things that you're looking for.

We're making steps. We're talking about portable benefits, and, of course, by definition, portable benefits are not administered by the employer. If you change employment, that money goes with you and it's held in trust, either through a trust company or the government. So when we talk about portable benefits, they are not looked after by Uber, because then they're no longer portable— or by whoever you're talking to.

We're making some steps here, but the benefits you like with a gig job don't relate to a nine-hour or eight-hour day. If you want lunch off during that busy time, well, then it's a different job. I guess that's what we're struggling with. We've done some discussions with different groups—but we'd be changing what the employees like about it. It's great for a student who goes to class during the day and

can sign on at 5 o'clock and get a couple of hours work, but that's not what you're wanting. So it's hard to find that middle ground.

How would you change it—that you looked after the wishes of every government? Is there a possibility? Or does that make it a more traditional job that you don't like?

Mr. Renaud Bergeron-Touchette: I would be willing to work at any time if I was getting paid for my time. The reasons that I work the times that I do is because those are the times when it's the most busy and those are the times when I can make the most money.

Mr. Jim McDonell: Somebody has to work the other times.

Mr. Renaud Bergeron-Touchette: People do work the other times, and they make less for the same work. People work at midnight. People work at 5 in the morning. The companies benefit from having this so-called flexible workforce that is always engaged, that is always there, but they're not accountable to their workforce to provide them with either regular work or proper economic benefits.

Mr. Jim McDonell: But if they do restrict the number of workers and increase, then you lose your flexibility. They don't allow you to sign on when you want. That's the nature of traditional work. You have a predetermined time frame, you're actually workers, and you have all the other benefits. But if you want to sign on, because you're not busy today, at 5:05, that's very difficult. They've done this model, and we're grappling with how we're going to manage this going forward, but we don't want to get rid of the job either, because people enjoy it. We can make the rules so it gets rid of the gig economy, but is that what you're looking for—to make it a traditional job? They are two separate forms of work, and they run very headlong into each other, because they're very different.

The Chair (Ms. Natalia Kusendova): One minute remaining.

I believe MPP Anand had a question.

Mr. Deepak Anand: You can finish the answer, and then I can ask my question.

Mr. Renaud Bergeron-Touchette: I don't think the gig economy is going anywhere, no matter what you do.

Something that I find interesting is that Uber—when an investor calls, they talk about how they can make any model work. That's what they say to each other when they're in private. They know that's true. So if they want to operate in Ontario, they should be providing their workers with the minimum rights and benefits guaranteed under the ESA, and then they can figure out how many people they need to hire to make that feasible for them.

Mr. Jim McDonell: But if they do that, then you lose the flexibility. If they're deciding who works—

Mr. Renaud Bergeron-Touchette: I don't believe that's true.

Mr. Arash Manouchehrian: They're deciding who works as it is. We don't get the—

The Chair (Ms. Natalia Kusendova): Thank you very much. This concludes all the time we have. I'd like to thank this group of presenters.

MPP Fraser, do you have a point of order?

Mr. John Fraser: Yes. I have to leave, and my sub is not going to be here. I will be back for the next portion of the meeting—I hope to be back by then. So I won't be using my time. Is it possible for me to cede my time to my colleagues?

Interjections.

Mr. John Fraser: I like you guys, but not that much.

The Chair (Ms. Natalia Kusendova): Unfortunately, that is not possible, according to the standing orders.

Mr. John Fraser: Okay, thanks. I just wanted to confirm that.

The Chair (Ms. Natalia Kusendova): Because the motion had allocated time, there would have to be unanimous consent for this to occur. Do you want to put forward a motion to call for unanimous consent?

Mr. John Fraser: Yes. That would be great, Chair.

I move that my time be ceded to my colleagues in the opposition for the next presentation. I'll return for the one after that. Because we're having this fulsome consultation, it would be a good idea to have that time used.

The Chair (Ms. Natalia Kusendova): Is there unanimous consent for MPP Fraser's motion? There is not unanimous consent. Therefore, the motion fails.

RESCON

ONTARIO SEWER AND WATERMAIN
CONSTRUCTION ASSOCIATION
ONTARIO GENERAL CONTRACTORS
Association

The Chair (Ms. Natalia Kusendova): We are now at our 4 p.m. group of presenters, who are all appearing via video conference.

I would like to welcome Andrew Pariser, the vice-president, and Amina Dibe, the manager for government and stakeholder relations, representing RESCON. You have seven minutes. You may begin your presentation by stating your name for the record.

Ms. Amina Dibe: Good afternoon, Chair, Vice-Chair, and members of the standing committee. My name is Amina Dibe. I'm the manager of government and stakeholder relations at RESCON.

Mr. Andrew Pariser: My name is Andrew Pariser. I'm the vice-president of RESCON and chair of our health and safety committee.

Ms. Amina Dibe: Thank you for providing us time to share our feedback on Bill 88, Working for Workers Act.

RESCON represents 200 builders of high-rise, mid-rise and low-rise housing in the province. We work in co-operation with government and related stakeholders to offer realistic solutions to a variety of challenges affecting residential construction, many of which have wider societal impacts. We are committed to providing leadership and fostering innovation in the industry through the following six core focuses:

- health and safety, including mental health and addictions;

- training and apprenticeship;

- government relations;

- labour relations;

- building science and innovation;

- regulatory reforms and technical standards.

Specific to health and safety, RESCON sits on three Infrastructure Health and Safety Association committees and two WSIB committees, and is an active participant in all MLTSD health and safety consultations. RESCON's health and safety committee has eyes and ears throughout the residential construction industry and comes together to share information, best practices and implementation plans when it comes to on-site and in-office safety.

Today, our comments reflect the hands-on experience of our membership, with a strong focus on implementation. Ontario's economy is complex and has been made even more complicated by the pandemic, supply chain issues and other shocks. We are here today to simply outline factors that will impact Bill 88 and offer some small tweaks with a focus on implementation.

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The health and safety of the residential construction workforce and the broader industry is the number one priority for RESCON. This has been shown throughout the pandemic as we work with industry, government and our labour partners to keep construction operational while mitigating the spread of COVID-19 on-site.

As a quick recap, construction—with a specific focus on residential—(1) was the first sector to have COVID-19 guidelines; (2) was an early adopter of PPE, including mandatory mask policies in residential; (3) amended our policies as the pandemic evolved with each wave; and (4) had a very low number of COVID-19 cases. Throughout the pandemic, construction was no more than 2% of cases—in residential, as the largest sector of construction was a pillar in keeping cases low.

RESCON commends Minister McNaughton's leadership throughout the pandemic, as well as the Chief Prevention Officer and officers in working with industry to develop, implement and evolve COVID-19 best safety practices, among other non-COVID-19-related health and safety best practices.

RESCON, along with an industry coalition comprised of OGCA, OSWCA, OHBA, HCAT and PCA, has provided joint feedback on Bill 88, specifically relating to naloxone kits, monetary policies and limitation on prosecutions, which is detailed in schedule 4 of Bill 88. To maximize our seven minutes, RESCON will only address the naloxone kit proposal and leave the other aspects of schedule 4 to our industry partners.

RESCON's commitment to health and safety also spans mental health and addictions, which has been shown through our efforts to raise awareness and remove the stigma through annual RESCON-hosted mental health and addictions symposiums, engaging with MLTSD, and participating in mental health and addictions training.

RESCON strongly believes that a joint health and safety committee would be better suited to determine if there may be a risk of overdose and how it should be addressed in the workplace. We strongly support and

propose that a direct connection be made between the joint health and safety committees and the requirement for naloxone kits, which ensures labour has a voice. Specifically, we recommend an amendment be made to schedule 4, part 25.2, regarding naloxone kits, to replace the word “employer” with “joint health and safety committee.” Under our proposed amendment, it would now be the responsibility of the joint health and safety committee to notify the employer if there may be a risk of a worker having an overdose on-site.

I’ll now turn it to Andrew.

Mr. Andrew Pariser: Thank you. Why a joint health and safety committee? The reason is, joint health and safety committees work really well. Joint health and safety committees are a pillar of Ontario’s health and safety system. Health and safety should be everyone’s top priority. When you see something unsafe—whether you’re a worker, whether you’re an employer, whether you’re a supervisor—you need to say something, whether it’s a hazard or a risk or someone who’s impaired.

The right to safe work is also a pillar of health and safety in Ontario, and joint health and safety plays a major role in bringing together labour and management in creating a formal system. It ensures that workers have a voice. It ensures that safety issues, including hazards and other risks, are identified. It ensures that safety plan systems, legislation, regulations and best practices are implemented and supported and are there. It addresses specific site issues and concerns. And it focuses on how issues and risks can be eliminated before an injury occurs, because in health and safety, we want to prevent a hazard before it becomes a hazard, instead of responding to it.

Our proposal is not about reducing a constructor or an employer’s obligation, but it’s about utilizing the best safety mechanisms we can have for the best results. Naloxone and issues related to substance use and fit for duty are not straightforward. They’re not uniform across construction, and they’re not easy to solve. These solutions will require labour and management and government to come together, and that should be reflected in the legislation.

Look at our efforts related to mental health and anti-racism. These are all great examples of how effective a joint health and safety committee can be.

Again, when assessing a hazard and improving safety, joint health and safety gets the input of our workers, the union’s members—the Ontario workplace—and it brings it together and gives it that structure that we need to make changes.

The former Chief Prevention Officer, Ron Kelusky, would often say that an ounce of prevention is worth a pound of cure. This is a real opportunity to tweak the existing legislation and really follow up on that advice.

As outlined in our opening remarks, RESCON is a leader in construction. We were the first association to hold webinars focused on mental health and addictions. Our efforts continue with that annual conference. One thing that we figured out in those conferences and focusing on mental health and addiction is that it’s too late to wait

until the issue shows up on-site. The data also shows that while the number of people associated with construction is a main source of opioid overdoses, research—

The Chair (Ms. Natalia Kusendova): Thank you so much. Unfortunately, we are out of time.

I would now like to invite Steven Crombie, manager of government relations and public affairs, representing the Ontario Sewer and Watermain Construction Association. Welcome. You have seven minutes, and you may begin by stating your name for the record.

Mr. Steven Crombie: Thank you, Chair. My name is Steven Crombie. I’m the manager of government and public affairs for the Ontario Sewer and Watermain Construction Association. The Ontario Sewer and Watermain Construction Association represents over 700 companies across the province that collectively construct over \$3 billion worth of sewer and water main infrastructure each year. On behalf of the OSWCA, I would like to thank the Standing Committee on Social Policy for the opportunity to speak on Bill 88, Working for Workers Act, particularly schedule 4.

OSWCA members believe that safety is an integral part of every project. Our members have taken extraordinary measures throughout the COVID-19 pandemic to ensure our workers remained healthy and safe. As Ontario’s economy is on the road to recovery, new legislation which impacts business operations should be done prudently and meticulously.

We believe Bill 88 provides a unique opportunity to strengthen workplace health and safety while avoiding placing unreasonable risk on the business community. The construction industry certainly recognizes the alarming increase in drug overdoses and deaths in Ontario and its disproportionate impact on the construction workforce. This is why our industry continues to work collaboratively and urgently to address this issue. Unfortunately, opioid abuse can be difficult to detect, and the signs of abuse can be misrepresented and subjective in nature.

A joint health and safety committee is an advisory body which exists within a company with the purpose of raising awareness around health and safety issues in the workplace. The committee is also tasked with recognizing and identifying workplace risks and developing recommendations for employers to address these risks. This is precisely why we believe a joint occupational health and safety committee is most appropriately situated to identify and make recommendations on an individual’s risk of opioid abuse in the workplace.

Moving along to administrative monetary penalties in schedule 4: A recent 10-year outlook from BuildForce Canada finds that Ontario will need an estimated 95,700 construction workers to keep pace with the high construction demands, as more than 86,000 construction workers are expected to retire in the next 10 years. The labour shortage is the single biggest challenge facing the Ontario construction market today and threatens our ability to build houses and infrastructure. Ontario must continue to identify barriers to entry and remove them, and promote careers wherever possible. The administrative monetary

provisions in Bill 88 will create new barriers for entrance into supervisor roles in construction. Bill 88 proposes to increase the administrative monetary penalty by 400%. According to the annual BDO Canada affordability index, half, 53%, of Canadians are living paycheque to paycheque. For this reason, we believe the existing administrative monetary penalties regime for supervisors, currently set at \$100,000, is sufficient to deter bad behaviour. Bill 88, if passed, will have the unintended consequence of deterring new entrants into these positions due to the financial risk. We therefore recommend maintaining the existing administrative monetary penalty structure in section 66 of the Occupational Health and Safety Act.

Lastly, I would like to briefly speak on the limitation of prosecutions. We believe that prosecutions made under the Occupational Health and Safety Act should be made in a timely manner. OSWCA appreciates that doubling the current legislated prosecution limitation from one year to two years may give prosecutors more time. However, doubling the limitation period also delays justice. This can be difficult for all parties, but particularly for victims and their families. Timely proceedings are a core principle of the provincial judicial system. We recommend maintaining the existing limitation on prosecutions in the Occupational Health and Safety Act.

On behalf of the OSWCA, we thank you for the opportunity to provide comments on Bill 88. Our members continue to promote the highest standards in health and safety, to eliminate workplace injury and illness, and commit to the principle that everyone shares the responsibility of a healthy and safe workplace.

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

We will move on to Giovanni Cautillo, the president of the Ontario General Contractors Association. Welcome. You have seven minutes, and you may begin by stating your name for the record.

Mr. Giovanni Cautillo: Good afternoon. My name is Giovanni Cautillo. I am the president of the Ontario General Contractors Association. Our members account for approximately \$12 billion of construction each year in Ontario in the industrial, commercial and institutional sectors, generally referred to as ICI.

In 2020, when most other sectors experienced pandemic-related losses or a slowdown, the ICI construction industry grew by 3.6%, representing over 7% of Ontario's total GDP. As an industry, we are focused on supplying the infrastructure needed to support Ontario's growing communities. Our members include small, medium and large firms, representing both union and open-shop contractors.

Today, I'm here with two of my construction industry colleagues, who, together with the Heavy Construction Association of Toronto, the Ontario Road Builders Association, the Progressive Contractors Association and the Ontario Home Builders' Association, signed a letter echoing all of our communal concerns about this legislation.

I want to start by thanking the committee for the opportunity to present on Bill 88. Our presentation will explain our position as well as highlight some areas of concern that directly affect general contractors and the rest of the construction community in Ontario. These concerns include the risk that increased fines have on the severe labour shortage of site supervisors and project managers, and the need for timely investigations and shortened limitation periods that support health and safety in response to the needs of our workplaces.

Firstly, I would like to say that the construction industry is firmly in the midst of a labour crisis. This crisis goes beyond journeypersons and those doing the physical work. General contractors are facing a crisis of attracting and maintaining working leadership, especially project managers and superintendents.

We commend the government on its steps to develop the supervisor micro-certification program, but for leadership roles, notably project managers and site supervisors, we still don't have enough qualified persons willing to do the job, and the problem is worsening. This leaves construction employers scrambling amidst fierce competition to recruit, hire and retain the talent they need to ensure operational efficiencies and success.

The Occupational Health and Safety Act has increasingly placed the burden of safety compliance and legal accountability on working superintendents and supervisors, to the point that many are not prepared to take on that level of liability. Currently, that includes the possibility of a fine of \$100,000 and jail time. This bill proposes to increase that liability by over 500%. These monetary penalties contemplated in the bill will have the unintended consequence of deterring new entrants into these positions due to the potential financial and personal risk.

Last year, the OGCA consulted with a diverse set of general contractors across the province to discuss the skills deficit among project managers and site supervisors. The report, titled *Building Pathways ... into ICI Construction*, found that the existing personal liability for job site safety issues was already a primary barrier for prospective site supervisors. To place things in perspective, if the threat of a \$100,000 fine is already a barrier for competent supervisors to fill these vital positions now, then an increase in monetary penalties for supervisors is punitive and will completely undermine efforts to support workers in Ontario.

Secondly, Ontario's construction industry has worked effectively to improve our occupational health and safety through programs, practices and partnership with industry professionals. The WSIB's most recent report documents that we have reduced lost-time injuries by 22% since 2011. The same report indicates that in 2020 the construction accident rate was lower than schedule 1 employers for the first time. These figures clearly demonstrate that construction is a safe sector with a culture of prevention that is more effective than punitive action.

I'll be blunt here: Prosecutions made under the Occupational Health and Safety Act should be made in a timely manner to better support our workers' health and safety.

This means that we need information promptly to make life-saving decisions that will prevent similar future injuries from happening.

In 2018, limitation periods were changed from six months to one year. Companies investigated by the ministry already must wait a full year to be charged, despite most investigations being completed in a few weeks to months. If the limitation periods are extended, it will impact health and safety improvements in this province. It will further upset the balance between enforcement and prevention, at the expense of workers. This is also why other provinces have shifted from a litigation focus to a prevention- and education-based system.

The Ministry of Labour's Chief Prevention Officer has set priorities, including working with industry partners to focus on learning from ministry investigations and using the best evidence to evaluate and improve workplace health and safety. This is how our industry gets safer—through the flow of timely information.

A lengthy limitation period is problematic since a prolonged legal process extends the release of pertinent ministry findings that, in turn, the entire industry could benefit from to address root causes. It also prolongs the process to achieve closure for the injured workers and their families. Doubling the current legislated prosecution limitation from one year to two only benefits the prosecutors. There has been no conclusive evidence demonstrated to the industry to support the lengthening of the limitation period. Therefore, we recommend that the ministry maintain or shorten the existing limitation on prosecutions to the Occupational Health and Safety Act.

I want to conclude by saying that we can see the intent of Bill 88, but it needs to be amended to reflect the reality of our industry and the efforts we have taken to adopt a continuous improvement model, for the industry to fully support it.

The OGCA is very grateful to the Ministry of Labour, Training and Skills Development, the Attorney General's office and the Ministry of Infrastructure for the ongoing support of Ontario's construction industry.

I want to personally give a special thanks to Minister McNaughton for his unwavering support for this sector and his commitment to ensuring that all workers are kept safe during this crisis.

Thank you. I look forward to your questions.

The Chair (Ms. Natalia Kusendova): Thank you very much. We will begin with our rounds of questions.

We will turn to the government. MPP Anand.

Mr. Deepak Anand: I want to start by thanking all the presenters here. Thanks for taking time out and giving your remarks.

Madam Chair, I want to ask the Ontario General Contractors Association—I'm curious to know about the perspective on schedule 3 of Bill 88. Are you supportive of this, as this would likely make it easier for your members to find the skilled workers they need? Talk about the labour mobility.

Mr. Giovanni Cautillo: In regard to labour mobility, the OGCA, again, will support the movement of people in

order to better attract to the construction industry. So, bluntly, yes, we support that mobility aspect of it.

Mr. Deepak Anand: Maybe I can ask the same thing to the others as well. I'm happy to extend that—if you can give your opinion on that as well.

Mr. Andrew Pariser: Again, just to echo what Giovanni said, the labour supply is very important. That involves on-site labour. In our case, it's unionized labour, but it's also what we would say are kind of the management jobs. We do a lot with construction management. When we look at labour supply issues, it is, do we have enough people on the tools, as we say, the skilled trade workers—but what sometimes gets a little bit less coverage is all of the jobs that go in to support it.

People may not know that when you invest in construction, you're investing in the whole economy because of the spinoff number—I think it's 8 to 1, but someone correct me if I'm wrong. It's huge when there's investment in construction.

Under your leadership and the leadership of Minister McNaughton, I think we've seen tremendous gains when it comes to labour supply. We're very supportive of those efforts. The only reason I'm not listing them is because there have been so many, especially in the last 12 months.

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

Mr. Jim McDonell: With the labour mobility issue we're talking about and other problems we have in the industry—labour seems to be the main issue, and I think skilled labour in particular. Are there any other solutions you're thinking that we need to do, or some other comments on some of the solutions we have in the bill? The mobility issue across the country—and, certainly, new Canadians coming in and allowing them to use their experience offshore versus having to get experience in Ontario first, which makes it very difficult for somebody who's fully trained to get a job.

1630

Mr. Andrew Pariser: Immigration is something that we care deeply about as well. I think everybody is very familiar with what the BuildForce numbers are—it's about 100,000 people needed in the skilled trades. I don't think it matters too much what side of the 100,000 you're on; the truth is we need a lot of skilled trade workers. Any time that we can reflect the needs of how people build in Ontario—whether it's our sector in residential, whether it's Giovanni's group in ICI or Steven Crombie's group in the heavy civil sector, we need a system that lets us bring in the skills that are in demand, and we need to support those programs. Our groups actually work together on a number of coalitions, and one of them is on immigration.

Maybe Steven, who is kind of leading that work, can expand there.

Mr. Steven Crombie: Thanks, Andrew. The reality of the situation is that we simply don't have enough people to do the work. This is not a problem that's unique to construction. This is something every sector of the economy is facing.

We have begun to explore how the Ontario Immigrant Nominee Program can be better suited to recognize careers in construction and construction skill sets. We believe that there is opportunity with the Canadian language requirement to have it reflective of the work being done on the ground. We also have identified that NOC level C and D workers are being left out of Canada's long-term immigration strategy.

We support labour mobility. We support a workforce that can respond to the needs of the economy, but I think we fundamentally need to do more to recognize construction skill sets.

Mr. Jim McDonell: I was quite surprised when I looked at some of the people impacted by some of the restrictions before. These are people who lived in Canada for a long period of time. Some of them were Canadians, but they had received their training outside the country. This legislation would allow them to get a job in the field for the first time in their lifetime. It was strictly internal barriers we had placed—some of them in the health industry, but some of them in the skilled trades as well.

I think my colleague Robin has a question.

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

Mrs. Robin Martin: Thank you all for your presentations.

I was interested in what was said about naloxone and the amendment you proposed—to the joint health and safety committee, as opposed to the employer. The point is to let you know who is going to let you know that you have a worker in the workplace who might be at risk of an opioid overdose of some kind.

We've been doing a lot of work with naloxone. Naloxone is available at the pharmacy for anybody to take home with them. I have a naloxone kit in my office, which has very few employees. The fact is that opioids can be quite deadly. The kit itself is free to everybody, and it's quite easy to administer.

I'm wondering why you wouldn't have a naloxone kit in any workplace, just in case, because it's quite a simple thing.

Mr. Andrew Pariser: I think, ideally, we will, but the reason why we wanted to link it to the joint health and safety committee is—we agree with everything you just said. We certainly want to save every life we can. The big reason why we want to tie it to the joint health and safety committee is for practical implementation.

Before anyone gets onto a construction site, they have to do basic training. Part of that is on-site orientation, and that flows—essentially, hazards are identified through the joint health and safety committee.

There are also practical issues. In the winter, it's cold. So before we build a house or build a condo, there's site-servicing work that has to be done. Sometimes on a site, you might—

The Chair (Ms. Natalia Kusendova): Thank you very much. That concludes the time we have.

I will now move on to the official opposition. MPP Gates.

Mr. Wayne Gates: It's always a pleasure to see some of my old friends again. I think I've interviewed you guys

about 15 times over the last number of years. Good or bad, we agree or disagree, but we certainly have done this before.

I just wanted to ask all three of you, have you guys read the entire bill? I asked this the last time you guys were here and you were supporting part of the bill. I'm just asking you if you've seen the entire bill. Did anybody take the time to read it?

Mr. Andrew Pariser: I went through the whole thing, but I certainly spent more time on the parts that we highlighted than the other parts.

Mr. Giovanni Cautillo: Correct.

Mr. Wayne Gates: But you're aware of it. What about the other two?

Interjections: Yes.

Mr. Giovanni Cautillo: It's great bedtime reading, if that's what you're asking.

Mr. Wayne Gates: Well, when it's important to workers in the province of Ontario, I think it is important to read it all the time.

Just so you know—because it's important to all your employees, I believe—we don't support the changes under the gig workers just because of the fact that it would be a two-tiered type of worker. You guys understand that. Some of you guys are unionized. Some of you guys aren't unionized. You know how that goes. I certainly believe all workers in the province of Ontario—and I believe the employees you have and your members would probably think that every worker should be entitled to the minimum standard of the Employment Standards Act.

If you get a chance and you're bored before you go to bed tonight, read it again, because it has been an interesting day here listening to gig workers and the struggles that they have in trying to feed their families and make a fair day's pay. That might not be in your industry. Most people in your industry—not all of them, certainly—make a fair day's wage and a fair day's pay, particularly ones who are unionized. I don't really know much about how the non-union guys are compensated. I just thought I would put that out.

What is interesting to me are the joint health and safety committees. That kind of jumped out at me right away—when you did that—considering I'm the health and safety critic for our party.

A question would be, in all three companies, do you all have joint health and safety committees? I know in some of the sectors in the province of Ontario, we do not have full committees; we have partial committees. Some are in the collective agreement—they're supposed to have joint health and safety committees, they're supposed to meet once a month, and all the things, the guidelines that are there. But what I'm finding in a number of sectors—not necessarily with your three companies—is that we don't have full joint health and safety committees at all our work sites. So I'm just asking if you guys can help me with that—on whether you think that would be a concern with the industry as a whole, maybe not just with organizations. You guys can all take a crack at it.

Mr. Andrew Pariser: In residential, we do have joint health and safety committees. I'm just here to talk about

residential and construction, but certainly we take health and safety very seriously. We have joint health and safety committees—the union will say it’s their members; I’ll say it’s our workers. We care just as much as anybody, and we’re always looking for more people to join construction. Anyone who’s interested in being represented by a joint health and safety committee—we’re looking for drivers too. Construction is a great industry for everybody, whether you’re in a union or not.

Mr. Wayne Gates: It wasn’t really a union/non-union question. It was just—

Mr. Andrew Pariser: I didn’t mean non-union workers—I meant whether you’re an estimator or a construction manager. We generally only have unionized members, so I wasn’t trying to say there—construction is a big industry. It supports a lot of people—lawyers, people like me who do advocacy. I’ll end my comments there.

Mr. Giovanni Cautillo: We can speak succinctly on construction, Wayne. I don’t think that we can really speak about other sectors. I hear your issues, in that our solution is good for construction but may not be good for a nightclub, per se. I understand what you’re saying. But I think we have to speak to our area of expertise, hence why we are advocating for joint health and safety as being the primary thing. Perhaps you could have different sectors represented by it—but in construction, this is our representation, and this is how we would suggest a solution moving forward.

Mr. Steven Crombie: I’m not a big fan of blanket policy. Where there’s an opportunity of infrastructure that exists within construction companies, I think it would be prudent to utilize joint health and safety committees in the legislation. We understand the disproportionate impact that opiates are having in our industry, and we think that we should utilize the infrastructure that we have.

Mr. Wayne Gates: I appreciate those answers.

I have a question—because you guys talked a lot about it in all three of your presentations—around the skills shortage in skilled trades. I’ve had lots and lots of meetings around the skilled trades. Would any of you guys know what trade is really the one that you need the most? I know there is a study out there that broke it all down and a timeline that we’re going to need for the trades and those type of things. Obviously, from our point of view, we think there are lots of opportunities to get women and First Nations involved with the trades. A lot of that, I think, could have helped over the course of the last number of years. We’ve missed that a bit.

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I came out of—you guys might laugh at me, because I’m not a lawyer or a doctor, like those who normally get elected to these positions. I did take a four-year tech course in high school. I did woodworking and welding and sheet metal and all of those—I learned how to lock out. They, I thought, were very, very important. When I got a job at General Motors and walked in and saw all the big machines, I wasn’t scared. I could go to work and figure out how to do a lockout.

What do you think is going to be your need? Do you think it would be a great idea if we get back into those

types of courses in grades 7 and 8, maybe even a little younger—6, 7 and 8—and into the high schools? All three of you can answer.

Mr. Andrew Pariser: I could start by giving a little list, but I know Amina has done a lot as chair of our anti-racism committee. She has also done a lot in recruiting and retention, so I’d love to turn it over to her.

With respect to trades that we’re seeing in residential: crane operators, elevator installers, bricklayers, high-rise and low-rise forming, concrete and drain, and anything related to finishing.

Ms. Amina Dibe: Just to pick up on MPP Gates’s comment about getting more women and equity-seeking groups into the trades: Obviously, as an industry, we’re missing an opportunity if we’re not looking to recruit young people, but also young people from these equity-seeking groups. But specific to what Andrew was—

The Chair (Ms. Natalia Kusendova): I’m sorry, but that concludes the time we have.

I’ll bring it back to the government. MPP Martin.

Mrs. Robin Martin: I have a question for Giovanni. I think you mentioned that you’re having trouble, in the construction sector, finding project managers and site supervisors. Obviously, this is important because you need these guys on the job. I’m just wondering if that is recent or has been ongoing for many years.

Mr. Giovanni Cautillo: It’s very similar. It’s in lock-step with the shortage of skills—understanding that a lot of the site supervisors come from the trades. A lot of the site supervisors are at some point carpenters or skilled to begin with—to understand the complexities of how the job site moves. We upskill or we upgrade to that position on-site from within. So if we have a shortage of individuals to pick from, we also have a shortage of individuals on the management side.

It has been a growing concern for a number of years—now more so than ever, because, obviously, you’ve got COVID, so you’ve had a lot of people who have exited out of construction, for whatever reason, saying, “I’ve had enough. I’m going to take an early retirement.” For personal reasons, they have opted to leave, and because of that it has almost caused a feeding frenzy amongst others, so that there’s poaching and there are people going at each other. That becomes problematic. It’s not something that’s supportive in the industry. That’s why we’re talking specifically about site supervisors and project managers—because it does affect every one of our general contractors. It’s a trickle-down effect with every single trade. Every trade has a foreman, a site supervisor, a project manager of some sort in relation to that trade, so it can only be a compounding effect.

To answer your question: It has been a gradual buildup, but especially compounded over the last two years.

Mrs. Robin Martin: My father often was a project manager. His background was in civil engineering—not very civil, he always joked, which was an accurate description of my father, I have to say. Anyway, he did a lot of project management. I spent a lot of time being shown job sites because he thought they were all so

fascinating. His favourite book was Structural Steel and Mechanical Piping.

You mentioned that this was important because of some change we're making with the occupational health and safety fines, I think. Could you just explain that again? I didn't quite catch your point about how they work together.

Mr. Giovanni Cautillo: Your fines right now are at \$100,000. We already have an issue with site supervisors wanting to come into that role, based on the fact that this fine exists. We know this because we did a study called Building Pathways ... Into ICI Construction. This was something that we did over nine months last year. We drew from experts in the field who have the first-hand experience. It demonstrated that that was a primary barrier to it. Now, it goes from \$100,000—it's growing 500 times. At 500% increases, the complexities grow that much more. If people aren't going to enter into it because of the \$100,000, now that you're increasing 500 times, that is going to be the compounding effect that we have.

The responsibilities keep getting dumped onto or downloaded onto the site supervisors and superintendents. This is what the limiting effect is. If you now make it even more onerous, we're going to have less and less people who want to be in that role, and that, to us, is problematic.

Mrs. Robin Martin: And there's no provision, ever, for this fine for a site supervisor to be covered or insured against etc.? I know we're also increasing the fines for officers and directors—

Mr. Giovanni Cautillo: Correct.

Mrs. Robin Martin: —which you're not stating there's a problem with, I take it.

Mr. Giovanni Cautillo: No. Again, the fine structure in general is—you have directors' and officers' liability, but you don't have site supervisors' liability. So you have to look at it from that aspect of things. It becomes a personal fine, and then there's jail time that you can run, personally. Those risks are deterrents to anyone who really wants to enter into those roles.

Mrs. Robin Martin: Presumably, there could be site supervisor liability insurance if there was a market for it, no?

Mr. Giovanni Cautillo: Presumably, there could be. Again, I would need more data.

Mr. Andrew Pariser: I don't think it's that easy.

I think, crudely, \$100,000 to someone who is working as a supervisor is a lot of money, and \$500,000 is still a lot of money, but it might be that extra factor that deters someone from taking the leap to becoming a supervisor. At the end of the day, we hope that the fines are irrelevant, because we don't ever want to be in a position where any of our members are ever given a fine. We want to be heavy on the compliance and the education spot upfront. I think when we wrote that letter, as a coalition, the idea is that's a really big increase to someone who has to pay that out of their own salary.

Mrs. Robin Martin: Thank you very much, Andrew and Giovanni, for answering my question.

The Chair (Ms. Natalia Kusendova): Two minutes remaining. MPP Babikian.

Mr. Aris Babikian: My question is to the Ontario General Contractors Association. How has the government supported the construction sector throughout the COVID-19 pandemic?

Mr. Giovanni Cautillo: The government has been steadfast when it came down to its support of skilled trades and the workers and all the avenues that you've done in regard to that to make sure that you gained exposure. I think that Minister McNaughton has done great things in trying to destigmatize construction. It has the stigma of being one way, which is dirty or a third choice, when it comes down to it, and it's in the vernacular now of a lot of people. We want it to be seen as a destination for careers. This government has done great strides in order to highlight the possibilities and that construction is someplace you could end up and have a very fulfilling and satisfying career in.

I hope that explains it. There are a number of things that the government has done. I can't list them all for you today, but I think that just in highlighting the skilled trades and moving in that direction, it has been incredibly helpful.

Mr. Aris Babikian: How much time do we have?

The Chair (Ms. Natalia Kusendova): Fifteen seconds.

Mr. Aris Babikian: Okay.

Mr. Deepak Anand: In 15 seconds, all we can say is: Thank you for coming.

The Chair (Ms. Natalia Kusendova): Thank you. That concludes—

Interjection.

The Chair (Ms. Natalia Kusendova): Oh, we have another round? My apologies.

MPP Karpoche, go ahead.

Ms. Bhutla Karpoche: Thank you, RESCON, Ontario Sewer and Watermain Construction Association and Ontario General Contractors Association, for your presentations today.

1650

It has been quite interesting, because we spent the day today mostly listening to workers, and at this hour we have an opportunity to listen to employers who are impacted by this bill.

My question is, have you ever taken an Uber ride, Amina, Andrew, everybody? Yes?

Interjections: Yes.

Ms. Bhutla Karpoche: Okay. Do you think that if your Uber driver is sick, they should be able to stay home and rest, get better, have access to some sort of permanent paid sick leave so that they can feel better and not be out working and possibly transmitting, whether it's COVID or the flu? Do you think that would be a safe, wise policy?

Mr. Andrew Pariser: One thing we spent a lot of time advocating for in construction, with COVID, was following public health guidelines.

Ms. Bhutla Karpoche: No, I meant to ask you personally, as a user, as somebody who takes Uber.

Mr. Andrew Pariser: Yes, I think everyone should be following public health guidelines. I think that's what they're there for—to be followed.

Ms. Bhutla Karpoche: If the public health guidelines say, “Stay home when you're sick,” but there's no paid sick leave, it's a hard choice for a lot of people who have bills to pay.

Mr. Andrew Pariser: I would separate the two, to be honest.

Ms. Bhutla Karpoche: My other question is, have you ever ordered food through an app? Have you ever gotten food delivered to yourselves? All of you? Yes? Okay. Do you think that food delivery workers should be paid less than the minimum wage?

Mr. Andrew Pariser: I don't think that's a legal option in Ontario.

Ms. Bhutla Karpoche: Well, this bill is legalizing it; that is why I'm asking.

Mr. Andrew Pariser: My understanding of this bill is that they're taking the first step. I used to be a civil servant at the Ministry of Labour, back when it was actually called the Ministry of Labour. I know it has a new name—

Ms. Bhutla Karpoche: Right. But do you think there should be a class of workers created who would receive less than the minimum wage? That's the question.

Mr. Andrew Pariser: I think what I see here is, this government has proposed the first bill to deal with an issue—

Ms. Bhutla Karpoche: No, I'm asking you, as somebody who has ordered food through an app—

Mr. Andrew Pariser: I think it's foundational legislation, and my understanding is that it pays a minimum wage. So yes—

The Chair (Ms. Natalia Kusendova): Who are you directing the question to?

Ms. Bhutla Karpoche: I would like to hear from everybody.

Mr. Andrew Pariser: I apologize.

Ms. Bhutla Karpoche: As somebody who has ordered food, as a person, as a human being, you are receiving the food on one side—and the person who is delivering the food to you. Do you think that person who is delivering the food to you should get paid less than minimum wage? It's very simple. Yes or no?

Mr. Andrew Pariser: No. Absolutely not.

Ms. Bhutla Karpoche: So you don't think they should get paid less than minimum wage. It's not a “gotcha” or anything like that; I'm just trying to illustrate that as people, as human beings, as workers and members of a society, there are some basic things that we expect that workers would be entitled to.

I understand completely that you're here today to focus mostly on schedule 4 of the bill, but this is just one schedule of many in this bill. In fact, schedule 4 is just one-and-a-half pages of an almost 40-page piece of legislation. There is a lot in this bill that is going to have a huge impact on workers across the province. I would, by extension, make the argument that this is not just you as representatives of your organizations—but the fact that many of your

members, many of your employees, will have family members, will themselves be ordering food or taking an Uber ride. These are not isolated experiences. We're all part of the same society, and we're all going to be impacted one way or the other, even if it's not directly as a gig worker.

The point I'm trying to make is that, for the rest of the bill—as people who have taken an Uber, ordered the food, do you believe that these workers should have any less in terms of rights and protections than any other worker in this province?

Mr. Andrew Pariser: We covered this. I think we all agreed that people should be—

Ms. Bhutla Karpoche: I would also like to hear from others, if possible.

Mr. Andrew Pariser: We're here to represent construction, and so certain parts of the bill are more important to us than others. But I didn't hear anybody on here disagree with anything that you said—

Ms. Bhutla Karpoche: I'm not saying you disagree. I want to hear what—

Mr. Andrew Pariser: I don't think the bill disagrees with what you're saying either, though.

Ms. Bhutla Karpoche: I want to know the answer. That's why I'm asking.

Mr. Andrew Pariser: I think this bill—which is lengthy, but we live in a very complicated time. This government has proposed landmark legislation that is dealing with issues that started, in some cases, over a decade ago. I think Uber came to Ontario in 2012, so it's good to see a bill that's going to start to deal with some of these issues.

As a construction representative, I'm a little bit hesitant to depute on non-construction issues—

Ms. Bhutla Karpoche: Right. But as I said, this specific—

Mr. Andrew Pariser: —but as someone who does advocacy, I think it's good to see landmark legislation.

Ms. Bhutla Karpoche: Sorry; I'm just going to reclaim my time here.

Mr. Andrew Pariser: I apologize.

Ms. Bhutla Karpoche: I just want to reclaim my time, and I do want to give my colleague an opportunity to ask a quick question.

I guess what I'm trying to say is that it's not just about you representing your industries. Of course, you're doing your job. It's part of your responsibility, and I can appreciate that. Apart from your group representation, you are all people. We're all consumers. We've used these services. As humans who have used these services, what are your thoughts on that? That's what I was trying to get at.

Wayne, go ahead.

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

Mr. Wayne Gates: I'm going to go real quick because I think this is important.

The province is fast-tracking the certification process for skilled trades workers coming from out of the province. Could all three of you discuss the checks and

balances you plan to have to ensure that workers are fully qualified and job sites are safe?

I don't have a lot of time, so I would just let you know what my concerns are, and you guys can talk about them at a later date, probably, without answering.

The reality is that some of the workers who are coming from out of the province—and this comes from the tradespeople I've talked to, by the way. They're concerned that the training and their qualifications will not be as good as what we currently have in the province of Ontario. I think that has been raised with me by building trades, IBEW and some of the bigger unions that represent workers. I'm just giving you a heads-up on that.

I know there's a shortage. We know that injuries in construction—

The Chair (Ms. Natalia Kusendova): I'm sorry, but we are out of time.

Mr. Wayne Gates: I'm sorry I didn't get to the whole question. Thank you very much for answering. I appreciate it. Stay safe, guys.

The Chair (Ms. Natalia Kusendova): Thank you. This concludes the time we have allotted for this round of presenters.

COUNCIL OF ONTARIO
CONSTRUCTION ASSOCIATIONS
JUSTICE FOR WORKERS

The Chair (Ms. Natalia Kusendova): We will now move on to the final round. We have with us Mr. Ian Cunningham, the president of the Council of Ontario Construction Associations.

Welcome. You have seven minutes for your presentation. You may begin by stating your name for the record.

Mr. Ian Cunningham: My name is Ian Cunningham. I'm the president of the Council of Ontario Construction Associations.

The Council of Ontario Construction Associations, or COCA, is a federation of 30 construction associations representing more than 10,000 general contractors and trade contractors that operate in the industrial, commercial, institutional and heavy civil segments of the province's construction industry. Our member contractors work in all regions of the province, employ approximately 400,000 workers, and are both unionized and non-union employers. COCA is committed to working with the decision-makers at Queen's Park to ensure Ontario's legislative and regulatory environment supports success in the construction industry and prosperity across the province. COCA is the largest and most representative voice for the non-residential construction industry in Ontario.

I'm here today to speak specifically and exclusively about schedule 4 in Bill 88. I would prefer not to wander into other areas of the bill that don't intersect with construction. Those are parts of the bill that I haven't spent a whole lot of time on. I'm paid to focus on issues that are of relevance to construction, and I'm here today representing COCA. I've got my COCA pin on. I have

never used an app to order food, and I've never ordered an Uber cab, so there we go.

I appear today on behalf of our members to express their very serious concerns regarding the amendments to the Occupational Health and Safety Act that are proposed in schedule 4 of Bill 88, the Working for Workers Act, 2022. These are our concerns, and they're threefold: the naloxone recommendations, the increases in the fine amounts, and the extensions to the limitation period.

I hope that nothing I say here today gives you the impression that I don't believe that the opioid situation in Ontario is excusable. It is a very serious problem that faces our society and that has to be addressed. I was pleased to hear the earlier presenters echoing much of what I'm going to tell you today.

1700

Workplace health and safety is among the very highest priorities of almost everyone in the construction industry, no matter whether they're a general contractor or a trade contractor, and the industry's record over the last 10 years or more speaks for itself. There have been amazing improvements in health and safety. I don't think there's another industry in Ontario that's better, more effectively organized around health and safety than construction.

The other industries do a great job, but the sort of monthly summit of health and safety for the construction industry is our section 21 committee. You'll know that section 21 of the Occupational Health and Safety Act allows the minister to appoint sectoral committees to advise him on health and safety matters. The construction health and safety section 21 committee is called the provincial labour-management health and safety committee. It meets the first Wednesday of every month. It is bipartite. There are about, I'm guessing, 40 members: 20 from labour, 20 from management. The Ministry of Labour policy, the Ministry of Labour enforcement, the Ministry of Labour prevention offices are all—along with WSIB. I'm involved in a couple of other multi-sectoral organizations, one called the prevention employers partnership, the other the Ontario Business Coalition. When I tell them what our provincial committee is doing, what our section 21 committee is doing, they are amazed.

Normally, in the sausage-making work that you folks do, a proposal that the ministry has will be presented at a reasonably early stage. This doesn't happen all of the time; it didn't happen with the naloxone provisions. It will come to this committee at an early stage. The committee will give feedback. There's lots of back-and-forth over a series of monthly meetings. The thing gets polished up and refined to a position where the industry can accept it. In the case of the naloxone provisions, there was kind of a surprise consultation. It had a very short window. It was over the holiday period, December to January. We were told that it probably wasn't going anywhere, and then it wound up in Bill 88, much to everyone's surprise.

I've got to say, overdoses on work sites are extremely, extremely rare. I have worked at COCA for coming up on 14 years. I have a fairly broad network, with all of the different coalitions, committees and partnerships that I

work on, and I haven't run into anyone who has, in their broad experience, ever heard of an overdose on a construction site. I am confounded. It's not a workplace issue. According to studies, most opioid abusers are unemployed. Many are homeless. Some are even recently released inmates from correctional facilities.

As I say here, no one within COCA's orbit—a very seasoned and experienced construction industry context—is aware of an opioid overdose on a construction site, and this, I believe, is true of the members of our provincial committee as well. So requiring an employer who becomes aware or ought to be reasonably aware of the risk of having an overdose at their workplace to have a naloxone kit on-site is unnecessary, and it's not supported by the evidence.

The Chair (Ms. Natalia Kusendova): One minute.

Mr. Ian Cunningham: This requirement simply adds to the regulatory burden that already overly complicates employers' business lives and detracts from Ontario's competitiveness, with little or no benefit.

Our recommendation would be that the naloxone kit requirement be removed from the legislation. Opioid abuse has been called the "other pandemic," and as such should be dealt with more appropriately by the Ministry of Health, and not by the Ministry of Labour, Training and Skills Development.

If the government is truly serious about combatting drug abuse and opioid overdosing, consideration should be given to the development and implementation of a multi-pronged strategy that includes such things as implementing more effective means of controlling the unregulated drug supply, including the importation of illegal drugs from other countries, the domestic manufacture of drugs in illegal laboratories, and the theft of legal drugs—

The Chair (Ms. Natalia Kusendova): Thank you. That's all the time we have.

We will now move on to Pam Frache, the coordinator for Justice for Workers, who is joining us online. Welcome. You have seven minutes for your presentation, and you may begin by stating your name for the record.

Ms. Pam Frache: My name is Pam Frache. I'm the coordinator of the Justice for Workers campaign. I'm very happy to be here today. Thank you for your time for this important conversation.

I've been watching the proceedings so far today, and I can't emphasize enough how much I agree with the testimony of the gig workers themselves—the workers who are directly affected by this legislation—from Gig Workers United and the Ontario Federation of Labour.

As you all well know, probably, by now, too many workers—not just gig workers—are actually misclassified. But in this case, the scale of the misclassification by the likes of Uber—treating their employees as self-employed or independent contractors—is really to avoid paying their workers minimum wage; it's to avoid paying their workers holiday pay, vacation pay and overtime pay. The problem of misclassification is widespread, and this government has done absolutely nothing to curb this harmful and, frankly, illegal practice.

Why do employers like Uber, DoorDash and SkipTheDishes deliberately misclassify their employees? Let me be perfectly blunt. This is a deliberate strategy to maximize profit by shirking their responsibilities, both legal and financial, to their employees, to the workers' families and to our general economic health, for all of us.

Here's why I think we should be very clear about why corporations like Uber rely on the illegal practice of misclassifying workers. One, businesses don't have to pay their fair share of employment insurance, so this actually means less money for workers who rely on employment insurance benefits in periods of interruptions of work, and there is less money that goes into this overall economic stabilizer—because that's what employment insurance is. It's an economic stabilizer that benefits corporations as much as it does workers.

Businesses that misclassify their employees don't pay their fair share of Canada Pension Plan contributions, which, again, shortchanges workers and increases poverty for all of our communities.

Businesses that don't contribute to WSIB premiums because they are deliberately misclassifying their workforce deny workers their protections under the law and also let employers off the hook for back-to-work programs after workplace injury. It denies workers their rights to form unions and prevents them from organizing collectively to improve their wages and working conditions. That is, in itself, a powerful incentive for companies that rely on hyper-exploitation of their workforces—their primary business strategy. It also means that workers are subjected to basic wage theft—and let's call it wage theft. When workers are not paid the minimum wage, when they're not paid public holiday pay or overtime pay or vacation pay, that's wage theft.

This kind of business model is amazingly profitable. As members of the committee testified earlier today, many of these big corporations are making out like bandits, especially during the COVID-19 crisis. But that hoarding of corporate profits comes at the expense of all of us.

The good news is, right now, that misclassification is actually illegal. If the laws were actually enforced, we could prevent this kind of hyper-exploitation. In fact, this illegal misclassification and this illegal wage theft was exposed at Uber Eats recently by the Ministry of Labour, when an employment standards officer ruled in favour of a courier who filed a complaint against this tech giant on precisely these grounds. Yet, just days later, this government has introduced Bill 88, which would, if implemented, suddenly make these illegal practices by these corporate tech giants legal.

I don't understand how there can be any other interpretation of what is happening right now other than that this government is coming to the rescue of its big business friends in order to change the law to make their immoral and exploitative practices legal, which, as it stands, are actually illegal. Far from standing up for gig workers, or any workers for that matter, this government is clearly stepping in to grease the wheels of their very rich friends. They claim that they are improving wages, yet Bill 88 will do the absolute opposite. The doublespeak is breathtaking.

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Premier Doug Ford and labour minister Monte McNaughton claim they're standing up for gig workers, by announcing that the legislation will "give gig workers access to the minimum wage." Well, they already should have access to the minimum wage, and that they don't is a disgrace to this government, and it's indicative of their failure to enforce the laws. Workers should already be getting minimum wage, should be getting vacation pay, should be getting all of these entitlements. What we really need to do is to enforce the Employment Standards Act.

Far from protecting workers and benefiting gig workers, Bill 88 will cut the wages of gig workers while still denying them their basic protections under the act. This is because Bill 88 stipulates pay only for engaged time—the time couriers are making the delivery, not when they are returning from or waiting for the delivery.

To make matters worse, the bill also introduces two new carve-outs from the Employment Standards Act: carve-outs for business and information technology consultants. That is going to allow more workers to be legally denied full protections under the act.

Even without Bill 88, the committee members should know that only about one quarter of all workers in Ontario are fully protected by the Employment Standards Act. And why is that? Because corporations come in and lobby their friends in government to create exemptions and loopholes so that their employees are not fully protected by the act. That is exactly what is happening with Bill 88. That's why, instead of standing up for workers and protecting them, this government is punching more holes into the Employment Standards Act.

If adopted, Bill 88 would suddenly make it legal to misclassify gig workers as independent contractors. It will legalize wage theft that is driving workers into poverty, and in doing so, it will pave the way for other companies to pay their workers less than the minimum wage and deny their basic employment rights. This is dangerous for all of us, because when we incentivize the creation of bad jobs, we are opening the door to many other workers that do it.

The Vice-Chair (Ms. Bhutla Karpoche): Thank you very much for your presentation.

The first round of questioning will go to the government side. MPP Martin.

Mrs. Robin Martin: I want to start by saying that I don't agree with a lot of what the witness from Justice for Workers had to say.

I want to ask some questions about naloxone to the president of the Council of Ontario Construction Associations, Mr. Cunningham.

Mr. Cunningham, what I understand is that 2,500 people have died from opioid-related causes between March 2020 and January 2021 in Ontario. Of the victims who were employed, 30% of those victims were actually construction workers, which is by far the most of any industry that has been impacted. I know that opioids are kind of a new problem for Ontario. I think it was more of a problem earlier on in BC—and they seem to have been moving across the country. But we do have quite a

situation, as you said you know, in Ontario with opioids now, and the government is taking all kinds of steps to try to deal with that.

One of the things we know is that naloxone is very easy to administer and can save lives in an urgent situation. My understanding of what happens is that somebody who has an opioid overdose is unable to breathe, unable to get their breath and they turn blue, and if the naloxone is administered, it can save their lives by helping them to be able to breathe.

We make naloxone available in pharmacies. Anybody can pick up a naloxone kit and take it home with them. I have one in my constituency office, because it's just a good life-saving measure. Earlier, we heard someone compare it to a defibrillator that could be used to help somebody. Even though it is a new thing, I think that it's important that we make it available in places where anybody could have an opioid issue. The issue is partly that carfentanil and fentanyl, which are in the opioids, can really suspend someone's breathing quite quickly.

I'm just interested if that accords with what you understand and if you don't see that there could be some use of having it on construction sites, even though historically, maybe, it wasn't necessary.

Mr. Ian Cunningham: Not to be flip, but I would say that the likelihood of an opioid overdose is probably higher on a construction site than it is in your office.

Mrs. Robin Martin: Likely—I hope so.

Mr. Ian Cunningham: Yes. But can you put these things everywhere an opioid abuser might be, and is that realistic? And if there are a vast array of hazards—strategically, if people are getting killed on construction sites, wouldn't you try to control those issues that are killing people the most or injuring people the most? Until you've got those controlled to a good extent—not ignore the others, but pay less attention. On a simple sort of X-and-Y, the kind of thing we all do strategically—low impact, high impact, high cost, low cost. I think that the naloxone kits on construction sites are low cost—the training might add to the cost; the kits are not expensive—but it's very low impact when you consider some of the other, what they call at the Ministry of Labour, "killer contraventions." More focus ought to be paid to those things that are killing people on construction sites.

As I said at the outset, I don't want to diminish—and I understand from the study that there were 2,500 deaths from overdose in the first 10 months of the pandemic, and 30% were those who were employed. What the study doesn't show is what was the number—but they're not occurring on construction sites. I'll just leave it at that.

I think the health and safety record of the construction industry is very strong. Nobody wants to ignore this thing, but let's pay more attention to those things that are killing and injuring people. Every year in construction, somewhere between 12 and 25 workers are killed, and around 300 people are critically injured. Let's focus our attention on the causes of those things.

I don't know if your previous presenter raised this issue: extending the limitations periods and getting the

evidence from these infractions so that it can be used to inform programming and policies so we can improve health and safety.

I clearly don't want to diminish or make you think that I think that opioid abuse is unimportant, but I think there are better ways to make construction sites safe. I'll leave it at that.

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

Mr. Deepak Anand: Thank you to the presenters for coming. Ian, and Justice for Workers—I see you said, at the bottom, “all,” so thank you for taking care of all.

I want to talk about some of the other schedules of the bill as well.

So 89% of people in Ontario believe that the workplace has changed permanently, mostly because of COVID-19 and technology, and that the province needs to act to update the employment regulations. I'm talking about the electronic monitoring of employees, as many of the workers are working from home, for example. With this bill, we are proposing that any employer with more than 25 workers needs to provide all the employees—to develop and share the policies on electronic monitoring of employees. What is your opinion on that?

Ms. Pam Frache: I'm going to focus my comments on our concerns regarding Bill 88's carving out of a separate status for gig workers, because that's—like others, I'm limiting my comments to the impact of creating a new category of worker that would have fewer rights and protections than other workers have.

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I would just like to point out that, at present, only about 25% of workers are fully protected by the Employment Standards Act because there have been so many carve-outs.

The Chair (Ms. Natalia Kusendova): That concludes the time we have.

I will pass the floor to the official opposition. MPP Sattler.

Ms. Peggy Sattler: Ian, it's nice to see you again after two years. Thanks for coming to the committee today.

Thank you, Pam, for coming today to represent Justice for Workers. I'm going to focus my questions on Justice for Workers and the concerns that you raised, Pam, about schedule 1 of this bill and the carve-out of employment standards protections for gig workers that's reflected in this bill—as if gig workers aren't real workers, as if gig workers are somehow lesser workers and don't deserve the same standards and protections that everybody else should be entitled to.

You started your presentation by focusing on the problem of misclassification, which is rampant, as we know, in the gig economy but also in many other sectors.

I think you're familiar with the bill I introduced that would implement an ABC test in the Employment Standards Act to clarify and simplify the definition of “employee” versus “independent contractor,” and it would also put the onus on an employer to prove that a worker is not an employee.

I wondered if you would comment on my private member's bill and if that is the direction that you think the

government should have taken in this bill, if they really were working for workers, rather than this watered-down mini version of an Employment Standards Act that doesn't really protect any workers in Ontario.

Ms. Pam Frache: Thanks so much for the question.

I wasn't able to finish my comments. I was going to get to that—to say any government that was serious about standing up for workers would have voted in favour of Bill 28. And I wanted to unpack why it's so important to put the onus on employers to prove that independent contractors are legitimately independent contractors. When workers are in such precarious employment and employers have so much control over those workers, it's very difficult for workers to challenge that notion while still being at their place of employment. In the workplace, as everybody knows, democracy is checked at the door. The boss has all the power and workers have very little, except that which is established by the Employment Standards Act. It just hasn't been effective to put the onus on workers and to go through all of the difficult challenges of proving that they are indeed not workers. So that bill was excellent.

Also, the ABC test is an excellent test. It has been implemented in many jurisdictions around the world, and it is the model.

That's why it's so completely shocking that this government, when faced with the opportunity of actually supporting this legislation in the middle of a pandemic, could have done so, and they chose not to.

I wanted to add, about that kind of legislation, that if we get misclassification under control, it's going to help so many more workers by giving them access to their entitlements under the Employment Standards Act, as I mentioned before, like employment insurance, WSIB, Canada Pension Plan—all of those kinds of things. Those things are important not just for workers themselves and their families, but they are also very important for our communities and for the economic health and well-being of our whole economy.

For governments to be constantly siding with corporations that are already rich and making profits literally like bandits is quite shocking to me.

As you say, the status quo is that these workers are employees. This is not a debate. What the government is doing is stepping in to change the laws to make what were formerly illegal practices of wage theft and misclassification—they're trying to make it legal. They're trying to step in for their friends. The problem with the law as structured—while it is illegal to misclassify workers, at present the onus is on workers to prove it, and they have so few resources. It's very difficult. So the bill to improve it and put the onus on employers and to implement a very clear test would clarify the real and true status of workers. I want to thank you for that.

Ms. Peggy Sattler: We heard from other presenters today who are concerned about the precedent that is created by this carve-out of gig workers as somehow different and deserving of lesser rights than other workers.

Also, the timing of this bill, coming just four days after that Ministry of Labour ruling that an Uber Eats food courier is actually an employee—are you concerned that

that historic ruling, really, by the Ministry of Labour might be completely undermined by what the government has done by creating this separate category for gig workers?

Ms. Pam Frache: Absolutely. In fact, I don't think there can be any other interpretation other than that this government is stepping up for its friends to change the law to make their illegal practices legal. And you are exactly right; had that same complaint been tabled after Bill 88 became the law, then that worker would have been completely out of luck in getting access to minimum wage, vacation pay and all of those things. I think that is the only way that we can interpret this legislation. I would go even further to say that if this government goes ahead and passes it, I hope this becomes an issue in the election, where opposition parties feel confident to say, "We will repeal this bill as soon as possible after forming government," because this is a disaster. It's not just a disaster for gig workers. It's a disaster because it will be a race to the bottom. Every employer, even good employers—how are they supposed to compete with corporations that shortchange and deliberately circumvent the law? Once that is legal, it's going to force other employers down the same path. It will be a race to the bottom. This is not working for workers; this is working for business, full stop.

Ms. Peggy Sattler: The other issue that came up often today was around minimum wage for engaged work.

In your opinion, is minimum wage that is only paid when a worker is actively engaged in making a delivery or picking up a fare really a minimum wage?

Ms. Pam Frache: It is not. In fact, the doublespeak is breathtaking. This would cut in half workers'—at least in half; in some cases, possibly by 60% of their earnings. Far from establishing a floor, this is going to legalize sub-minimum-wage rates for these very profitable corporations.

Any government that claims it's working for workers would never have cut the \$15 minimum wage in the first place and stolen \$3,000 to \$6,000 a year from front-line minimum wage earners.

The Chair (Ms. Natalia Kusendova): That concludes our time.

We will now move on to MPP Fraser.

Mr. John Fraser: Thank you very much, Mr. Cunningham and Ms. Frache, for being here. My first comments will be for you, Mr. Cunningham.

I missed the last session, when there were some representatives of the construction industry here. If I look at the things in the bill that I would support—it's one of the things that I could support. I say this because I spoke to the Canadian Mental Health Association with regard to it, and they believe that it was important. Maybe I shouldn't be surprised, because it seems like this bill was really done in a hurry, but to have the construction associations come and say, "We think this is serious, but we don't need this" is kind of—the government didn't do its homework. Do you think that's a fair assessment?

Mr. Ian Cunningham: As I said before, the naloxone provisions had a very short window of online consultation

over the holidays. It's my recollection that we were informed that it was not likely to go anywhere, and then it wound up in Bill 88. Normally, in the process, there would be more consultation. I would say there's usually very good consultation with our industry. This, for what reason, didn't—and not everything follows, as you know from your experience here on both sides. The process isn't always the same. I remember when I spent a lot of time around here doing our prompt payment; there were two private members' bills, a two-year review, and then a bill that everybody—so it isn't always the same. But this seemed to be an expedited—

Mr. John Fraser: It's not working for you. It doesn't work for you in the—

Mr. Ian Cunningham: This is a serious issue; don't get me wrong. I don't want to be misunderstood. But there are other strategies that would be more impactful than this. I think the evidence, at least the evidence I'm aware of, is that this rarely, if ever, happens on construction sites. The study that was referred to earlier indicated that 30% of the people who were employed—it wasn't known how many of those people who are employed were from the construction industry, but none of these fatalities were taking place on the work site.

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Mr. John Fraser: I'm still inclined to support it—just to be open and transparent about it—but I think what I'm trying to demonstrate to the committee here is that we've got a measure that has been applied to the construction industry, where the construction industry really wasn't fully consulted, and then they were kind of told, "Don't worry about it."

Then you have traditional Chinese medicine, who nobody talked to—except for the Premier or whoever whispered in the Premier's ear—and it gets put in the bill.

And now we have a piece of legislation that's creating a second class of workers in Ontario—completely different. It shouldn't be called the ESA for them anymore; it should be the "gig workers' standards act," because that's what it is. It's the GWSA.

The Chair (Ms. Natalia Kusendova): One minute.

Mr. John Fraser: Thank you. The change that's happening in our economy is a big one. I don't think we all understand it—at least, that's the sense I get in the committee—so I don't know why we're in such a big rush to do less for people. I don't understand—

Mr. Wayne Gates: Brochures.

Mr. John Fraser: Yes, today they're "working for workers"—because it looks good when you say you're working for workers. But it's not working for gig workers, and it's not going to work. I don't say that as a partisan. These are our sons and daughters. These are going to be our grandchildren. There are 800,000 gig workers. Do they not actually deserve the same kind of protections that every other worker in Ontario has had for decades?

The Chair (Ms. Natalia Kusendova): We will now go to the government benches. MPP Anand.

Mr. Deepak Anand: Ian, just to clarify—I think there's a lot of confusion going back and forth. So very

straight to the point—because of the opioid crisis, one of the solutions is naloxone kits. Are you against having a naloxone kit?

Mr. Ian Cunningham: I'm just telling you that the impact of having a naloxone kit is somewhere between none and next to none.

Mrs. Robin Martin: So kind of like wearing a mask.

Mr. Deepak Anand: Yes, kind of like a mask. Okay. But you're not against it?

Mr. Ian Cunningham: Well—

Mr. Deepak Anand: You don't have to answer if it's uncomfortable.

Mr. Ian Cunningham: I was listening to your previous presenter, and we came to the same conclusion: It shouldn't be the employer's responsibility. It should be a responsibility that rests with the joint health and safety committee, who are much closer to the workforce, who are on the ground, who are in a position to recognize the symptoms and the quirks. If it is accepted, that's where the responsibility belongs, it seems to me.

Mr. Deepak Anand: I know you've been involved with the construction industry—with the 20 construction associations and 10,000 construction businesses. One of the challenges which we see is a labour shortage. Do you see that in the industry?

Mr. Ian Cunningham: Absolutely. I think the last Statistics Canada report reported something like 550,000 people working in all aspects of the construction industry in Ontario, so there is a shortage not only in the skilled trades but in the design and management side of things as well.

Mr. Deepak Anand: Do you think that one of the schedules which talks about labour mobility is a step in the right direction as well?

Mr. Ian Cunningham: The Red Seal?

Mr. Deepak Anand: Yes.

Mr. Ian Cunningham: We're always smug, here in Ontario, to think that our standards are the highest and the best, and maybe they are. I suspect that in reality, some provinces do some things a little better than us and other things not quite as well. I know that in Ontario we just accepted the Newfoundland working-at-heights training as equivalent to Ontario's, and I think it was thought to be more rigorous training anyhow. The learning standards, the learning outcomes are generally agreed upon at a pan-national level.

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

Mrs. Robin Martin: Ms. Frache, I think you said that only 25% of workers are covered by the Employment Standards Act?

Ms. Pam Frache: Fully covered, yes.

Mrs. Robin Martin: Can you describe what the situation is of the other 75%?

Ms. Pam Frache: Yes. If you read the Employment Standards Act, you will see all of the various exemptions. For example, farm workers are completely exempted from all the protections of the Employment Standards Act. You can go through and just read the legislation, and there's category after category after category—including your own legislation, which stipulates that these provisions will

not apply to information technology consultants. This is precisely how the Employment Standards Act gets eroded over time—more and more holes, more and more exemptions. They're arrived at by corporations lobbying governments to create those loopholes so that their employees are not covered by certain provisions of the act.

Mrs. Robin Martin: From what you've just told me, we have 25% of workers who are covered by the Employment Standards Act fully—and then we have other classes of workers for the rest of the 75%.

Ms. Pam Frache: Exactly. It's less than 25%, to be clear. Less than 25% are fully covered by what are supposed to be universal minimum standards.

Mrs. Robin Martin: Okay. So that's what we know right now.

And for some reason, you've suggested that this government is siding with corporations. I don't think that we've heard any evidence to suggest anything of the kind.

You've also indicated that these are very profitable corporations. I'm just wondering if you've made a study of the profits of Uber Eats or anybody else you're bismirching with your nasty comments about corporations being evil.

Ms. Pam Frache: I'll submit them after—the evidence. But I don't think it's any secret that many corporations have done very well, including Uber, including Amazon. Many employers have increased their profits during the course of the pandemic. I will certainly submit the details of that to you and the committee afterwards. I stand by those comments, by the way. I think it's a disgrace that that has been allowed to happen where—

Mrs. Robin Martin: I would appreciate that. I haven't seen any sign, personally, of this government (a) siding with corporations, (b)—

Ms. Pam Frache: Well, I can clarify that because—

Mrs. Robin Martin: Let me comment, please.

Ms. Pam Frache: The employment standards officer ruled—

Mrs. Robin Martin: Chair?

The Chair (Ms. Natalia Kusendova): I'm sorry, MPP Martin has the floor. And I just want to remind you to keep your comments respectful. Thank you.

Mrs. Robin Martin: I have not seen any evidence of this government siding with corporations, or specifically, very profitable corporations. I certainly know that this government does not think that corporations are evil, and we think that they're great when they provide employment to workers, which is very important.

I just find the comments impugning our motive, about us stepping in for our friends, completely misplaced. I have friends who are in all sectors of society. So I don't think those kind of comments are appropriate.

In addition, you suggested that we would have brought forward legislation within four days after a decision was made, as though someone could draft and get legislation ready to go into the Legislature within four days. I don't think that is possible. So I just wanted to say, I think those comments are coming from a place which is not factually based.

We made an exemption for business and information consultants—but it’s not an exemption. What we’re doing is clarifying criteria that already exempt those employers from the Employment Standards Act, and this only applies to those who are incorporated—so probably on the evil side, according to your way of looking at things—and those ones who make at least four times the general minimum wage, \$60 an hour. Due to the nature of their highly skilled work in this space, they choose this status so that they can charge a higher salary or benefit and get a more favourable tax treatment. So that’s all we’re doing with that particular clarification on those particular workers—

The Chair (Ms. Natalia Kusendova): Thank you. Unfortunately, we are out of time.

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We will now move on to the official opposition. MPP Gates.

Mr. Wayne Gates: Thank you for your presentations.

I’ll try to help my colleague across from me. I believe Uber is worth \$84 billion. They’re a multinational corporation that I believe could live under the Employment Standards Act and pay workers the minimum wage, make sure they have WSIB, and make sure they have vacation pay. The fact that you’re bringing a bill forward here in this Legislature that’s having second-class workers in the province of Ontario—it’s disgraceful, by the way, but it also makes absolutely no sense that we’re doing this for a multinational corporation that’s not even based in the province of Ontario.

You’re putting in language where you say workers will have the right to have some kind of mechanism. Well, do you know what that is? Joining a union. Give them the opportunity to join a union, and if they join the union, then they can have a collective agreement.

Without being too political, because I’m not a political guy, the reality is that Bill 124—because that was in the last bill, “working for workers”—took the rights away from people to freely collectively bargain. It took away their rights on shift preference, on seniority, and said you can get a 1% wage increase, when we know inflation is now at about 6%, so that’s a 5% pay cut. So if anybody here who’s listening to this today thinks that the PCs care about workers, you’re misguided. You’re not thinking straight. They do not care about workers. And this bill is even worse than the first bill they put together. It makes no sense to me.

Anyway, that’s my little speech.

To my good buddy Ian, whom I’ve known forever: It was actually the carpenters who wanted to get the kits into the bill. They met with the minister, and the carpenters have been on this issue for a long time. There is an issue in construction around opioid use. They might not be dying on the job, but there is a huge issue in the construction trades right across—and it was really the carpenters who did that.

My question is going to be for Justice for Workers. This bill is named the Working for Workers Act. Do you think it is properly named?

Ms. Pam Frache: Absolutely not. “Not working for workers” might be more appropriate.

Mr. Wayne Gates: Do you think that the government should be making it easier for gig workers to unionize in this province? And maybe go into a little more detail than one question—I don’t have 15 questions for you, so I’ll give you the opportunity to talk here.

Ms. Pam Frache: That’s a really important point, because when workers are misclassified, they don’t actually access their rights under the Labour Relations Act. So when workers are misclassified as independent contractors, they don’t actually have the right to form unions. There are workers, actually, who are for other reasons prevented from forming unions under the status quo—so it’s just to say that this is exactly the kind of legalization of misclassification and entrenching of a substandard tier of worker under the law that is going to benefit corporations. I think it’s easy to see the cause and effect here. All around the world, gig workers are standing up and asserting their rights as employees, the law is siding with them, and what’s happening is that corporations are trying to get ahead of this wave of recognizing gig workers as workers by getting their friends in government to change the law. That is what is happening in Ontario. And I stand by those comments.

Mr. Wayne Gates: I think you’re right on; that’s exactly what’s happening. But it even bothers me more that it’s a multinational corporation. It’s not even in this country, not even in this province, and we’re changing our bills and our legislation to accommodate them so that workers—think about this—

Mrs. Robin Martin: Chair, a point of order.

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

Mrs. Robin Martin: The member is imputing motive.

The Chair (Ms. Natalia Kusendova): Indeed, that was imputing motive, so can you please rephrase?

Mr. Wayne Gates: That’s fine. I’ll retract whatever I said.

Do you think that at this point in time, what’s going on in the province of Ontario, where our rents are through the roof, our housing is through the roof, our food costs, and our hydro has gone up 5%—a worker who is working six or eight hours a day and 40% to 60% of that time is paid at \$7.50, in one of the richest provinces in the country, in one of the richest countries, quite frankly, in the world, so that a multinational corporation can increase their profits from \$84 billion to \$87 billion to \$92 billion. When is enough enough—so that we can share our enormous wealth with workers in the province of Ontario?

There are lots of employers in this country and in this great province that have no problem paying their workers fairly, that do not have any problem making sure that they share the enormous profit that those workers are generating, in the form of better wages, better benefits.

Why is it that we would, as a province, cater to a multinational corporation that doesn’t want to pay our workers fairly and violates the Employment Standards Act?

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

Mr. Robin Martin: The MPP asking the question is imputing motive again.

The Chair (Ms. Natalia Kusendova): I will caution the member. He was imputing motive again.

Please rephrase your question. Thank you.

Mr. Wayne Gates: I'll do something different to help you guys out a bit, rather than—I'm just trying to be as honest and as passionate as I can. I care about workers. I think they should be treated with respect and dignity.

I have three daughters, and I have five grandkids, and I don't want any of my kids or my grandkids working in the province of Ontario for \$7.50. I don't believe anybody on that side of the House—I know a lot of you, and we may disagree on a lot of things, but I don't think you would want one of your grandkids to work for eight hours a day at \$7.50 an hour.

We do believe that the government has taken an approach that refuses to truly classify gig workers and instead creates a second tier of workers. Can you comment on that, please?

Ms. Pam Frache: Is that directed at me?

Mr. Wayne Gates: Yes, please. If I have more time, I'll get one for Ian, because he's lonely over there.

Ms. Pam Frache: This is exactly it. It's like the more we incentivize the creation of bad, low-wage, unstable jobs, the more we actually undercut those very good businesses whose business model is actually based on treating workers fairly and who compete on the value of their goods and services that they produce. What we should be doing is having high employment standards so that those good employers are not having to compete with the scoundrels of the world who are not giving paid sick days.

By the way, this is a government that voted more than 25 times against providing adequate employer-paid sick days for workers—and there are profitable corporations like Loblaw's that could easily be doing that, that could be paying workers more. This government has failed to do that.

So this is the challenge for any good employer that treats its employees with dignity and respect and invests in them. They are going to be at a competitive disadvantage compared to those employers that are allowed to misclassify their workers and get away without paying EI and get away without paying CPP and WSIB. That's the tragedy. We are rewarding the scoundrels while undercutting the people who do good, principled business—and many of those, by the way, are small and modest-sized businesses that are trying to do things differently. This government is undercutting them every single step of the way.

Mr. Wayne Gates: I've probably only got 10 seconds.

The Chair (Ms. Natalia Kusendova): Ten seconds.

Mr. Wayne Gates: Thanks to the two of you for coming.

Ian, it was good seeing you again. Please stay healthy, buddy. Take care.

The Chair (Ms. Natalia Kusendova): For our final round of questions, the floor goes to MPP Fraser.

Mr. John Fraser: It's always nice to get the last word, Chair.

Mr. Cunningham, thank you very much for the work that you do to create employment and jobs and wealth.

Ms. Frache, thanks for all the work you do to protect workers. That's what it's about—it's about balance. This bill is not balanced. It doesn't do what it needs to do.

I want to address some issues around protecting workers. Workers need health and safety protection.

I spent 22 years in the grocery business. I managed people—I was represented; I was management. I always liked collective agreements because they just spelled it out. I had a health and safety team. I knew people were covered by WSIB; I knew there was long-term disability, because that was just fair to people.

The whole point of employment standards is to treat our people right, so that they can raise their families, their kids can get an education, and they can have a reasonable life and not have to worry about those things that, actually, probably none of us around this table worry about.

Mr. Cunningham said there are 550,000 people working in the construction industry, and there are 800,000 people working in the gig economy. What's wrong with this picture? We're going way too fast.

As Ms. Frache said about workers being exempt—I'll give you an example of workers being exempt, and they're not even gig workers. If you work in a retirement home, which is basically the same work as a long-term-care home—in a long-term-care home, you work for the government, and you get covered by WSIB, but not in a retirement home; you're exempted. How come people doing the same work aren't given the same coverage? That happens in group homes. If it's a government group home, you get covered; if it's not, you don't.

What Ms. Frache is talking about is that we should be bringing people up to a standard. Why are farm workers and migrant workers covered differently? Is it because they come from somewhere else? I'm saying that because I was part of a government that let that continue.

We have to ask ourselves that question, because what we saw a year ago, what happened to people because they didn't have health and safety protections, was tragic. It was awful. It was avoidable—and not costly, not as much as it cost those people.

The same principle applies to gig workers. They need health and safety protection. It's not in this bill—nothing, nada; not from the employer, not from WSIB. Why are they any different? They're not. So not actually putting it in this bill is wrong. It's wrong because you're making a law, and that law—I know it's not permanent, but a lot of work goes into changing laws. So why don't we just take the time to get it right and protect people? The bill does not, at least as far as health and safety, minimum wage and things like vacation pay—but basic health and safety. Why do we have WSIB?

The Chair (Ms. Natalia Kusendova): One minute.

Mr. John Fraser: The construction industry—they support it. They don't always like everything about it. They'd like to see some changes. But they know it gives a

certain level of protection and confidence to the people who work in that industry. It's the same thing in the grocery business. It's the same thing in health care.

Why is it any different for the people who, as the minister said this morning, showed up for us in the pandemic? Now we need to show up for them.

I just wanted to say to the government that you've got to come forward with some amendments here that actually make workers safer. And you should start with WSIB.

The Chair (Ms. Natalia Kusendova): This brings us, happily, to the end of today's discussions. It concludes our business for today, thank God. Thank you to all of our presenters.

We will meet again tomorrow at 9 a.m., Tuesday, March 29. I would please ask you all to keep the decorum and keep the conversation respectful tomorrow. We are all here to make the legislation even better, so I ask that tomorrow we have a little bit of a better day than today.

MPP Anand, do you have a point of order?

Mr. Deepak Anand: I just wanted to thank you, Chair.

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

Mr. John Fraser: I thought we had a great day.

The Chair (Ms. Natalia Kusendova): Thank you so much. This committee is now adjourned.

The committee adjourned at 1753.

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